

Department of Legislative Services  
Maryland General Assembly  
2006 Session

FISCAL AND POLICY NOTE

Senate Bill 129 (Chair, Education, Health, and Environmental Affairs Committee)  
(By Request – Departmental – Elections, State Board of)

Education, Health, and Environmental Affairs

Ways and Means

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**Election Law - Ballots - Certification of Questions and Nomination of Candidates**

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This emergency departmental bill allows a nonprincipal political party to nominate candidates (with the exception of a candidate for a nonpartisan county board of education) according to its adopted constitution and by-laws, without having to file a petition showing the support of 1% of the voters eligible to vote for the office the candidate is running for. Procedures for filing a declaration of intent, certificate of candidacy, and certificate of nomination are set forth for a candidate nominated by a nonprincipal political party. An exception is removed from current law, making the certification of specified local ballot questions uniformly conducted by the county attorney of the appropriate county. The bill also provides for a State central committee of a nonprincipal political party that does not have local central committees to fill a vacancy in nomination for U.S. Representative, State Senator, House of Delegates member, or local office.

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**Fiscal Summary**

**State Effect:** None. The changes would not directly affect State finances.

**Local Effect:** Minimal. Local governments that currently use alternative certification procedures could handle changes needed to conform to the ballot question certification requirements of this bill with existing resources.

**Small Business Effect:** The State Board of Elections (SBE) has determined that this bill has minimal or no impact on small business (attached). Legislative Services concurs with this assessment.

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## Analysis

### Current Law:

#### *Formation of a Political Party/Nomination of Candidates*

In order to form a political party, a petition must be filed with SBE containing at least 10,000 signatures of registered voters. Principal political parties, which are generally the two political parties receiving the highest number of votes for their candidates for Governor in the preceding general election, must nominate candidates by primary election. Nonprincipal political parties generally must nominate candidates by petition, requiring the signatures of not less than 1% and at least 250 of the voters eligible to vote for the office.

#### *Vacancies in Nomination/Candidacy*

A vacancy in nomination of a petition candidate of a nonprincipal political party that occurs because the candidate dies, declines the nomination, or is disqualified for any cause is filled by the nonprincipal political party. Within five days of the death, declination, or disqualification of a petition candidate, the party governing body must file a certificate of designation, and the successor candidate must file a certificate of candidacy with the appropriate board.

#### *Certification of Local Ballot Questions*

Local ballot questions other than those referred to voters of one county or part of one county pursuant to an enactment of the General Assembly must be prepared and certified to the appropriate local board by the county attorney for the appropriate county, unless some other process is mandated by law.

### Background:

#### *Maryland Green Party v. Maryland Board of Elections*

In 2003 the Maryland Court of Appeals, in *Maryland Green Party v. Maryland Board of Elections*, 377 Md. 127, 832 A.2d 214 (2003), held that requiring nonprincipal political party candidates to complete a nominating petition violates the equal protection component of Article 24 of the Maryland Declaration of Rights. According to the court, the State's interest in requiring nonprincipal political party candidates to obtain the signatures of 1% of eligible voters, which was to show a sufficient amount of support for the candidate to avoid confusion and overloading a ballot with "frivolous" candidates,

was satisfied by the initial party-forming requirement of 10,000 signatures alone, and the “additional burden of two petitioning requirements ... [was] not justifiable.” *Maryland Green Party*, 377 Md. at 164; 832 A.2d at 235-36.

This bill would eliminate the 1% requirement for nonprincipal political parties.

### *Certification of Local Ballot Questions*

SBE advises that the exception in State law that local ballot questions be certified and processed by the county attorney, “unless some other process is mandated by law,” allows a county to change who certifies a ballot question, the date for certification, and the information to be certified. Eliminating the exception would make local ballot question certification procedures uniform across all local jurisdictions.

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## **Additional Information**

**Prior Introductions:** HB 677 of 2005, a substantially similar bill, passed the House and received a favorable report from the Education, Health, and Environmental Affairs Committee, but did not receive final action in the Senate before adjournment.

**Cross File:** None.

**Information Source(s):** Montgomery County, Prince George’s County, Kent County, Worcester County, Maryland State Board of Elections, Department of Legislative Services

**Fiscal Note History:** First Reader - February 7, 2006  
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