

Department of Legislative Services
2010 Session

FISCAL AND POLICY NOTE

Senate Bill 711 (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 (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.

The bill takes effect January 1, 2011.

Fiscal Summary

State Effect: General fund expenditures are expected to increase significantly over the course of FY 2011 and 2012 to conduct voter outreach. Costs over the course of FY 2011 and 2012 may total \$500,000; however, the local boards of elections are expected to be responsible for a portion of the cost. Voter outreach costs are expected to diminish in future years. Transportation Trust Fund (TTF) expenditures may increase to hire additional MVA customer agents to handle an increase in identification card transactions. 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 due to voter outreach, election judge, and other costs. 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: Potential minimal.

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. In a separate case filed in June 2008 (*League of Women Voters v. Rokita*), the Indiana Court of Appeals held in September 2009 that the voter identification requirement violated the state's constitution and the case is now before the Indiana Supreme Court.

State Expenditures:

State Board of Elections

General fund expenditures are expected to increase significantly over the course of fiscal 2011 and 2012 to conduct voter outreach regarding the photo identification requirement and availability of free voter identification cards from MVA prior to the 2011 Baltimore City elections and the February 2012 presidential primary elections. Costs of voter outreach over the course of fiscal 2011 and 2012 may total \$500,000. It is expected that local boards of elections will be responsible for part of the cost of a voter outreach campaign, but how the cost will be shared by the State and local boards is uncertain.

Costs may diminish somewhat to conduct voter outreach prior to the November 2012 presidential general election, but are expected to nonetheless be significant. Costs presumably will further 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.

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 future years (possibly beginning in fiscal 2012, prior to the Baltimore City elections and the presidential primary) 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.

State Revenues: Special fund revenues are expected to decrease due to a loss of identification card fees paid to TTF. MVA charges a \$15 fee for an identification card and \$20 for a duplicate/corrected card. MVA issued approximately 150,000 identification cards to persons age 18 and older in fiscal 2009. MVA indicates approximately 76% of the identification cards were new and approximately 24% were duplicates/corrections. MVA, however, does not have information regarding the percentage of the 150,000 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 150,000 identification cards are issued to persons age 18 and older in fiscal 2011, 80% (or 120,000) of those identification cards are issued for a fee, and 76% of the identification cards are new and 24% are replacements, TTF revenues will decrease by approximately \$972,000 in fiscal 2011, accounting for the bill's January 1, 2011 effective date. Annualized revenue decreases would total \$1,944,000.

Local Fiscal Effect: Expenditures may increase for local boards of elections prior to the 2011 Baltimore City elections, the February 2012 presidential primary, and future elections to account for costs of voter outreach and recruitment, training, and compensation of additional election judges, among other potential costs.

Of a small number of local boards of elections contacted, some indicate the bill can be implemented with minimal or no fiscal impact, while others have indicated a need for additional election judges and other resources. As indicated above, local boards may bear a portion of the costs of a Statewide voter outreach campaign.

For illustrative purposes, Anne Arundel County estimates its costs to implement a photo identification requirement during the 2008 presidential primary and general elections would have been over \$100,000, accounting for costs of additional election judges, provisional ballot supplies (assuming the number of provisional ballots cast would double due to the photo identification requirement), and provisional ballot processing staff. Presumably costs for the 2012 presidential elections would be comparable. Montgomery

County also indicates additional election judges will be needed if a photo identification requirement is implemented (one per polling place), for which compensation costs would total approximately \$110,000 for a primary and general election. Additional costs associated with recruiting and training the election judges would also be incurred.

Additional Information

Prior Introductions: SB 43/HB 1066 of 2009 received hearings in the Senate Education, Health, and Environmental Affairs Committee and House Ways and Means Committee, respectively, but no further action was taken on either bill. In addition, similar bills were introduced in the 2005 through 2008 sessions.

Cross File: None.

Information Source(s): State Board of Elections; Maryland Department of Transportation (Motor Vehicle Administration); Anne Arundel, Baltimore, Charles, Frederick, Montgomery, and Somerset counties; National Conference of State Legislatures; *Election Law@Moritz*, Ohio State University (<http://moritzlaw.osu.edu/electionlaw>); Department of Legislative Services

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