

Department of Legislative Services  
Maryland General Assembly  
2009 Session

FISCAL AND POLICY NOTE  
Revised

Senate Bill 197 (Senator Lenett)  
Education, Health, and Environmental Affairs

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Election Law - Early Voting and Polling Places

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This bill allows for early voting on days and hours designated by the State Board of Elections (SBE), in collaboration with local boards of elections. Early voting polling places are designated by local boards. The bill also specifies that a voter may vote by provisional ballot at any polling place in the State on election day.

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Fiscal Summary

**State Effect:** General fund expenditures may increase by \$2.6 million over the course of FY 2010 and 2011, with certain costs not yet determined. Additional expenditures may be incurred to implement early voting prior to any special elections that might occur in FY 2010 and 2011 after the bill takes effect. Ongoing, but diminished, State expenditures associated with early voting will be incurred in future years.

**Local Effect:** Local government expenditures increase by \$1.1 million in jurisdictions with five early voting polling places and \$0.6 million in jurisdictions with three early voting polling places, to implement early voting for the 2010 primary and general elections. Additional expenditures may be incurred to implement early voting prior to any special elections. **This bill imposes a mandate on a unit of local government.**

**Small Business Effect:** Minimal.

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Analysis

**Bill Summary:** SBE, in collaboration with local boards of elections, has to designate up to 10 days in the two-week period prior to an election for early voting and prescribe the hours for early voting. Each local board must designate early voting polling places in that

county, aiming to ensure that the polling places are adequate in number and conveniently located to serve the voters in the county. Each early voting polling place must meet requirements applicable to election day polling places.

Local boards also must ensure that every ballot style used in the State for the election is available at the early voting polling places in that county. Election laws applicable to election day also apply to early voting and SBE must adopt regulations and guidelines for the conduct of early voting.

**Current Law:** With voter approval of a constitutional amendment at the November 2008 general election, the Maryland Constitution now authorizes the enactment of “a process to allow qualified voters to vote at polling places in or outside their election districts or wards or, during the two weeks immediately preceding an election, on no more than 10 other days prior to [election day].” State law does not currently contain a process for early voting at designated polling places.

### *Provisional Voting*

Statute specifies that, if eligible, a person may cast a provisional ballot at a polling place on election day or at the local board office in the county in which the person resides after the close of registration and before the closing of polls on election day. A local board counts the entire provisional ballot if the address on the provisional ballot application is within the precinct where the ballot was cast, and if it is not, only the votes cast for each candidate or question applicable to the precinct in which the voter resides are counted.

**Background:** Over the past several election cycles, the number of voters across the United States who cast their votes prior to election day by early and/or absentee voting has increased as states enact laws and implement policies that afford more opportunities for voters to do so. Over 30 states offer no-excuse, in-person early voting in some form whether at designated early voting sites, as in this bill, or limited to election offices or other locations.

A review of the 2008 general election, by the Pew Center on the States’ *electionline.org* (written in December 2008), indicated that preliminary data suggested nearly 30% of votes – an estimated 38 million – were cast before election day. The portion of that amount that represents in-person early voting, as opposed to absentee voting, was not specified.

Legislation implementing early voting was enacted in Maryland in 2006 (Chapters 5 and 61), but later struck down by the Maryland Court of Appeals as unconstitutional. The legislation would have allowed for a five-day early voting period prior to primary and general elections and would have allowed early voters to vote at any early voting polling place (three locations in the State’s larger counties, and one in all other counties) in the voter’s county of residence.

In the 2007 session, Chapter 513 was enacted, proposing the above-mentioned constitutional amendment and specifying that the provisions of Chapters 5 and 61 that allowed for early voting would not take effect if the constitutional amendment became effective and that applicable provisions of the Annotated Code of Maryland containing the voided laws were repealed. The constitutional amendment was subsequently approved by the voters at the 2008 general election.

**State Fiscal Effect:** General fund expenditures may increase by \$2.6 million over the course of fiscal 2010 and 2011 to implement early voting, with certain costs not yet determined. Some of the costs included in the estimate reflect the State's portion of costs expected to be shared with counties pursuant to Chapter 564 of 2001, which requires counties to pay one half of the State's costs of acquiring and operating the State's voting systems. Additional costs included in the estimate, however, may also be borne, at least partially, by local boards of elections, reducing costs to the State.

This estimate is based on specific costs identified by SBE to this point and estimated costs of additional voting units and ballot-on-demand printers for early voting (assuming procurement of a paper-based voting system, pursuant to Chapters 547 and 548 of 2007). Costs accounted for, and other potential costs not accounted for, in this estimate are shown in **Exhibit 1**. SBE's estimate of costs associated with early voting polling place information technology only accounts for connectivity between early voting polling places within each county. Costs to establish connectivity statewide to account for voters voting at any early voting polling place statewide may be higher.

The estimate assumes a minimum amount of voter outreach would be undertaken. Such efforts may be able to be coordinated with similar efforts undertaken for a new voting system, which may help to reduce costs.

The estimate does not account for costs of implementation of early voting prior to any potential special elections that might occur in fiscal 2010 or 2011, after the bill takes effect. It is unclear to what extent doing so would be feasible prior to the preparation for and implementation of early voting prior to the 2010 primary and general elections.

Ongoing, but diminished, State expenditures associated with early voting will be incurred in future years.

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**Exhibit 1**  
**SBE-identified and Assumed Voting Unit/Ballot-on-demand Costs**

|   |                      |
|---|----------------------|
| Additional Voting Units <sup>1</sup>  | \$88,000             |
| Ballot-on-demand Printers <sup>2</sup>  | \$238,000            |
| Ballot-on-demand Printer Paper  | \$25,000             |
| Additional Voting System and Ballot-on-demand Printer Vendor Costs <sup>3</sup>   | \$515,000            |
| Statewide Voter Registration System Software Analysis, Development, and Testing   | \$600,000            |
| Election Management System Analysis, Development, and Testing   | \$125,000            |
| Electronic Pollbook Staff   | \$111,000            |
| Early Voting Polling Place Information Technology (routers, PCs, etc.)  | \$356,000            |
| Project Management Support  | \$220,000            |
| Voter Education, Outreach, and Communication  | \$350,000            |
| Other Potential Costs (ballot-on-demand software and maintenance costs, additional statewide voter registration database software licenses, and additional supplies associated with ballot-on-demand printers and otherwise ) | Undetermined         |
| <b>Total</b>  | <b>\$2.6 million</b> |

<sup>1</sup> This assumes (1) procurement of a paper-based, optical scan voting system, pursuant to Chapters 547 and 548 of 2007; (2) a need for at least one additional optical scan unit and one additional voting unit accessible to voters with disabilities (some counties may require more) (each assumed at \$5,500 per unit), for an assumed 50 early voting polling places; (3) purchase of the additional voting units, along with election day voting units, over the course of a five-year capital lease-purchase financing schedule; and (4) the costs being split by the State and counties, pursuant to Chapter 564 of 2001. The identified cost only reflects fiscal 2010 and 2011 payments.

<sup>2</sup> These printers are expected to be needed to accommodate multiple ballot styles at a given early voting polling place. This accounts for State fiscal 2010 and 2011 payments on a five-year capital lease-purchase, assuming the equipment is procured along with a new voting system (the new voting system RFP includes a request for equipment necessary to conduct early voting, if enacted). The per unit costs are assumed to be \$5,000 per printer and \$1,500 per accompanying laptop computer, based on price information gathered primarily from Florida counties that used the printers in 2008. The full equipment costs to the State, if purchased outright, would be \$741,000, at those assumed costs.

<sup>3</sup> Rough estimates provided by SBE, based on seven days of early voting from 7 a.m. to 8 p.m. each day, not accounting for any technician costs associated with pre- or post-early voting set up or breakdown or additional hours to address any problems.

Source: State Board of Elections, Department of Legislative Services

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**Local Fiscal Effect:** Local government expenditures are similarly expected to increase to implement early voting. In Anne Arundel County and Howard County, for example, expenditures may increase to implement early voting for the 2010 elections by \$1.1 million (assuming five early voting polling places) and \$0.6 million (assuming three early voting polling places), respectively, as shown in **Exhibit 2**. These estimates are based on an assumption of seven days preceding an election being designated for early voting. Costs are expected to be relatively consistent from jurisdiction to jurisdiction, proportional to the number of early voting polling places designated in a given county, but presumably will still vary due to differences in registered voter populations in different jurisdictions and other factors.

As mentioned previously, under State Fiscal Effect, some of the costs identified by SBE may be borne at least partially by the local boards of elections, potentially representing costs in addition to those estimated for Anne Arundel County and Howard County above. SBE has also indicated a potential need for a voter registration data entry center to accomplish entering the heaviest volume of voter registrations (received around the voter registration deadline) within a compressed schedule resulting from voting beginning at an earlier date. Costs of such a center cannot be reliably estimated at this time, but likely will be borne primarily by the local boards of elections, which are responsible for processing voter registration applications.

Additional expenditures may be incurred to implement early voting prior to any special elections. As noted under State Fiscal Effect, however, it is unclear to what extent doing so would be feasible prior to the preparation for and implementation of early voting prior to the 2010 primary and general elections.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Anne Arundel County, Baltimore City, Frederick County, Harford County, Montgomery County, Wicomico County, State Board of Elections, Department of Legislative Services

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mlm/hlb Revised - Correction - April 7, 2009

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**Exhibit 2**  
**Estimated County Costs For Early Voting in Fiscal 2010 and 2011**  
**Prior to 2010 Elections**

|   | <b>Five Early<br/>Voting<br/><u>Polling Places</u><sup>1</sup></b> | <b>Three Early<br/>Voting<br/><u>Polling Places</u><sup>1</sup></b> |
|---|--|---|
| <b>One-time Costs</b>   |  |   |
| Voting Units <sup>2</sup>                                       | \$17,600   | \$10,600  |
| E-pollbooks   | 121,100  | 54,500  |
| Ballot-on-demand Printers <sup>3</sup>                          | 21,900   | 10,400  |
| <b>Subtotal</b>   | <b>\$160,600</b>   | <b>\$75,500</b>   |
| <b>Per-election Costs</b>                                       |  |   |
| Early Voting Site Rental and Security                           | \$19,300   | \$13,700  |
| Election Judge-related Costs                                    | 218,900  | 107,700   |
| Voting Unit/E-pollbook/Ballot-on-demand Costs                   | 24,500   | 20,700  |
| Ballots and Related Materials                                   | 21,700   | 13,000  |
| Staff, Printing, Supplies, Outreach, and Other Costs            | 187,600  | 131,600   |
| <b>Subtotal</b>   | <b>\$471,900</b>   | <b>\$286,600</b>  |
| <b>Costs for 2010 Primary and General Elections<sup>4</sup></b> | <b>\$1,104,500</b>   | <b>\$648,600</b>  |

<sup>1</sup>Based on estimates provided by Anne Arundel and Howard counties, assuming seven days of early voting.

<sup>2</sup>This assumes (1) procurement of a paper-based, optical scan voting system, pursuant to Chapters 547 and 548 of 2007; (2) a need for at least two additional optical scan units and two additional voting units accessible to voters with disabilities per early voting polling place (per Anne Arundel County and Howard County estimates); (3) purchase of the additional voting units, along with election day voting units, over the course of a five-year capital lease-purchase financing schedule; and (4) the costs being split by the State and counties, pursuant to Chapter 564 of 2001. The identified costs only reflect fiscal 2010 and 2011 payments.

<sup>3</sup>This accounts for county fiscal 2010 and 2011 payments on a five-year capital lease-purchase, assuming the equipment is procured along with a new voting system (see footnote 2 in Exhibit 1).

<sup>4</sup>This accounts for one-time costs and per election costs for two elections. As noted in the text of this fiscal note, additional costs identified by SBE (under State Fiscal Effect) may be borne, at least partially, by the local boards of elections which are not reflected in this total, including undetermined costs listed in Exhibit 1 such as ballot-on-demand software and maintenance costs, which presumably will be considered voting system costs and be shared by the State and counties pursuant to Chapter 564 of 2001.

Source: Anne Arundel County, Howard County, Department of Legislative Services

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