

Department of Legislative Services
Maryland General Assembly
2012 Session

FISCAL AND POLICY NOTE

House Bill 42
Ways and Means

(Delegate Smigiel, *et al.*)

Election Law - Petitions - Resubmission of Signatures

This bill requires that an individual whose signature on a petition that is not validated and counted during the initial verification process when a petition is filed be provided the opportunity to resubmit the individual's signature. The bill sets out a process and timeline for public notice of signatures not validated and counted and the reason for each signature not being validated and counted, and for resubmission of signatures which were not validated and counted for reasons that can be corrected by resubmission.

The bill takes effect June 1, 2012.

Fiscal Summary

State Effect: None.

Local Effect: Local government expenditures may increase in some instances due to overtime and temporary staff costs to verify resubmitted signatures. **This bill may impose a mandate on a unit of local government.**

Small Business Effect: None.

Analysis

Bill Summary: The bill requires that an individual whose signature on a petition that is not validated and counted during the initial verification process when a petition is filed be provided the opportunity to resubmit the individual's signature. Under the bill, the process of verifying and counting signatures on a petition is not concluded and the election authority may not make a determination or certification with regard to whether

the petition satisfies all requirements before the process of verifying any resubmitted signatures is completed.

Process

The election authority must provide public notice of the name of each individual whose signature is not validated and counted during the initial verification process and the reason each signature was not validated and counted. The notice may be provided through the election authority's Internet site. An individual may only resubmit the individual's signature if it was not validated and counted due to a deficiency that is capable of being corrected through resubmission. Resubmission of a signature must be on a new petition that satisfies State law requirements.

Timing

The election authority must provide the public notice within 22 days after the petition is filed and a petition containing signatures for resubmission must be filed within 10 days after the date of the public notice. The election authority must complete the process of verifying resubmitted signatures within five days after the petition containing the signatures is filed.

Current Law: When a petition is filed, unless it is initially declared deficient for reasons other than the validity of the signatures, the staff proceeds to verify the signatures and count the validated signatures. The purpose of signature verification is to ensure that the name of the individual who signed the petition is listed as a registered voter and certain requirements apply with respect to the individual's signature and other information that must be provided.

The State Board of Elections is required to establish by regulation the process to be followed by all election authorities for verifying and counting signatures on petitions. The verification and counting of validated signatures on a petition must be completed within 20 days after a petition is filed.

After the verification and counting processes, if the chief election official of the election authority determines that a petition satisfies all requirements, the official must certify that the petition process has been completed and, for a petition seeking to place the name of an individual or a question on the ballot, certify that the name or question has qualified to be placed on the ballot. These certifications must be made within two business days of the completion of the verification and counting processes, or, if judicial review is pending, within two business days after a final judicial decision.

Background: Section 6-203(a)(1) of the Election Article specifies that in order to sign a petition, the 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.” Two Court of Appeals decisions in the last few years interpreting this provision have led to changes in criteria for determining what constitutes a valid signature on a petition.

In *Doe v. Montgomery County Board of Elections*, 406 Md. 697 (2008), the court held that to be valid, a signature on a petition must strictly comply with § 6-203(a)(1) of the Election Law Article. Prior to *Doe*, election officials had applied a more lenient standard under which signatures were counted even if they did not comply with § 6-203(a)(1), if it could be determined that the individual signing a petition was in fact a registered voter based on all the information provided by the individual, including the signature, printed name, address, and date of birth. The effect of *Doe* was to require the invalidation of many voter signatures that were previously considered valid, such as those containing nicknames and those omitting middle names.

The court clarified its holding in *Doe* in its subsequent decision in *Montgomery County Volunteer Fire-Rescue Association v. Montgomery County Board of Elections*, 418 Md. 463 (2011). In that case, the court held that a signature may not be invalidated solely because it is wholly or partly illegible. Instead, election officials must refer to any legible parts of the signature and the printed name together to determine if the signer provided all of the name information required by § 6-203(a)(1).

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.

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
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 in some instances due to overtime and temporary staff costs. Montgomery County spent close to \$20,000 on overtime and temporary staff for a recent petition verification process. A resubmission of a significant amount of signatures for a petition in Montgomery County could therefore

presumably result in noticeable additional costs. A small number of other counties contacted, however, do not expect the bill to create additional costs.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): State Board of Elections; Baltimore, Carroll, Cecil, Montgomery, and St. Mary's counties; Department of Legislative Services

Fiscal Note History: First Reader - January 23, 2012
mlm/hlb

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