

CHERYL C. KAGAN
Legislative District 17
Montgomery County

Vice Chair
Education, Energy, and
the Environment Committee

Joint Audit and Evaluation Committee
Joint Committee on Federal Relations



Miller Senate Office Building
11 Bladen Street, Suite 2 West
Annapolis, Maryland 21401
301-858-3134 • 410-841-3134
800-492-7122 Ext. 3134
Fax: 301-858-3665 • 410-841-3665
Cheryl.Kagan@senate.state.md.us

THE SENATE OF MARYLAND
ANNAPOLIS, MARYLAND 21401

SB495: Simplified Ballot Language
House Ways & Means Committee; March 26, 2024 at 1:00pm

Writing ballot measures that everyone can understand will allow our constituents to vote more confidently. Complex language can be confusing for many voters, resulting in miscast votes, skipped questions, and disproportionate influence of special interests. Twenty-two states (AL, AK, CA, CO, FL, HI, ID, LA, ME, MI, MS, MT, ND, NJ, NY, OK, OR, PA, SC, TN, TX, and VA) require that their ballot language must be easy to understand.

On our 2022 ballots, many of the questions voters faced were incomprehensible without additional legal education. Take Question #2, for instance:

"Adds to the eligibility requirements to serve as a senator or a delegate to the Maryland General Assembly by requiring a person to have maintained a primary place of abode in the district that the person has been chosen to represent. Under current law, a person must have resided in the district to which the person has been elected for at least six months immediately preceding the date of the person's election or, if the district has been established for less than six months prior to the date of election, as long as the district has been established. The new law requires, beginning January 1, 2024, a person must have both resided in and maintained a primary place of abode in the district for the same time periods as under current law."

Our drafters can write in a manner that can be easily understood. Ballot Question #4 from 2022 is a great example of a well-written question:

"Do you favor the legalization of the use of cannabis by an individual who is at least 21 years of age on or after July 1, 2023, in the State of Maryland?"

To solve this issue and establish conformity in our ballot language, SB495 would require ballot measures to be written at a sixth-grade level, as determined by the Federal Plain Writing Act of 2010 (<https://www.plainlanguage.gov/>). Democracy is enhanced when people clearly understand the issues requiring their vote and will help address the voting drop-off we see on ballot questions. This is not a hypothetical: State Board of Elections 2022 data indicated that nearly 400,000 voters declined to answer important ballot questions although they participated higher on the ballot (2,005,223 voters helped elect our Governor, while only 1,590,187 votes were cast for the lowest performing Ballot Question). Simplifying our language will help them be more confident in the exercise of their franchise.

This bill passed the Senate with a 40-7 vote on March 8.

I urge a favorable report for SB495.



Simplified language for ballot questions in Maryland

Whitney Quesenbery, Director, Center for Civic Design
Expert remarks on SB 495 | HB 1343, February 2024

Thank you for the opportunity to add our perspective to the value of plain language on ballots. Plain language is a key to helping voters participate in elections with confidence.

My name is Whitney Quesenbery. I'm a proud resident of Maryland. But I'm here as the cofounder and director of the Center for Civic Design. We are a Maryland-based nonprofit organization focused on democracy as a design problem. We work with elections across the country. We have worked with the Maryland State Board of Elections on projects from forms to voter guides. We helped New York State pass a similar law to require ballot questions to be written in clear language.

Many states use direct democracy in the form of questions on a ballot. But, if voters cannot understand the text—or the implications of the question—they cannot participate effectively.

The problem with the way we do it now is that:

- Too many ballot questions are in legal language that hides the real question.
- They focus on the mechanism of change rather than the outcome. That is, what will happen, not the legal changes needed to make it happen.
- As a result, they make voters feel that this is a deliberate attempt to confuse or trick them. As a result, they make voters feel that this is a deliberate attempt to confuse or trick them. This is especially true for the 43% of literate adults who read at basic or below-basic levels, according to the National Assessment of Adult Literacy.

The solution is writing ballot questions in plain language.

Center for Civic Design

civicedesign.org | 410-921-6811 | office@civicedesign.org
5443 Tates Bank Road, Cambridge, MD 21613

According to the federal resource, plainlanguage.gov, language is plain when people can:

- find what they need
- understand what they find
- use it to meet their goals.

People want to be confident that their vote matches their opinion. To do this, they have to understand the outcomes of voting “yes” or “no.”

Writing for voters with no more than a 6th-grade education is an important step. There are ways to measure how easy text is to read. These readability scores measure the length and complexity of the text. Tools developed for adult readers are appropriate for evaluating ballot questions. One of them is the [Automated Readability Index \(ARI\)](#). The military developed the ARI for technical manuals. It also has a scoring formula that is easy to use, so that scores are consistent.

But plain language is more than a score. The League of Women Voter’s [Easy Voter Guide](#) uses a simple structure to explain ballot questions. It makes a difference. They start with “the way it is now” and “what will change.” After reading the explanations, people asked if questions on the ballot could be written the same way.

A question that will help voters:

- Describes what change the question will bring about, not the mechanism for change.
- Avoids double negatives that confuse. Speaks in active voice that makes the action clear.
- Providing a clear statement of what voting Yes or No means.

Many voters in Maryland already get county voter guides. These guides can add more detail about ballot questions. They can explain how things work now and how they will work if the question passes. They can also define words that might not be familiar to many voters.

Senate Bill 495 and House Bill 1343 asks the State Board of Elections to create guidelines. This is an opportunity to provide before-and-after examples of questions in simpler language.

Writing in legalese is a habit we can break.



Maryland Developmental Disabilities Council

CREATING CHANGE • IMPROVING LIVES

Senate Education, Energy, and the Environment Committee
SB 495: Election Law - Petitions and Ballot Questions - Plain Language Requirement
February 21, 2024
Position: Support

The Maryland Developmental Disabilities Council (Council) is an independent public policy organization that creates change to make it possible for people with developmental disabilities to live the lives they want with the support they need. Our vision is that people with and without disabilities in Maryland live, learn, work, and play together.

WHAT does this legislation do?

- SB 495 makes changes to the way that petitions for new ballot questions and questions on a ballot are written. It requires that they are written in plain language.
- Plain language is a way of writing so that all people can understand information the first time they read it.

WHY is this legislation important?

- **Writing ballot petitions and questions in plain language benefits everyone.** Currently, many ballot questions can be confusing for people with and without disabilities to understand. Using plain language makes it easier for all voters, including people with disabilities, to understand what they are being asked to consider.
- **This bill makes voting more accessible for people with disabilities.** Voting is a fundamental right for Marylanders with developmental disabilities, but they face barriers. Research shows that 20% of voters with disabilities face difficulties with voting, compared to 6% of voters without disabilities¹. But these difficulties can be eliminated. Research also shows that with more accessible voting options available, more people with disabilities vote². Creating more accessible voting practices, such as incorporating plain language, allows more people with disabilities to vote.

Incorporating plain language into ballot petitions and questions allows all Marylanders to better participate in the electoral process. This makes voting more accessible for everyone, including people with developmental disabilities. **For that reason, the Council supports SB 495.**

Contact: Chris Rogers, Director of Engagement, CRogers@md-council.org

¹ https://www.eac.gov/sites/default/files/2023-07/EAC_2023_Rutgers_Report_FINAL.pdf

² https://smlr.rutgers.edu/sites/default/files/Documents/Centers/Program_Disability_Research/FactSheet_Disability_Voter_Turnout_2020.pdf



121 Cathedral Street
Annapolis, MD 21401
443.906.0442

www.commoncause.org/md

February 21, 2024

**Testimony on SB 495
Election Law – Petitions and Ballot Questions – Plain Language Requirement
Education, Energy, and the Environment**

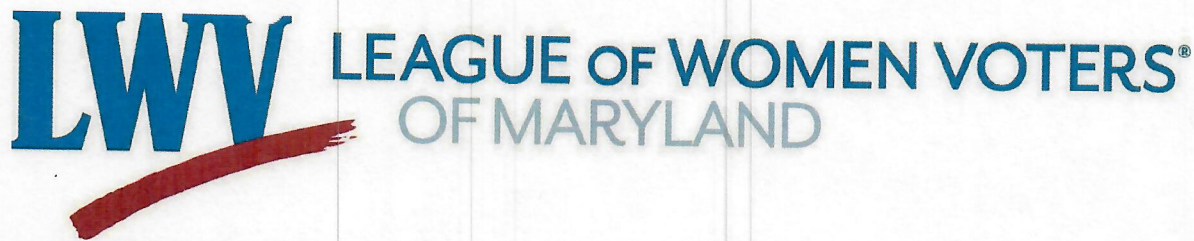
Position: Favorable

Common Cause Maryland is in support of SB 495, which would require that all Ballot Questions be written in a way that they could be reasonably understood by a voter with a 6th grade level of reading comprehension. Voting should be accessible to all eligible citizens, and that necessitates breaking down any intellectual barriers to voting in elections.

Regardless of the intent, ballot measures that are hard to understand are a big problem in elections. Voters often leave the polling booth unsure of how they voted on a question, or they may have even avoided voting on certain questions altogether because they are just not sure what they are being asked. It is important that voters are conscious of the decisions they are making. It is also important that voters don't feel left out of policymaking by intimidating ballot language.

Ballot measures still favor the college-educated who represent a minority of the U.S. population. According to the Census Bureau, only 31 percent of people 25 or older have a bachelor's degree or higher education level. Specifically, in Maryland only 47% of people are college educated. Meaning that at least 53% of people are in jeopardy of not being able to understand what is written in a ballot question. While the ability to comprehend the complicated language used in ballot measures is becoming more widespread, it still does not reflect the education level of the average American voter.

This bill is not meant to question the intelligence of Marylanders, this bill simply acknowledges the realities of the educational make-up of our state and country and makes necessary accommodations. We believe that measures should be taken to make voting on ballot measures more equitable for everyone. SB 495 would make voting more accessible, and for that reason we urge a favorable report.



**TESTIMONY TO THE SENATE EDUCATION, HEALTH AND ENVIRONMENTAL
AFFAIRS COMMITTEE**

**SB 495 Election Law - Petitions and Ballot Questions - Plain Language
Requirement**

POSITION: Support with amendment

BY: Linda Kohn, President

Date: February 21, 2024

The League of Women Voters was founded to promote political responsibility through informed and active participation in government. When ballot measures are presented in language that is overly technical, it becomes a barrier to voter participation. This bill seeks to ensure that petitions as well as ballot measures will be readily understood by the average voter.

The League of Women Voters of Maryland supports the intent of SB 495, which proposes a plain language requirement for ballot questions. When ballot question language is confusing, voters may choose to not vote on that issue, which eliminates their opportunity to impact public policy.

Sixteen states specify that ballot language must be easy to understand. We understand that ballot language is often constrained by legal requirements to make sure that it truly reflects the intent of the question based on legal standards. However, the League believes that certain measures can be taken by the State Board of Elections to meet those requirements while staying within the bounds of the law.

The League of Women Voters of Maryland urges a favorable report on SB 495.