

Department of Legislative Services
Maryland General Assembly
2010 Session

FISCAL AND POLICY NOTE

House Bill 895
Ways and Means

(Delegate McComas, *et al.*)

Election Law - Early Voting - Delay of Implementation

This emergency bill repeals specified provisions, enacted under Chapter 445 of 2009, which established early voting in State law. The bill also reestablishes those provisions on July 1 of the first fiscal year in which a regularly scheduled election will be held and the State is not projected to have a structural budget deficit according to a specified notice provided by the Department of Legislative Services (DLS). The bill specifies the responsibilities of DLS with respect to providing the notice.

Fiscal Summary

State Effect: State expenditures may decrease by approximately \$400,000 over the course of FY 2010 and 2011, assuming early voting will not be conducted for the 2010 gubernatorial elections. State expenditures will also decrease to the extent early voting is not conducted in future years as a result of the bill.

Local Effect: Local government expenditures collectively decrease significantly, assuming early voting will not be conducted for the 2010 gubernatorial elections.

Small Business Effect: Potential minimal.

Analysis

Bill Summary: “Structural budget deficit” is defined as the amount by which ongoing general fund expenditures exceed ongoing general fund revenues.

DLS must notify the State Board of Elections (SBE) of whether the State is projected to have a structural deficit for the fiscal year or years in which the next regularly scheduled

primary and general election will be held. The notice must be provided to SBE within 15 days of the enactment of the bill and on January 1 of the year before the year in which a regularly scheduled primary or general election will be held. The notice provided within 15 days of the enactment of the bill must also state whether the State is projected to have a structural budget deficit for the fiscal year in which the 2011 primary and general elections in Baltimore City will be held.

Current Law: Chapter 445 of 2009 established early voting in State law, specifying early voting days and hours for the 2010 and 2012 statewide elections as shown below in **Exhibit 1**.

Exhibit 1
Early Voting Days and Hours under Chapter 445

	Days	Hours
2010 gubernatorial primary and general elections	Second Friday before the election through Thursday before the election, excluding Sunday	10 a.m. – 8 p.m. each day
2012 presidential primary and general elections	Second Saturday before the election through Thursday before the election	10 a.m. – 8 p.m., Saturday and Monday through Thursday; 12 noon – 6 p.m., Sunday

SBE is required to designate each early voting center in collaboration with the local board in each county. The number of early voting centers in each county is dependent on the number of registered voters in the county. A county with fewer than 150,000 registered voters has one early voting center; a county with more than 150,000 but fewer than 300,000 registered voters has three early voting centers; and a county with more than 300,000 registered voters has five early voting centers. A voter may vote at any early voting center in the voter’s county of residence.

Beginning 30 days prior to each early voting period, SBE and each local board of elections must take steps to inform the public about early voting and the location of early voting centers in each county, including a series of public service media announcements, mailings to all registered voters in each county, and other measures as appropriate.

Unless expressly provided, provisions of State law that apply to voting on election day also apply to early voting. SBE is required to adopt regulations and guidelines for the conduct of early voting.

Background:

Early Voting

Over the past several election cycles, the number of voters across the United States who cast their votes prior to election day by early and/or absentee voting has increased as states enact laws and implement policies that afford more opportunities for voters to do so. In response to a survey conducted by the U.S. Election Assistance Commission, 22 states and two territories reported that 17.4 million people (13%) cast votes through various forms of early voting during the 2008 presidential election. In certain states, according to the survey, early voting made up a significant portion of votes cast. In Nevada, North Carolina, Tennessee, and Texas, for example, early voters cast more than half of all ballots.

Legislation establishing early voting was enacted in Maryland in 2006 (Chapters 5 and 61), but was later struck down by the Maryland Court of Appeals as unconstitutional. The legislation would have allowed for a five-day early voting period prior to primary and general elections and would have allowed early voters to vote at any early voting polling place (three locations in the State's larger counties, and one in all other counties) in the voter's county of residence.

In the 2007 session, Chapter 513 was enacted, proposing a constitutional amendment allowing for early voting and repealing the early voting provisions enacted by Chapters 5 and 61. The constitutional amendment was approved by the voters at the 2008 general election and Chapter 445 was enacted in the 2009 session.

SBE and local boards of elections have begun the process of preparing for early voting for the 2010 elections. Among other actions, SBE has adopted regulations and early voting centers have been designated in each county.

Structural Budget Deficit

The structural budget deficit under the proposed fiscal 2011 State budget is over \$2 billion, with the proposed budget balanced through actions such as fund balance transfers from special funds, fund substitutions, and various temporary and ongoing spending reductions. A continuing structural budget deficit of over \$2 billion is currently projected through fiscal 2015.

State Fiscal Effect: State expenditures may decrease by approximately \$400,000 over the course of fiscal 2010 and 2011, assuming early voting will be delayed under the bill and not be conducted for the 2010 gubernatorial elections. This decrease in expenditures represents the State's share of costs estimated by SBE for voting equipment transportation, early voting support staff, an early voting help desk, development of a voter outreach campaign, and an electronic pollbook network for early voting.

The estimated \$400,000 decrease in expenditures assumes that the included costs are split evenly between the State and counties, though the extent to which some of the costs, including voter outreach and the e-pollbook network, will be shared is uncertain at this time. The estimate also assumes the existing touchscreen voting system will be used during the 2010 gubernatorial elections. Additional costs may be incurred by the State for early voting, causing the decrease in expenditures resulting from the bill to be greater, but any additional decrease in expenditures is uncertain at this time.

The fiscal and policy note for HB 1179 (enacted as Chapter 445) of 2009 estimated that State expenditures could increase by \$2.5 to \$3.2 million over the course of fiscal 2010 and 2011 to implement early voting for the 2010 gubernatorial elections. The estimate assumed a new optical scan voting system would be procured for use during the 2010 elections pursuant to Chapters 547 and 548 of 2007. It was noted that some of the costs included in the estimate could be borne at least partially by local boards of elections, reducing costs to the State.

Expenditures will also decrease in future years to the extent projections of a structural budget deficit continue. Legislative Services notes, however, that the provisions of Chapter 445 of 2009, and the bill's identical provisions that will take effect when a structural budget deficit is no longer projected, only specify early voting periods for the 2010 gubernatorial and 2012 presidential elections. As a result, it is unclear whether early voting could be conducted under the bill beyond the 2012 presidential elections, since no early voting periods are specified for future elections.

Local Fiscal Effect: Local government expenditures will also decrease in fiscal 2010 and/or 2011, assuming early voting will be delayed under the bill and not be conducted for the 2010 gubernatorial elections. Information provided by SBE, estimating the county costs of conducting early voting, indicates local government expenditures may decrease collectively by \$2.6 million, accounting for local governments' portion of the shared costs identified above and various other costs that will be borne solely by the counties, including costs for election judges, outreach mailings and supplies, voter registration data entry support (due to the shortened time to enter voter registration applications between the close of registration and the start of early voting), early voting center rental and security, early voting center communications, and personnel costs.

The collective decrease in local government expenditures may be more significant than the savings indicated by the information provided by SBE. In the fiscal and policy note for HB 1179 of 2009, the cost to conduct early voting for the 2010 primary and general elections in a county with three early voting centers was estimated to be \$624,400 and the cost in a county with five early voting centers was estimated to be \$1 million. Based on these estimates, it appears that the collective decrease in local government expenditures across the counties may be higher than \$2.6 million. The estimates in the fiscal and policy note for HB 1179, however, assumed implementation of an optical scan voting system, which was expected to result in additional costs for early voting.

Similar to State expenditures, local government expenditures will decrease in future years to the extent projections of a structural budget deficit continue.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): State Board of Elections; Anne Arundel, Baltimore, Calvert, Caroline, Carroll, Cecil, Harford, Montgomery, and Prince George's counties; U.S. Election Assistance Commission; *2008 Election Administration and Voting Survey* (November 2009); Department of Legislative Services

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