

Department of Legislative Services  
Maryland General Assembly  
2007 Session

FISCAL AND POLICY NOTE

House Bill 201  
Ways and Means

(The Speaker, *et al.*)

Education, Health, and Environmental Affairs

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**Elective Franchise - Authority to Establish Early Voting**

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This constitutional amendment gives the General Assembly the power to provide by law a process to allow voters to vote early at polling places in or outside of their election districts on dates prior to the dates specified in the Maryland Constitution. The amendment also clarifies the General Assembly's power to provide for absentee voting for certain qualified voters to include, in addition to voters who are absent at the time of an election or are unable to vote personally, those voters who might otherwise choose to vote by absentee ballot.

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**Fiscal Summary**

**State Effect:** In the event that early voting laws previously ruled unconstitutional would be effective upon the enactment of this amendment, State general fund expenditures would increase in FY 2010 and/or 2011 to implement early voting for the 2010 elections.

**Local Effect:** In the event that early voting laws ruled unconstitutional would be effective upon the enactment of this amendment, local board of elections expenditures would increase in FY 2010 and/or 2011 to implement early voting for the 2010 elections. If approved by the General Assembly, this constitutional amendment will be submitted to the voters at the 2008 general election. It should not result in additional costs for the local election boards. *This bill may impose a mandate on a unit of local government.*

**Small Business Effect:** None.

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## Analysis

**Current Law:** The Maryland Constitution states that “[a]ll general elections in this State shall be held on the Tuesday next after the first Monday in the month of November, in the year in which they shall occur,” and that “[e]very citizen of the United States, of the age of 18 years or upwards, who is a resident of the State as of the time for the closing of registration next preceding the election, shall be entitled to vote in the ward or election district in which he resides at all elections to be held in this State.”

The constitution provides for absentee voting, authorizing the General Assembly to “provide by suitable enactment for voting by qualified voters of the State of Maryland who are absent at the time of any election in which they are entitled to vote and for voting by other qualified voters who are unable to vote personally[.]”

The provisions of State election law that provide for early voting were held to be void by the Maryland Court of Appeals (*Lamone v. Capozzi*, per curiam order issued August 2006) because they were inconsistent with and in derogation of certain provisions of the Maryland Constitution, in particular the provisions quoted above specifying the date of general elections and where a person is entitled to vote.

Under State law, any registered voter in Maryland may vote by absentee ballot prior to an election, except to the extent preempted under an applicable federal law.

### **Background:**

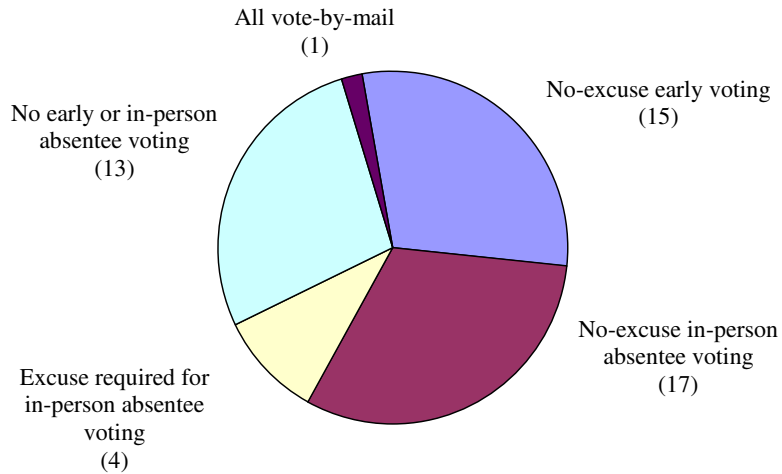
#### *Early Voting*

Chapter 5 and Chapter 61 of 2006 established early voting in State law. Under these enactments early voting polling places (three locations in each of the “big seven” counties and one location in each of the remaining counties) were to be open from 7 a.m. to 8 p.m. each day from the Tuesday before an election through the Saturday before an election. Voters were allowed to vote at any early voting polling place in the voter’s county of residence. Due to the Maryland Court of Appeals decision in August 2006, early voting was canceled for the 2006 primary and general elections.

**Exhibit 1** shows the extent to which states allowed early voting during the 2006 elections.

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## Exhibit 1 State Early Voting Laws



<b>No excuse early voting</b>	Arizona, Arkansas, California, Colorado, Florida, Georgia, Illinois, Louisiana, Nevada, New Mexico, North Carolina, North Dakota, Tennessee, Texas, West Virginia
<b>No-excuse in-person absentee voting</b>	Alaska, Hawaii, Idaho, Indiana, Iowa, Kansas, Maine, <b>Maryland</b> , Montana, Nebraska, Ohio, Oklahoma, South Dakota, Utah, Vermont, Wisconsin, Wyoming
<b>Excuse required for in-person absentee voting</b>	(District of Columbia), Kentucky, Minnesota, Missouri, Virginia
<b>No early or in-person absentee voting</b>	Alabama, Connecticut, Delaware, Massachusetts, Michigan, Mississippi, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, South Carolina, Washington (34 of 39 counties in Wash. vote-by-mail)
<b>All vote-by-mail</b>	Oregon

Source: electionline.org

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### *Absentee Voting*

Chapter 6 of 2006 repealed eligibility requirements in State law for absentee voting, thus allowing any registered voter to vote by absentee ballot except to the extent preempted under an applicable federal law.

**State Expenditures:** Assuming approval by voters during the 2008 general election, and in the event that the portions of State law providing for early voting that were held to be void by the Maryland Court of Appeals would then be effective, State general fund expenditures would increase in fiscal 2010 and/or 2011 to cover costs of implementing early voting for the 2010 elections. The State Board of Elections (SBE) advises that given the advancements in technology and connectivity, it is difficult to estimate what will be needed to implement early voting for the 2010 elections, though anticipated expenditures include:

- vendor support and hardware costs to set up e-pollbook connectivity in counties with more than one early voting polling place;
- staffing and documentation costs for an SBE help desk throughout early voting and possibly additional staff available to support local boards and update voter registry information each night of early voting;
- costs for a technical writer to write and update documentation for early voting operations and voter outreach;
- vendor services including technical support for voting machines and e-pollbooks at polling places, vendor help-desk services, voting equipment delivery and pick-up, and support from voter registration and election management systems vendors.

At least some of the vendor services costs would likely be shared with the local boards. Chapter 564 of 2001 required SBE to select, certify, and acquire a uniform statewide voting system. The enactment also provided that each county must pay its share, based on its voting age population, of one half of the State's costs of acquiring and operating the system. Operating costs include technical support.

**Local Expenditures:** Assuming approval by voters during the 2008 general election, and in the event that the early voting provisions of State law that were held to be void by the Maryland Court of Appeals were then effective, local expenditures would increase to cover costs of implementing early voting for the 2010 elections, including additional vendor services costs shared with SBE, election judge salaries, training, additional temporary employees, regular staff overtime pay for preparation and early voting, polling place supplies, printing costs, rent, security, and other costs.

The costs for each county would vary due to factors including the number of registered voters in each county and local board choices with respect to staffing, facilities,

advertising/voter outreach, etc. The costs for counties required to have three early voting polling places would be noticeably higher than those required to have only one early voting polling place. Rough estimates gathered from local boards, exclusive of vendor services costs shared with SBE, range from just over \$19,000 in Garrett County (one polling place) to potentially as high as \$630,000 in Montgomery County (three polling places). It is uncertain how the costs incurred by local boards might increase leading up to the 2010 elections due to a combination of inflation, increased mailing costs, increased staffing costs, any increases in election judge salaries, and potential cost increases due to an increased registered voter population.

The Maryland Constitution requires that proposed amendments to the constitution be publicized either: (1) in at least two newspapers in each county, if available, and in at least three newspapers in Baltimore City once a week for four weeks immediately preceding the general election; or (2) by order of the Governor in a manner provided by law. State law requires local boards of elections to publicize proposed amendments to the constitution either in newspapers or on specimen ballots; local boards of elections are responsible for the costs associated with these requirements. It is anticipated that the budgets of local election boards will contain funding for notifying qualified voters about proposed constitutional amendments for the 2008 general election in newspapers or on specimen ballots.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Montgomery, Anne Arundel, Prince George's, Dorchester, and Garrett counties; Office of the Attorney General; Maryland State Board of Elections; Department of Legislative Services

**Fiscal Note History:** First Reader - January 31, 2007  
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