

Department of Legislative Services
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FISCAL AND POLICY NOTE
Revised

Senate Bill 136 (Senator Harris, *et al.*)
Education, Health, and Environmental Affairs

Election Law - Qualification of Voters - Proof of Identity

This bill establishes a requirement that a voter present a current and valid government-issued photo identification in order to vote a regular ballot. A voter who does not have the required identification or indicates a change of residence must vote a provisional ballot. The bill allows a resident who is at least age 18 and does not have a driver's license to obtain an identification card from the Motor Vehicle Administration for use as a voter identification card at no charge. The bill also prohibits willfully and knowingly voting or attempting to vote under a false form of identification, with violations subject to existing criminal penalties.

Fiscal Summary

State Effect: General fund expenditures could increase significantly prior to the 2008 general election and 2010 primary and general elections due to the cost of conducting a voter outreach campaign. Transportation Trust Fund expenditures could increase to hire additional MVA customer agents to handle an increase in transactions and to make a one-time computer programming change. MVA could experience a substantial loss of special fund revenues due to the bill's requirement that identification cards be provided to individuals age 18 and older at no charge. The bill's criminal penalty provisions would not materially affect State finances.

Local Effect: Local government expenditures could increase due to costs associated with modification of election judge procedures, voter outreach, and a potential increase in provisional voting as a result of the bill's photo identification requirement. The bill's criminal penalty provisions would not materially affect local government finances.

Small Business Effect: None.

Analysis

Current Law: For each individual who seeks to vote, an election judge has to • locate the voter's name in the precinct register or inactive list; • establish the voter's identity by requesting that the voter state their month and day of birth and comparing it to the information in the precinct register; • verify the address of the voter's residence (unless the voter's personal information has been deemed confidential by the local board, in which case an alternative verification method established by the State Board of Elections must be conducted); and • have the voter sign a voting authority card. Upon completion of those procedures, a voter is entitled to vote a regular ballot. If a voter's name is not found on the precinct register or the inactive voter list, the voter is referred to vote a provisional ballot.

Background: A number of states require or request some form of identification from voters before they may vote a regular ballot in an election. All states are also subject to federal requirements under the Help America Vote Act of 2002 that identification generally be required of first-time voters who register by mail.

Florida, Georgia, and Indiana currently require some form of photo identification in order to cast a regular ballot; otherwise, a voter must cast a provisional ballot. Hawaii, Louisiana, Michigan, and South Dakota request photo identification, although if a voter cannot provide identification the voter may sign an affidavit and cast a regular ballot.

A number of legal challenges were made to voter identification laws – primarily involving photo identification requirements – prior to the November 2006 elections. As a result, photo identification requirements in Missouri and Georgia were struck down or enjoined from enforcement. On the other hand, challenges to voter identification requirements in Arizona (which allows several identification options) and Indiana (which allows photo identification only) were not successful in stopping their implementation during the November 2006 elections.

Since then, Georgia's photo identification requirement has been restored after the state supreme court reversed on jurisdictional grounds a lower court determination that the requirement was unconstitutional. In addition, a previously unenforced photo identification requirement in Michigan, which requires voters to provide photo identification or sign an affidavit prior to voting, was upheld by the Michigan Supreme Court and is now required of voters. A court challenge over Indiana's photo identification requirement that began prior to the 2006 elections has been appealed to the

U.S. Supreme Court, which heard arguments regarding the appeal in January 2008 and is expected to issue a ruling by July.

State Expenditures:

State Board of Elections

SBE indicates a voter outreach campaign would need to be conducted to inform voters of the new photo identification requirement prior to the 2008 general election and the 2010 primary and general elections, possibly also including information about the availability of free voter identification cards from the MVA. After those elections, information on the photo identification requirement could be included in normal election outreach efforts. The campaign would likely include advertising through television, radio, and print media, direct mailing, staff outreach to various organizations, and targeted outreach toward communities and voters who may be more likely to not have photo identification. The total cost of conducting such a campaign cannot be reliably estimated at this time, but is expected to be significant. The cost would depend, at least in part, on the magnitude of the campaign chosen to be conducted (*e.g.*, the number of media outlets used and number of times the message is heard).

Efforts to redevelop election judge procedures and training materials and to train local board staff are expected to be handled with existing resources.

Motor Vehicle Administration

TTF expenditures could increase to hire additional MVA customer agents to handle an increase in transactions due to the bill's requirements that individuals present government-issued photo identification in order to vote. However, it cannot be reliably estimated how many additional individuals would apply for State identification cards as a result of the bill.

It is difficult to determine how many people who do not currently have an identification card or driver's license would choose to apply for an identification card in order to vote (MVA has previously estimated that roughly 171,000 individuals in Maryland who were age 18 and older did not have an identification card or driver's license at the end of fiscal 2005). Therefore, it cannot be reliably estimated what level of additional resources would be needed by MVA. *For illustrative purposes only*, if 50,000 people applied for identification cards in fiscal 2009 as a result of the bill, MVA special fund expenditures could increase by \$234,181 in fiscal 2009 to hire two full-time and as many as seven contractual employees (based, in part, on an MVA cost model) to handle additional transactions. Future years would reflect ongoing salaries, fringe benefits, and operating

costs. Taking into account the fact that an identification card is renewed every five years and assuming a reduced level of additional transactions in subsequent years, the need for the added contractual employees in future years would be wholly or partially eliminated.

MVA TTF expenditures could also increase by \$22,500 in fiscal 2009 only due to a one-time computer programming cost, which could be reduced if economies of scale are realized.

State Revenues: Special fund revenues would decrease due to a loss of identification card fees paid to the Transportation Trust Fund. MVA charges a \$15 fee for an identification card and \$20 for a replacement. MVA issues approximately 60,000 identification cards annually to persons age 18 and older. It is difficult to estimate the amount of the potential revenue decrease not knowing how many cards would be new and how many would be replacements and how many of the approximately 60,000 identification cards issued each year are issued to persons exempt from paying a fee. MVA does not have these statistics. *For illustrative purposes only*, assuming approximately 60,000 identification cards would be issued to persons age 18 and older in fiscal 2009, 80% (or 48,000) of those identification cards would otherwise be issued for a fee, and 80% of the identification cards were new and 20% replacements, TTF revenues would decrease by approximately \$576,000 in fiscal 2008, accounting for the bill's October 1, 2008 effective date. Annualized decreased revenues would be about \$768,000.

Local Fiscal Effect: Expenditures could increase for local boards prior to the 2008 general election to account for modifications to election judge procedure and training related to the photo identification requirement and costs of supplementing SBE's statewide voter outreach campaign. Assuming voters who are not able to present photo identification would be referred to vote a provisional ballot, costs could also increase for some local boards to account for additional provisional ballots voted by those not able to present photo identification. Based on information provided by local boards, the impact on local boards would vary by county. It is assumed voter outreach and provisional voting-related costs resulting from the bill's requirement could also be incurred in future election years.

Election Judge Procedure and Training

SBE indicates that changes made under the bill would require redevelopment of election judge procedures and training material. As a result, local boards would incur costs to supplement or reprint election judge manuals prior to the 2008 general election and some local boards may incur costs associated with training election judges who might not otherwise be retrained prior to the election.

Prince George's County and Baltimore City, for example, estimate the cost of reprinting election judge manuals to be \$12,000 and approximately \$20,000, respectively, while Harford County could supplement existing manuals at a minimal cost. Baltimore City and Harford County expect to retrain all election judges prior to the 2008 general election and therefore would not incur additional training costs as a result of the bill. Frederick County costs could increase by at least \$15,500, reflecting compensation for 500 "check-in" election judges (who would not otherwise be retrained) to attend the training and estimated staff overtime costs to conduct the training (costs could be higher to account for additional time of voting system vendor trainers and the possibility of more than 500 judges needing to be trained). Cecil County costs could also increase by approximately \$13,000 to train roughly 300 election judges. These costs would be more significant in larger counties with more election judges if all judges would not otherwise be retrained prior to the 2008 general election in the absence of the bill (*e.g.*, if only new and chief election judges would be trained/retrained).

Voter Outreach

Costs could increase by \$30,000 in Prince George's County, \$6,000 to \$10,000 in Baltimore City, and approximately \$33,000 in Frederick County (to add information to specimen ballots) for voter outreach, based on information provided by those local boards. Montgomery County indicates it could cost \$78,000 (not including copying costs) to reissue a polling place instructional video for voters, if necessary, and approximately \$8,000 for polling place signs. It is expected Harford County, however, would not incur any significant voter outreach-related costs.

Potential Increase in Provisional Voting

To account for a possible increase in the number of provisional ballots being voted as a result of a photo identification requirement, Frederick County estimates costs could increase by \$100,000, accounting for additional election judges, additional part-time staff, overtime costs for current staff, printing of additional provisional ballot envelopes, and additional computer equipment to process the ballots. Prince George's County indicates costs could increase by \$17,440 to increase the amount of provisional ballots and applications ordered by 10%. Harford County, on the other hand, advises it would likely not incur a significant increase in costs as a result of any possible increase in provisional ballots voted.

Additional Information

Prior Introductions: SB 597 of 2007, an identical bill, received a hearing in the Senate Education, Health, and Environmental Affairs Committee but no further action was taken. SB 803 of 2006, a similar bill, received a hearing in the Senate Education, Health, and Environmental Affairs Committee but no further action was taken.

Cross File: None.

Information Source(s): Cecil County, Frederick County, Harford County, Montgomery County, Prince George's County, Baltimore City, Maryland Department of Transportation (Motor Vehicle Administration), State Board of Elections, Department of Legislative Services

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