

Department of Legislative Services  
2010 Session

FISCAL AND POLICY NOTE  
Revised

House Bill 217  
Ways and Means

(Delegate Cardin, *et al.*)

Education, Health, and Environmental Affairs

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**Election Law - Voter Registration and Nomination by Petition - Requirements**

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This bill allows an individual who is at least age 16 to register to vote, provided the individual meets other voter registration requirements. The bill provides that an individual under age 18 may vote in a primary election in which candidates are nominated for a general or special election that will occur when the individual is at least age 18; however, the individual may not vote in any other election. The bill also allows a registered voter to change the voter's party affiliation (or nonaffiliation) at any time voter registration is open, eliminating an existing restriction on the ability of a voter to change party affiliation during an extended period prior to a primary election and a specified period prior to a special congressional election. The bill lastly specifies that the number of signatures of registered voters needed to seek nomination by petition must be determined as of January 1 of the year of the primary election for which the nomination is sought.

The bill takes effect June 1, 2010.

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**Fiscal Summary**

**State Effect:** Transportation Trust Fund expenditures increase minimally in FY 2010 due to increased costs to make revised voter registration-related Motor Vehicle Administration (MVA) forms available after the effective date of the bill. The State Board of Elections (SBE) can handle any changes with existing resources.

**Local Effect:** Local government finances are not expected to be significantly affected.

**Small Business Effect:** None.

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## Analysis

### Current Law:

#### *Voter Registration*

Under the Maryland Constitution, generally every citizen of the United States, age 18 or older, who is a resident of the State as of the close of registration prior to an election is eligible to vote. The constitution requires individuals to be registered in order to vote. Under State law, with certain exceptions, an individual may register to vote if the individual is a citizen of the United States, is at least age 18 (or will be age 18 on or before the day of the next succeeding general or special election), and is a resident of the State as of the day the individual seeks to register.

#### *Change of Party Affiliation*

Voter registration is closed between 9 p.m. on the twenty-first day before an election until the eleventh day after an election. Party affiliation (or nonaffiliation) generally may not be changed between 9 p.m. on the Monday that is 12 weeks before the day of a primary election until voter registration reopens on the eleventh day after the primary election. In the event of a special election, party affiliation generally may not be changed between the time of issuance of a gubernatorial proclamation calling a special election and the day of the election. Otherwise, party affiliation (or nonaffiliation) may be changed at any time that voter registration is open.

If a registered voter has moved from one county to another within the State since the last general election, the voter may change party affiliation once during the prohibited period. An individual may not cancel his or her voter registration within the prohibited period and reregister in the same county during the same period with a different party affiliation.

#### *Number of Signatures of Registered Voters Required for Nomination by Petition*

A candidate who seeks nomination by petition must file petitions signed by not less than 1% of the total number of registered voters eligible to vote for the office for which the nomination is sought, except that the petitions must be signed by at least 250 voters eligible to vote for the office. The number of registered voters needed to meet the requirement is determined as of the deadline for changing party affiliation before the primary election for which the nomination is sought.

## **Background:**

### *Voter Registration of Individuals Under 18*

Florida, Hawaii, and Oregon are among states that allow individuals who are under 18 to “pre-register” and be registered and able to vote upon turning 18.

In accordance with State law, the Maryland voter registration application requires the applicant to sign an oath swearing or affirming that, among other things, the applicant “will be at least 18 years old or older by the next General Election.” Maryland’s voter registration system, however, currently has the functionality to enter individuals who will not be 18 or older by the next general election into the system and not include them in the electronic pollbooks and precinct registers for an election until the individuals are eligible to vote.

### *Voting by Individuals Under 18*

A 2006 Court of Appeals opinion (*Lamone v. Capozzi*), which addressed the applicability of certain elections-related provisions of the Maryland Constitution to primary elections, led to subsequent changes to SBE policy regarding the eligibility of an individual under age 18, but who will be age 18 on or before the next general (or special) election, to register and vote in the primary that precedes that general election. Prior to the opinion, persons who were 17 but would be 18 on or before the next general election were permitted to vote in the primary election.

Based on advice of the Attorney General’s Office after the *Capozzi* opinion, SBE changed its policy to no longer allow a person age 17 to vote in a primary election. However, after subsequent advice of the Attorney General (based on the Democratic and Republican parties’ assertion of their federal constitutional rights to include certain voters under 18 in the primary), and a lawsuit that eventually resulted in a February 2008 Court of Appeals order, registered 17-year-olds that would be 18 on or before the November 2008 general election were allowed to vote in the 2008 presidential primary election, with the exception of certain special and municipal election contests.

## **State Fiscal Effect:**

### *Motor Vehicle Administration*

Transportation Trust Fund expenditures may increase minimally in fiscal 2010 to reprint MVA forms to reflect the change in voter registration qualifications. MVA indicates the cost associated with revising and printing a three-month inventory of necessary forms would be \$10,000. MVA, however, has a system in place to adjust the regular printing of

forms to minimize costs and wasted forms associated with expected revisions, likely resulting in any increase in costs being less than \$10,000.

### *State Board of Elections*

SBE can handle the bill's changes with existing resources. This assumes SBE will need to print new voter registration applications after the 2010 legislative session, for use leading up to the 2010 primary and general elections, with or without the bill. SBE indicates that, historically, printing additional voter registration applications has been necessary after legislative sessions.

**Local Fiscal Effect:** Local government finances are not expected to be significantly affected. Local government expenditures may increase by relatively minimal amounts to revise voter outreach materials and for additional mailing and/or part-time personnel costs to account for any increase in the number of people that register to vote as a result of the bill. Local governments, however, may also realize a minimal decrease in expenditures as a result of the elimination of the need to keep local board offices open until 9 p.m. on the day of the current deadline for a change in party affiliation prior to a primary election.

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### **Additional Information**

**Prior Introductions:** SB 671 of 2009 and SB 31 of 2007 also would have allowed an individual at least age 16 to register to vote. SB 671 received a hearing in the Senate Education, Health, and Environmental Affairs Committee, but no further action was taken. SB 31 received a hearing in the Senate Education, Health, and Environmental Affairs Committee and was referred to interim study. HB 589 of 2009 would have allowed a change in party affiliation at any time voter registration is open and amended the date of the determination of the number of signatures of registered voters needed to seek nomination by petition. HB 589 passed in the House and received a hearing in the Senate Education, Health, and Environmental Affairs Committee, but no further action was taken.

**Cross File:** None.

**Information Source(s):** State Board of Elections; Maryland Department of Transportation; Baltimore, Howard, Kent, Prince George's, Wicomico, and Worcester counties; Florida Department of State, Division of Elections; State of Hawaii, Office of Elections; Oregon Secretary of State, Election Division; Department of Legislative Services

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Analysis by: Scott D. Kennedy

Direct Inquiries to:  
(410) 946-5510  
(301) 970-5510