

HOUSE BILL 1227

P5

CONSTITUTIONAL AMENDMENT

3lr2010

By: **Delegates Braveboy and O'Donnell**

Introduced and read first time: February 8, 2013

Assigned to: Rules and Executive Nominations

A BILL ENTITLED

1 AN ACT concerning

2 **General Assembly – Appointment to Vacancy in Office – Procedure**

3 FOR the purpose of prohibiting, except under certain circumstances, the Governor
4 from refusing to appoint the individual whose name was submitted by a certain
5 central committee to fill a vacancy in the office of Delegate or Senator;
6 authorizing, under certain circumstances, a central committee to withdraw the
7 name of an individual submitted to the Governor; requiring, if a name is
8 withdrawn, the central committee to submit a new name within a certain time
9 period; making stylistic changes; and submitting this amendment to the
10 qualified voters of the State for their adoption or rejection.

11 BY proposing a repeal of the Maryland Constitution

12 Article III – Legislative Department

13 Section 13

14 BY proposing an addition to the Maryland Constitution

15 Article III – Legislative Department

16 Section 13

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

20 **Article III – Legislative Department**

21 [13.

22 (a) (1) In case of death, disqualification, resignation, refusal to act,
23 expulsion, or removal from the county or city for which he shall have been elected, of
24 any person who shall have been chosen as a Delegate or Senator, or in case of a tie

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 between two or more such qualified persons, the Governor shall appoint a person to fill
2 such vacancy from a person whose name shall be submitted to him in writing, within
3 thirty days after the occurrence of the vacancy, by the Central Committee of the
4 political party, if any, with which the Delegate or Senator, so vacating, had been
5 affiliated, at the time of the last election or appointment of the vacating Senator or
6 Delegate, in the County or District from which he or she was appointed or elected,
7 provided that the appointee shall be of the same political party, if any, as was that of
8 the Delegate or Senator, whose office is to be filled, at the time of the last election or
9 appointment of the vacating Delegate or Senator, and it shall be the duty of the
10 Governor to make said appointment within fifteen days after the submission thereof to
11 him.

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

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

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

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

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

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

38 (3) If the vacancy occurs in a district which has boundaries comprising
39 a portion or all of two or more counties, the Central Committee of each county involved
40 shall have one vote for submitting the name of a resident of the district; and if there is

1 a tie vote between or among the Central Committees, the list of names there proposed
2 shall be submitted to the Governor, and he shall make the appointment from the list.]

3 **13.**

4 **(A) IN THIS SECTION, "CENTRAL COMMITTEE" MEANS THE CENTRAL**
5 **COMMITTEE OF THE POLITICAL PARTY WITH WHICH THE DELEGATE OR**
6 **SENATOR WHO VACATES THE OFFICE WAS AFFILIATED AT THE TIME THE**
7 **DELEGATE OR SENATOR WAS ELECTED OR APPOINTED.**

8 **(B) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, WITHIN 30**
9 **DAYS AFTER A VACANCY OCCURS IN THE OFFICE OF DELEGATE OR SENATOR OR**
10 **AN ELECTION RESULTS IN A TIE FOR THE OFFICE OF DELEGATE OR SENATOR,**
11 **THE CENTRAL COMMITTEE SHALL SUBMIT TO THE GOVERNOR THE NAME OF AN**
12 **INDIVIDUAL WHO IS AFFILIATED WITH THE SAME POLITICAL PARTY, IF ANY, AS**
13 **WAS THE DELEGATE OR SENATOR VACATING THE OFFICE AT THE TIME THE**
14 **DELEGATE OR SENATOR WAS ELECTED OR APPOINTED.**

15 **(2) (I) IF A VACANCY OCCURS IN A DISTRICT THAT HAS**
16 **BOUNDARIES COMPRISING A PORTION OR ALL OF TWO OR MORE COUNTIES, THE**
17 **CENTRAL COMMITTEE OF EACH COUNTY SHALL HAVE ONE VOTE FOR**
18 **SUBMITTING THE NAME OF AN INDIVIDUAL TO THE GOVERNOR UNDER**
19 **PARAGRAPH (1) OF THIS SECTION.**

20 **(II) IF THERE IS A TIE VOTE, A LIST OF THE NAMES OF THE**
21 **INDIVIDUALS FOR WHOM THE VOTE WAS TIED SHALL BE SUBMITTED TO THE**
22 **GOVERNOR.**

23 **(C) (1) WITHIN 15 DAYS AFTER THE NAME OF AN INDIVIDUAL OR A**
24 **LIST OF NAMES IS SUBMITTED TO THE GOVERNOR UNDER PARAGRAPH (B) OF**
25 **THIS SECTION, THE GOVERNOR SHALL APPOINT:**

26 **(I) THE INDIVIDUAL WHOSE NAME WAS SUBMITTED UNDER**
27 **SUBSECTION (B)(1) OF THIS SECTION; OR**

28 **(II) IF A LIST OF NAMES WAS SUBMITTED UNDER**
29 **SUBSECTION (B)(2) OF THIS SECTION, ONE OF THE INDIVIDUALS WHOSE NAME**
30 **WAS SUBMITTED ON THE LIST.**

31 **(2) THE GOVERNOR MAY NOT REFUSE TO APPOINT AN**
32 **INDIVIDUAL AS REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION UNLESS**
33 **THE INDIVIDUAL:**

1 **(I) DOES NOT MEET THE QUALIFICATIONS SPECIFIED**
2 **UNDER § 9 OF THIS ARTICLE TO HOLD THE OFFICE TO WHICH THE INDIVIDUAL**
3 **WOULD BE APPOINTED;**

4 **(II) IS OTHERWISE DISQUALIFIED UNDER THIS ARTICLE**
5 **FROM HOLDING THE OFFICE TO WHICH THE INDIVIDUAL WOULD BE APPOINTED;**
6 **AND**

7 **(III) IS NOT AFFILIATED WITH THE SAME POLITICAL PARTY,**
8 **IF ANY, AS WAS THE DELEGATE OR SENATOR VACATING THE OFFICE AT THE**
9 **TIME THE DELEGATE OR SENATOR WAS ELECTED OR APPOINTED.**

10 **(D) (1) A NAME THAT HAS BEEN SUBMITTED TO THE GOVERNOR**
11 **UNDER SUBSECTION (B) OF THIS SECTION MAY BE WITHDRAWN IF:**

12 **(I) 30 DAYS HAS NOT LAPSED SINCE THE VACANCY**
13 **OCCURRED; OR**

14 **(II) THE GOVERNOR HAS NOT APPOINTED THE INDIVIDUAL**
15 **UNDER SUBSECTION (C) OF THIS SECTION.**

16 **(2) IF A NAME IS WITHDRAWN UNDER PARAGRAPH (1) OF THIS**
17 **SUBSECTION, A NEW NAME SHALL BE SUBMITTED TO THE GOVERNOR WITHIN 15**
18 **DAYS AFTER THE NAME IS WITHDRAWN.**

19 **(E) (1) THIS SUBSECTION APPLIES IF:**

20 **(I) A NAME OR LIST OF NAMES IS NOT SUBMITTED TO THE**
21 **GOVERNOR WITHIN 30 DAYS AFTER THE VACANCY OCCURS AS REQUIRED**
22 **UNDER SUBSECTION (B) OF THIS SECTION; OR**

23 **(II) THE VACANCY OCCURS IN A DISTRICT THAT IS LOCATED**
24 **IN A COUNTY THAT DOES NOT HAVE A CENTRAL COMMITTEE.**

25 **(2) WITHIN 15 DAYS AFTER THE EXPIRATION OF THE 30-DAY**
26 **PERIOD OR, IF THE DISTRICT IS IN A COUNTY THAT DOES NOT HAVE A CENTRAL**
27 **COMMITTEE, WITHIN 15 DAYS AFTER THE VACANCY OCCURS, THE GOVERNOR**
28 **SHALL APPOINT AN INDIVIDUAL TO FILL THE VACANCY WHO:**

29 **(I) MEETS THE QUALIFICATIONS SPECIFIED UNDER § 9 OF**
30 **THIS ARTICLE TO HOLD THE OFFICE TO WHICH THE INDIVIDUAL WOULD BE**
31 **APPOINTED;**

1 **(II) IS NOT OTHERWISE DISQUALIFIED UNDER THIS**
2 **ARTICLE FROM HOLDING THE OFFICE TO WHICH THE INDIVIDUAL WOULD BE**
3 **APPOINTED; AND**

4 **(III) IS AFFILIATED WITH THE SAME POLITICAL PARTY, IF**
5 **ANY, AS WAS THE DELEGATE OR SENATOR VACATING THE OFFICE AT THE TIME**
6 **THE DELEGATE OR SENATOR WAS ELECTED OR APPOINTED.**

7 **(F) AN INDIVIDUAL WHO IS APPOINTED TO FILL A VACANCY UNDER**
8 **THIS SECTION SHALL HOLD THE OFFICE UNTIL THE NEXT TERM FOR THE**
9 **OFFICE BEGINS IN ACCORDANCE WITH § 6 OF THIS ARTICLE.**

10 SECTION 2. AND BE IT FURTHER ENACTED, That the General Assembly
11 determines that the amendment to the Maryland Constitution proposed by this Act
12 affects multiple jurisdictions and that the provisions of Article XIV, § 1 of the
13 Maryland Constitution concerning local approval of constitutional amendments do not
14 apply.

15 SECTION 3. AND BE IT FURTHER ENACTED, That the foregoing section
16 proposed as an amendment to the Maryland Constitution shall be submitted to the
17 qualified voters of the State at the next general election to be held in November 2014
18 for their adoption or rejection pursuant to Article XIV of the Maryland Constitution.
19 At that general election, the vote on this proposed amendment to the Constitution
20 shall be by ballot, and upon each ballot there shall be printed the words "For the
21 Constitutional Amendment" and "Against the Constitutional Amendment," as now
22 provided by law. Immediately after the election, all returns shall be made to the
23 Governor of the vote for and against the proposed amendment, as directed by Article
24 XIV of the Maryland Constitution, and further proceedings had in accordance with
25 Article XIV.