

Department of Legislative Services  
Maryland General Assembly  
2007 Session

**FISCAL AND POLICY NOTE**

Senate Bill 487 (Senators Harris and Kittleman)  
Education, Health, and Environmental Affairs

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**The Initiative**

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This bill proposes a constitutional amendment to authorize the submission to the voters by petition (also known as an initiative) any proposed bill to add to, repeal, or amend the public general laws or the Maryland Constitution.

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**Fiscal Summary**

**State Effect:** If a limited number of initiatives are pursued, the bill's requirements could be handled with existing State Board of Elections (SBE) resources, and it is assumed review of any proposal summaries could be handled within the existing resources of the Office of the Attorney General. In the event a significant number of initiatives are pursued, SBE may require additional contractual staff.

**Local Effect:** Local government expenditures may increase prior to statewide general elections to provide for signature verification for each petition. Absentee, provisional, and specimen ballot printing and postage costs may also increase.

**Small Business Effect:** None.

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**Analysis**

**Bill Summary:** Before a petition is circulated for signatures, the proposal contained in the petition must be submitted to the Secretary of State and, if a summary of the proposal is included in the petition, approved for accuracy by the Attorney General. A petition must contain signatures in a number equal to at least 5% of the votes cast for Governor in the last gubernatorial election. However, no more than one-half of the signatures may be

from voters in Baltimore City or any single county. A petition may be filed with the Secretary of State at any time. The Secretary of State must make a determination of whether the required number of signatures have been submitted, and if so, certify the petition within 30 days of the petition being filed. If a proposal is certified by the Secretary of State at least 90 days before a general election, the proposal is submitted to the voters at that election, otherwise the proposal is submitted to the voters at the next general election.

The General Assembly must prescribe by law the form of the petition for an initiative proposal, the manner for verifying the authenticity of petitions, and other necessary administrative procedures not in conflict with the bill's requirements.

The Governor must declare a proposal to be effective if at least 50% of the votes were cast in favor of a proposal to change public general law or, in the case of a proposal to change the Constitution, at least two-thirds of the votes were cast in favor of it. A proposal is effective 30 days after the Governor's declaration.

A proposal that becomes part of the public general laws or the Maryland Constitution may not be amended or repealed within four years of its effective date unless the change is approved by a two-thirds vote of both houses of the General Assembly.

### **Current Law:**

#### *Power of Referendum*

Maryland voters have the power of referendum under the Maryland Constitution, allowing legislation approved by the Governor or passed by the General Assembly over the veto of the Governor to be submitted to registered voters by petition, for approval or rejection. A petition must be signed by 3% of registered voters who cast votes for Governor in the preceding gubernatorial election. A petition proposing to submit legislation amending public local laws to a referendum must be signed by 10% of registered voters in the affected county or City of Baltimore based on the number of registered voters in that jurisdiction that cast votes for Governor in the last gubernatorial election.

#### *Constitutional Amendments*

Upon passage by three-fifths of all the members in each of the two houses of the General Assembly, constitutional amendments are submitted to the registered voters of Maryland to adopt or reject by a majority. A constitutional amendment that affects only one county

or the City of Baltimore must receive a majority of votes from voters statewide as well as in the affected county or the City of Baltimore.

**Background:** According to the National Conference of State Legislatures, 25 states provide for some form of an initiative process. The initiative processes of these states generally include the following steps:

- preliminary filing of a proposal with a state official;
- review of the proposal for conformance with statutory requirements;
- preparation of a ballot title and summary;
- circulation of a petition to obtain signatures generally from a percentage of votes cast for a statewide office in the preceding general election; and
- submission of the petition to the state election official for verification of the number of signatures.

There are generally two types of initiative processes, a direct initiative process, in which a qualifying proposal is put directly on the ballot, and an indirect initiative process, in which a qualifying proposal is submitted to the state legislature which may take action with respect to the proposal to differing extents, depending on the state. In some states, the legislature has the opportunity to act on the proposal, or in some states the legislature may submit a competing proposal to be included on the ballot.

Arizona, California, Colorado, Oregon, and Washington, have some of the most active initiative processes.

**State Fiscal Effect:** If a sufficient number of initiatives are pursued, State expenditures could increase prior to statewide general elections.

The current referendum process, which has not been used extensively in Maryland, (roughly 10 referendum proposals have been initiated in the past 10 years, one of which made it through the process to be certified and put on the ballot) is similar to the basic initiative process outlined in the bill. Both contain three basic phases: (1) preparation and review of the proposal; (2) gathering of signatures; and (3) verification of signatures and certification of the proposal for inclusion on a ballot.

SBE advises that assisting petition sponsors with the preparation of a proposal and guiding them through the referendum process can take approximately 40 hours of SBE staff time and additional time for the Office of the Attorney General to review any summary of each proposal. If a limited number of petitions are pursued in each election year, SBE could handle the additional work with existing resources; however, if a large

number of initiatives are pursued, SBE may require additional contractual staff support. Legislative Services assumes the review of proposal summaries could be handled within existing resources of the Office of the Attorney General. Any updates to documentation and SBE's web site needed in relation to the initiative process could be handled with existing resources.

The bill provides that if the Secretary of State determines that a petition contains the requisite number of valid signatures, the Secretary must certify the proposal for a vote, and that the General Assembly must prescribe the manner for verifying the authenticity of petitions. Presumably, signatures would be verified in the same manner as they currently are in the referendum process, in which the Secretary of State delivers a petition to SBE (in accordance with State law) which in turn distributes the respective portions of the petition (as directed by SBE regulations, signatures are ideally recorded separately and sorted by local jurisdiction) to local boards to verify the signatures. The initiative process would impose a larger signature verification burden, requiring signatures of 5% of voters as opposed to 3%, yet local election boards should bear most of that burden.

**Local Fiscal Effect:** Some counties have indicated the bill's changes could be handled with existing resources, while at least one has indicated an increase in expenditures prior to statewide general elections. The extent to which local expenditures could increase would primarily depend on the number of initiatives pursued each year and how far each initiative makes it through the process.

Local boards of election would be responsible for verifying the roughly 85,000 signatures per petition that would need to be gathered to meet the 5% requirement (based on number of voters in the 2002 gubernatorial election). The signatures on a petition are required under State law to be verified and counted within 20 days of the filing of the petition. If a large number of petitions are filed in a short time period, local boards may experience increased expenditures due to increased staff time needed to meet the 20-day time limit for each petition.

Under State law, with the approval of SBE, where a local board must verify more than 500 signatures, the board may verify a random sample of 500 signatures or 5% of the total number of signatures required to be verified by the local board, whichever is greater. The ability to verify signatures by random sampling could lessen the amount of work for local boards. SBE advises random sampling would be possible for noncontroversial initiatives, yet controversial issues may require full signature verification in anticipation of legal challenges.

Local expenditures could also be affected by increases in costs of printing and postage for absentee, provisional, and specimen ballots (mailed to each registered active voter prior

to an election), in the event an initiative petition was certified and the proposal put on the ballot.

*For illustrative purposes only*, Howard County estimates it could incur an additional \$40,000 in personnel expenses for verification of signatures and \$110,000 in printing and postage expenses associated with including the ballot issues on specimen, absentee, and provisional ballots. The county advises costs would vary with an increase or decrease in the number of petitions submitted and ballot issues included on the ballot.

It is anticipated that the fiscal 2009 budgets of local election boards will contain funding for notifying qualified voters about proposed constitutional amendments for the 2008 general election in newspapers or on specimen ballots.

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### **Additional Information**

**Prior Introductions:** HB 1667 of 2006, a similar bill that allowed bills not approved by the General Assembly to be petitioned for inclusion on the ballot, was referred to the House Rules and Executive Nominations Committee but no further action was taken.

**Cross File:** None.

**Information Source(s):** Secretary of State, Montgomery County, Prince George's County, Caroline County, Howard County, State Board of Elections, Baltimore City, Office of the Attorney General, National Conference of State Legislatures; Department of Legislative Services

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