

Department of Legislative Services
Maryland General Assembly
2008 Session

FISCAL AND POLICY NOTE

Senate Bill 73 (Senator Kelley, *et al.*)
Education, Health, and Environmental Affairs

Election Law - Rotation of Candidates Names on the Ballot

This bill specifies that, when there is more than one candidate of the same political party for nomination or election to an office, the names of the candidates in the group be listed on the ballot in the order established under regulations adopted by the State Board of Elections. The regulations must include a protocol for the rotation of the names of the candidates of the same political party seeking nomination or election to an office. The bill applies to both primary and general elections, beginning with the 2010 primary and general elections.

Fiscal Summary

State Effect: General fund expenditures would increase in FY 2010 and 2011 to implement a system of rotating candidates' names on ballots for the 2010 gubernatorial elections, perhaps significantly, although the amount of the increase cannot be reliably estimated. Expenditures would also increase in future election years, though to a lesser extent. No effect on revenues.

Local Effect: Local board expenditures could increase considerably due to increased staffing, ballot printing, voting system, postage, and other printing costs to implement a system of rotating candidates' names on ballots. **This bill may impose a mandate on a unit of local government.**

Small Business Effect: Minimal.

Analysis

Current Law: In both primary and general elections, when there is more than one candidate of the same political party for nomination or election to an office, the names of the candidates are listed in alphabetical order by surname. Candidates for Governor and Lieutenant Governor are arranged in the order of the surnames of the gubernatorial candidates.

In a general election, the names of the candidates of a political party are grouped together and arranged in order with the majority party candidates first, followed by the candidates of the principal minority party, followed by other political parties in order based on the number of voters registered with the party, followed by candidates who are not nominees of a political party.

Background: Numerous studies have been conducted on the effect the order in which candidates' names are listed on a ballot may have on the outcome of elections. One analysis, which studied name order effects in elections in Ohio in 1992 and Ohio, North Dakota, and California in 2000, explained that name order effects are thought to occur when voters vote in races that they have limited or no knowledge of or are ambivalent toward. According to the analysis, one psychological theory suggests that in such situations, people may be more inclined to choose a name at or near the top of a list of candidates, creating a "primacy effect."

Ohio and California are among states that have procedures for rotating candidate names on ballots. In Ohio, unless the number of candidates in a contest is equal to the number to be elected to the office, candidate names are rotated by precinct. On absentee ballots, to the extent reasonably possible, candidate names must appear in the first, last, and each intermediary position (if any) on the ballots a substantially equal number of times. In California, state law provides for candidate names to be rotated, in specified contests, by legislative district, and in certain cases, by supervisor district.

State Fiscal Effect: General fund expenditures would increase in fiscal 2010 and 2011 to implement a system of rotating candidates' names on ballots for the 2010 elections, perhaps significantly. SBE has identified some anticipated and potential costs; however, as it is unclear what standards for candidate name rotation would be decided on by SBE (the bill leaves this to SBE's discretion) and what would be required to implement such a system, the increase in expenditures cannot be reliably estimated at this time.

A notable impact of implementing a system of candidate name rotation is that it would increase the number of ballot styles (types/arrangements) needed. According to SBE, if candidate names were to be rotated by precinct, the number of ballot styles that would

need to be prepared (developed, formatted, proofread, printed, etc.) and managed would increase significantly.

SBE anticipates costs resulting from:

- evaluation, programming/development, and testing relating to SBE's election management system and its interface with the voting system election management system as well as the voter registration database due to the rotation of candidate names and an increase in the number of ballot styles;
- increased SBE staff/vendor personnel time devoted to the ballot preparation process due to an increase in the number of ballot styles;
- increased ballot printing costs (shared with local boards) associated with having to manage and separately package an increased number of ballot styles;
- development of an education campaign for voters, candidates, and media to avoid confusion; and
- research/training-related costs associated with developing regulations and training SBE and local board staff and election judges.

SBE provided rough estimates (based on precinct-by-precinct candidate name rotation) of some of these costs, including ● \$170,000 for evaluation, programming/development, and testing relating to SBE's election management system and its interface with other systems; ● \$123,000 for the increased need for SBE staff/vendor personnel time; and ● \$500,000 to \$700,000 to develop and implement a full voter education program. SBE cautioned that it could not guarantee that the identified costs would be the only costs incurred, due to not fully knowing what would be required for candidate name rotation or the effect a transition to a new, paper-based voting system would have on the implementation of candidate name rotation (Chapter 547/548 of 2007 require that the State's voting system provide a "voter-verifiable paper record" prior to the 2010 gubernatorial elections, subject to appropriation of sufficient funding in the fiscal 2009 budget). Increased ballot printing costs would be magnified by a transition to a paper-based voting system.

SBE advises that in future years increased SBE staff/vendor personnel and ballot printing costs would continue for future elections, but costs associated with voter education and the election management system would be less. Research/training-related costs would primarily be limited to fiscal 2010 and 2011. Future year expenditures would be more

significant surrounding gubernatorial elections due to an increased number of ballot styles under a candidate name rotation system, resulting from a wider array of contests than in a presidential election, and possibly also due to the shorter timeframe for ballot preparation between a primary and general election in a gubernatorial election year.

Local Fiscal Effect: Local board expenditures could increase considerably to implement a candidate name rotation system for each election. A significant increase in the number of ballot styles would result in additional ballot printing costs and local board staffing costs to proofread and manage the ballot styles received from SBE. Local board expenditures would also increase to the extent certain voting system-related costs shared with SBE (such as those for ballot programming) increase. Local boards could also incur additional staff, printing, and postage costs for voter education efforts. As with the above-described impact on State expenditures, the extent to which local board expenditures would increase cannot be reliably estimated.

Additional Comments: SBE indicates it does not believe the current statutory timeframe for the preparation of ballots would be sufficient to prepare a significantly increased number of ballot styles. Further, the implementation of candidate name rotation may require additional statutory changes to candidate filing and withdrawal deadlines and possibly a change to the date of the gubernatorial primary election.

Additional Information

Prior Introductions: SB 77 of 2007, a similar bill, was referred to interim study by the Senate Education, Health, and Environmental Affairs Committee.

Cross File: None.

Information Source(s): Maryland State Board of Elections; Charles, Frederick, Montgomery, and Somerset counties; Jon A. Krosnick and Joanne M. Miller, *The Impact of Candidate Name Order on Election Outcomes*, Public Opinion Quarterly, 62: 291-330 (1998); Jon A. Krosnick, Joanne M. Miller, and Michael P. Tichy, *An Unrecognized Need for Ballot Reform: The Effects of Candidate Name Order on Election Outcomes*, in A. N. Crigler, M. R. Just, and E. J. McCaffery (Eds.), *Rethinking the Vote: The Politics and Prospects of American Election Reform*. New York: Oxford University Press (2004); Department of Legislative Services

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