

Department of Legislative Services  
Maryland General Assembly  
2012 Session

FISCAL AND POLICY NOTE

House Bill 41  
Ways and Means

(Delegate Smigiel, *et al.*)

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Election Law - Petitions - Public Verification and Counting of Signatures

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This bill specifies that, subject to regulations adopted by the State Board of Elections (SBE) to ensure the integrity, accuracy, and efficiency of the process of verifying and counting signatures on petitions, the process must be open to observation by representatives of the petition sponsor, opponents of the petition, and other members of the public.

The bill takes effect June 1, 2012.

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Fiscal Summary

**State Effect:** None.

**Local Effect:** Local government expenditures may increase, depending on how the bill is implemented. Potential costs include \$50,000, shared among the counties, for software development to hide certain voter registration information from public view during the petition verification process, and any additional costs incurred by local boards of elections to conduct the petition verification process in a central area or room. **This bill may impose a mandate on a unit of local government.**

**Small Business Effect:** None.

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Analysis

**Current Law:** SBE must establish by regulation the process to be followed by all election authorities for verifying and counting signatures on petitions. The current statute and SBE regulations do not address whether or not the process is open to observation by the petition sponsor, petition opponents, or others.

**Background:** Verification of signatures on petitions is conducted by local boards of elections, both in the case of local petitions and statewide petitions. For statewide petitions, each local board of elections verifies the portion of the petition containing signatures of voters registered in that county. SBE had adopted a policy against local boards of elections voluntarily opening the verification process to public observation.

SBE’s policy indicates that SBE was advised by the Office of the Attorney General that the process of verifying signatures on a petition is not subject to the Maryland Open Meetings Act and; therefore, the public is not legally entitled to be present. SBE determined that there should be a uniform, statewide policy on whether members of the public are permitted to be present during the verification process and adopted a strong policy against local boards of elections voluntarily permitting public access. At the same time, SBE resolved that the results of a petition verification should be promptly made available to the public after the process is completed.

Various uses of petitions under State law are shown below in **Exhibit 1**, along with the signature requirement and the constitutional or statutory authority for each use. The bill’s requirements are included under Title 6 of the Election Law Article, which applies 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, with the exception of municipal petitions filed pursuant to Article 23A of the Annotated Code.

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**Exhibit 1**  
**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 |

| <u>Purpose</u>                      | <u>Required Signatures</u>                                                                                                       | <u>Authority</u>                                 |
|-------------------------------------|----------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------|
| 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 2011, 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.

**Local Fiscal Effect:** Local government expenditures may increase to allow for public observation of the petition verification process, but the extent of any costs will depend on how the public is provided access to the petition verification process.

If the petition verification process would occur in one central area or room where the public would have relative freedom to observe the verification and counting of each signature, costs may be incurred by local boards of elections, including:

- an estimated \$50,000, shared among the counties, for software development, to hide individuals’ motor vehicle identification and full Social Security numbers (which are not subject to public disclosure) from view on screens of computers used in the verification process to access voter registration records in the statewide voter registration database; and
- any costs a local board of elections would incur to conduct the petition verification process in one central area or room, such as room rental and/or computer equipment/networking costs.

In Baltimore City, for example, costs could exceed \$10,000, based on costs to conduct a petition verification process in a central location.

SBE indicates, however, that another option for implementing the bill would be to limit public access to a certain area in proximity to the petition verification process and provide those members of the public regular reports (possibly on an hourly basis) showing the petition signatures that had been evaluated, whether they were validated and counted or not, and if not, why. In that case, there are not expected to be significant costs, if any, incurred by local boards of elections.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** State Board of Elections; Baltimore City; Allegany, Anne Arundel, Baltimore, Frederick, and Wicomico counties; Department of Legislative Services

**Fiscal Note History:** First Reader - January 23, 2012  
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