

Department of Legislative Services
 Maryland General Assembly
 2013 Session

FISCAL AND POLICY NOTE

House Bill 493 (Delegate Luedtke, *et al.*)
 Ways and Means

Referendum Integrity Act

This bill makes various changes to statutory provisions governing petitions for submitting laws to referendum and other purposes. The changes include (1) a requirement that a ballot issue committee (a campaign finance entity) be formed for specified referendum and charter-related petition efforts, subject to requirements for reporting of contributions and expenditures made to support the collection of signatures for a petition; (2) various new requirements governing the signature collection process and determinations of petition sufficiency; and (3) prohibitions against compensation of petition circulators based on the number of signatures collected and use of petition signature information for commercial solicitation.

The bill takes effect June 1, 2013.

Fiscal Summary

State Effect: General fund expenditures increase by \$50,000 in FY 2014 for programming costs for the State Board of Elections’ (SBE) online campaign finance reporting system and an online training course. Future years reflect ongoing operations and maintenance costs for the online training course. Temporary staff costs may be incurred by SBE periodically, but cannot be reliably estimated at this time.

(in dollars)	FY 2014	FY 2015	FY 2016	FY 2017	FY 2018
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	50,000	7,500	7,500	7,500	7,500
Net Effect	(\$50,000)	(\$7,500)	(\$7,500)	(\$7,500)	(\$7,500)

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

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary:

Establishment of a Ballot Issue Committee for a Petition Effort

The bill expands the definition of “ballot issue committee” to include a political committee formed to support the collection of signatures for specified referendum and charter-related petitions. Contributions or expenditures to support the collection of signatures for those petitions is considered campaign finance activity and signatures may not be collected until the sponsor of the petition establishes a ballot issue committee.

The bill specifies that a ballot issue committee may make expenditures only to support the collection of signatures for a single petition or to promote the success or defeat of a single question to be submitted to a vote at an election.

During the period when signatures are authorized by law to be collected, a ballot issue committee formed to support the collection of signatures for a petition must file a campaign finance report on the first day of each month and is not required to file any other campaign finance reports. If a petition sponsor’s ballot issue committee has failed to file any reports, the petition may not be certified.

If the petition is certified, the ballot issue committee then becomes subject to campaign finance reporting deadlines applicable to any other campaign finance entity. If the petition is not certified, the ballot issue committee only must file a final campaign finance report. A committee must terminate and file a final campaign finance report within one year of the election at which the ballot issue appears on the ballot, or, if the ballot issue does not appear on the ballot, within one year of the final date established by law for the filing of petitions relating to the issue.

The responsible officers (chairman and treasurer) of a petition sponsor’s ballot issue committee must be a party to any proceeding to test the validity of the petition.

The bill repeals existing provisions requiring a person to file a statement showing the contributions and expenditures for a petition at the time a petition is filed.

Provisions Related to Collection of Petition Signatures

Under provisions that apply to any petition authorized by law to place the name of an individual or a question on the ballot or to create a new political party, the bill requires that a signature page be completed on a form designed by the State Board of Elections and requires that each signature page contain a statement notifying signers that information provided on a petition is subject to public disclosure.

The bill requires that a signer's address that must be included on a petition must be included as it appears on the statewide voter registration list and the bill also requires that a signer's date of birth be included. The bill also specifies that an address that a registered voter provides on a petition may not be used to update the voter's registration record.

Where an online petition system is used to collect signatures, before a prepopulated signature page is generated for a registered voter, the system must require that the registered voter's name be entered in the manner required for any petition signature, as well as the voter's address and date of birth as they appear on the statewide voter registration list.

A petition circulator must write the circulator's initials beside each signature on a page at the time that the signature is affixed to affirm that the circulator witnessed the signature being affixed. An individual may not sign a signature page as both the circulator and a petitioner. Before acting as a circulator, an individual must complete an online training course developed by SBE that provides instruction on State laws and regulations governing the process of circulating petitions. The training course must be provided free of charge and be easily accessible to the public. The sponsor of a petition must ensure that each individual who circulates petitions on behalf of the sponsor has completed the training course before acting as a circulator.

Determination of Petition Sufficiency

The bill requires that when making a determination of whether a petition seeking to place a question on the ballot satisfies requirements for the number or geographic distribution of signatures, the chief election official must consider only the maximum cumulative number of signatures affixed to pages that contain identical language providing either (1) a fair and accurate summary of the substantive provisions of the proposal or (2) the full text of the proposal.

Prohibitions

The bill prohibits a person from willfully and knowingly giving, promising, or offering a petition circulator any form of compensation, including a bonus, that is based on the number of petition signatures collected. In addition, a petition circulator may not willfully and knowingly receive or agree to receive any form of compensation based on the number of petition signatures collected. The bill also prohibits a person from willfully and knowingly using information provided on a petition for purposes of commercial solicitation.

A person who violates these provisions is guilty of a misdemeanor and subject to a fine of not less than \$10 or more than \$250 and/or imprisonment for not less than 30 days or more than 6 months.

Current Law:

Contributions and Expenditures for Petitions

At the time of filing specified referendum and charter-related petitions, a statement showing the contributions and expenditures for the petition must be filed that includes:

- the name and post office address of every contributor to the expense of the petition;
- the amount contributed by each contributor; and
- the name and address of each person to whom any money was paid or promised for providing a service related to the petition.

If the statement is not filed with the petition, the petition may not be certified. The individual who signed the statement must be a party to any proceeding to test the validity of the petition.

Collection of Petition Signatures

A petition authorized by law to place the name of an individual or a question on the ballot, or to create a new political party, must contain an information page (containing, among other things, a description of the subject and purpose of the petition and identification of the sponsor) and signature pages containing not less than the total number of signatures required by law to be filed.

Each signature page must contain, among other information, (1) a description of the subject and purpose of the petition; (2) if the petition seeks to place a question on the ballot, either a fair and accurate summary of the substantive provisions of the proposal or

the full text of the proposal; and (3) a statement, to which each signer subscribes, that the signer supports the purpose of that petition process and, based on the signer's information and belief, the signer is a registered voter in the county specified on the page and is eligible to have his or her signature counted.

To sign a petition, an individual must sign the individual's name as it appears on the statewide voter registration list, or the individual's surname of registration and at least one full given name and the initials of any other names. The individual must also include, printed or typed, the signer's name as it was signed, the signer's address, the date of signing, and any other information required by SBE regulations. SBE regulations require a petition circulator to ask each signer to also provide a date of birth or, at a minimum, month and day of birth, though failure to provide birth information does not invalidate a signature.

Each signature page must contain an affidavit of the circulator in whose presence all of the signatures on the page were affixed and who observed each of those signatures being affixed. A circulator must be age 18 or older at the time any of the signatures covered by the affidavit are affixed.

Determination of Petition Sufficiency

When a petition is filed with an election authority, the chief election official must review the petition and declare the petition deficient if, among other reasons, the information provided by the sponsor or an examination of unverified signatures indicates that the petition does not satisfy any requirements of law for the number or geographic distribution of signatures. Unless a petition is initially declared deficient, upon the filing of a petition, the staff of the election authority proceeds to verify the signatures and count the validated signatures contained in the petition. At the conclusion of the verification and counting processes, the chief election official determines whether the validated signatures contained in the petition are sufficient to satisfy all requirements relating to the number and geographical distribution of signatures.

Background: There were three statewide ballot questions regarding laws that had been petitioned to referendum during the 2012 elections as well as certain local referendums. With regard to online petition systems, the Maryland Court of Appeals recently upheld the validity of petition signatures obtained using an online system (*Whitley v. Maryland State Board of Elections*, 429 Md. 132 (2012)). SBE's certification of a petition for referendum of Chapter 1 of the October 2011 special session (SB 1) (Maryland's most recent congressional redistricting law) was challenged on the grounds that signatures obtained through an online system were invalid because (1) the program or a recruiting household member, rather than the individual signer, provided the individual's identifying information, and (2) a person attested to the genuine nature of his or her own

signature when using the online system rather than an independent circulator. The court, however, disagreed, holding that those aspects of obtaining signatures through the use of the online system are not contrary to law or regulations.

Various uses of petitions under State law are shown in the attached **Appendix – Uses of Petitions under State Law**, along with the signature requirement and the constitutional or statutory authority for each use.

State Fiscal Effect: General fund expenditures increase by \$50,000 in fiscal 2014 for SBE to:

- modify its online campaign finance reporting system to facilitate reporting by new ballot issue committees formed pursuant to the bill; and
- create an online training course to provide instruction on State laws and regulations governing the process of circulating petitions.

Ongoing operations and maintenance costs for the online training course are expected to be in the range of \$5,000 to \$10,000 annually. SBE may also periodically require one additional temporary staff person in order to handle additional auditing work associated with the campaign finance reports filed by the additional ballot issue committees, though annual costs cannot be reliably estimated at this time.

Additional Information

Prior Introductions: None.

Cross File: Although SB 673 (Senators Conway and Raskin - Education, Health, and Environmental Affairs) is designated as a cross file, it is different.

Information Source(s): State Board of Elections; Office of the State Prosecutor; Kent, Washington, and Worcester counties; Baltimore City; Department of Legislative Services

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mlm/hlb

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Appendix – Uses of Petitions under State Law

<u>Purpose</u>	<u>Required Signatures</u>	<u>Authority</u>
State law referendum	3% of qualified voters of the State (except for a public local law for any one county or Baltimore City, which requires 10% of the qualified voters of the jurisdiction)*	Maryland Constitution, Article XVI
Formation of new political party	10,000 registered voters	Maryland Code, Election Law Article, § 4-102
Nomination of unaffiliated candidate for general election	1% of registered voters eligible to vote for the office sought, but not less than 250 signatures	Maryland Code, Election Law Article, § 5-703
Placement of presidential candidate on primary election ballot**	400 registered voters from each congressional district in the State	Maryland Code, Election Law Article, § 8-502
Local Referendum (Charter County)	Set in charter	Maryland Code, Article 25A, § 8
Local Referendum (Code County)	10% of registered voters of the county	Maryland Constitution, Article XI-F, § 7; Maryland Code, Article 25B, § 10
Creation of a charter board	20% of registered voters of the county under § 1 or 5% under § 1A, but in both cases not more than 10,000 signatures is required	Maryland Constitution, Article XI-A, §§ 1 and 1A
Nomination of charter board members	5% of registered voters of the county under § 1 or 3% under § 1A, but in both cases not more than 2,000 signatures is required	Maryland Constitution, Article XI-A, §§ 1 and 1A
Charter amendment	20% of registered voters of the county, but not more than 10,000 signatures is required	Maryland Constitution, Article XI-A, § 5

Note: Additional uses of petitions, such as for incorporation of a municipality or amendment of a municipal charter, are not included.

**“Qualified voters” means the number of votes cast for Governor at the last preceding gubernatorial election. In 2013, the 3% requirement equals 55,736 signatures.

**For Democratic or Republican presidential primary candidates who are not recognized and certified by the Secretary of State to be on the ballot.