

FISCAL NOTE

SENATE, No. 99

STATE OF NEW JERSEY

219th LEGISLATURE

DATED: AUGUST 26, 2020

SUMMARY

Synopsis: Requires availability of early voting for certain elections; makes appropriation.

Type of Impact: State Expenditure Increase.

Agencies Affected: Division of Elections in the Department of State, County Boards of Elections, County Clerks’ Offices, Municipal Clerks’ Offices.

Executive Estimate

Fiscal Impact	Year 1	Year 2	Year 3
State Cost	\$20,210,000	\$1,735,000	\$1,735,000

- The Office of Legislative Services (OLS) **concurs** with the Executive estimate; however, the OLS notes that the Executive estimate is based on a plan to purchase electronic poll books for all polling places in the State, which the bill does not require.
- According to the Executive estimate, the total costs of this bill are estimated to be \$20.210 million. These costs consist of \$18.475 million in start-up costs to purchase electronic poll books, ballot marking devices compliant with the Americans with Disabilities Act (ADA) and privacy booths, and \$1.735 million in annual State reimbursement of county and municipal costs. The OLS notes that the actual cost will be dependent on the plans for implementation and costs applicable at that time. Initial year costs in particular would be substantially lower if the Division of Elections opted not to utilize electronic poll books.
- This bill establishes an early voting process for certain elections, and requires the State to reimburse each county governing body and each non-partisan municipal governing body that approves early voting such amounts approved by the Director of the Division of Budget and Accounting in the Department of the Treasury as necessary to cover any additional costs incurred as a result of this bill.

BILL DESCRIPTION

This bill establishes an in-person early voting procedure to allow voters to cast their votes at specially designated polling places, starting on the 15th day before the general election, and ending

on the second calendar day before the election (a Sunday). A municipality holding municipal elections on the second Tuesday in May, by an ordinance adopted by its governing body, may also conduct in-person early voting for those municipal elections.

Under the bill, in-person early voting will enable a registered voter to vote at a designated polling place before the day of a general election using a paper ballot. The ballot used to conduct in-person early voting will be labeled “Early Voting / Vote By Mail Ballot,” and will also be used to conduct the vote by mail process for the general election provided for in “The Vote By Mail Law.” Designated polling places must be open for early voting on Monday through Saturday from 10 AM to 8 PM, and on Sunday from 10 AM to 6 PM. A duly-registered voter will be permitted to vote after signing an early voting voter certificate, and after the voter’s eligibility to vote is ascertained in substantially the same manner as done on election day. At least once each day during the early voting period, and prior to the start of the regularly scheduled election, each county board must make such changes as may be necessary to the voter’s record in the Statewide voter registration system and the signature copy register used at each polling place to indicate that a voter has voted in that election using the early voting procedure. A voter who participates in early voting would not be permitted to vote by mail-in ballot or in person on election day.

The bill provides that each county board of election is to designate three early voting locations in each county, except that the county board must designate a total of five public locations for early voting if the number of registered voters in the county is at least 150,000 but less than 300,000, and must designate a total of seven public locations for early voting if the number of registered voters in the county is 300,000 or more. Under the bill, the number of registered voters in each county must be determined ahead of the selection of early voting sites pursuant to a uniform standard to be developed by the Secretary of State. Whenever possible, early voting sites must be geographically located so as to ensure both access in the part of the county that features the greatest concentration of population, according to the most recent federal decennial census of the United States, and access in various geographic areas of the county. No public school building may serve as an early voting location. Once early voting locations are designated in each county, county boards of election must, as provided by the Secretary of State, evaluate and, if deemed necessary, revise these locations in order to accommodate significant changes in the number of registered voters within each county, reflect the population distribution and density within each county, or enhance convenience when an early voting site has proven to be inconvenient for the voters, or because of similar circumstances. The Secretary of State must develop the criteria to be used by county boards of election to revise the location of early voting sites and must prescribe how often such revision must take place.

The election officers responsible for conducting early voting would be the same as those responsible for conducting a general election. The number of such officers and their hours of service would be as determined by each county board of election. The compensation for such officers would be as provided for by current law for poll workers serving at a school election.

The bill provides that each county board will be responsible for forming and executing a written plan for the security of the ballots used during the early voting period, including voted ballots and election materials, based on guidelines established by the Secretary of State and submitted thereto no later than December 15 of each year. The written security plan is to ensure, to the greatest extent possible, the integrity of the voting process and the security of ballots used during the early voting period. The security plan must specify a chain of custody of ballots and voted ballots, which must include the transfer of voted ballots to each county board of election at the end of each early voting day for safekeeping until canvassing on election day. For the elections that early voting is available, the procedures concerning the conduct of voters at the polling place and the appointment of challengers, as well as the prohibition on electioneering within 100 feet of a polling place, will be as provided for in current law.

The bill also provides that, in addition to any publications required under Title 19 of the Revised Statutes, the Secretary of State and county boards of elections must publish on the Department of State's website and the respective county's website information concerning the early voting procedure. The early voting information must include, but need not be limited to, a notice to the public concerning their eligibility to participate in early voting, the duration of the early voting period, and the locations and hours of operation of specially designated polling places for early voting in each county.

Funds to pay for early voting would be provided to each county governing body, by the State and each non-partisan municipal governing body that approves early voting in such amounts as the Director of the Division of Budget and Accounting in the Department of the Treasury deems necessary to cover any additional costs incurred as a result of this bill.

This bill will take effect on January 1 next following the date of enactment.

FISCAL ANALYSIS

EXECUTIVE BRANCH

According to the Executive estimate, first year costs of this bill would total \$20.210 million, comprised of \$18.475 million in start-up costs (electronic poll books, ADA compliant Ballot Marking Devices, Statewide Voter Registration System Interface, and privacy booths), and \$1.735 million in State reimbursement for local costs. The analysis regarding the cost of this bill was based on information from county offices and information from other states conducting similar projects. The Executive's rationale and detail of the costs are as follows:

- Polling: The legislation would require 111 polling locations as specified to be open for a minimum of eight to ten hours per day during the early voting period. There may be a charge for using a location. The total polling location cost per election is estimated to be \$110,000 assuming there are 111 locations that cost \$75 per day for 13 days.
- Poll Workers: Early voting would require eight poll workers at each early voting location for 12 days at 10 hours per day, and on Sundays for eight hours per day. Poll worker compensation is estimated to be \$14.29 per hour. The total poll worker compensation costs per election are estimated to be approximately \$1.6 million assuming eight poll workers at each of 111 locations for 10 hours a day at \$14.29 per hour for 12 days and eight poll workers at each of 111 locations for eight hours per day at \$14.29 per hour for one day.
- ADA Compliant Ballot Marking Devices: The legislation would require at least one Americans with Disabilities Act (ADA) compliant voting system in every location. This would require the purchase of additional voting equipment. Some of the larger locations would require more than one machine. The total cost for the devices is estimated to be \$750,000, assuming 150 ADA compliant voting systems at a cost of \$5,000 per device.
- Electronic Poll Books: In order to process voters at the early voting locations and update the information to poll books for election day, the State will have to move from paper poll books to electronic poll books. An electronic poll book can cost between \$1,000 and \$3,000 apiece to purchase. There are approximately 6,350 election districts in the State and each one would require two poll books. The total cost to purchase two electronic poll books for each of 6,350 election districts is estimated to be \$17.0 million.
- Privacy Booths: The Executive Branch estimates that at least one privacy booth per polling location would be needed. The total cost to purchase one privacy booth for each of 111

polling locations is estimated to be approximately \$125,000, assuming an average price of \$110 per privacy booth.

- Statewide Voter Registration System Interface: The Executive Branch estimates that it would cost approximately \$600,000 for a vendor to develop an electronic poll book interface with the Statewide Voter Registration System.

The Executive's estimate does not include licensing and maintenance fees, printing costs, or overtime for county and municipal employees.

OFFICE OF LEGISLATIVE SERVICES

The OLS concurs with the Executive's fiscal estimate, but notes that it is predicated on the purchase of electronic poll books to facilitate the administration of the elections. The decision to purchase electronic poll books will be made after enactment.

The OLS notes that the bill does not mandate the use of electronic poll book technology, but does mandate that counties and municipalities be reimbursed by the State for costs incurred and approved in such amounts as the Director of the Division of Budget and Accounting in the Department of the Treasury deems necessary to cover any additional costs incurred as a result of this bill. Assuming that the State chooses to use electronic poll book technology to administer this early voting program, the OLS notes that the average price of an electronic poll book ranges between \$1,500 and \$2,500 depending on manufacturer, technology, and software capabilities. Some lower-priced poll books cost \$1,000 and some of the most expensive, not necessarily the most technologically advanced, cost up to \$3,000. While prices for electronic poll books are declining, technology is also improving. Recently, electronic poll book technology has evolved from a laptop and server based environment to a wireless I-Pad environment. Wireless technology can cost more.

In order to ensure consistency in pricing and interface into the Statewide Voter Registration System, it may be important for each election district to purchase the same type of electronic poll book. Purchasing the same technology will minimize unknown procedural and technology integration costs.

According to the National Conference of State Legislatures (NCSL):

36 states used e-poll books in at least one jurisdiction in the 2018 elections. In total, 26.2% of jurisdictions nationwide reported using e-poll books, representing a 48% increase in e-poll book usage since the 2016 election.

State legislatures have responded to the increase in jurisdictions using e-poll books in a number of ways. Some states have instituted a certification process for e-poll books similar to the process for certifying voting equipment (see NCSL webpage on [Voting System Standards, Testing and Certification](#)). Others have instituted statewide policies through administrative rule or by directive from the secretary of state's office. Some states have authorized e-poll books and provided some procedural guidance for jurisdictions, and some have not addressed e-poll books in statute.

As of October 2019, e-poll books have been authorized or are being used without statutory authorization in at least 41 states plus D.C. In summary:

- 13 states certify e-poll books:

- Alabama, California, Connecticut, Idaho, Indiana, Massachusetts, New Hampshire, **New Jersey**, New York, Ohio, Pennsylvania, Texas, and Virginia.
- 12 states provide statewide procedures for e-poll books but do not have a formal certification program:
 - Colorado, Delaware, Georgia, Kansas, Maryland, Michigan, Nevada, New Mexico, Rhode Island, South Carolina, Utah and Wisconsin.
- 15 states have statutes that authorize the use of e-poll books but do not fall into the categories above:
 - Arizona, Arkansas, Florida, Illinois, Iowa, Minnesota, Mississippi, Missouri, Nebraska, North Carolina, North Dakota, South Dakota, Tennessee, West Virginia and Wyoming.
- One state plus D.C. do not have statutory authorization for e-poll books, but they are being used by local jurisdictions:
 - District of Columbia and Kentucky
- Eight states do not prohibit the use of e-poll books, but they are not currently being used:
 - Alaska, Hawaii, Louisiana, Montana, Oklahoma, Oregon, Vermont and Washington.
- Maine does not permit e-poll books.

If the State does not choose to use electronic poll book technology, informal conversations with the division indicate that there would be additional costs for overtime per election to administer the early voting program. It is not known how this will affect the demand for and cost of overtime, which may depend on early voter turnout. Turnout and the manner of implementation may also change the estimated number of poll workers required at each early voting location thereby affecting poll worker and overtime costs. Experience data in Florida indicates that new voters have a tendency to vote by mail or vote early while traditional voters tend to vote at the polls on Election Day. Thus, as the voter population demographics change, a higher proportion of voters may be more likely to vote by mail or vote early over time.

Under the assumptions stated, not adopting electronic poll book technology would reduce the bill's cost in the first fiscal year by the cost of the electronic poll books, but would increase the cost of the bill in subsequent fiscal years by an unknown amount in workload, staffing and overtime costs, plus annual increases in these costs due to wage increases.

Costs for licensing fees, maintenance fees, and printing costs are not included in the estimate. The OLS notes that the estimate does not address costs that may arise if a municipality opts to conduct early voting for elections in May.

Section: State Government

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