

Chapter 198

(House Bill 196)

AN ACT concerning

Election Law – Special Elections – Voting by Mail

FOR the purpose of altering certain provisions of law concerning voting by mail in special elections; authorizing the Governor, a county council, or a board of county commissioners to direct that voting by mail be utilized in certain special elections; specifying the application of certain provisions of law to a special election conducted by mail; requiring a local board of elections to mail a vote-by-mail ballot to each registered voter who is eligible to vote in a special election conducted by mail unless the voter has requested that the ballot be transmitted by other means; specifying that a voter is not required to submit an application to receive a vote-by-mail ballot; requiring a local board to send a vote-by-mail ballot to each eligible voter at least a certain number of days before the day of a special election; requiring that vote-by-mail ballots be mailed to the address on file in the statewide voter registration list for each eligible voter except in certain circumstances; requiring a local board to issue a replacement vote-by-mail ballot to a voter under certain circumstances; requiring each local board to 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; specifying certain requirements for a voting center established by a local board; authorizing a local board to establish a voting center during a certain time period; providing that a certain process for applying in person for an absentee ballot at the office of a local board does not apply to a special election conducted by mail; providing that certain provisions of law relating to voting at a polling place on election day also apply to voting at a voting center established under this Act; requiring a voter to return a vote-by-mail ballot by certain methods; authorizing a voter to designate an agent to return a vote-by-mail ballot to a local board; requiring that a vote-by-mail ballot be returned to a local board by certain deadlines and meet certain requirements to be considered timely and be counted; authorizing the State Board of Elections to adopt regulations as necessary to implement this Act; and generally relating to voting by mail in special elections.

BY ~~adding to~~ repealing and reenacting, with amendments,

Article – Election Law

Section ~~9-601 through 9-606 to be under the new~~ 9-501 through 9-505 to be under the amended subtitle “Subtitle ~~6.~~ 5. Voting by Mail in Special Elections”

Annotated Code of Maryland

(2010 Replacement Volume and 2012 Supplement)

BY repealing and reenacting, without amendments,

Article – Election Law

Section 9–506

Annotated Code of Maryland

(2010 Replacement Volume and 2012 Supplement)

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

~~Article – Election Law~~

~~SUBTITLE 6. VOTING BY MAIL IN SPECIAL ELECTIONS.~~

~~9–601.~~

~~(A) THIS SUBTITLE APPLIES ONLY TO A SPECIAL ELECTION THAT IS NOT HELD CONCURRENTLY WITH A REGULARLY SCHEDULED PRIMARY OR GENERAL ELECTION.~~

~~(B) THIS SUBTITLE DOES NOT APPLY TO A SPECIAL ELECTION FOR THE MONTGOMERY COUNTY COUNCIL.~~

~~(C) VOTING BY MAIL MAY BE UTILIZED IN A SPECIAL ELECTION IN ACCORDANCE WITH THIS SUBTITLE.~~

~~(D) A SPECIAL ELECTION TO FILL A VACANCY IN THE OFFICE OF REPRESENTATIVE IN CONGRESS SHALL BE CONDUCTED BY MAIL IF THE GOVERNOR’S PROCLAMATION ISSUED UNDER § 8-710 OF THIS ARTICLE DIRECTS THAT THE ELECTION BE CONDUCTED BY MAIL.~~

~~(E) (1) IN THIS SUBSECTION, “LOCAL SPECIAL ELECTION” MEANS A SPECIAL ELECTION TO:~~

~~(I) FILL A VACANCY IN THE COUNTY COUNCIL OF A CHARTER COUNTY IF THE CHARTER OF THAT COUNTY PROVIDES FOR SPECIAL ELECTIONS;~~

~~(II) FILL A VACANCY IN THE BOARD OF COUNTY COMMISSIONERS OF A CODE HOME RULE COUNTY IF A LOCAL LAW ENACTED BY THAT COUNTY PROVIDES FOR SPECIAL ELECTIONS;~~

~~(III) FILL A VACANCY IN A LOCAL BOARD OF EDUCATION IF STATE LAW PROVIDES FOR SPECIAL ELECTIONS;~~

~~(IV) 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~~

~~(V) SUBMIT A LOCAL LAW ENACTED BY A CODE HOME RULE COUNTY TO THE VOTERS FOR ADOPTION OR REJECTION IN ACCORDANCE WITH ARTICLE 25B, § 10(H) OF THE CODE.~~

~~(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.~~

~~(F) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBTITLE:~~

~~(1) PROVISIONS OF THIS ARTICLE RELATING TO ABSENTEE VOTING APPLY TO VOTING BY MAIL; AND~~

~~(2) LOCAL LAWS RELATING TO THE CONDUCT OF A SPECIAL ELECTION APPLY TO A SPECIAL ELECTION CONDUCTED UNDER THIS SUBTITLE.~~

~~(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.~~

~~9-602.~~

~~(A) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A LOCAL BOARD SHALL MAIL BY NONFORWARDABLE MAIL A VOTE BY MAIL BALLOT TO EACH REGISTERED VOTER WHO IS ELIGIBLE TO VOTE IN A SPECIAL ELECTION.~~

~~(2) A LOCAL BOARD IS NOT REQUIRED TO MAIL A VOTE BY MAIL BALLOT TO A VOTER IF THE VOTER HAS REQUESTED THAT THE BALLOT BE TRANSMITTED BY OTHER MEANS.~~

~~(B) A VOTER IS NOT REQUIRED TO SUBMIT AN APPLICATION TO RECEIVE A VOTE BY MAIL BALLOT.~~

~~(C) A LOCAL BOARD SHALL SEND A VOTE BY MAIL BALLOT TO EACH ELIGIBLE VOTER AT LEAST 14 DAYS BEFORE THE DAY OF A SPECIAL ELECTION.~~

~~(D) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A VOTE BY MAIL BALLOT SHALL BE MAILED TO THE ADDRESS THAT IS ON FILE IN THE STATEWIDE VOTER REGISTRATION LIST FOR EACH ELIGIBLE VOTER.~~

~~(2) A REGISTERED VOTER MAY REQUEST TO RECEIVE A VOTE BY MAIL BALLOT AT AN ADDRESS OTHER THAN THE ADDRESS THAT IS ON FILE IN THE STATEWIDE VOTER REGISTRATION LIST BY:~~

~~(I) SUBMITTING AN ABSENTEE BALLOT APPLICATION IN ACCORDANCE WITH § 9-305(A) OF THIS TITLE NOT LATER THAN THE TUESDAY PRECEDING THE DAY OF A SPECIAL ELECTION, IF THE VOTER IS TEMPORARILY ABSENT FROM THE ADDRESS THAT IS ON FILE IN THE STATEWIDE VOTER REGISTRATION LIST; OR~~

~~(II) NOTIFYING A LOCAL BOARD OF A CHANGE OF ADDRESS NOT LATER THAN THE TUESDAY PRECEDING THE DAY OF A SPECIAL ELECTION, IF THE VOTER'S RESIDENCE HAS CHANGED FROM THE ADDRESS THAT IS ON FILE IN THE STATEWIDE VOTER REGISTRATION LIST TO ANOTHER LOCATION WITHIN THE STATE.~~

~~(E) A LOCAL BOARD SHALL ISSUE A REPLACEMENT VOTE BY MAIL BALLOT TO A VOTER IF THE LOCAL BOARD HAS REASONABLE GROUNDS TO BELIEVE THAT A VOTE BY MAIL BALLOT PREVIOUSLY ISSUED TO THE VOTER HAS BEEN LOST, DESTROYED, SPOILED, OR NOT RECEIVED.~~

~~9-603.~~

~~(A) 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.~~

~~(B) A VOTING CENTER ESTABLISHED UNDER THIS SECTION SHALL:~~

~~(1) BE LOCATED AT A LOCAL BOARD OFFICE OR ANOTHER LOCATION WITHIN THE CONSTITUENCY WHERE THE SPECIAL ELECTION IS BEING HELD;~~

~~(2) PROVIDE ACCESS TO A VOTING SYSTEM THAT IS ACCESSIBLE TO VOTERS WITH DISABILITIES IN ACCORDANCE WITH THE FEDERAL AMERICANS WITH DISABILITIES ACT AND THE FEDERAL HELP AMERICA VOTE ACT;~~

~~(3) PROVIDE FOR PROVISIONAL VOTING IN ACCORDANCE WITH SUBTITLE 4 OF THIS TITLE;~~

~~(4) SATISFY THE REQUIREMENTS OF § 10-101 OF THIS ARTICLE;~~
AND

~~(5) BE OPEN FOR VOTING EACH DAY BEGINNING 6 DAYS BEFORE THE DAY OF A SPECIAL ELECTION THROUGH THE DAY OF A SPECIAL ELECTION DURING THE HOURS BETWEEN:~~

~~(I) 10 A.M. AND 8 P.M. MONDAY THROUGH SATURDAY; AND~~

~~(II) 12 NOON AND 6 P.M. ON SUNDAY.~~

~~(C) IF NECESSARY TO EXPEDITE THE CONDUCT OF A SPECIAL ELECTION AND SUBJECT TO THE APPROVAL OF THE STATE BOARD, A LOCAL BOARD MAY ESTABLISH A VOTING CENTER UNDER THIS SECTION DURING A PERIOD WHEN A CHANGE IN POLLING PLACES IS PROHIBITED UNDER § 2-303 OF THIS ARTICLE.~~

~~(D) THE PROCESS FOR APPLYING IN PERSON FOR AN ABSENTEE BALLOT AT THE OFFICE OF A LOCAL BOARD UNDER § 9-305(C) OF THIS TITLE DOES NOT APPLY TO A SPECIAL ELECTION CONDUCTED BY MAIL.~~

~~(E) EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, ANY PROVISION OF THIS ARTICLE THAT APPLIES TO VOTING AT A POLLING PLACE ON ELECTION DAY ALSO APPLIES TO VOTING AT A VOTING CENTER ESTABLISHED UNDER THIS SECTION.~~

~~9-604.~~

~~(A) A VOTER MAY RETURN A VOTE BY MAIL BALLOT TO A LOCAL BOARD:~~

~~(1) BY MAIL;~~

~~(2) IN PERSON DURING REGULAR OFFICE HOURS; OR~~

~~(3) THROUGH A DULY AUTHORIZED AGENT IN ACCORDANCE WITH SUBSECTION (B) OF THIS SECTION.~~

~~(B) (1) A VOTER MAY DESIGNATE A DULY AUTHORIZED AGENT IN ACCORDANCE WITH § 9-307 OF THIS TITLE TO RETURN A VOTE BY MAIL BALLOT TO A LOCAL BOARD DURING REGULAR OFFICE HOURS.~~

~~(2) NOTWITHSTANDING § 9-307(B)(4)(i) OF THIS TITLE, AN AGENT IS REQUIRED ONLY TO:~~

~~(i) WITNESS THE VOTER MARK THE BALLOT AND PLACE IT IN AN ENVELOPE; AND~~

~~(ii) RETURN THE BALLOT TO A LOCAL BOARD.~~

~~9-605.~~

~~(A) A VOTE BY MAIL BALLOT IS CONSIDERED TIMELY AND MAY BE COUNTED IF THE BALLOT:~~

~~(1) IS RETURNED IN PERSON TO THE OFFICE OF A LOCAL BOARD BY THE VOTER OR THE VOTER'S DULY AUTHORIZED AGENT NO LATER THAN 8 P.M. ON THE DAY OF A SPECIAL ELECTION; OR~~

~~(2) (i) IS RECEIVED BY MAIL BY A LOCAL BOARD NO LATER THAN 10 A.M. ON THE SECOND FRIDAY AFTER A SPECIAL ELECTION; AND~~

~~(ii) WAS MAILED ON OR BEFORE ELECTION DAY, AS VERIFIED:~~

~~1. BY A POSTMARK; OR~~

~~2. IF THE RETURN ENVELOPE DOES NOT CONTAIN A POSTMARK OR THE POSTMARK IS ILLEGIBLE, BY THE VOTER'S AFFIDAVIT THAT THE BALLOT WAS MAILED ON OR BEFORE ELECTION DAY.~~

~~(B) A VOTE BY MAIL BALLOT THAT DOES NOT MEET THE REQUIREMENTS OF SUBSECTION (A) OF THIS SECTION IS NOT TIMELY AND MAY NOT BE COUNTED.~~

~~9-606.~~

~~THE STATE BOARD MAY ADOPT REGULATIONS AS NECESSARY TO IMPLEMENT THIS SUBTITLE.~~

Article – Election Law

Subtitle 5. [Montgomery County] Voting by Mail IN SPECIAL ELECTIONS.

9-501.

(a) This subtitle applies only to a special election [for the Montgomery County Council] that is not held concurrently with a regularly scheduled primary or general election.

(b) Voting by mail may be utilized in a special election [for the Montgomery County Council] in accordance with this subtitle.

(C) A SPECIAL ELECTION TO FILL A VACANCY IN THE OFFICE OF REPRESENTATIVE IN CONGRESS SHALL BE CONDUCTED BY MAIL IF THE GOVERNOR'S PROCLAMATION ISSUED UNDER § 8-710 OF THIS ARTICLE DIRECTS THAT THE ELECTION BE CONDUCTED BY MAIL.

(D) (1) IN THIS SUBSECTION, "LOCAL SPECIAL ELECTION" MEANS A SPECIAL ELECTION TO:

(I) FILL A VACANCY IN THE COUNTY COUNCIL OF A CHARTER COUNTY IF THE CHARTER OF THAT COUNTY PROVIDES FOR SPECIAL ELECTIONS;

(II) FILL A VACANCY IN THE BOARD OF COUNTY COMMISSIONERS OF A CODE 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 ARTICLE 25B, § 10(H) OF THE CODE.

[(c)] (2) A LOCAL special election [to fill a vacancy in the Montgomery County Council] shall be conducted by mail if the resolution of the [Montgomery County Council] COUNTY COUNCIL OR BOARD OF COUNTY COMMISSIONERS establishing the date of the special election directs that the election be conducted by mail.

[(d)] (E) Except as otherwise provided in this subtitle:

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

(2) [county] ALL PERTINENT STATE OR LOCAL laws relating to the conduct of a [county council] special election apply to a special election conducted under this subtitle.

(e) 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.

(a) (1) Except as provided in paragraph (2) of this subsection, [the] A local board shall mail by nonforwardable mail a vote-by-mail ballot to each registered voter who is eligible to vote in a special election [for the Montgomery County Council].

(2) [The] A local board is not required to mail a vote-by-mail ballot to a voter if the voter has requested that the ballot be sent by other means.

(b) A voter is not required to submit an application to receive a vote-by-mail ballot.

(c) (1) [Each] IN MONTGOMERY COUNTY:

(I) 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)] (II) [The] THE local board shall pay the cost of postage-paid envelopes provided under this subsection.

(d) [The] A local board shall send a vote-by-mail ballot to each eligible voter at least 14 days before the day of a special election.

(e) (1) Except as provided in paragraph (2) of this subsection, a vote-by-mail ballot shall be mailed to the address that is on file in the statewide voter registration list for each eligible voter.

(2) A registered voter may request to receive a vote-by-mail ballot at an address other than the address that is on file in the statewide voter registration list by:

(i) submitting an absentee ballot application in accordance with § 9-305(a) of this title not later than the Tuesday preceding the day of a special election, if the voter is temporarily absent from the address that is on file in the statewide voter registration list; or

(ii) notifying a local board of a change of address not later than the Tuesday preceding the day of a special election, if the voter's residence has changed from the address that is on file in the statewide voter registration list to another location within the State.

(f) [The] A local board shall issue a replacement vote-by-mail ballot to a voter if the election director of the local board has reasonable grounds to believe that the vote-by-mail ballot previously issued to the voter has been lost, destroyed, [or] spoiled, OR NOT RECEIVED.

9-503.

(a) [The] EACH local board shall establish AT LEAST ONE voting [centers] 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.

[(1)] (2) In MONTGOMERY COUNTY:

(I) IN a special election held in a single county council district, at least one voting center shall be established in the county council district where the special election is being held[.]; AND

[(2)] (II) [In] IN a countywide special election, at least one voting center shall be established in each county council district.

(c) A voting center established under this section shall:

(1) provide access to a voting system that is accessible to voters with disabilities in accordance with the federal Americans with Disabilities Act and the federal Help America Vote Act;

(2) provide for provisional voting in accordance with Subtitle 4 of this title;

(3) satisfy the requirements of § 10-101 of this article; and

(4) (I) UNLESS OTHERWISE SPECIFIED IN THE PROCLAMATION ISSUED BY THE GOVERNOR THAT DIRECTS THAT THE SPECIAL ELECTION BE CONDUCTED BY MAIL, AND EXCEPT AS PROVIDED IN ITEM (II) OF THIS ITEM, BE OPEN FOR VOTING EACH DAY BEGINNING 6 DAYS BEFORE THE DAY OF A SPECIAL ELECTION THROUGH THE DAY OF A SPECIAL ELECTION DURING THE HOURS BETWEEN:

1. 10 A.M. AND 8 P.M. MONDAY THROUGH SATURDAY; AND

2. 12 NOON TO 6 P.M. ON SUNDAY; AND

(II) IN MONTGOMERY COUNTY, be open for voting during the days and for the hours that the county council directs in the resolution under § ~~9-501(e)~~ 9-501(D)(2) of this subtitle.

(d) If necessary to expedite the conduct of a special election and subject to the approval of the State Board, [the] A local board may establish a [polling place] VOTING CENTER under this section during a period when a change in polling places is prohibited under § 2-303 of this article.

(e) The process for applying in person for an absentee ballot at the office of a local board under § 9-305(c) of this title does not apply to a special election conducted by mail.

(f) Except as otherwise provided in this section, any provision of this article that applies to voting at a polling place on election day also applies to voting at a voting center established under this section.

9-504.

(a) A voter may return a vote-by-mail ballot to [the] A local board:

(1) by mail;

(2) in person during regular office hours; or

(3) through a duly authorized agent in accordance with subsection (b) of this section.

(b) (1) A voter may designate a duly authorized agent in accordance with § 9-307 of this title to return a vote-by-mail ballot to [the] A local board during regular office hours.

(2) Notwithstanding § 9-307(b)(4)(i) of this title, an agent is required only to:

(i) witness the voter mark the ballot and place it in an envelope; and

(ii) return the ballot to [the] A local board.

9-505.

(a) A vote-by-mail ballot is considered timely and may be counted if the ballot:

(1) is returned in person to the office of [the] A local board by the voter or the voter's duly authorized agent no later than 8 p.m. on the day of a special election; or

(2) (i) is received by mail by [the] A local board no later than 10 a.m. on the second Friday after a special election; and

(ii) was mailed on or before election day, as verified:

1. by a postmark; or

2. if the return envelope does not contain a postmark or the postmark is illegible, by the voter's affidavit that the ballot was mailed on or before election day.

(b) A vote-by-mail ballot that does not meet the requirements of subsection (a) of this section is not timely and may not be counted.

9-506.

The State Board may adopt regulations as necessary to implement this subtitle.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2013.

Approved by the Governor, May 2, 2013.