

Department of Legislative Services
Maryland General Assembly
2013 Session

FISCAL AND POLICY NOTE

Senate Bill 327 (Senator Gladden)
Education, Health, and Environmental Affairs

Elections for Judges of the Orphans' Courts - Nonpartisan Elections

This bill requires judges of the orphans' courts to be elected on a nonpartisan basis and candidates for the office to be nominated by primary election. In a primary election to nominate a candidate for judge of the orphans' court, any registered voter of the county, regardless of party affiliation or nonaffiliation, is eligible to vote in the contest. The bill specifies additional procedures for the nomination of candidates for judge of the orphans' court and the election of a judge of the orphans' court.

Fiscal Summary

State Effect: The bill is not expected to materially affect State finances initially; however, in FY 2018, general fund expenditures may increase due to costs of additional paper ballots, assuming a paper ballot-based voting system is implemented for the 2016 and future elections. Under one set of assumptions, expenditures increase by approximately \$17,000.

Local Effect: Local government expenditures will increase for some local boards of elections due to additional printing and mailing costs for paper ballots and specimen ballots during a gubernatorial primary election.

Small Business Effect: None.

Analysis

Bill Summary: The bill requires judges of the orphans' courts to be elected on a nonpartisan basis. A candidate for election to the office of judge of the orphans' court files a certificate of candidacy, is certified to the ballot, appears on the ballot, is voted on, and is nominated and elected, all without party designation or regard to party affiliation.

Candidates for judge of the orphans' court are nominated at the primary election, unless there are no more than two candidates who have filed certificates of candidacy for the contest, in which case each candidate is nominated for the general election. Any registered voter of the county, regardless of party affiliation or nonaffiliation, may vote in a primary election to nominate a candidate for judge of the orphans' court.

The two candidates who receive the largest number of votes in the primary election are the nominated candidates. If two or more candidates are tied for the second most votes, each of the candidates is nominated. The bill specifies rules governing circumstances in which a candidate or nominee dies, becomes disqualified, or declines nomination.

In the general election for judge of the orphans' court, a voter may vote for one nominee and the nominee who receives the largest number of votes is elected. If two or more nominees tie for the most number of votes, the office is considered vacant and the vacancy is filled (1) as if it occurred during the term of the office for which the election is being held and (2) by the selection of one of the nominees who ties in the general election.

Current Law/Background: In general, nominations for State and county offices must be made by party primary, for candidates of a principal political party; by petition, for candidates not affiliated with any political party; or in accordance with the constitution and by-laws of the political party, for candidates of a political party that does not nominate by party primary.

Under the Election Law Article, unless otherwise provided in specified provisions of the Education Article, local boards of education are elected on a nonpartisan basis, in a similar manner as that prescribed for the office of judge of the orphans' court in this bill, with candidates nominated at the primary election and voted on by any registered voter of the county. Currently 18 counties have local boards of education elected through contested elections and Caroline and Harford counties have partially elected boards of education.

Under the Maryland Constitution, each county elects three judges to the orphans' court of their respective jurisdictions, with the exception of Montgomery and Harford counties where a circuit court judge sits as the orphans' court. The orphans' courts are the State's probate courts. The courts supervise the handling of estates and also have certain jurisdiction over the guardianship of minors and their property. Elections for judge of the orphans' court occur during the gubernatorial elections.

State Fiscal Effect: The bill is not expected to materially affect State finances initially. However, assuming a paper ballot-based voting system is implemented for the 2016 and future elections, in counties that otherwise would not have a nonpartisan office being contested in the gubernatorial primary election, additional paper ballots will be needed

for regular election day voters that are not registered with the Democratic or Republican parties. Generally, a person must be registered with either the Democratic Party or Republican Party to vote in a primary election, unless candidates are being nominated for a nonpartisan local board of education, in which case any registered voter can vote for that office.

The State shares costs of paper ballots with the counties. *For illustrative purposes*, if it is assumed that a number of paper ballots equivalent to 50% of the non-Democratic or Republican registered voters in the four counties that do not have an elected or partially elected board of education (*i.e.*, would not otherwise have a nonpartisan office being contested during the gubernatorial primary) would be needed (turnout is generally well below 50% for a gubernatorial primary) and the per ballot cost would be approximately \$0.30, State general fund expenditures increase by approximately \$17,000 in fiscal 2018 for the 2018 gubernatorial primary election.

Local Fiscal Effect: Local government expenditures will increase for some local boards of elections that otherwise would not have nonpartisan contests during a gubernatorial primary election. Local boards of elections will incur increased printing and mailing costs for specimen, absentee, and provisional ballots as a result of voters not affiliated with the Democratic and Republican parties being eligible to vote in the election. Wicomico County, for example, estimates costs may increase by approximately \$4,300 for the 2014 primary election largely for costs of specimen, absentee, provisional, and contingency ballots as well as costs of an election judge manual supplement, additional polling place ballot supplies, polling place signage, and secure ballot storage.

If the State adopts a paper ballot-based voting system for the 2016 and future elections, the bill's impact will be greater for the 2018 gubernatorial primary for counties that otherwise would not have nonpartisan offices being contested, due to the cost of additional ballots for regular election day voters.

Additional Information

Prior Introductions: None.

Cross File: HB 515 (Delegate Rosenberg) - Ways and Means.

Information Source(s): State Board of Elections; Judiciary (Administrative Office of the Courts); Carroll, Cecil, Harford, Montgomery, Queen Anne's, St. Mary's, Wicomico counties; Department of Legislative Services

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