

Department of Legislative Services
Maryland General Assembly
2024 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 1288
Ways and Means

(Delegate McComas)

Election Law - Initiative Process

This proposed constitutional amendment, if approved by the voters at the next general election, authorizes the people of the State to submit to the voters at the polls by petition (also known as an initiative) any proposed bill to add to, repeal, or amend the public general laws or the Maryland Constitution that was not approved at a regular or a special session of the General Assembly.

Fiscal Summary

State Effect: If the constitutional amendment is approved, general fund expenditures may increase, as discussed below.

Local Effect: If the constitutional amendment is approved, local government expenditures may increase, as discussed below.

Small Business Effect: None.

Analysis

Bill Summary: Before a petition, or any part of 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, it must be approved for accuracy by the Attorney General. An initiative petition may consist of several papers and each paper must contain the full text of the proposal.

A petition to submit to the voters a proposal concerning the public general laws must be signed by registered voters of the State in a number equal to at least 10% of the votes cast

in the last election for Governor. However, no more than 50% of the signers may be registered voters in Baltimore City or any single county. A petition must be filed with the Secretary of State within 180 days after the date of the final action on the bill by the General Assembly. The Secretary of State must certify that the petition contains the necessary number of valid signatures. 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 constitutional amendment'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 two 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.

State Fiscal Effect:

Petition Assistance

If the constitutional amendment is approved and a sufficient number of initiatives are pursued, State expenditures may increase prior to statewide general elections.

The current referendum process, which has not been used extensively in Maryland (with four referendum proposals having been initiated since 2010), 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 the ballot.

The State Board of Elections (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 (OAG) to review any summary of each proposal. If a limited number of petitions are pursued in each election year, SBE can handle the additional work with existing resources; however, if a large number of initiatives are pursued, SBE may require additional contractual staff support. The Department of Legislative Services assumes the review of proposal summaries can be handled within existing resources of OAG. Any updates to documentation and SBE's web site needed in relation to the initiative process can 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 are 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 of elections to verify the signatures. The initiative process imposes a significantly larger signature verification burden, requiring signatures of 10% of voters as opposed to 3%, yet local boards of elections should bear most of that burden.

Ballot Costs

If the constitutional amendment is approved, SBE costs associated with in-person and mail-in ballots may increase to the extent inclusion of one or more initiatives on the ballot at a general election results in a need for a larger ballot card size or an additional ballot card for some ballots (the content and sizes of ballots varies across the State, depending on the offices, candidates, and questions being voted on). The extent of any increased costs

cannot be reliably estimated; however, *for illustrative purposes*, if initiatives on the ballot at a general election result in the need for an additional ballot card for 1 million in-person ballots (a fraction of the total number of in-person ballots printed in a general election) and 160,000 mail-in ballots (approximately 25% of the number of mail-in ballots requested during the 2022 general election), general fund expenditures increase by \$125,000, which represents SBE's 50% share of the total increase in costs of \$250,000 (with the local boards paying for the remaining 50%).

Local Fiscal Effect:

Verification of Signatures

Local board of elections expenditures may increase due to personnel costs incurred to verify petition signatures. The extent of any increase depends on the number and timing of initiative petitions. Local boards of elections are responsible for verifying the roughly 201,000 signatures per petition that need to be gathered to meet the 10% requirement (based on the number of voters in the 2022 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 or additional temporary staff needed to meet the 20-day time limit for each petition.

Ballot Costs

Similar to the State Fiscal Effect above, if the constitutional amendment is approved, local boards of elections' costs associated with in-person and mail-in ballots may increase to the extent inclusion of one or more initiatives on the ballot at a general election results in a need for a larger ballot card size or an additional ballot card for some ballots. Local boards costs to mail out specimen (sample) ballots may also increase, though likely to a lesser extent. As stated above, the extent of any increased costs cannot be reliably estimated; however, under the illustrative example above, local government expenditures increase by \$125,000, representing local boards' 50% share of the increased cost of in-person and mail-in ballots.

Additional Information

Recent Prior Introductions: Similar legislation has not been introduced within the last three years.

Cross File: None.

Information Source(s): Baltimore, Frederick, and Somerset counties; Office of the Attorney General; Secretary of State; Maryland State Board of Elections; Department of Legislative Services

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