

Department of Legislative Services
Maryland General Assembly
2007 Session

FISCAL AND POLICY NOTE

Senate Bill 77 (Senator Kelley, *et al.*)
Education, Health, and Environmental Affairs

Election Law - Rotation of Candidates Names on the Ballot

This bill provides that, when there is more than one candidate of the same political party for nomination or election to an office, the names of the candidates in the group be listed on the ballot in the order established under regulations adopted by the Secretary of State. The regulations must include a protocol for the rotation of the names of the candidates of the same political party seeking nomination or election to an office. The bill applies to both primary and general elections.

Fiscal Summary

State Effect: General fund expenditures would increase in FY 2008 and 2009 to implement a system of rotating candidates' names on ballots for the 2008 presidential elections, perhaps significantly. Since the bill does not specify the protocol for rotating candidates' names, the extent of the increase cannot be reliably estimated. Expenditures would also increase in FY 2011 to implement a system of rotating candidates' names on ballots for the 2010 gubernatorial elections.

Local Effect: Local board expenditures could increase due to increased staffing and printing and postage costs to implement a system of rotating candidates' names on ballots. *This bill may impose a mandate on a unit of local government.*

Small Business Effect: None.

Analysis

Current Law: In both primary and general elections, when there is more than one candidate of the same political party for nomination or election to an office, the names of the candidates are listed in alphabetical order by surname. Candidates for Governor and Lieutenant Governor are arranged in the order of the surnames of the gubernatorial candidates.

In a general election, the names of the candidates of a political party are grouped together and arranged in order with the majority party candidates first, followed by the candidates of the principal minority party, followed by other political parties in order based on the number of voters registered with the party, followed by candidates who are not nominees of a political party.

Background: Studies have suggested that being listed first on a ballot in a given race can give a candidate a small advantage as a result of a theory of “primacy,” in which an individual can be inclined, if only to a small extent, to pick the first of a given list of choices. One study found that the effects of candidate name order were stronger in races when party affiliations were not listed, when races had been minimally publicized, and when no incumbent was involved.

Ohio and California are among states that have procedures for rotating candidate names on ballots. In Ohio, unless the number of candidates in a contest is equal to the number to be elected to the office, candidate names are rotated by precinct. On absentee ballots, to the extent reasonably possible, candidates names must appear in the first, last, and each intermediary position (if any) on the ballots a substantially equal number of times. In statewide contests in California, with the exception of judicial appellate court elections, candidate names are rotated by legislative district, or in counties with four or less legislative districts wholly or partly in the county, by supervisorial district.

State Fiscal Effect: General fund expenditures would increase in fiscal 2008 and 2009 to implement a system of rotating candidates’ names on ballots by precinct for the 2008 elections. The expenditure increase would be partly due to the significant increase in the number of ballot styles needed statewide in order to rotate candidates’ names. The amount of the increase in ballot styles is uncertain since the bill does not specify the protocol for candidate name rotation, but instead leaves it to the discretion of the Secretary of State. The overall expenditure increase, therefore, cannot be accurately estimated.

The State Board of Elections (SBE) advises that if candidates’ names were rotated by precinct, there would be in excess of 3,600 different ballot styles for a primary election. In the 2006 primary election, there were approximately 580 ballot styles used in the State.

A significant increase in the number of ballot styles would require additional resources for development and management of the ballot styles.

The ballot styles for the State's touchscreen voting machines are developed by SBE and sent out to the local boards for proofreading and correction. SBE makes any corrections sent back by the local boards and then sends the local boards a database of the ballot styles to load onto an election management server. The election management server programs the ballot styles onto the memory cards that are inserted into each voting machine. SBE also sends captured images of the proofread ballots to the local boards for printing as specimen ballots.

The absentee and provisional optical scan ballots are also developed by SBE, sent to local boards for proofreading, and then once corrections are made, a database is sent by SBE to a printer to print the ballots. Local boards again proofread a master copy of each ballot style sent from the printer before the ballots are printed.

If candidate names were required to be rotated by precinct, SBE expects to need an additional specialized programmer to develop the ballot styles and additional staff and overtime for current staff to manage the process of development and deployment of the ballot styles to the local boards. The election management system interface would also need evaluation and likely new development and testing to account for the rotation of names on ballot styles in tabulating results. SBE provided a rough estimate of \$100,000 for these additional costs for one election cycle.

SBE also advises that a voter education program would need to be developed and implemented at a cost of \$500,000. The program would include development of clear and understandable instructions regarding candidate name rotation, printing of informational material to mail to voters and post in each polling place, and development of web-based information. SBE advises that instituting a voter education program for the 2010 elections, in addition to the 2008 elections, likely would be necessary because of the increased number of races and candidates in the election.

Local Fiscal Effect: Local board expenditures could increase to implement a rotating ballot system for each election. A significant increase in the number of ballot styles could result in additional local board staffing costs to proofread and manage the ballot styles received from SBE. Baltimore City advises it takes three or four teams roughly two days to proofread all the ballot styles for the city. In Allegheny County, proofreading takes roughly 24 total man hours. Local boards could also incur additional printing and postage costs to distribute voter education material developed by SBE.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Secretary of State; Wicomico, Allegany, Montgomery, Prince George's, and Talbot counties; Baltimore City; Joanne M. Miller and Jon A. Krosnick, *The Impact of Candidate Name Order on Election Outcomes*, Public Opinion Quarterly, 62: 291-330 (1998); State Board of Elections; Department of Legislative Services

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