

Department of Legislative Services
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FISCAL NOTE
Revised

House Bill 1458 (Delegates Arnick and Kittleman)
(Special Committee on Voting Systems and Election Procedures in Maryland)

Commerce and Government Matters

Economic and Environmental Affairs

Election Law - Statewide Voter Registration - Provisional Ballots

This bill requires a local board of elections to add registered voters to its registry who have relocated to that jurisdiction. Election day voting procedures are modified to provide for the temporary voter registration and casting of provisional ballots by previously unregistered voters. Voters filing temporary certificates of registration must sign an oath and provide an election judge with proper identification. The bill authorizes the State Board of Elections to establish procedures for canvassing and maintaining records of provisional ballots by local boards. It also authorizes an appeal process for aggrieved voters who cast a provisional ballot canvassed by a local board. The bill also requires the Motor Vehicle Administration (MVA) to provide an opportunity to all individuals applying, renewing, or updating a driver's license or identification card to register to vote or update a current voter registration record.

The bill is effective June 1, 2001.

Fiscal Summary

State Effect: Potential substantial increase in Transportation Trust Fund expenditures for printing costs, software retooling, and new positions beginning in FY 2002. Expenditures could increase for the State Board of Elections to fund additional personnel costs of local boards associated with implementing the provisional ballot system, beginning in FY 2003. The amount of the increase would depend on the aggregate personnel needs of the local boards, and could be substantial.

Local Effect: Significant increase in local expenditures beginning in FY 2003 due to the additional cost of providing provisional ballots for each election. No effect on revenues.

This bill imposes a mandate on a unit of local government.

Small Business Effect: Potential minimal.

Analysis

Bill Summary: The bill requires local boards to add registered voters to their registries who have relocated to that county when notice is received from the registered voter or other voter registration agency. Local boards may not purge voters from their registration rolls upon a receipt of a change of address notification until it has been forwarded to the appropriate local board and a confirmation of the voter's new registration is received.

The bill also allows unregistered voters to cast a provisional ballot at a polling place on election day provided they can show an election judge that they made a good faith effort to register to vote with a voter registration agency within the past two years. To receive a provisional ballot, a voter is required to fill out an application for a temporary certificate of registration, provide proof of identity, and sign an oath affirming that they are qualified to be a registered voter in the State.

Provisional ballots are required to be available for all elections governed under the State Election Code and must be identical to the ballot issued to all other registered voters in the precinct. The State Board of Elections is required to adopt procedures for the temporary registration process and the handling of provisional ballots as well as regulations that reflect the policy that clarity of a voter's intent is the overriding consideration in determining the validity of a provisional ballot.

Local boards are required to maintain a full record of provisional ballot voting, including voter information, the action taken, the ballot style issued, and any other information requested by the State board. Local boards may not canvass provisional ballots before 8:00 a.m. on the Wednesday after an election and can only reject a provisional ballot by unanimous decision. All local board decisions must follow the guidelines established by the State board.

A local board may reject a provisional ballot if it finds that the temporary certificate of registration is invalid, more than one ballot was received from a voter, the voter did not sign the oath, or if the ballot has an identifying mark. Voters may appeal the decision by a local board to the circuit court of the county they voted in within five days after completion of a canvass. An appeal to the Maryland Court of Special Appeals is authorized provided it is taken 48 hours after the circuit court decision.

Each year the budget of the State board must include funding necessary to support additional personnel costs associated with implementation of the provisional ballot system.

The bill also requires the MVA to prepare a separate voter registration application with updated information from their records for individuals applying for, renewing, or updating a driver's license or identification card. These registration applications would be presented to individuals for a signature whenever an MVA customer agrees to submit a voter registration application. Applications must be forwarded to the State Board of Elections within five days of receipt.

Current Law: The local boards of election determine who is eligible for a temporary certificate of registration by establishing either that the voter is registered, or that the voter's registration is not missing due to fraud or malfeasance by the voter. The voter registration application form is currently part of the MVA's driver's license and identification card application and renewal forms.

Background: This bill is the result of the Governor's Special Committee on Voting Systems and Election Procedures, which submitted recommendations to the Governor in February 2001. It addresses concerns arising from the 2000 presidential election regarding the implementation of the National Motor Voter Act. Approximately 31 states currently have task forces to address voting systems and procedures, including Pennsylvania.

State Fiscal Effect: The State Board of Elections is required to fund any additional personnel costs of the local boards that are incurred as a result of administering provisional ballots. The bill requires the State board's annual budget to be increased accordingly. Specific funding requirements would depend on the number of voters in the State that have changed their residence without re-registering with the appropriate local board in that jurisdiction. These people are usually removed from the voting registry in the jurisdiction from which they moved when they change their address with the MVA. These individuals account for most of the people who would need a provisional ballot in an election.

Some counties already anticipate the need for additional election judges. Kent, Montgomery, Prince George's, Queen Anne's, and Washington counties advise that additional election judges will be needed to administer the provisional ballots. The increase in expenditures per election for these jurisdictions would be \$2,800, \$150,000, \$59,700, \$4,000, and \$8,600, respectively. These additional State expenditures would be incurred in those fiscal years in which elections occur, fiscal 2003, 2004, and 2005 in the near term, and could be substantial.

The bill could significantly increase special fund expenditures for the MVA. A precise estimate cannot be determined because the manner and format in which the MVA and the State board will implement the bill has not been finalized.

The MVA has been in close consultation with the State Board of Elections regarding the requirements of the Motor Voter Act, and while the bill does not specify the exact format of the information exchange between MVA and the State board, the MVA advises that it is likely that the registration information would have to be forwarded to the State board in an electronic format. This could require some software retooling of several of MVA's internal database systems, but it is not known to what extent this will have to be done since the MVA and the State board are still consulting on procedure.

The MVA estimates a one-time cost of \$465,000 in fiscal 2002 for system modifications to accommodate an automated procedure to send the State board data within the five-day period required under the bill and reprinting forms and procedures related to the Motor Voter Act.

The MVA advises that the new procedures in the bill would also require \$934,500 for 27 new employees to handle the additional data entry requirements for the Change of Name/Address system and to maintain appropriate customer wait-time levels in the Driver's License Renewal area (12 customer service representatives and 15 administrative specialists). However, the Department of Legislative Services questions the need for 27 new positions since wait-time levels vary among MVA service locations. It is possible that some new employees may be needed at select locations and none at others. There are currently 16 full-service MVA locations throughout the State. In addition, it is not clear to what extent, if any, the new procedures outlined in the bill would actually increase customer wait-times.

Local Fiscal Effect: All local election boards would incur expenditures for printing and supplying each polling place with provisional ballots and envelopes. Prince George's County advises that this would result in an expenditure increase of \$76,950 per general election and \$85,950 for primary elections. These estimates reflect the cost of printing provisional ballots and two additional election judges to handle provisional ballot issuance at each polling place. The higher expenditure increase for the primary reflects the cost of printing different ballot styles for the major parties in the primary.

Other counties would also need extra election judges to assist with the dissemination of temporary registration certificates and provisional ballots. Washington and Kent counties advise that additional election judges would increase expenditures per election by \$8,600 and \$2,800 respectively. Queen Anne's County advises that two additional election judges per polling place and printing and postage costs associated with the provisional ballots would increase expenditures by \$5,000 per election.

Montgomery County would have a significant expenditure increase as well: \$500,000 in fiscal 2003 for the gubernatorial primary and general elections, \$250,000 in fiscal 2004 for the presidential primary, and \$250,000 in fiscal 2005 for the presidential general election. This estimate reflects the cost of hiring two additional election judges for 227 polling places compensated at \$150 each, additional election judge training, provisional ballot printing, additional canvassing, and preparation of additional instructions and information.

Under the bill, the State board's budget, starting in fiscal 2003, would include funding for any additional personnel expenditures associated with the administering of provisional ballots.

Small Business Effect: The MVA is required by law to recover at least 85% of its costs through fines and fees. The MVA collects fines and fees in several areas that directly affect small business. Because the expenditures that would be incurred by the MVA would have enough impact to require that the MVA increase some of its fine and fee schedules for cost recovery, small businesses could be minimally affected.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): National Election Administration; State Board of Elections; Office of the Secretary of State; Department of Transportation (Motor Vehicle Administration); Baltimore City; Carroll, Kent, Montgomery, Prince George's, Queen Anne's, Washington, and Worcester counties; Department of Legislative Services

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