

SENATE BILL 251

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EMERGENCY BILL

0lr2558

By: **Senator Pinsky**

Introduced and read first time: January 20, 2020

Assigned to: Education, Health, and Environmental Affairs

A BILL ENTITLED

1 AN ACT concerning

2 **Election Law – Special Elections – Calendar Revisions**

3 FOR the purpose of altering the deadline by which a certificate of candidacy for an office to
4 be filled by a special election is required to be filed; establishing the filing deadline
5 for a certificate of candidacy for a special election of a write-in candidate;
6 establishing the filing deadline for a certificate of nomination for a special election
7 for a certain office; requiring that the verification and counting of certain signatures
8 on a petition seeking to place the name of an individual on the ballot for a special
9 election be completed within a certain time period; requiring that judicial review of
10 a petition seeking to place the name of an individual on the ballot for a special
11 election be sought by a certain date; altering the circumstance under which the
12 Governor is authorized to take certain actions regarding a special election to fill a
13 vacancy in a certain office; altering the earliest day on which a special primary and
14 special general election to fill a vacancy in a certain office may be held; requiring the
15 State Administrator of Elections to ensure that special elections are conducted in a
16 certain manner; altering the deadlines by which the State Board of Elections is
17 required to certify certain information to local boards regarding a special primary
18 and special general election; altering the deadline by which the State Board is
19 required to certify and display certain ballot information for a special primary
20 election; altering the deadline by which each board of canvassers is required to
21 transmit a certain copy of election results to certain persons following a special
22 primary or special general election; authorizing a certain candidate for a certain
23 primary election to withdraw the certificate of candidacy in accordance with certain
24 procedures by a certain deadline after a certain special primary election; making
25 conforming and clarifying changes; making this Act an emergency measure;
26 providing for the termination of certain provisions of this Act; and generally relating
27 to revisions to the election calendar for special elections.

28 BY repealing and reenacting, with amendments,

29 Article – Election Law

30 Section 5–303, 5–703.1, 6–210, 8–710, 8–711, 9–207, and 11–401

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



Annotated Code of Maryland
(2017 Replacement Volume and 2019 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
That the Laws of Maryland read as follows:

Article – Election Law

5–303.

(a) Except as provided in subsections (b) [and], (c), AND (D) of this section:

(1) in the year in which the Governor is elected, a certificate of candidacy shall be filed not later than 9 p.m. on the last Tuesday in February in the year in which the primary election will be held; and

(2) for any other regularly scheduled election, a certificate of candidacy shall be filed not later than 9 p.m. on the 95th day before the day on which the primary election will be held.

(b) **[A] EXCEPT AS PROVIDED IN SUBSECTION (D) OF THIS SECTION, A** certificate of candidacy for an office to be filled by a special election under this article shall be received and filed in the office of the appropriate board not later than 5 p.m. on the Monday that is 3 weeks or 21 days [prior to the date for the special primary election specified by the Governor in the] **AFTER THE ISSUANCE OF THE proclamation BY THE GOVERNOR** for the special primary election.

(c) **[The] EXCEPT AS PROVIDED IN SUBSECTION (D) OF THIS SECTION, THE** certificate of candidacy for the election of a write-in candidate shall be filed by the earlier of:

(1) 7 days after a total expenditure of at least \$51 is made to promote the candidacy by a campaign finance entity of the candidate; or

(2) 5 p.m. on the 7th day preceding the start of early voting for which the certificate is filed.

(D) THE CERTIFICATE OF CANDIDACY FOR A SPECIAL ELECTION OF A WRITE-IN CANDIDATE SHALL BE FILED BY THE EARLIER OF:

(1) 7 DAYS AFTER A TOTAL EXPENDITURE OF A LEAST \$51 IS MADE TO PROMOTE THE CANDIDACY BY ANY AUTHORIZED CANDIDATE CAMPAIGN COMMITTEE OF THE CANDIDATE; OR

(2) 5 P.M. ON THE 7TH DAY PRECEDING THE START OF VOTING AT A PRECINCT POLLING PLACE OR, IF THE ELECTION IS BEING CONDUCTED BY MAIL,

1 THE VOTING CENTER ESTABLISHED UNDER § 9-503 OF THIS ARTICLE FOR WHICH
2 THE CERTIFICATE IS FILED.

3 5-703.1.

4 (a) Except for a candidate for a nonpartisan county board of education, this
5 section applies to any candidate for public office subject to this title.

6 (b) A candidate for a public office may be nominated by a political party under
7 this subtitle if the political party is not required to nominate its candidates by party
8 primary.

9 (c) (1) This subsection does not apply to a candidate nominated by a new
10 political party under § 4-102(f) of this article.

11 (2) A candidate for public office who seeks political party nomination under
12 this section shall file a declaration of intent to seek political party nomination.

13 (3) The declaration of intent shall be filed with the board at which the
14 candidate files a certificate of candidacy under Subtitle 3 of this title.

15 (4) The declaration of intent shall be filed as follows:

16 (i) not later than the first Monday in July; and

17 (ii) for a special election to fill a vacancy:

18 1. for Representative in Congress, by the date and time
19 specified in the Governor's proclamation; or

20 2. for a local public office, by the date and time specified in
21 the county proclamation.

22 (5) A candidate who seeks nomination by political party may not be
23 charged a fee for filing the declaration of intent.

24 (d) (1) A candidate for public office who seeks nomination by political party
25 shall file a certificate of candidacy not later than 5 p.m. on the first Monday in August in
26 the year of the general election for the office.

27 (2) Except for the time of filing, the certificate of candidacy for a candidate
28 who seeks nomination by political party shall comply with the requirements for a certificate
29 of candidacy under Subtitle 3 of this title.

30 (e) (1) A candidate for nomination by political party may not have the
31 candidate's name placed on the general election ballot unless the candidate files with the
32 appropriate board, on a form the State Board prescribes, a certificate of nomination signed

by the officers of the political party.

(2) IN A SPECIAL ELECTION TO FILL A VACANCY IN THE OFFICE OF REPRESENTATIVE IN CONGRESS, A CERTIFICATE OF NOMINATION SHALL BE FILED WITH THE STATE BOARD BY 5 P.M. ON THE DAY OF THE SPECIAL PRIMARY ELECTION.

6–210.

(a) (1) A request for an advance determination under § 6–202 of this subtitle shall be submitted at least 30 days, but not more than 2 years and 1 month, prior to the deadline for the filing of the petition.

(2) Except as provided in paragraph (3) of this subsection, within 5 business days of receiving a request for an advance determination, the election authority shall make the determination.

(3) Within 10 business days of receiving a request for an advance determination of the sufficiency of a summary of a local law or charter amendment contained in a petition under § 6–202(b) of this subtitle, the election director shall make the determination.

(b) Within 2 business days after an advance determination under § 6–202 of this subtitle, or a determination of deficiency under § 6–206 or § 6–208 of this subtitle, the chief election official of the election authority shall notify the sponsor of the determination.

(c) **(1) [The] EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION,** THE verification and counting of validated signatures on a petition shall be completed within 20 days after the filing of the petition.

(2) IF A PETITION SEEKS TO PLACE THE NAME OF AN INDIVIDUAL ON THE BALLOT FOR A SPECIAL ELECTION, THE VERIFICATION AND COUNTING OF VALIDATED SIGNATURES ON THE PETITION SHALL BE COMPLETED WITHIN 10 DAYS AFTER THE FILING OF THE PETITION.

(d) Within 1 business day of the completion of the verification and counting processes, or, if judicial review is pending, within 1 business day after a final judicial decision, the appropriate election official shall make the certifications required by § 6–208 of this subtitle.

(e) (1) Except as provided in paragraph (2) of this subsection, any judicial review of a determination, as provided in § 6–209 of this subtitle, shall be sought by the 10th day following the determination to which the judicial review relates.

(2) (i) If the petition seeks to place the name of an individual or a question on the ballot at any election, except a presidential primary election, judicial review shall be sought by the day specified in paragraph (1) of this subsection or the 69th day

1 preceding that election, whichever day is earlier.

2 (ii) If the petition seeks to place the name of an individual on the
3 ballot for a presidential primary election in accordance with § 8–502 of this article, judicial
4 review of a determination made under § 6–208(a)(2) of this subtitle shall be sought by the
5 5th day following the determination to which the judicial review relates.

6 **(III) IF THE PETITION SEEKS TO PLACE THE NAME OF AN**
7 **INDIVIDUAL ON THE BALLOT FOR A SPECIAL ELECTION, JUDICIAL REVIEW SHALL BE**
8 **SOUGHT BY THE 2ND DAY FOLLOWING THE DETERMINATION TO WHICH THE**
9 **JUDICIAL REVIEW RELATES.**

10 (3) (i) A judicial proceeding under this subsection shall be conducted in
11 accordance with the Maryland Rules, except that:

12 1. the case shall be heard and decided without a jury and as
13 expeditiously as the circumstances require; and

14 2. an appeal shall be taken directly to the Court of Appeals
15 within 5 days after the date of the decision of the circuit court.

16 (ii) The Court of Appeals shall give priority to hear and decide an
17 appeal brought under subparagraph (i)2 of this paragraph as expeditiously as the
18 circumstances require.

19 8–710.

20 (a) (1) Except as provided in paragraph (2) of this subsection, if there is a
21 vacancy in the office of Representative in Congress, the Governor shall issue a
22 proclamation, within 10 days after the date that the vacancy occurs or becomes known to
23 the Governor, declaring that a special primary election and a special general election shall
24 be held to fill the vacancy.

25 (2) If the vacancy occurs during the period beginning [60] 39 days before
26 the regular primary election and ending on the last day of the term, the Governor may:

27 (i) decline to issue a proclamation; and

28 (ii) allow the office to remain vacant for the remainder of the term.

29 (b) (1) The Governor's proclamation shall specify the dates of the special
30 primary election and the special general election.

31 (2) The special primary election shall be held on a Tuesday that is at least
32 [65] 80 days after the date of the proclamation.

(3) The special general election shall be held on a Tuesday that is at least [65] 70 days after the date of the special primary election.

(c) (1) The Governor shall:

(i) immediately give public notice of the proclamation; and

(ii) deliver the proclamation to the State Administrator.

(2) The State Administrator shall:

(i) immediately notify the State Board members and the local boards of the counties that comprise the congressional district;

(ii) forward to each of those local boards a copy of the proclamation; [and]

(iii) direct the local boards of election to make the absentee ballot for the special primary election or special general election available to an absent uniformed services voter or overseas voter, as defined under the Uniformed and Overseas Citizens Absentee Voting Act, at least 45 days before the date of the special election; AND

(IV) ENSURE THAT THE SPECIAL ELECTION IS CONDUCTED IN COMPLIANCE WITH ALL FEDERAL AND STATE LAWS.

(d) (1) Notwithstanding any other provision of this section, if the vacancy occurs or becomes known to the Governor during the period beginning 120 days before the regular primary election for Representatives in Congress and ending 40 days before the primary election, the Governor's proclamation shall order that:

(i) the special primary election shall be merged with the regular primary election;

(ii) any individual who files a certificate of candidacy for the regular primary election shall be deemed to have filed a certificate of candidacy for the special primary election; and

(iii) any other qualified individual may file a certificate of candidacy, for both the special primary election and the regular primary election, not later than 9 p.m. on the day that is 2 days after the issuance of the proclamation.

(2) A vote cast for a candidate in the merged primary election shall be deemed a vote for that candidate in both the special primary election and the regular primary election.

(3) Two certificates of nomination, one for the special primary election and

one for the regular primary election, shall be issued to each candidate nominated in the merged primary election.

(4) Notwithstanding any provision of this article:

(i) a nominee for the special primary election may decline the nomination by notifying the State Board not later than 5 p.m. on the Wednesday following the primary election;

(ii) the appropriate political party shall fill the vacancy in nomination not later than 5 p.m. on the Thursday following the primary election; and

(iii) a petition for recount and recanvas of the special primary election shall be filed not later than 5 p.m. on the Wednesday following the primary election.

8–711.

(a) At least [20] **55** days before the special primary election, the State Board shall certify to the appropriate local boards the name, residence, and party affiliation of each candidate who qualifies to appear on the **SPECIAL** primary election ballot.

(b) At least [20] **55** days before the special general election, the State Board shall certify to the appropriate local boards the name, residence, and party affiliation of each nominee who qualifies to appear on the **SPECIAL** general election ballot.

9–207.

(a) The State Board shall certify and publicly display the content and arrangement of each ballot:

(1) for a primary election, at least 64 days before the election;

(2) for a general election, at least 64 days before the election;

(3) for a special primary election, at least [18] **55** days before the election;
and

(4) for a special general election, not later than a date specified in the Governor's proclamation.

(b) The Court of Appeals, on petition of the State Board, may establish a later date in extraordinary circumstances.

(c) The State Board shall publicly display the content and arrangement of each certified ballot on its website.

(d) Except pursuant to a court order under § 9–209 of this subtitle, or as provided

in § 9–208 of this subtitle, the content and arrangement of the ballot may not be modified after the second day of the public display.

(e) Unless a delay is required by court order, the State Board may begin to print the ballots after certification and 3 days of public display and correct any noted errors.

11–401.

(a) (1) After each election, each board of canvassers shall transmit one certified copy of the election results in its county, attested by the signatures of the chairperson and secretary of the board of canvassers, to:

(i) the Governor;

(ii) the State Board; and

(iii) the clerk of the circuit court for the appropriate county.

(2) The statement may be mailed or delivered in person.

(b) After each general election in which votes have been cast for a write-in candidate, each board of canvassers shall transmit a statement of returns of the votes cast for write-in candidates who have filed a certificate of candidacy.

(c) (1) The transmittal shall be made on the second Friday after a primary or general election or, if the canvass is completed after that date, within 48 hours after the completion of the canvass.

(2) (i) Except as specified in subparagraph (ii) of this paragraph, after a special primary or special **GENERAL** election, the transmittal shall be made as soon as possible, but no later than the second [Thursday] **FRIDAY** after the election.

(ii) After a special primary or special **GENERAL** election that is held at the same time as a primary or general election, the transmittal shall be made in accordance with paragraph (1) of this subsection.

(d) The clerk of the circuit court shall record the election results filed with the court under this section.

SECTION 2. AND BE IT FURTHER ENACTED, That, notwithstanding § 5–502 of the Election Law Article, an individual who has filed a certificate of candidacy for the primary election for Representative in Congress for the seventh congressional district may withdraw the certificate in accordance with procedures determined by the State Administrator of Elections within 2 days after the special primary election that is being held on February 4, 2020, for that office.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act is an emergency

1 measure, is necessary for the immediate preservation of the public health or safety, has
2 been passed by a yea and nay vote supported by three-fifths of all the members elected to
3 each of the two Houses of the General Assembly, and shall take effect from the date it is
4 enacted. Section 2 of this Act shall remain effective for a period of 6 months from the date
5 it is enacted and, at the end of the 6-month period, Section 2 of this Act, with no further
6 action required by the General Assembly, shall be abrogated and of no further force and
7 effect.