

Department of Legislative Services

Maryland General Assembly

2003 Session

FISCAL AND POLICY NOTE

Revised

Senate Bill 432

(Senator Stone)

(Chairman, Ethics and Election Law Subcommittee)

Education, Health, and Environmental Affairs

Ways and Means

Election Law - Compliance With Federal Law

This bill alters procedures for provisional voting, posting information at polling places, and handling challengers and watchers on election day in order to be consistent with federal law.

Fiscal Summary

State Effect: The bill is mostly procedural in nature and would not substantially affect State finances. Any incremental costs could be paid for with federal funds received under the federal Help America Vote Act.

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary: The bill alters the procedures for casting and counting provisional ballots. The requirement for a voter to apply for a temporary certificate of registration is repealed. To be eligible to cast a provisional ballot: (1) an individual must submit a written affirmation along with a provisional ballot that the individual is a registered voter in the State and is eligible to vote in that election; (2) the individual's name does not appear on the precinct register or an election official asserts that the individual is not eligible to vote; or (3) the individual does not have the necessary identification. Any

individual who votes during a period when the poll closing time is extended by a court order or other order must cast a provisional ballot.

Written information must be given to all individuals using a provisional ballot regarding how the individual will be able to ascertain whether the vote was counted and, if it is not counted, the reason it was not. The State board is responsible for the establishment of a system that provisional ballot voters may access, without cost, to discover whether the ballot was counted or not. The system is required to ensure the confidentiality of the individual who accesses the system and the secrecy of each ballot.

The State Board of Elections is required to produce the following additional informational materials to be posted in each polling place: (1) a specimen ballot; (2) instructions relating to the availability of assistance to elderly and disabled voters; (3) information regarding the date of the election and the hours during which the polling places will be open; (4) instructions on how to vote, including how to cast a vote; (5) instructions for mail-in registrants and first-time voters; (6) general information on voting rights under applicable federal and State laws, and instructions on how to contact the appropriate local board if these rights are alleged to have been violated; (7) information regarding provisional voting; and (8) general information on federal and State laws regarding prohibitions on acts of fraud and misrepresentation.

The bill also requires the State board to serve as the official designated office in accordance with the Uniform Overseas Absentee Voting Act for providing information regarding voter registration and absentee ballot procedures for absent uniformed services voters and overseas voters with respect to elections for federal office.

The bill also removes provisions that give election judges at a polling place the discretion to prevent an individual who has been challenged from voting. The modified procedure for handling individuals who have been challenged requires a provisional ballot to be offered. The local board is required to determine the eligibility of the challenged individual based on information submitted by the challenger and the challenged individuals.

The appeal procedure for an individual aggrieved by a decision of a local board not to count a provisional ballot is replaced by an administrative complaint procedure to be established by the State board for any person who asserts that an election official has violated the provisions of the Election Law Article relating to provisional ballots.

Current Law: Provisional ballots are issued to individuals whose voter registration information is not included in the precinct register and who complete a temporary certificate of registration. Individuals must show proof of identity and complete an

application affirming: (1) the applicant's current address and telephone number; (2) that the applicant (a) has not voted in the current election in any other precinct in the State or in any other state; (b) the applicant is a current resident of the precinct and county which the applicant seeks to vote; and (c) the applicant meets the qualifications to vote; and (3) the applicant is currently registered in another county but has moved to a new county, or the applicant has made a timely effort in the past two years to register or update a voter registration.

Within ten days after any election, an individual who voted by provisional ballot may request confirmation that the ballot is either accepted or rejected. If the ballot is rejected, at the request of the individual the local board shall state in writing the basis for rejecting the ballot.

A candidate or individual who voted using a provisional ballot aggrieved by the decision of a local board to reject, or not to reject, a provisional ballot has the right of appeal to the circuit court for the county.

The State board, in consultation with the election directors of the local boards, is required to specify and produce informational materials to be posted at each polling place. Before the polls open, election judges for each precinct are required to post the following in the voting room: (1) the specimen ballot for the precinct; (2) instructions relating to the availability of assistance to elderly and disabled voters; and (3) any other informational material to assist voters on election day, as directed by the election director.

Background: The federal Help America Vote Act of 2002 establishes uniform election standards for every state. Approximately \$3.6 billion in funding is authorized for the states over the next three fiscal years to assist in compliance. The Act outlines requirements covering such subjects as disabled voter access to polling places, mail-in registration, statewide voter registration, and provisional balloting. These requirements under the Act have various deadlines ranging from 2003 to 2006. The bill's provisions reflect those requirements under the federal Act that must be completed by 2004.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Montgomery County, Prince George's County, Caroline County, Calvert County, Howard County, Maryland State Board of Elections, Department of Legislative Services

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