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Maryland General Assembly
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FISCAL AND POLICY NOTE
Revised

House Bill 1368
Ways and Means

(Delegate Patterson, *et al.*)

Education, Health, and Environmental Affairs

Election Law - Voter Bill of Rights

This emergency bill makes various changes to State election law, including: • requiring polling places to be established at specified higher education institutions; • extending early voting hours; • specifying the locations of early voting polling places and requiring the State Board of Elections (SBE) and the local boards to conduct voter outreach regarding early voting; • requiring all polling places to be equipped with e-poll books; and • making changes only applicable to specified jurisdictions that allow the State Administrator to take specified actions with respect to local election boards and personnel and establish additional requirements of the local boards and their election directors.

Fiscal Summary

State Effect: The FY 2007 budget bill includes a \$13.37 million FY 2006 deficiency appropriation to cover costs associated with early voting, \$11.5 million of which is contingent on certification of e-poll books by SBE and is expected to be allocated toward a lease purchase of the e-poll books. The overall cost of the e-poll books is expected to be roughly \$28 million, however, prior to a lease purchase agreement being entered into, it is not certain how the total cost will be allocated over FY 2006, 2007, and subsequent years. Any costs associated with leasing early voting polling places are also expected to be covered by the deficiency appropriation. General fund expenditures not covered by the FY 2007 budget would increase by the State's share, roughly \$4,000, for additional voting machines at each polling place that may be established at a higher education institution and half of associated continuing technical support, maintenance and storage costs.

Local Effect: County expenditures would increase in election years to bear the costs of establishing and operating polling places at higher education institutions, staffing early voting polling places during extended hours, conducting voter outreach regarding early

voting, and potentially additional efforts to conduct voter registration and absentee balloting activities at nursing homes and assisted living facilities. **This bill imposes a mandate on a unit of local government.**

Small Business Effect: None.

Analysis

Bill Summary:

Higher Education Institution Polling Places

A local board must establish a separate precinct at or within one-half mile of a public or private higher education institution if the board determines that at least 500 students, faculty, and staff who attend or work at the institution are registered voters in the precinct in which the institution is located. If the higher education institution receives State funds, the polling facility must be provided at no charge to the local board and the institution must assist the local board in recruiting election judges. A local board is not required to establish a separate precinct if there is already a precinct within one-half mile that serves the institution.

Early Voting Hours, Polling Places, Voter Outreach

Early voting hours are extended from eight hours each day to 7 a.m. to 8 p.m. each day during the period from the Tuesday before a primary or general election through the Saturday before the election.

Twenty-one specific locations of early voting polling places in the City of Baltimore and Anne Arundel, Baltimore, Harford, Howard, Montgomery, and Prince George's counties are established. In all other counties, with the exception of Charles County, the local board must establish one early voting polling place for each election in the county seat. In Charles County, the early voting polling place must be in Waldorf. If a specified site cannot be used to accommodate early voting, the State Administrator must select another proximate site that is accessible to voters.

Beginning 30 days prior to each primary and general election, SBE and each local board must take steps to inform the public about early voting and early voting polling place locations, including a series of public service announcements and mailings to registered voters.

E-poll Books

Each election day and early voting polling place must be equipped with e-poll books and the State Administrator must ensure that each early voting polling place has adequate infrastructure to accommodate e-poll books.

The Governor must include in the budget each fiscal year sufficient State general funds to implement e-poll books at all polling places and ensure adequate infrastructure at each early voting polling place for the e-poll books.

Supermajority Vote Required for Board Actions

The powers and duties of the State Board of Elections must be exercised in accordance with an affirmative vote by a supermajority of the members.

Nursing Home/Assisted Living Facility Voter Registration and Absentee Balloting

Local boards must administer voter registration and absentee voting for nursing homes and assisted living facilities in accordance with procedures established by the State Administrator subject to the approval of SBE.

Review of Election Day Voter Registration

The State Administrator of Elections and the Office of the Attorney General must conduct a review regarding the possibility of implementing election day voter registration starting with the 2008 primary and report findings and recommendations to the Governor and the General Assembly on or before December 31, 2006.

Provisions of Limited Applicability and Duration

The following provisions are applicable only in jurisdictions in which, based on 2000 Decennial Census data, less than 60% of the population lives in owner-occupied dwellings and the median income is less than \$40,000 per year, and are only effective through the end of June 30, 2008.

Suit to Enjoin a Local Board or Election Director

The SBE administrator is authorized to file suit to enjoin a local board or election director from violating State election law or any regulation, guideline, or procedure adopted pursuant to it. A registered voter, or applicant for registration, may petition the administrator to file suit, and if the administrator does not do so within 10 days of the

petition, or within 3 days of the petition during the period that is less than 20 days before an election, the registered voter or applicant may file suit.

Local Board Regulations

Local boards must, by regulation, develop procedures to be followed in determining whether an applicant is qualified to become a registered voter as well as other procedures relating to processing voter registration changes. Regulations must be approved by the administrator before a local board may deny an application for registration or remove a voter from the registration list after the effective date of the bill.

Public Notice of Precinct Boundary Alteration

A local board must issue public notice of any proposed alterations to precinct boundaries or polling place locations at least 90 days in advance of an election to which the alteration would apply. Public comments must be accepted and submitted along with the proposed alteration to the administrator for review and approval.

Local Election Director Authorities and Duties

A local election director must ensure that there is at least one working voting machine or device for every 200 registered voters at each polling place. Any proposed deletions of registered voters from the registry must be published on an Internet website not later than 30 days before the close of registration prior to an election. The local election director must make regular public reports regarding voter registration applications received and those accepted and rejected. A voter may not be removed from the voter registration list during the period beginning 30 days before the close of voter registration before an election and ending at the close of polls on election day.

Discipline of Election Personnel

If the State administrator determines that a member of the State board or a local board, an employee of a board, counsel to a board, or an election judge is in violation of provisions prohibiting those individuals from holding or being a candidate for public office, using an individual's official authority to influence or affect the results of an election, or generally being active in the management of a political campaign, the administrator is required to suspend the individual until the completion of the next election and may make an interim appointment notwithstanding any other provision of law.

Current Law:

Creation or Alteration of Precincts

A local board may create and alter precinct boundaries, designate polling place locations in any election district, ward, or precinct in the county, and combine or abolish precincts. A local board may not create or change a precinct boundary or polling place during the period beginning the Tuesday, 13 weeks prior to a primary election, through the day of the general election. The board must adopt a written resolution to create a new precinct or change a precinct boundary stating the purpose of the change, containing a written description of precinct boundaries, and accompanied by a map of the area involved. The resolution must be filed with the State Board of Elections (SBE) within five days of its adoption. Voters affected by the change must be notified by mail at least 30 days after the change.

Polling Places

Polling places are designated by local boards according to statutory guidelines, including that polling places be located as conveniently as practicable for the majority of registered voters assigned to that polling place. A public official responsible for a building requested by a local board for an election must make the space available at no charge.

Early Voting

Each local board must establish early voting polling places in its county, and the City of Baltimore and Anne Arundel, Baltimore, Harford, Howard, Montgomery, and Prince George's counties must have at least three early voting polling places. Early voting polling places must meet requirements applicable to election day polling places. A voter may vote at any early voting polling place in their county of residence and each local board must ensure that every ballot style used in the county is available at each polling place. Early voting polling places are open eight hours each day between the Tuesday before a primary or general election and the Saturday before the election.

State Administrator Supervision of Local Boards and Statewide Voter Registration List

The SBE administrator is required to supervise the operations of local boards. The administrator is responsible for the statewide voter registration list and must instruct local boards on the processing of voter registration applications and name and address changes, and entering and removing information from the statewide list.

Voting Unit Regulations

Pursuant to SBE regulations, for a regularly scheduled primary or general election, a local board must provide the greater of one voting unit for each 200 registered voters, plus an additional voting unit for every fractional part of that number, or two voting units.

Local Boards of Election

Local election board powers and duties include overseeing the conduct of all elections in the county, adopting regulations, serving as the board of canvassers and certifying election results, and altering the boundaries and number of precincts in accordance with State election law.

In receiving voter registration applications, local boards must determine if an applicant is qualified to become a voter, enter the applicant into the statewide voter registration list if qualified, and notify the applicant whether or not they are qualified to vote. Name and address changes received from registered voters must be entered into the statewide voter registration list by local boards. A local election director may remove a voter from the voter registration list upon the voter's request or if the voter has become ineligible to vote, is deceased, or has moved out of the State.

Restrictions on Election Personnel

Election personnel, including members of the State and local election boards and employees of the boards may not hold or be a candidate for an elective office, use the individual's authority to influence or affect the results of an election, or generally be active in the management of a campaign. An election judge may be involved in a political campaign, but not as a campaign manager or treasurer of a campaign finance entity, and not while performing official duties on election day.

Election Funding

Chapter 564 of 2001, which required SBE to select, certify, and acquire a uniform statewide voting system for both polling places and absentee voting, provides, in uncodified language, that each county must pay its share, based on its voting age population, of one-half of the State's cost of acquiring and operating the uniform statewide voting systems. Operating costs include the cost of maintenance, storage, printing of ballots, technical support and programming, related supplies and materials, and software licensing fees.

Under codified State law, in existence prior to the enactment of Chapter 564 of 2001, counties are required to appropriate funds for the local boards' overall operational

expenses and expenses for supplies and equipment necessary for voter registration and elections.

Background:

Higher Education Institutions

There are 61 higher education institutions in Maryland. It is unknown how many of these institutions would be eligible for a separate polling precinct, having 500 students, faculty, or staff registered to vote in the precinct that includes the institution and not already having a polling place serving the institution within one-half mile.

Election Day Registration

Election day registration is currently available to some extent (not necessarily in all counties) in Idaho, Maine, Minnesota, New Hampshire, Wisconsin, and Wyoming.

Voter Registration

A computerized statewide voter registration list is used by SBE and local boards to maintain voter registration information, as required by the Help America Vote Act of 2002. As of September 30, 2005, there were 3,079,931 registered voters in Maryland.

2000 Decennial Census Data

Information was not able to be obtained regarding the percentage of the population in local jurisdictions that live in owner-occupied dwellings, according to the 2000 Decennial Census. However, Baltimore City is the only local jurisdiction (of the counties and Baltimore City) that had a homeownership rate below 60%, according to the census. The median household income in Baltimore City was \$30,078 and the per capita money income was \$16,978. Allegany, Caroline, Dorchester, Garrett, Kent, Somerset, and Wicomico counties also had median household incomes below \$40,000, according to the census.

State Fiscal Effect:

E-poll Books and Early Voting Polling Place Infrastructure

SBE estimates it would cost roughly \$28 million to purchase e-poll books for polling places statewide and has proposed a lease purchase of the e-poll books to implement early voting, in accordance with Chapter 5 of 2006. The fiscal 2007 budget bill includes a \$13.37 million fiscal 2006 deficiency appropriation to cover costs associated with early

voting, as set forth in Chapter 5 of 2006, that may occur in fiscal 2006 or 2007. Of that amount, \$11.5 million is contingent on certification of e-poll books by SBE and is expected to be allocated toward the lease purchase of the e-poll books. The deficiency appropriation is also expected to cover the costs of election judges, facilities, supplies, security of voting units, and procedure development and implementation, in addition to costs associated with the e-poll books.

Future year expenditures would reflect additional payments for the e-poll books to cover the \$28 million overall cost, yet because a lease purchase agreement has not yet been entered into, it is not certain how the overall cost will be allocated over fiscal 2006, 2007, and subsequent years.

SBE advises that ensuring that early voting polling places have adequate infrastructure to support the e-poll books should not result in significant costs. The polling places would need sufficient telephone and data line access, which a number of the polling places listed in the bill may already have. In the event adequate infrastructure is an issue at an early voting polling place, the bill also allows the State Administrator to select an alternative site if the administrator determines a polling place cannot be used to accommodate early voting.

Early Voting Outreach

SBE advises it should not experience significant additional costs due to the bill's requirement that SBE and each local board take steps to inform the public about early voting and the location of early voting polling places in each county. Costs should be able to be folded into existing outreach efforts, assuming mailings would be conducted by local boards.

Higher Education Institution Polling Places

Presumably, pursuant to Chapter 564 of 2001, the State would be responsible for one-half of the cost of additional voting machines needed for precincts at higher education institutions. According to several local election boards, a polling place would require three voting machines costing roughly \$8,000. The State would also bear half of any additional costs associated with the voting machines for technical support, software installation, maintenance, and storage.

SBE estimates the cost of creating and running a polling place to be between \$30,000 and \$50,000. This presumably includes the costs of the voting machines and costs of running the polling place (that local boards will bear – discussed below), and may include the above-mentioned additional costs associated with the voting machines.

Future years would reflect recurring costs associated with the voting machines for technical support, maintenance, and storage.

Local Fiscal Effect:

Early Voting Polling Places, Extended Hours, Voter Outreach

The bill's changes regarding locations of polling places could increase local board costs to the extent smaller counties that will only use one early voting polling place need to lease a polling place in the county seat when it would otherwise have conducted early voting at the election board office or other public venue. *For illustrative purposes*, Garrett County pays a maximum of \$100 a day for the privately-owned polling places it uses, which would amount to \$500 for five days of early voting.

Any costs arising from leasing private polling places for early voting, however, are expected to be covered under the \$13.37 million fiscal 2006 deficiency appropriation included in the fiscal 2007 budget bill to cover costs associated with early voting as set forth in Chapter 5 of 2006.

Extended early voting hours could increase election judge costs for local boards. SBE estimates the cost of election judges for early voting statewide will be at least \$570,000 (based on 10 election judges per polling place at an average salary of \$150/day), which is expected to be covered under the \$13.37 million fiscal 2006 deficiency appropriation. Local boards have indicated they will likely need to increase compensation for early voting election judges or hire additional election judges due to the extended voting hours under the bill, which would increase the cost estimated by SBE. It is possible that the additional costs may be borne by the local boards in that they were not accounted for in the estimate the \$13.37 million fiscal 2006 deficiency appropriation was based on. Local boards have also indicated that extending early voting to 8 p.m. on the Saturday before election day would interfere with election day preparation.

Local board costs would increase due to the bill's requirement that SBE and each local board take steps to inform the public about early voting and the location of early voting polling places in each county. The extent of outreach that would need to be conducted by each board is not clear, however, at a minimum local boards would incur costs to conduct mailings prior to each primary and general election. *For illustrative purposes only*, Prince George's, Harford, and Calvert counties estimate, based on prior costs of mailing specimen ballots prior to elections, that conducting a mailing prior to a primary and general election could cost each election board roughly \$150,000, \$42,000, and \$28,000, respectively. Local boards have advised that combining the mailings with specimen ballot mailings likely would not be possible due to the timing of the specimen ballot mailings being closer to the election than the 30 days in advance required by the bill.

Higher Education Institution Polling Places

According to several local boards, a polling place at a higher education institution would require on average three voting machines which would cost roughly \$8,000. Pursuant to Chapter 564 of 2001, the local boards should be responsible for roughly half of that cost. The local boards would also bear half of additional costs associated with the voting machines for technical support, software installation, maintenance, and storage.

Additional costs for election judges and training personnel, notification of voters, delivery costs, and supplies would likely vary based on the compensation of election judges and training personnel in each county as well as the number of expected voters at each new polling place, affecting notification costs and possibly the number of election judges needed. Election judge compensation is statutorily specified for some counties. Otherwise, local boards are authorized to fix the compensation of election judges within limits authorized by the county's governing body. *For illustrative purposes*, Montgomery and Harford counties provided rough estimates of \$3,000 to \$6,000 for the costs of setting up and operating each polling place, excluding the purchase and associated costs of additional voting machines.

SBE estimates the cost of creating and running a polling place to be between \$30,000 and \$50,000, which presumably includes the cost of the voting machines and may also include the technical support, software installation, maintenance, and storage costs associated with the voting machines.

Future years would reflect the above-mentioned costs occurring for statewide elections (both primary and general combined), excluding the cost of purchasing the additional voting machines and any software installation or other one-time start-up costs associated with the voting machines.

Nursing Home and Assisted Living Voter Registration and Absentee Voting

SBE currently has in place procedures regarding absentee ballot assistance and voter registration for licensed nursing homes and assisted living facilities. According to the procedures, each facility in the local board's jurisdiction is visited. Several local boards have indicated that they currently conduct voter registration outreach at nursing homes and in some cases assisted living facilities. To the extent the bill's changes cause local boards to conduct voter registration and absentee voting activities at nursing homes and assisted living facilities to a greater degree than is currently being conducted by each local board, those boards could incur additional costs associated with hiring and training temporary staff and conducting additional visitations.

Additional Information

Prior Introductions: None.

Cross File: SB 712 (Senator Hollinger) – Education, Health, and Environmental Affairs.

Information Source(s): Harford County, Montgomery County, Calvert County, Prince George's County, Baltimore County, Garrett County, Talbot County, Maryland Higher Education Commission, University System of Maryland, Maryland State Board of Elections, Department of Legislative Services

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