

HOUSE BILL 265

G1, P5

CONSTITUTIONAL AMENDMENT
(PRE-FILED)

1lr0437
CF SB 6

By: **Delegate Moon**

Requested: July 10, 2020

Introduced and read first time: January 13, 2021

Assigned to: Ways and Means

A BILL ENTITLED

1 AN ACT concerning

2 **General Assembly – Special Election to Fill a Vacancy in Office**

3 FOR the purpose of proposing an amendment to the Maryland Constitution to require an
4 individual appointed by the Governor to fill a vacancy in the office of Delegate or
5 Senator in the General Assembly to serve for the remainder of the term if the vacancy
6 occurs after a certain date; requiring that a special election be held at the same time
7 as a certain regular statewide election to fill a vacancy in the office of Delegate or
8 Senator in the General Assembly if the vacancy occurs on or before a certain date;
9 providing that a special election to fill a vacancy in the office of Delegate or Senator
10 in the General Assembly is not subject to a requirement that elections for State and
11 county officers occur on certain dates; making conforming changes; and submitting
12 this amendment to the qualified voters of the State for their adoption or rejection.

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

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

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

22 **Article III – Legislative Department**

23 13.

24 (a) (1) In case of death, disqualification, resignation, refusal to act, expulsion,

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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, the Governor shall appoint a person to fill such vacancy from a person whose name shall be submitted to him in writing, within thirty 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 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 appointment within fifteen days after the submission thereof to him.

(2) If a name is not submitted by the Central Committee within thirty days after the occurrence of the vacancy, the Governor within another period of fifteen days shall appoint a person, 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 vacancy is to be filled, the Governor shall within fifteen days after the occurrence of such vacancy appoint a person, 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 District or County.

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

(b) 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 counties of Maryland, the Central Committee or committees shall follow these provisions:

(1) 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) 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) 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 shall make the appointment from the list.

(C) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, AN INDIVIDUAL APPOINTED UNDER THIS SECTION SHALL SERVE UNTIL A SUCCESSOR IS ELECTED UNDER PARAGRAPH (3) OF THIS SUBSECTION TO FILL THE REMAINDER OF THE TERM.

(2) AN INDIVIDUAL APPOINTED UNDER THIS SECTION SHALL SERVE FOR THE REMAINDER OF THE TERM IF THE VACANCY OCCURS AFTER THE DATE THAT IS 55 DAYS BEFORE THE DEADLINE FOR FILING CERTIFICATES OF CANDIDACY FOR THE REGULAR STATEWIDE ELECTION THAT IS HELD IN THE SECOND YEAR OF THE TERM.

(3) IF THE VACANCY OCCURS ON OR BEFORE THE DATE THAT IS 55 DAYS BEFORE THE DEADLINE FOR FILING CERTIFICATES OF CANDIDACY FOR THE REGULAR STATEWIDE ELECTION THAT IS HELD IN THE SECOND YEAR OF THE TERM, THE GOVERNOR SHALL ISSUE A PROCLAMATION IMMEDIATELY AFTER THE OCCURRENCE OF THE VACANCY DECLARING THAT A SPECIAL PRIMARY ELECTION AND A SPECIAL GENERAL ELECTION SHALL BE HELD AT THE SAME TIME AS THE REGULAR STATEWIDE PRIMARY ELECTION AND REGULAR STATEWIDE GENERAL ELECTION THAT ARE HELD IN THE SECOND YEAR OF THE TERM.

Article XVII – Quadrennial Elections

2.

[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,]

(A) 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, 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 OFFICE OF CHIEF EXECUTIVE OFFICER OR COUNTY EXECUTIVE UNDER ARTICLE XI–A, § 3 OF THE CONSTITUTION; OR

(2) TO FILL A VACANCY IN THE OFFICE OF DELEGATE OR SENATOR IN THE GENERAL ASSEMBLY UNDER ARTICLE III, § 13(C) OF THE CONSTITUTION.

SECTION 2. 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 3. 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 2022 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.