

**Department of Legislative Services**  
 Maryland General Assembly  
 2025 Session

**FISCAL AND POLICY NOTE**  
**First Reader**

House Bill 1043 (Delegate Smith, *et al.*)  
 Ways and Means

**Maryland Voting Rights Act of 2025 - Voter Suppression and Vote Dilution**

This bill establishes provisions prohibiting suppression or dilution of votes of members of a protected class (a class of citizens who are members of a race, color, or language minority group). The bill also modifies existing provisions requiring public notice of a change in administrative policy affecting voting rights to (1) make them applicable to municipalities and to actions relating to assistance available to voters and (2) to require greater advance notice of changes. **The bill takes effect January 1, 2026.**

**Fiscal Summary**

**State Effect:** General fund expenditures increase by at least \$90,100 in FY 2026. Future years reflect annualization and ongoing costs. Revenues are not affected.

(in dollars)	FY 2026	FY 2027	FY 2028	FY 2029	FY 2030
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	90,100	160,600	167,600	175,000	182,600
Net Effect	(\$90,100)	(\$160,600)	(\$167,600)	(\$175,000)	(\$182,600)

*Note: () = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate increase; (-) = indeterminate decrease*

**Local Effect:** Local government expenditures may increase beginning in FY 2026, as discussed below. Revenues are not affected.

**Small Business Effect:** None.

## Analysis

### Bill Summary:

#### *Change in Administrative Policy Affecting Voting Rights*

The bill modifies existing provisions that require the State Board of Elections (SBE) or a local board of elections to provide public notices regarding a change in administrative policy affecting voting rights by:

- making the provisions also applicable to a municipality that administers its own elections;
- modifying the definition of “administrative policy affecting voting rights” to include any action relating to assistance available to voters, including language assistance and assistance for voters with disabilities;
- replacing a requirement that notice be provided 48 hours prior to a meeting at which a change will be considered, with a requirement that reasonable public notice be provided at least 15 days before the date of the meeting (except during the period beginning 21 days before the first day of early voting, when 48-hour notice may be provided); and
- requiring SBE to maintain a page on its website that contains the notices and requiring a local board of elections or municipality to provide a copy of a notice to SBE to be included on SBE’s website.

#### *Voting Rights Act – Voter Suppression and Vote Dilution*

##### *Prohibition Against Suppression of Votes of Protected Class Members*

The bill prohibits a local government or governmental entity responsible for election administration from implementing, imposing, or enforcing an election policy or practice, or taking any other action or failing to take any action, that results in, is likely to result in, or is intended to result in (1) a material disparity in voter participation, access to voting opportunities, or the opportunity or ability to participate in the political process between members of a protected class and other members of the electorate or (2) based on the totality of the circumstances, a denial or impairment of the opportunity or ability of members of a protected class to vote or participate in the political process.

The bill establishes that a local government or governmental entity responsible for election administration may not be determined to have violated that prohibition if the local government or governmental entity demonstrates by clear and convincing evidence that (1) the election policy or practice is necessary to significantly further a compelling interest

and (2) there is no alternative that results in a smaller disparity between members of a protected class and other members of the electorate.

“Election policy or practice” means (1) a voting qualification or prerequisite to voting; (2) a method of election; or (3) a law, ordinance, resolution, charter or code provision, regulation, rule, policy, practice, procedure, standard, or action with respect to voting or the administration of elections.

“Protected class” means a class of citizens who are members of a race, color, or language minority group, including a class composed of members of two or more minority groups, as referenced in the federal Voting Rights Act of 1965.

“Local government” means a municipality or county, or a county board of education.

### *Prohibition Against Dilution of Votes of Protected Class Members*

The bill prohibits a local government from enacting or employing any method of election or causing an annexation, an incorporation, a dissolution, a consolidation, or a division of a local government that has the effect, or is motivated in part by the intent, of diluting the vote of protected class members.

A local government violates this prohibition when:

- (1) elections in the local government exhibit racially polarized voting, resulting in an impairment of the equal opportunity or ability of protected class members to elect candidates of their choice or (2) based on the totality of the circumstances, the equal opportunity or ability of protected class members to nominate or elect candidates of their choice is impaired; and
- one or more new methods of election or modifications to the existing method of election exist that the Circuit Court for Anne Arundel County could order (in accordance with authority described below) that would likely mitigate the impairment of the equal opportunity of protected class members to nominate or elect candidates of their choice.

The bill establishes that it is not necessary to show that the total number or share of protected class members exceeds any numerical threshold in any district or in the local government as a whole to find a violation.

“Method of election” means a method by which candidates are elected to the governing body of a local government. It includes (1) an at-large method of election; (2) a district-based method of election, including the configuration of any districts used to elect

candidates to the governing body of a local government; or (3) any other method of election.

“Racially polarized voting” means voting in which there is divergence between the candidate or electoral choice preferred by protected class voters and the candidate or electoral choice preferred by other voters.

#### *Parameters for Consideration of Factors and Evidence*

The bill establishes specified parameters for the Circuit Court for Anne Arundel County’s consideration of factors and evidence in determining whether a violation has occurred.

#### *Persons Authorized to File an Action*

The bill authorizes the following persons to file an action in the Circuit Court for Anne Arundel County under the bill’s voter suppression and vote dilution provisions: (1) an aggrieved person; (2) an organization whose membership includes or is likely to include aggrieved persons; (3) an organization whose mission would be frustrated by a violation of the bill’s voter suppression and vote dilution provisions; (4) an organization that would expend resources in order to fulfill its mission as a result of a violation of the bill’s voter suppression and vote dilution provisions; or (5) the Attorney General (and the Office of the Attorney General (OAG)).

#### *Court-ordered Remedies*

Notwithstanding any other law, if the Circuit Court for Anne Arundel County finds a violation of the bill’s voter suppression and vote dilution provisions, the court must order appropriate specified remedies that are tailored to address the violation in the local government and ensure that protected-class voters have equitable access to fully participate in the electoral process. The court must consider remedies proposed by any parties to an action or by interested parties and may not give deference or priority to a proposed remedy because it is the remedy proposed by the local government.

The court has the power to require a local government to implement remedies that are inconsistent with any other provision of State or local law.

#### *Local Government Notice of Changes*

The bill requires a local government to provide specified notice to the public at least 15 days before a hearing to adopt, or a referendum on, any of the following changes:

- a change to the method of election for a local government;

- a governmental reorganization, including annexation, incorporation, dissolution, consolidation, or division of a local government;
- a change to district boundaries within a local government; and
- a charter amendment authorizing an administrative policy affecting voting rights.

The bill also requires SBE to publish the notices on its website in the same manner as described above under *Change in Administrative Policy Affecting Voting Rights*.

#### *Filing and Voluntary Remedy Procedures*

The bill establishes procedures for (1) filing an action against a local government, including providing 60 days' advance notice to the local government, except under specified circumstances, and (2) a local government's response within 60 days, including, if the local government does not deny the potential violation, a 150-day period within which a local government – that adopts a resolution affirming its intent to enact and implement a remedy – may implement a remedy without an action being filed. The Attorney General may authorize implementation or enactment of a remedy within the 150-day period that a local government otherwise lacks authority to enact within that period due to State or local law or federal or State preclearance requirements.

The bill also requires the Attorney General to adopt regulations to carry out the bill's voter suppression and vote dilution provisions, including regulations to (1) specify procedures and administrative deadlines and (2) provide for notice and comment procedures that local governments are required to follow before implementing remedies.

#### *Additional Authority of the Attorney General*

In any action or investigation to enforce the bill's provisions, the Attorney General may (1) administer oaths; (2) examine witnesses under oath; (3) receive oral and documentary evidence; (4) determine material facts; and (5) in accordance with the ordinary rules of civil procedure, issue subpoenas and otherwise compel the production of records, books, papers, contracts, and other documents.

#### *Actions Brought under the Bill*

The bill establishes that actions brought under the bill must be subject to expedited pretrial and trial proceedings and receive an automatic calendar preference. If a party seeking preliminary relief alleges a violation of the bill's voter suppression and vote dilution provisions that relates to an upcoming election, the Circuit Court for Anne Arundel County must grant relief if it determines that (1) the party is more likely than not to succeed on the merits and (2) it is possible to implement an appropriate remedy that would resolve the alleged violation in the upcoming election.

The bill provides for awarding of reasonable attorney’s fees and litigation costs in an action to enforce the bill’s voter suppression and vote dilution provisions, including (1) to a plaintiff, if the State or local government yields some or all of the relief sought, and (2) to the State or a local government, in an action in which it prevails, only if the court finds the action to be frivolous.

*Interpretation of Law and Regulations Protecting the Right to Vote*

The bill establishes that statutes, rules and regulations, and local laws, town charters, or ordinances related to the right to vote must be construed liberally in favor of (1) protecting the right to cast a ballot; (2) ensuring that eligible voters are not impaired in registering to vote or voting, including having their votes counted; and (3) ensuring that protected-class voters have equitable access to opportunities to register to vote and to vote.

To the extent that a court is afforded discretion in any question, including questions related to discovery, procedure, admissibility of evidence, and remedies, the court must exercise the discretion in favor of (1) protecting the right to cast a ballot; (2) ensuring that eligible voters are not impaired in registering to vote or voting, including having their votes counted; and (3) ensuring that protected-class voters have equitable access to opportunities to register to vote and to vote.

*Severability*

The bill establishes that if any of the bill’s voter suppression and vote dilution provisions or their application to any person or circumstance is held to be invalid by a court of competent jurisdiction, the invalidity does not affect other provisions or applications of the provisions that can be given effect without the invalid provision or application.

**Current Law:**

*Change in Administrative Policy Affecting Voting Rights*

SBE or a local board of elections may not consider a change in an administrative policy affecting voting rights at a meeting unless the board has posted a prominent public notice on its website at least 48 hours in advance of the meeting stating that the board will consider an administrative policy affecting voting rights at the meeting. If a change is adopted, SBE and, if applicable, the local board that adopts the change, must provide public notice of the change within 48 hours of its adoption. “Administrative policy affecting voting rights” means any action relating to voter registration, provisional voting, absentee voting, or the location of a polling place or early voting center.

*Denial or Abridgement of the Right to Vote – Federal Voting Rights Act*

Under [Section 2](#) of the federal Voting Rights Act of 1965, no voting qualification or prerequisite to voting or standard, practice, or procedure may be imposed or applied by any State or political subdivision in a manner that results in a denial or abridgement of the right of any citizen of the United States to vote on account of race or color, or status as a member of a language minority group. A violation of that prohibition is established if, based on the totality of circumstances, it is shown that the political processes leading to nomination or election in the State or political subdivision are not equally open to participation by members of a class of citizens protected by the prohibition in that its members have less opportunity than other members of the electorate to participate in the political process and to elect representatives of their choice.

*Attorney General*

Under the Maryland Constitution, the Attorney General’s responsibilities include:

- investigating, commencing, and prosecuting or defending any civil or criminal suit or action or category of such suits or actions in any of the federal courts or in any court of the State, or before administrative agencies and quasi-legislative bodies, on the part of the State or in which the State may be interested, which the General Assembly (by law or resolution) or the Governor directs to be investigated, commenced, and prosecuted or defended; and
- giving the Attorney General’s opinion in writing whenever required by the General Assembly or either branch thereof, the Governor, the Comptroller, the Treasurer, or any State’s Attorney, on any legal matter or subject.

**State Fiscal Effect:** General fund expenditures increase by at least \$90,058 in fiscal 2026, which accounts for the bill’s January 1, 2026, effective date. This estimate reflects the cost for OAG to hire one assistant Attorney General to (1) pursue violations under the bill and (2) review and authorize proposed remedies local governments lack the authority to enact and implement within the prescribed 150-day period. It includes a salary, fringe benefits, one-time start-up costs, and ongoing operating expenses.

Position	1.0
Salary and Fringe Benefits	\$82,965
Operating Expenses	<u>7,093</u>
<b>Total FY 2026 State Expenditures</b>	<b>\$90,058</b>

Future year expenditures reflect a full salary with annual increases and employee turnover as well as annual increases in ongoing operating expenses.

General fund expenditures may further increase for OAG to pay expert witness fees to the extent that actions are pursued for violations of the bill's provisions. Depending on the amount of violations of the bill's provisions and litigation that results from the bill, the Circuit Court for Anne Arundel County (partially paid for by the State) may also need additional resources; however, any potential increased costs for the court have not been quantified.

SBE can implement the bill's requirements with existing resources.

**Local Fiscal Effect:** Local government expenditures may increase beginning in fiscal 2026, as a result of (1) costs associated with any litigation and enacting and implementing of remedies for violations of the bill's provisions and (2) any increase in local court administration costs for the Circuit Court for Anne Arundel County associated with litigation under the bill. However, the extent to which local government expenditures increase cannot be reliably estimated.

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### **Additional Information**

**Recent Prior Introductions:** Similar legislation has not been introduced within the last three years.

**Designated Cross File:** None.

**Information Source(s):** Anne Arundel, Baltimore, Cecil, Frederick, and Montgomery counties; Maryland Municipal League; Office of the Attorney General; Judiciary (Administrative Office of the Courts); Maryland State Board of Elections; Department of Legislative Services

**Fiscal Note History:** First Reader - February 23, 2025  
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