

UNOFFICIAL COPY OF SENATE BILL 129  
EMERGENCY BILL

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6lr0086

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By: **Chair, Education, Health, and Environmental Affairs Committee (By  
Request - Departmental - Elections, State Board of)**

Introduced and read first time: January 16, 2006

Rules suspended

Assigned to: Education, Health, and Environmental Affairs

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A BILL ENTITLED

1 AN ACT concerning

2 **Election Law - Ballots - Certification of Questions and Nomination of**  
3 **Candidates**

4 FOR the purpose of authorizing certain political parties to nominate candidates to the  
5 ballot if the parties do not nominate candidates by primary election; clarifying  
6 how political parties may fill vacancies; repealing certain provisions regarding  
7 the filling of a vacancy in nomination for certain petition candidates; providing  
8 that unless a board of education race is partisan a candidate may not qualify by  
9 petition or party nomination; removing a certain exception to the requirements  
10 for certifying certain questions to the ballot; making this Act an emergency  
11 measure; and generally relating to certification of questions and nomination of  
12 candidates.

13 BY repealing and reenacting, with amendments,  
14 Article - Election Law  
15 Section 4-102(f), 5-701, 5-702, 5-703(a) and (b), 5-1003, 5-1004, 7-103, and  
16 8-803  
17 Annotated Code of Maryland  
18 (2003 Volume and 2005 Supplement)

19 BY adding to  
20 Article - Election Law  
21 Section 5-703.1  
22 Annotated Code of Maryland  
23 (2003 Volume and 2005 Supplement)

24 BY repealing  
25 Article - Election Law  
26 Section 5-1102  
27 Annotated Code of Maryland  
28 (2003 Volume and 2005 Supplement)

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

3 **Article - Election Law**

4 4-102.

5 (f) Unless a new political party is required to hold a primary election to  
6 nominate its candidates under Title 8 of this article, the new political party may  
7 nominate its candidates [by:

8 (1) petition in accordance with Title 5 of this article; or

9 (2) if at least 1% of the State's registered voters, as of January 1 in the  
10 year of the election, are affiliated with the political party, convention] in accordance  
11 with [rules] THE CONSTITUTION AND BY-LAWS adopted by the political party AND  
12 SUBMITTED TO THE STATE BOARD.

13 5-701.

14 Nominations for public offices that are filled by elections governed by this  
15 article shall be made:

16 (1) by party primary, for candidates of a principal political party; [or]

17 (2) by petition, for[:

18 (i) candidates of a political party that does not nominate by  
19 primary; or

20 (ii)] candidates not affiliated with any political party; OR

21 (3) IN ACCORDANCE WITH THE CONSTITUTION AND BY-LAWS OF THE  
22 POLITICAL PARTY, FOR CANDIDATES OF A POLITICAL PARTY THAT DOES NOT  
23 NOMINATE BY PARTY PRIMARY.

24 5-702.

25 A candidate for public office of a political party shall be nominated in accordance  
26 with the requirements of Subtitles 2 through 4 of this title unless the candidate is:

27 (1) nominated by:

28 (I) petition under § 5-703 of this subtitle; or

29 (II) POLITICAL PARTY UNDER § 5-703.1 OF THIS SUBTITLE; OR

30 (2) a write-in candidate under § 5-704 of this subtitle.

1 5-703.

2 (a) Except for a candidate for a NONPARTISAN county board of education, this  
3 section applies to any candidate for public office subject to this title.

4 (b) A candidate for a public office may be nominated by petition under this  
5 subtitle if the candidate [does] IS not [seek nomination] AFFILIATED WITH ANY  
6 POLITICAL PARTY [through a party primary].

7 5-703.1.

8 (A) EXCEPT FOR A CANDIDATE FOR A NONPARTISAN COUNTY BOARD OF  
9 EDUCATION, THIS SECTION APPLIES TO ANY CANDIDATE FOR PUBLIC OFFICE  
10 SUBJECT TO THIS TITLE.

11 (B) A CANDIDATE FOR A PUBLIC OFFICE MAY BE NOMINATED BY A POLITICAL  
12 PARTY UNDER THIS SUBTITLE IF THE POLITICAL PARTY IS NOT REQUIRED TO  
13 NOMINATE ITS CANDIDATES BY PARTY PRIMARY.

14 (C) (1) A CANDIDATE FOR PUBLIC OFFICE WHO SEEKS POLITICAL PARTY  
15 NOMINATION UNDER THIS SECTION SHALL FILE A DECLARATION OF INTENT TO  
16 SEEK POLITICAL PARTY NOMINATION.

17 (2) THE DECLARATION OF INTENT SHALL BE FILED WITH THE BOARD AT  
18 WHICH THE CANDIDATE FILES A CERTIFICATE OF CANDIDACY UNDER SUBTITLE 3 OF  
19 THIS TITLE.

20 (3) THE DECLARATION OF INTENT SHALL BE FILED AS FOLLOWS:

21 (I) IN A YEAR IN WHICH THE GOVERNOR IS ELECTED, BY THE DATE  
22 AND TIME SPECIFIED FOR A CANDIDATE TO FILE A CERTIFICATE OF CANDIDACY;

23 (II) IN THE YEAR IN WHICH THE PRESIDENT AND MAYOR OF  
24 BALTIMORE CITY ARE ELECTED, BY JULY 1; AND

25 (III) FOR A SPECIAL ELECTION TO FILL A VACANCY:

26 1. FOR REPRESENTATIVE IN CONGRESS, BY THE DATE AND  
27 TIME SPECIFIED IN THE GOVERNOR'S PROCLAMATION FOR A CANDIDATE TO FILE A  
28 CERTIFICATE OF CANDIDACY; OR

29 2. FOR A LOCAL PUBLIC OFFICE, BY THE DATE AND TIME  
30 SPECIFIED IN THE COUNTY PROCLAMATION FOR A CANDIDATE TO FILE A  
31 CERTIFICATE OF CANDIDACY.

32 (4) A CANDIDATE WHO SEEKS NOMINATION BY POLITICAL PARTY MAY  
33 NOT BE CHARGED A FEE FOR FILING THE DECLARATION OF INTENT.

34 (D) (1) A CANDIDATE FOR PUBLIC OFFICE WHO SEEKS NOMINATION BY  
35 POLITICAL PARTY SHALL FILE A CERTIFICATE OF CANDIDACY NOT LATER THAN 5

1 P.M. ON THE FIRST MONDAY IN AUGUST IN THE YEAR OF THE GENERAL ELECTION  
2 FOR THE OFFICE.

3 (2) EXCEPT FOR THE TIME OF FILING, THE CERTIFICATE OF CANDIDACY  
4 FOR A CANDIDATE WHO SEEKS NOMINATION BY POLITICAL PARTY SHALL COMPLY  
5 WITH THE REQUIREMENTS FOR A CERTIFICATE OF CANDIDACY UNDER SUBTITLE 3  
6 OF THIS TITLE.

7 (E) A CANDIDATE FOR NOMINATION BY POLITICAL PARTY MAY NOT HAVE THE  
8 CANDIDATE'S NAME PLACED ON THE GENERAL ELECTION BALLOT UNLESS THE  
9 CANDIDATE FILES WITH THE APPROPRIATE BOARD, ON A FORM THE STATE BOARD  
10 PRESCRIBES, A CERTIFICATE OF NOMINATION SIGNED BY THE OFFICERS OF THE  
11 POLITICAL PARTY.

12 5-1003.

13 (a) This section applies to a vacancy in nomination for Representative in  
14 Congress, State Senator, or member of the House of Delegates, if the district includes  
15 more than one county.

16 (b) (1) A vacancy in nomination under this section that occurs because the  
17 nominee dies, withdraws the candidacy, or is disqualified for any reason shall be filled  
18 by:

19 (I) a vote of the central committees of the political party in each of  
20 the counties included in the district of that nominee; OR

21 (II) A STATE CENTRAL COMMITTEE FOR A NONPRINCIPAL  
22 POLITICAL PARTY THAT DOES NOT HAVE LOCAL CENTRAL COMMITTEES.

23 (2) The central committee of each county shall cast a vote that is  
24 proportionate to its share of the population in that district as reported in the most  
25 recent decennial census of the United States and promptly notify its State central  
26 committee of the results of its vote.

27 (3) (i) If no person receives a majority of the votes cast under  
28 paragraph (2) of this subsection, or if there is a tie vote by the central committees, the  
29 vacancy in nomination shall be filled by the State central committee.

30 (ii) In the event of a tie vote, the nominee selected by the State  
31 central committee shall be one of the candidates involved in the tie.

32 (4) By the later of the 40th day before the general election or the fifth  
33 day following the death, declination, or disqualification of the nominee:

34 (i) the State central committee shall file a certificate of designation  
35 for the nominee with the State Board; and

1 (ii) the successor nominee designated by the State central  
2 committee under subparagraph (i) of this paragraph shall file a certificate of  
3 candidacy with the State Board.

4 5-1004.

5 (a) A vacancy in nomination for an office that is entirely in one county shall be  
6 filled by:

7 (1) a central committee in that county as provided in this section; OR

8 (2) A STATE CENTRAL COMMITTEE FOR A NONPRINCIPAL POLITICAL  
9 PARTY THAT DOES NOT HAVE A LOCAL CENTRAL COMMITTEE.

10 (b) If a nominee for an office that is entirely in one county dies, declines the  
11 nomination, becomes disqualified, or gains a tie vote with another candidate in a  
12 primary election, the vacancy in nomination shall be filled by the later of:

13 (1) the 40th day before the general election; or

14 (2) the fifth day following the death, declination, or disqualification of  
15 the nominee.

16 (c) (1) The vacancy shall be filled by the central committee of the same  
17 political party as the individual vacating the nomination.

18 (2) If the office is to be voted on by the voters of the entire county, the  
19 vacancy shall be filled by the central committee of that county.

20 (3) If the office is voted on only by the voters of one legislative district  
21 and the central committee is elected by legislative district, the vacancy shall be filled  
22 by the members of the central committee of that legislative district.

23 (4) If the office is for Representative in Congress and is a district that is  
24 wholly within one county, the vacancy shall be filled by the central committee for that  
25 county.

26 (5) By the deadline prescribed in subsection (b) of this section:

27 (i) the applicable central committee shall file a certificate of  
28 designation with the [local board] APPLICABLE BOARD; and

29 (ii) the successor nominee designated by the applicable central  
30 committee under subparagraph (i) of this paragraph shall file a certificate of  
31 candidacy with the applicable board.

32 (d) If the vacancy results because of a tie vote between two or more  
33 candidates, the nominee selected by the central committee under this section shall be  
34 one of those candidates.

1 [5-1102.

2 (a) This section applies only to a petition candidate, other than Governor and  
3 Lieutenant Governor, of a nonqualified party that does not nominate its candidates by  
4 party primary.

5 (b) A vacancy in nomination of a petition candidate subject to this section that  
6 occurs because the candidate dies, declines the nomination, or is disqualified for any  
7 cause shall be filled by the party governing body of the nonqualified party to which  
8 the vacating candidate belongs.

9 (c) Within 5 days of the death, declination, or disqualification of a petition  
10 candidate subject to this section:

11 (1) the applicable party governing body shall file a certificate of  
12 designation with the appropriate board; and

13 (2) the successor candidate shall file a certificate of candidacy with the  
14 appropriate board.]

15 7-103.

16 (a) In this section, "county attorney" means:

17 (1) the attorney or law department established by a county charter or  
18 local law to represent the county generally, including its legislative and executive  
19 officers; or

20 (2) if the county charter or local laws provide for different attorneys to  
21 represent the legislative and executive branches of county government, the attorney  
22 designated to represent the county legislative body.

23 (b) Each question shall appear on the ballot containing the following  
24 information:

25 (1) a question number or letter as determined under subsection (d) of  
26 this section;

27 (2) a brief designation of the type or source of the question;

28 (3) a brief descriptive title in boldface type;

29 (4) a condensed statement of the purpose of the question; and

30 (5) the voting choices that the voter has.

31 (c) (1) The Secretary of State shall prepare and certify to the State Board,  
32 not later than the third Monday in August, the information required under subsection  
33 (b) of this section, for all statewide ballot questions and all questions relating to an  
34 enactment of the General Assembly which is petitioned to referendum.

1           (2)     The State Board shall prepare and certify to the appropriate local  
2 board, not later than the second Monday in August, the information required under  
3 subsection (b) of this section for all questions that have been referred to the voters of  
4 one county or part of one county pursuant to an enactment of the General Assembly.

5           (3)     (i)     [Unless some other process is mandated by law, the] THE  
6 county attorney of the appropriate county shall prepare and certify to the appropriate  
7 local board, not later than the third Monday in August, the information required  
8 under subsection (b) of this section for each question to be voted on in a single county  
9 or part of a county, except a question covered by paragraph (1) or paragraph (2) of this  
10 subsection.

11                   (ii)     If the information required under subsection (b) of this section  
12 has not been timely certified under subparagraph (i) of this paragraph, the clerk of  
13 the circuit court for the jurisdiction shall prepare and certify that information to the  
14 local board not later than the fourth Monday in August.

15                   (iii)    A local board shall provide a copy of each certified question to  
16 the State Board within 48 hours after receipt of the certification from the certifying  
17 authority.

18     (d)     (1)     Each statewide question and each question relating to an enactment  
19 of the General Assembly which is petitioned to referendum shall be assigned a  
20 numerical identifier in the following order:

21                   (i)     by years of sessions of the General Assembly at which enacted;  
22 and

23                   (ii)    for each such session, by chapter numbers of the Session Laws  
24 of that session.

25           (2)     A question that has been referred to the voters of one county or part  
26 of one county pursuant to an enactment of the General Assembly shall be assigned an  
27 alphabetical identifier in an order established by the State Board.

28           (3)     Questions certified under subsection (c)(3)(i) or (ii) of this section  
29 shall be assigned an alphabetical identifier in an order established by the certifying  
30 authority, consistent with and following the questions certified by the State Board.

31 8-803.

32     (a)     Before certifying the name of a board of education candidate to appear on  
33 the ballot, the local board shall determine whether the candidate qualifies as  
34 provided under Title 3 of the Education Article and Title 5 of this article.

35     (b)     [An] UNLESS TITLE 3 OF THE EDUCATION ARTICLE REQUIRES A  
36 PARTISAN ELECTION, AN individual may not qualify as a board of education candidate  
37 or nominee by filing a petition OR BEING NOMINATED BY A POLITICAL PARTY.

1 SECTION 2. AND BE IT FURTHER ENACTED, That this Act is an  
2 emergency measure, is necessary for the immediate preservation of the public health  
3 or safety, has been passed by a ye and nay vote supported by three-fifths of all the  
4 members elected to each of the two Houses of the General Assembly, and shall take  
5 effect from the date it is enacted.