

Department of Legislative Services  
Maryland General Assembly  
2010 Session

FISCAL AND POLICY NOTE

House Bill 797  
Ways and Means

(Delegate Bates, *et al.*)

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Election Law - Early Voting - Delay of Implementation

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This emergency bill repeals specified provisions, enacted under Chapter 445 of 2009, which established early voting in State law. The bill also reestablishes those provisions, applicable to the 2012 presidential elections, on January 1, 2012, effectively delaying the implementation of early voting until the 2012 presidential elections.

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Fiscal Summary

**State Effect:** State expenditures may decrease by approximately \$400,000 over the course of FY 2010 and 2011, reflecting the elimination of costs to implement early voting for the 2010 gubernatorial elections. Costs may increase in FY 2012 and 2013 to implement early voting for the first time, to the extent costs, such as those for voter outreach, would have otherwise diminished for the 2012 elections after initial implementation in 2010.

**Local Effect:** Local government expenditures collectively decrease significantly, reflecting the elimination of costs to implement early voting for the 2010 gubernatorial elections.

**Small Business Effect:** Potential minimal.

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Analysis

**Current Law:** Chapter 445 of 2009 established early voting in State law, specifying early voting days and hours for the 2010 and 2012 statewide elections as shown below in **Exhibit 1**.

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**Exhibit 1**  
**Early Voting Days and Hours under Chapter 445**

	<u>Days</u>	<u>Hours</u>
<b>2010 Gubernatorial Primary and General Elections</b>	Second Friday before the election through Thursday before the election, excluding Sunday	10 a.m. – 8 p.m. each day
<b>2012 Presidential Primary and General Elections</b>	Second Saturday before the election through Thursday before the election	10 a.m. – 8 p.m., Saturday and Monday through Thursday; 12 noon – 6 p.m., Sunday

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The State Board of Elections (SBE) is required to designate each early voting center in collaboration with the local board in each county. The number of early voting centers in each county is dependent on the number of registered voters in the county. A county with fewer than 150,000 registered voters has one early voting center; a county with more than 150,000 but fewer than 300,000 registered voters has three early voting centers; and a county with more than 300,000 registered voters has five early voting centers. A voter may vote at any early voting center in the voter's county of residence.

Beginning 30 days prior to each early voting period, SBE and each local board of elections must take steps to inform the public about early voting and the location of early voting centers in each county, including a series of public service media announcements, mailings to all registered voters in each county, and other measures as appropriate.

Unless expressly provided, provisions of State law that apply to voting on election day also apply to early voting. SBE is required to adopt regulations and guidelines for the conduct of early voting.

**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. In response to a survey conducted by the U.S. Election Assistance Commission, 22 states and two territories reported that 17.4 million people (13%) cast votes through various forms of early voting during the 2008 presidential election. In certain states, according to the survey, early voting made up a significant portion of votes

cast. In Nevada, North Carolina, Tennessee, and Texas, for example, early voters cast more than half of all ballots.

Legislation establishing early voting was enacted in Maryland in 2006 (Chapters 5 and 61), but was 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 a constitutional amendment allowing for early voting and repealing the early voting provisions enacted by Chapters 5 and 61. The constitutional amendment was approved by the voters at the 2008 general election and Chapter 445 was enacted in the 2009 session.

SBE and local boards of elections have begun the process of preparing for early voting for the 2010 elections. Among other actions, SBE has adopted regulations and early voting centers have been designated in each county.

**State Fiscal Effect:** State expenditures may decrease by approximately \$400,000 over the course of fiscal 2010 and 2011, reflecting the elimination of costs to implement early voting for the 2010 gubernatorial elections. This decrease in expenditures represents the State's share of costs estimated by SBE for voting equipment transportation, early voting support staff, an early voting help desk, development of a voter outreach campaign, and an electronic pollbook network for early voting.

The estimated \$400,000 decrease in expenditures assumes that the included costs are split evenly between the State and counties, though the extent to which some of the costs, including voter outreach and the epollbook network, will be shared is uncertain at this time. The estimate also assumes the existing touchscreen voting system will be used during the 2010 gubernatorial elections. Additional costs may be incurred by the State for early voting, causing the decrease in expenditures resulting from the bill to be greater, but any additional decrease in expenditures is uncertain at this time.

The fiscal and policy note for HB 1179 (enacted as Chapter 445) of 2009 estimated that State expenditures could increase by \$2.5 to \$3.2 million over the course of fiscal 2010 and 2011 to implement early voting for the 2010 gubernatorial elections. The estimate assumed a new optical scan voting system would be procured for use during the 2010 elections pursuant to Chapters 547 and 548 of 2007. It was noted that some of the costs included in the estimate could be borne at least partially by local boards of elections, reducing costs to the State.

Costs may increase in fiscal 2012 and 2013 to implement early voting for the first time, to the extent costs, such as those for voter outreach, would have otherwise diminished for the 2012 elections after initial implementation in 2010.

**Local Fiscal Effect:** Local government expenditures will also decrease in fiscal 2010 and/or 2011, reflecting the elimination of costs to implement early voting for the 2010 gubernatorial elections. Information provided by SBE, estimating the county costs of conducting early voting, indicates local government expenditures may decrease collectively by \$2.6 million, accounting for local governments' portion of the shared costs identified above and various other costs that will be borne solely by the counties, including costs for election judges, outreach mailings and supplies, voter registration data entry support (due to the shortened time to enter voter registration applications between the close of registration and the start of early voting), early voting center rental and security, early voting center communications, and personnel costs.

The collective decrease in local government expenditures may be more significant than the savings indicated by the information provided by SBE. In the fiscal and policy note for HB 1179 of 2009, the cost to conduct early voting for the 2010 primary and general elections in a county with three early voting centers was estimated to be \$624,400 and the cost in a county with five early voting centers was estimated to be \$1 million. Based on these estimates, it appears that the collective decrease in local government expenditures across the counties may be higher than \$2.6 million. The estimates in the fiscal and policy note for HB 1179, however, assumed implementation of an optical scan voting system, which was expected to result in additional costs for early voting.

Local government costs may increase in fiscal 2012 and 2013 to implement early voting for the first time, to the extent costs, such as those for voter outreach, would have otherwise diminished for the 2012 elections after initial implementation in 2010.

**Additional Comments:** It is assumed, for the purposes of this fiscal and policy note that, under current law, early voting will not be conducted during the 2011 Baltimore City elections, since early voting periods are not specified in the law for those elections.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** State Board of Elections; Anne Arundel, Baltimore, Calvert, Caroline, Carroll, Cecil, Harford, Montgomery, and Prince George's counties; U.S. Election Assistance Commission, *2008 Election Administration and Voting Survey* (November 2009); Department of Legislative Services

**Fiscal Note History:** First Reader - March 15, 2010  
ncs/mwc

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