

Department of Legislative Services
Maryland General Assembly
2008 Session

FISCAL AND POLICY NOTE
Revised

House Bill 310
Ways and Means

(Delegates Rosenberg and Cardin)

Education, Health, and Environmental Affairs

Elections - Voter Registration and Voting - Age

This bill specifies that an individual who is at least age 16, and is otherwise qualified, may become registered to vote. An individual younger than age 18 may vote in a primary election in which candidates are nominated for a general or special election that will occur when the individual is at least age 18, but may not vote in any other election.

The bill takes effect July 1, 2008.

Fiscal Summary

State Effect: The bill is not anticipated to significantly impact State finances.

Local Effect: The bill is not anticipated to significantly impact local government finances.

Small Business Effect: None.

Analysis

Current Law: Article I, § 1 of the Maryland Constitution states that “[e]very citizen of the United States, of the age of 18 years or upwards, who is a resident of the State as of the time for the closing of registration next preceding the election, shall be entitled to vote in the ward or election district in which he resides at all elections to be held in this State.”

Under State election law, to qualify as a registered voter, an individual must be a U.S. citizen, at least 18 years old (on or before the day of the next succeeding general or special election), and a resident of the State at the time of registration. An individual is not qualified to be a registered voter if the individual has been convicted of a felony and is serving a court-ordered sentence of imprisonment, including any term of parole or probation, for the conviction. An individual is also not qualified if he/she is under guardianship for mental disability or has been convicted of buying or selling votes.

Background: Pursuant to the voter registration qualifications under State election law and an assumption that Article I, § 1 of the Maryland Constitution only applied to general elections, in the past an individual who would be 18 years old by the time of the next general election has been allowed to register prior to and vote in the preceding primary as a 17-year-old. Similarly, a 16-year-old could register to vote as long as the individual would be 18 years old by the next general election.

In a December 2006 Court of Appeals opinion, *Lamone v. Capozzi*, 396 Md. 53, 912 A.2d 674 (2006), in which the court held that enactments allowing for early voting were unconstitutional, the court adopted the circuit court's analysis that primary elections are included within the meaning of "at all elections to be held in this State" in Article I, § 1 of the Maryland Constitution.

The Office of the Attorney General advised the State Board of Elections of the implication of the *Capozzi* decision that a voter must be 18 years old on or before the day of any election and SBE accordingly changed its policy. The Attorney General later advised, however, that subsequent rule changes by the Democratic and Republican parties implicated the parties' associational rights under the federal constitution and that SBE should implement the voter registration qualifications under State election law as it had in the past, allowing an individual who is age 18 or will be age 18 on or before the next general or special election to register and vote.

In addition, a February 8, 2008 Maryland Court of Appeals order indicated that, while Article I, § 1 applies to primary elections, the voter eligibility provisions of that section are not in conflict with, and do not prohibit the General Assembly from establishing, the existing age-related provisions of voter registration eligibility requirements under State election law (allowing an otherwise qualified individual who is 18 years old or will be on or before the day of the next succeeding general or special election to register to vote).

Additional Information

Prior Introductions: None.

Cross File: SB 92 (Senator Raskin, *et al.*) – Education, Health, and Environmental Affairs.

Information Source(s): Anne Arundel County, Montgomery County, Prince George's County, State Board of Elections, Department of Legislative Services

Fiscal Note History: First Reader - February 11, 2008
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