

SENATE BILL 232

Unofficial Copy
L2

2002 Regular Session
(2lr1043)

ENROLLED BILL

-- Education, Health, and Environmental Affairs/Commerce and Government Matters --

Introduced by **Senators Mooney and Ferguson**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this
____ day of _____ at _____ o'clock, ____ M.

President.

CHAPTER _____

1 AN ACT concerning

2 **Frederick County ~~Zoning Ordinances~~ ~~Citizen's Referendum~~ Citizen's**
3 **Right to Referendum Act - Zoning - Referendum**

4 FOR the purpose of ~~allowing the citizens of Frederick County to petition certain~~
5 ~~adoptions, amendments, or repeals of certain zoning ordinances adopted by the~~
6 ~~Board of County Commissioners to referendum; providing that certain~~
7 ~~adoptions, amendments, or repeals of certain zoning ordinances may not take~~
8 ~~effect within a specified period; specifying certain procedures and requirements~~
9 ~~of a petition and the effect of a petition; requiring the Board of Supervisors of~~
10 ~~Elections of Frederick County to verify a petition; providing that certain~~
11 ~~adoptions, amendments, or repeals of certain zoning ordinances successfully~~
12 ~~petitioned to referendum shall appear on the ballot in Frederick County at the~~
13 ~~next regular election for members of the House of Representatives; providing~~
14 ~~that the adoptions, amendments, or repeals of certain zoning ordinances~~
15 ~~petitioned to referendum may not take effect until after a specified period of~~
16 ~~time following approval by a majority of voters voting on the question; making~~
17 ~~provisions of this Act severable; providing for the termination of this Act; and~~

1 ~~generally relating to the right of the citizens of Frederick County to petition~~
 2 ~~certain land use decisions of the Board of County Commissioners requiring~~
 3 ~~certain zoning ordinances adopted or amended by the Board of County~~
 4 ~~Commissioners of Frederick County to be submitted to a referendum under~~
 5 ~~certain circumstances; establishing standards and procedures for a referendum~~
 6 ~~on a county zoning ordinance; authorizing a special election for a county zoning~~
 7 ~~referendum; providing for the effective date of a county zoning ordinance;~~
 8 ~~providing for the effective date for certain provisions of this Act; making the~~
 9 ~~provisions of this Act severable; providing for the termination of this Act; and~~
 10 ~~generally relating to the submission of certain zoning ordinances in Frederick~~
 11 ~~County to referendum.~~

12 BY repealing and reenacting, with amendments,
 13 Article 33 - Election Code
 14 Section 8-401(a)
 15 Annotated Code of Maryland
 16 (1997 Replacement Volume and 2001 Supplement)

17 BY repealing and reenacting, with amendments,
 18 Article 66B - Land Use
 19 Section 14.06
 20 Annotated Code of Maryland
 21 (1998 Replacement Volume and 2001 Supplement)

22 BY repealing and reenacting, with amendments,
 23 Article - Election Law
 24 Section 8-401(a)
 25 Annotated Code of Maryland
 26 (As enacted by Chapter _____ (S.B. 1) of the Acts of the General Assembly of 2002)

27 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
 28 MARYLAND, That the Laws of Maryland read as follows:

29 Article 33 - Election Code

30 8-401.

31 (a) A special primary election and a special general election may be held at a
 32 time other than the date of a regular primary election and a regular general election:

33 (1) To fill a vacancy in the office of Representative in Congress; [or]

34 (2) To fill a vacancy in the county council if the charter of that county
 35 provides for such special elections; OR

36 (3) FOR A FREDERICK COUNTY ZONING REFERENDUM UNDER ARTICLE
 37 66B, § 14.06 OF THE CODE.

1 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland
 2 read as follows:

3 **Article 66B - Land Use**

4 14.06.

5 (a) This section applies to Frederick County.

6 (b) Notwithstanding any other provision of this article, the Board of County
 7 Commissioners may overrule an action of the Frederick County planning commission
 8 under §§ 3.05, 3.06, 3.07, and 3.08 of this article by a majority vote of the membership
 9 of the Board of County Commissioners.

10 (c) (1) Notwithstanding § 4.07(a) of this article, the members of the board of
 11 appeals may be appointed to terms of 1 to 3 years.

12 (2) The terms of the board of appeals shall be staggered.

13 (d) If a plat is approved and recorded in accordance with this article before the
 14 transfer of land, § 5.05 of this article does not apply to the contract for sale or
 15 negotiation for sale of property zoned industrial, commercial, or both industrial and
 16 commercial.

17 ~~(E) (1) (I) THE CITIZENS OF FREDERICK COUNTY MAY PETITION TO~~
 18 ~~REFERENDUM IN ACCORDANCE WITH THIS SUBSECTION ANY ADOPTION,~~
 19 ~~AMENDMENT, OR REPEAL OF A ZONING ORDINANCE ADOPTED BY THE BOARD OF~~
 20 ~~COUNTY COMMISSIONERS.~~

21 ~~(II) THE ADOPTION, AMENDMENT, OR REPEAL OF A ZONING~~
 22 ~~ORDINANCE MAY NOT TAKE EFFECT DURING THE PERIOD IN WHICH A PETITION MAY~~
 23 ~~BE SUBMITTED.~~

24 ~~(III) IF THE ADOPTION, AMENDMENT, OR REPEAL OF A ZONING~~
 25 ~~ORDINANCE IS SUCCESSFULLY PETITIONED TO REFERENDUM, THE ADOPTION,~~
 26 ~~AMENDMENT, OR REPEAL OF THE ZONING ORDINANCE IS SUSPENDED AND MAY NOT~~
 27 ~~TAKE EFFECT UNTIL 30 DAYS AFTER APPROVAL BY THE MAJORITY OF THE~~
 28 ~~QUALIFIED VOTERS VOTING ON THE QUESTION.~~

29 ~~(2) (I) AN ADOPTION, AMENDMENT, OR REPEAL OF A ZONING~~
 30 ~~ORDINANCE IS SUBJECT TO REFERENDUM UNDER THIS SUBSECTION IF A PETITION~~
 31 ~~SIGNED BY THE REQUIRED NUMBER OF QUALIFIED VOTERS OF FREDERICK COUNTY~~
 32 ~~IS SUBMITTED TO THE BOARD OF SUPERVISORS OF ELECTIONS OF THE COUNTY~~
 33 ~~WITHIN 45 DAYS AFTER FINAL ADOPTION OF THE ORDINANCE OR AMENDMENT OR~~
 34 ~~REPEAL OF A CURRENT ORDINANCE BY THE BOARD OF COUNTY COMMISSIONERS OR~~
 35 ~~WITHIN THE TIME PRESCRIBED IN SUBPARAGRAPH (IV) OF THIS PARAGRAPH.~~

36 ~~(II) A PETITION SUBMITTED UNDER THIS SUBSECTION SHALL BE~~
 37 ~~SIGNED BY AT LEAST 10% OF THE QUALIFIED VOTERS WHO RESIDE IN FREDERICK~~
 38 ~~COUNTY.~~

1 (III) A PETITION MAY CONSIST OF SEVERAL PAPERS, BUT EACH
 2 PAPER SHALL CONTAIN THE TEXT OF OR A FAIR SUMMARY OF THE ORDINANCE OR
 3 REPEAL OF A CURRENT ORDINANCE BEING PETITIONED TO REFERENDUM.
 4 INDIVIDUALS SIGNING THE PETITION SHALL PRINT NEXT TO THEIR SIGNATURE
 5 THEIR NAME AND ADDRESS. AN AFFIDAVIT SHALL BE ATTACHED TO EACH PAPER BY
 6 THE INDIVIDUAL PROCURING THE SIGNATURES STATING THAT, TO THE
 7 INDIVIDUAL'S INFORMATION AND BELIEF, EACH SIGNATURE ON THE PAPER IS
 8 GENUINE AND THAT, WHERE REQUIRED BY THIS SUBSECTION, EACH INDIVIDUAL
 9 WHOSE SIGNATURE APPEARS ON THE PAPER IS A QUALIFIED VOTER WHO RESIDES
 10 IN FREDERICK COUNTY.

11 (IV) IF MORE THAN ONE THIRD BUT LESS THAN THE TOTAL
 12 NUMBER OF QUALIFIED SIGNATURES REQUIRED TO COMPLETE THE PETITION ARE
 13 FILED WITH THE BOARD OF SUPERVISORS OF ELECTIONS OF THE COUNTY WITHIN 45
 14 DAYS AFTER FINAL ADOPTION OF THE ORDINANCE OR WITHIN 45 DAYS AFTER THE
 15 EFFECTIVE DATE OF A REPEAL OR AMENDMENT OF A CURRENT ORDINANCE, THE
 16 TIME FOR COMPLETING THE PETITION IS CONTINUED FOR AN ADDITIONAL 45 DAYS.

17 (3) (F) THE BOARD OF SUPERVISORS OF ELECTIONS OF THE COUNTY
 18 SHALL VERIFY THE REGISTRATION OF THE INDIVIDUALS SIGNING THE PETITION
 19 AND, IF THE REQUIRED NUMBER OF QUALIFIED VOTERS IS VERIFIED, SHALL PLACE
 20 THE ADOPTION, AMENDMENT, OR REPEAL OF A ZONING ORDINANCE ON THE BALLOT
 21 IN FREDERICK COUNTY AT THE NEXT REGULAR ELECTION FOR MEMBERS OF THE
 22 UNITED STATES HOUSE OF REPRESENTATIVES FOR APPROVAL OR REJECTION.

23 (H) A MINOR VARIATION BETWEEN THE SIGNATURE OF A
 24 QUALIFIED VOTER ON THE PETITION AND ON THE VOTER REGISTRATION RECORDS
 25 DOES NOT INVALIDATE THE SIGNATURE. THE INVALIDATION OF A SIGNATURE ON A
 26 PETITION DOES NOT INVALIDATE ANY OTHER SIGNATURE ON THE PETITION.

27 SECTION 2. AND BE IT FURTHER ENACTED, That if any provision of this
 28 Act or the application thereof to any person or circumstance is held invalid for any
 29 reason in a court of competent jurisdiction, the invalidity does not affect other
 30 provisions or any other application of this Act which can be given effect without the
 31 invalid provision or application, and for this purpose the provisions of this Act are
 32 declared severable.

33 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
 34 October 1, 2002. It shall remain effective for a period of 1 year and, at the end of
 35 September 30, 2003, with no further action required by the General Assembly, this
 36 Act shall be abrogated and of no further force and effect.

37 (E) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, AN
 38 ORDINANCE OR AN AMENDMENT TO AN EXISTING ORDINANCE THAT ENACTS A
 39 SUBSTANTIAL REWRITE, REPLACEMENT, OR REPEAL OF THE FREDERICK COUNTY
 40 ZONING ORDINANCE OF 1977-78 SHALL TAKE EFFECT 30 DAYS AFTER THE DATE OF
 41 ENACTMENT.

1 (2) (I) AN ORDINANCE OR AN AMENDMENT TO AN EXISTING
2 ORDINANCE THAT ENACTS A SUBSTANTIAL REWRITE, REPLACEMENT, OR REPEAL OF
3 THE FREDERICK COUNTY ZONING ORDINANCE OF 1977-78 MAY BE PETITIONED TO A
4 COUNTY REFERENDUM WITHIN 60 DAYS OF THE DATE OF ENACTMENT.

5 (II) 1. BEFORE IT IS EFFECTIVE, A PETITION SUBMITTED UNDER
6 THIS PARAGRAPH SHALL BE SIGNED BY AT LEAST 3% OF THE NUMBER OF QUALIFIED
7 VOTERS OF FREDERICK COUNTY WHO VOTED FOR GOVERNOR IN THE LAST
8 PRECEDING GUBERNATORIAL ELECTION.

9 2. IF MORE THAN ONE-THIRD BUT LESS THAN THE FULL
10 NUMBER OF SIGNATURES REQUIRED FOR A REFERENDUM PETITION TO BE
11 EFFECTIVE IS FILED WITH THE SECRETARY OF STATE BEFORE 30 DAYS AFTER THE
12 DATE OF ENACTMENT, THE TIME FOR THE ORDINANCE TO TAKE EFFECT SHALL BE
13 EXTENDED TO 60 DAYS AFTER THE DATE OF ENACTMENT.

14 (III) THE SUBSTANTIAL REWRITE, REPLACEMENT, OR REPEAL OF
15 THE ZONING ORDINANCE SHALL BE SUSPENDED AFTER A PETITION IS SUBMITTED
16 AND UNTIL:

17 1. A COURT OF COMPETENT JURISDICTION DECLARES THE
18 PETITION INVALID; OR

19 2. THE PETITION IS DISAPPROVED BY THE VOTERS OF
20 FREDERICK COUNTY.

21 (IV) A PETITION SHALL CONFORM TO THE REQUIREMENTS UNDER
22 ARTICLE XVI, § 4 OF THE MARYLAND CONSTITUTION.

23 (V) THE BOARD OF SUPERVISORS OF ELECTIONS OF THE COUNTY
24 SHALL VERIFY THE REGISTRATION OF THE INDIVIDUALS SIGNING THE PETITION
25 AND, IF THE REQUIRED NUMBER OF QUALIFIED VOTERS IS VERIFIED, PLACE THE
26 SUBSTANTIAL REWRITE, REPLACEMENT, OR REPEAL OF THE ZONING ORDINANCE
27 ON THE BALLOT IN FREDERICK COUNTY AT A SPECIAL ELECTION OR AT THE NEXT
28 GENERAL ELECTION FOR APPROVAL OR REJECTION.

29 (3) THE COST OF THE REFERENDUM, IF ANY, SHALL BE PAID BY THE
30 BOARD OF COUNTY COMMISSIONERS.

31 (4) THE BOARD OF COUNTY COMMISSIONERS AND THE BOARD OF
32 SUPERVISORS OF ELECTIONS SHALL PROVIDE FOR AND HOLD THE REFERENDUM.

33 (5) (I) IF A MAJORITY OF THE VOTES CAST ON THE QUESTION ARE
34 "FOR THE REFERRED LAW", THE ENACTMENT BECOMES EFFECTIVE ON THE DATE
35 SPECIFIED IN THE ENACTMENT.

36 (II) IF A MAJORITY OF THE VOTES CAST ON THE QUESTION ARE
37 "AGAINST THE REFERRED LAW", THE PROVISIONS OF THE ENACTMENT ARE OF NO
38 EFFECT.

1 SECTION 3. AND BE IT FURTHER ENACTED, That the Laws of Maryland
2 read as follows:

3 Article - Election Law

4 8-401.

5 (a) A special primary election and a special general election may be held at a
6 time other than the date of a regular primary election and a regular general election:

7 (1) To fill a vacancy in the office of Representative in Congress; [or]

8 (2) To fill a vacancy in the county council if the charter of that county
9 provides for special elections; OR

10 (3) FOR A FREDERICK COUNTY ZONING REFERENDUM UNDER ARTICLE
11 66B, § 14.06 OF THE CODE.

12 SECTION 4. AND BE IT FURTHER ENACTED, That if any provision of this
13 Act or the application thereof to any person or circumstance is held invalid for any
14 reason in a court of competent jurisdiction, the invalidity does not affect other
15 provisions or any other application of this Act which can be given effect without the
16 invalid provision or application, and for this purpose the provisions of this Act are
17 declared severable.

18 SECTION 5. AND BE IT FURTHER ENACTED, That Section 3 of this Act
19 shall take effect on the taking effect of Chapter _____ (S.B. 1) of the Acts of the General
20 Assembly of 2002. If Section 3 of this Act takes effect, Section 1 of this Act shall be
21 abrogated and of no further force and effect.

22 SECTION 6. AND BE IT FURTHER ENACTED, That, subject to the
23 provisions of Section 5 of this Act, this Act shall take effect June 1, 2002. It shall
24 remain effective for a period of 1 year and 6 months and, at the end of November 30,
25 2003, with no further action required by the General Assembly, this Act shall be
26 abrogated and of no further force and effect.