

**Department of Legislative Services**

Maryland General Assembly

2001 Session

**FISCAL NOTE****Revised**

House Bill 123 (Chairman, Commerce and Government Matters Committee)

(Departmental – Elections, State Board of)

Commerce and Government Matters

Economic and Environmental Affairs

**Election Law - Referendum Petitions and Ballot Questions**

This departmental bill seeks to clarify procedural matters related to the qualification and certification of ballot questions and petitions. It sets out which governmental authority is responsible for the preparation and dissemination of ballot question language, and specifies the types of petitions and ballot questions covered by law.

**Fiscal Summary**

**State Effect:** General fund expenditures could decrease by about \$133,000 every two years beginning in FY 2003. Revenues would not be affected.

(in dollars)	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	0	(133,000)	0	(133,000)	0
Net Effect	\$0	\$133,000	\$0	\$133,000	\$0

*Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect*

**Local Effect:** Potential minimal increase in local government expenditures for additional printing costs beginning in FY 2003.

**Small Business Effect:** The State Board of Elections has determined that this bill has minimal or no impact on small business (attached). Legislative Services concurs with this assessment. (The attached assessment does not reflect amendments to the bill.)

## Analysis

**Current Law:** The revisions in this bill address three general areas which have made current law difficult to implement in some instances. First, the definition of a “local petition” for referendum excludes petitions to refer public general or statewide laws enacted by the General Assembly. It does not exclude public local laws enacted by the General Assembly. Thus these public local laws could be treated as local petitions. This poses a problem when determining the procedure for ratifying petitions because the responsible governmental authorities for local and statewide petitions for referenda differ.

Second, current law requires several entities to prepare and certify ballot questions depending on the type of ballot question. The State Board of Elections handles all ballot questions that are part of a law enacted by the General Assembly which by its provisions, direct the law be put on the ballot for approval by voters. The actual language of the question is usually provided in the law itself.

Local legislative bodies and their attorneys are responsible for local ballot questions. The “county attorney” is responsible for “preparation” of ballot questions while the local legislative authority is responsible for certifying the questions to the local board. There was some confusion in the past general election as to what duties should be performed by whom.

The Secretary of State is required under the State election code to prepare and certify statewide ballot questions and “questions relating to an enactment of the General Assembly.” Because the definition of a local petition could be read to include public local laws enacted by the General Assembly, there was some confusion in the past election as to whether local authorities or the Secretary of State was responsible for determining the sufficiency of petitions to place enacted laws on the ballot by referendum.

Finally, the definition of local petition in the current law causes confusion as to what publication and notice requirements should be followed for public local laws enacted by the General Assembly. The State election code only provides specific instructions on publication and notice of ballot questions for “referendums enacted pursuant to Article XVI of the Maryland Constitution.” Article XVI addresses both public general and local laws passed by the General Assembly, and allows the State election authority to adopt regulations concerning both types of ballot questions. The State election code currently contains regulations on ballot questions for public general laws enacted by the General Assembly, but not public local laws. This caused some ambiguity as to what publication and notice requirements the law required for these types of ballot questions.

**Background:** This bill covers three general categories of ballot questions. First, questions referred to the ballot via petition of a public general law or public local law enacted by the General Assembly and constitutional amendments. The second category of questions are statewide laws enacted by the General Assembly that expressly refer its provisions of a statewide vote. These are measures passed by the General Assembly on the condition that they be ratified by voters. The third category includes all questions on local laws passed by local legislative bodies. The types of local questions include local ballot questions referred by local legislative bodies, or local voter petitions to refer local laws or in some counties, to propose charter amendments.

The bill clearly requires petitions that refer public local laws enacted by the General Assembly to the ballot to be governed under the same procedures for statewide referendum petitions under Article XVI, and not be submitted to local authorities for approval. A recent Attorney General Opinion stated that the overall constitutional and legislative scheme “generally assigns to State officials determinations respecting the referral of acts of the General Assembly, be they public general, or public local laws.”

**State Fiscal Effect:** The bill repeals the requirement that the State Election Board provide publication of notice to the public of statewide ballot questions. The new language gives local boards the duty to publicize State and local questions either through mailing of specimen ballots to registered voters or through other means of mass communication. Accordingly, general fund expenditures of the State board would be reduced by approximately \$133,000 every two years. This would be the cost of newspaper advertising of statewide ballot questions.

**Local Fiscal Effect:** Local election boards already send out specimen ballots. This bill requires them to include explanatory language for each statewide question. The additional costs associated with a slightly expanded ballot are minimal according to most counties surveyed. Montgomery County, however, advises that its additional printing costs could range from zero to \$8,000 every two years because of its comparatively large number of registered voters.

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### **Additional Information**

**Information Source(s):** State Board of Elections; Prince George’s, Garrett, Montgomery, and Dorchester counties; Attorney General Opinion No. 00-011; Department of Legislative Services

**Fiscal Note History:** First Reader – January 25, 2001  
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