

Department of Legislative Services
Maryland General Assembly
2013 Session

FISCAL AND POLICY NOTE

House Bill 1227 (Delegates Braveboy and O'Donnell)
Rules and Executive Nominations

General Assembly - Appointment to Vacancy in Office - Procedure

This proposed constitutional amendment establishes a process by which a vacancy in the office of delegate or senator is to be filled. The proposed amendment specifically prohibits the Governor from refusing to appoint an individual whose name was submitted by a central committee except in specified circumstances. It also proposes a repeal of current constitutional provisions that set forth the procedure to fill a vacancy in the office of delegate or senator.

Fiscal Summary

State Effect: None. It is assumed that the potential for increased costs to include any constitutional amendments proposed by the General Assembly on the ballot at the next general election will have been anticipated in the State Board of Elections' budget.

Local Effect: None. It is assumed that the potential for increased costs to notify voters of any constitutional amendments proposed by the General Assembly, and to include any proposed constitutional amendments on the ballot at the next general election, will have been anticipated in local boards of elections' budgets.

Small Business Effect: None.

Analysis

Bill Summary: "Central committee" means the central committee of the political party with which the delegate or senator who vacates the office was affiliated at the time the delegate or senator was elected or appointed.

Within 30 days after a vacancy occurs in the office of delegate or senator, or an election results in a tie for the office, the central committee must submit to the Governor the name of an individual who is affiliated with the same political party, if any, as was the delegate or senator vacating the office at the time the delegate or senator was elected or appointed. If a vacancy occurs in a district that has boundaries comprising a portion or all of two or more counties, the central committee of each county must have one vote for submitting the name of an individual to the Governor. If there is a tie vote, a list of the names of the individuals for whom the vote was tied must be submitted to the Governor.

Within 15 days after the name of an individual or a list of names is submitted to the Governor, the Governor must appoint (1) the individual whose name was submitted or (2) if a list of names was submitted, one of the individuals whose name was submitted on the list. The Governor may not refuse to appoint an individual as required under the process set forth above unless the individual (1) does not meet the specified constitutional requirements to hold the office to which the individual would be appointed; (2) is otherwise disqualified from holding the office to which the individual would be appointed; and (3) is not affiliated with the same political party, if any, as was the delegate or senator vacating the office at the time the delegate or senator was elected or appointed.

A name that has been submitted to the Governor may be withdrawn if 30 days has not lapsed since the vacancy occurred or the Governor has not appointed the individual as specified above. If a name is withdrawn, a new name must be submitted to the Governor within 15 days after the name is withdrawn.

The bill also establishes a process if a name or list of names is not submitted to the Governor within 30 days after the vacancy occurs or if the vacancy occurs in a district that is located in a county that does not have a central committee. Within 15 days after the expiration of the 30-day period or, if there is no central committee, within 15 days after the vacancy occurs, the Governor must appoint an individual to fill the vacancy. The individual must (1) meet the applicable constitutional requirements to hold the office (2) not otherwise be disqualified from holding the office; and (3) be affiliated with the same political party, if any, as was the delegate or senator vacating the office at the time the delegate or senator was elected or appointed.

An individual appointed under these provisions must hold the office until the next term for the office begins.

Current Law: In case of death, disqualification, resignation, refusal to act, expulsion, or removal from the county or city for which a delegate or senator was elected, or in case of a tie between two or more qualified persons, the Governor must appoint a person to fill the vacancy from a person whose name was submitted, in writing within 30 days after the

occurrence of the vacancy by the central committee of the political party, if any, with which the delegate or senator was affiliated, as specified. The Governor must make the appointment within 15 days after the submission.

If a name is not submitted by the central committee within 30 days, the Governor, within another period of 15 days, must appoint a person, who must be affiliated with the same political party, if any, of the delegate or senator whose office is to be filled. The person must be properly qualified to hold the office of delegate or senator in the district or county.

If there is no central committee within the county or district from which the vacancy is to be filled, the Governor must, within 15 days after the vacancy, appoint a person from the same political party, if any, of the vacating delegate or senator, and who is properly qualified to hold the office.

In every case when any person is appointed by the Governor, the appointment is deemed to be for the unexpired term of the person whose office has become vacant.

In addition, and in submitting a name to the Governor to fill a vacancy, the central committee or committees must follow specified provisions relating to districts with boundaries comprising of more than one county.

An individual is eligible to serve as a senator or delegate if the person is a citizen of the State and has resided within the State for at least one year prior to the date of election. The individual must have resided in the district for which he or she is elected for at least six months prior to the date of election, or, if the district has been established less than six months prior to the date of election, for as long as the district has been established. An individual must be at least 25 to serve as senator and at least 21 to serve as delegate.

State Fiscal Effect: State costs of printing absentee and provisional ballots may increase to the extent inclusion of the proposed constitutional amendment on the ballot at the next general election would result in a need for a larger ballot card size or an additional ballot card for a given ballot (the content of ballots varies across the State, depending on the offices, candidates, and questions being voted on). Any increase in costs, however, is expected to be relatively minimal, and it is assumed that the potential for such increased costs will have been anticipated in the State Board of Elections' budget. Pursuant to Chapter 564 of 2001 (HB 1457), the State Board of Elections shares the costs of printing paper ballots with the local boards of elections.

Local Fiscal Effect: Local boards of elections' printing and mailing costs may increase to include information on the proposed constitutional amendment with specimen ballots mailed to voters prior to the next general election and to include the proposed amendment

on absentee and provisional ballots. It is assumed, however, that the potential for such increased costs will have been anticipated in local boards of elections' budgets.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Governor's Office, Department of Legislative Services

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Analysis by: Jennifer K. Botts

Direct Inquiries to:
(410) 946-5510
(301) 970-5510