

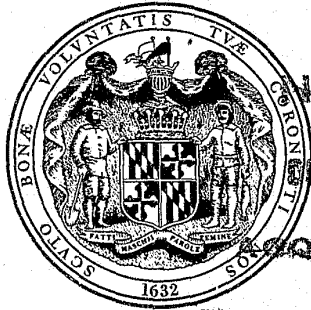
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General Assembly of Maryland

*1988 Proposed  
Amendments  
to the  
Constitution of  
Maryland  
and the  
Handgun Referendum*

*Summary and Explanation*

114691



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Prepared by the  
Department of Legislative Reference  
Annapolis, Maryland

114691

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September, 1988

To the Members of the General Assembly of Maryland

Ladies and Gentlemen:

In consultation and cooperation with the League of Women Voters of Maryland, the Department of Legislative Reference has prepared a summary and analysis of each of the following constitutional amendments that will be on the ballot on November 8, 1988:

Chapter 674 (House Bill 705) - Anne Arundel County -  
Right of Prior Entry

Chapter 793 (Senate Bill 166) - General Assembly -  
Veto and Consent Calendars

In addition, the Department has prepared a summary and analysis of the legislative enactment that has been petitioned to referendum and will also be on the ballot (Chapter 533, House Bill 1131 of the 1988 Session, relating to prohibiting certain handguns).

The format of the discussion includes the official title of the proposed amendments and referendum, a summary of the applicable present law and background, and a discussion of the application of each proposal.

If you need further information or additional copies of this booklet, please call the Department at the following telephone numbers:

Baltimore/Annapolis area	(301) 841-3810
Washington, D.C. area	(301) 858-3810
Other Areas	1-800-492-7122
TDD for Deaf	(301) 841/858-3810

We wish to express to the League of Women Voters of Maryland our appreciation for its review of and comments on the summary and analysis of each of the constitutional questions and the referendum.

We trust this publication will be of assistance to you.

F. Carvel Payne  
Director

Constitutional Amendment  
Amending Article III, Section 40A  
**Anne Arundel County - Right of Prior Entry**  
Proposed by Chapter 674 of the 1988 Session Laws  
of the General Assembly  
(House Bill 705)

***Official Ballot Title:***

Allows Anne Arundel County to take land for certain public uses before jury's determination of just compensation for the property, if County Council determines by resolution adopted after reasonable notice and public hearing that the land is immediately needed, and County pays owner or into court property value as determined by certain appraisers; requires additional payment if jury so awards.

***Proposed Amendment:***

Article III - Legislative Department

40A.

The General Assembly shall enact no law authorizing private property to be taken for public use without just compensation, to be agreed upon between the parties, or awarded by a jury, being first paid or tendered to the party entitled to such compensation, but where such property is situated in Baltimore City and is desired by this State or by the Mayor and City Council of Baltimore, the General Assembly may provide that such property may be taken immediately upon payment therefor to the owner or owners thereof by the State or by the Mayor and City Council of Baltimore, or into court, such amount as the State or the Mayor and City Council of Baltimore, as the case may be, shall estimate to be the fair value of said property, provided such legislation also requires the payment of any further sum that may subsequently be added by a jury; and further provided that the authority and procedure for the immediate taking of property as it applies to the Mayor and City Council of Baltimore on June 1, 1961, shall remain in force and effect to and including June 1, 1963, and where such property is situated in Baltimore County and is desired by Baltimore County, Maryland, the County Council of Baltimore County, Maryland, may provide for the appointment of an appraiser or appraisers by a Court of Record to value such property and that upon payment of the amount of such evaluation, to the party entitled to compensation, or into Court, and securing the payment of any further sum that may be awarded by a jury, such property may be taken; and where such property is situated in Montgomery County and in the judgment of and upon a finding by the County Council of said County that there is immediate need therefor for right of way for County roads or streets, the County Council may provide that such property may be taken immediately upon payment therefor to the owner or owners thereof, or into court, such amount as a licensed real estate broker appointed by the County Council shall estimate to be the fair market value of such property, provided that the Council shall secure the payment of any further sum that may subsequently be awarded by a jury. WHEN THE LAND IS SITUATED IN ANNE ARUNDEL COUNTY, THE LAND MAY BE TAKEN IF THE ANNE ARUNDEL COUNTY COUNCIL DETERMINES BY RESOLU-

TION ADOPTED AFTER REASONABLE NOTICE AND A PUBLIC HEARING, THAT THERE IS AN IMMEDIATE NEED FOR THE PROPERTY FOR RIGHT OF WAY FOR MUNICIPAL ROADS OR STREETS, OR WATER, SEWER OR STORM DRAIN FACILITIES, AND PROVIDES FOR THE APPOINTMENT OF AN APPRAISER OR APPRAISERS BY A COURT OF RECORD TO VALUE THE PROPERTY, AND MAKES PAYMENT OF THE AMOUNT OF THE EVALUATION TO THE PARTY ENTITLED TO COMPENSATION, OR INTO COURT, AND PROVIDED THAT THE COUNTY COUNCIL SHALL SECURE THE PAYMENT OF ANY FURTHER SUM THAT MAY BE AWARDED BY A JURY. In the various municipal corporations within Cecil County, where in the judgment of and upon a finding by the governing body of said municipal corporation that there is immediate need therefor for right of way for municipal roads, streets and extension of municipal water and sewage facilities, the governing body may provide that such property may be taken immediately upon payment therefor to the owner or owners thereof, or into court, such amount as a licensed real estate broker appointed by the particular governing body shall estimate to be a fair market value of such property, provided that the municipal corporation shall secure the payment of any further sum that subsequently may be awarded by a jury. This Section 40A shall not apply in Montgomery County OR ANNE ARUNDEL COUNTY or any of the various municipal corporations within Cecil County, if the property actually to be taken includes a building or buildings.

*Existing Constitutional Provisions and Background:*

Presently, Article III, Section 40A of the Maryland Constitution provides that the General Assembly may not enact a law authorizing the taking of private property for public use until full compensation, as agreed upon by the parties or awarded by a jury, is paid to the party entitled to compensation. This is the basis of the power of eminent domain, the constitutional right of government to take private property for public use. Traditionally, in proceedings initiated by the State or a local government for the taking of private property, known as "condemnation proceedings", compensation must be paid or tendered to the owner before the property may be taken. There are, however, exceptions in the Constitution for the taking of private property located in Baltimore City, Baltimore and Montgomery Counties, and the municipalities in Cecil County, for specified public purposes, such as an immediate need for a right of way for county or municipal roads or streets and extension of water and sewage facilities, before the completion of condemnation proceedings. These exceptions are commonly referred to as provisions for "quick-take" authority and are an extension of the power of eminent domain.

Provisions for quick-take authority allow private property to be taken by the State or local governing body before a jury determination of the value and after payment of a sum of money that is based on a valuation of the property by an appraiser, and the securing of the payment of any further sum that may be awarded by a jury. In Montgomery County and in the municipalities in Cecil County, the authority to quick-take land is limited to unimproved property, meaning that the property to be taken does not include any buildings. The theory behind quick-take is that the State

or a county or municipality sometimes requires immediate acquisition of property in order that a project greatly beneficial to the public not be delayed by the time required to institute and litigate condemnation proceedings.

***Proposal:***

Against this background, the General Assembly passed legislation in the 1988 Session that would include Anne Arundel County among those subdivisions in the State that are authorized by the Maryland Constitution to use the quick-take method of condemnation of **unimproved** property. Under this proposal, the Anne Arundel County Council would be authorized to take privately owned and unimproved land in Anne Arundel County if the Council determines, by resolution, after reasonable notice and a public hearing, that there is an immediate need for the property for a right of way for municipal roads or streets, or water, sewer, or storm drain facilities. In addition, before taking the property, the legislation would require the Council to:

- (1) provide for the appointment of one or more appraisers by a court of record to value the property;
- (2) make payment of the amount of the evaluation to the party entitled to compensation or into court; and
- (3) secure payment of any further sum that a jury might award.

Adoption of this constitutional amendment would affect Anne Arundel County only. Therefore, in accordance with the Maryland Constitution, the amendment will be adopted only if it receives a majority of the votes cast in favor of the amendment in Anne Arundel County as well as the majority of the votes cast in the State.

Constitutional Amendment  
Amending Article II, Section 17 and Article III, Section 27  
**General Assembly - Veto and Consent Calendars**  
Proposed by Chapter 793 of the 1988 Session Laws  
of the General Assembly  
(Senate Bill 166)

***Official Ballot Title:***

Authorizes General Assembly to adopt a procedure permitting vetoed bills to be read and voted upon as a group and a procedure permitting first reading and preliminary voting on bills as a single group; providing that members of the affected house of the General Assembly receive notice and opportunity to remove bills from the respective lists; clarifies language and punctuation.

***Proposed Amendment:***

Article II - Executive Department

17.

(A) To guard against hasty or partial legislation and encroachment of the Legislative Department upon the co-ordinate Executive and Judicial Departments, every Bill [which shall have] passed BY the House of Delegates and the Senate [shall], before it becomes a law, SHALL be presented to the Governor of the State[; if he]. IF THE GOVERNOR approves he shall sign it, but if not he shall return it with his objections to the House in which it originated, which House shall enter the objections at large on its Journal and proceed to reconsider the Bill[; if]. EACH HOUSE MAY ADOPT BY RULE A VETO CALENDAR PROCEDURE THAT PERMITS BILLS THAT ARE TO BE RECONSIDERED TO BE READ AND VOTED UPON AS A SINGLE GROUP. THE MEMBERS OF EACH HOUSE SHALL BE AFFORDED REASONABLE NOTICE OF THE BILLS TO BE PLACED ON EACH VETO CALENDAR. UPON THE OBJECTION OF A MEMBER, ANY BILL SHALL BE REMOVED FROM THE VETO CALENDAR. IF, after such reconsideration, three-fifths of the members elected to that House [shall] pass the Bill, it shall be sent with the objections to the other House, by which it shall likewise be reconsidered, and if it [pass] PASSES by three-fifths of the members elected to that House it shall become a law[; but in all such cases the]. THE votes of both Houses shall be determined by yeas and nays, and the names of the persons voting for and against the Bill shall be entered on the Journal of each House respectively.

(B) If any Bill presented to the Governor while the General Assembly is in session [shall] IS not [be] returned by him with his objections within six days (Sundays excepted), the [same] BILL shall be a law in like manner as if he signed it, unless the General Assembly [shall], by adjournment, [prevent] PREVENTS its return, in which case it shall not be a law.

(C) Any Bill presented to the Governor within six days (Sundays excepted), prior to adjournment of any session of the General Assembly, or after such adjournment,

shall become law without the Governor's signature unless it [shall be] IS vetoed by the Governor within 30 days after its presentment.

(D) Any Bill [so] vetoed by the Governor shall be returned to the House in which it originated[,] immediately after [said] THE House [shall have] HAS organized at the next regular or special session of the General Assembly. [Said] THE Bill may then be reconsidered according to the procedure specified [hereinabove] IN THIS SECTION. Any Bill enacted over the veto of the Governor, or any Bill which shall become law as the result of the failure of the Governor to act within the time [herein above] specified, shall take effect 30 days after the Governor's veto is over-ridden, or on the date specified in the Bill, whichever is later[, unless]. IF the Bill is an emergency measure, [in which event] it shall take effect when enacted. No such vetoed Bill shall be returned to the Legislature when a new General Assembly of Maryland has been elected and sworn since the passage of the vetoed Bill.

(E) The Governor shall have power to disapprove of any item or items of any Bills making appropriations of money embracing distinct items, and the part or parts of the Bill approved shall be the law, and the item or items of appropriations disapproved shall be void unless repassed according to the rules or limitations prescribed for the passage of other Bills over the Executive veto.

### Article III - Legislative Department

27.

(A) Any bill may originate in either House of the General Assembly and be altered, amended or rejected by the other. No bill shall originate in either House during the last thirty-five calendar days of a regular session, unless two-thirds of the members elected thereto shall so determine by yeas and nays, and in addition the two Houses by joint and similar rule may further regulate the right to introduce bills during this period[; nor shall any bill]. A BILL MAY NOT become a law until it [be] IS read on three different days of the session in each House, unless two-thirds of the members elected to the House where such bill is pending [shall so] determine by yeas and nays, and no bill shall be read a third time until it shall have been actually engrossed or printed for a third reading.

(B) Each House may adopt by rule a "consent calendar" procedure permitting bills to be read and voted upon as a single group on [both] FIRST, second and third readings, provided that the members of each House [be] ARE afforded reasonable notice of the bills to be placed upon each "consent calendar." Upon the objection of any member, any bill in question shall be removed from the "consent calendar."

#### *Existing Constitutional Provisions and Background:*

Presently, Article II, Section 17 of the Maryland Constitution requires every bill passed by the House of Delegates and the Senate of Maryland of the Maryland General Assembly to be presented to the Governor for the approval or veto of the Governor. If the Governor vetoes the bill, the Constitution requires the Governor to return the bill with the reasons for the veto to the house in which the bill



originated, either the House of Delegates or the Senate. The house of origin then reconsiders the bill and votes on whether to override the Governor's veto. If 3/5 of the members elected to the house of origin vote to override the Governor's veto, then the bill is considered passed by that house and is sent to the other house for reconsideration and vote. If 3/5 of the members elected to the other house vote to override, then the bill becomes law notwithstanding the objections of the Governor.

Many of the bills vetoed by the Governor, however, are vetoed on noncontroversial grounds, and those vetoes are virtually always sustained by the General Assembly. For example, of the 80 bills of the 1988 Session of the General Assembly that were vetoed by the Governor, 18 bills were vetoed for reasons relating to policy or technical error, and 62 bills were vetoed because they were identical or very similar to other legislation signed by the Governor. Presently, regardless of the reason for the veto, each vetoed bill is required to be reconsidered separately by the house of origin at the next regular or special session of the General Assembly.

Furthermore, Article II, Section 27 of the Maryland Constitution requires that before a bill may become a law, the bill shall be given three readings in each house of the General Assembly. When each house of the General Assembly meets in formal session, the reading clerk reads the title and committee assignment of each bill introduced into that day's proceedings. This is the first of the three readings given the bill in that house. The second reading of the bill occurs after the committee to which the bill was assigned conducts a hearing and makes a recommendation to the full house. The second reading includes action on committee amendments and any amendments offered by any member of the house and adopted by the entire house. Following the second reading, the bill, with any adopted amendments, is printed for third reading. The bill is then returned to the house, placed on a list of bills scheduled for a third reading - known as a third reading calendar - and a vote is taken simply to pass or reject the bill.

According to Article III, Section 27, each house may adopt by rule a "consent calendar" procedure allowing bills to be read and voted on as a single group on second and third readings as long as the members of the house are given reasonable notice of the bills to be placed on the consent calendar. On the objection of any member, any bill in question shall be removed from the consent calendar.

***Proposal:***

Against this background, the General Assembly passed legislation in the 1988 Session that would amend the Maryland Constitution to authorize each house of the General Assembly to adopt by rule a procedure to permit action to be taken on lists, usually called calendars, of vetoed bills or bills that are introduced for the first time at a session of the General Assembly so that the bills may be considered and voted upon as a single group. The rules adopted would require that notice and an

opportunity to remove bills from the respective list be given to the members of the legislative body required to act on the bills.

***Application of Proposal:***

This constitutional amendment will allow the House of Delegates and the Senate of Maryland to decide whether to fulfill the first reading requirement of the Maryland Constitution by considering a list of first reading bills as a single group instead of having each bill separately read. This is an extension of the current provision of the Maryland Constitution that allows each house to adopt by rule a procedure for bills on second and third reading to be placed on a consent calendar. In addition, the constitutional amendment will allow each house of the General Assembly to decide whether to act on a list of noncontroversial vetoed bills as a single group. The purpose of the amendment is to allow the General Assembly to act in a more efficient manner in its consideration and disposition of noncontroversial bills.

Referendum  
**Prohibiting Certain Handguns**  
Chapter 533 of the 1988 Session Laws  
of the General Assembly  
(House Bill 1131)

***Official Ballot Title:***

Prohibits the manufacture and sale of certain handguns; establishes a nine-member Handgun Roster Board that will compile, by considering various characteristics stated in the law, a roster of permitted handguns found to be useful for sporting, self-protection, or law enforcement purposes; provides for the Board's procedures, judicial review of its decisions, and penalties for violations of the law.

***Summary of Act:***

Chapter 533 of the Acts of the General Assembly of 1988 establishes a Handgun Roster Board to compile and publish a roster of permitted handguns that are useful for legitimate sporting, self-protection, or law enforcement purposes.

The Handgun Roster Board consists of 9 members appointed by the Governor and approved by the Senate of Maryland. The members are: the Superintendent of the Maryland State Police, who is the Chairman; representatives of the Association of Chiefs of Police; the Maryland State's Attorneys Association; a handgun manufacturer; the Maryland Chapter of the National Rifle Association; Marylanders Against Handgun Abuse; and 3 citizen members.

The Act lists the following characteristics of a handgun that the Board is required to consider in determining whether a handgun should be placed on the roster: concealability, ballistic accuracy, weight, quality of materials, quality of manufacture, reliability as to safety, caliber, detectability by airport security equipment, and utility for legitimate sporting activities, self-protection, or law enforcement. The Board is required to consider carefully each of these characteristics and may not place undue weight on any one characteristic.

The Handgun Roster Board may place a handgun on the roster upon the Board's own initiative. In addition, any person may petition the Board to place a handgun on the roster. The Act sets forth the procedural steps to be followed by a petitioner and the Board and allows an appeal to be taken to a court from the Board's final decision on a petition.

The Act prohibits the following activities after January 1, 1990:

1. The manufacture, for distribution or sale, of any handgun that is not on the roster;
2. The sale or offer for sale of a handgun manufactured after January 1, 1985 that is not on the roster; and
3. The manufacture, sale, or offer for sale of a handgun on which the identification mark or number is obliterated, removed, changed, or altered.

A violation of this Act is a misdemeanor subject to a fine. Each handgun manufactured, sold, or offered for sale in violation of the provisions of the Act is considered a separate violation. In addition, the willful manufacture, sale, or offer for sale of a handgun not on the roster by a licensed pistol and revolver dealer is grounds for revocation of the dealer's license.

***Current Law:***

With certain exceptions, it is unlawful to wear, carry, or transport a handgun in this State without a permit. Current law also requires a dealer to obtain a permit before engaging in the business of selling pistols and revolvers.

In order to purchase or transfer a pistol or revolver in Maryland, the prospective purchaser or transferee must complete and forward an application to the Maryland State Police. There is a seven-day waiting period before the transaction may be completed. If the State Police disapprove of the application, the pistol or revolver may not be sold or transferred.

Existing law does not, however, regulate what type of handguns may be sold in this State.

***Background:***

During the 1988 Session, the General Assembly made a determination, as stated in the preamble to Chapter 533, that certain handguns have no legitimate socially useful purpose and are not suitable for law enforcement, self-protection, or sporting activities. These handguns generally include several of the following characteristics: easily concealable, ballistically inaccurate, relatively light in weight, of low quality and manufacture, unreliable as to safety, and of low caliber.

The purpose of Chapter 533 is to prohibit the manufacture and sale of these handguns in order to remove them from the streets of this State.

(For a copy of the entire text of Chapter 533 of the Acts of 1988, contact the State Department of Legislative Reference at 90 State Circle, Annapolis, Maryland 21401, telephone 841/858-3810.)