

SENATE BILL 29

G1, P5

CONSTITUTIONAL AMENDMENT
(PRE-FILED)

4lr0833

By: **Senator Kagan**

Requested: October 4, 2023

Introduced and read first time: January 10, 2024

Assigned to: Education, Energy, and the Environment

A BILL ENTITLED

1 AN ACT concerning

2 **Special Elections – Procedures and General Assembly Vacancies and Ties**

3 FOR the purpose of requiring that a special election be held to fill a vacancy in the office of
4 or resolve a tie for election as Delegate or Senator in the General Assembly unless
5 the vacancy occurs during the year in which the General Assembly is elected;
6 requiring that a special election to fill a vacancy or resolve a tie be conducted by mail;
7 requiring the State Board of Elections and the local board of elections to each pay a
8 certain percentage of the cost of postage-paid envelopes for a special election, rather
9 than the local board paying the full cost; requiring a local board to take into account
10 certain factors when determining the location of a voting center for a special election;
11 and generally relating to special elections.

12 BY proposing an amendment to the Maryland Constitution
13 Article III – Legislative Department
14 Section 13

15 BY proposing an amendment to the Maryland Constitution
16 Article XVII – Quadrennial Elections
17 Section 2

18 BY repealing and reenacting, with amendments,
19 Article – Election Law
20 Section 8–401(b), 9–501(d), (e), and (f), 9–502(c), and 9–503(a) and (b)(1)
21 Annotated Code of Maryland
22 (2022 Replacement Volume and 2023 Supplement)

23 BY adding to
24 Article – Election Law
25 Section 8–402, 9–501(d), and 9–503(b)(3)
26 Annotated Code of Maryland

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



(2022 Replacement Volume and 2023 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, (Three-fifths of all the members elected to each of the two Houses concurring), That it be proposed that the Maryland Constitution read as follows:

Article III – Legislative Department

13.

(A) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, IF AN INDIVIDUAL ELECTED AS A DELEGATE OR SENATOR DIES, IS DISQUALIFIED, RESIGNS, REFUSES TO ACT, IS EXPELLED, OR CEASES TO BE A RESIDENT OF THE DISTRICT FROM WHICH THE INDIVIDUAL WAS ELECTED, OR IN THE EVENT OF A TIE BETWEEN TWO OR MORE CANDIDATES FOR ELECTION AS A DELEGATE OR SENATOR, THE GOVERNOR SHALL ISSUE A PROCLAMATION WITHIN 10 DAYS AFTER THE DATE THE VACANCY OR TIE OCCURS OR BECOMES KNOWN TO THE GOVERNOR DECLARING THAT A SPECIAL PRIMARY ELECTION AND A SPECIAL GENERAL ELECTION SHALL BE HELD TO FILL THE VACANCY OR RESOLVE THE TIE.

[(a)] (B) (1) [In case of death, disqualification, resignation, refusal to act, expulsion, or removal from the county or city for which he shall have been elected, of any person who shall have been chosen as a Delegate or Senator, or in case of a tie between two or more such qualified persons,] IF A VACANCY IN THE OFFICE OF DELEGATE OR SENATOR OCCURS DURING THE YEAR IN WHICH THE GENERAL ASSEMBLY IS ELECTED UNDER § 7 OF THIS ARTICLE, the Governor shall appoint [a person] to fill [such] THE vacancy [from a person] AN INDIVIDUAL whose name shall be submitted to [him] THE GOVERNOR in writing, within [thirty] 30 days after the occurrence of the vacancy, by the Central Committee of the political party, if any, with which the Delegate or Senator, so vacating, had been affiliated, at the time of the last election or appointment of the vacating Senator or Delegate, in the County or District from which [he or she] THE VACATING SENATOR OR DELEGATE was appointed or elected, provided that the appointee shall be of the same political party, if any, as was that of the Delegate or Senator, whose office is to be filled, at the time of the last election or appointment of the vacating Delegate or Senator, and it shall be the duty of the Governor to make [said] THE appointment within [fifteen] 15 days after the submission [thereof] OF A NAME to [him] THE GOVERNOR.

(2) If a name is not submitted by the Central Committee within [thirty] 30 days after the occurrence of the vacancy, the Governor within another period of [fifteen] 15 days shall appoint [a person] AN INDIVIDUAL, who shall be affiliated with the same political party, if any, as was that of the Delegate or Senator, whose office is to be filled, at the time of the last election or appointment of the vacating Delegate or Senator, and who is otherwise properly qualified to hold the office of Delegate or Senator in the District or County.

(3) In the event there is no Central Committee in the County or District from which [said] **THE** vacancy is to be filled, the Governor shall within [fifteen] **15** days after the occurrence of [such] **THE** vacancy appoint [a person] **AN INDIVIDUAL**, from the same political party, if any, as that of the vacating Delegate or Senator, at the time of the last election or appointment of the vacating Senator or Delegate, who is otherwise properly qualified to hold the office of Delegate or Senator in [such] **THE** District or County.

(4) In every case when [any person] **AN INDIVIDUAL** is [so] appointed by the Governor, [his] **THE INDIVIDUAL'S** appointment shall be deemed to be for the unexpired term of the [person] **INDIVIDUAL** whose office has become vacant.

[(b)] (5) In addition, and in submitting a name to the Governor to fill a vacancy in a Legislative or Delegate district, as the case may be, in any of the [twenty-three] **23** counties of Maryland, the Central Committee or committees shall follow these provisions:

[(1)] (I) If the vacancy occurs in a district having the same boundaries as a county, the Central Committee of the county shall submit the name of a resident of the district.

[(2)] (II) If the vacancy occurs in a district which has boundaries comprising a portion of one county, the Central Committee of that county shall submit the name of a resident of the district.

[(3)] (III) If the vacancy occurs in a district which has boundaries comprising a portion or all of two or more counties, the Central Committee of each county involved shall have one vote for submitting the name of a resident of the district; and if there is a tie vote between or among the Central Committees, the list of names there proposed shall be submitted to the Governor, and [he] **THE GOVERNOR** shall make the appointment from the list.

Article XVII – Quadrennial Elections

2.

(A) [Except for a special election that may be authorized to fill a vacancy in a County Council or a vacancy in the office of chief executive officer or County Executive, under Article XI–A, Section 3 of the Constitution] **EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION**, elections by qualified voters for State and county officers shall be held on the Tuesday next after the first Monday of November, in the year [nineteen hundred and twenty-six] **1926**, and on the same day in every fourth year thereafter.

(B) THIS SECTION DOES NOT APPLY TO A SPECIAL ELECTION:

(1) TO FILL A VACANCY IN A COUNTY COUNCIL OR A VACANCY IN THE

1 OFFICE OF CHIEF EXECUTIVE OFFICER OR COUNTY EXECUTIVE UNDER ARTICLE
2 XI-A, § 3 OF THE CONSTITUTION; OR

3 (2) TO FILL A VACANCY IN THE OFFICE OF OR RESOLVE A TIE
4 BETWEEN TWO OR MORE CANDIDATES FOR ELECTION AS A DELEGATE OR SENATOR
5 IN THE GENERAL ASSEMBLY UNDER ARTICLE III, § 13(A) OF THE CONSTITUTION.

6 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read
7 as follows:

8 **Article – Election Law**

9 8–401.

10 (b) (1) Special elections to fill a vacancy in the office of Representative in
11 Congress shall be held at the time specified in Subtitle 7 of this title.

12 (2) (i) Special elections to fill vacancies in a county council or in the
13 office of chief executive officer or county executive shall be held as provided in the county
14 charter.

15 (II) SPECIAL ELECTIONS TO FILL A VACANCY OR RESOLVE A TIE
16 BETWEEN TWO OR MORE CANDIDATES FOR ELECTION AS A DELEGATE OR SENATOR
17 IN THE GENERAL ASSEMBLY UNDER ARTICLE III, § 13(A) OF THE MARYLAND
18 CONSTITUTION SHALL BE HELD AT THE TIME SPECIFIED IN § 8–402 OF THIS
19 SUBTITLE.

20 [(ii)] (III) The date set for the special election [to fill a vacancy]
21 under this paragraph shall allow at least 45 days between the date a local board makes an
22 absentee ballot available to an absent uniformed services voter or overseas voter, as defined
23 under the Uniformed and Overseas Citizens Absentee Voting Act, and the date of the
24 special election.

25 8–402.

26 (A) THIS SECTION APPLIES ONLY TO A SPECIAL ELECTION REQUIRED TO BE
27 HELD UNDER ARTICLE III, § 13(A) OF THE MARYLAND CONSTITUTION.

28 (B) WITHIN 10 DAYS AFTER THE DATE A VACANCY OR TIE OCCURS OR
29 BECOMES KNOWN TO THE GOVERNOR, AND AFTER CONSULTATION WITH THE STATE
30 ADMINISTRATOR, THE GOVERNOR SHALL ISSUE A PROCLAMATION THAT:

31 (1) SUBJECT TO SUBSECTION (C) OF THIS SECTION AND §
32 8–401(B)(2)(III) OF THIS SUBTITLE, ESTABLISHES THE DATES OF THE SPECIAL
33 PRIMARY ELECTION AND SPECIAL GENERAL ELECTION TO FILL THE VACANCY OR

1 RESOLVE THE TIE;

2 (2) NOTWITHSTANDING ANY PROVISION OF THIS ARTICLE, MAY MAKE
3 ANY ALTERATIONS TO ELECTION-RELATED DEADLINES THAT THE GOVERNOR
4 DETERMINES ARE NECESSARY FOR THE CONDUCT OF THE SPECIAL ELECTION; AND

5 (3) DIRECTS THE SPECIAL PRIMARY ELECTION AND SPECIAL
6 GENERAL ELECTION TO BE CONDUCTED BY MAIL.

7 (C) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION,
8 THE SPECIAL PRIMARY ELECTION OR THE SPECIAL GENERAL ELECTION:

9 (I) SHALL OCCUR AS EXPEDITIOUSLY AS PRACTICABLE AFTER
10 THE OCCURRENCE OF THE VACANCY; AND

11 (II) MAY BE HELD CONCURRENTLY WITH A REGULARLY
12 SCHEDULED ELECTION.

13 (2) (I) A SPECIAL PRIMARY ELECTION OR SPECIAL GENERAL
14 ELECTION MAY NOT BE HELD CONCURRENTLY WITH A REGULARLY SCHEDULED
15 ELECTION IF HOLDING THE SPECIAL ELECTION CONCURRENTLY WITH A REGULARLY
16 SCHEDULED ELECTION WOULD REQUIRE DELAYING THE SPECIAL ELECTION MORE
17 THAN 30 DAYS AFTER THE EARLIEST PRACTICABLE DATE FOR HOLDING THE
18 SPECIAL ELECTION.

19 (II) A SPECIAL PRIMARY ELECTION MAY NOT BE HELD
20 CONCURRENTLY WITH A REGULARLY SCHEDULED GENERAL ELECTION.

21 9-501.

22 (D) A SPECIAL ELECTION TO FILL A VACANCY OR RESOLVE A TIE IN AN
23 ELECTION FOR DELEGATE OR SENATOR IN THE GENERAL ASSEMBLY SHALL BE
24 CONDUCTED BY MAIL IN ACCORDANCE WITH THIS SUBTITLE.

25 [(d)] (E) (1) In this subsection, "local special election" means a special
26 election to:

27 (i) fill a vacancy in the offices of county council member, chief
28 executive officer, or county executive of a charter county if the charter of that county
29 provides for special elections;

30 (ii) fill a vacancy in the board of county commissioners of a code
31 home rule county if a local law enacted by that county provides for special elections;

(iii) fill a vacancy in the board of county commissioners of a commission county if a law provides for special elections;

(iv) fill a vacancy in a local board of education if State law provides for special elections;

(v) elect members of a charter board or submit a proposed charter to the voters for adoption or rejection in accordance with Article XI–A, § 1A of the Maryland Constitution; or

(vi) submit a local law enacted by a code home rule county to the voters for adoption or rejection in accordance with § 9–313 of the Local Government Article.

(2) A local special election shall be conducted by mail if the resolution of the county council or board of county commissioners establishing the date of the special election directs that the election be conducted by mail.

[(e)] (F) Except as otherwise provided in this subtitle:

(1) provisions of this article relating to absentee voting apply to voting by mail; and

(2) all pertinent State or local laws relating to the conduct of a special election apply to a special election conducted under this subtitle.

[(f)] (G) Provisions of this article relating to the conduct of elections apply to a special election conducted under this subtitle, unless a law specifically relevant to a special election applies.

9–502.

(c) [In Montgomery County:]

(1) **[each] EACH** vote-by-mail ballot shall be accompanied by a postage-paid envelope in which a voter may return the voted ballot to the local board[; and].

(2) **[the] THE STATE BOARD AND THE** local board **EACH** shall pay **50% OF** the cost of postage-paid envelopes provided under this subsection.

9–503.

(a) **[Each] SUBJECT TO THE APPROVAL OF THE STATE BOARD, EACH** local board shall establish at least one voting center for the use of any eligible voter who chooses to cast a ballot in person in a special election in accordance with this section.

(b) (1) A voting center shall be located at a local board office or another location within the constituency where the special election is being held **OR AS NEAR AS PRACTICABLE TO THE CONSTITUENCY WHERE THE SPECIAL ELECTION IS BEING HELD.**

(3) A LOCAL BOARD SHALL TAKE INTO ACCOUNT THE FOLLOWING FACTORS WHEN DETERMINING THE LOCATION OF A VOTING CENTER:

(I) ACCESSIBILITY OF THE VOTING CENTER TO HISTORICALLY DISENFRANCHISED COMMUNITIES, INCLUDING CULTURAL GROUPS, ETHNIC GROUPS, AND MINORITY GROUPS;

(II) PROXIMITY OF THE VOTING CENTER TO DENSE CONCENTRATIONS OF VOTERS;

(III) ACCESSIBILITY OF THE VOTING CENTER BY PUBLIC TRANSPORTATION; AND

(IV) MAXIMIZING OF VOTER PARTICIPATION, INCLUDING THROUGH THE USE OF COMMUNITY CENTERS AND PUBLIC GATHERING PLACES AS A LOCATION FOR A VOTING CENTER.

SECTION 3. AND BE IT FURTHER ENACTED, That, on or before October 1, 2028, the State Board of Elections and the Department of Legislative Services shall jointly submit a report to the Governor and, in accordance with § 2–1257 of the State Government Article, the Senate Education, Energy, and the Environment Committee and the House Ways and Means Committee that analyzes the benefits and fiscal impact of the various methods of filling legislative vacancies.

SECTION 4. AND BE IT FURTHER ENACTED, That the General Assembly determines that the amendment to the Maryland Constitution proposed by Section 1 of this Act affects multiple jurisdictions and that the provisions of Article XIV, § 1 of the Maryland Constitution concerning local approval of constitutional amendments do not apply.

SECTION 5. AND BE IT FURTHER ENACTED, That the amendment to the Maryland Constitution proposed by Section 1 of this Act shall be submitted to the qualified voters of the State at the next general election to be held in November 2024 for adoption or rejection pursuant to Article XIV of the Maryland Constitution. At that general election, the vote on the proposed amendment to the Constitution shall be by ballot, and on each ballot there shall be printed the words “For the Constitutional Amendment” and “Against the Constitutional Amendment”, as now provided by law. Immediately after the election, all returns shall be made to the Governor of the vote for and against the proposed amendment, as directed by Article XIV of the Maryland Constitution, and further proceedings had in accordance with Article XIV.

1 SECTION 6. AND BE IT FURTHER ENACTED, That Sections 2 and 3 of this Act
2 are contingent on the passage of Section 1 of this Act, a constitutional amendment, and its
3 ratification by the voters of the State.

4 SECTION 7. AND BE IT FURTHER ENACTED, That, subject to the provisions of
5 Section 6 of this Act, Sections 2 and 3 of this Act shall take effect on the proclamation of
6 the Governor that the constitutional amendment, having received a majority of the votes
7 cast at the general election, has been adopted by the people of Maryland.