Department of Legislative Services
Maryland General Assembly
2022 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 313   (Delegate Novotny)

Ways and Means

Election Law - Recall Elections

This constitutional amendment makes various State and local elected officials subject to a recall election.

Fiscal Summary

State Effect: If the constitutional amendment is approved by the voters and a special recall election is held, independent of a regular election, general fund expenditures increase by at least $2 million to conduct a statewide recall election and by lesser amounts for county- and district-level recall elections. Revenues are not affected.

Local Effect: If the constitutional amendment is approved by the voters and a special recall election is held, independent of a regular election, local government expenditures increase by at least $12 million to conduct a statewide recall election and by lesser amounts for county-, district-, and municipal-level recall elections. Local government expenditures may also increase for petition verification, as discussed below. Revenues are not affected. **This constitutional amendment may impose a mandate on a unit of local government.**

Small Business Effect: Minimal.

Analysis

Bill Summary: The constitutional amendment makes the following officials subject to a recall election: the Governor, the Lieutenant Governor, the Attorney General, the Comptroller, a member of the General Assembly, a mayor, a county executive, a county commissioner, the President of the City Council of Baltimore, a county council member, a

city council member, a county treasurer, a city comptroller, a State's attorney, and a county board of education member.

A recall is proposed by the filing of a petition for recall that has signatures from registered voters eligible to vote for the office equal in number to at least 25% of the number of votes cast in the immediately preceding election for the office. The special recall election must be held within 120 days after the certification of the petition. A petition may not be filed during the first 120 days of the term of office of an official subject to recall.

A ballot for a special recall election must (1) first, present a question for a voter to indicate a preference to recall or to not recall the official whose recall is being sought and (2) second, present a question for a voter to indicate a preferred candidate to succeed the official whose recall is being sought, if the voter indicated a preference to recall the official.

Current Law: The Maryland Constitution includes certain provisions relating to removal of the Governor, Lieutenant Governor, Attorney General, State's Attorneys, and Comptroller in certain circumstances, including those relating to (1) the impeachment (and conviction) power of the General Assembly; (2) the removal of the Attorney General for incompetency, willful neglect of duty, or misdemeanor in office, on conviction in a court of law; (3) the removal of a State's Attorney for incompetency, willful neglect of duty, or misdemeanor in office, on conviction in a court of law, or by a vote of two-thirds of the Senate, on recommendation of the Attorney General; and (4) the removal of the Comptroller by the Governor under certain circumstances, for incompetency, malfeasance in office, willful neglect of duty, or misappropriation of State funds.

Under the Maryland Constitution, each house of the General Assembly is the judge of the qualifications and elections of its members and, with the consent of two-thirds of its whole number of members elected, may expel a member. Also under the Maryland Constitution, a State or local elected official is removed from office if the official is convicted of, or enters a guilty plea or a plea of *nolo contendere* for, a felony, or a misdemeanor related to the official's public duties and responsibilities that involves moral turpitude and is subject to an incarceration penalty.

Subject to certain exceptions, the Maryland Constitution requires that State and county elections be held on the Tuesday after the first Monday of November in 1926 and on the same day in every fourth year thereafter (gubernatorial election years).

State and Local Fiscal Effect:

Recall Election Costs

If the constitutional amendment is approved by the voters and a statewide special recall election is held (for a statewide elected official), independent of a regular election, State general fund and county expenditures increase significantly to conduct the election. State costs for a statewide recall election are expected to be at least $2 million and county costs are expected to be at least $12 million, for election judges, local board of elections temporary staff and overtime, ballots (in-person and mail-in), ballot drop box delivery and pick up, and contractual services for voting system staffing and voting equipment transportation. Some of these costs are solely local costs (election judges and local temporary staff and overtime) and others are shared by the State Board of Elections and local boards of elections. These estimates do not account for all costs, and actual overall costs may be higher.

Minimum State and county costs for a recall election for a member of the General Assembly or a county-level elected official would be less than the minimum costs above, reduced by a ratio similar to the ratio between the number of voters statewide and the number of voters eligible for the election.

Based on information gathered in early 2021 on a small number of municipalities' election costs, it appears that costs for a regular municipal election may average in the range of $1.00 to $3.00 per voter, per (primary or general) election, and costs for a municipal recall election presumably would be comparable. Unlike county elections, the State does not pay for a portion of the costs of municipal elections (other than Baltimore City elections). The Maryland Municipal League indicates that approximately 20% of municipalities currently allow for recall elections in their charters, though the exact process for the recall elections can differ among municipalities.

Petition Verification

Local boards of elections may also incur costs to verify the signatures on a petition for recall, assuming local boards would have that responsibility, similar to referendum and other petitions. Montgomery and Wicomico counties, for example, indicate that, for a statewide or countywide office, if the petition needs to be verified when existing staff are occupied with election preparation or verification of other petitions, additional costs of approximately $65,000 and $13,000 may be incurred, respectively, for temporary staff and/or overtime. If a petition needs to be verified at a less busy time for existing staff, Montgomery County indicates it may still incur costs of approximately $36,000, and Wicomico County indicates that any increased costs should be minimal.

Additional Information

Prior Introductions: None.

Designated Cross File: None.

Information Source(s): State Board of Elections; Harford, Montgomery, and Wicomico counties; Maryland Association of Counties; Maryland Municipal League; Comptroller's Office; Governor's Office; Secretary of State; Maryland State's Attorneys' Association; Anne Arundel County Public Schools; Department of Legislative Services

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