

Department of Legislative Services
Maryland General Assembly
2005 Session

FISCAL AND POLICY NOTE

House Bill 723 (Chair, Ways and Means Committee)
(By Request – Departmental – Elections, State Board of)
Ways and Means Education, Health, and Environmental
Affairs

Election Law - Voter Registration

This departmental bill establishes a statewide voter registration system to be implemented by the State Board of Elections (SBE) in compliance with the federal Help America Vote Act (HAVA) of 2002. The bill also repeals provisions of State law prohibiting a signature from an inactive voter to be counted as a valid signature on a petition.

The bill is effective January 1, 2006.

Fiscal Summary

State Effect: The proposed FY 2006 budget includes \$4.5 million in federal HAVA funds for implementation of an electronic, centralized statewide voter registration list (SVRL). The amount of future year expenditures depends on finalization of an SBE contract with a vendor to develop and implement the voter registration system.

Local Effect: Expenditures could increase for local boards of election for their share of the statewide registration system's implementation and maintenance costs. **This bill imposes a mandate on a unit of local government.**

Small Business Effect: SBE has determined that this bill has minimal or no impact on small business (attached). Legislative Services concurs with this assessment.

Analysis

Bill Summary:

Statewide Centralized Electronic Voter Registration List

The bill establishes, and requires the State Administrator of Elections to implement, a uniform, single, centralized, interactive computerized SVRL, which is to be the official statewide voter registration list for the State. Accordingly, the bill removes the authority of local board election directors to register voters and maintain a county voter registry, including such duties as producing and submitting voter registration reports to SBE and purging registration rolls of voters who have changed their addresses. Instead, voter registration must be conducted continuously, under the supervision of the State administrator in accordance with State and federal laws and regulations.

The list is to contain the name and other information, including voting history information on a current basis for a period covering at least the five preceding years, for every legally registered voter in the State. The SVRL will allow local boards to obtain immediate electronic access to the information contained in the list to produce precinct registers for use in polling places on election day. Information on the list will be coordinated with other agency databases in the State.

Duties of the State Administrator of Elections

The bill generally requires the State Administrator to define, maintain, and administer the SVRL and ensure the list's accuracy and the currency of the individual records on the list in conjunction with the local boards. The State Administrator must also instruct local boards on: (1) processing voter registration applications and name and address changes; (2) entering the voter registration information into the SVRL; and (3) removing information about ineligible voters from the SVRL.

Eligibility

The bill repeals a requirement that an applicant be a resident of the county in which the person registers to vote, and instead requires only that the applicant be a State resident. Registration information must be electronically entered into the SVRL by a local board receiving a registrant's application on an expedited basis and be assigned to the county in which the applicant resides. A local board remains responsible for issuing replacement voter notification cards upon the request of a voter, provided the voter continues to reside in that county.

Voter Registration List Maintenance

Local boards must retain original voter registration documents whenever a registered voter returns a voter confirmation notice to verify his/her address.

The bill repeals a provision exempting an inactive voter from being considered a registered voter. A voter whose registration is in “inactive” status must be restored to active status on the SVRL whenever the voter completes or signs the following documents:

- a voter registration application;
- a petition;
- a certificate of candidacy; or
- a written affirmation of in-State residence completed on election day.

Inactive voters may be counted for the purpose of petition signature verification.

The bill requires State agencies that report information to SBE regarding potentially disqualified voters (persons convicted of theft or other infamous crime), or individuals who have legally changed names, to report information directly to the State Administrator, who must forward the information to local boards.

Registration Records

Records stored and retained in a local board office for public inspection must be available at all times when the local board is open, except upon the special order of the local board of election. These records may not be removed from local board offices except pursuant to a court order or temporary removal solely for purposes of data processing.

Administrative Complaint Procedure

The bill repeals a procedure in State law allowing a local board to conduct hearings on complaints regarding any action of a local board and instead requires an administrative complaint to be filed under procedures established by SBE. When determining whether an individual is a resident of a particular election district or precinct, a presumption must be made that an individual retains the last residence noted until it is affirmatively shown that they have acquired residence elsewhere.

The Anne Arundel County Circuit Court has jurisdiction over the eligibility of an individual to register to vote. Any final determination issued under the administrative complaint procedures established by SBE on this subject is subject to judicial review by

the court upon the filing of a petition any time before the third Tuesday preceding the next election. The court has the discretion to dismiss the complaint or set a hearing, and SBE must make any required corrections mandated by the court. The Court of Special Appeals has appellate jurisdiction and any appeal must be taken within five days from the date of the decision by the circuit court and be heard as soon as practicable.

Current Law: Each local board of election in each county is responsible for maintaining the voter registry for that county, registration is conducted continuously under the supervision of the State board and in accordance with State and federal law, and regulations adopted by SBE. In addition to maintaining a voter registry, each local board must: (1) ensure the currency and accuracy of each individual voter's registration record; (2) produce precinct registers for use in polling places on election day; and (3) maintain voting history information on a current basis for a period covering at least the five preceding years.

Local Election Director Duties

Subject to State law and the policies and guidance of the local board, an election director may submit voter registration reports to SBE and initiate and conduct any program approved by SBE to identify, notify, and remove from the voter registration rolls any registrant who has become ineligible due to a change of address.

Eligibility

An applicant must be a resident of the county in which they are registering to vote as of the day the individual seeks to register.

Voter Registration List Maintenance

Individuals whose names have been placed on the inactive list may not be counted as part of the registry and will be counted only for purposes of voting and not for official administrative purposes including petition signature verification, establishing precincts, and reporting official statistics. Only upon written affirmation that an inactive voter remains a resident of the State may the voter be allowed to vote either at the election district or precinct for the voter's current residence or the voter's previous residence, as determined by the State board, and shall be restored to the registry.

State agencies that report information to SBE regarding potentially disqualified voters (persons convicted of theft or other infamous crime), or individuals who have legally changed names, must report information directly to the State board, who must forward the information to local boards.

Registration Records

Records stored and retained in a local board office shall be open to public inspection. There are no provisions in State law allowing for the temporary removal of these records from a local board office.

An individual who feels aggrieved by any action of a local board regarding voter registration may file a challenge with that local board, which shall conduct a hearing on each challenge. An individual may not be removed from the registry unless the individual's ineligibility is substantiated by affirmative proof. In the absence of such proof, the presumption shall be that the individual is properly registered. If the local board determines that an individual should be added to or removed from the registry, the local board immediately shall add or remove the individual and notify the individual, by first class mail, of the board's action.

A party who is aggrieved by the final decision in a hearing by a local board is entitled to judicial review upon filing a petition with the circuit court of the county in which the local board is located. The petition may be brought at any time before the third Tuesday preceding the next succeeding election. The court has discretion to dispose of the matter summarily or otherwise schedule a hearing. In determining whether an individual is or is not a resident of an election district or precinct, the presumption is that an individual shown to have acquired a residence in one locality retains that residence until it is affirmatively shown that the individual has acquired a residence elsewhere.

An appeal may be taken from any ruling of the circuit court to the Court of Special Appeals within five days from the date of the decision by the circuit court and shall be heard and decided by the Court of Special Appeals as soon after the transmission of the record as practicable.

Background: In 2002, HAVA required implementation of a centralized voter registration database that would be controlled and maintained by the State and used as the official registration list for federal elections. This list must be centrally maintained, cover all counties in a state, and be updated at regular intervals. Also, each registered voter on the list must have some kind of "unique identifier." SBE requested and was granted a waiver of the January 1, 2004 deadline for the centralized system until January 1, 2006.

HAVA also establishes an administrative complaint procedure for individuals who believe that the Act has been violated.

In 2003, the Maryland Court of Appeals ruled in *Maryland Green Party v. Maryland Board of Election*, 377 Md. 127, 832 A.2d 214 (2003), that the signature of an inactive voter on a petition must be counted in determining whether the petition contains a sufficient number of valid signatures.

State Fiscal Effect: The Governor's proposed fiscal 2006 budget includes \$10.9 million in federal funds received under HAVA, \$4.5 million is designated for SVRL. The fiscal 2006 allowance assumes a funding split of two-thirds for the State and one-third for local jurisdictions. SBE has selected a vendor and approved a contract for development and implementation of an SVRL. The \$14.6 million contract provides for project management, hardware, software, data conversion, data communication capability, system coordination, and ongoing system operations and maintenance for the term of the contract, which ends in fiscal 2011. The Board of Public Works has not yet approved this agreement.

Local Fiscal Effect: SBE advises there is no formal agreement in place with local jurisdictions regarding how costs will be allocated between SBE and local jurisdictions for the SVRL although SBE is currently working on an arrangement. On a preliminary basis, SBE has directed local boards to anticipate their share of implementation costs in fiscal 2006 for the SVRL at a maximum of \$2.00 per registered voter. Future year expenditures for maintenance of the SVRL are expected to be considerably lower than initial implementation costs.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Montgomery County, Prince George's County, Harford County, Queen Anne's County, St. Mary's County, State Board of Elections, Maryland Department of Transportation, Carroll County, Department of Legislative Services

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