

Department of Legislative Services
Maryland General Assembly
2008 Session

FISCAL AND POLICY NOTE

Senate Bill 201 (Senator Dyson)

Education, Health, and Environmental Affairs

Ways and Means

Elective Franchise - Voting by 17-Year-Old Citizens

This constitutional amendment specifies that an individual who is a citizen of the United States, is a resident of the State as of the time of the close of registration preceding an election, and is at least age 18 or will be age 18 on or before the day of the next succeeding general or special election is entitled to vote.

Fiscal Summary

State Effect: If adopted by the voters, the constitutional amendment is not anticipated to significantly impact State finances.

Local Effect: 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. If adopted by the voters, the amendment is not anticipated to significantly impact local government finances.

Small Business Effect: None.

Analysis

Current Law: Article I, §1 of the Maryland Constitution states 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.”

Under State election law, to qualify as a registered voter, an individual must be a U.S. citizen, at least age 18 (on or before the day of the next succeeding general or special election), and a resident of the State at the time of registration. An individual is not qualified to be a registered voter if the individual has been convicted of a felony and is serving a court-ordered sentence of imprisonment, including any term of parole or probation, for the conviction. An individual is also not qualified if he/she is under guardianship for mental disability or has been convicted of buying or selling votes.

Background: Pursuant to the voter registration qualifications under State election law and an assumption that Article I, §1 of the Maryland Constitution only applied to general elections, in the past an individual who would be age 18 by the time of the next general election has been allowed to register prior to and vote in the preceding primary as a 17 year old.

In a December 2006 Court of Appeals opinion, *Lamone v. Capozzi*, 396 Md. 53, 912 A.2d 674 (2006), in which the court held that enactments allowing for early voting were unconstitutional, the court adopted the circuit court's analysis that primary elections are included within the meaning of "at all elections to be held in this State" in Article I, §1 of the Maryland Constitution.

The Office of the Attorney General advised the State Board of Elections of the implication of the *Capozzi* decision that a voter must be age 18 on or before the day of any election and SBE accordingly changed its policy. The Attorney General later advised, however, that subsequent rule changes by the Democratic and Republican parties implicated the parties' associational rights under the federal constitution and that SBE should implement the voter registration qualifications under State election law as it had in the past, allowing an individual who is age 18 or will be age 18 on or before the next general or special election to register and vote.

In addition, a February 8, 2008 Maryland Court of Appeals order indicated that, while Art. I, §1 applies to primary elections, the voter eligibility provisions of that section are not in conflict with, and do not prohibit the General Assembly from establishing, the existing age-related provisions of voter registration eligibility requirements under State election law (allowing an otherwise qualified individual who is age 18 or will be on or before the day of the next succeeding general or special election to register to vote).

Local Effect: The Maryland Constitution requires that proposed amendments to the constitution be publicized either • 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 • 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.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Anne Arundel and Garrett counties; Department of Legislative Services

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