MICHAEL L. HOWELL, *et al.,* *Plaintiffs,* **v.** **MARYLAND STATE BOARD OF ELECTIONS,** *et al.,* *Defendants.*	**IN THE** **CIRCUIT COURT** **FOR** **ANNE ARUNDEL COUNTY** **CASE NO: C-02-CV-26-001986**

MEMORANDUM OPINION

This matter came before the Court on August 25, 2026, for a motions hearing before the Honorable Robert J. Thompson on the parties' cross Motions for Summary Judgment. The Plaintiffs were represented by Kyle Brosnan, Esq., Jeffrey Clark, Sr., Esq., Marshall Yates, Esq., Anthony Licata, Esq. and Samuel Dewey, Esq., and Defendants were represented by Daniel Kobrin, Esq.

FACTUAL AND PROCEDURAL BACKGROUND

On May 12, 2026, Senate Bill 29 ("SB 29") was enacted into law upon the approval of Governor Moore, and by its own terms became "effective June 1, 2026." SB 29 amended EL § 7-103 to establish new content requirements for statewide ballot questions, including: a brief title that describes the topic, goal or outcome of the ballot question; a condensed statement describing the change in policy to be adopted in plain and clear language that a voter can easily understand,

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that does not explain the legal mechanism for the policy change, and that does not contain legal jargon or use double negatives or the passive voice; and a brief statement explaining what the practical outcome of each voting choice would be.[1]

SB 29 amended EL §§ 7-103 and 7-105 to establish and/or modify requirements governing certain deadlines relating to the preparation of the text of ballot questions as well as the availability of ballot question text and related information to the public, prior to a general election, including the following: (a) the Secretary of State must prepare and certify the required information and content of a statewide ballot question to the State Board of Elections by the July 1 immediately preceding the general election; (b) the State Board of Elections must make the required information and content submitted by the Secretary of State available to the public for a 15-day comment period; and (c) the State Board of Elections and local boards must make widely accessible to the public, for at least 90 days before a general election, (1) the complete text of a proposed amendment to the Maryland Constitution that will be a ballot question at the election and (2) a link to the General Assembly webpage for the legislation.[2]

EL § 7-105(b), as readopted by SB 29, requires that local boards provide notice of any statewide ballot question on a proposed amendment to the Maryland Constitution to the voters of their respective counties, which must contain the

[1] Md. Code Ann., Election Law ("EL") § 7-103(b).
[2] EL §§ 7-103(c)(1), (5), 7-105(e)(1)–(2).

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information required in EL § 7-103(b), "and a brief statement, prepared in clear and concise language, devoid of technical and legal terms to the extent practical, summarizing the question."[3]

On July 17, 2026, Governor Moore issued a proclamation convening the General Assembly in an Extraordinary Session "[c]ommencing August 3, 2026," for the stated purpose of "passing legislation to amend the State constitution to clarify and reaffirm that the provisions which govern the requirements of our State legislative districts do not apply to Maryland's congressional districts."[4]

House Bill 2100 ("HB 2100") was introduced in the House on August 3, 2026, more than a month after the July 1, 2026 certification deadline established by SB 29 had already passed. Section 1 of HB 2100 modifies Article III, § 4 of the Maryland Constitution to confine the compact, contiguous, and equal-population districting requirements to legislative districts; adds a new Article III, § 62(a) authorizing the General Assembly to grant the Supreme Court of Maryland original jurisdiction to review the State's congressional districting plan; and adds a new Article III, § 62(b) providing that no provision of the Maryland Constitution, including the Declaration of Rights, supplies applicable criteria for congressional district boundaries.[5]

[3] EL § 7-105(b)(1).
[4] Pls.' Ex. B.
[5] Pls.' Ex. C.

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HB 2100 passed both chambers of the General Assembly on August 4, 2026. By August 14, 2026, the State Board of Elections website displayed statewide ballot Question 3 – which was the question proposed in HB2100 – for the public to review ahead of the election. Statewide ballot Question 3, as set out in the reads:

> **"Election Districts**
>
> The proposed Constitutional Amendment clarifies that certain standards in the Maryland Constitution apply only to districts used to elect members of the General Assembly; authorizes the General Assembly to grant original jurisdiction to the Supreme Court of Maryland to review the congressional districting plan of the State; and requires the criteria for boundaries of congressional districts to be determined by applicable federal laws.
>
> (Amending Article III of the Maryland Constitution)"

and does not include an explanation of a vote "for" or "against" the Constitutional Amendment.[6]

Plaintiffs timely filed this action on August 6, 2026. Plaintiffs bring suit to enjoin the inclusion of the ballot question posed by HB2100 on the November 3, 2026, ballot, claiming that the Defendants failed to comply with the timing requirements they passed earlier this year with SB29.

STANDARD OF REVIEW

[6] *See* https://elections.maryland.gov/elections/2026/ballot_questions.html (where full text is posted for voters).

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Pursuant to Maryland Rule 2-501(e), a court shall grant a motion for summary judgment when (1) there is no dispute as to any material fact and (2) the moving party is entitled to judgment as a matter of law. A fact is material if its resolution will affect the case's outcome.[7] Summary judgment cannot properly dispose of "[e]videntiary matters, credibility issues, and material facts which are in dispute."[8] The moving party bears the burden of proof to demonstrate the absence of a genuine dispute as to any material fact.[9] The court must construe the facts, as well as any reasonable inferences that may be drawn from them, in the light most favorable to the non-moving party.[10]

When a suit is filed under Election Law 12-202, the Plaintiff must prove four elements to prevail as a matter of law:

1. The absence of any other adequate remedy in the Election Law Article;
2. An act or omission related to an election;
3. That the act or omission is unlawful according to a "law applicable to the elections process"; and

[7] *See King v. Bankerd*, 303 Md. 98, 111 (1985).
[8] *Frederick Rd. Ltd. P'ship v. Brown & Sturm*, 360 Md. 76, 93, (2000).
[9] *See* Md. Rule 2-501.
[10] *See Todd v. Mass Transit Admin.*, 373 Md. 149, 155 (2003).

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4. That the act or omission "may change or has changed the outcome" of the election at issue.[11]

DISCUSSION

In the United States, a State Constitution or the Constitution of the United States serves to limit and define the powers of a government generally, and the powers of departments of the government specifically. Constitutions also generally define, albeit not exhaustively, the inviolable rights of citizens (the people) as against the government.[12] As such, there is a presumption that laws or statutes enacted by a constitutionally established legislative department (in the case of the State of Maryland, the General Assembly) comport with the Constitution that creates said legislature and empowers the legislature to enact laws. Under this framework, laws passed by the Maryland General Assembly are understood to clarify, explain, implement, enact, enable, or promote those Constitutional powers.

Maryland's Constitution, Declaration of Rights, at Article VI, declares in part "that all persons invested with the Legislative or Executive powers of Government are the Trustees of the Public, and, as such, accountable for their conduct . . ." articulating the general principle that the legislature is bound by the Constitution

[11] *Suessman v. Lamone*, 383 Md. 697, 714 (2004).

[12] See, e.g. The Bill of Rights and The Maryland Declaration of Rights

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and the laws it enacts. The General Assembly of Maryland, working within the confines of the Maryland Constitution, has enacted certain laws which cover the means, mode, and method of proposing ballot referenda for the purposes of amending the very Constitution under which it operates.[13] With this understanding, the legislature itself must follow the means and methods those laws describe when it chooses to refer a ballot question to a vote by the citizens at a general election.

Here, the State argues on behalf of the legislature that the laws (SB29) it has passed pursuant to that constitutional authority do not apply to it, because in this case, the legislature itself wrote the ballot question rather than delegating the authorship to the Secretary of State. Further the State argues that the Maryland Constitution imposes no period of exclusion upon the legislature's ability to propose constitutional amendments.

While the court is persuaded that the constitution does not impose a period of exclusion on the legislature's ability to propose constitutional amendments, from a practical standpoint, the calendar will. The court also finds that the legislature has passed laws to codify the ordinary process and procedure for submitting proposed constitution amendments to the people and that procedure defines the ordinary due process (notice) when the people are asked to weigh in on something as important as modifying the state's constitution.

[13] See, e.g. Md Code Ann. EL §§ 7-101-105

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Because the legislature did not follow the very laws it enacted, the court finds the enactment of HB2100 to be legally deficient.

Even if the legislature's reading of the constitution is correct and they are exempted from following the laws they impose on all other Marylanders, the court finds the ballot question itself to be deficient. Currently posted on https://elections.maryland.gov/elections/2026/ballot_questions.html, the ballot question reads as follows:

> The proposed Constitutional Amendment clarifies that certain standards in the Maryland Constitution apply only to districts used to elect members of the General Assembly; authorizes the General Assembly to grant original jurisdiction to the Supreme Court of Maryland to review the congressional districting plan of the State; and requires the criteria for boundaries of congressional districts to be determined by applicable federal laws.

The court finds the used of the word "clarifies" is misleading. The argument advanced by the state is that prior to this court's decision in *Szeliga v. Lamone*[14] (Battaglia, J), the common understanding was that the Maryland Constitution's requirements for legislative districts applied only to state legislative districts and not to congressional districts. There is nothing in the record to suggest that was ever a common understanding. The ruling of the court was that the same rules apply to legislative districts and congressional districts.[15] The status quo in

[14] *See Kathryn **Szeliga**, et al. v. Linda **Lamone**, et al.*, C-02-CV-21-001816.
[15] *Id.*

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Maryland is that the legislative districting requirements in the state Constitution applies to both state and federal legislative districts. As such, the word "clarifies" is intentionally misleading, and this should disqualify the ballot question as currently written.

Additionally, the question itself is defective because not only does it ostensibly intend to "clarify" the application of compactness requirements, but it also seeks to confer original jurisdiction over congressional redistricting cases to the Supreme Court of Maryland. The Maryland constitution requires that a referred question be on a single issue only. While this court concludes it would be ideal for the Supreme Court of Maryland to have original jurisdiction in those cases, that is a separate issue from whether the Constitution's compactness requirements apply to state or federal, or state and federal legislative districts.

The court finds that the process used by the General Assembly to propose ballot Question 3 was deficient. Further, in the General Assembly's rush to pass the measure in a hastily called special session, the presumptions and thus the wording of the question itself are deficient. The court has no choice but to enjoin the board of elections from including ballot Question 3 on the general election ballot for the November 3, 2026. To preserve the state's ability to present a ballot, the court will stay the injunction pending an immediate appeal to the Supreme Court of Maryland.

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Respectfully,

Robert J. Thompson, Judge
Circuit Court for Anne Arundel County

DATED: 8/26/2026

Copies:
Court File
All Counsel

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