

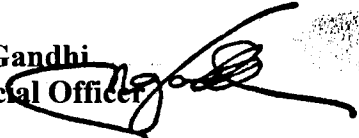
Government of the District of Columbia
Office of the Chief Financial Officer



Natwar M. Gandhi
Chief Financial Officer

MEMORANDUM

TO: The Honorable Vincent C. Gray
Chairman, Council of the District of Columbia

FROM: Natwar M. Gandhi
Chief Financial Officer 

DATE: September 25, 2009

SUBJECT: Fiscal Impact Statement – “Omnibus Election Reform Act of 2009”

REFERENCE: Bill Number 18-345 – Committee Print Share with OCFO on
September 17, 2009

Conclusion

Funds are not sufficient in the FY 2010 through FY 2013 budget and financial plan to implement the proposed legislation. The costs associated with implementing the proposed legislation can be absorbed by the non-lapsing, non-reverting funds made available to support this legislation¹ in FY 2010, FY 2011, and FY 2012, but not in FY 2013. The estimated negative impact in FY 2013 is \$75,800.

Background

The proposed legislation would amend the District of Columbia Election Code of 1955² (“Code”) to make several changes impacting the Board of Elections and Ethics (BOEE) governance structure, voter qualifications, voter registration, polling place workers, voting machine requirements, absentee and special ballots, election procedures, and post-election audits.

Below is a topic-by-topic summary of the proposed bill:

¹ The pertinent subtitle of Bill 18-203, “Election Reform Fund Establishment Amendment Act of 2009,” transfers a total of \$300,000 in the Fund by redirecting \$289,000 of BOEE’s personnel services budget into the Fund for implementing election reform initiatives. Additionally, it would transfer \$17,000 from Office of Campaign Finance’s special purpose revenue into “Fund.” The BOEE has noted that the transfer of \$289,000 from the BOEE’s personnel services could result in a spending pressure for the agency; however, the full impact of the transfer is not known at this time.

² Approved August 12, 1955 (69 Stat. 699; D.C. Official Code § 1-1001.2)

BOEE Governance:

- Amend the Code to require the BOEE, the Mayor, and the Council to consider an individual's personal character and expertise in government ethics or in elections laws and procedures. Each Board member would also be required to be a registered voter in the District;
- Require the BOEE to hold regular monthly meetings that are open to the public, unless the members vote to enter into Executive Session;
- Prohibit the BOEE, while in Executive session, from voting, making resolutions or rulings, or taking actions of any kind unless there is a special circumstance that requires doing so;³
- Require the BOEE to make the minutes of each meeting available to the public through their website;
- Amend the Code to add the term "election observer" defined as "nonpartisan domestic and international observers, including but not limited to voting rights organizations, and civic organizations;"
- Add a new subsection to the Code requiring the BOEE to issue regulations for granting access to the electoral process, including access to polling places, ballot-tabulation centers, and other similar locations, to observers; and
- Require the BOEE, within 90 days following a general election, to publish on its website an after-action report.

Voter Qualifications:

The proposed legislation would amend the definition of "qualified elector" to mean a person who:

- Is at least 17 years old and who will be 18 years old on or before the next general election, and
- Is not incarcerated for a crime that is a felony in the District.

Voter Registration:

The proposed legislation would amend the Code to:

- Authorize District residents to register to vote in the precinct in which the voter maintains residence at any time except in the 30 day period preceding a scheduled election;
- Require the BOEE to process voter registration applications and registration update notifications by the 23rd day preceding an election;
- Require the BOEE to process faxed postcard applications from persons eligible to vote absentee in federal elections in the District no later than the 30 days prior to the election;
- Allow DC residents to register on Election Day at the polling place in their neighborhood precinct, so long as they can provide proof of residence;
- Require each precinct captain to keep a record of individuals who attempt to register on Election Day but did not have proper proof of residence;

³ Section 2(c) of the proposed legislation outlines certain circumstances in which the BOEE would be authorized to act in closed-door Executive Session.

- Require the BOEE to publish the list of all those same-day registrants, including those who attempted to register but were unsuccessful;
- Require the BOEE to submit, no later than May 1, 2010, a report indicating the feasibility of implementing voter registration in the District; and
- Designate the Department of Corrections (DOC) and the Department of Youth Rehabilitative Services (DYRS) as "voter registration agencies."⁴

Polling Place Workers:

- Require polling place workers to be District residents. Current law requires polling place workers to be registered District voters;
- Require polling place workers to complete at least four hours of training, receive BOEE certification, and take and sign an oath of conduct;
- Require the BOEE to establish performance measurement standards for polling place workers;
- Authorize District employees to take paid leave to serve as a polling place workers⁵; and
- Require the Board to provide a field on voter registration forms to allow an applicant to indicate his or her interest in working as a polling place worker in future elections.

Voting Machines:

The proposed legislation would require each voting machine used in a District election occurring after January 1, 2012 to meet the following requirements:

- Meet or exceed voting system standards set forth in the federal Help America Vote Act of 2002;
- Create a voter-verifiable record of all votes cast;
- Be capable of creating, storing, and exporting an anonymous separate machine record of each voter-verifiable record, showing each choice made by the voter; and
- Meet additional standards established by the BOEE.

Additionally, the proposed subtitle would require the BOEE to purchase voting system equipment under a competitively bid contract that met certain conditions as specified in the legislation.⁶

Absentee and Special Ballots:

- Allow any registered voter to vote by absentee ballot for any reason;
- Allow registered voters to cast a vote in a voting precinct that does not serve his or her current address by special ballot, and require the BOEE to count that vote for federal elections and for any District-wide election contests;
- Authorize the BOEE to establish for each primary and general election no fewer than four early voting centers, equitably distributed geographically throughout the District;

⁴ A "voter registration agency" means an office designated under D.C. Official Code § 1-1001.07(d)(1) and the National Voter Registration Act of 1993 to perform voter registration activities.

⁵ District employees that take paid leave to serve as polling place workers on Election Day would not be allowed to collect compensation from the BOEE for their service.

⁶ The costs associated with purchasing voting system equipment would be paid for with federal funds made available through the Help America Vote Act of 2002.

- Require early voting centers to be open to voters for at least seven days prior to the election;
- Require the Department of Real Estate Services to assist the BOEE in identifying appropriate locations for early voting centers; and
- Require the Office of the Chief Technology Officer to assist the BOEE in ensuring each early voting center maintains a secure network environment with the BOEE's office.

Election Procedures:

- Require the BOEE to extend polling hours in the event of an emergency; and
- Require the BOEE to post in a visible location a summary count of votes cast at the precinct.

Post-Election Audits

- Require the BOEE to conduct a public manual audit of the voter verifiable records tabulated by the BOEE, and
- Require the BOEE to make the results of the public audit available on its website; and
- Require the BOEE to retain voter-verifiable records for 22 months. Current law required the records be retained for 12 months.

Financial Plan Impact

Funds are sufficient in FY 2010, FY 2011, and FY 2012 to implement the proposed legislation, but funds are not sufficient over the FY 2010 through FY 2013 budget and financial plan to implement the proposed legislation.

It is estimated that full implementation of the proposed legislation would cost approximately \$124,970 in FY 2010 and \$375,800 over the FY 2010 through FY 2013 budget and financial plan. Currently, the BOEE has \$300,000 available in their "Election Reform Fund" ("Fund"), a non-lapsing, revolving fund administered by BOEE, to implement the provisions of this legislation.⁷ Consequently, the agency can carry over fund balance to cover the costs of the proposed legislation in the following fiscal year. Based on the Office of Chief Financial Officer's assessment of the costs of the proposed legislation, the allocated funds can cover the implementation costs in FY 2010 through FY 2012. The Fund balance in FY 2013 is not adequate to cover the full cost of implementation, resulting in a negative fiscal impact of \$75,800 in FY 2013.⁸

⁷ See Footnote 1.

⁸ The requirement to make voting centers available beyond December 31, 2010 is subject to the inclusion of funds in the budget and financial plan. Additionally, the Council intends to amend the legislation at mark-up to make the no-fault absentee voting provision subject to appropriations starting in FY 2012; to fully implement the legislation in FY 2012 and FY 2013, the Council would need to appropriate funds for FY 2013.

The costs associated with purchasing new voting machines would be paid for with federal funds.⁹ Additionally, the DOC and the DYRS designations of "voter registration agency" could be absorbed by each agency with agency resources.¹⁰

Estimated Fiscal Impact of Bill 18-345, "Omnibus Election Reform Act of 2009"					
	<u>FY 2010</u>	<u>FY 2011</u>	<u>FY 2012</u>	<u>FY 2013</u>	<u>4 Year Total</u>
Uses of Funds					
Voter Registration ^a	\$22,520	\$20,020	\$20,020	\$20,020	\$82,580
Same-Day Registration	\$21,520	\$20,020	\$20,020	\$20,020	\$81,580
Automatic-Voter-Registration Study	\$1,000	\$0	\$0	\$0	\$1,000
Polling Place Workers	(\$3,450)	(\$3,450)	(\$3,450)	(\$3,450)	(\$13,800)
Savings in Poll worker Compensation ^b	(\$3,450)	(\$3,450)	(\$3,450)	(\$3,450)	(\$13,800)
Absentee and Special Ballots	\$91,500	\$47,840	\$47,840	\$47,840	\$235,020
No-Fault Absentee Bballots ^c	\$35,860	\$23,200	\$23,200	\$23,200	\$105,460
<i>IT Costs ^d</i>	<i>\$10,000</i>	<i>\$0</i>	<i>\$0</i>	<i>\$0</i>	<i>\$10,000</i>
<i>Staffing/Training ^e</i>	<i>\$20,500</i>	<i>\$20,500</i>	<i>\$20,500</i>	<i>\$20,500</i>	<i>\$82,000</i>
<i>Postage Costs ^f</i>	<i>\$5,360</i>	<i>\$2,700</i>	<i>\$2,700</i>	<i>\$2,700</i>	<i>\$13,460</i>
Early Voting/Vote Centers ^g	\$55,640	\$24,640	\$24,640	\$24,640	\$129,560
<i>IT Costs ^h</i>	<i>\$31,000</i>	<i>\$0</i>	<i>\$0</i>	<i>\$0</i>	<i>\$16,000</i>
<i>Staffing/Training ⁱ</i>	<i>\$24,640</i>	<i>\$24,640</i>	<i>\$24,640</i>	<i>\$24,640</i>	<i>\$98,560</i>
Post-Election Audits ^j	\$14,400	\$14,400	\$28,800	\$14,400	\$72,000
Total Costs for BOEE	\$124,970	\$78,810	\$93,210	\$78,810	\$375,800
BOEE Election Reform Fund Balance ^k	\$300,000	\$ 175,030	\$ 96,220	\$ 3,010	\$ 300,000
Total Fiscal Impact	\$ -	\$ -	\$ -	\$ (75,800)	\$ (75,800)

^a It is estimated the BOEE would need one additional poll worker per polling location. Poll worker payment for this position is currently \$140 per day, and there are 143 precincts in the District. Staffing costs may decrease in future years as the BOEE collects data on the number of people who utilize this process.

^b The proposed legislation would authorize DC employees to take a paid leave of absence to work the polls on Election Day, but they would not be allowed to collect compensation from the BOEE for their service. As a result, the BOEE would realize cost savings since they would no longer be required to compensate these poll workers. The BOEE estimates that approximately 20 poll workers are District employees. It is assumed that in the next election

⁹ The BOEE has federal funds available through the Help America Vote Act to purchase new voting machines that meet the requirements of the proposed legislation. These funds are also available to pay for some of the costs associated with training poll workers.

¹⁰ The designation as a "voter registration agency" would require the DOC and DYRS to conduct certain voter registration activities as mandated by the federal National Voter Registration Act of 1993. These responsibilities include: distribution of mail voter registration application forms; assistance to applicants in completing voter registration application forms, unless the applicant refuses such assistance; and acceptance of completed voter registration application forms for transmittal to the appropriate District election official.

30 District employees would volunteer as poll workers; as a result the BOEE would save \$115 per District employee. Poll worker compensation can range from \$50 to \$180 depending on the position.

c It is assumed the BOEE would use the Old Council Chambers located at 441 4th Street, NW as a center for in-person no-fault absentee voting, as was the case in the 2012 presidential election. As a result, BOEE would not incur any facility costs.

d The BOEE would have to purchase 10 computers to process the absentee voters.

e The BOEE estimates that they will need 20 people per day at \$10 per hour for 11 hours to process absentee ballots. The agency can absorb the cost of 10 staff people but would need resources to train and staff 10 additional workers.

f It is assumed that there would be a 20 percent increase in absentee ballot requests; and a 10 percent increase every year after.

g The cost estimates for the early voting centers assume that only electronic voting would be offered at these sites, as per the BOEE's current implementation plan. If paper ballot votes were also made available, the cost of implementation would increase significantly. Additionally, it is assumed that early voting centers would be located in government buildings, and therefore the BOEE would not incur any facility costs. However, if the BOEE is required to use non-governmental buildings, there would be facility costs incurred.

h The BOEE would need to purchase 4 computers (\$1,000 each) for each voting center. Additionally, all sites would need wiring for live, secure connections.

i Estimate based on one voting center having 8 staff for 11 hours (8:30 am - 7:30 pm) at \$10.00 per hour. Each voting center would be open for 7 days prior to the election.

j The staffing costs are based on 15 teams of 3 workers compensated at \$10 per hour for 8 hours for 4 days. A team usually consists of 1 reader, 1 reviewer and 1 tabulator.

k Bill 18-203, "Fiscal Year 2010 Budget Support Act of 2009," sets aside \$300,000 in an Election Reform Fund that would be administered by the BOEE and used solely to implement election reform initiatives enacted by the D.C. Council. \$289,000 of the \$300,000 was redirected from the BOEE's personnel services budget.