

APPENDIX

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MONTGOMERY COUNTY
COUNCIL



Montgomery County Government

ROCKVILLE, MARYLAND 20850

February 28, 2014

Montgomery County Council
Stella Werner Council Office Building
100 Maryland Avenue, 6th Floor
Rockville, Maryland 20850

Dear Councilmembers:

Thank you on behalf of the entire Right to Vote Task Force for the creation of this effort to evaluate election laws and practices and for our appointment to the Task Force.

Since being appointed on November 26, 2013 the full Task Force has met for more than 6 hours to initially discuss the Actions assigned, assess topics associated with the Actions, and divide the workload across all members. This document is the interim report requested for delivery on February 28, 2014 on our progress to date and the Task Force is on track to complete a final report due by May 31, 2014.

We have organized ourselves into three subcommittees to focus on the tasks assigned, with each subcommittee having from four to five members. These subcommittees meet on a weekly or biweekly basis until the final report is ready for delivery. The subcommittees are:

Registration: This subcommittee is recommending changes that would increase voter participation, developing plans to promote same-day registration and recommendations to Council to strengthen such efforts, evaluate and make recommendations on high school voter registration efforts. The subcommittee is also evaluating whether the General Assembly should allow automatic voter registration or other 'opt-in' approaches to registration.

Access: This subcommittee is evaluating voter education programs and plans to promote early voting.

Voting Rights: This subcommittee is reviewing local laws and practices that may affect the right to vote and will be recommending changes that would strengthen the right to vote in the county.

The attached pages summarize the specific issues that each subcommittee is evaluating and assessing. Each subcommittee will discuss their specific issues and prepare position papers enumerating the Pros and Cons with each issue. The subcommittees will not necessarily make

specific recommendations to the Task Force, but rather present the topics and discuss the issues from multiple perspectives. It is the responsibility of the entire Task Force to discuss the issues and make final recommendations to the County Council. This ensures that each member can provide input on all issues and not just those associated with the assigned subcommittee. Task Force members are not restricted from participating on multiple subcommittees, if their personal time permits. It is the intent of the Task Force to present majority and minority recommendations to permit the council to appreciate all aspects of the issues considered.

In addition, the Council will soon receive two recommendations the Task Force has already discussed and approved. These recommendations were sent early to the Council because they would require earlier action to be effective in the context of the June 2014 primary election. The first recommendation encourages county agencies to adopt broader use of banner ads on major county government websites that direct people to the MC Board of Elections' voter registration site. The second recommendation changes the sample ballot mailing sent to all voters prior to early voting in the primary election. These sample ballot changes provide clearer and more succinct information about the multiple options available for voting.

Respectfully,

A handwritten signature in black ink, appearing to read 'T. Male', written in a cursive style.

Timothy Male, Chair
Right to Vote Task Force

**Montgomery County Right to Vote Task Force
Registration Subcommittee Status Report
February 24, 2014**

Scope of Work

The Registration Subcommittee will address issues related to voter registration, including the Council resolution's charges regarding voter outreach promoting registration and voting, same-day voter registration, and automatic voter registration.

Issues

Voter Education and Civic Education/Promoting Registration and Voting

The registration committee plans to address ideas to promote the process, including making people aware of the rights and opportunities to register and vote. Specifically, the subcommittee currently plans to consider the following:

- Materials that can be provided to educate potential voters about registration and voting, including early voting
- Early publicity prior to voter registration deadline regarding registration and voting options
- Information provided during high school drives
- Other issues related to registration at schools and colleges
- Civic education issues
- Recommendations to promote online voter registration information on state government websites

In light of the upcoming elections, the subcommittee has also focused attention making an recommendation of materials and information that can be provided by the Council for the 2014 elections:

- Posting of information online
 - On urging of the subcommittee, the Task Force passed a motion authorizing the chair to write a letter to the Council recommending online posting of a banner with a link to voter registration information on the general Council website as well as websites of other county departments and agencies
- The subcommittee is encouraging the task force to consider recommending paper materials be made available in county departments and agencies (bookmark-style)

Expansion of Same Day Registration

The subcommittee is considering issues around the expansion of same day registration to Election Day. The subcommittee is undertaking the following:

- Examining the prior legislation establishing same day registration during early voting
- Consideration of procedural issues for recommendation, for example, state constitutional amendment
- Investigation of potential for expansion and needs
- Consideration of potential Election Day procedure

Expansion of Voter Registration Agencies

The subcommittee is considering expansion of agency voter registration in Montgomery County beyond the agencies currently required to be designated voter registration agencies under the federal National Voter Registration Act of 1993. The subcommittee is considering:

- Which county agencies should be designated
- Responsibilities of the agencies
- Designation of a point person or registrar at each agency

Automatic Registration

The subcommittee will examine, consistent with the Council's charge, issues related to automatic voter registration. The subcommittee is considering the following:

- Discussion of "opt-in" v. "opt-out" voter registration
- Consideration of which agencies automatic registration would involve
- Links between online agency contacts and online voter registration system
- Voter registration outreach based on existing government agency information
- Databases and security issues

Additional Registration Issues

The subcommittee plans to address additional voter registration issues to expand the opportunity to register to vote through improvements to existing mechanisms. Issues under consideration include the following:

- Improvements to the online voter registration system, including additional ways to acquire electronic signatures from applicants, with the goal to increase the number of eligible citizens who can use the system
- Improvements to address updates at the polls that reduce the number of provisional ballots
- Improvements to other technology-driven voter registration procedures

*Montgomery County Right to Vote Task Force
Registration Subcommittee Status Report*

Process

The subcommittee has divided up issues among the members. Members are creating outlines of issues for circulation to other subcommittee members. The subcommittee will then work together to discuss the outlines, identify further questions and areas for follow up, discuss the proposed recommendations, and revise. The subcommittee will then present its proposals to the Task Force.

Subcommittee Members: Michelle Kanter Cohen, Larry Lauer, Cathy McDermott, Barbara Sanders

**Montgomery County Right to Vote Task Force
Access Subcommittee Status Report
February 22, 2014**

Scope of Work

The Access Subcommittee will review governing laws and regulations, as well as county policies and practices, that relate to voter access. We will recommend changes with the goals of improving access to voting and increasing voter participation in elections.

Process

The Access Subcommittee has met three times to identify issues of concern and begin to develop proposed short-term and long-term solutions. Thus far, the Subcommittee is working collectively on each of the issues identified below. Proposed recommendations that have been approved by consensus of the Subcommittee will be presented to the whole Task Force for its approval and recommendation to the Montgomery County Council.

At the February 17, 2014, meeting of the Task Force, the Access Subcommittee proposed a revision to the Montgomery County Sample Ballot in order to make more clear to voters the available options for voting. The Task Force approved the recommendation to revise the Sample Ballot, which is being sent to the County Council with a request that the Council approve the recommendation and forward it to the Board of Elections for final approval and implementation. The content for the recommended Sample Ballot is attached hereto. The Subcommittee identified additions to the Sample Ballot as a short-term priority given that the Council must approve the Sample Ballot for the June 2014 Primary by mid-March.

Issues

The Access Subcommittee has identified long-term issues for review related to voter education, voter turnout, and election administration.

Voter Education

The Subcommittee plans to evaluate ways to increase access to voting and voter participation through voter education by:

Developing methods to increase awareness among registered voters of recent changes to voting laws and regulations

Reviewing current information technology practices and developing recommendations to increase the availability of election-related information online and promote dissemination of such information electronically, potentially by:

- Making the Sample Ballot also available on the Board of Elections' website

*Montgomery County Right to Vote Task Force
Access Subcommittee Status Report*

- Creating an opt-in listserv for voters wishing to receive election information electronically
- Recommending that all Montgomery County departments and agencies include voting information on their websites

Proposing additional outreach efforts such as dissemination of information to voters through newspapers, local TV channels, and radio

Exploring ways to increase participation among young voters, potentially through development of a voter education app containing information about upcoming elections and voting processes

Promoting coordination between the Board of Elections and Board of Education

Voter Turnout

The Subcommittee plans to consider ways to increase voter turnout, including by reviewing successful voter-turnout strategies employed by other jurisdictions for potential use in local elections

Election Administration

The Access Subcommittee also plans to consider issues related to:

The expanded Early Voting program, including:

- Ways to promote the use of Early Voting
- The cost-effectiveness of Early Voting

Polling place procedures, including how to:

- Decrease wait times
- Quantify and publicize polling place wait times during Early Voting
- Improve waiting procedures for voters with special needs

How the Board of Elections makes decisions to change polling place locations

Ease of voting for voters in nursing homes

In addition to working on the issues identified above, members of the Access Subcommittee will continue to review governing laws and regulations, as well as county policies and practices, that relate to voter access and may identify additional issues for consideration prior to submission of the Task Force's May 31, 2014, final report.

Subcommittee Members: Dolly Kildee, Cristina Echavarren, Richard Jurgena, Zaida Arguedas, Lindsay Eyler Kaplan

**Montgomery County Right to Vote Task Force
Voting Rights Subcommittee Status Report
February 17, 2014**

Scope of Work

The Voting Rights Subcommittee will address issues related to voter rights, including the Council resolutions' charges regarding laws and practices that may affect the right to vote, and to review and recommend changes at the local level to uphold voting rights. Topic areas listed in relative importance are Suffrage, Electoral Structure, Political Parties, Election Integrity, Voter Registration, Voting Equipment and Others.

Issues

Suffrage - The Right to Vote

The Voting Rights Subcommittee plans to address ideas to ensure that the Right to Vote (RTV) is assured to all qualified people. Specifically, the subcommittee currently plans to consider the following:

- Youth Voting - extending the RTV to minors
- Prison/probation/parole/ex-felon - RTV
- Noncitizen - RTV
- Special elections
- Overseas and military voting
- Initiative, referendum, recall

Electoral Structure

The subcommittee is considering issues in the current structure of voting and how voters are currently represented. The committee is undertaking the following:

- Redistricting - Control political gerrymandering
- Multi-seat/at-large districts
- Ranked choice voting
- County vs. state control over elections

Political Parties

The subcommittee is considering ways to expand the voting opportunities especially in the primary elections to include the independents (non-aligned voters), which could be considered the 2nd largest party in the county. The subcommittee is considering:

- Open, closed, or hybrid primaries
- Candidate debate access
- Third-party ballot access

*Montgomery County Right to Vote Task Force
Voting Rights Subcommittee Status Report*

Election Integrity

The subcommittee will examine Election Integrity issues related to voting rights and will considering the following:

- Election monitoring by candidates or parties
- Voter IDs

Voter Registration

The subcommittee plans to address additional voter registration issues that might not be addressed by the Registration Subcommittee to expand the opportunity to register to vote through improvements to existing mechanisms. Issues under consideration include the following:

- Automatic voter registration
- Government agency voter registration
- Election Day registration/registration close date

Voting Equipment

The subcommittee plans to address additional voter access issues that might not be addressed by the Access Subcommittee to enhance voter access to the election process and mechanisms. Issues under consideration include the following:

- Voting equipment modernization
- Open-source voting equipment
- Optical scan machines

Other

The subcommittee plans to consider additional issues that might not be addressed by either the Registration or Access Subcommittees. These issues will become a higher priority if the *Voting Equipment* and *Voting Registration* topics are examined. Issues under consideration include the following:

- Election Day State Holiday
- Early voting
- Montgomery County Council Resolution 17-867, first four (4) points

Process

The subcommittee has divided the issues among its members. Members are creating outlines of issues for circulation to other subcommittee members. The subcommittee will then work together to discuss the outlines, identify further questions and areas for follow-up, discuss the proposed recommendations, and revise. The subcommittee will present its proposals to the entire Right to Vote Task Force.

Subcommittee Members: John Britton, Timothy Male, Stephen Mortellaro, Gary Featheringham, Mary Rooker

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Montgomery County Government

ROCKVILLE, MARYLAND 20850

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February 28, 2014

Montgomery County Council
Stella Werner Council Office Building
100 Maryland Avenue, 6th Floor
Rockville, Maryland 20850

Dear Councilmembers:

The Right to Vote Task Force is deep in discussions in its review of election laws and policies and has discussed two specific ideas that warrant the County Council's attention. These ideas, recommended by the Task Force at its February 17 meeting, are being sent to the Council before the final report of recommendations is due because they can be implemented in time for the June primaries.

Voter Registration

The Right to Vote Task Force is charged with identifying ways to increase voter participation. To participate, a citizen must first register. One of the Council's charges to the Task Force focuses specifically on same-day registration. However, the whole election process runs smoother when voters already are registered and included in the poll books when they arrive to vote at either an early voting center or at a precinct.

Facilitating more residents to register by the deadline 3 weeks before Election Day ensures inclusion in the poll books. The Right to Vote Task Force suggests that voter registration and voting methods should be widely advertised by the County and available to residents for several months prior to any election. Waiting to use PSAs, press releases and press coverage in the period immediately prior to the registration deadline causes extra work for the Board of Elections staff during an already intensive work period.

Currently, the Montgomery County website offers several multi-layered access points to locate voter registration procedures and forms from its home page (<http://www.montgomerycountymd.gov/>). These include using the search option, the Government or Department drop-down menus or the navigational choices of "I Want to..." or "Services and Information." Each of the multi-layered methods links to either the County Board of Elections home page or its Voter Registration – Frequently Asked Questions section. For other methods to find out about voter information, see ©1.

All of these access methods depend upon the searcher seeking out the voter registration information, assuming he/she knows there is an upcoming election. The Task Force urges the Council to implement a new approach that (1) proactively informs visitors to its home page of the registration deadline for upcoming state and local elections, and (2) links them to registration forms. Under this approach, citizens' interaction with government services would encourage and facilitate their civic participation.

The Task Force recommends that beginning 2 months before the voter registration deadline for a primary election through the end of the voter registration deadline for the subsequent general election, the Council home page include a conspicuously posted “branded” single touch banner, button, or graphics box hot-linked to a Board of Elections voter registration page. We further recommend that the Council encourage other County departments and agencies to include a similarly branded prominent link on frequently visited web pages to educate residents about upcoming elections and provide them the means to register, if they choose to do so.

Sample Ballot Information

The Task Force also recommends that the Council approve and recommend to the County Board of Elections certain revisions and additions to the Montgomery County Sample Ballot. The Sample Ballot is mailed to registered voters before each election. An example of how this information could be shared, subject to the Board’s approval, is attached on ©2. The Task Force is making this recommendation because recent changes in the laws governing elections in Montgomery County have expanded voters’ options for casting a ballot. Specifically, the State and County has expanded the early voting program, including by (1) increasing the number of days early voting is offered, (2) adding additional early voting locations, and (3) adopting no-excuse absentee voting that allows any registered voter to vote by mail. The Task Force believes it is important to ensure that all registered voters in Montgomery County are aware of the different options they have for casting a ballot, and have easy access to all information they need to exercise their right to vote. The changes to the first page of the Sample Ballot that the Task Force is recommending will help ensure voters receive this critical information before Election Day, and may help to increase voter turnout. Placing a summary of recent changes on the first page of the Sample Ballot will ensure that voters are aware of their expanded options for voting.

The Task Force believes the Sample Ballot is the right vehicle for dissemination of this information for three reasons. First, there is a precedent in that Montgomery County Sample Ballots have included just this type of information in the past. For example, the Sample Ballot sent prior to the 2010 primary election clearly identified voters’ three options for voting in the election on the front cover, and included the answers to voters’ frequently asked questions on the first inside page (©5). Second, the Board already sends the Sample Ballot to every registered voter in Montgomery County. Thus by including this important information in the Sample Ballot, the Board can ensure that it will be sent to all registered voters. Third, because the Board already produces and mails the Sample Ballot to all registered voters, including the information the Task Force proposes to add in, the Sample Ballot is a cost-effective way of disseminating this information. Based on informal discussions with staff, the Task Force estimates that the addition of the three pages needed to include this proposed additional content will only increase the overall cost of producing the Sample Ballot by approximately \$3,500 to \$5,000.

On behalf of the Task Force, thank you for considering our recommendations.

Respectfully,



Timothy Male, Chair
Right to Vote Task Force

cc: Board of Elections

Current Methods to find Voter Registration on the Montgomery County home page:

- SEARCH for “register to vote” or “vote” produce numerous links to different pages
- GOVERNMENT tab
 - Governance
 - Elections and voting
 - Board of Elections home page, then scroll down to select
 - **Hot Topics**

 - Voter/Resident Information
 - Maryland Online Registration
 - Notary/Scholarship
 - Petitions & Referendum
- DEPARTMENTS tab
 - Elections
 - Board of Elections home page, then scroll down to select
 - **Hot Topics**

 - Voter/Resident Information
 - Maryland Online Registration
 - Notary/Scholarship
 - Petitions & Referendum
- I WANT TO
 - apply for:
 - Registering to vote OR
 - find information:
 - Voter registration OR
 - register, reserve or enroll
 - Registering to vote
- SERVICES and INFORMATION
 - Registering to vote OR
 - Voter Registration

All of these will take the searcher to the County Board of Elections home page (<http://www.montgomerycountymd.gov/elections/>) or its Voter Registration – Frequently Asked Question page (<http://www.montgomerycountymd.gov/Elections/registration/faq.html>).

★ Three Easy Ways to VOTE in Montgomery County ★
Primary Election Day ★ June 24, 2014

Election Day Polling Places

Primary Election Day polls are open June 24, 2014, from 7:00 am to 8:00 pm.

Vote in person at your local precinct polling place, printed above your name on the back of this mailing.

Early In-Person Voting

Montgomery County has expanded Early Voting to 8 days at 9 Early Voting Centers!

Early Voting is open: Thursday, June 12 through Thursday, June 19, 10:00 am to 8:00 pm.

Vote in person at any Early Voting Center convenient for you:

Gaithersburg ★ Damascus ★ Rockville ★ Germantown
Chevy Chase ★ Burtonsville ★ Wheaton ★ Silver Spring (2 Locations)

See [inside front cover] for Early Voting Center addresses and parking information.

Check the current wait time and directions to any Early Voting Center by going to www.777vote.org.

No-Excuse Absentee Voting

Did you know any registered voter may now vote by absentee ballot, no excuse needed?

Follow the instructions inside on [page 2], or visit www.777vote.org, to apply for an absentee ballot.

Return your absentee ballot **by mail** (postmarked by June 24) or **deliver** it in person (by 8:00 pm on June 24) to:
Board of Elections, 18753-210 N. Frederick Ave., Gaithersburg, MD 20879. The Board will be open Saturday, June 21 and Sunday, June 22 from [X]:00 am to [X]:00 pm for in-person absentee voting.

[INSERT SPANISH TRANSLATION OF INFORMATION ABOVE LINE]

Early Voting Centers

Go to any Montgomery County Early Voting Center listed below during the Early Voting days/hours.

Check the current wait time and directions to any Early Voting Center by going to www.777vote.org.

Activity Center at Bohrer Park

506 S. Frederick Avenue
Gaithersburg, MD 20877
Parking: free, on-site

Damascus Community

Recreation Center
25520 Oak Drive
Damascus, MD 20872
Parking: [FILL IN]

County Executive Office Building

101 Monroe Street
Rockville, MD 20850
Parking: 1 hour free at Office
Building garage at Jefferson and
Monroe Streets or on-street
metered parking

Germantown Community Recreation Center

18905 Kingsview Road
Germantown, MD 20874
Parking: free, on-site

Jane E. Lawton Community Recreation Center

4301 Willow Lane
Chevy Chase, MD 20815
Parking: free, on-site

Marilyn J. Praisner Community Recreation Center

14906 Old Columbia Pike
Burtonsville, MD 20866
Parking: free, on-site

Mid-County Community Recreation Center

2004 Queensguard Road
Silver Spring, MD 20906
Parking: free, on-site

Silver Spring Civic Building

One Veterans Place
Silver Spring, MD 20910
Parking: public garage across
Ellsworth Drive or on-street
metered parking

Wheaton Community Recreation Center

11711 Georgia Avenue
Wheaton, MD 20906
Parking: [FILL IN]

VOTERS' Frequently Asked Questions

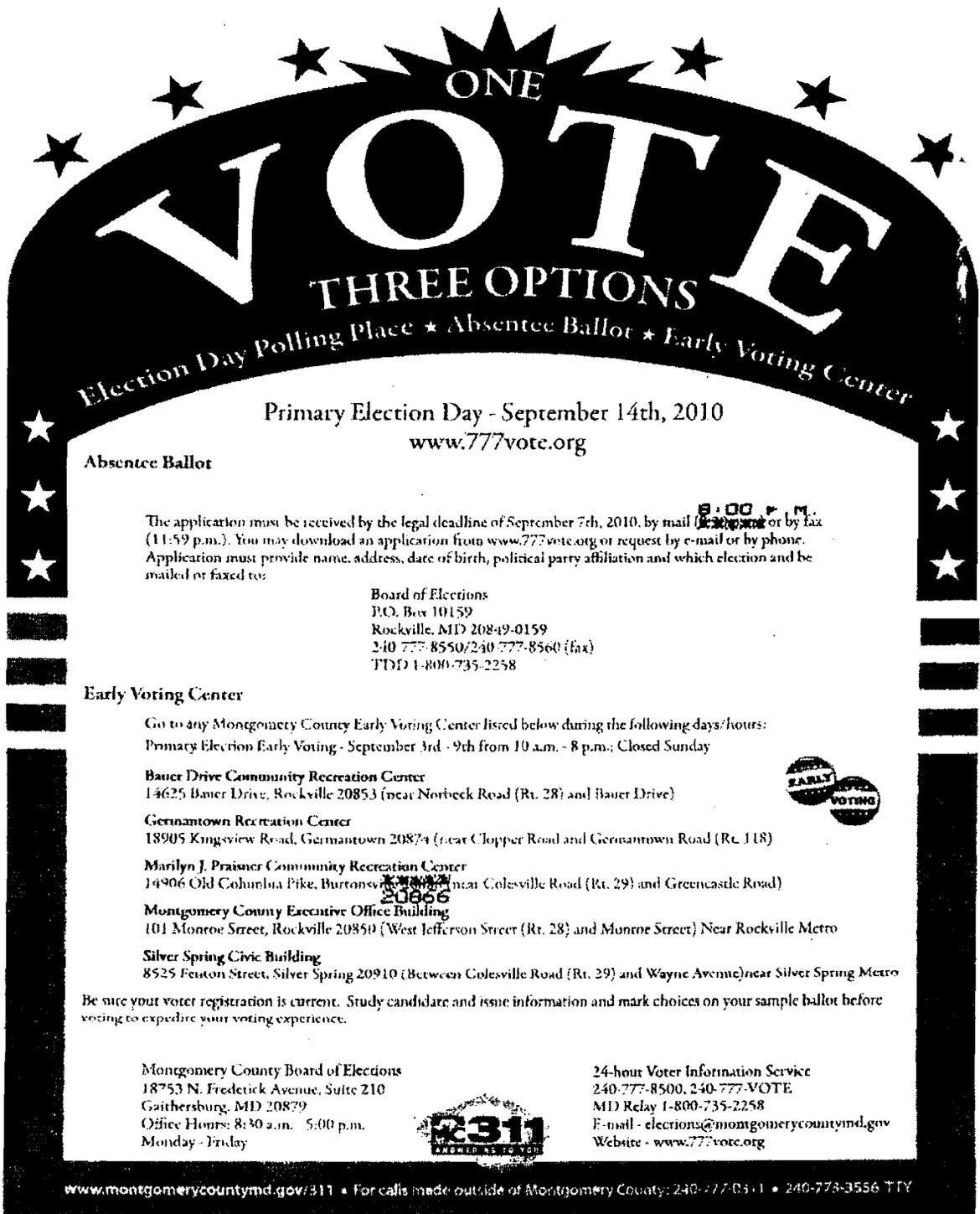
What is Early Voting?

Is Early Voting the same as Absentee Voting?

How do I apply for an absentee ballot?

Will I ever need to show an ID to vote?

What does it mean if I am asked to vote a provisional ballot?



Primary Election Day - September 14th, 2010

www.777vote.org

Absentee Ballot

The application must be received by the legal deadline of September 7th, 2010, by mail ~~8:00 p.m.~~ or by fax (11:59 p.m.). You may download an application from www.777vote.org or request by e-mail or by phone. Application must provide name, address, date of birth, political party affiliation and which election and be mailed or faxed to:

Board of Elections
P.O. Box 10159
Rockville, MD 20849-0159
240-777-8550/240-777-8560 (fax)
TDD 1-800-735-2258

Early Voting Center

Go to any Montgomery County Early Voting Center listed below during the following days/hours:
Primary Election Early Voting - September 3rd - 9th from 10 a.m. - 8 p.m.; Closed Sunday

Bauer Drive Community Recreation Center
14625 Bauer Drive, Rockville 20853 (near Norbeck Road (Rt. 28) and Bauer Drive)

Germanantown Recreation Center
18905 Kingsview Road, Germantown 20874 (near Clopper Road and Germantown Road (Rt. 118))

Marilyn J. Prauner Community Recreation Center
14906 Old Columbia Pike, Burtonsville 20866 (near Colesville Road (Rt. 29) and Greencastle Road)

Montgomery County Executive Office Building
101 Monroe Street, Rockville 20850 (West Jefferson Street (Rt. 28) and Monroe Street) Near Rockville Metro

Silver Spring Civic Building
8525 Feuton Street, Silver Spring 20910 (Between Colesville Road (Rt. 29) and Wayne Avenue) near Silver Spring Metro

Be sure your voter registration is current. Study candidate and issue information and mark choices on your sample ballot before voting to expedite your voting experience.

Montgomery County Board of Elections
18753 N. Frederick Avenue, Suite 210
Gaithersburg, MD 20879
Office Hours: 8:30 a.m. - 5:00 p.m.
Monday - Friday

24-hour Voter Information Service
240-777-8500, 240-777-VOTE
MD Relay 1-800-735-2258
E-mail - elections@montgomerycountymd.gov
Website - www.777vote.org



www.montgomerycountymd.gov/311 • For calls made outside of Montgomery County: 240-777-0311 • 240-773-3556 TTY

A MESSAGE TO YOU FROM YOUR BOARD OF ELECTIONS

Primary Election Day is Tuesday, September 14, 2010. This year, your voting opportunities are the Gubernatorial Primary Election and the Gubernatorial General Election when votes are cast for Congressional, state and local representatives. In addition to an option to vote in person on Election Day, or by absentee ballot, voters are offered a convenient option to vote early in person, before Election Day, at any one of 5 Voting Centers, open from 10:00 a.m. – 8:00 p.m. from September 3rd - 9th (closed Sunday). Details are available at www.777vote.org or www.montgomerycountymd.gov or call 311, the County's central referral number.

For an orderly voting experience, we suggest:

- Compare your name and address with the name/ address information on the front of this sample ballot; the name/address information is taken from your voter registration form. Corrections can be made at any of the 5 Early Voting Centers or at your polling place on Election Day; in some cases, voting a provisional ballot may be necessary.
- Consider where and when you'll vote; this sample ballot provides your polling place name and location, a list of names and addresses of the 5 Early Voting Centers and dates and times for voting.
- Study and become familiar with the voting process. Mark your choices on your sample ballot. Bring it with you to save time when you vote your official ballot.
- You must be a registered member of a political party in order to vote for that party's candidates in a Primary Election.

To vote an absentee ballot:

- Registered voters download, complete and sign the absentee ballot application. Then, fax, or mail the completed and signed absentee ballot application to the Board of Elections, P.O. Box 10159, Rockville, MD 20849-0159. Remember, include your name and signature, address, date of birth, and telephone/ email contact information on the absentee ballot application. Contact information for the Board of Elections is www.777vote.org or www.montgomerycountymd.gov; fax 240-777-8560; call 311 or 240-777-VOTE. NOTE: Receipt of absentee ballot application deadline is September 7, 2010.
- Late in person absentee voting is available at the Board of Elections' office on Wednesday, September 8, and Thursday, September 9 between 8:30 a.m. – 8:00 p.m.; Friday, September 10 between 8:30 a.m. – 5:00 p.m.; and Saturday, September 11 between 9:00 a.m. – 4:30 p.m.

Our new location is: Board of Elections (.75 miles north of Montgomery Village Ave. on Rte. 355)
18753 N. Frederick Avenue, Suite 210
Gaithersburg, MD 20879

Montgomery County Board of Elections

Jerrold S. Garson, President

John J. Sullivan, Vice President

Nancy Dacek, Secretary

Nahid Khozeimeh

Rosalyn W. Pelles

Lucia Nazarian

Mary H. Kiraly

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VOTER'S Frequently Asked Questions

To verify your voter status and find your polling place, go to www.elections.state.md.us, then, "Find Out Here".
Call 1-800-222-VOTE (8683) or 240-777-VOTE (8683)

Q. What are Primary Elections?

- A. Political party elections in which members of the two major political parties nominate candidates to compete for elective offices. Maryland Democrats and Republicans must receive the ballot of their registered party. Voters registered with any other political party with an official status in Maryland must receive the non-partisan ballot with only non-partisan Board of Education candidates listed.

Q. What is my responsibility as a voter?

- A. Be sure your voter registration is current; study the candidate and issue information and mark your choices on your sample ballot before voting to expedite your voting; know the dates and hours of voting, where to vote and how to use voting equipment (go to <http://www.mdvotes.org>); treat election officials with courtesy; seek help if necessary; respect privacy and concentration of other voters; and, finally, before you take the final "Cast Ballot" step, review your ballot for accuracy.

Q. What are some experiences I might have?

- A. Be required to provide identification information depending on your date of registration.

Be required to vote a Provisional Ballot if your voter registration is not listed or is listed incorrectly in the Precinct Registry.

Apply for and vote an Absentee Ballot before Election Day; application must be received at Board of Elections by Tuesday prior to Election Day or follow late application procedures. To apply, download an Absentee Ballot application at www.777vote.org or email absentee@montgomerycountymd.gov or fax 240-777-8590 or call 240-777-8550. Provide voter's name, residence address and, if different, mailing address, date of birth, daytime phone number and submit timely.

Request an absentee ballot for another voter by designating an authorized agent to pick up and deliver an absentee ballot. Contact Board of Elections for details.

Q. What is Early Voting?

- A. The Early Voting initiative was passed by the Maryland Legislature in the 2008 General Assembly to give registered voters an opportunity to cast their ballot during a six-day period prior to the official Election Day beginning with the 2010 elections and intended to make voting more convenient. The Early Voting period begins on the eleventh day prior to the official Election Day. As required by State law, Montgomery County offers its voters a choice of 5 Early Voting Centers. Polling places are open solely on the official Election Day, not for Early Voting. Early Voting dates, times and names and addresses of the locations, are located elsewhere in this sample ballot. Visit www.mdearlyvote.com for statewide information.

Q. Is Early Voting the same as Absentee Voting?

- A. No. Early voting requires a registered voter to go to one of Montgomery County's 5 Early Voting centers, check in and vote their appropriate ballot provided at the Center. Absentee Voting is for registered voters who choose to apply for an absentee ballot by mail or at the Board of Elections prior to the official Election Day. A voter may apply by downloading an absentee ballot application form at www.777vote.org, completing, signing and returning the application form; or by calling 311 to request an absentee ballot application which must be filled out and signed, before receiving an absentee ballot. The voter's ballot is the same whether voting absentee, early or at the polling place on Election Day.

Q. How does Early Voting work?

- A. The registered voter comes to an Early Voting center (see list of 5 Early Voting Center locations and schedules), is assisted with verifying the voter's registration status through a central database and once validated, the data base is updated to reflect the request to vote and the issuance of a ballot to the respective voter, which prevents the voter from voting at another location. Then the eligible voter is directed to the voting unit where they can cast their ballot. Votes from the Early Voting period will be tabulated and reported after the polls close on the official Election Day.

Montgomery County Right to Vote Task Force
Proposed Recommendations from Registration Subcommittee

Topic: Improvements to Online Voter Registration

Summary:

Online registration has been a popular bipartisan reform gaining momentum nationwide. The bipartisan Presidential Commission on Election Administration, unanimously and with the support of both 2012 major presidential party candidates' attorneys, strongly recommended the expansion of online voter registration in its January 2014 report. Indeed, Maryland adopted online voter registration effective in 2012. Several improvements, however, could be made to fully realize the benefits of the move to online registration.

Currently, in Maryland a person must have a driver's license or state ID card to register to vote online so that the signature from these databases can be used for voter registration. Although the state is required to ask for the driver's license or state ID number, that number is not required to register to vote by other means, including by mail or at government agencies. However, applicants do need to provide the last four digits of their Social Security number, or confirm he/she has none of these three items of identification.

One method to broaden access would be to accept electronic signatures that applicants make on a touch screen, consistent with technology now used in many businesses. This technology has become widespread with the use of smartphones. Citizens could therefore use their mobile phones or tablets to register to vote, providing a signature much the way they do by mail and as they do in business contexts, such as credit card transactions and signing for deliveries.

But not all citizens may have the technology necessary to use touchscreens. Therefore, another improvement is suggested. This method, currently part of pending legislation in Florida, would assist voters to use the online system to submit their information online, even if they do not have a driver's license, state ID, or access to touchscreen/signature capture technology (if this recommendation is accepted by the Task Force). Subsequently, they would be sent a postcard to provide a signature by mail to complete their applications.

Proposed Recommendations:

1. Recommend that Maryland modifies the online voter registration system to allow individuals without MVA IDs to register online by providing a signature through an electronically captured image.
 - *Unanimously recommended by the Registration Subcommittee*

Pros

- Consistent with current business practices to accept electronic signatures (e.g., credit card transactions, real estate contracts, accepting deliveries)
- Consistent with the Maryland Electronic Transactions Act, which states that if a law requires a signature, an electronic signature satisfies the law
- Broadens the ability to use the online voter registration system, which is currently restricted to people with driver's licenses and state MVA IDs

- Mitigates broadening the “digital divide” that could occur if only people with drivers’ licenses and state IDs can register online.
- Not all eligible citizens have drivers’ licenses or state IDs. All citizens should reap the benefits of accurate data entry and checks on completeness that an online site can provide, not just individuals with those IDs.
- Consistent with public expectations, especially of young people, that all activities can be done online.
- Several other states have this capability, including Delaware (already-existing signature images) and Missouri (images captured during online registration process)
- Consistent with the way mail applications work, just in a different medium

Cons

- Some may say that having a driver’s license or state ID provides more security
 - Programming time/cost to modify online registration system
2. Recommend that Maryland revises its laws regarding its online registration system so that individuals who have neither a driver’s license, state ID, nor touchscreen/signature capture technology are sent a postcard to provide a signature to mail back and complete their applications.
- *Unanimously recommended by the Registration Subcommittee*

Pros:

- Saves election officials time and money by having data entered by the registration applicants that would otherwise be inputted manually by election workers.
- All citizens should have access to the benefits of reduced data entry and better accuracy.
- Makes online registration available to more citizens across technological divides.
 - Mitigates broadening the “digital divide” that could occur if only people with drivers’ licenses and state IDs can register online.

Cons:

- Adds costs of postage and time to do follow-up signature mailings.
 - Adds time to match up signatures with information submitted online.
 - Adds programming time/cost to modify online registration system.
3. Recommend that Maryland adds the capability to accept online registration information from applicants who must then print, sign, and mail their completed applications, so that when the application is eventually mailed in, the information is already in the system waiting to be reviewed. The information could be kept for a set number of days, such as 45 (this is the current practice in Virginia).
- *Unanimously recommended by the Registration Subcommittee*

Pros:

- Saves election officials time and money by having data entered by the registration applicants that would otherwise be inputted manually by election workers.
- All citizens should have access to the benefits of reduced data entry and better accuracy

Cons:

- Adds time needed to match up signatures with information submitted online.
 - Adds programming time/cost to modify online registration system
4. Recommend that Maryland integrates the electronic registration system with the MVA so that information can be electronically and automatically transferred between systems.
- *Unanimously recommended by the Registration Subcommittee*

Pros:

- Maryland should realize the cost-savings benefits of other states that have adopted the practice, such as Arizona

Cons:

- Potential costs of setting up system integration
- Need to ensure that election officials can still assess applications

Montgomery County Right to Vote Task Force
Proposed Recommendations from Registration Subcommittee

Topic: Same Day Voter Registration

Summary:

Same Day Registration (SDR) is a reform that has gained ground in the States recently. Maryland passed SDR for the early voting period only in 2013 (HB 224), which becomes effective in 2016. However, a State constitutional amendment is needed in order to offer voter registration on Election Day, because provisions in the constitution assume that registration will be closed for a period of time before Election Day.¹

Generally, States with SDR require some type of proof of residency and identity, though specific State requirements may vary.

- Current states with SDR on Election Day:
 - Colorado
 - Connecticut
 - DC
 - Idaho
 - Iowa
 - Maine (town offices and city halls)
 - Minnesota
 - Montana (in official county election offices)
 - New Hampshire
 - Wisconsin
 - Wyoming
 - California (passed, but not yet effective)

Proposed Recommendation:

1. Recommend that the Maryland legislature move forward with a State constitutional amendment to allow the legislature to pass SDR, as well as State legislation adding it.

Pros

¹ Department of Legislative Services Office of Policy Analysis, *Election Day Registration*, at 4 (Dec. 12, 2008), available at http://dls.state.md.us/data/polanasubare/polanasubare_intmatnpubadm/Election-Day-Registration.pdf. The relevant provision of the Maryland constitution states that “The General Assembly shall provide by law for a uniform Registration of the names of all the voters in this State, who possess the qualifications prescribed in this Article, which Registration shall be conclusive evidence to the Judges of Election of the right of every person, thus registered, to vote at any election thereafter held in this State ...” Md. Const. art. I § 2.

- SDR States are consistently among the highest in turnout.
 - A 2006 report by the Maryland Attorney General and State Administrator of Elections found that EDR (Election Day Registration) would likely increase turnout between 1 and 3 percent, and a study in 2000 found that EDR was particularly effective in boosting turnout of young voters and those who have recently moved.²
- SDR offers a last-minute alternative for voters who want to participate but did not plan ahead of time.
- SDR provides a fail-safe option for voters who had problems registering, for example at the Motor Vehicle Administration, or who forgot to mail in an application they may have filled out, who failed to respond to a notice of incomplete application, or who may have been removed incorrectly.
- Mitigating Concerns:
 - Fraud – States with SDR have not experienced fraud problems
 - SDR States generally require proof of residence and identity, such as a government document with name and address, etc.
 - Example – the New Hampshire Attorney General reported after making a “major effort” to investigate voter fraud in the 2004 general election that “there are very few instances of wrongful voting” there.³ (New Hampshire has EDR.)
 - Cost – States such as Iowa have implemented SDR registration without large additional costs

Cons

- Potential for fraud (but see above)
- Cost (but see above)

Additional Sources [in addition to specific footnotes]:

Estelle H. Rogers, Esq., *Project Vote Issues in Election Administration: Same Day Registration* (June 2013), available at

<http://projectvote.org/images/publications/Election%20Day%20Registration/POLICY-PAPER-Same-Day-Registration-June-2013.pdf>.

² Department of Legislative Services Office of Policy Analysis, *Election Day Registration*, at 3 (Dec. 12, 2008), available at

http://dls.state.md.us/data/polanasubare/polanasubare_intmatnpubadm/Election-Day-Registration.pdf.

³ Department of Legislative Services Office of Policy Analysis, *Election Day Registration*, at 4 (Dec. 12, 2008), available at

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Automatic Registration Options — Opt-In & Opt-Out

Recommendations From the Registration Subcommittee

Background

Defining the Issue

Currently, Maryland's voter registration system is "opt-in," meaning that voters must take action in order to be added to the voter registration rolls. The National Voter Registration Act mandates that registration be offered by departments of motor vehicles and all public-assistance agencies¹ during their interactions with the public, which facilitates the process. In some instances under Federal law, the action required by a potential voter is minimal, only requiring his or her consent to the registration, attesting to citizenship, and completing minimal additional information.

An automatic registration system is initiated by a government and is based on already existing government records (e.g., drivers' licenses, juror pool lists, income tax returns, etc.), as is the practice in Canada, France, Belgium, Austria, and Germany. With automatic registration, citizens are notified of their eligibility to vote; with an opt-in system, they can confirm their desire to register and provide supplemental information, such as political affiliation. An automatic opt-out voter registration program would mean that a prospective voter is offered the opportunity *not* to be registered, instead of the opportunity *to* register; applicants would be added automatically to the rolls if deemed eligible until they indicated they wanted to opt-out.

Benefits of Any of These Proposed Changes

Even though voting is a fundamental right, the burden is on the voter to register before that right can be exercised. Changes that shift more of the burden onto the government for identifying qualified people to add to the voter rolls may increase participation by eligible citizens. Updating Maryland's statewide electronic registration system in this way could leverage already-existing government data and government/citizen interactions to increase participation. It would reduce paperwork and labor-intensive hours before elections and during voter registration drives, which would allow greater focus at those times on citizens who are not reached by these methods. It would also spread resources throughout the election cycle instead of concentrating them around deadlines. Finally, all of these systems could be set up to use electronic transfer of information to modernize and eliminate costly errors and data entry problems. Such measures are also supported by Attorney General Eric Holder and other U.S. Department of Justice officials.

The State Board of Elections (SBE) considered a data-based voter registration list when asked to provide potential implementation plans during deliberations for the early voting/same-day registration bill (see SBE Memorandum, January 23, 2013, included in RTV Task Force materials). As part of the process, the high-level plan suggests that SBE would "incorporate into the electronic pollbook database, the names, addresses, and dates of birth of individuals who are of voting age population, but not registered to vote. The primary source for these data will be the Motor Vehicle Administration, but other databases will be considered and used if available and reliable. Having these data will streamline the process of registering

¹Such agencies in Maryland are designated by a combination of Federal law and by the SBE. They currently include local departments of social services units providing temporary cash assistance, Medicaid, and food stamps; local offices of Maryland Children's Health Program; Special Supplemental Nutrition Program for Women, Infants, and Children (WIC); State-funded disability offices, including Maryland Paratransit Certification Office; armed forces recruitment offices; offices on aging; offices for students with disabilities at private and public colleges and universities; marriage license offices; and public institutions of higher education. (SOURCE: www.elections.state.md.us/voter_registration/nvra.html.)

an individual at the early voting center and provide a high level of confidence of the authenticity of the information being provided by the registrant.”

The Task Force was updated about current State policy on March 26, 2014, by Alysoun McLaughlin (Montgomery County Board of Elections). Even with MVA registration, layers of SBE personnel are involved in the checking and verification process, rather than extracting the already-verified electronic MVA data directly into the statewide online voter registration system. That same day, the Task Force voted to recommend that the State integrate the MVA and the online voter registration systems so that information can be electronically and automatically transferred between the systems.

Maryland is already participating in the Electronic Registration Information Center (ERIC), which verifies and improves voter registration systems, provides resources to States to conduct list maintenance, and increases access to voting, all while requiring consistency with the NVRA provisions. According to the Pew Charitable Trusts, “Each member state receives reports that show voters who have moved within their state, voters who have moved out of state, voters who have died, duplicate registrations in the same state and individuals who are potentially eligible to vote but are not yet registered.” The main data sources include existing voter registration rolls and motor vehicle department records, as well as Social Security death records and U.S. Postal Service addresses. At this time, ERIC has not been linked to State or local tax collecting agencies or to public assistance offices. Maryland’s SBE has already used an ERIC-generated list to mail out registration postcards to potentially eligible residents and is planning on another mail out in the summer of 2014. It should also be noted that there is no State database (and no current plans for one) that would delineate between citizen and noncitizen residents of Maryland.

New opt-in approaches could pre-populate the SBE registration database with would-be voters, collected from either (1) most State databases or (2) State, County, and municipal information collected and contributed by multiple agencies and departments. If the SBE database were to be primed ahead of time, automatic filling in and transferring of information fields can be the expectation rather than the exception from State and local agencies and departments. Based on the ERIC approach, the SBE itself could compile data amassed by the MVA, tax departments, Social Security death records (for comparison to remove names), and U.S. Postal Service address changes (to ensure updated information; also goes to portability of registration). Such an enhanced registration database could facilitate direct-mail outreach to non-registered potential voters. However, because these approaches would rely on data held by the government, such methods would be less likely to reach some groups of people (e.g., renters, individuals without State ID, and people who do not interact with State agencies or whose information is not compiled by them).

Consideration of Opt-Out Registration Proposal

Currently, no State has approved automatic registration with the opt-out provision. Legislators in **Oregon** attempted this approach in 2013. The original bill was amended to permit a 2-week opt-out period for newly registered voters to revert to unregistered; an alternative suggestion of listing unregistered drivers as “inactive voters” was not acted upon. The State Senate came within one vote of approving the bill in July 2013. A 2014 Dēmos report stated: “Under the bill, individuals would have been automatically registered to vote when a state agency received age, residence, and citizenship data and a digital copy of a signature from that individual, provided they were eligible to vote. The program would have begun with data collected from the DMV (including for non-driver identification cards), and would have eventually expanded to include data from other government agencies. All eligible individuals who had records in the DMV database would have been automatically registered in a process beginning January 1, 2014, and voter registration records would be updated when individuals updated or renewed their licenses. Voters would initially be registered as unaffiliated with any political party; later, they would receive a postcard allowing them to choose a party affiliation or opt out of voter registration entirely.”

Dēmos also described a 2009 **Minnesota** bill (passed, but vetoed), that “would have automatically transferred data from an application for a driver’s license, identification card, or learner’s permit to the Minnesota Secretary of State’s office; the Secretary of State would then register all individuals it deemed eligible to vote. After county registration officials received the registration information, they would mail a notification to newly registered voters informing them of their registration, and providing instructions for opting out if the voter was not eligible or wished not to be registered.” Legislators in **Texas, Florida, and Hawaii** also tried introducing various automatic registration bills, but made less progress through their respective statehouses than in Minnesota or Oregon.

The Registration Subcommittee deliberated extensively over the opt-out approach. While being the most comprehensive and expedient way to maximize voter registration, opt-out would not provide for citizen consent prior to being registered (goes to free choice in the first instance rather than after the fact), and due to legal transparency provisions, it might force the inclusion of reluctant Marylanders in the publicly available registration list (goes to privacy/security concerns). The subcommittee discussed using all available State records to automatically register all eligible citizens of Maryland, while providing the ability to opt-out of automatic registration after the fact. All four subcommittee members feel that other new opt-in recommendations would achieve most of the same goals, but with the ability to minimize the concerns raised by opt-out.

- *The Registration Subcommittee does not recommend the opt-out option.* The following lists the pros and cons that were considered by the subcommittee regarding an opt-out system:

Pros

- Leverages already-existing government data and government interactions to increase participation
- Modernizes antiquated system of voter-initiated registration
- Easiest and least expensive way to register eligible voters, while leaving the ability to opt-out after the fact
- Path of least resistance to register the maximum number of new eligible voters
- More similar to democracies around the world whose governments affirmatively seek out voters to register them
- Prevents situations where people mistakenly believe they are registered and are turned away at the polls
- Puts burden on the government to register qualified people, rather than on voters

Cons

- Anticipated resistance to register eligible voters either passively or against their individual will, while exposing them to public registration records listing private information data
- Potential for ineligible registrants to be inadvertently added to the rolls
- Potential for ineligible persons to be prosecuted for felony voter registration when they did not intend to register (there would be no means to rule out Federal prosecution using State law, since Maryland cannot change Federal law)
- Issues with reading the “fine print” when offering the opportunity to opt-out
- Issues with language comprehension when offering the opportunity to opt-out
- Privacy implications for individuals who do not wish to be registered or who may have public safety concerns such as outstanding restraining orders
- Personal choice vs. “nanny state” problem, the view that government should not dictate who is registered to vote (although people could opt-out)

Proposed Recommendations to Enhance Opt-In Registration:

After much deliberation, this subcommittee suggests four Recommendations toward a more automatic opt-in voter registration system: #1 is more State-level-records driven (resulting in the ‘pending’ status); #2 is a broader net of databases and is more outreach-driven, utilizing far more sources to compile a list for mail-out purposes (but not culminating in a ‘pending’ addition to the SBE rolls); #3 encourages most State and County departments to ‘recruit’ registrants during encounters (in-person or online); and #4 links online ‘e-forms’ to the SBE registration website. Recommendations #1 (closest to opt-out) and #4 could align alone; however, we request that the Task Force approve all four so that the Council has the maximum amount of options to consider recommending to the General Assembly.

#1. Recommend that the SBE and/or County boards of election enroll all eligible non-registrants as “pending” (just short of registration) in the SBE database. Notification would be sent to those pending registrants (on forms containing the required qualifying information language regarding citizenship and non-felon status), allowing them to opt-in to become registered voters and declare a party affiliation should they choose one. Sources for the list of all eligible non-registrants would include the MVA, State Department of Assessments & Taxation, and public assistance offices. For example, once these data were compared with the existing voter rolls, postcards or forms containing notice that the person has been added as a pending registrant would be sent to the potential voters, and they would simply activate their registration by replying or by appearing at early voting to confirm their information. Potential methods for the government to seek a response from pending registrants might include in person at the board of elections, by mail, online, or at the polls.

(Unanimously endorsed by the Registration Subcommittee)

Pros:

- Modernizes antiquated system of voter-initiated registration
- Puts greater burden on government to register qualified people than the current system, rather than on individual voters
- Streamlines the process of registering an individual at polling places, and provides high confidence in the authenticity of information supplied by the registrant (*see* SBE Memorandum, January 23, 2013)
- Will enable and facilitate same-day registration during early voting when it goes into effect in 2016
- Leverages already-existing government data and government interactions to increase the chances for participation
- Defers to State-level MVA and tax records; yields fewer multiple name versions of the same potential voter (*see Recommendation 2*, which may yield too many disparate name versions or address results from many more lower-level databases)
- Largely addresses issues with ineligible persons being inadvertently registered
- Updates registration rolls throughout the election cycle, mitigating last minute “crunch time” for election officials
- Prevents many situations where people mistakenly believe they are registered and are offered a provisional ballot (also would help with the portability issue)
- May address some potential privacy implications for individuals who do not wish to be registered or who may have public safety concerns (*see* “Cons” below)
- Addresses “nanny state” concerns without requiring opt-out action

Cons:

- Ineligible applicants might be inadvertently added to the pending list (although not the rolls)
- State-initiated effort subsumes individual-choice registrations

- Potential questions regarding whether the pending list would be subject to public records law could lead to privacy implications for individuals who do not wish to be registered or who may have public safety concerns (e.g., restraining orders)

#2. Recommend that the SBE and/or County boards of election conduct voter-registration outreach by building a list of all eligible non-registrants, regardless of whether these citizens are contemporaneously interacting with government. For example, once agency data were compared with the existing voter rolls, postcards or forms containing the required qualifying information language would be sent by the SBE to potential voters, and they would simply register by replying. This would be similar to the ERIC outreach process, but would incorporate a broader base of data. Sources for all eligible non-registrants would include State-level departments, tax agencies, public assistance offices, U.S. Postal Service address change updates, and schools and colleges. Additional data sources could include County and Municipal agencies and departments.

(Unanimously endorsed by the Registration Subcommittee)

Pros:

- Increases government outreach to voters (including Maryland’s use of ERIC) to maximize the number of eligible people who become registered
- Leverages already-existing government data and increases participation
- If outreach is conducted by elections officials, could leverage agency data without adding to department/agency work in areas outside existing expertise
- Addresses issues with ineligible persons being inadvertently registered
- Addresses potential privacy implications for individuals who do not wish to be registered or who may have public safety concerns (e.g., restraining orders)
- Updates registration rolls throughout the election cycle, mitigating last-minute “crunch time” for election officials
- Addresses “nanny state” concerns without requiring opt-out action
- Modernizes (although somewhat less dramatically than *Recommendation 1*) the antiquated system of voter-initiated registration

Cons:

- More work for County and State agencies
- Need to create support system within those agencies to implement
- Could be multiple name versions of the same potential voter from too many disparate sources (*see Recommendation 1*)
- Would require voters to affirmatively express interest in registration in order to be added to the rolls, possibly at a time in the election cycle when a person might not be actively interested (this can also be considered a positive by some)

#3. Recommend that the legislature and/or the SBE encourages most State, County, and Municipal agencies/departments not already subject to NVRA requirements to suggest voter registration during each service encounter (face-to-face, websites, or other online portals) with the citizens of Maryland. Agency personnel could offer paper SBE registration forms during a transaction with a citizen. During an electronic transaction, registration could also be offered; if affirmative, selecting the SBE link would continue the transaction to the online registration website. To the extent practicable, most County, State, or Municipal government agency paper forms should contain a checkbox ‘footer’ inquiring if the citizen wishes to register; if yes, when the agency receives the form back, it would send a registration form back to the citizen. As with MVA, electronic transfer of information would be recommended if available.

(Unanimously endorsed by the Registration Subcommittee)

Pros:

- Uses structure and procedures of agency registration efforts already in practice to expand voter registration to more eligible people
- Puts a greater burden on government to register qualified people, rather than on individual voters (this option does not shift burden as much as earlier Recommendations mentioned)
- Leverages already-existing government data and government interactions to increase participation
- Addresses issues with ineligible persons being inadvertently registered
- Addresses potential privacy implications for individuals who do not wish to be registered or who may have safety concerns, such as outstanding restraining orders
- Like the other Recommendations, updates registration rolls throughout the election cycle, mitigating last minute “crunch time” for election officials
- Addresses “nanny state” concerns without requiring opt-out action

Cons:

- Would not reach individuals who do not interact with any particular agency — would reach fewer citizens than previously suggested Recommendations
- More work for County and State agencies
- Need to create support systems within those agencies to implement
- As happens currently, would require voter to affirmatively express interest in registration in order to be added to the rolls, possibly at a time in the election cycle when a person might not be actively interested
- Increased costs for training and additional voter registration forms

#4. Recommend that all State and County online forms (e.g., tax) should link to the SBE voter registration system, with the capability to receive pre-filed data completed by citizens online. There could be a registration text box at the end of the e-form (pre-signature line) with the requisite check boxes and required qualifying information language, and an activation ‘button’ that extracts the just-entered data to the SBE system.

(Unanimously endorsed by the Registration Subcommittee)

Pros:

- Leverages already-existing government online portal interactions to increase participation
- Updates technology capabilities of the registration process

Con:

- Online forms would have to link to the SBE, involving numerous County and State IT personnel

Paying for These Proposed Recommendations

Funding *should* still be available to help enact any or all of these recommended changes. The Help America Vote Act of 2002 established that grants may be used to pay to maintain and support a HAVA-compliant centralized voter registration databases (VRDs). The Election Assistance Commission (EAC) administers federal funds (1) to States to fulfill HAVA stipulations, and (2) for developing innovative election technology and pilot programs (HAVA Title II Section 251 funds cover VRDs for HAVA Title III). Many reports mention the need for sustained Federal support. The National Research Council (2010) said, “The one-time infusion of federal funding provided by HAVA will not—and was never intended to—support VRD operations in the long run. A statewide VRD is a major investment in information technology, and its effective operation over time will require funding for operations, maintenance, and upgrades.” The Brennan Center (2013) wrote, “Federal support for modernization should cover all elements of the reform, including upgrades for automated and portable registration, a

full-service online voter portal, and fail-safe procedures at the polling place. And it should cover ongoing maintenance and support for new technologies.”

After extensive research, it is unclear how much of the \$3 billion appropriated to EAC is still available to the States to fund any of the Recommendations answering the six County Council Charges laid out for this Task Force. It must also be acknowledged that efforts to shut down the Commission have occurred, and that it is not operating at full strength.

Of course, Maryland is migrating to the paper ballot/optical scan-based route, which in 2010 was estimated to cost at least \$37 million by RTI. None of the Recommendations made by this Task Force are meant to add to the tab, but rather suggest ways to streamline operations (for time, labor, and cost savings; sustainability; transparency; and reducing long lines at polling places). In fact, we anticipate that these Recommendations (taken in whole or in part) will actually save the State money by introducing new electronic and online efficiencies; for instance, largely eliminating time-consuming and labor-intensive data entry from mostly paper-based registration submissions. And we are mindful that we are following on the heels of Maryland’s own proactive attempts to modernize and improve the voter experience.

SOURCES:

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ACCESS SUBCOMMITTEE

TOPIC: FRIENDLIER BALLOT DESIGN

SUMMARY/BACKGROUND:

Since the aftermath of the 2000 presidential election dozens of articles have been written, and continue to be written, to address issues that created confusion during that election and the changes that ensued after the passage and implementation of Help America Vote Act of 2000 (HAVA).

In 2008 the Brennan Center for Justice published "Better Ballots"¹ which presented analyses of 13 cases in which the number of residual votes was larger than the margin of victory. According to the article, "... in all of these cases, the likely culprit of lost votes was ballot design." Residual votes, a term coined by the CalTech-MIT Voting Technology Project.

Residual votes are over votes or undervotes. Overvoting happens when a voter marks too many choices in a contest. This is a common problem when contests with many candidates span more than one page or column on a ballot, but there are other causes, too. Undervoting can be intentional or unintentional on the part of the voter. For example, it's common for voters to not vote on down ballot contests such as judge retention contests because they don't know enough about the candidates. The rate of undervoting on these contests can be as low as 1% and as high as about 40%."

In 2009 the National Institute of Standards and Technology (NIST) published "Report of Findings: Use of Language in Ballot Instructions NISTIR 7556"² highlighting the results of a two-year, in-depth study looking at ballot instructions across the country. The study established best practices for the use, of plain language in ballots. In the study the authors state that

...we observed 45 voters in 3 geographic locations comparing a ballot with typical instructions to a ballot with plain language instructions. We collected both performance and preference data. Participants voted more accurately on the ballot with plain language instructions. Participants who voted on the plain language ballot first did significantly better on the ballot with typical instructions than participants who voted the ballot with typical instructions first. Voters with lower education levels made more errors when they voted on both ballots, but they made more errors on the ballot with the typical instructions than the ballot with plain language instructions. Participants overwhelmingly preferred the plain language ballot"

The Center for Civic Design, funded by different donors, published in 2012 and 2013 a series of Field Guides that include: Designing Usable Ballots; Writing Instructions Voters Understand;

Testing Ballots for Usability; Effective Poll Worker Materials; Choosing How to Communicate with Voters; Designing Voter Education Booklets and Flyers; Designing Election Department Websites; and Guiding Voters through the Polling Place.ⁱⁱⁱ All these guides reflect the general opinion among election experts that the confusion, delays, and long lines are all intimately related to **ballots that are poorly designed and that the language used is not clear.**

On January 2014, the Presidential Commission on Election Administration (PCEA) (created by President Obama in 2013 by Executive Order 13639) issued its report “The American Voting Experience: Report and Recommendations of the Presidential Election Commission on Election Administration.”^{iv} This is a practical, evidence- and research-based best practices report regarding four areas in need of reform — each of which will improve election administration and the voting experience. The Commission recommends the following:

1. Modernize voter registration;
2. Expand early voting; management of polling place resources; and
3. **Improve the simplicity and usability of ballots** and voting machines, and publishing data on machine
4. Improve performance

This comprehensive report dedicates **APPENDIX K - to “Ballot Design”** and recommends the following documents:

From the U.S. Election Assistance Commission (EAC):

- **Effective Election Design for Federal Elections Administration (2007)**

From the Brennan Center for Justice

- Better Ballots by Lawrence Norden, David Kimball, Whitney Quesenbery, and Margaret Chen (2008)

From the Center for Civic Design:

- Field Guides To Ensuring Voter Intent
Vol 1 - Designing Usable Ballots
Field-researched, critical election design techniques to help ensure that every vote is cast as voters intend
- Field Guides To Ensuring Voter Intent
Vol 2 - Writing instructions voters understand
Field-researched, critical election design techniques to help ensure that every vote is cast as voters intend
- Field Guides To Ensuring Voter Intent
Vol 3 – Testing Ballots for Usability
Field-researched, critical election design techniques to help ensure that every vote is cast as voters intend

- NISTIR 7556
Report of Findings: Use of Language in Ballot Instructions, Janice (Ginny) Redish, Ph.D. Redish & Associates (2009)

Shortly after the release of the Presidential Commission Report, the Center for Civic Design published a White Paper entitled “Ballot Simplicity, Constraints, and Design Literacy” that states:

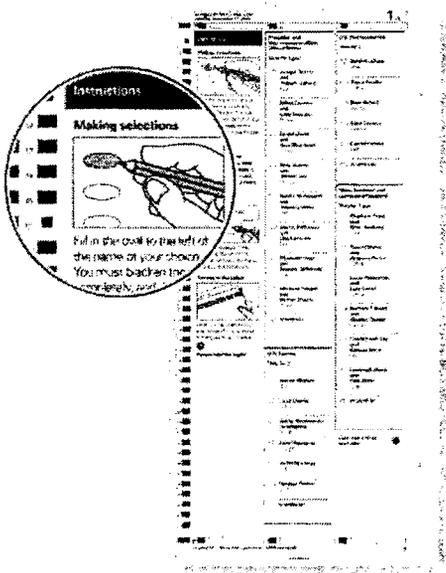
There’s actually nothing simple about voting in the United States — especially interacting with ballots. We have the most complex ballots in the world. We ask much of voters.

So when voters encounter poor ballot design, they make mistakes. Regardless of age, education, or voting system used, we lose votes because of ballot design and instructions. The elections world has learned a lot about what works and what doesn’t in ballot design over the last 10 years.

Many of the factors that prevent ballots from being simple, usable, and accessible are embedded in legislation. But not all of the legislation that affects ballot design is directly related to type, layout, and instructions. Procurement rules and processes, design literacy and skills, and best practices for election administration also contribute to the ease with which ballots are cast as intended and counted as cast.

RECOMMENDATION: The Access Subcommittee recommends to the Task Force that all the agencies involved in ballot design – local and state -- take into consideration the body of research that strongly recommends that future ballots follow the suggestions and guidelines as created by the Center for Civic Design and described in detail in their Field Guide: Volume One - Designing Usable Ballots (2013)

- √ Use lowercase letters
- √ Avoid centered case
- √ Use big enough type
- √ Pick one sans serif font: Arial, Helvetica, Univers, Verdana
- √ Support process and navigation [see picture]
- √ Use simpler, clear language
- √ Use accurate instructional illustrations [picture]
- √ Use informational icons (only)
- √ Use contrast and color to support meaning
- √ Show what’s most important



Illustrations at the beginning of the ballot demonstrate how to use the ballot.

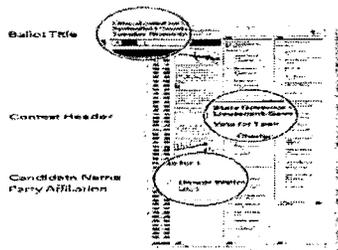
No. 07

Use accurate instructional illustrations.

Visual instructions help low-literacy and all voters.

Illustrations must be accurate in their details, highlighting the most important instructions.

Do not use photographs.



No. 10

Show what's most important.

Use layout and text size to help voters know what to pay attention to. The ballot title should be the most prominent.

A contest header should be more prominent than the candidates' names.

A candidate's name should be bolder than his/her party affiliation. Candidates' names and options should be presented with equal importance.

PROS

- Field research indicates that voters react positively to clearer language and clearer design
- Field research indicates that a new design and clearer instructions enhance the possibility of expediting the process at the polls

CONS

- Redesigning could be a long process
- Redesigning could have a high price tag

Committee members in favor: Dolly Kildee, Cristina Echavarren, Zaida Arguedas

Committee member absent: Lindsay Kaplan

Committee member resigned: Dick Jurgena

April 1, 2014

ENDNOTES

ⁱ “Better Ballots.” Lawrence Norden, David Kimball, Whitney Quesenbery, and Margaret Chen, Brennan Center for Justice, 2008

ⁱⁱ “Report of Findings: Use of Language in Ballot Instructions.” Redish, Chisnell, Newby, Laskowski, Lowry, National Institute of Standards and Technology, US Department of Commerce, May 2009

ⁱⁱⁱ Civic Design Center, Field Guides Civic Design Center.

^{iv} “The American Voting Experience: Report and Recommendations of the Presidential Election Commission on Election Administration.” Presidential Commission on Election Administration (PCEA), created by President Obama in 2013 by Executive Order 13639. Issued its report “ January 2014.

ACCESS SUBCOMMITTEE

TOPIC: CLEARER LANGUAGE FOR REFERENDUMS

Voters are often confused or uncertain of the implications and meanings of referendums placed on ballots. The Effects Bargaining Referendum presented to Montgomery County voters in the 2012 general election is a good example of unclear language. Many voters were uncertain of the meaning and implications of this referendum which required rereading even by those who understood the issues.

QUESTION B

Referendum on Law Enacted by County Council Effects Bargaining for Police Employees

"Shall the Act to modify the scope of collective bargaining with police employees to permit the exercise of certain management rights without first bargaining the effects of those rights on police employees become law?"

Though there were many efforts to convince voters of either a "yes" or "no" vote, the background information and the basic understanding of this referendum was lost in the jockeying for votes. A Washington Post article published prior to the election demonstrated how the opposing parties to this referendum posed positions that seemed to state their own facts, not just their own opinions.¹ The Montgomery County website posted an explanation of Question B intended to clarify the issues.²

The Federal Government Plain Writing Act of 2010 addresses the need for documents and communication to be clear and concise. The Act states, "The purpose of this Act is to improve the effectiveness and accountability of Federal agencies to the public by promoting **clear Government communication that the public can understand and use.**"³

In addition, follow-up Executive Orders address specific areas where plain language should be used. Executive Orders 12866 and 12988 address clarity in regulations. Executive Order, E.O. 13563, Improving Regulation and Regulatory Review, states that

¹ Zapana, Victor. Referendum on Montgomery police 'effects bargaining' law to be put on ballot in 2012. Nov. 22, 2011. http://www.washingtonpost.com/blogs/maryland-politics/post/referendum-on-montgomery-police-effects-bargaining-law-to-be-put-on-ballot-in-2012/2011/11/21/gIQA4sc1IN_blog.html

² <http://montgomerycountymd.gov/questionb/facts.html>

³ Plain Writing Act of 2010. Section 2. <http://www.gpo.gov/fdsys/pkg/CRPT-111hrpt432/pdf/CRPT-111hrpt432.pdf>

"[our regulatory system] must ensure that regulations are accessible, consistent, written in plain language, and easy to understand."

To facilitate the transition to clear and plain language, the government has set up a Plain Language website that establishes guidelines, examples, and tips and tools on plain language in communications.⁴

The Center for Plain Language published an article indicating that 60 percent of NC voters did not understand Amendment One.⁵ According to the Chair of the Center, she is surprised that even 40 percent might have understood the ballot referendum. The Center is also promoting HR 1557 and S 807, the Plain Regulations Act of 2013. At this time, HR 1557 has been referred to Committee.⁶ The Senate Bill, S 807 has also been referred to Committee. Other laws address the need and desire for plain writing in government documentation.⁷

Proposals:

Recommend to the Maryland State Board of Elections that all ballot referendums and ballot questions be stated in plain, clear language, as described by the Plain Language legislation.

Pros

1. Allows voters to better understand the referendums presented in ballots.

Cons

1. Requires additional efforts to transition from legal phrasing to plain language phrasing in ballot questions.

Committee members in favor: Dolly Kildee, Cristina Echavarren, Zaida Arguedas

Committee member absent: Lindsay Kaplan; Committee member resigned: Dick Jurgena

⁴ Plain Language. Improving Communication from the Federal Government to the Public <http://www.plainlanguage.gov/pLaw/>

⁵ Reader, Stephen. Plain language and voter referendums. May 11, 2012. <http://centerforplainlanguage.org/listen-watch/plain-language-and-voter-referendums/>

⁶ GovTrack.us <https://www.govtrack.us/congress/bills/113/hr1557>

⁷ Information from the Center for Plain Language. <http://centerforplainlanguage.org/resources/plain-writing-laws/>

The Plain Regulations Act, introduced by Rep. Bruce Braley, Jan 18, 2012.

The Plain Writing Act of 2010, signed by President Obama Oct 13, 2010, and in full effect Oct 13, 2011

The Dodd-Frank Act of 2010 (Section 1032 (b)(2)(3))

America's Affordable Health Choices Act of 2009. (Information for patients be in plain language).

Credit CARD Act of 2009 (Credit card companies must explain their agreements clearly, in plain language).

ACCESS SUBCOMMITTEE

TOPIC: UNDERSTANDING LONG LINES

SUMMARY/BACKGROUND

The past two elections in Montgomery County have been notorious for the long lines that voters have had to endure before exercising the right to vote. This issue was widely discussed in the newspapers and many recommendations were made in order to remedy this issue.

The problem in Montgomery County was not unique, in fact the issue of long lines at polling places has been a problem nationwide since the 2008 presidential election. Numerous studies, research papers, study commissions, and white papers have been written analyzing the problem and making recommendations for improvement.

The purpose of this proposal is to bring to Montgomery County the recommendations and best practices described in three very recent reports:

1. **“VOTING AND THE ADMINISTRATION OF ELECTIONS IN MARYLAND”
A REPORT BY THE SCHAEFER CENTER FOR PUBLIC ADMINISTRATION
UNIVERSITY OF BALTIMORE, JANUARY 2014¹**

The 2013 legislative session of the Maryland General Assembly asked the Maryland State Board of Elections (SBE) to conduct four analyses and submit reports on voting processes in Maryland. For the purposes of this proposal we focus on one of the requests relating to long lines.

ISSUE IDENTIFIED IMPORTANT FOR MARYLAND

Review the maximum waiting lines for Maryland voters in the 2010 and 2012 elections and identify the cases for wait times of more than 30 minutes and propose target maximum wait times for voters at early voting centers and polling places

ANALYSIS:

A significant number of Maryland voters waited more than an hour to vote in the 2012 presidential election, both during early voting and on Election Day November 6, 2012. Disruption of early voting due to tropical storm Sandy, and unusually long ballots due to seven statewide ballot questions and, in some jurisdictions, a large number of local questions were contributing factors to wait times experienced by voters in the 2012 presidential general election. Some national surveys have

reported that Maryland has fared poorly in “longest wait times” compared with other states over the past several election cycles.

The analysis examined the factors that could lead to longer (or shorter) wait times at Maryland's precinct polling places and suggested possible approaches for mitigating the negative impacts going forward.

RECOMMENDED SOLUTION:

- Well-informed voters can help reduce wait times. An uninformed voter who sees the ballot for the first time in a polling booth will take longer to vote than one who comes prepared to vote having viewed a sample ballot either on a state's website, through the news media, or perhaps in a mailer. The sample ballot should be available to all voters no later than the beginning of in-person early voting or three weeks prior to Election Day.

2. “THE AMERICAN VOTING EXPERIENCE: REPORT AND RECOMMENDATIONS OF THE PRESIDENTIAL ELECTION COMMISSION ON ELECTION ADMINISTRATION” JANUARY 2014ⁱⁱ

PROBLEM

The image of voters waiting for six or more hours to vote on Election Day 2012, as in the two previous Presidential contests, spurred the call for reform that led to creation of this Commission.

ANALYSIS

Research indicates that, although a limited number of jurisdictions experienced long wait times, over five million voters in 2012 experienced wait times exceeding one hour and an additional five million waited between a half hour and an hour. In some jurisdictions, the problem has recurred for several presidential elections, while in others, a particular confluence of factors led to unprecedented lines in 2012. It became clear to the Commission as it investigated this problem that there is no single cause for long lines and there is no single solution. But the problem is solvable.

The causes of long lines are not uniform across jurisdictions that experienced them. One line may be the result of a poorly laid out polling place. Down the street, the line may be due to equipment malfunction. Across town, a strong personality conflict amongst poll workers or disagreement on process can create a bottleneck.

Although isolated incidents can cause long wait times, systemic problems can also increase the likelihood that lines will develop. Lengthy ballot propositions and constitutional amendments can clog the polling centers. Poor methodology in resource allocation or turnout forecasting can lead to shortages of staff and machines where they are most needed. Inadequate facilities or insufficiently trained

poll workers can increase the “transaction time” for each voter, as can an inaccurate voter list that leads more voters to cast provisional ballots. And of course, the more limited the opportunities to vote, the greater will be the number of voters who will vote during the constricted hours of a single Election Day.

RECOMMENDED SOLUTIONS

The Commission has concluded that, as a general rule, no voter should have to wait more than half an hour in order to have an opportunity to vote.

For the Commission, long lines at the polls could be eased or eliminated altogether by focusing on:

- Better Polling place location and better signage at the polling location
- Better Management of the flow of voters
- Greater Poll worker recruitment
- Better Poll worker training

3. “HOW TO FIX LONG LINES”

LAWRENCE NORDEN, BRENNAN CENTER FOR JUSTICE, FEBRUARY 2013ⁱⁱⁱ

In this report, the Brennan Center for Justice concludes that the biggest obstacle facing the electoral system -- and a central cause of long lines on Election Day -- is the country’s outdated voter registration system that causes confusion and delays on Election Day.

PROBLEM

Calling the U.S. voter registration system significantly outdated and rife with errors, the report recommends modernizing voter registration through technological upgrades funded by the federal government. Such updates, the report states, would allow voters to update registration information online or through various government agencies, creating more accurate, updated voter rolls -- and minimizing confusion and congestion at the polls on Election Day.

ANALYSIS

Error ridden voter rolls contribute to congestion and lines on Election Day. A voter whose information is missing from the rolls or is incorrectly entered requires the time and attention of officials to correct the error. This necessarily delays the movement of other voters through the polling place.

Long lines have consequences on turnout and election results. A recent analysis by Professor Theodore Allen of Ohio State University estimates that in Florida alone, more than 200,000 voters may have been discouraged from voting because of long lines on Election Day. Studies of lines in other regions, from other elections, have similarly shown that chronic long lines can lead to the loss of tens of thousands of votes.

RECOMMENDED SOLUTIONS

The following three reforms, according to this research, would dramatically reduce the excessive lines that plague voting, and have the added benefit of creating a more efficient and secure electoral system:

1. Modernizing voter registration
2. Providing early voting during a fixed national time period
3. Setting minimum standards for voters to access the polling places

RECOMMENDATIONS:

The Access Subcommittee recommends to the Task Force that Montgomery County Board of Elections prepare a Report Card comparing the best practices highlighted in the reports cited above and the current practices followed by BOE.

PROS

- This check list will enable the Board of Elections, County Council and County Government to have baseline information about our election processes.
- The check list, if positive, will strengthen the trust of our election processes.
- Elimination of long lines, by following the recommended best practice, will ensure greater participation in elections.
- Check list should be prepared after the 2014 elections, in preparation for the 2016 presidential elections.

CONS

- It will require time and effort from staff of the Board of Elections
- If the Report Card shows that the BOE is not following best practices, it may require additional resources.

Committee members in favor: Dolly Kildee, Cristina Echavarren, Zaida Arguedas
Committee member absent: Lindsay Kaplan; Committee member resigned: Dick Jurgena
April 8, 2014

END NOTES

ⁱⁱ Voting and the Administration of Elections in Maryland, Schaeffer School of Public Policy, University of Baltimore, January 2014

ⁱⁱ The American Voting Experience: Report and Recommendations of the Presidential Election Commission on Election Administration, January 2014

ⁱⁱⁱ How to Fix Long Lines, Lawrence Norden, Brennan Center for Justice, February 2013

MONTGOMERY COUNTY RIGHT TO VOTE TASK FORCE

Voting Rights Subcommittee

TOPIC: Overseas and Military Voting

BACKGROUND:

Overseas and military voters have a long history of problems with receiving ballots on time and having their votes counted. The Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA) of 1986 and Military and Overseas Voters Empowerment Act (MOVE) of 2009 seek to maintain and strengthen the voting rights and opportunities of all American voters overseas. In particular, they encourage improvements in remote electronic voting systems and set standards on absentee ballots and ballot management designed to improve voting and eliminate notarization requirements for voter registration. The development of the Federal Post Card Application to register as a voter and its use as an absentee ballot request is one example of the innovations spurred under these laws. If an absentee ballot is not received by the overseas voter in time, they may use a Federal Write-in Absentee Ballot¹ which is available online. In data released in a Pew Charitable Trusts report on April 8th 2014, Maryland ranked 42nd in the nation in having more than 11 percent of all military and overseas ballots rejected and almost 26 percent of requested overseas ballots were unreturned by Maryland voters². Other studies have found average or below average satisfaction of overseas voters with Maryland voter registration, absentee ballot requests and voting.³

Groups like the Overseas Vote Foundation work with states and the federal government to provide up to date information on election dates, absentee voter registration and ballot request requirements⁴. Six states and two counties use the foundation's services to provide online, interactive overseas and military voter registration services.

In 2013, the Presidential Commission on Election Administration reported on a number of key findings relating to overseas and military voting.⁵ In particular, calling the internet the 'election lifeline for many military and overseas voters' because dependence on the Military Postal Service or foreign mail carriers is often unreliable and slow. Maryland and the County already follow the highest priority recommendations made by the Commission:

¹ Federal Voting Assistance Program at <https://www.fvap.gov>

² The Pew Charitable Trusts Elections Performance Index, 2014 at <http://www.pewstates.org/research/reports/the-elections-performance-index-2012-85899445029>

³ Hall, H.E. and C. M. Smith. *Overseas Voter Satisfaction in 2010*. Midwest Political Science Association, 2011.

⁴ Overseas Vote Foundation at www.overseasvotefoundation.org

⁵ The American Voting Experience: Report and Recommendations of the Presidential Commission on Election Administration, 2013.

- Provide ballots and registration materials to overseas voters through websites.
- Accept federal write-in absentee ballots and federal postcard applications.
- Allow overseas voters to print a ballot with barcode that can be read by election administrators.

State Board of Elections

Maryland is one of 19 states that have no option on their website for overseas and military voters to get extra assistance such as a dedicated email address, FAQ statement or interactive help desk. The State Board of Elections website provides information for overseas voters but states, “complete and submit a new Federal Post Card Application whenever you move or each election year” which may confuse voters. States like Ohio, Texas, Illinois and Missouri allow overseas voters to track their ballot and identify its status, as required under the MOVE Act and it does not appear that this is an option in Maryland. In 2013, the state took over the management of all ballot requests from overseas voters and now requires the counties to forward ballot requests to the state for their management. It remains unclear whether the state can provide as timely and effective response as the county could provide.

Montgomery County

The county has information available on the Board of Elections website homepage for military and overseas voters, and we appreciate the staff’s work that has improved this information during the course of our task force’s deliberations. The County now provides a link for overseas and military voters right on the Board of Elections homepage and this link brings visitors to the right state website for overseas registration and voting information.

It is not clear whether overseas voters using the federal postcard application or federal write-in absentee ballot receive county absentee ballots for all elections for one federal election cycle, or for one year or two years. It is also not clear whether the state or county pass along that information for municipal elections and whether municipalities are either encouraged to send absentee ballots to overseas voters during the same period.

Proposed Recommendation:

1. **Montgomery County should improve its website by providing more information to military and overseas voters through a dedicated Q&A page.** In particular, the County should describe the active period for voter registrations based on the Federal Post Card Application or other overseas registration options – will a voter’s registration be valid for one year or two. The page should describe whether registered voters will receive absentee ballots for one election, one election year or two years.

2. Since overseas voters are still eligible to vote in local elections, **the County should also provide overseas voters with information on municipal elections in the county, in particular the timing of those elections and deadlines by which to request absentee ballots.** The County should encourage municipalities to provide absentee ballots to the same overseas voters who will receive county and state absentee ballots.
3. **The County Council should encourage the State Board of Elections to establish a system through which overseas and military voters can track the status of their absentee ballot request and ballot submission.**

Pros:

- Americans should be able to register to vote and have their vote counted, regardless of where they live in the world.
- Simple steps to improve the information provided to voters would make a significant difference for the county.
- The state should seek ways to improve its 42nd place ranking associated with the rejection of more than 11 percent of overseas ballots.

Cons:

- Providing information on the county site could confuse people, just point them to the state website and federal page for overseas voters.
- Tracking ballots electronically would be expensive and provides an unnecessary service to address a problem that could be dealt with in other ways.

ACCESS SUBCOMMITTEE

TOPIC: SUPPLEMENTING INFORMATION IN THE SAMPLE BALLOT

SUMMARY/BACKGROUND:

The Access Subcommittee's recommendation to the Task Force on the Right to Vote, stressed the need to rewrite and to include additional information in the sample ballot that would make clearer to registered voters recent changes to election processes in Montgomery County particularly about the three ways voters in the County can exercise their right to vote.

The Access Subcommittee, also discussed the need to go beyond the sample ballot and engage in additional educational efforts on the same issues.

The need to educate voters is widely supported by dozens of articles written to improve elections in the United States. Recent election changes nation-wide as well as nation-wide discussions about voting rights and changes in election processes is confusing to the voters.¹ Steps are being taken to remedy the confusion. For example, in North Carolina, as part of an education and outreach effort, New Hanover, through its public affairs department, launched a campaign to make voters aware of the recent changes in election processes and other—through billboards, advertisements and information posted on the board of elections' website.²

The importance to communicate and educate voters was highlighted in the report issued in January 2014 by the Presidential Commission on Election Administration (PCEA) created in 2013 by President Obama by Executive Order 13639, issued its report.³ The report describes practical, evidence- and research-based best practices regarding four areas in need of reform — each of which will improve election administration and the voting experience.

This comprehensive analysis dedicates Appendix T to Voter Education which highlights:

- Choosing how to Communicate with Voters;
- Designing Voter Education Booklets and Flyers;

¹ Presidential Commission on Election Administration and Field Guides published by the Center for Civic Design

² Marvin McFadyen, director of New Hanover County Board of Elections.

³ The American Voting Experience: Report and Recommendations of the Presidential Election Commission on Election Administration, January 2014

- Designing Election Department Websites.

Also, in January 2014, the Maryland State Board of Elections released "Voting and the Administration of Elections in Maryland," a report prepared by the Schaefer Center for Public Policy⁴ which states that part of the problem with the long lines is the fact that the voter is not prepared for the election. The report recommends that "... public outreach be carried out to registered voters about any changes in the election processes...."

RECOMMENDATION:

MAJORITY REPORT:

The Access Subcommittee recommends to the Task Force that the already approved change in the Sample Ballot be supplemented with additional outreach/education efforts to currently registered – and possibly soon to register voters.

We recommend that the Board of Elections develop educational/outreach efforts focused on the three ways voters can vote in Montgomery County as stated in the sample ballot.

The Access Subcommittee first recommends placing signs in Ride-On-Buses, radio and TV PSA or other efforts, participation in radio and local TV programs, outreaching to local non-profit NGOS, churches and other local organizations. The Access Subcommittee agrees with the above mentioned research that this effort is one of many steps to promote higher voter participation.

This campaign will reach the ridership in the 340 ride-on buses, subscribers to Comcast, viewers to County Cable Montgomery, listeners to radio stations, including CBS Radio El Zol, Radio America, readers to the Gazette and others. The Board of Elections has an approved budget for advertising and some of these funds could be used for the recommended outreach/education efforts.

The second recommendation is a special, targeted mail to the close to 27,000 voters that did not vote in the previous election (2012), or, to those who did not vote in this year's primary election. The number of voters may change but it is estimated that the cost is between 0.15 and 0.20 per voter.

This recommendation was approved by 4 members in attendance; one member was absent.

⁴ Schaefer Center for Public Policy, University of Baltimore, January 15, 2015

MINORITY REPORT: *None*

Voting App

A voting app could be the most readily acceptable communication tool for young adults to be informed and engaged in the voting process from the very beginning. The concept of combining voting information and apps is not new. In various local jurisdictions around the country, voting apps are beginning to show up. The voting apps currently available are for the most part, informational. They provide information regarding dates and deadlines, polling, candidates and sample ballots. Some apps also provide election results.

A voting app prepared by the New York City Campaign Finance Board was made available in the 2013 New York City elections.¹

The NYC app allows residents to begin the voter registration process by filling out a registration form, though it must be signed and submitted by mail. This app allows users to make campaign contributions similar to payments made at Amazon. It features a countdown to registration deadlines, a location-based look-up for candidates and the ability to check voter registration status. The app allows the user to find his/her poll site, vote absentee, review dates and deadlines and view election results. (See www.nycvotes.org).

And, the New York City Board of Elections has also issued an election app, called nyc.pollsitelocator.com. The NYC BOE issued this app to facilitate finding poll sites and other information from the Board of Elections.

The State of Louisiana has initiated a voting app includes voter registration information, voter districts information, and information about upcoming elections such as voting dates and times, voting locations, and sample ballots. (See <http://voterportal.sos.la.gov/MobileLanding.aspx>). The Louisiana app provides information that is already available at the state website. The full website contains additional information that was not yet available for mobile devices during the last election. This website provides information about elected officials and a full election calendar, as well as links to other Secretary of State pages for managing absentee ballots or changing registration information. However, the website indicates that the app is expected to contain the same information as the website in the future.

¹ . Corasaniti, Nick. Elections to be Easier for Voters With an App, The New York Times, August 6, 2013. http://www.nytimes.com/2013/08/07/nyregion/registration-as-a-voter-to-be-easier-via-phone.html?_r=0

In El Paso, Texas, the Board of Elections issued a voting app that follows the Elections Department news “so you can be updated with up to the minute news releases and election results.”²

In North Carolina, Mecklenburg County, the Board of Elections has issued an app called MeckVotes that is intended to provide voters with Early Voting and Election Day Voting Locations, maps and driving directions.³

The State of Washington has issued an app that provides up-to-date election results for Washington State and county elections.

The Florida League is promoting the mobile app www.bereadytovote.MOBI that contains the same information as the desktop version. The voting app puts any voter, anywhere in the state, in touch w their SOE, as well as allow voters to check their current voter status.

In 2012, Computerworld, a publication dedicated to researching new technology, reviewed and tested six voting apps⁴. Four of these -- [CNN Mobile](#), [ElectionCaster](#), [NYTimes Election 2012](#) and [USA Election 2012](#) -- offer election-related news and information, either from a single publication or from a variety of sources. The other two offer insights on what the politicians are saying ([PolitiFact Mobile](#)) or let you have your say ([VoterMap](#)). These apps were informational only and not officially sponsored by the Board of Elections.

All the apps reviewed by Computerworld demonstrated excellent results. Only USA Election 2012 proved to be insufficient in the amount of information, but otherwise was rated excellent. While these mobile apps were informational only, they serve to show that users find them to be an excellent source of information.

Proposals:

- 1) Recommend that the Maryland BOE provide an app with information regarding poll locations, and other voting information normally found on the BOE website.

² El Paso County, Texas Elections. <http://www.epcountyvotes.com/>

³ Mecklenburg County, NC, Board of Elections.
<http://charmeck.org/mecklenburg/county/BOE/Pages/default.aspx?src=ud>

⁴ Mayor, Tracy, Krasnoff, Barbara, et al. Election Fever: 6 mobile apps that can keep you informed. February 10, 2012. See:
http://www.computerworld.com/s/article/9224069/Election_fever_6_mobile_apps_that_can_keep_you_informed

- 2) Recommend that the Maryland BOE provide an app that will allow users to download a registration form that can be printed, signed and later mailed.
- 3) Recommend that the Maryland BOE provide an app that allows users to view sample ballots for their jurisdiction.
- 4) Recommend that the BOE voting app provide updates on the election

Pros

1. Young adults will be more engaged in the process
2. Information is already available on the BOE website
3. Election results is available as updated by the BOE

Cons

1. There is a cost of converting information from the website to the app

ACCESS SUBCOMMITTEE

TOPIC: GET OUT THE VOTE (GOTV)

Personal contact is one of the most effective ways to mobilize voters. Voter mobilization is primarily the result of volunteers working for candidates, political parties, or on issues. Making this process easier should increase turnout. An added result would be less GOTV calls to voters. While all registered voters are initially of interest in GOTV drives, the focus shifts on election day to those voters who did not vote absentee, early vote, nor make it to the polls early in the day. To know who voted, Maryland law allows campaigns to assign volunteer poll watchers, who must be scheduled throughout the day in the polling place. They take the names of the voters, pass them on to the campaign, and those names are removed from the contact list. This requires more volunteers than most campaigns can recruit. For Montgomery County, the six volunteers needed for each of the 257 precincts (2 volunteers for three 4-hour shifts - from 7:00 am until 6:00pm) = 1,542 volunteers.

California's election procedures allow a more efficient use of volunteer time. Under California Election Code Section 14202, on election day, before opening the polls, the precinct board posts in separate, convenient places at or near the polling place, and of easy access to the voters, 2 copies of the registered voters for that precinct. This list notes all voters who have requested an absentee ballot. California Election Code Section 14294 requires that a member of the precinct board go out each hour on election day and draw a line through the name of each person who has voted, until 6:00 pm.

If the State of Maryland adopted the California method, the names of the early voters would also be noted on the list. Early voting ends at 8pm on the Thursday before the Tuesday election. After the early voting books are brought up to date for the individual precincts, the printed list would show all who had voted or had applied for an absentee ballot. This would allow campaigns to identify registered voters who voted at each polling place throughout election day in a more accurate and efficient manner, as compared to the current practice of using poll observers, when available, to report that information. This should, in turn, make Maryland's GOTV drives more focused and effective, and increase the total vote accordingly.

The issue of privacy was considered, but a person's voting record is public information. This effort would make the information available in a more timely manner.

Proposal:

The Task Force recommends that the Council direct the local BOE to put together a plan to implement this process.

Pros

1. Allows volunteers to target only those who have not voted instead of the whole list of voters.
2. Should increase turnout.
3. Should decrease number of GOTV contacts to voters.

Con

1. Adds to Election Judges' workload

Committee members in favor: Dolly Kildee, Cristina Echavarren, Zaida Arguedas

Committee member absent: Lindsay Kaplan

Committee member resigned: Dick Jurgena

<http://sfgov2.org/ftp/uploadedfiles/elections/GetInvolved/PollWorkerTrainingManual.pdf>

Access Subcommittee

Topic: Off-Year Elections

Off-year elections in Montgomery County are for the most part, municipal elections. Maryland's 156 municipalities operate by the authority granted them in Article XI-E of the Constitution of Maryland, ratified by the voters of the state in November 1954. The General Assembly has been restricted since that time to passing general laws relating to all municipalities or to all municipalities of a single class.¹ There are over a dozen jurisdictions in Maryland that hold off-year municipal elections. (See Attachment). The Annotated Code of Maryland, Articles 23A and Article 23B, state that the conduct of municipal elections are to be structured within the municipal charter adopted by the town's citizens.²

Montgomery County does not have legislation that prohibits or encourages off-year elections. These elections are authorized by the local jurisdictions where they are held.

In jurisdictions where off-year elections are held, the most frequent arguments made to justify off-year elections are that they:

- 1) Allow election administrators to test new procedures before a larger, more complex even-year election.
- 2) Allow staff to be trained and in practice for the next even-year election.
- 3) Direct voters to focus on the local candidates and thereby are unfettered by the distractions of county, state and federal elections.

In jurisdictions where off-year elections are held, the overwhelming evidence is that they generate a greater cost than if those elections were consolidated with the even-year elections.³ In Maryland, the cost incurred by the state for the off-year 2011 Baltimore City elections was approximately \$265,000.⁴ In jurisdictions where off-year elections are consolidated with the even-year elections, the cost per voter decreases considerably. In a study published by the Greenlining Institute, the cost comparisons of several elections in California showed that even-year consolidated elections "cost considerably less per voter than off-year elections."⁵ The California study showed how dramatic these cost differences can be. The cost per voter in an even-year consolidated primary in San

¹ Municipal Incorporation. <http://www.md-municipal.org/DocumentCenter/Home/View/19>

² Municipal Incorporation. <http://www.md-municipal.org/DocumentCenter/Home/View/19>

³ Hernandez, Jose P., The Greenlining Institute.

⁴ HB 1119 Department of Legislative Services Maryland General Assembly 2012 Session Fiscal and Policy Note

⁵ Hernandez, Jose P., The Greenlining Institute, Research Brief, Odd-Year vs. Even-Year Consolidated Elections in California, October 2013. See: <http://greenlining.org/wp-content/uploads/2013/10/Research-Brief-Odd-Year-vs-Even-Year-Consolidated-Elections-in-California.pdf> www.greenlining.org

Diego was \$4.05. By comparison, the cost per voter in the off-year primary in Los Angeles was \$39.35. Similar differences were observed in the general election where the amounts per voter were \$1.67 and \$52.61, respectively.

Some have argued that voters in off-year elections are better able to focus on local issues without the distractions involved in county-wide or state-wide contents. A study on democracy by the Brookings Institute challenges this view. This study says, "We cannot say definitively whether those citizens who turn out to vote in concurrent national and local elections are less attentive to or knowledgeable about local issues than the smaller numbers who vote in off-year local elections."⁶

On average, low turnout is most pronounced in off-year elections as well as primary elections and local elections. According to Fair Vote, the typical off-year election turnout is from 5 percent to 10 percent.⁷ A study of 340 mayoral elections in 144 U.S. cities from 1996-2012 found that voter turnout averaged 25.8 percent.⁸ In the 1999 mayoral election in Dallas, the turnout was only 5 percent.⁹

Contrary to the presumption that voters will better focus on the local elections during off-years, the California study showed that voter turnout did not improve during off-year elections. The percentage of registered voters who cast ballots in San Diego during consolidated even-year elections were between 36.6 percent and 39.3 percent. By contrast, the percentage of registered voters who cast ballots in off-year local elections in Los Angeles showed a turnout of between 16.8 percent and 23.1 percent.¹⁰ Similar turnout differences were noted when comparing San Jose's even-year consolidated elections and San Francisco's off-year elections. In Wicomico County, Maryland, the County Executive noted that the Presidential even-year election had about an 80 percent turnout while the off-year election had a 55 percent turnout.¹¹

Virginia and New Jersey are the only states that have off-year gubernatorial elections. Despite the national significance of these gubernatorial elections in 2013, the turnout in both elections was much lower than the consolidated election turnout rates, and the general election turnout rates for these same jurisdictions. The turnout for the 2013

⁶ Macedo, Stephen. Democracy at Risk: How Political Choices Undermine Citizen Participation, and What We Can Do About It (Aug 25, 2005).

⁷ Cossolotto, Matthew. Democracy Y2K Hasn't Hit Yet: Congress Must Take Steps to Improve Voter Turnout Before the Next Election Arrives April 10, 2000. http://archive.fairvote.org/op_edds/democracy_y2k.htm

⁸ Fair Vote, The Center for Voting and Democracy. What Affects Voter Turnout Rates.

<http://www.fairvote.org/research-and-analysis/voter-turnout/what-affects-voter-turnout-rates/>

⁹ Fair Vote. What Affects Voter Turnout Rates.

¹⁰ Hernandez, Jose P., The Greenlining Institute.

¹¹ Minutes of the Charter Review Committee of Wicomico County, MD, 2011, Jan 4, 2012.

gubernatorial race in New Jersey was slightly less than 38 percent. The previous record low turnout for this race in NJ was 47 percent, set in 1999.¹² The 2013 Virginia gubernatorial election turnout was 37 percent, a significant drop from the 1989 gubernatorial race that had a 67 percent turnout.¹³ These rates seem to indicate that despite the significance and national focus on off-year elections, the turnouts are significantly lower than those of the general elections and of the comparable consolidated elections evaluated in the California study.

The Access Subcommittee evaluated the argument that off-year elections unfairly limit voter participation of minorities. In our research, we did not find that this was the most compelling argument for recommending local elections be consolidated with general elections. Instead, our research showed that the much greater additional cost and the lower rate of voter turnout of all groups demonstrated the strongest arguments for consolidated general elections.

Proposals:

- 1) Recommend to the Maryland State Board of Elections that all elections in the State be even-year consolidated elections.
- 2) Recommend that the State of Maryland encourage elections be even-year consolidated elections and to not provide funds to municipalities for the off-year elections.

Pros

1. It will eliminate election fatigue among voters and among election officials

Cons

1. If the recommendation is accepted, the alignment of local elections with state and federal elections will be confusing to the voters and elected officials.

Committee members in favor: Dolly Kildee, Cristina Echavarren, Zaida Arguedas

Committee member absent: Lindsay Kaplan

Committee member resigned: Dick Jurgena

¹² Christie-Buono Race draws record low turnout for N.J. governor's election, The Warren Reporter. NJ.Com. November 07, 2013. <http://www.nj.com/politics/index.ssf/2013/11/christie-buono-race-draws-record-low-turnout-for-nj-governors-election.html>

¹³ Johnson, Jenna and Sullivan, Patricia. Virginia voters turn out to cast ballots in contentious race. The Washington Post. November 5, 2013. http://www.washingtonpost.com/local/virginia-politics/virginia-voters-turn-out-to-cast-ballots-in-contentious-race/2013/11/05/763480a0-37ef-11e3-80c6-7e6dd8d22d8f_story.html

Montgomery County Right to Vote Task Force
Proposed Recommendation from Voting Rights Subcommittee

Topic: Vacancies / Special Elections

Summary:

States and counties vary in how elective vacancies are filled. Some jurisdictions fill vacancies through special elections, and others fill vacancies through an appointment process. In Maryland, legislative vacancies are filled by different means depending on the type of office.

U.S. House of Representatives: The U.S. Constitution requires that vacant U.S. House of Representatives seats be filled by a special or regular election. The Maryland Code permits the Governor to require that a special election be conducted entirely by mail ballot.

U.S. Senate: The U.S. Constitution permits each state to determine whether to fill a vacant U.S. Senate seat by either an election or a gubernatorial appointment. The Maryland Code dictates that vacant U.S. Senate seats are filled by gubernatorial appointment until an election is held at the next regular statewide election. According to the National Conference of State Legislatures, 36 states use gubernatorial appointments and 14 states use special elections.

Maryland General Assembly: According to the Maryland Constitution, when a vacancy occurs in either chamber, the Governor appoints a replacement from a list of names submitted by the State Central Committee of the same political party as the legislator whose seat is to be filled. All persons so appointed serve for the unexpired portion of the term. According to the National Conference of State Legislatures, 25 states fill state legislative vacancies by special election, and 25 states fill state legislative vacancies by appointment.

Montgomery County Council: According to the County Code, a vacancy is filled by special election, unless vacancy occurs after December 1 of the year before a quadrennial state election, in which event the County Council must appoint a replacement from the same political party (according to the County Charter). A special election combines the primary and general elections into a single election. The Maryland Code allows the County Council to require a special election be conducted entirely by mail.

Montgomery County Executive: According to the County Charter, a vacancy is filled by an appointment made by the County Council. The replacement must be of the same political party as the former County Executive.

Proposed Recommendations:

1. Vacancies for U.S. Senators in Maryland, Maryland General Assembly members, and the County Executive generally should be filled by special elections, not an appointment process.
 - *Unanimously endorsed by Voting Rights Subcommittee*
2. Election officials should have the discretion to conduct special elections entirely by mail ballot.
 - *Unanimously endorsed by Voting Rights Subcommittee*

3. If a vacancy occurs before December 1 of a year before the year in which a quadrennial state election is held, the vacancy must be filled by an appointment process.
 - *Unanimously endorsed by Voting Rights Subcommittee*
4. Concerning the appointment process proposed in Recommendation 3 (above):
 - The appointment should not be controlled by, or restricted to members of, the political party of the vacating member.
 - *Unanimously endorsed by Voting Rights Subcommittee*
 - The appointee should be prohibited from running in the general election.
 - *The Voting Rights Subcommittee did not reach a consensus.*

Pros:

- Respects the right of the voters in a democracy to be represented by representatives of their choosing
- Prevents an unelected person from gaining the incumbency advantage in future elections
- Prevents a person who a majority of voters may disapprove of from serving in office
- Allows voters to be represented by an elected representative during the remainder of the former representative's term
- Empowers voters to choose a representative from a different political party than that of the vacating person's party (for Maryland General Assembly and County Executive vacancies) or of the Governor's party (for U.S. Senate vacancies).
- Costs of a special election may be substantially reduced by allowing them to be conducted entirely by mail ballot. Precedent exists for the Governor or County Council to conduct mail-ballot special elections for U.S. House and County Council vacancies, respectively, and the states of Oregon and Colorado have successfully conducted all of their elections entirely by mail ballot for years.

Cons:

- More expensive than appointing a replacement.
- May lengthen the period during which a seat remains vacant.
- Increases voter fatigue.
- May increase the power of wealth in politics by creating new elections.
- Decreases the power of the former representative's political party in choosing a replacement representative.

Sources:

Laws:

- **U.S. House of Representatives**
 - U.S. Constitution, Article II, Section 2 – Requires vacancies be filled by election
 - Md. Election Law Code § 8-710 – Requires special election
 - Md. Election Law Code § 9-501 – Permits Governor to require special elections by mail
- **U.S. Senate**

- U.S. Constitution, 17th Amendment – Permits vacancies to be filled by election or gubernatorial appointment
- Md. Election Law Code § 8-602 – Requires vacancies to be filled by gubernatorial appointment
- **Maryland General Assembly**
 - Maryland Constitution, Article. III, Section 13 – Requires appointment process
- **Montgomery County Council**
 - Montgomery County Charter, Article I, Section 206 – Permits special elections
 - Montgomery County Code, Chapter 16, Article II, Section 16-17 – Requires special elections in most circumstances
 - Md. Election Law Code § 9-501 – Permits counties to conduct local special elections entirely by mail (via county council resolution)
- **Montgomery County Executive**
 - Montgomery County Charter, Article II, Section 205

National Conference of State Legislatures reports:

- **NCSL on Senate Vacancies:** <http://www.ncsl.org/research/elections-and-campaigns/vacancies-in-the-united-states-senate.aspx>
- **NCSL on State Legislative Vacancies:** <http://www.ncsl.org/research/elections-and-campaigns/filling-legislative-vacancies.aspx#5>

MONTGOMERY COUNTY RIGHT TO VOTE TASK FORCE

Voting Rights Subcommittee

TOPIC: Primary Elections

BACKGROUND

Primary elections (primaries) determine which candidates will appear on the general election ballot in November. Primaries are different from state to state and in some states Democrats and Republicans may have different rules for their primaries. The result is generally the same, however, as people choose the candidates who best represent them and, in most cases, their party's interests. Primaries are characterized generally as closed, semi-closed, open or top-two. Most states operate a closed or semi-closed regime although a significant number of states operate open primaries. A few states conduct a top-two primary system. There are internal variations as well as in some states a party may operate under the open primary regime while the other party conducts a closed or semi-closed primary. There is no constitutional right to a selection of candidates through a primary system.

Closed Primary. Voter may only vote for the party in which he or she is affiliated prior to the primary date, *i.e.*, a Republican can only vote in the Republican primary, a Democrat only in the Democratic primary; a party may or may not invite unaffiliated voters to participate but usually at the price of giving up their independent status, typically having to register with the party on election day.

Semi-closed (Hybrid). Falls somewhere between open and closed primaries; procedures vary from state to state as does the treatment of independent or unaffiliated voters, but often allows unaffiliated/independent voters to choose in which party primary to vote.

Open Primary. Permits any registered voter to cast a vote in a primary, regardless of his or her political affiliation, *i.e.*, a Republican could be a "crossover" and cast a vote in the Democratic primary, or *vice versa*, and an unaffiliated voter could choose either major party's primary. Voters cannot vote in more than one party's primary. As in a closed primary, the highest voted candidate in each party proceeds to the general election. Depending on the statutory framework within which it exists, an open primary may face constitutional challenges. For example, the U.S. Court of Appeals for the Fourth Circuit ruled that the Virginia mandatory open primary statute was unconstitutional as applied to the Republican district at issue because it imposed a burden on that party's freedom to associate. *Miller v. Brown*, 503 F.3d 360 (4th Cir. 2007).

Top-Two Primary (aka nonpartisan blanket primary). All candidates regardless of party affiliation are listed on one ballot. The top two vote-getters, regardless of party affiliation, appear on the general election ballot (of limited appeal and used only in four states in different variations; not used for

presidential primaries in any state) – in effect, an elimination of the strict party primary. (Declared constitutional in *Washington State Grange v. Washington State Republican Party*, 552 U.S. 442 (2008)). The partisan blanket party, which provides all who are entitled to vote (party and unaffiliated) the right to vote for any candidate in any primary, with the candidate chosen in each party primary advancing to the general election as that party’s representative, was declared unconstitutional in *California Democratic Party v. Jones*, 530 U.S. 567 (2000), primarily due to the burden this system placed on the parties in selecting their standard bearers. The California partisan blanket primary was an attempt to replace party “hard-liners” with “moderate problem solvers.”

[The state caucus is the original way for selecting candidates but has declined in favor over the years since the introduction of the primary method in the early 1900s. In those states where the caucus is still used, voters who are registered with a particular party are generally the only ones allowed to attend that party’s caucus.]

Maryland operates under a closed primary system but a party may choose to open its primary for a particular election. In Maryland, a primary is defined as an officially supervised party nominating procedure created by the General Assembly specifically to allow members of a party to select their candidates. The requirement for a primary in order to nominate candidates for public office extends only to the principal political parties as determined by the statement of registration issued by the State Board of Elections. Neither the Maryland Constitution nor Maryland statute provides a right in any voter to participate in the primaries of parties other than the one to which the voter belongs. Maryland’s election law allows a party to choose to hold a primary that permits voters not affiliated with the party to vote in the party’s primary election, provided the chairman of the party’s state central committee notifies the State Board six months prior to the primary. Without such change, a voter may not vote in a party’s primary election unless such voter has officially changed his party affiliation to the party holding the primary at least 12 weeks prior to the primary.

STATUTORY FRAMEWORK

- **Md. Code Ann., Election Law, Subtitle 2. Primary Elections. (sec. 8-202)**
- **Md. Code Ann., Election Law, sec. 3-303**

PROPOSED RECOMMENDATION

- Maintain Maryland’s system of closed primaries with the opportunity for each party to determine open access to its own primary election. **[Approved 4 – 1]**
- In the event of an uncontested general election, primary election should be open to all who are entitled to vote in the general election. **[Approved unanimously]**

DISCUSSION

PROS:

- Open and top-two primaries give voters maximum flexibility

- Open and top-two primaries promote greater democracy and accommodates the growing number of unaffiliated or independent voters
- Open and top-two primaries may increase voter participation – greater involvement in the selection process may lead to greater involvement in the general election
- Open and top-two primaries allow voters to make independent choices and build consensus
- Open and top-two primaries preclude a splintered electoral process
- Closed primary contributes to a strong party organization; more of an incentive for voters to join a political party and become involved in the election process
- Closed primary preserves a party's freedom of association
- Closed primary provides assurance to party voter that selected candidate will largely share the fundamental principles of their party
- Semi-closed primary provides the opportunity for independent or unaffiliated voters to participate while affiliated voters cannot vote outside their party's primary

CONS:

- Open primary forces a party to adulterate its candidate selection process, a core function of the party
- Open primary may impose on the party's right of free association
- Open primary weakens and dilutes the two-party system
- Open primary can cause manipulation, *i.e.*, "party crashing", which involves voters in one party voting for a weak candidate in the other party thereby providing a strategic advantage in the general election
- Open primary distorts the decision making of the party thereby impairing the party's essential functions
- Open primary runs the risk of having a party's nominee determined by adherents of an opposing party
- Open primary may face constitutional challenges
- Closed primary excludes independent or unaffiliated voters from the nomination process
- Closed primary exacerbates radicalization that occurs at the primary stage in each party

SOURCES

Fair Vote, The Center for Voting and Democracy, "Congressional and Presidential Primaries: Open, Closed, Semi-Closed, and "Top Two" (<http://www.fairvote.org/research-and-analysis/presidential-elections/congressional-and-presidential-primaries-open-closed-semi-closed-and-top-two/>).

National Conference of State Legislatures: State Primary Election Types.

IVN, "How Do Primary Elections Work? An Overview and Legal Analysis"
(<http://ivn.us/2013/10/22/how-do-primary-elections-work/>).

Wikipedia (http://en.wikipedia.org/wiki/Open_primaries_in_the_United_States).

"Closed Primary Elections Serve An Important Purpose" – comments by Secretary John Gale.

Topic: Ranked Choice Voting / Instant Runoff Voting

Background: The term “electoral system” refers to how voters can make choices between different candidates. In Maryland and Montgomery County, two different electoral systems are used (depending on the office), both which rely on plurality voting: “first-past-the-post voting” for elections with single winners, and “plurality-at-large voting” for elections with multiple winners.

First-past-the-post: The system used to elect members of the U.S. House since 1967. All candidates in a district run against each other, and one candidate wins. Voters cast only one vote. The winner is whichever one candidate receives the most votes (plurality), irrespective of whether that amounts to a majority (50% + 1).

Plurality-at-large: The system used to elect members of the Maryland House, County Council at-large seats, and city councils in Rockville, Gaithersburg, and Clarksburg. All candidates in an at-large election run against each other, and multiple candidates win. Voters may cast as many votes as there are seats. The winners are whichever candidates receive the most votes. This system is “plurality-takes-all” in that a single plurality group can elect its preferred candidates to every seat.

Current Electoral Systems: County and State

County Office	Winners Per District	Current Electoral System
County Council At-Large	4	Plurality-at-large
County Council Districts	1	First-past-the-post
County Executive	1	First-past-the-post

State Office	Winners Per District	Current Electoral System
MD House of Delegates	3	Plurality-at-large
MD Senate	1	First-past-the-post
MD Governor	1	First-past-the-post

Many jurisdictions outside of Maryland use different electoral systems. For example, some jurisdictions use a traditional two-round runoff system. In this system, if no candidate in a single-winner election receives a majority (50% + 1) of the vote, then a second election is held between the two candidates who received the most votes. Similar principles may apply in multi-winner elections.

One electoral system that is trending across the country is “ranked choice voting” (RCV), also known as “instant runoff voting” (IRV). The system allows a voter to rank candidates in the order that the voter would prefer the candidates to win. It operates like a traditional runoff system, but it does not require a second election. Below is a sample RCV ballot:

Rank any number of options in your order of preference.

- Joe Smith
- 1 John Citizen
- 3 Jane Doe
- Fred Rubble
- 2 Mary Hill

Ranked choice voting does not affect races where only two candidates run; however, in elections where three or more candidates run, ranked-choice voting ensures the election of winners who have support from a majority of the voters and enhances opportunities for political minorities.

Single-winner Elections: First-Past-the-Post Voting vs. Ranked Choice Voting

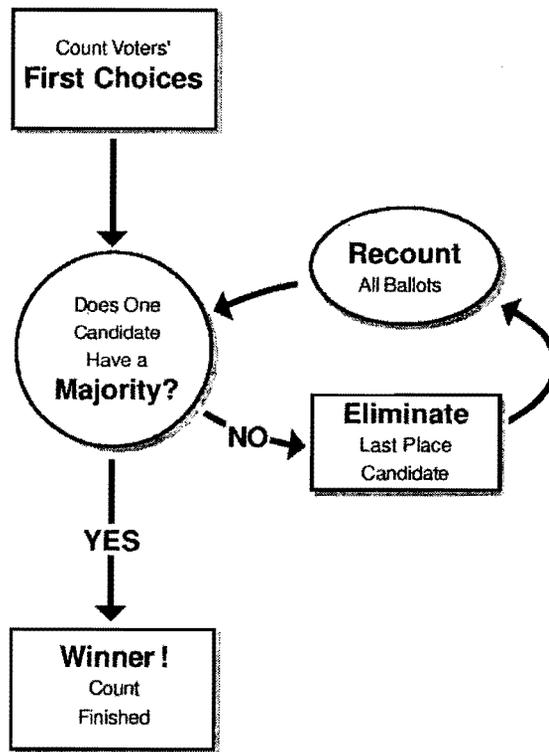
First-Past-the-Post Voting:

Each voter casts one vote. The candidate who receives the most votes (a plurality) wins. A majority of votes (50% + 1) is *not* required. This system allows for the “spoiler effect”, in which candidates of similar ideologies may split the vote and allow for a dissimilar candidate to be elected—even if a majority of voters opposed that candidate. Examples: Clinton v. Bush v. Perot in 1992; Al Gore and Ralph Nader in 2000.

Ranked Choice Voting:

The first-place rankings of each voter are counted first. If a candidate receives a majority (50% + 1) of first-place ranks, that candidate wins. If no candidate receives a majority, then the candidate who received the least number of votes loses, and a recount occurs using the second-place ranks of voters who preferred the losing candidate. This process continues until a candidate receives a majority of votes.

Instant Runoff Voting
Ballot Count Flow Chart



In each round, your ballot counts for your favorite candidate who is still in the race.

Multi-winner Elections: Plurality-at-Large Voting vs. Ranked Choice Voting

Plurality-at-Large Voting:

All candidates run against each other, and multiple candidates win. Voters may cast as many votes as there are seats. The winners are whichever candidates receive the most votes.

This system is “plurality-takes-all” (or winner takes all); a single plurality group (not a majority) can elect its preferred candidates to every seat. Thus, it both disrespects majority rule and deprives smaller constituencies of the ability to elect even one of their preferred candidates. For this latter reason, courts have struck down plurality-at-large systems in numerous jurisdictions across the country for violating the voting rights of racial minorities under the Voting Rights Act of 1965 and the Fourteenth Amendment. A seminal Voting Rights Act case that struck down a plurality-at-large system on racial discrimination grounds was the U.S. Supreme Court case *Thornburg v. Gingles*.

The “plurality-takes-all” nature of Plurality-at-Large encourages voters to sacrifice some of their votes. *Bullet voting* or *under voting* occurs when a voter casts fewer votes than she is entitled to cast in order to avoid hurting her most preferred candidate. Relatedly, Plurality-at-Large allows for *wasted votes*. Once a candidate receives enough votes to win, any additional votes that the candidate receives do not help that candidate; all they do is take votes away from voters’ other choices.

Ranked Choice Voting:

The system operates in a multi-winner election almost identically to how it operates in a single-winner election. The first-place rankings of each voter are counted first. If a candidate receives a winning number of first-place ranks, that candidate wins. If no candidate receives a winning number, then the candidate who received the least number of votes loses, and a recount occurs using the second-place ranks of voters who preferred the losing candidate. A difference from the single-winner iteration is that because there are multiple winners, the election does not stop after one candidate wins; instead, the second-choice rankings of the voters who supported a winning candidate are then counted for the remaining candidates at an equally reduced value. This process continues until all seats are filled.

Because multiple candidates win, individual winning candidates do not receive a majority of votes. Rather, the winning number of votes depends on the number of seats:

- 1-winner district: 50% + 1 vote (see “single-winner elections” section above)
- 3-winner district: 25% + 1 vote (ex: MD House of Delegates districts)
- 4-winner district: 20% + 1 vote (ex: County Council At-Large)

These winning numbers mean that a majority of voters elect a majority of candidates, and underrepresented groups of voters are more likely to elect a candidate of their choice. Unlike the “plurality takes all” plurality-at-large system, ranked choice voting is “majority takes a majority, minority takes a minority”.

Because voters rank candidates in order of preference, *bullet voting* is unnecessary; ranked choice voting allows voters to express preferences without hurting their most-preferred candidates and without sacrificing some of their votes. Additionally, because of the recounting process that occurs after a candidate wins, *wasted votes* do not occur.

Where Ranked Choice Voting is Used

In the United States, ranked choice voting is used in Memphis, TN; Seattle, WA; Minneapolis, MN; St. Paul, MN; Telluride, CO; Takoma Park, MD; Hendersonville, NC; Portland, ME; Santa Fe, NM; Springfield, IL for overseas voters; Berkeley, CA; Oakland, CA; San Francisco, CA; San Leandro, CA; in statewide elections in South Carolina, Louisiana, Alabama, and Arkansas for military and overseas voters; in statewide elections in North Carolina for judicial vacancies in 2010; Cambridge, MA; local boards in Minneapolis, MN; for elections in Australia, Pakistan, Malta, Ireland, India, and several other countries; and for Oscar nominations. *Roberts Rules of Order* recommends the use of ranked choice voting where traditional runoff elections are infeasible.

Voter Opinion

Voters in elections that use ranked choice voting have generally expressed support for the system in exit surveys. For example, in an exit survey conducted for the 2012 Takoma Park special election, 78% said they supported ranked choice voting and 23% were indifference. Additionally, 90% said that the concept of ranking was very easy (79%) or easy (11%), 9% were neutral, and 1% said it was difficult. Very similar results were found in exit surveys conducted in Cary, MN; San Francisco, CA; Burlington, VT; and previous elections in Takoma Park.

Voting Equipment

Voting machines may or may not be designed to internally tabulate ranked-choice ballots. Maryland, which uses direct-recording electronic voting equipment, does not presently have voting machines that can internally tabulate ranked-choice ballots, but the state is currently in the process of replacing its voting equipment. However, while having such voting machines available is easier for election officials, they are not required to tabulate ranked-choice ballots. North Carolina, which uses similar voting equipment to Maryland, counted thousands of ranked-choice ballots in 2010 by exporting ballot data to separate spreadsheet software (Excel) to conduct the tabulation.

Proposed Recommendations:

The Voting Rights Subcommittee passed these recommendations unanimously, with recommendation 3 having one abstention.

1. The County Council should adopt ranked choice voting for county elections. The Council can phase in ranked choice voting starting with at-large Council elections or primary elections.
2. The County Council should encourage the Maryland General Assembly to adopt ranked choice voting for state elections.
3. The County Council should encourage the state to purchase voting equipment that can tabulate ranked-choice ballots without requiring exports to spreadsheet software.

Pros:

- Allows voters to more accurately and fully express their preferences for office
- Respects majority rule
- Eliminates the spoiler effect
- Enhances electoral opportunities for underrepresented political minorities
- Eliminates bullet voting and wasted voting in multi-winner elections
- Reduces negative campaigning by encouraging candidates to attempt to earn the second-place ranks of voters who prefer other candidates
- Costs virtually no additional money compared to conducting traditional runoff elections
- Has been overwhelmingly supported by voters in jurisdictions that use it

Cons:

- Voters must adapt to a new ballot design and system
- May cost state funds to purchase RCV-ready equipment
- If no RCV-ready equipment, may require election officials additional time to export ballots images for tabulation

Sources:

- FairVote: The Center for Voting and Democracy.
 - <http://www.fairvote.org/reforms/instant-runoff-voting/> (general information)
 - <http://www.fairvote.org/reforms/fair-representation-voting/choice-voting/> (general information)
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- *Ranked Choice Voting in Minneapolis*, <http://vote.minneapolismn.gov/rcv/>
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- Robert, Henry (2000). *Robert's Rules of Order Newly Revised, 10th edition*. Da Capo Press. pp. 411–414. ISBN 978-0-7382-0307-2.
- *Thornburg v. Gingles*, 487 US 30 (1986).

Montgomery County Right to Vote Task Force
Proposed Recommendation from Voting Rights Subcommittee

Topic: Redistricting / Gerrymandering

Background:

Every 10 years following the decennial census, jurisdictions are required to redraw the boundaries of federal, state, and local legislative districts. In Maryland, the redistricting processes differ depending on the type of districts being redrawn:

- **Congressional districts:** The Maryland General Assembly must pass a bill to redistrict Maryland's 8 Congressional districts. Congressional redistricting legislation bill is treated as a regular bill by the General Assembly; it must be passed by both the Maryland Senate and the Maryland House of Delegates, and the Governor has veto power.
- **Maryland General Assembly districts:** Article III, Section 5 of the Maryland Constitution requires the Governor to prepare and present a redistricting plan to the Maryland General Assembly. The President of the Senate and the Speaker of the House must ensure the Governor's plan introduced as a joint resolution for consideration. If the General Assembly refuses to enact a different redistricting plan within 45 days, the Governor's plan becomes law.
- **Montgomery County Council Districts:** Article I, Section 104 of the Montgomery County Charter establishes a redistricting commission that is responsible for redistricting the county's single-member districts. The Commission consists of 4 members from each political party which polled at least 15% of the vote casts for all candidates for the Council in the preceding regular election. Each member is chosen from a list of 8 individuals submitted by the central committee of each eligible political party. Each list shall include at least one individual who resides in each Council district. The Council shall appoint one additional member of the Commission. The Commission shall include at least one member who resides in each Council district, and the number of members of the Commission who reside in the same Council district shall not exceed the number of political parties that submitted a list to the Council. The Commission shall, at its first meeting, select one of its members to serve as its chair. No person who holds any elected office shall be eligible for appointment to the Commission.

At the state level, both Congressional and state legislative redistricting is left in the hands of partisan elected officials who have an interest in drawing districts that benefit their odds of winning reelection and in enhancing the power of their political party at the expense of voter choice. To achieve these ends, line-drawers may use the gerrymandering techniques of "cracking" and "packing". As described by *Redistricting the Nation*:

- **Packing** concentrates a bloc of voters, e.g., members of a political party, into a single district. This allows the other party to win in the surrounding districts.
- **Cracking** splits a bloc of voters among a large number of multiple districts to prevent that bloc from constituting a majority in a district.

Through packing, cracking, and other gerrymandering techniques, districts can be drawn in strange, unintuitive shapes and sizes to benefit incumbents and political parties who would not otherwise be able to achieve of such electoral success. Under Maryland’s current redistricting process, elected officials choose their voters, instead of voters choosing their elected officials.

To minimize gerrymandering, several states have adopted neutral redistricting methods. One method, as adopted in Florida, is to create neutral redistricting criteria that prohibits line-drawers from redistricting to achieve partisan ends. Redistricting plans may then be subject to judicial review to ensure that the neutral redistricting criteria has been satisfied.

Another common method to minimize gerrymandering is to remove redistricting from the control of elected politicians completely. In these states, redistricting plans typically are enacted by a “redistricting commission.” A commission is also used to redistrict in Montgomery County. As described by the National Conference of State Legislatures and various states’ laws:

- Composition. Most redistricting commissions are required to have memberships that are balanced or nearly balanced between the two dominant political parties. Some states reserve seats on the commission for members of third political parties or unaffiliated voters.
- Member selection. How commission members are chosen varies widely from state to state. Appointments may be made by the majority and minority leaders in the state legislature; by the Governor; by the chairs of the state political parties; by the judiciary; by a nonpartisan government agency; or by some combination of these options.
- Number of members: The number of commissioners also varies widely state-to-state, ranging from as large as 18 members to as small as 5 members (excluding Arkansas, which has a 3 person partisan commission).
- Voting procedures: States also vary as to whether the commission must adopt a plan by a simple majority vote or a supermajority vote. In California, which has a commission comprised of 5 Democrats, 5 Republicans, and 4 of neither political party, a redistricting plan may only be adopted if 3 members of each group vote in favor of it.

Ideally, the membership of a redistricting commission would respect all sizable political parties—more than just the Republican and Democratic Parties, but less than every political party to avoid concerns of gaming. Below are the political party registration of voters in Maryland, as reported in the February 2014 Voter Registration Activity Report from the Maryland State Board of Elections:

Active Registered Voters in Maryland by Political Party, February 2014

Political Party	Number of Registered Voters
Democrat	2,050,805
Republican	947,339
Libertarian	13,424
Green	8,432
Americans Elect	287
Unaffiliated	649,854
(Other)	36,158

Active Registered Voters in Montgomery County by Political Party, February 2014

Political Party	Number of Registered Voters
Democrat	351,513
Republican	122,265
Libertarian	2,048
Green	1,518
Unaffiliated	145,973
(Other)	3,390

Finally, a way to minimize gerrymandering is for the redistricting process to be conducted in a transparent way and to allow for broad public participation in the redistricting process, allowing members of the public to submit testimony and proposed redistricting plans. According to the Maryland Department of Planning website, Maryland currently has processes in place that allow for the public to submit comments to the Governor’s redistricting advisory committee. Requiring transparency and allowing public participation could equally apply if redistricting was carried out by a neutral redistricting commission.

Proposed Recommendations:

Subcommittee action: All of the recommendations below were endorsed by the 4 Subcommittee members present at the meeting when this was considered, except the recommendation that members of the Redistricting Commission not be allowed to run for elective office for 2 years following their tenure on the Commission, which the Subcommittee voted 2 for, 2 against.

State-level Recommendations: The following recommendations apply to both Congressional redistricting and state legislative redistricting.

I. Neutral Redistricting Criteria

1. No redistricting plan or district may be drawn with the intent to favor or disfavor a political party or incumbent
2. Districts may not be drawn with the intent or result of denying or abridging the equal opportunity of racial or language minorities to participate in the political process or to diminish their ability to elect representatives of their choice; and
3. Congressional districts* must consist of adjoining territory, be compact in form, and of substantially equal population. Due regard must be given to natural boundaries and the boundaries of political subdivisions.

*Criteria in #3 currently apply to the redistricting of Maryland General Assembly districts under the Maryland Constitution, art. III, sec. 4, but not to the redistricting of Congressional districts.

II. Neutral Redistricting Commission:

1. Powers and duties: A State Redistricting Commission shall determine the boundaries of Congressional and Maryland General Assembly districts every 10 years after the decennial census. The Commission’s redistricting plans shall be final and binding upon the state, subject only to judicial review for compliance with the Neutral Redistricting Criteria and the obligations placed on the commission.

2. Composition:
 - a. The Commission shall consist of 3 members each from every political party recognized in Maryland that has had at least 5,000 registered members over the preceding 5 years, and 3 unaffiliated members not registered with any political party.
 - b. No person who holds any elected office is eligible for appointment to the Commission.
 - c. No Commissioner may hold any elective office in Maryland during the 2-year period following their tenure on the Commission.
3. Member selection: The Governor shall appoint the Commission members. The state central committee, or equivalent body, of each political party that is eligible for representation on the Commission shall submit to the Governor a list of Commission candidates from that political party. The Governor shall appoint 3 members from each list submitted. The Governor shall also appoint the 3 unaffiliated members.
4. Officers: The Chair and Vice Chair of the Commission may not both be members of the same political party or both be unaffiliated with any political party.
5. Data restrictions: In establishing districts, the Commission may not use any of the following data:
 - a. Addresses of incumbents.
 - b. Political affiliations of registered voters.
 - c. Previous election results.
6. Transparency and public participation: The Commission must:
 - a. Make all of its meetings, deliberations, and proceedings open to the public, and make all records used in its deliberations and proceedings open to public inspection and copying
 - b. Accept and consider testimony and proposed redistricting plans from members of the public
7. Voting: Passage of a redistricting plan requires the support of at 2/3rds of the Commission's members.

III. Enforcement

Any Maryland resident, municipality, or county may sue the state for declaratory and equitable relief to enforce compliance with the Neutral Redistricting Criteria or the obligations imposed on the State Redistricting Commission.

County-level Recommendations:

- The Neutral Redistricting Criteria recommended for Congressional and state legislative redistricting should equally apply to redistricting of the Montgomery County Council districts.
- A separate County Redistricting Commission should be established to redistrict the Montgomery County Council districts. The commission should be structurally and functionally identical to the state redistricting commission, *except*:
 - The membership threshold for political parties should be 1,000 registered voters in Montgomery County

- Appointments should be made by the County Executive, with candidate lists submitted by the county central committees, or equivalent bodies, of the political parties represented on the Commission.
- The enforcement mechanism recommended for Congressional and state legislative redistricting should equally apply to redistricting of the Montgomery County Council districts

Pros and Cons:

Pros:

- Respects the right of the voters in a democracy to be represented by representatives of their own choosing
- Enhances public confidence in the redistricting process
- Allows broad public participation in the redistricting process
- Affords fair electoral opportunities to political minorities
- Decreases odds of unrepresentative one-party control
- Abolishes the conflict-of-interest state legislators currently have in drawing their own districts

Cons:

- Abolishes gerrymandering in Maryland without achieving national fairness in redistricting, which unfairly disadvantages the political party currently in control of the redistricting process by allowing states controlled by a different political to continue to gerrymander.

Sources:

Current (2012-2022) Redistricting Maps in Maryland:

- **Congressional districts:**
 - <http://www.mdp.state.md.us/Redistricting/redistrictingIMap.shtml> (interactive map)
- **Maryland General Assembly districts:**
 - <http://www.mdp.state.md.us/Redistricting/redistrictingLegislativeIMap.shtml> (interactive map)
- **Montgomery County Council districts:**
 - http://www.montgomerycountymd.gov/council/district_map.html

Maryland and Montgomery County related sources:

- Maryland Constitution, Art. III
- Montgomery County Charter, Art. I, Sec. 104.
- Maryland Department of Planning, *Redistricting: Congressional and Legislative Districts: Redistricting FAQs*, <http://planning.maryland.gov/Redistricting/faq.shtml>
- Maryland State Board of Elections, *Voter Registration Activity Report: February 2014*. http://www.elections.state.md.us/pdf/vrar/2014_02.pdf

- Maryland Department of Planning, *Redistricting: Redistricting*, <http://planning.maryland.gov/Redistricting/2010/home.shtml>

Other sources:

- National Conference of State Legislatures, *Redistricting Commissions: Legislative Plans*, <http://www.ncsl.org/research/redistricting/2009-redistricting-commissions-table.aspx>
- Redistricting the Nation, *Glossary*, <http://www.redistrictingthenation.com/glossary.aspx>
- Florida Constitution, Art. III, Sec. 20, 21 – <https://www.fairdistrictsnow.org/redistricting/amendments/>
- Iowa Code § 42.4 – <https://coolice.legis.iowa.gov/Cool-ICE/default.asp?category=billinfo&service=IowaCode&ga=82&input=42.4>
- Legislative Services Agency, *Legislative Guide to Redistricting in Iowa*, <https://www.legis.iowa.gov/DOCS/Central/Guides/redist.pdf>
- Hawaii Revised Statutes § 25-2 – http://hawaii.gov/elections/reapportionment/documents/Haw_RevStat.pdf
- California Constitution, Art. 21 – http://www.leginfo.ca.gov/.const/.article_21
- Micah Altman & Michael McDonald, *The Promise and Perils of Computers in Redistricting*, 5 *Duke Journal of Law and Public Policy* 69 (2010), <http://scholarship.law.duke.edu/cgi/viewcontent.cgi?article=1026&context=djclpp>

Montgomery County Right to Vote Task Force Voting Rights Subcommittee – Proposed Recommendation

Topic: Initiative, Referendum, and Recall

Summary

Initiatives and referendums are the tools of direct democracy.

Definitions

- 1) **Initiatives** are a proposed new law or constitutional amendment that is placed on the ballot by petition. They may be direct or indirect (the latter are voted on by legislators first).
- 2) **Referendums**
 - a) **Popular** are proposals to repeal a law that was previously enacted by the legislature; they are placed on the ballot by citizen petition. Referendums are fairly rare, especially compared to initiatives.
 - b) **Legislative** are proposals placed on the ballot by the legislature. Legislative measures are much more common than initiatives and referendums, and are about twice as likely to be approved. They may also be advisory only.
- 3) **Recall** allows citizens to remove and replace a public official before the end of a term of office. Eighteen states permit the recall of state officials by an election; specific grounds are not usually required.

Status

National & International. No provision for any sort of ballot proposition exists at the national level in the United States. Initiative and referendum are the norm in Western Europe, much less so here.

Other States. Twenty-four states have the initiative process. Most of those with initiatives require petition signatures of 3% to 10% of the number of votes cast for governor in the last election. Half of the 24 initiative states have a “geographic distribution requirement” that signatures be gathered from around the state, not just one populous city or county. Twenty-three states permit referendums; most of these also permit initiatives. All states permit legislative referendums, and all states except for Delaware require constitutional amendments to be approved by the voters. Twenty-three states permit neither initiatives nor referendums.

Maryland. A “referendum-only” law, passed by the Maryland legislature in 1915, allows voters to bring referendums but not initiatives. In 1916, advocates cited the failure to include initiatives as due to “Committee chairmen, a very active lobby against the initiative amendment, and rural legislators’ fear of the Baltimore masses.”¹ Between 1915 and 2013, Marylanders have used the referendum process 17 times to force a statewide popular vote on laws passed by the legislature. Maryland law does not provide a recall process. Nationally, recall has been used most frequently at the local level, with city and school board officials. Nineteen states permit the recall of state officials. Specific grounds for recall are required in eight states.

Counties, Nationwide. The initiative and referendum are available in thousands of counties and municipalities and are used far more frequently than statewide measures. Twenty-nine states permit the recall of local officials.

Montgomery County: The County Code, largely mirroring the State Constitution, allows referendums and charter amendments but not initiatives. The County does have limited initiatives for charter amendments on “form of government” issues like checks and balances but not topical issues, e.g., rent control.

¹ Initiative & Referendum Institute, USC School of Law, Los Angeles CA 90089-0071, 2013
<<http://www.iandrinstitute.org/Maryland.htm>>.

Proposed Recommendation

The following recommendations are made unanimously by the subcommittee, except that the vote on initiative was 3-2 for, and on recall was 4-1 for the recommendation.

General: Support the right to initiative, referendum, and recall at all levels of government. Enact signature gathering standards that empower volunteer collection efforts and financial disclosure requirements that identify the sources of funding behind paid signature efforts.

Initiative: Recommend state legislation allowing initiatives, both direct and indirect, with a recommended petition signature requirement of 3% of the number of votes cast for governor in the last election. (This is the method currently used for referendum petitions. In 2010, the total number of votes cast for governor was 1,857,880; 3% is 55,736.)

Referendum: At state and county level, expand current online printout with mail-in to a fully online system with secure, built-in verifications so that signers do not need to mail in a paper copy.

Recall: In County law, establish a process for recall with a high threshold to trigger a recall election.

Initiative & Referendum Pro:

- Direct democracy is important.
- Some voters will feel engaged by the ability to get a measure on the ballot.
- Given the reality of one-party rule in most states, voters not represented by that party can feel that their views are locked out.
- Legislative bodies, while “deliberative”, may vote contrary to logical analysis.
- Initiatives on the ballot may encourage voter turnout.

Initiative & Referendum Con:

- The process is not sufficiently deliberative, is too susceptible to sound-bite sloganeering.
- There are few checks and balances on initiatives, in contrast to normal legislation which requires support from two legislative chambers and the governor.
- Initiatives become law after action by voters and have a long history of unintended consequences.
- Printing costs when many ballot measures occur.
- Some voters will feel overwhelmed by too many ballot questions.

Geographic Distribution Requirement Pro:

- Requiring that signatures be gathered from around the state and not just one populous city or county forces initiative proponents to demonstrate that their proposal has support statewide, not just among the citizens of the state's most populous region.

Geographic Distribution Requirement Con:

- Initiative proponents are unfairly burdened, because it is much more difficult to gather signatures in rural areas than it is in urban areas.
- **Idaho and Nevada** geographic distribution requirements were held unconstitutional by federal courts in 2003 and 2004, respectively. Nevada change the requirement of the same percentage of signatures in each county to each Congressional district, and the courts upheld this in 2012.

Recall Pros: Supporters of the recall maintain that it provides a way for citizens to retain control over elected officials who are not representing the best interests of their constituents, or who are unresponsive or incompetent. This view holds that an elected representative is an agent or a servant and not a master.

Recall Cons: Opponents argue that legislative bodies have procedures to deal with incompetent or corrupt members, that it can lead to an excess of democracy, that the threat of a recall election lessens the independence of elected officials, that it undermines the principle of electing good officials and giving them a chance to govern until the next election, and that it can lead to abuses by well-financed special interest groups.

Recommendation Implementation

Change in County law needed: no, not empowered to act.

Amendment to State Constitution needed: yes, for initiative and recall.

Change in State law needed: yes, legislatively-referred constitutional amendment on initiative and recall.

Change in Federal law needed: no.

Sources

Laws

- **Maryland Constitution**

- *Referendum*: Article XVI (added by Chapter 673, Acts of 1914, ratified Nov. 2, 1915) <<http://msa.maryland.gov/msa/mdmanual/43const/html/16art16.html> >.
- *Initiative*: Maryland does not have the statewide initiative process.
- *Constitutional Amendment*: Articles XIV defines the procedures used by the state legislature to place constitutional amendments on the ballot <<http://msa.maryland.gov/msa/mdmanual/43const/html/14art14.html>>.

- **Montgomery County**

- <http://www.amlegal.com/nxt/gateway.dll?f=templates&fn=default.htm&vid=amlegal:montgomeryco_md_mc>
 - *Referendum*: Montgomery County Code, Part 2, Chapter 16, Article II, Section 16.4-10.
 - *Charter Amendment*: Montgomery County Code, Part 2, Chapter 16, Article II, Section 16.11-15.

Official 2014 Statewide Referendum Petition Filing Information

- Citizens' guide from the Maryland State Board of Elections; Montgomery County Board of Elections website directs citizens to the State) <<http://www.elections.state.md.us/petitions/index.html>>.
- Procedures for filing a Statewide or Public Local Law Referendum Petition: Gubernatorial General Election, Maryland State Board of Elections (SBE) Nov. 4, 2014, <<http://www.elections.state.md.us/pdf/6-201-3A.pdf>>.

National Conference of State Legislatures reports

- Initiative and Referendum (I&R Task Force's main page) <<http://www.ncsl.org/research/elections-and-campaigns/initiative-and-referendum.aspx> >.
- Initiative, Referendum, and Recall (definitions, overview) <<http://www.ncsl.org/research/elections-and-campaigns/initiative-referendum-and-recall-overview.aspx>>.
- Initiative & Referendum States (table) <<http://www.ncsl.org/research/elections-and-campaigns/chart-of-the-initiative-states.aspx>>.
- Initiative Petition Signature Requirements <<http://www.ncsl.org/research/elections-and-campaigns/signature-requirements.aspx> >.

USC School of Law Initiative & Referendum Institute Reports and Documents

(University of Southern California, Los Angeles CA 90089-0071)

- Maryland Initiative and Referendum Legislative History <<http://www.iandrinstute.org/Maryland.htm>>.
- Maryland Constitution Articles XIV and XVI (for easiest printout) <<http://www.iandrinstute.org/New%20IRI%20Website%20Info/I&R%20Research%20and%20History/I&R%20at%20the%20Statewide%20Level/Constitution%20and%20Statutes/Maryland.pdf>>.
- Local Initiative and Referendum in the U.S., by Professor Tari Renner, Illinois Wesleyan University <<http://www.iandrinstute.org/Local%20I&R.htm>>. Details on county and city initiatives and referendums throughout the U.S.

- Statewide Initiatives Since 1904 – 2000 (throughout the United States)
<<http://www.iandrinstitute.org/New%20IRI%20Website%20Info/Drop%20Down%20Boxes/Historical/Statewide%20Initiatives%201904-2000.pdf>>. Note: Maryland does not permit initiatives and so is not listed.

Other Resources

David Schmidt, *Citizen Lawmakers: The Ballot Initiative Revolution* (Temple University Press, 1989).

“The Navigator to Direct Democracy,” *Initiative & Referendum Institute-Europe*, <[http://www.iri-europe.org/navigator/#!prettyPhoto\[iframes-remote\]/0/](http://www.iri-europe.org/navigator/#!prettyPhoto[iframes-remote]/0/)>. Map shows how common initiative and referendum are in Western Europe and how rare here in the US.

Montgomery County Right to Vote Task Force Voting Rights Subcommittee – Proposed Recommendation

Topic: “Minor” or “Non-Principal” Party Ballot Access

Summary

Ballot access laws determine which parties can exist and which candidates can appear on the ballot. Article I of the United States Constitution gives individual states the authority to determine the time, manner, and place of their elections. Great differences exist across states. Restrictive and discriminatory ballot access rules can affect the civil rights of candidates, political parties, and voters. The 1880s reform movement that conferred power on officials to regulate who may be on the ballot carried with it the danger that this power would be abused by officialdom and that legislatures controlled by established political parties would enact restrictive ballot access laws to influence election outcomes in their favor.

Maryland law separates political parties into two separate categories: principal and non-principal parties. Principal parties include the majority party, which is the party whose candidate for Governor received the largest number of votes of any party candidate at the most recent general election, and the principal minority party, which is the party whose candidate for Governor received the second highest number of votes of any party candidate at the most recent general election. All other parties are considered non-principal political parties. Principal parties are required to nominate candidates for office via primary elections. Non-principal parties may select candidates according to their respective constitutions and bylaws, but cannot participate in primaries.

Current Maryland law recognizes four political parties. The Democratic Party is considered the “majority” party. The Republican Party is considered the “principal minority” party. The Green and Libertarian Parties are considered “non-principal” parties.

According to the National Conference of State Legislatures,¹ legislators must consider these perennial ballot access questions:

1. Filing fees: Are they prohibitive?
2. Filing dates: Are they appropriate? Do they allow independent candidates and minor parties enough time to petition to get on the general ballot?
3. Petition signature requirements: Are they set at a reasonable number for minor party and independent candidates to gather? Should the requirement be a percentage of the population or a specific number?² Should the signatures represent all geographic areas within the state?
4. Signature gatherers: Is it acceptable to bring circulators in from other states to gather signatures? Is it okay to pay on a per-signature basis?³
5. Political parties: What percentage of the vote must a party receive to gain an automatic spot on future ballots? How does access for independent candidates differ from access for minor parties?
6. Fusion: Can two parties nominate the same candidate?⁴

Non-Principal Parties. When a minor party’s gubernatorial candidate wins at least 1% of the vote, that party’s ballot access is extended by 2 years. If a minor party does not run a gubernatorial candidate or that candidate fails to obtain at least 1% of the vote, Maryland law requires the party to submit another petition of 10,000 valid signatures of registered voters every four years or lose ballot status. Should parties that have at least 10,000 voters registered as party members have to fulfill this requirement? The Maryland Libertarian Party has 13,549 registered voters, yet it will be required to go out and get 10,000 signatures. The Greens stand at 8,442. Constant petitioning is wasteful not only for the parties but also

for the election officials who must check the signatures. A state bill (SB 1032) was introduced in the 2014 session to redress this problem, but it did not reach the floor for a vote.

Independent Candidates. Maryland requires independent (unaffiliated) candidates to get far more signatures than the 10,000 non-principal parties need. Non-principal parties securing 10,000 signatures can then nominate by convention for as many partisan offices as they wish. Independent candidates must submit signatures equal to 1% of the number of registered voters, which is now about 40,000 for a statewide independent. Court cases in other states have ruled that states cannot treat independent candidates differently than political parties, so current law leaves Maryland open to a lawsuit.⁵

“Strict” v. “Reasonable Certainty” Signature Standards in Maryland. The Maryland Court of Appeals ruled in December 2008 in the case *Jane Doe v. Montgomery County Board of Elections* that Maryland law requires signatures on a referendum petition to exactly match the printed name on the same page, and also match the voter's exact name on voting rolls, or be a voter's full name, including middle initials, and the signature must be legible.⁶ Accordingly, on March 26, 2009, Maryland's Board of Elections voted unanimously to impose stricter standards for referendum petition drives.

Status

National & International.

- The United States is the only nation in the world, save Switzerland, that does not have uniform federal ballot access laws.
- In the Copenhagen Document, an international treaty signed by the U.S. in 1990, the U.S. promised not to discriminate against any political parties. Plaintiffs in the lawsuits against Maryland ballot access restrictions have cited the Copenhagen Document.

Other States.

States vary widely. The lowest signature requirements appear to be 706 (Hawaii); the highest, nearly 150,000 (Minnesota). Thirty-three out of 50 states require 10,000 or fewer signatures.⁷

Proposed Recommendations, State Level

The Voting Rights Subcommittee approved unanimously all four state-level recommendations below.

1. Recommend that the County Council provide information to residents explaining the signature gathering requirements for non-principal parties and independent candidates.
2. Recommend that the Council request the Montgomery County legislative delegation to support measures granting non-principal parties status provided that 10,000 registered voters are affiliated with that party, for as long as that level is retained. In the 2014 session, this was SB 1032 (Ferguson).
3. Recommend that the Council request the State Board of Elections to return to “reasonable certainty” ballot access petition signature standards instead of the “strict, to-the-letter” standards in place since March 2009. (Local election boards have long requested more lenient standards.⁸)
4. Recommend that the Council request that the Montgomery County legislative delegation support measures reducing ballot access petitions for independent candidates from 1% of the number of registered voters to 10,000 registered voters.

Pro:

1. More choices may increase voter registration and turnout.
2. Democracy is about providing choice.
3. Everyone's voice should be heard, even those considered “the fringe.”
4. Independent voters are on the rise across the nation, and represent the #2 “party” in Montgomery County, surpassing registered Republicans.

5. Major polls continually find that US voters believe that America needs a third party. The numbers have been increasing and are now up to 60% of voters polled. In a Rasmussen poll reported April 24, 2014, 53% think neither ruling political party represents the American people⁹
6. Third party, independent, and many unaffiliated voters will feel engaged by the ability to get a candidate on the ballot who represents their views.
7. Given the reality of one-party rule in most states, voters not represented by that party can feel that their views are locked out.
8. Ballot access restrictions present a formidable barrier to fair participation. The existing 1% registration test for keeping a party on the ballot has never been met by any third party.
9. Chronic petition drives wear out non-principal party leaders and activists, draining their time, energy, and other resources.
10. Restricting access to the ballot has the effect of unjustly restricting the choices available to the voters and typically disadvantages third party candidates and other candidates who are not affiliated with the established parties.
11. Asking voters to include their middle initial or name under the strict standard is disconcerting to some potential signers accustomed to signing informal petition drives by various groups who are collecting signatures for their own internal purposes. Some refuse to sign, suspecting that the petition is an identity theft scam.

Con:

1. The State's responsibility is to provide orderly elections.
2. The State has an interest in avoiding confusing ballots overloaded with "frivolous" candidates with little popular support.
3. Ballots with long lists of candidates make elections difficult for election officials.
4. Printing costs may increase when many more candidates are listed.
5. Some voters will feel overwhelmed or confused by too many candidates.
6. The problem isn't ballot access but our winner-take-all/plurality voting system, which discourages voters having more than two choices. Address plurality, not ballot access, by instituting Instant Runoff Voting or a non-plurality system.
7. With plurality voting, allowing third candidates on the ballot could split the vote of a majority and throw the race to a candidate a majority dislike. Allowing only two candidates on the ballot ensures that at least the worst one is never elected.
8. Strict ballot access laws make it difficult for extremists to get on the ballot, since few people would want to sign their petition.

Proposed Recommendation, Federal Level

The Voting Rights Subcommittee approved the federal-level recommendation, 3-2.

Federal: Recommend that our Congressional delegation support uniform ballot access laws across all 50 states to match that of Maryland, with the above State recommendations included, or that make it easier for third parties and independent candidates to get and remain on ballots.

Pro:

- The lack of uniformity can create chaos in a presidential year.
- In many cases, the rules are imposed by state party bosses who are less interested in democracy than in rigging the system to benefit their favored candidates.
- The United States is the only nation in the world, save Switzerland, that does not have uniform federal ballot access laws.
- Leaving it up to each state, like civil rights, means that non-principal parties will never have a chance in a number of states that are extremely hostile to third parties.

Con:

- “States’ rights” reflects the country's closely held federalism, an important and overriding founding principle of our nation.

Recommendation Implementation

Change in County law needed? No.

Amendment to State Constitution needed? No.

Change in State law needed? Yes.

Change in Federal law needed? Yes.

Sources

Laws

Election Law, Title 4, Subtitle 1, Section 102 of the *Annotated Code of Maryland*
<<http://mgaleg.maryland.gov/webmga/firmStatutesText.aspx?article=gel§ion=4-102&ext=html&session=2013RS&tab=subject5>>

Summary Guide: Maryland Candidacy & Campaign Finance Laws, Maryland State Board of Elections, Revised August 2010, 136 pp.

<http://www.elections.state.md.us/pdf/summary_guide/summary_guide.pdf>

- Section 5.5 (1), Forming a Political Party (p. 28)
- Section 5.5 (2), Retention of Political Party Status (p. 29)

Official 2014 Statewide Information

Citizens’ guide from the Maryland State Board of Elections; Montgomery County Board of Elections website directs citizens to the State) <<http://www.elections.state.md.us/petitions/index.html>>.

Minutes, State of Maryland State Board of Elections, March 26, 2009, pp. 5-6.

<http://www.elections.state.md.us/pdf/minutes/2009_03.pdf>

(Minutes contain public hearing comments on the high rejection rate resulting from new “strict” standards to validate petition signatures. On March 26, 2009, Maryland’s Board of Elections voted unanimously to impose stricter standards for referendum petition drives. According to the *Baltimore Sun*, “under the new rules, people signing petitions must use either their full name, including middle initials, or sign their name exactly as it appears on election board voting rolls. In addition, a printed name required on a petition must exactly match the accompanying signature.” Nicknames are also barred; for example, “Bob Jones” is invalid if voter rolls show that voter as “Robert Jones”.)

National Conference of State Legislatures reports

“Getting on the Ballot: What It Takes,” *The Canvass: States and Election Reform*, Feb. 2012, Issue 27

<http://www.ncsl.org/documents/legismgt/elect/Canvass_Feb_2012_No_27.pdf>

Other Resources

Non-Principal Party Lawsuits Against the Maryland Board of Elections

- *Maryland Green Party v Maryland Board of Elections*, no. 78, Sep. 2001 term; <<http://www.ballot-access.org/2003/0901.html#1>>. The Court ruled that the state Constitution forbids the state from requiring two separate petitions to place minor party nominees on the ballot. Minor parties had struggled for years to get rid of the dual petitioning requirement. The Libertarian Party had sued in 1981, and again in 1988, both times in federal court. *Mathers v Morris* and *Ahmad v State Board*. Both cases lost both in U.S. District Court and in the 4th

circuit. In addition, the Court ruled that voters on the inactive list of registered voters must be permitted to sign ballot access petitions.

- “Two-tier Election Petitions Rejected,” by Jeff Barker, *Baltimore Sun*, July 30, 2003. Maryland's highest court struck down an election rule yesterday that has hindered efforts by the Green Party and other alternative political parties to place their candidates on ballots where they could compete with Democrats and Republicans.
- “Maryland State Bd. of Elections Still Fighting to Avoid Paying Green Party Attorneys Fees for 2003 Victory,” *Ballot Access News*, published on January 31, 2007, <<http://www.ballot-access.org/2007/01/maryland-state-bd-of-elections-still-fighting-to-avoid-paying-green-party-attorneys-fees-for-2003-victory/>>
- The Green Party of Maryland in conjunction with the Libertarian Party of Maryland co-filed and won a suit against the state Board of Elections heard on March 2, 2012. Each party had had its petition of over 15,000 signatures for ballot access rejected, mainly on the rejection of numerous signatures because signers did not use their middle initial or had written a nickname. The parties filed suit in March 2011, and a local judge ruled in their favor in June; BOE appealed the ruling to the state Court of Appeals, which upheld the lower court's ruling in August 2012, three months before the elections.¹⁰

Ballot Access News, edited and published by Richard Winger. NCSL says: “Richard Winger [is] the nation's leading expert on ballot access legal issues.... *Ballot Access News* is a nonpartisan newsletter reporting on efforts to include independent candidates and minor parties on ballots in the U.S.”

- Main website: <<http://www.ballot-access.org/>>
- *Ballot Access: A Formidable Barrier to Fair Participation*, by Richard Winger, 1993 <<http://web.archive.org/web/20110611145451/http://www.ballot-access.org/winger/fbfp.html>>
- “Would We Be Better Off With a Third Political Party? Richard Winger Explains Why the Answer Is ‘Yes!’,” *Ballot Access News*, 1996 <<http://web.archive.org/web/20110611150009/http://www.ballot-access.org/winger/wwbbo.html>>

Ballotpedia, sponsored by the Lucy Burns Institute <http://ballotpedia.org/Lucy_Burns_Institute>, a nonpartisan and nonprofit organization headquartered in Madison, Wisconsin

- Ballotpedia's info on ballot access requirements for political candidates in Maryland: <http://ballotpedia.org/Ballot_access_requirements_for_political_candidates_in_Maryland>

“For Third-party Candidates, Playing Field Is Uneven by State”, by Paul Singer, *USA Today*, Updated July 10, 2012. <<http://usatoday30.usatoday.com/news/politics/story/2012-07-08/third-party-ballot-access/56098480/1>>

Referendums and Initiatives—The Right to Petition or Not, Administrative Law Section Council, June 13, 2013, 10 pp. <<http://www.kahnsmith.com/kahnsmith-com/wp-content/uploads/2013/08/Referendums-and-Initiatives-The-Right-to-Petition-or-Not.pdf>>

ThirdPartyPolitics.US, American third and independent party politics. <<http://thirdpartypolitics.us/blog/category/ballot-access/>>

¹ “Getting on the Ballot: What It Takes,” *The Canvass: States and Election Reform*, Feb. 2012, Issue 27 <http://www.ncsl.org/documents/legismgt/elect/Canvass_Feb_2012_No_27.pdf>

² These tend to be in the range of 0.5% to 5.0%, or 5,000 to 25,000.

³ California Governor Brown vetoed a bill in 2011 that would have prohibited paying per signature.

⁴ Such “fusion” voting has been permitted in at least Connecticut, Delaware, New York and South Carolina. Delaware prohibited fusion voting in 2011, however, as did Maryland in 2006 when Kevin Zeese succeeded in receiving the US Senate

candidate nomination from all three non-principal parties. "Maryland Outlaws Fusion," *Ballot Access News*, April 8, 2006, <<http://www.ballot-access.org/2006/04/maryland-outlaws-fusion/>>

⁵ The Fourth Circuit ruled in 1990 in *Cromer v State of South Carolina*, 917 F 2d 819, that states cannot discriminate against independent candidates, relative to political parties. The issue in that case involved timing, not the number of signatures. But a US District Court in North Carolina then used that decision to strike down a North Carolina law that required independent candidates for statewide office to get about 50% more signatures than a new party needed. Any independent candidate for statewide office in Maryland could easily win a lawsuit against Maryland's petition requirement. If Rob Sohani had challenged the law when he ran as an independent for US Senate in 2012, he would have won. Being wealthy, he just paid professional circulators to get the 40,000 signatures he needed.

⁶ "Tougher Rules Imposed on Petition Drives," *Baltimore Sun*, March 27, 2009.

⁷ "Ballot Access for Major and Minor Party Candidates" (Information by State), *Ballotpedia*.

<http://ballotpedia.org/Ballot_access_for_major_and_minor_party_candidates> See also *State by State Ballot Access Law Requirements*, by Free the Vote North Carolina. Undated.

<<http://www.freethetotenc.com/documents/nationwidecomparison.pdf>>

⁸ "Reasonable Certainty" Standard Proposed for Maryland Signatures, *Ballotpedia*, April 6, 2009.

<http://ballotpedia.org/%22Reasonable_certainty%22_standard_proposed_for_Maryland_signatures> See also, *Jane Doe v. Montgomery County Board of Elections*, *Ballotpedia*, undated

<http://ballotpedia.org/Jane_Doe_v._Montgomery_County_Board_of_Elections>

⁹ 53% Think Neither Political Party Represents the American People, *Rasmussen Reports*, April 24, 2014. This number is up 6 points from last October and matches the previous high found in June 2012. 52% of Republicans and a plurality (44%) of Democrats agree that neither major political party is the party of the American people. But 65% of voters not affiliated with either party feel that way. <http://www.rasmussenreports.com/public_content/politics/general_politics/april_2014/53_think_neither_political_party_represents_the_american_people>

¹⁰ "Maryland Green Party to Defend Ballot Access Petition in State's High Court," Feb. 24, 2012,

<<http://www.greenpartywatch.org/2012/02/24/maryland-green-party-to-defend-ballot-access-petition-in-states-high-court/#more-5681>> (See also *Maryland Court of Appeals to hear ballot access case*, *Judgepedia.org*, Jan. 31, 2012,

<http://judgepedia.org/Maryland_Court_of_Appeals_to_hear_ballot_access_case> and "Maryland Court of Appeals to Hear

Ballot Access Case," *Ballotpedia*, <http://ballotpedia.org/Maryland_Court_of_Appeals_to_hear_ballot_access_case>).

Montgomery County Right to Vote Task Force Voting Rights Subcommittee – Proposed Recommendation

Topic: Candidate Debate Access

Summary

Most candidate debates at all levels of government limit invitations to the Republican and Democratic Party candidates. Third-party candidates have been barred from debates even when polls showed they had more public support than some other candidates who were granted debate access.¹

Non-profits that host debates are already forbidden by law from showing favoritism, but private groups are free to invite or disinvite any candidates and are free to develop their own standards.

Standards can be—and have been—developed and applied to candidates who seek public funding, including mandatory debates sponsored by non-partisan hosts. The City of New York devised such a program in 1996.²

Status

National. From 1976-1984, the non-partisan League of Women Voters ran national presidential debates. Since 1988, the Commission on Presidential Debates has run them. “The commission chose LWVEF [the League of Women Voters Education Fund] to sponsor the last presidential debate of 1988, but placed so many rules and restrictions on the possible format of the debate that the LWVEF was finally unable to agree to participate.”³ Upon refusing to sign on to the ruling parties’ “charade,” the League stated “we have no intention of becoming an accessory to the hoodwinking of the American public.”⁴

The Commission on Presidential Debates (CPD) is a private corporation created by the Republican and Democratic parties in 1987. CPD formed in the wake of disputes over rules and format issues with the League of Women Voters, which had been setting the standards and rules of debate through 1984. The League’s inclusion of alternative party candidate John Anderson in 1980 was not the only issue, but it was reportedly a major source of irritation to the two ruling parties.

CPD is principally financed by Anheuser-Busch and major corporations that have regulatory interests before Congress. The Republican and Democratic campaigns, every four years, meet behind closed doors to hash out a memorandum of understanding that dictates many of the critical terms of the presidential debates. All aspects are vetted by the candidates, including the moderator and format. Third party candidates are excluded, regardless of the level of public support. They have been barred from sitting in the audience, even with a legitimate entrance ticket, and have been arrested for refusing to leave the area.

Maryland. Although excluded from most debates, some non-principal party candidates have been allowed to participate in a few debates with principal party candidates: Linda Schade (Green Party, District 20 House of Delegates, 2002);⁵ Kevin Zeese (Green Party, U.S. Senate, 2006); Ed Boyd (Green Party, Governor, 2006); and Chris Driscoll (Populist Party, Governor, 2006). 2014 Montgomery County Council candidate Tim Willard (Green Party) has thus far been invited to 6 forums, all sponsored by 501(c)3s or local organizations. The Democratic Party organizes its own debates, limited to Democrats for the primary, but debates generally are not held after the primary.

The New York City Model. In December 1996, the New York City Council passed a law requiring candidates participating in the Campaign Finance Program who are running for citywide office (mayor, public advocate, and comptroller) to participate in a series of debates before both the primary and general elections. The law ensures that citizens are provided the opportunity to see candidates face each other in nonpartisan forums that allow for substantive discussion of the

issues. Candidates deemed “leading contenders” must participate in a second debate before the election. Candidates who are not participating in the Program may be invited to debate but are not required to take part. Although the Debate Program is administered by the Campaign Finance Board, the debates themselves are sponsored by various media, educational, and civic groups and are broadcast on television and radio citywide. The New York city law has received favorable reviews.⁶

Proposed Recommendations

1. County: The County Council should provide free and equal radio and television time for all ballot-qualified candidates and parties on Montgomery County local access media and other county-controlled media.
2. State: The County Council should encourage the State to adopt free and equal debate and media access programs at the state level.
3. National: The County Council could consider writing to federal legislators to encourage equal debate and media access. Possible examples that the Council may engage with others on include returning control over national debates to the League of Women Voters or creating a new publicly funded People's Commission on Presidential Debates.

Pro:

- The right to debate one’s opponent(s) is fundamental to a functioning democracy and a prerequisite for informed voters.
- Debates that include third-party candidates often result in post-debate double-digit support in polls and greatly increased voter support on election day.⁷
- Voters not represented by the principal parties can feel that their candidates and views are locked out, with voters uninformed about all the candidates.
- More candidates on the ballot may encourage voter turnout.
- Opening to third parties would provide a fuller spectrum of views, comparable to that of other democratic nations.

Con:

- Some voters will feel overwhelmed by too many candidate choices.
- One-party hegemony would likely suffer as the two ruling parties have to build coalitions and share power with “third” parties.

Recommendation Implementation

Change in County law needed? Yes.

Amendment to State Constitution needed? No.

Change in State law needed? Yes.

Change in Federal law needed? Yes.

Sources

“Maryland League of Women Voters Takes Heat for 15% Debate Exclusion Rule,” *Ballot Access News*, Published on August 31, 2006, <<http://www.ballot-access.org/2006/08/maryland-league-of-women-voters-takes-heat-for-15-debate-exclusion-rule/>>.

The Maryland League of Women Voters hosted a televised debate for two candidates for the U.S. Senate Democratic nomination, on August 31, 2006. On August 30, three other Democratic candidates for that nomination held a protest in front of the League’s headquarters. The three protesting candidates pointed out that, if the League had imposed a 15% poll requirement in 1994, even Ellen Sauberbrei would have been excluded. She was only polling 14% at the end of August 1994. Yet she went on to win the mid-September 1994 Republican primary for Governor. Each state League of Women Voters sets its

own policy on whom to invite into televised debates. The Pennsylvania League has a tradition of inviting everyone who is on the ballot into its televised candidate debates, for example.

Laws

Supreme Court Cases

Arkansas Educational Television Commission v. Forbes, Certiorari to the United States Court of Appeals for the Eighth Circuit, No. 96-779. Argued October 8, 1997 - Decided May 18, 1998
<http://caselaw.lp.findlaw.com/scripts/getcase.pl?court=US&vol=000&invol=96-779>.

In a 6-to-3 decision, the Court held that public broadcasters could selectively exclude participants from their sponsored debates, so long as these were not designed as "public forums." The Court found that by reserving participation rights only to candidates for a particular congressional district, rather than hosting an open-microphone format, and selecting among those which were eligible to participate, based on objective indications of their popular support rather than their view points, AETC's debate was a "nonpublic forum." As such, AETC could decide who should and should not participate in its sponsored event.

Other Resources

The 15% Barrier, OpenDebates.org, <<http://www.opendebates.org/theissue/15percent.html>>. Article explaining the issues with the requirement that candidates poll at 15% or more before inclusion in debates.

Arkansas Educational Television Commission V. Forbes, Certiorari To The United States Court Of Appeals For The Eighth Circuit No. 96-779. Argued October 8, 1997 - Decided May 18, 1998
<http://caselaw.lp.findlaw.com/scripts/getcase.pl?court=US&vol=000&invol=96-779>

"A Short History of Public Funding of Elections in the US," *Public Citizen*, July 19, 2012, 3 pp.
<<http://www.citizen.org/documents/short-history-of-public-financing-of-elections.pdf>>.

League of Women Voters Documents

- *FAQ'S: League Candidate Forums And Debates*, <<http://www.lwv.org/content/faqs-candidate-forums-debates>>. Describes recommendations and "best practices" for hosting candidate debates.
- *The League and Presidential Debates*, Feb. 16, 2012, Statement includes 3-minute video clip, <<http://www.lwv.org/multimedia/league-and-presidential-debates>>.
- *Statement by Nancy M. Neuman, President, League of Women Voters*, Oct. 3, 1988, <<http://www.lwv.org/press-releases/statement-nancy-m-neuman-president-league-women-voters>>. This is the President's statement explaining the disputes between the LWV and the two ruling party candidates.
- *League Refuses to "Help Perpetrate a Fraud", Withdraws Support from Final Presidential Debate*, Oct. 3, 1988, <<http://www.lwv.org/press-releases/league-refuses-help-perpetrate-fraud>>.
- *The League of Women Voters and Candidate Debates: A Changing Relationship*, <<http://www.lwv.org/content/league-women-voters-and-candidate-debates-changing-relationship>>

Open Debates: The Issue, by Open Debates.org. <<http://www.opendebates.org/theissue/>>
Open Debates is a nonprofit, nonpartisan 501(c)(3) organization that works to reform the presidential debates. Board members include John Anderson and Jamin Raskin. *Open Debates is engaged in a campaign to inform the public, the news media and policy makers about the antidemocratic conduct of the Commission on Presidential Debates. Open Debates is also promoting the creation of an alternative*

presidential debate sponsor comprised of national civic leaders who are committed to maximizing voter education.

Overruling Democracy: The Supreme Court Versus the American People, by Jamie Raskin. A state senator in the Maryland Senate and a professor of Constitutional Law at American University, Raskin has been a leading critic of the Commission on Presidential Debates. He filed lawsuits on behalf of Ross Perot and Ralph Nader to prevent their exclusion from the presidential debates. His book, *Overruling Democracy*, addresses the flaws of the presidential debate process and criticizes the U.S. Supreme Court's hostility toward minor parties and independent candidates.

¹ "David Curtis, Green Candidate for California Secretary of State, Fights for Admission Into Sacramento Press Club Debate," by Richard Winger, Ballot Access News, Published on Apr. 20, 2014, <<http://www.ballot-access.org/2014/04/david-curtis-green-candidate-for-california-secretary-of-state-fights-for-admission-into-sacramento-press-club-debate/>>.

² Campaign Finance Act, New York City Campaign Finance Board, updated Feb. 2, 2010 <<http://www.nycfb.info/act-program/CFACT.htm>>. See also "The New York City Campaign Finance Act," by Jeffrey D. Friedlander, Stephen E. Louis, and Laurence D. Laufer, *Hofstra Law Review*, Vol. 16, pp. 345-359, <http://www.hofstralawreview.org/wp-content/uploads/2014/05/19_16HofstraLRev3451987-1988.pdf>.

³ *The League and Presidential Debates*, Feb. 16, 2012, Statement includes 3-minute video clip, <<http://www.lwv.org/multimedia/league-and-presidential-debates>>.

⁴ Statement by Nancy M. Neuman, President, League of Women Voters, Oct. 3, 1988, <<http://www.lwv.org/press-releases/statement-nancy-m-neuman-president-league-women-voters>>.

⁵ Ms. Schade received 13.6% of the vote <http://www.elections.state.md.us/elections/2002/results/g_house_of_delegate.html>. Also rare was her endorsement by the Sierra Club in August 2002 <<https://groups.yahoo.com/neo/groups/dcstatehoodgreennews/conversations/messages/78>>.

⁶ "The New York City Campaign Finance Program: A Reform That Is Working," by Nicole A. Gordon and Hyla Pottharst Wagner, *Fordham Urban Law Journal*, Vol. 19, Issue 3, Article 5, pp. 605-630, 1991 <<http://ir.lawnet.fordham.edu/cgi/viewcontent.cgi?article=1553&context=ulj>>.

⁷ Prominent examples include John Anderson, US Presidential candidate, 1980; Ross Perot, US Presidential candidate, 1992; Jesse Ventura, Minnesota Governor 1998;⁷ Linda Schade, Maryland Delegate candidate, 2002; and others.

DRAFT

MONTGOMERY COUNTY RIGHT TO VOTE TASK FORCE

Voting Rights Subcommittee

TOPIC: Immigrant (Resident) Voting Rights

BACKGROUND:

Immigrant or non-citizen voting was, at one time and in varying degrees, allowed in a number of states and territories in the United States. From 1776 to 1926 when the last remaining permissive state enacted restrictions to immigrant voting, 22 states allowed immigrant voting in local, state and even federal elections. These were not all concurrent. The duration and the scope of the privilege (*e.g.*, immigrant suffrage for those who intended to become citizens – “alien declarant”) varied in those states that allowed immigrant voting. Other countries have considered immigrant voting rights and today approximately 20 countries around the world allow immigrant voting, again in varying levels and degrees.

Although most Americans believe that citizenship is a federal constitutional requirement for the privilege of voting, the U.S. Constitution specifically addresses the Rights of Citizens to vote but does not consider the inclusion of non-citizens at the polling place. Put differently, the Constitution does not specifically disallow aliens the right to vote. It also permits states to impose citizenship as a voting qualification. The restrictions now are set in state constitutions and statutes. Today, not one state allows immigrant voting in federal and state elections and most have constitutional prohibitions. Maryland ended immigrant voting rights for federal and state elections in 1851. Some analysts claim that state retrenchment in this area was a matter of anti-immigrant and racist attitudes of the American public occurring primarily post-Civil War/Thirteenth Amendment and during the harshly xenophobic period following World War I. Other analysts claim the decline of immigrant voting was a natural result of changed circumstances in our nation’s political history. For example, immigrant suffrage was not controversial when property ownership, gender and race determined voting rights and certainly was favored by states trying to attract immigrants in their early development. The reasons for the granting and denial of immigrant voting rights are varied; the fact remains that immigrant suffrage is not historically novel. The question before us is whether political enfranchisement in Montgomery County should embrace all, some or, maintaining the *status quo*, none of our resident immigrants – *i.e.*, who is included in “we the people” as applied to Montgomery County residents.

The concept of immigrant suffrage is flourishing in political discussions and legislative proposals. Over the past 15 years, a number of states and cities have considered legislative proposals allowing some level of immigrant voting. To date, these have been unsuccessful. There are only a few examples to observe immigrant voting in practice and these are limited in geography and scope of jurisdiction. These are Barnesville, Chevy Chase Sections 3 & 5, Martin's Additions, Somerset and Takoma Park, all in Maryland, and Chicago, Illinois (School Board elections only). New York City previously allowed immigrant voting in school board elections until 2002 when the then-mayor took control of the school system. As stated above, there are also examples of immigrant voting in other countries, mostly in the European Union. Unfortunately, despite immigrant suffrage that spans decades or more in some of these jurisdictions, there are no empirical data on the impacts of immigrant voting in these communities, including in Takoma Park.

U.S. Constitution – state enfranchisement of non-citizens not prohibited; neither the Supreme Court nor any lower federal court ever found immigrant voting rights unconstitutional; federal law enacted in 1996 makes it a crime for non-citizens to vote in federal elections

Maryland Constitution – Article I, Section I, requires citizenship and residency for eligibility to vote; Maryland statute also sets out citizenship as one of the prerequisites for registering to vote; recognizes autonomy of municipalities in this area

Montgomery County – must adhere to Maryland constitutional and statutory requirements for voter eligibility

PROPOSED RECOMMENDATION:

Montgomery County should request the State of Maryland allow each county to determine its own public policy with respect to the voting rights of legal immigrants in county elections.

DISCUSSION

PROS:

- Not prohibited by the U.S. Constitution
- Historical precedent
- Inclusion is essence of democracy
- Immigrants work, pay taxes (taxation without representation), contribute to and are a part of civic and community activities, *i.e.*, immigrants are governed as full members of the community
- Reduces the gap between the electorate and the total population

- Provides equal voting weight in jurisdictions in which voting districts have unequal immigrant populations
- Provides government accountability in immigrant communities and to residents who cannot vote – gives a voice to a disenfranchised segment of our community
- Instills civic responsibility and promotes civic participation in immigrant communities (future Americans?) who already assume all other responsibilities of local citizenship
- Gives ALL members of our community a stake in making decisions that affect our community
- Immigrants are diverse with different interests and would vote consistent with community issues
- Encourages naturalization
- Provides a practical, in some case urgent, path to make grievances known for a heretofore disenfranchised and possibly disconnected community – legitimate channels of expression for all groups in our community
- Bloc of immigrant voters could sway an election

CONS:

- There currently exists a well defined Naturalization process by which aliens can obtain the right to vote, have a voice in the government, and provide civic responsibility. There is no need to circumvent this established Nationalization process, ONLY validity for alien suffrage is for the perceived potential political advantage of obtaining bloc voters. The XIV Amendment of the US Constitution already provides a legitimate channel of expression for any legal persons in American of life, liberty, and equal protection of the law.
- The very first article of the US Constitution calls for the establishment of a uniform Rule of Naturalization.
- Most Americans may believe that citizenship is an important prerequisite to voting
- Maryland Constitution requires that voters are citizens
- Prohibition by federal statute of non-citizen voting in federal elections
- All states engaged in a public and democratic in determining public policy that restricted voting rights to citizens of the United States
- The first "Pro" bullet above of "Not prohibited by the U.S Constitution" is the naive interpretation. The Constitution addresses "The right of citizens of the US to vote" are described in Amendments XV, XIX, XXIV, and XXVI. If you want to permit non-citizen the right to vote because it is not specifically excluded, then using the same argument, immigrants can be excluded from voting by age, race, sex, and color, because they are not specifically mentioned in the Amendments. Constitutional amendments will have to be made to at least Amendments XIV, XV, XIX, XXIV and XXVI to accommodate non-citizens suffrage.

- Disincentive to applying through the naturalization process to become a citizen
- Loyalty of non-citizens is in question; no mechanism to pledge allegiance to the U.S.
- Administrative and practical issues in identifying different classes of voters
- Administrative and practical issues in identifying legal status of immigrant voter
- Immigrants may lack sufficient familiarity with and knowledge of American political institutions and processes to make informed voting decisions
- Naturalization is the process by which resident aliens can obtain citizenship. Naturalization permits a person with the right to be called an American, to vote in American elections, and to hold most public offices; among other benefits. Lawful Permanent Residents (Green Card holders) over the age of 18 who meet the eligibility requirements can apply for US citizenship. Being able to pass a basic English language test and Civics test are part of the Naturalization process. Without going through the naturalization process, immigrants will not have to demonstrate a knowledge and understanding of the fundamentals, principles and form of American government – lack of adequate preparation for the electoral process and “attachment” to America
- Increase in the incidence of voter fraud
- Immigrants may be a monolithic voting bloc
- Bloc of immigrant voters could sway an election
- Only one municipality of 19 within Montgomery County sees the need for including immigrants in voting and this is restricted to municipality issues. If this voting issue is important, then there were more municipalities pushing for this action. It was also clearly stated in our meetings that very few immigrants in Takoma Park exercising their "right to vote".
- Giving immigrants the right to vote without citizenship, would be disingenuous to all of the millions of immigrants who elected and worked hard to become Citizens of the US, swore allegiance to America, and are proud to be Americans.

MONTGOMERY COUNTY RIGHT TO VOTE TASK FORCE

Voting Rights Subcommittee

TOPIC: Voting Rights for Residents with Felony Convictions

BACKGROUND:

States have taken a variety of approaches with regard to the voting rights of felons. Since 2007, Maryland has allowed residents with felony convictions who have served their time in prison and completed both parole and probation to vote once they complete the process of voter registration. Nineteen states restore voting rights more quickly than Maryland. Among them, two states allow prisoners to continue voting while incarcerated, 13 states (and DC) restore voting rights upon release from prison, and four states restore voting rights after parole but before probation is completed. In contrast, 11 states have lifetime bans on voting associated with some felony offenses, have a waiting period for the restoration of voting rights beyond the term of parole and probation and may require a resident to petition the Governor or a board for the restoration of their voting rights. Maryland had also eased voting restrictions on ex-felons in 2002 and before 1974, Marylanders with a felony conviction faced a lifetime ban on voting.

The Department of Correction and Rehabilitation administers the Montgomery County Correctional Facility which houses up to 1,000 prisoners who serve sentences of up to 18 months.

A person convicted in a court of law of a felony crime is known as a **felon**. In the United States, where the felony/misdemeanor distinction is still widely applied, the federal government defines a felony as a crime punishable by death or imprisonment in excess of one year. If punishable by exactly one year or less, it is classified as a misdemeanor.

Felons: In criminal law, a felony is a category of crimes that are often classified as the most serious types of offenses. The main characteristic of a felony is that being found guilty of a felony will result in incarceration for at least one year. Also, the imprisonment will be served in a prison facility rather than a county or local jail establishment. Criminal fines may also be imposed for felony charges, often in the amounts of thousands of dollars. Under traditional common law, felonies were called “true crimes,” and usually included serious offenses like: homicide (acts of terror, treason, and mass murders), rape (child molestation), arson, burglary, robbery, larceny, escaping from a prison, and assisting in a felony.

National Patterns: A report from the Sentencing Project found that in the 2010 elections almost 6 million Americans were disenfranchised nationwide because of felony convictions, including one out of every 13 voting-age African Americans. More than 7 percent of the voting-age population was disenfranchised in six states. People with felony convictions are significantly

less likely to have registered to vote prior to conviction than average and once released from prison, remain less likely to register to vote or vote.

Maryland Patterns: Approximately 120,000 Marylanders had lost their voting rights because of felony convictions before our law was changed in 2007. Since then, the estimated number of residents unable to vote because of a felony conviction has dropped to approximately 60,000.

International Patterns. Twenty-one democracies mostly in Europe and South America (and including Canada) do not take away voting rights from people in jail and 14 additional countries allow many felons to vote except for those who committed particular crimes or who have been sentenced to long periods in prison.

Registration procedures: Studies have shown that registration procedures have an impact on subsequent turnout by ex-felons, in particular, making it easy to register during the time they are transitioning back into society.

Proposed Recommendation:

Montgomery County should develop and administer an active voter registration program as part of re-entry services provided in prison for people being released from the Montgomery County Correctional Facility and to create opportunities for voter registration for all prisoners awaiting trial for felony or misdemeanor charges or serving time for misdemeanor offenses.

Montgomery County Council should adopt a policy of allowing incarcerated felons the option to register to vote during the pre-release phase before any parole and probation and have that 'inactive' registration become active automatically on the date of the end of the term of parole and probation.

Montgomery County should encourage the state legislature to change state law to restore voting rights to residents with felony convictions who have served their time in prison and pre-release programs but who are still serving a term of probation or parole.

The Subcommittee did not vote to recommend the full restoration of voting rights to all felons, including those still incarcerated or under house arrest or home-based detention (i.e. pre-release programs).

Pros:

- The punishment of loss of voting rights likely has weak deterrent value in preventing crimes.
- Respects the right of all residents in a democracy to be represented by representatives of their choosing.

- Allowing prisoners and paroled felons to vote is a small step in reintegrating them back into society - both its rights and responsibilities.
- Making such a change is a small part of helping make residents with felony convictions feel like they are equally important as residents and constituents of elected leaders.
- Restricting voting rights of felons is unfair because the majority of crimes are not solved and the perpetrators of those crimes retain their voting rights.
- The European Court of Human Rights (2005) found that a ban on voting while in prison was unlawful in Europe.

Cons:

- Prisoners remain human beings but the right to vote is not fundamental, for it is not granted to all; only trusted members of society are granted the right to vote; Minor, for example, are deemed not responsible enough and therefore have to wait until they are a certain age for the right to vote. Prisoners are deemed similarly irresponsible and therefore stripped of their right. As the U.S. Supreme Court ordered in 2000, the law 'does not protect the right of all citizens to vote, but rather the right of all qualified citizens to vote'. Prisoners (felons) disqualify themselves through their actions; ...if the courts deem a prisoner unfit for normal society, how can it be sensible to give them a say in how that society is run?
- There are minimum standards of responsibility and trustworthiness that should be maintained in society with regard to participation in elections and felons still incarcerated, on parole or probation have not yet shown they have met those standards.
- Such a change affects very few people (perhaps only 60,000 in all of Maryland) and few people with felony convictions are likely to vote anyway.
- Its appropriate for society to conclude that felons have not fully paid their debt to society until they have completed their probation and parole period.
- Giving the right to vote to a felon while incarcerated will place a undue hardship onto the correction facility in terms of safety, security, costs, and discipline; as well as similar hardships in safety, security, and costs to the Board of Elections. Do you give this additional burden of vote collection to the corrections facility or do you expose elections officials to potential harm within a prison?
- Federal and state laws govern the establishment and administration of prisons as well as the rights of the inmates. Although prisoners do not have full Constitutional rights, they are protected by the Constitution's prohibition of cruel and unusual punishment (see Amendment VIII). This protection requires that prisoners be afforded a minimum standard of living. Prisoners retain some other Constitutional rights, including due process in their right to administrative appeals and a right of access to the parole process. The Equal Protection Clause of the 14th Amendment has been held to

apply to prison inmates. Prisoners are therefore protected against unequal treatment on the basis of race, sex, and creed. Additionally, the Model Sentencing and Corrections Act provides that a confined person has a protected interest in freedom from discrimination on the basis of race, religion, national origin, or sex. Prisoners also have limited rights to speech and religion.

- Loss of rights due to felony conviction takes many forms. In the United States this includes disenfranchisement, exclusion from Jury duty, and loss of the right to possess firearms. Shall we provide felons with a firearm along with the voting right?
- If The Department of Correction and Rehabilitation administers the Montgomery County Correctional Facility for those who serve sentences of only up to 18 months, then the felon is restricted from voting only, at the most, once while incarcerated.

Sources:

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MONTGOMERY COUNTY RIGHT TO VOTE TASK FORCE

Voting Rights Subcommittee

TOPIC: Suffrage: Youth Voting

BACKGROUND:

The U.S. Constitution, the Maryland Constitution, and the Maryland Voter Eligibility Qualifications clearly state that if (i) a person is a citizen of the United States, if (ii) one is a resident of a the state, if (iii) is registered to vote, and if (iv) a person is 18 years of age at the time of the general or special election, then said person may vote in a Federal and State Elections. There are some Exceptions to these rules and are referenced below, but the age requirement is maintained at 18 years. Takoma Park, MD is the only municipality in the USA to grant those 16 years and older the right to vote in the municipality elections. (4)

The U.S. Constitution, Amendment XXVI: This Amendment reduces the age to vote from the original age of 21 to 18 years of age. It states, “The right of citizens of the United States, who are eighteen years of age or older, to vote shall not be denied or abridged by the United States or by any State on account of age.” This was enacted when males of 18 years could be drafted into the military for the war in Vietnam, but could not vote. The US Constitution does not permit any State to deny or abridge the rights of citizens above the age of 18 to vote.

Maryland Constitution, Article I, Section 1: The Maryland Constitution states that, “Every 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.”

Maryland Voter Eligibility Qualifications, Section 3-102: In general. – Except as provided in subsection (b) of this section, an individual may become registered to vote if the individual: **(i)** is a citizen of the United States; **(ii)** is at least 16 years old; **(iii)** is a resident of the State as of the day the individual seeks to register; and **(iv)** registers pursuant to this title.

PROPOSED RECOMMENDATION:

Montgomery County Council and Executive should consider or propose reducing the voting age from 18 years to 16 years for county elections.

DISCUSSION

PROS:

- The US and Maryland Constitutions are silent on the issue of whether voting rights for citizens younger than 18 can be granted or abridged.
- Research does not reflect that 16- and 17-year-olds are “less than” those aged 18 to 25.
- One can obtain a temporary (learning) driving license at the age of 16 and permitted to drive with a licensed adult in the car
- As a minor, one can have a job, earn income, and potentially pay taxes, raising the issue of taxation without representation.
- 16-17 year olds can take out federal student loans without the signature or support of a parent or guardian
- The Urban Institute reports that 40% of 16-17 year olds hold part-time employment during the school year and pay taxes on their wages.
- Sets adult expectations & responsibility.
- Youth suffer under a double standard of having adult responsibilities but not rights in the criminal justice system. For example, 40 states changed their criminal codes between 1992 and 1995 to treat those between 16 and 18 as adults, rescinding their former “minor” status (see Resources, National Youth Rights Association).
- Federal law (The Voting Rights Act of 1965) states that a sixth-grade education is deemed adequate knowledge to vote.
- Takoma Park, MD grants those 16 years and older the right to vote in municipality elections.
- Montgomery County high school civics classes teach the fundamentals of local, state and federal government in sophomore year (generally - 15-16 years old). The argument that youth should not vote because they lack the ability to make informed and intelligent decisions is not applied to all citizens, only young people.
- 16 is a better age to introduce voting than 18, because 16 year olds are more stationary.
- Around the world, democracies with more than 300 million people living in them allow or are considering allowing 16-17 year olds to vote in state or federal elections. This includes England, Ireland, Scotland, Austria, Germany, Israel, Norway, Argentina, Brazil, and Nicaragua.
- Research from other countries suggests that people who start voting at 16-17 are more likely to keep voting and that they turn out in higher numbers than 18-20 year olds.

CONS:

- The US Constitution, Maryland Constitution, and Maryland Registration requirement would have to be amended
- As is noted in the Pros section above, the US and Maryland Constitutions speak about voting at 18 years, but is silent on voting at a younger ages. This lame argument ignores the obvious linkage to 18 years being set after being reduced from the initial age of 21 by the 26th Amendment, set in the US Constitution. It should be noted as well that the US

and Maryland Constitution are silent on the issue of whether a dog, cat, or other domestic animal can vote. Does that imply we should be considering giving animals the right to vote?

- Legally - one is a minor until the age of 18 and not considered an adult. Minors are not considered mature and able to make mature decisions. All legal ramifications would potentially have to be re-considered with voting age change to 16
 - Cannot enlist in Military under 18 or without a high school diploma, unless authorization of a parent
 - Cannot sign a contract without an adult, under the age of 18
 - Must be 18 to purchase a BB-gun, slingshot, bows, ammunition, or knives
 - Must be 18 to purchase stocks
 - Must be 18 to purchase cigarettes and many states (NY, CO, HI, and MD are considering pushing the age to 21
 - Must be 18 years or older to be sent to prison/jail, under most circumstances
 - Most countries you must be 18 to vote, except some Asian Pacific countries where you have to be 20 or 21. Cuba, Nicaragua, and Brazil permit voting at 16
 - Must be 21 years of age to purchase alcohol, or guns,
 - Must be 25 to rent a car in USA under most circumstances
 - In Maryland, one can register to vote at age 16, but can not vote unless one is 18 years of age
- To become a citizen of the US, the naturalization process requires one to demonstrate "a knowledge and understanding of the fundamentals of the history and of the principles and form of the US government. If taken, High School civics classes usually give fundamentals , but economical impacts of issues are not focused upon. Youths may understand the "sound bites" of an issue, but thinking beyond those and understanding the implications comes with maturity and exposure, not generally associated with 16 year olds.
- Minors are shown to be quite susceptible to influences (impressionistic) in their decision making process (i.e., getting news from late night comedy TV shows or Facebook). Students are guided by teachers in forming opinion and teachers historically are not politically impartial.
 - Under most laws, young people are recognized as adults at age 18. But emerging science about brain development suggests that most people don't reach full maturity until the age 25. Sandra Aamodt, neuroscientist and co-author of the book *Welcome to Your Child's Brain*. (1)
 - Most of the privileges and responsibilities of adulthood are legally granted by the age of 18. That's when you can vote, enlist in the military, move out on your own, but is that the true age of maturity? A growing body of science says, no. That critical parts of the brain involved in decision-making are not fully developed until years later at age 25 or so. Their prefrontal cortex is not yet fully developed.

That's the part of the brain that helps you to inhibit impulses and to plan and organize your behavior to reach a goal (1)

- A coalition of psychiatric and legal organizations plans to submit a brief to the justices contending that teenagers often make poor decisions and act impulsively because their brains haven't attained an adult level of organization. (2)
- Growing evidence that teenagers possess unfinished brains has received far more attention in the media than in the courts. The legal system doesn't appreciate that young people's brains aren't fully equipped for making long-term plans and reining in impulses.(2)
- Scientists are also beginning to probe the brain's contributions to teenagers' penchant for risky and impulsive behaviors, such as experimenting with illicit drugs. (2)
- In recent history, mental maturity seems to be one of the biggest obstacles for young adults reaching the pinnacle of their careers. Money, fame, or success wasn't enough to augment the maturation process for some under the age of 25. (2)

Many high school students believe political awareness and being politically active as an adult duty. High school students, who often have these feelings, are unaware of their own personal political beliefs. Thus, many high school students tend to accept the views of their parents/guardians and/or close relatives as their own. Often times without giving any real or meaningful thought to the political issues at hand. This ineffective process often concludes in a high school student registering and labeling himself with one political party, while completely supporting views of another. (3)

Takoma Park, MD has elected to permit youths of 16 years and older to vote in municipal elections. There are 19 municipalities in Montgomery County, why haven't the other 18 municipalities open voting to youths as well or is this just not the will of the people? Takoma Park is not necessarily a ground swell for the entire county or country.

What makes a 16 year old more mature and able to understand the vast implications of their vote over a 13 year old? Why put any restrictions on voting? Using the Pro argument above; " Federal law (The Voting Rights Act of 1965) states that a sixth-grade education is deemed adequate knowledge to vote., Let us set the voting age to sixth grader who become 13 within the school year. Surely, 13 year olds can reproduce the rhetoric taught them as well as a 16 year old.

References:

(1) PBS interview with Sandra Aamodt

<http://www.npr.org/templates/story/story.php?storyId=141164708>

- (2) **Artificial Maturity** - Helping kids meet the challenge of becoming authentic adults. by Dr. Tim Elmore
- (3) High School Students and Their Political Views by *William Benedict Russell III*
The University of Mississippi - National Social Science Association
- (4) <http://www.neontommy.com/news/2013/11/16-and-17-year-olds-exercise-their-new-voting-rights-takoma-park>
- (5) Lowering the Voting Age, *Fair Vote*, <<http://www.fairvote.org/reforms/right-to-vote-amendment/lowering-the-voting-age/>>.
- (6) “Leaving the Nest and the Social Act of Voting: Turnout among First-Time Voters,” Yosef Bhatti & Kasper M. Hansen, University of Copenhagen, Denmark; *Journal of Elections, Public Opinions and Parties*, Vol. 22, No. 4, 380-406, Nov. 2012
<http://www.promoteourvote.com/uploads/9/2/2/7/9227685/leaving_the_nest_and_the_social_act_of_voting.pdf>.
- (7) *The Demand Side: Voting at 16 —Main Results*, Austrian National Election Study, 2 pp.
<http://www.timmale.com/uploads/2/9/2/2/2922364/results_voting_at_16_handout.pdf>.
- (8) National Youth Rights Association website, <<http://www.youthrights.org/issues/voting-age/>>.
- (9) *The Evolving Capacities of the Child*, by Gerison Lansdown, United Nations Children’s Fund (UNICEF), 2005, 82 pp. < <http://www.unicef-irc.org/publications/pdf/evolving-eng.pdf>>. Ms. Lansdown was the founder director, in 1992, of the Children’s Rights Alliance for England, established to promote implementation of the UN Convention on the Rights of the Child.

Montgomery County Right to Vote Task Force
Proposed Recommendations from Registration Subcommittee

Topic: Financial Support of the Board of Elections to Uphold Voting Rights and Increase Voter Participation

Summary: We commend the County Council for its efforts to increase participation in and access to the democratic process. You have articulated your support of the additional early voting centers authorized by the General Assembly, including the optional ninth one that required County approval and funding. The three subcommittees are working on proposals for the topics assigned to the Right to Vote Task Force, and the full membership is considering these proposals.

We have had the benefit of both presentations and individual consultations with our Board of Elections liaison, Alysoun McLaughlin, as well as other members of the staff and the Board. A few of us regularly attend the monthly Board meetings. We know from these interactions that both the appointed Board members and the staff are working through many issues to make the 2014 election cycle as easy and accessible as possible for Montgomery County voters.

Some of the tasks and ideas are complementary to Task Force suggestions, especially concerning outreach, and others are independent of our tasks. We know each of them requires a good deal of thought and preparation by the staff to make it to fruition, and sufficient funds to support changes, such as graphic design and software design. During this budget season, we suggest that the County Council anticipate the increased financial resources that may be needed by the Board of Elections to meet the Council's goals, articulated in the tasks presented to the Right to Vote Task Force charge.

Proposed Recommendations:

1. In the FY15 budget sessions, we suggest the County Council wholeheartedly support the need for the Board of Elections to have adequate professional, full-time staffing (with benefits) to carry out the routine tasks of election management and the expanded efforts requested by the County Council to increase voter access and participation. There also is the need for substantial temporary assistance to meet the predictable, but limited, time-period tasks associated with such responsibilities as election judge training, registration deadlines, absentee requests, and absentee and provisional ballot verification during the canvass process.

○ *Recommended by the Registration Subcommittee, with 3 of 4 available to comment.*

2. We also suggest that larger allocations may be needed in FY15 and, possibly as supplemental funds in FY14, for the increased outreach that the Task Force is proposing to the County Council and the Board of Elections, to meet its goal of maximizing voter participation in the election process. Increased funding might include funding for additional costs associated with printing, design, mailing, website redesign, and advertising.

○ *Recommended by the Registration Subcommittee, with 3 of 4 available to comment.*

Montgomery County Right to Vote Task Force Voting Rights Subcommittee – Proposed Recommendation

Topic: Election Day Holiday

Summary

U.S. voter participation is low for a number of reasons, only one of which is lack of convenience. Making election day a national holiday will address some problems but not others. It may be a supportive component of a larger, comprehensive electoral reform package. Maryland law mandates that voters can any employee can have 2 hours off for voting as long as they have a signed form from the Board of Elections.

Businesses are not legally required to give their employees days off for federal or state holidays. If they do honor the holiday, “the Fair Labor Standards Act (FLSA) does not require payment for time not worked, such as vacations, sick leave or holidays (federal or otherwise). These benefits are a matter of agreement between an employer and an employee (or the employee's representative).”¹ Businesses that do not honor a holiday are not required to pay overtime or holiday rates unless a collective bargaining agreement of individual employment contract requires it.²

Status

International. Most Western democracies schedule elections on weekends or a designated holiday. The U.S. still has one of the lowest voting participation rates in the world.

National. The Constitution grants Congress the power to set Congressional and Presidential elections. Federal statute sets election day as “Tuesday next after the first Monday in November. The voting holiday concept was introduced in the US in 2001 by the National Commission on Federal Election Reform, an advisory body led by Jimmy Carter and Gerald Ford. The Commission recommended merging Election Day with Veterans Day. Since 2001, several federal bills have proposed to establish a national holiday on federal Election Day, but none has passed. Current federal holidays are New Year’s Day (Jan. 1), Martin Luther King Jr.'s Birthday (third Mon. in Jan.), George Washington's Birthday (third Mon. in Feb.), Memorial Day (last Mon. in May), Independence Day (July 4), Labor Day (first Mon. in Sept.), Columbus Day (second Mon. in Oct.), Veterans Day (Nov. 11), Thanksgiving Day (fourth Thurs. in Nov.), and Christmas Day (Dec. 25).

Other States. Election Day is a civic holiday in some states, including Delaware, Hawaii, Illinois, Indiana, Kentucky, Michigan, Montana, New Jersey, New York, Ohio, West Virginia, and the territory of Puerto Rico. Five states elect their respective governors and state legislators during off-year elections: Kentucky, Louisiana, Mississippi, New Jersey and Virginia. Kentucky, Louisiana, and Mississippi hold their gubernatorial elections during the off-year before the presidential election; and those in New Jersey and Virginia are held in the off-year after the presidential election. Some other states require that workers be permitted to take time off from employment without loss of pay. California Elections Code Section 14000 provides that employees otherwise unable to vote must be allowed two hours off with pay, at the beginning or end of a shift.

Maryland. In Maryland, State employee holidays include each statewide general election day, and each other day that the President of the United States or the Governor designates for general cessation of business (Chapter 347, Acts of 1996; Code State Personnel and Pensions Article, sec. 9-201). Several holidays formerly observed for State employees were abolished as such in 1996. These included Lincoln's Birthday (Feb. 12), Maryland Day (March 25), Good Friday, and Defender's Day (Sept. 12) (Chapter 347, Acts of 1996).³

Montgomery County. Holidays observed by the County usually involve closures of the following: County Offices, Libraries, County liquor stores, Administrative office, senior centers,

community centers, MCPS, Administrative Offices and waste transfer stations. The County does not collect refuse or pickup recycling, and parking at public garages, lots, curbside meters is free. Holidays have varying affects on Montgomery Parks. Ride On buses operate on a special modified holiday schedule.

Municipalities. A majority of races held during off-year elections are those for offices at the municipal and local level. Many major cities around the country elect their mayors during off-years, including the top five most populous cities: New York City, Los Angeles, Chicago, Houston, and Philadelphia. In Maryland (see addendum), most municipalities do not even hold their elections in November.

Proposed Recommendation

The Voting Rights Subcommittee approved the following recommendation, 3-2.

The Task Force does not recommend that the Council create an election day holiday. (The State of Maryland already grants election day holiday status for state employees.)

Pro-Holiday Arguments:

1. Voting is a patriotic duty, but it's hard to find time to do it right. A holiday allows voters time to vote even if there's a long line.
2. It's needed despite early voting. Voting rights experts are ambivalent on the effectiveness of early voting, which reportedly has little impact on turnout. Further because influential information could surface in the last few weeks of the race, early voters might be less informed.
3. A holiday would increase the pool of potential poll workers and shorten lines for voters, because of a more even distribution of participants throughout the day. Many local jurisdictions already have difficulty finding qualified poll workers to staff current polling hours.⁴
4. A holiday would increase awareness of the election.
5. A holiday would increase voter turnout. Puerto Rico makes Election Day a holiday, and its residents regularly vote at rates far higher than most states.⁵
6. A holiday allows people to volunteer to drive seniors and others to the polls.
7. The United States is one of the few Western democracies that do not schedule elections on weekends or a designated holiday.
8. Weekend elections won't help. Some election administrators who have experience with local elections held on weekends observe no particular benefit in voter turnout.⁶
9. Making election day a holiday to give all eligible citizens a real opportunity to vote and promote the importance of American democracy. To avoid two consecutive November holidays (election day and Veterans Day), Congress should specify that, in even-numbered years, the Veterans Day holiday be held Tuesday next after the first Monday in November and serve also as our election day.

Con Holiday Arguments:

1. It's not necessary to spend the entire day voting. Polls are open before and after work and during lunch hours. And if the polling place is too far from the office, absentee mail-in ballots make an easy (and fast) solution.
2. Viewing the holiday itself as a solution to low turnout ignores the systemic factors behind lackluster voter participation, which include lack of motivation. People are much more likely to tend to personal business than to vote if they're given a day off. Although the United States has been making it easier and easier to register and vote for four decades, fewer and fewer ballots are being cast.
3. People who show up to work on Election Day might get extra encouragement to vote from colleagues or co-workers.

4. Small business employees have a certain amount of paid time off. Mandating another holiday decreases the number of days they can freely choose to take as a personal or vacation day. Employees who want to take Election Day off are free to do so, but why make everyone use a day that isn't the most convenient for him or her?
5. If we opened the door to days off for voting, where would we draw the line? National elections, county, city, school board, dog commissioner?
6. Businesses have only 22 days a month to make revenue; taking a day off saps 4% of our monthly bottom line, which we can never gain back. Meanwhile, expenses like rent stay the same or increase. Closing the business on Election Day is a luxury small businesses cannot afford.

Recommendation Implementation

Change in County law needed? No.

Amendment to State Constitution needed? No.

Change in State law needed? Yes, to make expand Election Day as a public holiday, not merely one that applies to state employees.

Change in Federal law needed? Yes.

Sources

NATIONAL, OFFICIAL REPORTS

“To Assure Pride and Confidence in the Electoral Process,” *National Commission on Federal Election Reform* (Ford-Carter Commission), Aug. 2001. <<http://www.tcf.org/assets/downloads/tcf-havareport.pdf>>. See p. 39 for list of top 10 reasons⁷ voters gave for not voting. <<http://www.tcf.org/assets/downloads/tcf-havareport.pdf>>.

“Building Confidence in U.S. Elections,” *Report of the Commission on Federal Election Reform* (Carter-Baker Commission), Sept. 2005, 104 pp.

OTHER SOURCES

“Election Day Should Be a Holiday: The Debate Room,” *Bloomberg Businessweek*, Oct. 2008. Article listing pro and con points from the perspective of two small business owners. http://www.businessweek.com/debateroom/archives/2008/10/election_day_should_be_a_holiday.html>

“For Reformers, Making Election Day Easier is a Hard Sell,” by Michelle Chen, Center for Voting and Democracy (Fair Vote), November 1, 2004, This article does a good job of presenting all sides and varying voices. <<http://archive.fairvote.org/articles/newstandard110104.htm>>.

“Increasing Voter Turnout: Is Democracy Day the Answer?” by Henry S. Farber, *Princeton University CEPS Working Paper No. 18*, Feb. 1, 2009, 19 pp.

<<http://www.princeton.edu/ceps/workingpapers/181farber.pdf>>.

There is no evidence from the “natural experiment” of states providing an election holiday for state employees that such holidays significantly increase voter turnout. I conclude that having an election holiday, by itself, is not an effective strategy to increase voter turnout.

On U.S. Election Day, A Look at How Others Vote, Skye Christensen, Nov. 4, 2008.

<<http://www.npr.org/templates/story/story.php?storyId=96588530>> Looks at voting systems that have to deal with illiterate voters (Gambia), compulsory voting (Australia), where not voting can lead to fines and prison sentences, weekend voting (most of Europe).

Laws

Federal Laws⁸

- 5 U.S.C. 6103, 6104, and 6124
- E.O. 11582 of February 11, 1971
- 5 CFR 550.103 (definition of *holiday work*), 550.131 and 132
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Official 2014 Statewide Information

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<<http://www.employmentlawhandbook.com/leave-laws/state-leave-laws/maryland/>>.

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Passing references but no reports found.

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² “Is Extra Holiday Pay Legally Required?”, *Free Enterprise*, the FindLaw Small Business Law Blog,
<http://blogs.findlaw.com/free_enterprise/2012/11/is-extra-holiday-pay-legally-required.html>.

³ Maryland at a Glance—Holidays: State Employee Holidays and Service Reduction Days, *Maryland Manual Online*,
<<http://msa.maryland.gov/msa/mdmanual/01glance/html/holidaye.html>>.

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⁵ “For Reformers, Making Election Day Easier is a Hard Sell,” by Michelle Chen, Center for Voting and Democracy (Fair Vote), November 1, 2004, <<http://archive.fairvote.org/articles/newstandard110104.htm>>.

⁶ “To Assure Pride and Confidence in the Electoral Process,” *National Commission on Federal Election Reform* (Ford-Carter Commission), Aug. 2001. <<http://www.tcf.org/assets/downloads/tcf-havareport.pdf>>.

⁷ The Commission’s report, p. 39, states that “Registration problems are relatively low on the list, and concerns about convenient access to polling places or the hours they are open are lower still.” It reports the reasons given for not voting as follows:

- #1 Too busy, conflicting work or school schedule 22.6%
- #2 Illness or disability 16.0%
- #3 Not interested, felt my vote wouldn’t matter 13.2%
- #4 Out of town or away from home 11.0%
- #5 Didn’t like candidates or campaign issues 8.3%
- #6 Registration problems 7.4%
- #7 Forgot 4.3%
- #8 Inconvenient polling place or hours or lines too long 2.8%
- #9 Transportation problems 2.6%
- #10 Bad weather conditions 0.7%

⁸ *Pay Administration: Pay and Leave*, U.S. Office of Personnel Management, <<http://www.opm.gov/policy-data-oversight/pay-leave/pay-administration/fact-sheets/holidays-work-schedules-and-pay/>>.

ACCESS SUBCOMMITTEE

TOPIC: ONLINE VOTING

Should voters receive and cast their ballots directly via the internet? This question is the subject of continuing debate; does current internet technology permit secure voting that is proof against technical attacks, or hacking? The technical problems associated with sending ballots out to voters appear manageable; ballots are sent to US voters routinely in accordance with the Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA) for local, state and federal elections. However, the more difficult technical problems when casting a vote online, such as authentication, avoiding fraudulent votes, and the need for secret ballots, have not been resolved.

When the DC Board of Elections opened a new internet-based voting system in 2010 for a weeklong test period, they invited computer experts to try and hack it. Hackers did just that. A University of Michigan computer class exploited a number of vulnerabilities in the online voting system that DC officials failed to notice for two days, despite the fact that the Michigan students added a new feature, the playing of the University of Michigan fight song when voters cast their ballots. When the hackers revealed what they had done, DC officials suspended the trial. Some, including True the Vote and teapartycommunity.com.blog see this test of DC's proposed internet voting system as good reason to avoid internet voting now and in the future. Others, such as the University of Michigan's report on its testing of the DC system, see substantial technical problems with internet voting. Michigan's report urges voting proponents "...to reconsider deployment until and unless major breakthroughs are achieved." *Attacking the Washington, DC Internet Voting Systems, Scott Wolchok et al, 2010.*

Despite the technical challenge of protecting the integrity of internet voting, a number of US municipalities and states, as well as their Canadian, Indian, Norwegian and other counterparts, have conducted elections using internet voting, either routinely or experimentally. One country, Estonia, uses internet voting routinely for all municipal, national and European elections. Some groups see other good reasons for using internet voting, such as increasing voter turnout and lowering cost, e.g., internetvotingforall.blog.spot.com, February 21, 2014 et al., and cyberthevote.org "Voting Technology in the U.S., the Lost Decade," December 1, 2013. These groups believe the technical problems associated with internet voting are well worth the effort to resolve. Further, they question whether the technical problems with internet voting have been overstated, in view of the many times internet voting has been used successfully.

This issue has been studied by the National Institute of Science and Technology (NIST), "Security Considerations for Remote Electronic UOCAVA Voting", NISTIR 7770, February 2011. This study scopes out the issues, looks at the potential benefits, and treats the major threats associated with internet voting: i.e., confidentiality (secret ballot), integrity of the vote, availability of the computer systems, and identification and authentication of the voter. While NIST expresses its conclusions in low-key bureaucratic language, the most encouraging thing

they have to say about the state of the art was that "Pilot projects should be encouraged..." The Conclusion page of the study is attached (Attachment I).

Another group with good technical credentials, the Association for Computing Machinery (ACM) published the article "*Internet Voting in the U.S.*" in its monthly magazine, *Communications of the ACM*, October 2012. (The ACM is a 100,000 member scientific computing society comprised of educators, researchers and professionals who work in that field.) The ACM article starts with the question "If I can bank online, why can't I vote online?" This article discusses the relevant background issues, ranging from the DC's online voting trial problem, to the successful elections conducted here in the US and elsewhere online, including the US military experience. In the latter case, ballots are sent out online, but returned via the US mail. The authors outline a number of problems with internet voting, including: insider attacks, malware on the voter's personal computer, impersonating the election server, denial-of-service attacks, and loss of secret ballot. The "Conclusion" (Page 7) of the article, and "Compared" (Page 10) which answers the initial reference to banking online are attached. (Attachment 2). Again, the full text of *Communications of the Association for Computing Machinery (ACM) October 2012*, is online.

In view of the technical issues and concerns outlined in the two in-depth independent studies written by well respected organizations with no apparent bias, the Access/Turnout/Ease-of-Casting-a-Ballot Subcommittee recommends that the Task Force not promote online voting at this time. As stated by True the Vote, "There may come a day when Internet voting can be secure and safe from hacking and fraud, but we are not there at this time."

Attachments

Committee members in favor: Dolly Kildee, Cristina Echavarren, Zaida Arguedas
Committee member absent: Lindsay Kaplan
Committee member resigned: Dick Jurgena

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This paper identified desirable security properties of remote electronic voting systems, threats of voting over the Internet from personally-owned devices, and current and emerging technologies that may be able to mitigate some of those threats. Based on the capabilities of current computer security and voting technologies, the following three issues remain to be significant challenges faced by remote electronic voting systems.

First, remote electronic absentee voting from personally-owned devices face a variety of potential attacks on voters and voters' personal computers. Since the voter's personal computer is outside the control of election officials, it is extremely difficult to protect against software attacks that could violate ballot secrecy or integrity or steal a voter's authentication credentials. These are serious threats that are already commonplace on the Internet today.

Second, remote electronic voter authentication is a difficult problem. Current technology does offer solutions for highly-secure voter authentication methods, but these may be difficult or expensive to deploy. Personally-owned computers may not be able to interface with these methods, such as having the necessary smart card readers for cryptographic authentication using Common Access Cards or Personal Identity Verification cards.

Third, it is not clear that remote electronic absentee voting systems can offer a comparable level of auditability to polling place systems. Because of the difficulty of validating and verifying software on remote electronic voting system servers and personal computers, ensuring remote electronic voting systems are auditable largely remains a challenging problem, with no current or proposed technologies offering a viable solution.

Many of the current and emerging technologies identified in this report are areas with active research and development. Pilot projects should be encouraged, including those involving the use of voting-specific cryptographic protocols, such as the Helios voting system [23]. Emerging trends and developments in these areas should continue to be studied and monitored.

Conclusion

Proposals for conducting voting pilot projects using real elections continue to reappear in the U.S. and elsewhere, apparently independent of warnings from computer-security experts. While the appeal of Internet voting is obvious, the risks are not, at least to many decision makers. Computer professionals have an obligation to explain these risks.

Pilot projects are routinely declared successes, regardless of any problems encountered. However, it is dangerous to draw conclusions from a "successful" Internet voting pilot project. There is little reason to attack a small pilot project, and a malicious player might refrain from attacking a major election until the new technology is entrenched. Having claimed success, independent of proof of the accuracy of the pilot project, Internet-voting vendors and enthusiasts routinely push to extend Internet voting to a broader group of voters, thereby seriously undermining election security. Computer professionals must object to pilot projects that do not plan for an assessment of the integrity of the election and a public reporting of any discrepancies encountered.

Unlike legitimate computer-security experts, malicious attackers are not likely to publicize their attacks, just as credit-card thieves do not openly advertise their thefts. When election officials and policymakers ask for proof that a voting system has been attacked, it is important to keep in mind that detecting well-devised attacks is inherently difficult. The burden of proof that a voting system has not been attacked should fall on those making the claim, not the other way around.

Ultimately, the balance between the integrity of election technology on the one hand and convenience on the other is both a public-policy and a technological issue. Decision makers must be warned of all the risks in order to craft wise policy.

Compared

Internet voting involves complications not found in e-commerce:

Secret ballots. Secret ballots are required by law to protect against vote buying and coercion. Ballot secrecy prohibits anyone from linking voted ballots to the voters casting them. This precludes the kind of transaction logging routinely used in e-commerce to allow reconstruction of who did what and when, should a question arise.

Receipts. Receipts, including unique transaction numbers and complete transaction descriptions, are routinely issued in e-commerce. These receipts confirm that the correct orders were placed and may be used as proof of purchase in the event of disputes. Ballot secrecy prevents issuing any documents to voters that voters could use to prove how they voted. Documents that do not provide such proof are of limited use in an audit or recount.

Malfunction and fraud. In the event of an e-commerce failure due to malfunction or fraud, there is a good chance the situation will be rectified or that the purchaser can stop a credit-card payment after noticing the discrepancy. However, if a ballot is not successfully cast on election day, the voter probably will not know and almost certainly will not be able to revote.

Vote buying and selling. Unlike commercial activities, vote buying and selling is illegal. In the 2000 U.S. presidential election between republican George W. Bush and Democrat Al Gore, an online system designed to broker Green Party candidate Ralph Nader and Gore votes was created but forced to shut down by the California attorney general. There is no evidence that any votes were actually traded. With Internet voting, voters could sell their voting credentials, perhaps even online, using a Web site designed to automatically cast their ballots.^a

No proposed Internet voting system is able to overcome these hurdles.

^a When family members vote on a home computer or citizens vote from a computer in a public library, multiple voters will share the same IP address; while it is possible to detect multiple votes from one IP address, it would be problematic to prohibit them.

ACCESS SUBCOMMITTEE

TOPIC: PHOTO ID

Twelve states currently require a photo ID when voting. Many are concerned that requiring photo ID's will suppress the vote of minorities, the poor and seniors.

Supporters of voter photo ID point out that some states that have implemented this requirement have shown an increase in turnout of these groups. However, in October 2012, the Wall Street Journal reported that studies of the impact of voter ID laws on turnout have had inconclusive results, particularly since most of the laws were introduced prior to the 2008 election, which had high levels of voter turnout. Additionally, studies may be influenced by other factors that impact individuals' likelihood of voting.

Advocates for photo ID laws also argue that the U.S. Supreme Court's divided opinion upholding Indiana's photo ID law in *Crawford v. Marion County Election Board* rendered all state photo ID laws immune to constitutional challenge. In *Crawford*, the Court upheld Indiana's photo ID law against a broad "facial" attack to its constitutionality. In doing so, the Court made clear that the photo ID law remained subject to challenge as a matter of law by particular groups or individuals who were unconstitutionally burdened by the law. The Court expressly singled out groups who might potentially bring a successful challenge as "elderly persons born out of state," "persons who because of economic or other personal limitations may find it difficult to secure a copy of their birth certificate" or other documents needed for photo ID, homeless people, and people with a religious objection to being photographed. In addition to leaving the door open to challenges by affected voters, the Court also left the door open to challenges to other photo ID laws that burden voters more than Indiana's.

In any event, according to the Brennan Center for Justice, the lawsuits challenging photo ID laws have been mixed; the case law to date has established several basic principles that must be satisfied under the Constitution:

Whether or not a person can afford the cost, photo IDs required for voting must be available free of charge for all those who do not have them. States may not require an oath of indigency. In addition, some courts may require states to ensure that all the documents required in order to obtain photo IDs are free and easily available to prospective voters.

Photo IDs must be readily accessible to all voters, without undue burden. At a minimum, most states will likely have to expand the number of ID-issuing offices and extend their operating hours to meet this requirement.

States must undertake substantial voter outreach and public education efforts to ensure that voters are apprised of the law's requirements and the procedures for obtaining the ID's they will need to vote.

Finally, new ID requirements would have almost no effect on voter fraud because in-person impersonation of voters is almost nonexistent. In this regard, *Slate* magazine reported that during the George W. Bush administration, "The [Department of Justice] devoted unprecedented resources to ferreting out polling-place fraud over five years and appears to have found not a single prosecutable case across the country," In the News 21 Carnegie-Knight investigative report of August 12, 2012, the 12-year study of 2,068 alleged voting fraud cases found only ten cases of alleged in-person voter fraud nationwide. Given the hundreds of millions of votes that were cast in this country during the 12-year time span of the study, and the fact that only 10 cases of alleged in-person fraud were found, there is no reason to impose stricter ID requirements on voters in Maryland or elsewhere.

Given the constitutional concerns associated with voter ID laws noted above, the added cost for new voter ID requirements that would be imposed on both voters and the state, the likelihood that voter ID laws would suppress voter turnout, and considering the almost complete absence of any showing of voter fraud, we believe that requiring voter ID's would be inconsistent with the purpose of our mandate, i.e., increase voter turnout.

There is no credible evidence that requiring photo ID's would increase voter turnout. Therefore, we recommend that the issue of requiring photo ID's not get any further consideration from the Right to Vote Task Force.

Committee members in favor: Dolly Kildee, Cristina Echavarren, Zaida Arguedas
Committee member absent: Lindsay Kaplan
Committee member resigned: Dick Jurgena

Montgomery County Right to Vote Task Force

Voting Rights Subcommittee - Proposed Recommendation

Topic: Photo Identification (Voter ID)

Summary:

Twelve states currently require a photo ID when voting. There is no current validation of Citizenship in registering or voting in Maryland. Within at least eight municipalities in Maryland, like Takoma Park, there are non-citizens legally voting for municipal elections without the safe guard of Voter IDs showing citizenship, required for State and National elections. Also with the significant number of illegal aliens within the state, there is little protection of the legal voter having his/her vote nullified by voter fraud. The concern of some is that Voter ID to show Citizenship will suppress the vote of minorities, the poor and seniors, but this document shows that voter turnout has increased in areas where Voter ID has been implemented.

Supporters of voter photo ID point out that some states that have implemented this requirement have shown an increase in turnout of minorities, the poor, and seniors. However, in October 2012, the Wall Street Journal reported that studies of the impact of voter ID laws on turnout have had inconclusive results, particularly since most of the laws were introduced prior to the 2008 election, which had high levels of voter turnout. Additionally, studies may be influenced by other factors that impact individuals' likelihood of voting.

The latest data from Texas about the state's experience with its first election held after its new photographic voter identification law became effective show that this requirement has done nothing to suppress voter turnout throughout the state. In fact, turnout in last year's constitutional elections in Texas yielded some of the highest turnout numbers in the past decade for similar type elections

Although this trend applies to statewide turnout, it is also true of various counties' turnout rates, even those with large numbers of minority voters where voter ID laws were predicted to restrict the ability of many citizens to vote. The oft-heard claim by voter ID opponents that such laws discriminate against poor and minority voters has once again been shown to be untrue.

Advocates for photo ID laws also argue that the U.S. Supreme Court's divided decision upholding Indiana's photo ID law in *Crawford v. Marion County Election Board* rendered all state photo ID laws immune to constitutional challenge. In *Crawford*, the Court upheld Indiana's photo ID law against a broad "facial" attack to its constitutionality. In doing so, the Court made clear that the photo ID law remained subject to challenge as a matter of law by particular groups or individuals who claim to be unconstitutionally burdened by the law. The Court expressly singled out as groups who might bring a successful challenge "elderly persons born out of state," "persons who because of economic or other personal limitations may find it

difficult to secure a copy of their birth certificate” or other documents needed for photo ID, homeless people, and people with a religious objection to being photographed. In addition to leaving the door open to challenges by affected voters, the Court also left the door open to challenges to other photo ID laws that burden voters more than Indiana’s.

As recently as March 19, 2014 a US District Court judge ruled that Arizona and Kansas can require anyone registering to vote to prove their citizenship and the federal Election Assistance Commission cannot block them. In his ruling, Judge Eric F. Melgren said the EAC, which Congress created after the 2000 Florida voting fiasco, must accede to states' requests for people to provide proof of citizenship when they register to vote. The judge said the Constitution gives states the power to determine voter qualifications, and if states want to insist on proof of citizenship, the election commission cannot overrule them.

In any event, according to the Brennan Center for Justice, the lawsuits challenging photo ID laws have been mixed; the case law to date has established several basic principles that must be satisfied under the Constitution:

Whether or not a person can afford it, photo IDs required for voting must be available free of charge for all those who do not have them. States may not require an oath of indigency. In addition, some courts may require states to ensure that all the documents required in order to obtain photo IDs are free and easily available to prospective voters.

Photo IDs must be readily accessible to all voters, without undue burden. At a minimum, most states will likely have to expand the number of ID-issuing offices and extend their operating hours to meet this requirement.

States must undertake substantial voter outreach and public education efforts to ensure that voters are apprised of the law’s requirements and the procedures for obtaining the ID’s they will need to vote.

Voter ID

Passed in 2011, Senate Bill 14 requires all in-person voters in Texas to present a valid photo ID when voting. Forms of acceptable ID include:

- A Texas driver license issued by the Texas Department of Public Safety (DPS),
- A Texas Election Identification Certificate issued by DPS,
- A Texas personal identification card issued by DPS,
- A Texas concealed handgun license issued by DPS,
- A U.S. military identification card containing the person’s photograph, or
- A U.S. passport.

A Texas Election Identification Certificate can be obtained for free from any DPS driver’s license office, as well as county offices in 37 additional counties. Prior to the November 2013 election, DPS also set up mobile ID stations in 41 other counties.

Voter Fraud

In 2005, the U.S. Government Accountability Office found that up to 3 percent of the 30,000 individuals called for jury duty from voter registration rolls over a two-year period in just one U.S. district court were not U.S. citizens. While that may not seem like many, just 3 percent of registered voters would have been more than enough to provide the winning presidential vote margin in Florida in 2000. Indeed, the Census Bureau estimates that there are over a million illegal aliens in Florida, and the U.S. Department of Justice (DOJ) has prosecuted more non-citizen voting cases in Florida than in any other state. The 2000 presidential election came down to the winner of an incredibly close contest in Florida, ultimately officially decided by 537 votes. The governorship of Washington State was decided in 2004 by 5/100 of a percent...133 votes out of 2,746,589 cast. In Minnesota in 2008 the senate race was decided by 312 votes out of 2,862,451 cast...a margin of .00011%. And in Virginia last year the race for attorney general was decided by 117 votes out of 2.2 million ballots cast...a margin of .00005%. In Maryland with 3,563,971 registered voters that would mean 106,919 potentially fraudulent voters, more than enough to tip an outcome.

In 2004, a Maryland state legislator contacted the DOJ to express his concern that the Maryland Department of Motor Vehicles was allowing non-citizens applying for driver's licenses to register to vote. When he asked the DMV to stop, he was told that it was required by the NVRA to offer all driver's license applicants the opportunity to register to vote. The Justice Department quickly sent the Maryland delegate a letter pointing out that the NVRA had no such requirement and that federal law makes it a crime for a non-citizen to register. The letter went on to say that a state that issues licenses to non-citizens should not offer such an individual the right to register to vote. Nonetheless, there is no evidence that the Maryland DMV has changed its procedures to deter non-citizens from registering, and Maryland officials recently testified that they were issuing 2,000 driver's licenses per week to undocumented aliens.

Recommendations

1. Maryland require proof of US Citizenship to register and Photo ID to vote in local, State, and Federal Elections
2. Maryland provide Voter Photo IDs without costs to Maryland legal residents who are Citizens unless other valid Photo ID is available
3. Maryland require a photo ID to vote in State and Federal elections, allowing a broad range of acceptable ID forms and that the ID not be required to provide accurate address information since this information is available in voter rolls.

Pros

Maryland State Constitution and US Constitution require US Citizenship to vote

Twelve states currently require Photo ID to prove Citizenship to vote and studies show it has suppressed voter turnout

Currently it is estimated that there are 11 million illegal in the USA and the potential for fraud is significant

Any non-citizen vote nullifies a US Citizen's vote

Even a few fraudulent votes could change the outcome of an election

Even though a voter registration applicant must already swear on a voter registration application, under penalty of perjury, that he or she is a U.S. citizen does not stop potential fraud. Being an alien illegally in the U.S. is a fraud, so committing one fraud on top of another should not necessarily be a hindrance.

Maryland driver license are issued to illegal aliens, so it should not be used as a valid Voter ID

In Maricopa County, Arizona, drive registrations dropped by 44% after Arizona required documentary proof of citizenship. This could be considered due to having documentary proof of available or non-citizens trying to ille

Cons

Providing Photo ID would cost the state

Concern of some that Voter ID will suppress the vote of minorities, the poor and seniors.

A voter registration applicant must already swear on a voter registration application, under penalty of perjury, that he or she is a U.S. citizen.

Noncitizens violate both state and federal law by registering to vote and may be deported. States that have required documentary proof of citizenship for voter registration have disenfranchised vastly more voters than they have removed suspected noncitizens from the voter rolls.

Documentary proof of citizenship may significantly hamper voter registration drives because many citizens either do not have citizenship documents or do not carry citizenship documents with them regularly. Furthermore, drives are unlikely to have photocopy equipment available at most drive sites.

Obtaining documents that prove citizenship, like birth certificates, may be time-consuming, require time off from work, and require traveling expenses.

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<http://votingrights.news21.com/article/election-fraud/index.html>

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Additional Cons for Requiring Documentary Proof of Citizenship for Voter Registration

- A voter registration applicant must already swear on a voter registration application, under penalty of perjury, that he or she is a U.S. citizen.
- Noncitizens violate both state and federal law by registering to vote and may be deported.
- States that have required documentary proof of citizenship for voter registration have disenfranchised vastly more voters than they have removed suspected noncitizens from the voter rolls. For example:
 - **Kansas:** Kansas has a documentary proof-of-citizenship requirement that went into effect in January 2013 and is currently the subject of litigation
 - Number of people registered to vote in January 2013: 1,762,330
 - Number of noncitizens that Kansas alleges in court were on the voter rolls in January 2013: 21 (0.001%)¹
 - Number of voter registration applications Kansas received, Jan. 1, 2013 – Jan. 1, 2014: 72,999
 - Number of voter registration applications Kansas rejected due to lack of documentary proof of citizenship, Jan. 1 2013 – Jan. 1 2014: 12,485 (17%)²
 - **Arizona:** Arizona has a documentary proof-of-citizenship requirement that went into effect in January 2005 and is currently the subject of litigation.
 - Number of people registered to vote in January 2005: 2,706,223
 - Number of noncitizens that Arizona alleges in court were on the voter rolls in January 2005: 196 (0.007%)¹
- Documentary proof of citizenship may significantly hamper voter registration drives because many citizens either do not have citizenship documents or do not carry citizenship documents with them regularly. Furthermore, drives are unlikely to have photocopy equipment available at most drive sites. In Maricopa County, Arizona, drive registrations dropped by 44% after Arizona required documentary proof of citizenship.³
- Obtaining documents that prove citizenship, like birth certificates, may be time-consuming, require time off from work, and require traveling expenses. This disproportionately impacts underprivileged groups, which are more likely not to have citizenship documentation.⁴

Population Segment	Estimated Number of U.S. Citizens Lacking Birth Certificate or Passport
65+ years old	2.3 million
Earn less than \$25,000/year	3 million
African Americans	2 million
Residents of rural areas	4.5 million
Did not graduate high school	9.2% (number not provided)

Sources:

¹ EAC Memorandum of Decision Concerning State Requests to Include Additional Proof-of-Citizenship Instructions on the National Mail Voter Registration Form, at pp. 33-40, *Kobach v. EAC*, No. 5:13-cv-04095-EFM-TJJ (D. Kan. Jan. 17, 2014), EFC No. 129-1, *available at* <http://moritzlaw.osu.edu/electionlaw/litigation/documents/MemoKobach.pdf>

² Brief in Support of Plaintiffs' Notice of Adverse Agency Decision and Motion for Relief Exhibit B-2: Declaration of Kansas Assistant Secretary of State Brad Bryant, at p. 3, *Kobach v. EAC*, No. 5:13-cv-04095-EFM-TJJ (D. Kan. Jan. 31, 2014), EFC No. 140-2, *available at* <http://moritzlaw.osu.edu/electionlaw/litigation/documents/Kobach3.pdf>

³ Maricopa County Recorder's Information Center, All Voter Registrations By Source Month (1999-2007)

⁴ Greenstein et al., *Survey Indicates House Bill Could Deny Voting Rights to Millions of U.S. Citizens* 1 (2006), <http://www.cbpp.org/files/9-22-06id.pdf>

Additional Cons for Requiring Photo ID at the Polls

- In-person voter impersonation fraud, which is the only type of fraud that a photo ID requirement prevents, is exceptionally rare—not a single person was convicted of it in the 2002 and 2004 elections,⁵ and after filing over 2000 public records requests in a national study of voter fraud and compiling the most extensive database of voter fraud cases in existence, News21 discovered only 10 cases of in-person voter impersonation fraud occurred between 2000 and 2012—meaning 0.00000684931% of the country’s 146 million registered voters committed such fraud over 10 years. That amounts to approximately 1 case of voter fraud per 15 million registered voters.⁶
- Between 2000 and 2012, not a single prosecution of in-person voter impersonation fraud occurred in Maryland.⁶
- Photo ID will disenfranchise vastly more people than the number of people who commit in-person voter impersonation fraud, especially in underprivileged populations:⁷

Population Segment (Voting Age Citizens)	Percent / Number Without a Photo ID
African Americans	25% / 5.5 million
Hispanics	16%
Elderly, ages 65+	18% / 6 million
Youth, ages 18-24	18% / 4.5 million
Income less than \$35,000/year	15%
All Americans	11% / 21 million

- Mobile populations, including youth and the poor, are less likely to have a photo ID that accurately reflects their domicile for voting.
- Individuals who live in urban areas, such as Montgomery County, are more likely to depend on public transportation, bikes, and walking, and thus are less likely to have a driver’s license.
- Obtaining a photo ID remains costly even if the state offers the ID card itself for free. To apply a Maryland driver’s license, a person must already have and present many other documents (like a birth certificate) proving identity, age, and residence, and obtaining those other documents themselves may be costly. For example, birth certificates in Maryland cost \$24.00 to obtain.⁸ Additionally, people must have transportation and the free time to obtain the photo ID and any underlying documents. This disproportionately impacts underprivileged populations, who are less likely to have the underlying documents and the ability to get them or the photo ID.
- Throughout most of our country’s existence, photo ID was not requirement. The Founding Fathers did not conceive of the idea when establishing our democracy, and such a requirement has never been necessary to uphold the integrity of elections in our country’s 200 year history.

Sources:

⁵ Catherine M. Flanagan & Estelle H. Rogers, *Photo ID Laws* 9 (January 2014), Project Vote, available at <http://www.projectvote.org/images/publications/Voter%20ID/POLICY-PAPER-VOTER-ID-JANUARY-2014.pdf>

⁶ Natasha Khan & Corbin Carson, *Comprehensive Database of U.S. Voter Fraud Uncovers No Evidence That Photo ID Is Needed* (Aug. 12, 2012), News21, <http://votingrights.news21.com/article/election-fraud/index.html>; *Election Fraud in America* (Aug. 12, 2012), News21, <http://votingrights.news21.com/interactive/election-fraud-database/> (select “Maryland”)

⁷ *Citizens Without Proof: A Survey of Americans’ Possession of Documentary Proof of Citizenship and Photo Identification* (Nov. 2006), Brennan Center for Justice, http://www.brennancenter.org/sites/default/files/legacy/d/download_file_39242.pdf

⁸ Maryland Motor Vehicle Administration (MVA), *Online Document Guide*, <http://license.mva.maryland.gov/checklist/checklist.aspx>; Vital Check, *Maryland Vital Records Info*, <https://www.vitalchek.com/birth-certificates/maryland/maryland-vital-records> (birth certificate fee)