

Department of Legislative Services  
Maryland General Assembly  
2004 Session

FISCAL AND POLICY NOTE  
Revised

House Bill 1390  
Ways and Means

(Delegate Gilleland, *et al.*)

Education, Health, and Environmental Affairs

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Elections - Voting Equipment or Supplies - Penalties

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This bill increases the penalties for destruction, tampering, or removal of voting equipment.

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Fiscal Summary

**State Effect:** Potential minimal increase in general fund revenues and expenditures due to the bill's penalty provisions. The State Board of Elections (SBE) could implement the bill with existing budgeted resources.

**Local Effect:** Potential minimal increase in revenues and expenditures due to the bill's penalty provisions. Local election boards may incur minimal costs for updating polling place signs.

**Small Business Effect:** None.

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Analysis

**Bill Summary:** The bill increases the penalty for willfully concealing, damaging, removing, or destroying voting equipment used or intended to be used in an election from imprisonment for one to five years to a fine of up to \$10,000 and/or imprisonment for up to three years.

In addition, the penalty is increased from a misdemeanor with a maximum fine of \$1,000 and/or imprisonment for up to one year, to a felony with a maximum fine of \$10,000 and/or imprisonment for up to three years for the following acts directed at voting equipment used or intended to be used in an election: (1) tampering or damaging, or attempting to damage voting equipment; (2) preventing or attempting to prevent the

correct operation of voting equipment; and (3) unauthorized possession of a key to voting equipment.

Finally, removing, defacing, or destroying equipment or supplies placed in a polling place by an election official during an election is classified as a felony. Fines are increased from \$500 and imprisonment for up to one year to a fine of up to \$10,000 and/or imprisonment for up to three years. The bill also gives the District Court and circuit courts concurrent jurisdiction over violations of the provisions listed in the bill.

**Background:** Chapter 564 of 2001 required SBE to select a uniform statewide voting system for voting at polling places. SBE entered into a \$55 million contract to purchase over 16,000 electronic touchscreen voting units from Diebold Election Systems in January 2002. All local jurisdictions with the exception of Baltimore City will implement this voting system for the March 2004 presidential primary election.

In August 2003, the Governor ordered an independent review of the State's uniform voting system after concerns about the overall security of electronic voting equipment arose in other states and were documented in a Johns Hopkins University report. A risk assessment was performed by Science Applications International Corporation, which found 66 components of the voting system that required additional security measures. A second analysis by the Department of Legislative Services (DLS) included an applied security assessment of actual Diebold voting units involving computer security professionals. The DLS analysis concluded in its *Review of Issues Relating to the Diebold Accuvote-TS Voting System* (January 2004) that the units were susceptible to various physical security threats involving tampering with the inner components of the units and periphery devices such as encoded cards used to operate individual units.

**State Revenues:** General fund revenues could increase minimally as a result of the bill's monetary penalty provisions from any cases heard in the District Court.

**State Expenditures:** Changing crimes from misdemeanors to felonies means: (1) that such cases will likely be filed in the circuit courts rather than the District Court; and (2) some persons could eventually serve longer incarcerations due to enhanced penalty provisions, applicable to some offenses, for prior felony convictions. It is not known whether, under this bill's provisions, the prospect of a jury trial might spur more plea bargains and affect actual sentencing practices for this offense. In any case, this bill would shift some unknown number of cases from the District Court to the circuit courts.

General fund expenditures could increase minimally as a result of the bill's incarceration penalties due to more people being committed to Division of Correction (DOC) facilities

and increased payments to counties for reimbursement of inmate costs. The number of people convicted of this proposed crime is expected to be minimal.

Persons serving a sentence longer than 18 months are incarcerated in DOC facilities. Currently, the average total cost per inmate, including overhead, is estimated at \$1,850 per month. This bill alone, however, should not create the need for additional beds, personnel, or facilities. Excluding overhead, the average cost of housing a new DOC inmate (including medical care and variable costs) is \$350 per month. Excluding medical care, the average variable costs total \$120 per month.

Persons serving a sentence of one year or less in a jurisdiction other than Baltimore City are sentenced to local detention facilities. For persons sentenced to a term of between 12 and 18 months, the sentencing judge has the discretion to order that the sentence be served at a local facility or DOC. The State reimburses counties for part of their incarceration costs, on a per diem basis, after a person has served 90 days. State per diem reimbursements for fiscal 2005 are estimated to range from \$14 to \$58 per inmate depending upon the jurisdiction. Persons sentenced to such a term in Baltimore City are generally incarcerated in DOC facilities. The Baltimore City Detention Center, a State-operated facility, is used primarily for pretrial detentions.

**Local Revenues:** Revenues could increase minimally as a result of the bill's monetary penalty provisions from cases heard in the circuit courts.

**Local Expenditures:** Expenditures could increase minimally as a result of the bill's incarceration penalties. Counties pay the full cost of incarceration for people in their facilities for the first 90 days of the sentence, plus part of the per diem cost after 90 days. Per diem operating costs of local detention facilities are expected to range from \$29 to \$97 per inmate in fiscal 2005.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Department of Public Safety and Correctional Services,  
Department of Legislative Services

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