

Department of Legislative Services
Maryland General Assembly
2009 Session

FISCAL AND POLICY NOTE
Revised

House Bill 1394

(Chair, Ways and Means Committee)(By Request -
Departmental - Elections, State Board of)

Ways and Means

Education, Health, and Environmental Affairs

Election Law - Employment and Compensation of Election Judges

This departmental bill makes various changes with respect to election judge requirements under State election law, including increasing the minimum number of election judges required to serve at each polling place, requiring that election judges be trained to fulfill certain roles and responsibilities, allowing for most election judges to be hired without regard to party affiliation, and allowing State employees to accrue administrative leave for hours served as an election judge.

Fiscal Summary

State Effect: State expenditures may decrease in election years as a result of a reduced or eliminated need for election day technicians provided by the State's voting system vendor.

Local Effect: Local government expenditures associated with employing and training election judges may increase in some counties as a result of the bill's changes, while other counties may realize cost savings. **This bill may impose a mandate on a unit of local government.**

Small Business Effect: SBE has determined that this bill has minimal or no impact on small business (attached). Legislative Services concurs with this assessment. (The attached assessment does not reflect amendments to the bill.)

Analysis

Bill Summary: The bill's changes include:

- a requirement that (1) local boards provide at least six election judges for each polling place; (2) each polling place have two chief judges; and (3) at least one election judge at each polling place be trained to fulfill one or more of the following roles and responsibilities – voting unit judge, check-in judge, technical judge, and provisional ballot judge;
- a requirement that each local board hire one chief judge from each of the two principal political parties but otherwise hire election judges without regard to party affiliation;
- a provision allowing a State employee who serves as an election judge to accrue one hour of administrative leave for each hour of service as an election judge, up to a total of eight hours for each day of service;
- provisions specifying that election judges be *hired* and serve at the pleasure of the local board, replacing the current *appointment* of election judges to serve a specified term of office; and
- provisions specifying a written oath or affirmation each election judge must take and subscribe to, in place of an oath of elected and appointed officials under the Maryland Constitution, and requiring each local board to maintain the signed oath in accordance with a specified records management plan.

Current Law: Each local board must provide at least four election judges to staff each polling place, though in a precinct with fewer than 200 registered voters the local board may provide two election judges for that precinct’s polling place. Each polling place generally must have an equal number of election judges from the majority party and principal minority party, although, if the total number of judges for a precinct is six or more, one or more judges may be minors or not registered with the majority or principal minority party. The number of those judges, however, must not exceed the lesser of the number of election judges who belong to the majority party or the number who belong to the principal minority party. One or two election judges assigned to each polling place are designated chief election judges that supervise the staff at the polling place. Each judge must take and subscribe to the written oath of elected and appointed officials under the Maryland Constitution.

An election judge generally must be a registered voter who resides in the county where they are appointed, though if a qualified individual residing in the county cannot be found with reasonable effort, a local board may appoint a registered voter residing in any part of the State. A minor who is at least 17 years old but too young to be a registered voter may be an election judge if the minor meets all other qualifications for voter registration in the

county. A State employee that serves as an election judge during hours that the employee is otherwise scheduled to work for the State, may use one hour of administrative leave for each hour of service as an election judge, up to a total of eight hours for each day of service.

Local election directors appoint election judges to a term that extends from the Tuesday 13 weeks before each statewide primary election to the Tuesday 13 weeks before the next statewide primary election, unless the person is excused for good cause or a special election is held during the term of office and SBE determines a local board may not need the service of all appointed election judges. Local boards are allowed to set the compensation of election judges within limits authorized by the county's governing body, though specific salaries or minimum salary limits are set out in State law for some counties.

Local boards are required to promptly investigate complaints received regarding the fitness, qualification, or performance of an individual appointed to be an election judge and to remove any election judge that is unfit or incompetent for the office.

Background: SBE indicates that recruitment of election judges is always a challenge for local boards of elections, a challenge that is not unique to Maryland. A 2007 report by electionline.org regarding poll workers noted that problems with election judge recruitment and absenteeism are experienced nationwide. According to SBE 24,000 poll workers participated in the 2008 general election in Maryland.

SBE indicates that the provisions in the bill allowing State employees to accrue administrative leave for serving as an election judge and allowing for nonpartisan recruitment of election judges other than chief judges should provide some incentives for individuals to serve as election judges and ease some of the challenges local boards face.

SBE also indicates that under current law, election judges are considered public officials (being appointed, serving a term of office, and taking the oath of elected and appointed officials under the Maryland Constitution) and, as a result, additional compensation cannot be provided for extended voting hours (though such compensation has been provided by local boards in the past) and removing election judges is more difficult for the local boards. The bill eliminates the appointment process, includes an oath specific to election judges, and specifies that election judges serve at the pleasure of the local board, instead of a term of office.

Under current law, a State employee can use administrative leave to serve as an election judge during hours that the employee is otherwise scheduled to work, such as during a primary election. SBE indicates, however, that the bill's provision allowing

administrative leave to be accrued will be an incentive for State employees to serve as election judges during general elections, which are State holidays.

State Fiscal Effect: State expenditures may decrease in election years as a result of a reduced or eliminated need for election day technicians provided by the State's voting system vendor due to the bill's requirement that each polling place have at least one election judge trained to fulfill the role and responsibilities of a technical judge. SBE has paid a portion of the cost for the election day technicians in the past, pursuant to a State law requirement that the State and counties share voting system costs. SBE advises the election day technicians will no longer be needed if counties assign technical judges to each polling place.

During the 2008 general election, 17 counties used the election day technicians provided by the voting system vendor, at a cost of just over \$400,000, of which the State was responsible for half. Assuming a new voting system is implemented prior to the 2010 elections, pursuant to Chapters 547 and 548 of 2007, it is uncertain what costs might be incurred for similar election day support under a new voting system services contract.

The bill's provision allowing a State employee who serves as an election judge to accrue one hour of administrative leave for each hour of service as an election judge, up to a total of eight hours for each day of service, is not expected to materially affect State operations or finances. Accrual of administrative leave has been authorized for the past two general elections by the Governor and SBE indicates the bill will codify the practice. For informational purposes, the Department of Budget and Management's fiscal 2008 Annual Personnel Report attributed an indirect cost value of \$182.67 per day of leave for a typical State employee in the State personnel management system.

Local Fiscal Effect: Local government expenditures associated with employing and training election judges may increase in some counties as a result of the bill's changes, while other counties may realize cost savings.

The requirement that each polling place have at least one election judge trained to fulfill the role and responsibilities of a technical judge will be a new requirement for most counties. Costs for some local boards may increase to assign a technical judge to each polling place and to train those judges. Howard County, for example, indicates it may incur additional costs of approximately \$22,000 per election for compensation for technical judges and \$3,600 for training.

SBE advises that with technical judges assigned to each polling place, election day technicians (which some jurisdictions have assigned to each polling place, while others have roving technicians assigned to more than one polling place) will no longer be needed, possibly offsetting any additional costs or resulting in cost savings. Some

counties, however, may not experience offsetting savings. Howard County uses roving election day technicians not hired through the State's voting system vendor, that cover multiple polling places, and indicates it would continue to utilize the technicians in addition to the technical judges.

Some counties may incur increased expenditures due to the requirement that a minimum of six election judges be assigned to each polling place. In Garrett County, for example, costs may increase by approximately \$4,000 to hire and train 22 additional election judges for 11 polling places for one election.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): State Board of Elections, Carroll County, Garrett County, Harford County, Howard County, Montgomery County, Department of Legislative Services

Fiscal Note History: First Reader - March 16, 2009
mlm/hlb Revised - House Third Reader - April 8, 2009

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ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: Election Law – Employment and Compensation of Election Judges

BILL NUMBER: HB 1394

PREPARED BY: Maryland State Board of Elections

PART A. ECONOMIC IMPACT RATING

This agency estimates that the proposed bill:

WILL HAVE MINIMAL OR NO ECONOMIC IMPACT ON MARYLAND
SMALL BUSINESS

OR

WILL HAVE MEANINGFUL ECONOMIC IMPACT ON MARYLAND
SMALL BUSINESSES

PART B. ECONOMIC IMPACT ANALYSIS

The proposed legislation will have no impact on small business in Maryland.