

Department of Legislative Services
Maryland General Assembly
2009 Session

FISCAL AND POLICY NOTE

House Bill 1066
Ways and Means

(Delegate Jennings, *et al.*)

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 (MVA), 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 may increase significantly prior to the 2010 and future elections due to the cost of conducting a voter outreach campaign. Transportation Trust Fund (TTF) expenditures may increase to hire additional MVA customer agents to handle an increase in transactions and to make a one-time computer programming change. MVA may experience a substantial loss of TTF 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 are not expected to materially affect State finances.

Local Effect: Local government expenditures may increase significantly due to costs associated with conducting voter outreach and employing additional election judges. The bill's criminal penalty provisions are not expected to materially affect local government finances. **This bill may impose a mandate on a unit of local government.**

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 the response 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 (HAVA) that identification be required of first-time voters who register by mail and do not provide verification of their identity with their voter registration.

Approximately half of the states have broader identification requirements than those mandated by HAVA. Florida, Georgia, and Indiana have probably the strictest requirements in that some form of photo identification must be presented in order to cast a regular ballot; otherwise, a voter must cast a provisional ballot. A small number of other states request photo identification, but allow for other means to cast a regular ballot. Other states requiring identification of all voters generally allow for a broader range of identification (often including items such as a utility bill, bank statement, or paycheck) to be provided, not necessarily containing the voter's photo. Maryland is among the states that do not require identification from all voters.

A number of legal challenges have been made to voter identification laws in recent years, primarily involving photo identification requirements. Photo identification requirements in Missouri and Georgia were struck down or enjoined from enforcement prior to the November 2006 elections, while challenges to requirements in Arizona (which allows several identification options) and Indiana (which allows photo identification only) were

not successful in stopping their implementation for the November 2006 elections. Georgia's photo identification requirement was later restored by court action.

Two consolidated cases challenging Indiana's voter identification law, which is called the most stringent voter identification law in the country, reached the U.S. Supreme Court during its 2007 term and were decided by the Court in April 2008 (*Crawford, et al. v. Marion County Election Board, et al.*; *Indiana Democratic Party, et al. v. Rokita, et al.*). The Indiana law requires persons voting in person to present federal or State government issued photo identification (with the exception of persons that live and vote in a state licensed care facility) before voting. In a 6-3 decision, the Supreme Court upheld the law.

State Expenditures:

State Board of Elections

General fund expenditures may increase significantly to conduct a voter outreach campaign to inform voters of the new photo identification requirement and availability of free voter identification cards from MVA prior to the 2010 and future elections. Presumably costs may diminish in future years as voters become more accustomed to the requirement.

Indiana and Georgia, which have implemented new photo identification requirements in recent elections, used various voter outreach approaches including advertising, media relations, direct mailing, public service announcements, and outreach to organizations uniquely suited to communicate with certain groups of voters. The State Board of Elections (SBE) indicates that a direct mailing to all registered voters will be necessary and presumably other voter outreach efforts, such as advertising, may also be necessary. Depending on the methods of voter outreach that are used by the State and local boards, it is assumed associated costs may be significant and that at least a portion of these costs may be incurred by the State.

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

Motor Vehicle Administration

TTF expenditures may increase in fiscal 2010 and future years to the extent additional State driver's license/identification cards are issued due to the photo ID requirement. Any increase, however, cannot be reliably estimated. Any need for additional customer agents would presumably, for the most part, exist during limited periods of time prior to elections and may diminish or vary in future years.

TTF expenditures will increase by an estimated \$25,000 in fiscal 2010 only due to a one-time computer programming cost, which may be reduced if economies of scale are realized.

State Revenues: Special fund revenues will decrease due to a loss of identification card fees paid to TTF. MVA charges a \$15 fee for an identification card (for those 16 and older) and \$20 for a duplicate/corrected card. MVA issued approximately 110,000 identification cards to persons age 18 and older in fiscal 2008. MVA indicates approximately 78% of the identification cards were new and approximately 22% were duplicates/corrections. MVA, however, does not have information regarding the percentage of the 110,000 cards that were issued free of charge under current fee exemptions (for those 65 and older, legally blind, *etc.*).

For illustrative purposes only, assuming approximately 110,000 identification cards are issued to persons age 18 and older in fiscal 2010, 80% (or 88,000) of those identification cards are issued for a fee, and 78% of the identification cards are new and 22% replacements, TTF revenues will decrease by approximately \$1,062,600 in fiscal 2010, accounting for the bill's October 1, 2009 effective date. Annualized revenue decreases may total \$1,416,800.

Local Fiscal Effect: Expenditures may increase for local boards prior to the 2010 and future elections to account for costs of voter outreach; recruitment, training, and compensation of additional election judges; and additional electronic pollbooks, among other potential costs. The potential need for additional election judges and electronic pollbooks is due to the time the voter ID requirement may add to the voting process.

As indicated above, it is unclear to what extent the responsibility and cost of voter outreach would be borne by the local boards. Nonetheless, local board voter outreach costs may be significant. Based on information provided by local boards, the impact would vary from county to county. It is assumed any costs may diminish in the future as voters become more accustomed to the requirement.

Given the uncertainty regarding the level of voter outreach costs that could be incurred, the overall fiscal impact of the bill on an individual county cannot be reliably estimated. However, *for illustrative purposes*, Montgomery County advises its costs could increase by \$95,650 to account for recruiting and training one additional election judge for each of its polling place sites. Kent County indicates its costs could increase by at least \$34,117, accounting for election judge training and compensation, additional e-pollbooks, and radio and newspaper advertisements. Kent County also indicated a need for additional provisional ballots, but did not have an available cost. Baltimore City also indicates it would incur costs for additional election judges, among other costs, including a potential

need for additional provisional ballots. SBE indicates the most recent cost for provisional ballot applications was approximately \$0.08 per application, exclusive of shipping costs.

Like other costs, the expense of direct mailings suggested by SBE would vary by county, but *for illustrative purposes*, Anne Arundel County (which has roughly 330,000 registered voters) indicates its cost to print and mail specimen ballots to registered voters prior to the November 2008 election was \$67,426.

Additional Information

Prior Introductions: SB 136 of 2008, SB 597 of 2007, and SB 803 of 2006, all similar bills, each received a hearing in the Senate Education, Health and Environmental Affairs Committee but no further action was taken.

Cross File: SB 43 (Senator Harris, *et al.*) - Education, Health, and Environmental Affairs.

Information Source(s): State Board of Elections; Maryland Department of Transportation; Baltimore City; Anne Arundel, Kent, Washington, Worcester, and Montgomery counties; National Conference of State Legislatures; The Pew Center on the States (electionline.org); U.S. Election Assistance Commission, *Case Studies on the Impact of the Help America Vote Act's Identification Requirements for First-time Voters* (May 2008); Georgia Secretary of State (Elections Division); Department of Legislative Services

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