

Department of Legislative Services  
Maryland General Assembly  
2012 Session

FISCAL AND POLICY NOTE

Senate Bill 412 (Senator Jennings)  
Education, Health, and Environmental Affairs

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Election Law - Polling Places - Proof of Identity

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This bill establishes a requirement that a voter present a current government-issued photo identification, or, in the alternative, a certified copy of a U.S. birth certificate, certified documentation of naturalization, a utility bill, a current credit card statement, or a property tax statement, in order to vote a regular ballot. A voter who is unable to do so or indicates a change of residence must vote a provisional ballot. 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 June 1, 2012.

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Fiscal Summary

**State Effect:** General fund expenditures are expected to increase significantly in FY 2013 to conduct voter outreach. Costs may total at least \$500,000; however, the local boards of elections are expected to be responsible for a portion of the cost. General fund expenditures may also increase in FY 2013 and future years to the extent additional provisional ballots are determined to be needed. Voter outreach costs are expected to diminish in future years. The bill's criminal penalty provisions are not expected to materially affect State finances.

**Local Effect:** Local government expenditures may increase due to costs associated with voter outreach, additional election judges, and additional provisional ballots. 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.

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## **Analysis**

**Current Law:** For each individual who seeks to vote, an election judge has to:

- locate the voter's name in the election 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 election 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 election register or the inactive voter list, the voter is referred to vote a provisional ballot.

**Background:** The National Conference of State Legislatures (NCSL) indicates that 31 states have voter identification laws, and in 15 of those states (Alabama, Florida, Georgia, Hawaii, Idaho, Indiana, Kansas, Louisiana, Michigan, Mississippi, South Carolina, South Dakota, Tennessee, Texas, and Wisconsin), laws are either already in effect, or have been enacted and have yet to take effect, that require or request a photo ID of voters. In those 15 states, the laws do not turn voters away solely because they do not have a photo ID. The option(s) provided to a voter that is unable to show a photo ID vary. Some of the states with what are considered stricter photo ID requirements allow voters who are unable to show a photo ID to vote a provisional ballot but require the voter to return to election officials within several days after the election to show a photo ID in order for the ballot to be counted. Others simply request a photo ID, but allow voters to vote a regular ballot if they meet other criteria, such as signing an affidavit, without having to later produce a photo ID in order to have their ballot counted.

Rhode Island is not included in the 15 photo ID states, but it recently enacted a voter ID law that requires a nonphoto ID, as of January 2012, and will require photo ID beginning in January 2014.

A number of these state laws, in addition to Rhode Island's, were enacted in 2011. NCSL indicates that new voter ID laws were enacted in 2011 in Kansas, Mississippi (the result of a voter initiative), Rhode Island, and Wisconsin, and Alabama, South Carolina,

Tennessee, and Texas amended existing voter ID laws to require photo ID. Also, in a small number of states (Minnesota, Missouri, Montana, New Hampshire, and North Carolina) photo ID laws were passed but then vetoed by the states' Governors.

Alabama, South Carolina, and Texas require preclearance under Section 5 of the Voting Rights Act before their laws can take effect. South Carolina's request for preclearance was denied by the U.S. Department of Justice in December 2011, though NCSL indicates an appeal is likely. Texas is currently involved in the preclearance process. Alabama's photo ID law does not take effect until 2014 and has not yet sought preclearance. Mississippi's new photo ID requirement, established by voter initiative, is a constitutional amendment, and requires both implementing legislation to be passed and subsequent Section 5 preclearance of the law.

**State Expenditures:** General fund expenditures are expected to increase significantly in fiscal 2013 to conduct voter outreach regarding the voter identification requirement prior to the 2012 presidential general election. Costs of voter outreach in fiscal 2013 may total at least \$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 2014 gubernatorial primary and general elections, 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 past 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 shares ballot printing costs with the counties and to the extent additional provisional ballots are determined to be needed to account for an increase in provisional voters due to the identification requirement, State costs could increase. For the 2012 presidential primary election, the State is paying \$0.24 and \$0.30 per ballot for ballot printing by two separate vendors and has ordered approximately 470,000 provisional ballots. *For illustrative purposes*, if it was assumed that the number of provisional ballots would need to increase by 50%, State costs would increase by \$28,200 if the cost per ballot was \$0.24.

Efforts to redevelop election judge procedures, training materials, and polling place signs, and to train local board staff, are assumed to be absorbable within existing resources.

**Local Expenditures:** Expenditures may increase for local boards of elections for the 2012 presidential general election and future elections to account for costs such as voter outreach, training and compensation of additional election judges, and additional provisional ballots and provisional ballot canvassing costs.

Three jurisdictions contacted, Baltimore City, Montgomery County, and Wicomico County, indicated a likelihood of increased costs as a result of a voter identification requirement. Baltimore City and Wicomico County, for example, both indicated a need for additional provisional ballots and increased staff costs to process the provisional ballots. Baltimore City and Montgomery County both anticipate needing additional election judges due to a voter identification requirement, at costs of \$44,100 and \$71,400, respectively.

Four other jurisdictions, however, Allegany, Harford, Talbot, and Worcester counties, did not indicate an expectation of significant increased costs due to a voter identification requirement.

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### **Additional Information**

**Prior Introductions:** HB 288 and HB 701 of 2011 each received a hearing in the House Ways and Means Committee, but no further action was taken on either bill. In addition, similar bills were introduced in the 2005 through 2010 sessions.

**Cross File:** None.

**Information Source(s):** State Board of Elections; Judiciary (Administrative Office of the Courts); Allegany, Harford, Montgomery, Talbot, and Wicomico counties; Baltimore City; State of Kansas (Office of the Secretary of State); State of Rhode Island (Office of the Secretary of State); Department of Legislative Services

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