

Department of Legislative Services
Maryland General Assembly
2006 Session

FISCAL AND POLICY NOTE

House Bill 1513 (Delegate Oaks, *et al.*)
Ways and Means

Election Law - County Offices or Baltimore City Municipal Offices - Election Dates

This bill alters the year in which the Baltimore City municipal primary and general elections are held so that each election coincides with the gubernatorial primary and general elections. General elections for county offices are also required to coincide with the gubernatorial general election.

The bill is effective January 1, 2007.

Fiscal Summary

State Effect: It is assumed any software reprogramming could be handled with the existing resources of the State Board of Elections.

Local Effect: Baltimore City expenditures would decrease by approximately \$500,000 for each election not held independent of statewide elections.

Small Business Effect: None.

Analysis

Bill Summary: In uncodified language, the bill provides that municipal officers elected in the November 2008 municipal general election will serve a two-year term of office. Beginning in November 2010, the term of office will be four years.

Current Law:

Baltimore City Elections

Under State law, the Baltimore City primary election for municipal offices is held on the second Tuesday following the first Monday in September of the year following the year of the gubernatorial election. The general election is held on the Tuesday following the first Monday in November of the same year.

The Baltimore City Charter provides for the mayor, city council, and comptroller to be elected on the Tuesday after the first Monday in November 2007, and on the same day and month in every succeeding fourth year.

County Elections

Article XVII of the Maryland Constitution provides that elections for State and county officers are held on the second Tuesday after the first Monday in 1926 and on the same day every four years thereafter. Article XVII is specifically made not applicable to elected local boards of education and the Cecil County Board of County Commissioners, and is considered to not apply to the City of Baltimore.

Background: The Baltimore City municipal election dates were originally set by Article XI of the Maryland Constitution, providing for a mayoral election every four years in October and a city council election annually in October. The Baltimore City election dates have since been changed, once by the General Assembly, in 1898, and three times by Baltimore City voters in 1964, 1999, and 2004 after being delegated the power to make changes to §§ 1-6 of Article XI, by the General Assembly in 1920.

The 1999 Charter amendment moved the municipal general election from the year after the gubernatorial election to the same year as the presidential elections on the Tuesday after the first Monday in November 2004 and every year thereafter. The municipal primary election, however, remained in September of the year after the gubernatorial election (2003), as provided under State law. The Charter amendment created a conflict between the municipal general election date under the Charter (November 2004) and the municipal general election date under State law (November 2003). However, in the Office of the Attorney General's view, State law setting the Baltimore City municipal general election date in the year after the gubernatorial election (2003), which had been enacted as part of a revision of State election law in 1998, had not been intended to repeal the authority delegated to voters of the city to set the date of the municipal general election and therefore the municipal general election should be held as prescribed in the

City Charter. Baltimore City therefore had its municipal primary election in September 2003 and its municipal general election in November 2004.

A number of attempts were made to amend State law between 2000 and 2003 to be consistent with the 1999 Charter amendment, but none were successful. At the November 2004 municipal general election, the City Charter was amended to move the municipal general election back to the year after the gubernatorial election (in November 2007 and every year thereafter) in the same year prescribed by State law for the municipal primary and general elections.

Local Fiscal Effect: Under current State law and the Baltimore City Charter, the Baltimore City municipal primary and general elections will occur in September and November 2007. Under the codified language of the bill, the next municipal primary and general elections will occur in September and November 2010, taking into account the bill's effective date of January 1, 2007. *However, in uncodified language the bill also references a municipal general election in November 2008.*

The City of Baltimore advises it spends approximately \$500,000 on each primary and general election. To the extent the bill's changes cause Baltimore City municipal elections to coincide with statewide elections, Baltimore City expenditures would decrease by \$500,000 for each election not held independent of statewide elections. However, based on the above-referenced Attorney General Opinion, the Baltimore City Charter may need to be amended to be consistent with the bill's changes before the municipal general election could be held in accordance with the bill (in November 2010).

Additional Comments: The provisions of this bill would be inconsistent with the State Constitution to the extent they require Cecil County to comply with quadrennial elections. The Attorney General advises that public local law providing for the election of Cecil County Commissioners in Chapter 95 of 2002 could be interpreted to supersede the general State law provisions implemented by the bill.

Additional Information

Prior Introductions: HB 146 of 2004, a similar bill, received an unfavorable report from the House Ways and Means Committee. SB 292 and HB 323 of the 2003 session would have moved the municipal primary and general election to coincide with the presidential election beginning in 2004. SB 292 was not reported from the Senate Education, Health, and Environmental Affairs Committee. HB 323 was reported favorably from the House Ways and Means Committee and the Senate Education, Health and Environmental Affairs Committee, which reported it with amendments, but a

conference committee did not report the bill. Similar bills that would have moved the municipal primary and general election to coincide with the presidential election beginning in 2004 were introduced in 2000, 2001, and 2002, none of which were enacted into law.

Cross File: None.

Information Source(s): Montgomery County, Harford County, Queen Anne's County, Baltimore City, 87 *Opinions of the Attorney General* _ (2002) [Opinion No. 02-018 (October 17, 2002)], Department of Legislative Services

Fiscal Note History: First Reader - March 20, 2006
ncs/jr

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