

**Department of Legislative Services**  
Maryland General Assembly  
2001 Session

**FISCAL NOTE**

Senate Bill 598      (Senator Lawlah)  
Economic and Environmental Affairs

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**Election Law - Voter Registration - Provisional Ballots**

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This bill modifies election day voting procedures 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 the local board.

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**Fiscal Summary**

**State Effect:** The bill would not directly affect State finances.

**Local Effect:** Significant increase in local expenditures beginning in FY 2003 due to the additional cost of providing provisional ballots. *This bill imposes a mandate on a unit of local government.*

**Small Business Effect:** None.

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**Analysis**

**Bill Summary:** The bill 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 the State Board of Elections or local boards of election, or the Motor Vehicle Administration (MVA) before the election. 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 that precinct. The State Board of Elections is authorized to adopt procedures for the format of the temporary certificate of registration, the temporary registration process, the criteria for receiving a temporary certificate, provisional ballot security, storage, canvass procedure, and observers of provisional ballot counting. The State board is required to adopt regulations that reflect the policy that clarity of the intent of the voter is the overriding consideration in determining the validity of a provisional ballot or vote cast.

Local boards are required to maintain a full record of provisional ballot voting including voter information such as the time of the board's receipt of the temporary certificate, the action taken, the appropriate ballot style, 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. If voter intent is not clear as to a particular office on a ballot, then only that office should be excluded from the tally.

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.

**Current Law:** The local board determines who is eligible for a temporary certificate of registration by establishing either that a voter is registered, or that the voter's registration is not missing due to fraud or malfeasance by the voter.

**Local Fiscal Effect:** All local election boards will 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 \$17,250 per general election and \$26,250 for primary elections. These estimates reflect the larger ballot needed for primary election candidates. Other counties will 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 will increase

expenditures per election by \$8,600 and \$2,800 respectively. 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 staff, and preparation of additional instructions and information.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** State Board of Elections; Baltimore City; Kent, Montgomery, Prince George's, Washington, and Worcester counties; Department of Legislative Services

**Fiscal Note History:** First Reader – February 23, 2001  
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