

LEGISLATIVE FISCAL ESTIMATE
ASSEMBLY, No. 4613
STATE OF NEW JERSEY
216th LEGISLATURE

DATED: JUNE 30, 2015

SUMMARY

Synopsis: Establishes “The Democracy Act” to modify various voter registration and voting procedures.

Type of Impact: Indeterminate expenditure increase/savings to the State General Fund and local government funds.

Agencies Affected: Division of Elections in the Department of State; New Jersey Motor Vehicle Commission; County Commissioners of Registration; County Boards of Election; County Clerk’s Offices; Municipal Clerks’ Offices

Office of Legislative Services Estimate

Fiscal Impact	<u>FY 2016</u>	<u>FY 2017</u>	<u>FY 2018</u>
State Savings	Indeterminate – See comments below		
Local Savings	Indeterminate – See comments below		

- The bill establishes early voting, online voter registration, and allows for the pre-registration of 17-year-olds. The bill expands various language accessibility provisions in current law by lowering the population threshold that triggers requirements for the publication of certain election notices and materials in languages other than English. The bill also makes various changes to current procedures for voting by mail, military and overseas voting under the Overseas Residents Absentee Voting Law, and filling vacancies in the United States Senate and House of Representatives. Finally, the bill establishes an Office of Accessible Elections in the Division of Elections in the Department of State; codifies portions of a 1982 federal consent decree that prohibits certain actions by persons and political parties concerning the implementation of deceptive voting practices during elections, and extends its application to all persons and political parties; lowers the standard for challenging election voter fraud in court; and requires the periodic reporting on incidents of voter fraud during the conduct of an election.
- The bill requires certain appropriations to be made in the future to reimburse local government units for the costs of early voting and for providing postage for voted ballots that are returned by mail, and makes appropriations for the State fiscal year in which it becomes effective for those reimbursements to counties and municipalities for the additional costs



incurred as a result of providing postage for voted ballots that are returned by mail, and for the costs of early voting.

- The Office of Legislative Services (OLS) cannot estimate the overall fiscal impact of this bill due to a lack of sufficient information on all components. The OLS has calculated a fiscal impact on some components as discussed below. An overall indeterminate cost increase for the State and local government units is expected to result from registration and translation system upgrades; early voting locations; and various mailing, printing, and other translation requirements. An indeterminate amount of savings is expected to result from the automation of voter registration and the resultant reduction in the manual processing and data entry of paper voter registration forms.

BILL DESCRIPTION

Assembly Bill No. 4613 of 2015 establishes “The Democracy Act” to modify various voter registration and voting procedures. Specifically, the bill establishes early voting, online voter registration and allows for the pre-registration of 17-year-olds. The bill expands various language accessibility provisions in current law by lowering the population threshold that triggers requirements for the publication of certain election notices and materials in languages other than English. The bill also makes various changes to current procedures for voting by mail, military and overseas voting under the Overseas Residents Absentee Voting Law, and filling vacancies in the United States Senate and House of Representatives. Finally, the bill establishes an Office of Accessible Elections in the Division of Elections in the Department of State; codifies portions of a 1982 federal consent decree that prohibits certain actions by persons and political parties concerning the implementation of deceptive voting practices during elections, and extends its application to all persons and political parties; lowers the standard for challenging election voter fraud in court; and requires the periodic reporting on incidents of voter fraud during the conduct of an election.

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FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

Early Voting

The fiscal impact of the early voting provisions of this bill is dependent on how the early voting requirements in the bill are implemented by elections officials. The Division of Elections in the Department of State provided a fiscal estimate for an early voting bill with substantially similar provisions, Senate Bill No. 536 of 2014. Applying the information from that fiscal

estimate to the provisions of this bill would generate an estimate of \$21 million for costs in the first year and \$1 million per year for costs in the second and third years if electronic poll books are purchased to implement early voting. If no electronic poll books are purchased, the costs of the bill would total approximately \$5 million: \$1 million to administer early voting and \$4 million in overtime costs. If fewer poll books are purchased the costs would be lower, but overtime costs would increase. In addition, the OLS notes that this bill allows early voting to continue up until 3 PM on the calendar day before the election, instead of two days before the election as provided for in Senate Bill No. 536. Previously, the Division of Elections indicated that without electronic poll books, traditional handwritten poll books would not be ready for voters to use on general election day if early voting continued beyond two days before the election.

Online Voter Registration

According to an estimate provided by the Division of Elections for a substantially similar bill, Senate, No. 2328 of 2014, implementation of online voter registration would cost approximately \$379,000 in the first year, and \$190,000 annually, to implement the provisions of this bill to: (1) program the current Statewide Voter Registration System with an interactive voter registration form that can be completed by a registrant online and then submitted electronically to the appropriate county commissioner of registration for approval, and (2) program the New Jersey Motor Vehicle Commission's computers to allow the use of digitized signatures from registrants who authorize the use of that signature for voter registration purposes while completing the online voter registration form. The OLS concurred with the Executive estimate.

In addition, the OLS notes that an indeterminate amount of savings will result from online voter registration. Once the online voter registration website is established, with the ability to transfer the digitized signatures from the New Jersey Motor Vehicle Commission's database, the data entered by the applicant on the online voter registration form will be transferred into the Statewide Voter Registration System that is already established by law. This process will result in savings from efficiencies in data entry, materials, and staffing by county commissioners of registration.

Currently, county commissioners of registration must manually enter into the Statewide Voter Registration System the information from each paper voter registration form received. Data entry savings will be realized by county commissioners of registration because the forms completed online would be completed by the applicant, and staff members would be able to electronically transfer the contents of the online voter registration forms into the system. Forms completed online would also reduce printing and material costs currently associated with paper voter registration. Finally, savings would also result from more efficient use of staff due to a quicker processing of online voter registration forms. These savings have been realized in other jurisdictions that have established online voter registration systems. For example, Maricopa County, Arizona, estimates the costs of paper voter registration to be \$0.83 cents per form, while online voter registration costs \$0.03 cents per form. In that county alone, online voter registration is estimated to have saved \$1.4 million during the 2008-2012 four-year period. Costs savings in data entry, materials, and staffing could be expected in New Jersey. In a previous fiscal estimate on the substantially similar bill, the New Jersey Division of Elections informally indicated that it estimated that each online voter registration could save up to \$0.51 cents per form.

Automatic Voter Registration

The OLS estimates that the automatic voter registration provisions of this bill would result in indeterminate initial and ongoing implementation costs. The bill establishes a task force to study

and make recommendations on the effective implementation of automatic voter registration by June 30, 2016 and to implement the automatic voter registration process by January 1, 2017. Once implemented, initial costs would be incurred to: (1) program the New Jersey Motor Vehicle Commission's database to transmit the electronic record and signature of each applicant for a driver's license or non-driver identification card, and of each person updating his or her legal name and residence information, who meets the criteria specified by the Secretary of State, and (2) program the current Statewide Voter Registration System to transmit that information electronically to the appropriate county commissioner of registration for review and approval. Ongoing implementation costs would be incurred to: (1) notify each person automatically registered of their option to decline or, if not declining, of selecting a political party affiliation and (2) produce informational pamphlets to be provided to each applicant.

The OLS estimates that this bill would also result in indeterminate ongoing savings, which would result from: (1) automation of the voter registration process at New Jersey Motor Vehicle Commission offices, which removes the need for staff to process paper voter registration forms, and (2) efficiencies in data entry, materials, and staffing by county commissioners of registration as the voter registration information would be electronically transferred into the Statewide Voter Registration System, which removes the need for manual data entry.

The bill's provisions are modeled after an automatic voter registration law recently enacted in Oregon. In that state, estimated implementation costs to the Secretary of State were \$753,445 during the 2015-2017 two-year period, and \$42,616 during the 2017-2019 two-year period. Initial one-time costs were estimated to consist of upgrades to the Oregon Centralized Voter Registration system and related staffing. Ongoing costs were estimated to consist of the notification requirement to voters registered automatically. In addition, the Oregon Department of Transportation (ODOT) was estimated to incur \$33,200 in initial one-time costs for data system upgrades. However, the ODOT was estimated to realize initial savings in the amount of \$110,707 during the 2015-2017 two-year period, yielding a net savings of \$77,507 during that period. These ODOT savings were estimated to increase to \$147,610 during the 2017-2019 two-year period. These savings were estimated to result from the elimination of the paper-based voter registration process at the ODOT. In addition, Oregon counties were estimated to realize savings from efficiencies in the handling of voter registration forms, no longer requiring manual processing and data entry of voter registration applications received from the ODOT.

Pre-registration of 17-year-olds

The bill allows a 17-year-old to file a voter registration form. Under current law, a person who at the time the person applies to register to vote resides in the district in which the person expects to vote, and who will be 18 years old or more at the next ensuing election, is permitted to register to vote, provided the person: (1) is a citizen of the United States; (2) continues to reside in the district until the next election; and (3) will, at the time of the election, have fulfilled all the requirements as to length of residence to qualify the person as a legal voter.

This bill clarifies that a person who is 17 years of age will be able to register to vote, and may vote at the next election occurring on or after the person's 18th birthday.

This requirement should have no fiscal impact.

Language Accessibility

The OLS notes that if the population threshold that triggers the requirement for the publication of certain election materials in languages other than English is lowered from 10 to 5 percent of registered voters, the physical dimensions of such materials will increase and there will be a corresponding increase in the cost of producing those materials. The materials include sample ballots for primary and general elections, voter rights declarations, ballot cards used in

voting machines, and published legal notices. The increase in the cost of each item would vary, depending on the number of languages added to the materials.

In addition, current law requires two additional poll workers who are fluent in Spanish to serve in the election districts where 10 percent or more of the registered voters have Spanish as their primary language. Lowering the language threshold to 5 percent to include other languages would mean that two more poll workers in each included language would need to be appointed and paid in each district where another language was added. The number of additional poll workers needed, and the cost thereof, would depend on how many additional languages would be required to appear on the election materials.

In an informal conversation with an election official, it has been noted that expanding the number of languages the election materials must be produced in would also require expanding the number of languages that appear in the voting machines used in each election. The inclusion of the languages other than English in election materials and machines when the number of registered voters who primarily speak those languages exceeds 10 percent is required by federal law. Given that in certain counties, such as Bergen, the unused capacity of the current voting machines is very limited, the approval of the bill may necessitate the adoption of new and costly voting systems in counties having ballot materials in more than the current languages. The cost of new machines for each effected county would depend upon the type of voting system adopted but range between \$5,000 per machine for scanners to read translated paper ballots and \$10,000 per machine for voting machines with the capacity to accommodate many languages. There are currently 11,000 voting machines in New Jersey. If all counties were to replace their voting machines to accommodate the additional language requirement, replacement costs are estimated to range between \$55 million and \$110 million.

Finally, lowering the language threshold from 10 to 5 percent could mean that counties that currently do not provide poll workers and election materials in languages other than English because they are below the 10 percent threshold, may fall within the new threshold if the bill is enacted. Thus, all of the items increasing in cost noted above would be new expenses in some counties. The bill does not provide for payment or re-imbusement of the effected counties for any such incurred costs.

Voting by Mail

According to a fiscal estimate produced by the OLS for a substantially similar bill, Senate, No. 2392 (2R) of 2015, which permits registered voters to receive mail-in ballots for all elections under certain circumstances, this bill will increase the number of mail-in ballots sent for all future elections pursuant to the provisions of this bill. However, there will also be a reduction in the number of sample ballots produced, mailed, and returned as undeliverable. Thus, the associated costs or savings will most likely depend on the number of ballots needed or not needed, and the cost for each ballot in each county. The exact amount of money expended on mail-in ballots, and the amount of money saved on sample ballots, would likely vary from county to county and from year to year and cannot be estimated at this time due to a lack of information.

With respect to mail-in ballots, the OLS estimates that the bill could potentially increase the number of mail-in ballots that people would request, thus adding to the costs of the county clerks and the county boards of elections for the ballot's production, mailing, and processing upon return. Determining the number of additional ballots needed is difficult, with perhaps more requested for general elections than all other elections, as general elections tend to result in the largest number of voters voting.

Another part of the bill concerning voting by mail provides for the State to pay for the cost of the postage of all returned ballots. This, too, is difficult to estimate as the cost would depend on

the type of election (primary or general in a State or federal election year) and the candidates seeking office, and the number of ballots transmitted and returned, which would likely vary considerably from county to county and from year to year.

One change that may increase costs is the requirement to update the Statewide Voter Registration System to allow postal tracking of mail-in ballots using Intelligent Mail barcodes, or a similar tracking system. This change would likely require at least a one-time programming expense for the Secretary of State and may require additional monitoring.

Military and Overseas Voting

The OLS estimates that there will be only a nominal cost to the State if the revisions to military and overseas voting made by the bill become law. The bill does expand the definition of “overseas voter” expressly including legally recognized partners of military service personnel, voters born outside of the United States, and overseas voters with a residence in New Jersey. This expansion may result in a greater number of eligible individuals being able to register to vote easily, which would create some additional work for elections officials prior to an election. However, once the counties program and update the registration systems, probably at a nominal one-time cost, the amount of paperwork involved in processing the registration will also be nominal because it will be done by electronic means. In addition, the cost to a county will vary from county to county and from year to year, depending on the number of individuals who choose a particular county as their residence for voting purposes, and it would be very difficult to estimate the number of individuals who will choose one county or another.

Filling Congressional Vacancies

The fiscal impact of the provisions that would establish procedures for filling congressional vacancies and eliminate the option of holding special elections to fill these vacancies cannot be determined because the need for, and scheduling of, such elections cannot be predicted and are rare events. It should be noted that the cost of both the special primary and general election held on October 16, 2013 to fill the congressional seat vacated by the death of United States Senator Frank Lautenberg was approximately \$24 million.

Office of Accessible Elections

The fiscal impact of establishing an Office of Accessible Elections in the Division of Elections cannot be determined at this time. The duties described in the bill may result in a workload that current employees with existing resources may be able to handle, or may result in the need for additional personnel and resources. Any additional cost would depend on the manner of implementation.

Deceptive Voting Practices

The provision on deceptive voting practices is a matter for enforcement and the fiscal impact cannot be determined. At present, there is no information on whether or how often such practices occur and what the cost of prevention or enforcement may be. Current resources may be sufficient to handle such occurrences.

Voter Fraud Court Challenges and Incident Reports

The OLS notes that by lowering the standard for challenging voter fraud in court, there may be more prosecutions of violators at the State and local levels. The number of additional prosecutions is difficult to determine. Current resources would likely be sufficient to process such cases.

The provision in the bill that requires the periodic reporting of incidents of voter fraud would result in an additional report prepared by the Secretary of State and posted on the website of the Division of Elections. The additional costs for reporting and posting would likely be nominal, if any.

Section: State Government

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This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).