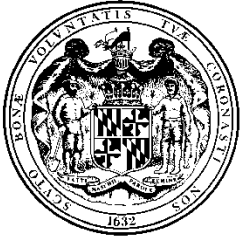


A Guide to the Citizen's Power of Referendum in Maryland



“The people reserve to themselves power known as The Referendum, by petition to have submitted to the registered voters of the State, to approve or reject at the polls, any Act, or part of any Act of the General Assembly, if approved by the Governor, or, if passed by the General Assembly over the veto of the Governor.”

Article XVI, Section 1
Maryland Constitution

History of the Referendum

Article XVI of the Maryland Constitution establishes the power of referendum. This power enables the voters of Maryland to essentially veto an enactment of legislation. The referendum provision in the Constitution was proposed by the General Assembly in 1914 and ratified by the voters in 1915. As originally introduced, the provision would have also provided for the power of voter initiative, but the initiative provisions were eliminated prior to final passage in the General Assembly. The initiative allows voters to bypass the legislature in creating a new law. Today, 26 states and the U.S. Virgin Islands have constitutional provisions for referendum, initiative, or both. Maryland and New Mexico are the only states that have referendum powers but no initiative provisions.

Although the voters of Maryland have possessed the power of referendum beginning in 1916, the power was not exercised until 1937. Since that time, 21 enactments have been validly petitioned to statewide referendum. The voters have upheld fourteen of these measures and seven have been rejected.

Exceptions to the Power of Referendum

The Maryland Constitution exempts liquor laws and any appropriations for maintaining the State government or for maintaining or aiding any public institution from referendum. The Maryland courts have applied the exclusion for “appropriations for maintaining the State Government” to preclude referendums on enactments that:

- (1) provided funding for Medicaid abortions;
- (2) established housing for State officers and employees; and
- (3) created an additional motor vehicle fuel tax, the proceeds of which were to be used to fund road construction.

Most recently, the Maryland Court of Appeals interpreted this exception to prohibit a referendum on two 1987 enactments concerning the Maryland Stadium Authority.

Requirements for a Referendum

Sharply defined constitutional and statutory requirements must be followed in order to petition to referendum an enactment of the General Assembly. The requirements are set out in the Maryland Constitution (Article XVI) and in Titles 6 and 7 of the Election Law Article. Particular provisions include:

- (1) A petition must be filed with the Secretary of State before June 1 of the same year the enactment was passed by the legislature. A separate petition must be filed for each enactment.
- (2) Except for public local laws, the petition must have the signatures of 3 percent of the registered voters of the State calculated on the basis of the number of votes cast for Governor at the last gubernatorial election. (In 2020, a petition must contain at least 69,135 valid signatures.) More than one-third of the signatures must be filed with the Secretary of State before June 1, and the remainder of the signatures must be filed by June 30. No more than half of the signatures can be from any one county or Baltimore City.
- (3) For public local laws, a referendum petition must be signed by 10 percent of the qualified voters calculated on the basis of the number of votes cast for Governor in the county affected by the enactment.
- (4) A petition form, approved by the State Board of Elections, must be used to collect signatures. Each voter who signs the petition must supply complete information.
- (5) Each page of the petition must include an affidavit by the individual who gathered the signatures stating that the signatures were made in the individual's presence and that, to the best of the individual's knowledge, the signatures are genuine and bona fide and that the signers are registered voters at the address set opposite or below their names.
- (6) All laws validly petitioned to referendum must be submitted separately on the ballots to the voters of the State.
- (7) Each local election board must provide a notice of the referred enactment with a clear, concise, non-technical summary of the ballot question either by mailing a specimen ballot containing the question summary at least one week before the general election at which the question will appear on the ballot, or by publishing the question summary during the three weeks immediately preceding the general election. The summary will be prepared by the Department of Legislative Services, approved by the Attorney General, and submitted to the State Board of Elections, which will provide the summary to the local election boards.
- (8) On request, a local board of elections will mail without charge a copy of the text of a referred enactment.
- (9) If an enactment is adopted by referendum, it becomes effective 30 days after the general election in which it appeared on the ballot.

Full requirements for petitioning an enactment to referendum are available from the State Board of Elections at:
Telephone: 410-269-2840 or 1-800-222-8683 or web: <https://elections.maryland.gov/petitions/>

Referendum Results – 1915 to the Present

- Chapter 91 of 1937, fixing the time within which marriage licenses may be issued and establishing a 48-hour waiting period, was *approved* by the voters; the vote was 167,122 in favor of the enactment, 57,369 against.
- Chapter 353 of 1939, creating a “Commission of Fisheries” and providing for the inspection of oysters and the collection of taxes on them, was *rejected* by a vote of 147,602 to 57,220.
- Chapter 732 of 1939, revising the Workmen’s Compensation Act to provide for the appointment of members to the State Industrial Accident Commission, was *approved* by a vote of 127,754 to 70,580.
- Chapter 563 of 1947, relating to the term of the Commissioner of Motor Vehicles, was *rejected* by a vote of 140,287 to 117,789.
- Chapter 86 of 1949, adding a new “Sedition and Subversive Activities” Article to the *Annotated Code of Maryland*, was *approved* by a vote of 259,250 to 79,120.
- Chapter 269 of 1959, confirming and ratifying the Potomac River Compact, was *approved* by a vote of 244,510 to 204,837.
- Chapter 616 of 1961, creating a Municipal Court in Baltimore City was *approved* by a vote of 200,791 to 73,457.
- Chapter 883 of 1961, altering the State unemployment law, was *approved* by a vote of 242,895 to 185,010.
- Chapter 206 of 1961, setting out new congressional district boundaries, was *rejected* by a vote of 211,904 to 115,557.
- Chapter 205 of 1961, providing for State regulation of savings and loan institutions, was *approved* by a vote of 278,951 to 52,706.
- Chapter 29 of 1964, outlawing racial segregation of public accommodations (e.g. hotels and restaurants), was *approved* by a vote of 342,715 to 301,505.
- Chapter 517 of 1966, providing for the construction of a new bridge across the Chesapeake Bay, was *rejected* by a vote of 289,418 to 248,942.
- Chapter 385 of 1967, prohibiting certain types of discrimination in the sale of housing, was *rejected* by a vote of 343,447 to 275,781.
- Chapter 7 of 1971, establishing a State scholarship program for students in private schools, was *rejected* by a vote of 543,241 to 448,702.
- Chapter 873 of 1974, providing for State-financed services for children in private schools, was *rejected* by a vote of 411,153 to 314,520.
- Chapter 533, Acts of 1988, prohibiting the manufacture and sale of certain handguns and establishing the Handgun Roster Board, was *approved* by a vote of 927,947 to 663,424.
- Chapter 1, Acts of 1991, revising Maryland’s abortion law to prohibit State interference with a woman’s abortion decision under certain conditions, was *approved* by a vote of 1,114,377 to 690,542.
- Chapter 61 of 2006, concerning the State Board of Elections and election procedures, was *approved* by a vote of 1,000,325 to 418,206.
- Chapter 191 of 2011, concerning eligibility for in-state tuitions rates for undocumented immigrants was *approved* by a vote of 1,521,579 to 1,063,228.
- Chapter 1 of 2012, establishing the boundaries for the State’s eight United States Congressional Districts, *approved* by a vote of 1,549,511 to 869,568.
- Chapter 2 of 2012, concerning the applicability of civil marriage laws to gay and lesbian couples, *approved* by a vote of 1,373,504 to 1,246,045.

More Information

Further information on a referendum may be obtained from:

State Board of Elections
P.O. Box 6486
Annapolis, MD 21401
Telephone: 410-269-2840 or 1-800-222-8683
Web: www.elections.state.md.us

Secretary of State
16 Francis Street
Annapolis, MD 21401
Telephone: 410-974-5521
Web: www.sos.state.md.us



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