

Department of Legislative Services
Maryland General Assembly
2004 Session

FISCAL AND POLICY NOTE

House Bill 547
Ways and Means

(Delegate Marriott, *et al.*)

Election Law - Voting System - Baltimore City

This bill exempts Baltimore City from the current requirement that, prior to July 1, 2006, it must implement a uniform statewide voting system chosen by the State Board of Elections (SBE) in consultation with local boards. It allows the voting system currently implemented in Baltimore City – with any subsequent upgrades to the system to comply with federal law – to be deemed a certified voting system.

Fiscal Summary

State Effect: Net State expenditure decrease of \$3.1 million for SBE due to cost-savings from the bill's exemption from provisions in State law that require Baltimore City to purchase the uniform statewide voting system by July 1, 2006. It is assumed that these savings would be from federal funds.

Local Effect: Baltimore City expenditures would decrease by \$4.5 million as a result of the bill for FY 2005. FY 2005 expenditures would increase substantially for the remaining 23 local jurisdictions due to cost-sharing provisions in State law.

Small Business Effect: None.

Analysis

Current Law: A county that has purchased a voting system for voting at a polling place within the last 10 years and before December 31, 2000 is not required to implement the uniform statewide voting system for voting at a polling place until July 1, 2006. In that case, the jurisdiction is not required to pay a share of the cost of acquiring and operating

the uniform statewide voting system for voting at a polling place until the system is implemented in the county.

A participating jurisdiction must pay its share of one-half of the State's cost of acquiring and operating the uniform statewide voting systems for voting in polling places and for absentee voting. A county's share of the cost of acquiring and operating the uniform statewide voting systems is based upon the county's voting age population as a percentage of participating counties.

Fifty percent of any federal funds received for improvements in voting systems and equipment is distributed to the State and 50% of any federal funds received for improvements in voting systems and equipment is distributed, on the basis of a county's voting age population, to the counties that have implemented the uniform statewide voting system provided for under this Act in the fiscal year in which the funds are received.

Background: Baltimore City purchased its voting system for polling places in fiscal 1998 at a cost of \$6 million. Chapter 564 of 2001 required SBE to select a uniform statewide voting system for voting in polling places with the costs to be borne as discussed above. Baltimore City was exempted from participating in the purchase of a uniform statewide voting system until July 1, 2006.

In January 2002 SBE entered into a \$55 million contract to purchase 16,000 touchscreen voting units from Diebold Election Systems. All 23 counties will implement this voting system beginning with the March 2004 presidential primary. SBE has received approximately \$7 million in federal funds under the Help America Vote Act of 2002 (HAVA) for voting equipment purchases under Title I of the Act. Additional funds have been authorized and appropriated under Title II for the cost of complying with various requirements under the Act.

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. In addition, the Department of Budget and Management Office of Information Technology Information Technology Security Policy and Standards (July 2003) requires each State agency to develop a security plan for protecting technology systems, including computers, data and voice networks, and other specialized resources. A risk assessment was performed by Science Applications International Corporation, which found 66 components of the voting system that required additional security measures.

State Fiscal Effect: If Baltimore City is exempted from purchasing the uniform statewide voting system, general fund expenditures would decrease by \$3.6 million. This represents the State's one-half share of the estimated \$7.2 million cost to purchase 16,000 Diebold touchscreen voting units. General fund expenditures will increase by approximately \$473,000 due to the additional software and hardware retooling to enable Baltimore City's system to interface with SBE and for an anticipated security review and risk assessment of that system to be funded by the State. The net State effect is a \$3.1 million decrease in anticipated expenditures. It is assumed these savings will come from the federal HAVA fund.

Local Fiscal Effect: According to State law, if the city does not acquire the system for its use, Baltimore City would not be required to participate in the cost-sharing provisions that require local jurisdictions to pay a percentage of the total local share of the cost for the statewide voting system. The cost-sharing system requires each applicable local jurisdiction to pay a percentage of the total local share according to its voting age population. Currently, the 50% local government share is \$37 million. Under current law, Baltimore City is responsible for 12.5% of that amount, or \$4.5 million, based on its share of the State's voting age population.

Under the bill, Baltimore City net expenditures would decrease by \$3.7 million, taking into account a savings of \$4.5 million as a result of not purchasing the statewide voting system and an expenditure of \$800,000 for the installation of audio ballot modifications to its current voting to comply with HAVA.

The remaining local jurisdictions, however, would be required to absorb the portion of the total local cost of the statewide voting system that would have been apportioned to Baltimore City. Taking into account the savings from not purchasing voting units for Baltimore City, local governments would be required to reapportion \$33.4 million. Baltimore City's share of this total would have been \$4.1 million. Instead, this amount would be absorbed by the counties in the form of a higher proportionate share of the total local cost. Thus, the remaining 23 local jurisdictions would increase local expenditures in varying amounts depending on their proportionate share. The chart below illustrates the effect of the bill on larger counties' expenditures under the cost-sharing requirement.

	% Share of Cost Under Current Law	% Share of Cost Under the Bill	% Increase	Local Cost Under Current Law	Local Cost Under the Bill	Increase In Local Expenditures
Anne Arundel	9.29%	10.61%	1.32%	\$3,442,084	\$3,549,952	\$107,868
Baltimore Co.	14.62%	16.69%	2.07%	5,416,086	5,585,815	169,729
Howard	4.52%	5.17%	0.64%	1,676,739	1,729,285	52,546
Montgomery	16.54%	18.88%	2.35%	6,127,543	6,319,568	192,025
Prince George's	14.90%	17.01%	2.11%	5,519,381	5,692,347	172,966

Additional Comments: There is a possibility that the voting system used in Baltimore City may not meet enhanced security standards established either by the State board or the newly appointed federal Election Assistance Commission (EAC). Due to heightened scrutiny of electronic voting equipment as evidenced by rigorous security reviews of the current statewide voting system, a similar security review of Baltimore City's voting system will most likely be necessary as a practical matter. Moreover, EAC, which was created to implement HAVA, will issue updated voting system standards in the future. These updated standards will be developed with the assistance of the National Institute of Standards and Technology and will address modern electronic voting system security. The voting system in Baltimore City is early generation electronic voting technology, and it is not clear whether or not this system will withstand risk assessment or satisfy forthcoming federal standards.

If the voting system cannot be made to comply with State or federal security standards, Baltimore City would incur significant expenditures to purchase a new voting system without the assistance of federal funds. Chapter 564 provides that a local jurisdiction may be reimbursed for their share of the cost of acquiring the statewide voting system if it has implemented the system in the fiscal year in which the federal funds are received. Thus, Baltimore City will not be eligible to receive federal funds that have been received by the State to date, or any additional funds received through the end of fiscal 2004, since it has not implemented the statewide voting system. Federal funds have been authorized under HAVA for the federal 2005 fiscal year beginning October 1, 2004; this is the final year in which funding is authorized under HAVA. It is anticipated that should Congress appropriate any funds for the federal 2005 fiscal year, EAC would transfer those funds to the State before the end of the State's fiscal 2005. If Baltimore City does not implement the statewide system before the end of fiscal 2005, it most likely will not be eligible to receive federal funds for any voting system purchase.

Additional Information

Prior Introductions: None.

Cross File: SB 200 (Senator McFadden, *et al.*) – Education, Health, and Environmental Affairs.

Information Source(s): State Board of Education, Department of Legislative Services

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