HOUSE BILL 1415

G1, L2 CONSTITUTIONAL AMENDMENT (4lr2959)

ENROLLED BILL

— Ways and Means/Education, Health, and Environmental Affairs —

Introduced by ~~**Montgomery County Delegation**~~ **Delegates Kaiser, Carr, Cullison, Fraser–Hidalgo, Frick, Luedtke, Ivey, Cardin, and Mizeur**

Read and Examined by Proofreaders:

_____

Proofreader.

_____

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this

_____ day of _____ at _____ o'clock, _____M.

_____

Speaker.

CHAPTER _____

AN ACT concerning

Chief Executive Officer or County Executive – Special Election to Fill a Vacancy in Office

~~**MC 23–14**~~

FOR the purpose of proposing an amendment to the Maryland Constitution to provide that a county charter may provide for the filling of a vacancy in the office of chief executive officer or county executive of a county by special election; proposing an amendment to the Maryland Constitution regarding a special election to fill certain vacancies in office; submitting an amendment to the Maryland Constitution to the qualified voters of the State for their adoption or rejection; altering provisions of law regarding the filling of a vacancy by special election to allow a county to have a special election to fill a vacancy in the office of chief executive officer or county executive; authorizing a special election to fill

EXPLANATION: **CAPITALS INDICATE MATTER ADDED TO EXISTING LAW**.

[Brackets**]** indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.

Italics indicate opposite chamber/conference committee amendments.

a vacancy in the office of chief executive officer or county executive of a charter county to be conducted by mail; providing for the effective dates of this Act; providing for the termination of certain provisions of this Act under certain circumstances; and generally relating to the filling of a vacancy in the office of chief executive officer or county executive by special election.

BY proposing an amendment to the Maryland Constitution
Article XI–A – Local Legislation
Section 3

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

BY repealing and reenacting, without amendments,
Article – Election Law
Section 5–303 and 9–501(a), (b), and (c)
Annotated Code of Maryland
(2010 Replacement Volume and 2013 Supplement)

BY repealing and reenacting, with amendments,
Article – Election Law
Section 8–401 and 9–501(d)
Annotated Code of Maryland
(2010 Replacement Volume and 2013 Supplement)

BY repealing and reenacting, with amendments,
Article – Local Government
Section 10–205
Annotated Code of Maryland
(2013 Volume)

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

Article XI–A – Local Legislation

3.

Every charter so formed shall provide for an elective legislative body in which shall be vested the law–making power of said City or County. Such legislative body in the City of Baltimore shall be known as the City Council of the City of Baltimore, and in any county shall be known as the County Council of the County. The chief executive officer **OR COUNTY EXECUTIVE**, if any such charter shall provide for the election of such executive officer **OR COUNTY EXECUTIVE**, or the presiding officer of said legislative body, if such charter shall not provide for the election of a chief executive

officer **OR COUNTY EXECUTIVE**, shall be known in the City of Baltimore as Mayor of Baltimore, and in any County as the President or Chairman of the County Council of the County, and all references in the Constitution and laws of this State to the Mayor of Baltimore and City Council of the City of Baltimore or to the County Commissioners of the Counties, shall be construed to refer to the Mayor of Baltimore and City Council of the City of Baltimore and to the President or Chairman and County Council herein provided for whenever such construction would be reasonable. From and after the adoption of a charter by the City of Baltimore, or any County of this State, as hereinbefore provided, the Mayor of Baltimore and City Council of the City of Baltimore or the County Council of said County, subject to the Constitution and Public General Laws of this State, shall have full power to enact local laws of said City or County including the power to repeal or amend local laws of said City or County enacted by the General Assembly, upon all matters covered by the express powers granted as above provided, and, as expressly authorized by statute, to provide for the filling of a vacancy in the County Council ***OR IN THE CHIEF EXECUTIVE OFFICER*** **OR COUNTY EXECUTIVE** by special election; provided that nothing herein contained shall be construed to authorize or empower the County Council of any County in this State to enact laws or regulations for any incorporated town, village, or municipality in said County, on any matter covered by the powers granted to said town, village, or municipality by the Act incorporating it, or any subsequent Act or Acts amendatory thereto. Provided, however, that the charters for the various Counties shall specify the number of days, not to exceed forty–five, which may but need not be consecutive, that the County Council of the Counties may sit in each year for the purpose of enacting legislation for such Counties, and all legislation shall be enacted at the times so designated for that purpose in the charter, and the title or a summary of all laws and ordinances proposed shall be published once a week for two successive weeks prior to enactment followed by publication once after enactment in at least one newspaper of general circulation in the county, so that the taxpayers and citizens may have notice thereof. The validity of emergency legislation shall not be affected if enacted prior to the completion of advertising thereof. These provisions concerning publication shall not apply to Baltimore City. All such local laws enacted by the Mayor of Baltimore and City Council of the City of Baltimore or the Council of the Counties as hereinbefore provided, shall be subject to the same rules of interpretation as those now applicable to the Public Local Laws of this State, except that in case of any conflict between said local law and any Public General Law now or hereafter enacted the Public General Law shall control.

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, 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.

SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article – Election Law

5–303.

(a) Except as provided in subsections (b) and (c) of this section:

(1) in the year in which the Governor is elected, a certificate of candidacy shall be filed not later than 9 p.m. on the last Tuesday in February in the year in which the primary election will be held; and

(2) for any other regularly scheduled election, a certificate of candidacy shall be filed not later than 9 p.m. on the Wednesday that is 83 days before the day on which the primary election will be held.

(b) A certificate of candidacy for an office to be filled by a special election under this article shall be received and filed in the office of the appropriate board not later than 5 p.m. on the Monday that is 3 weeks or 21 days prior to the date for the special primary election specified by the Governor in the proclamation for the special primary election.

(c) The certificate of candidacy for the election of a write–in candidate shall be filed by the earlier of:

(1) 7 days after a total expenditure of at least $51 is made to promote the candidacy by a campaign finance entity of the candidate; or

(2) 5 p.m. on the Wednesday preceding the day of the election for which the certificate is filed.

8–401.

(a) A special primary election and a special general election may be held at a time other than the date of a regular primary election and a regular general election:

(1) to fill a vacancy in the office of Representative in Congress; or

(2) to fill a vacancy in the county council **OR IN THE OFFICE OF CHIEF EXECUTIVE OFFICER OR COUNTY EXECUTIVE** if the charter of that county provides for special elections.

(b) (1) Special elections to fill a vacancy in the office of Representative in Congress shall be held at the time specified in Subtitle 7 of this title.

(2) Special elections to fill vacancies in a county council **OR IN THE OFFICE OF CHIEF EXECUTIVE OFFICER OR COUNTY EXECUTIVE** shall be held as provided in the county charter.

(c) An election to fill a vacancy in the office of United States Senator shall be held concurrently with a regular election as provided in Subtitle 6 of this title.

9–501.

(a) This subtitle applies only to a special election that is not held concurrently with a regularly scheduled primary or general election.

(b) Voting by mail may be utilized in a special election 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 **OFFICES OF** county council **MEMBER, CHIEF EXECUTIVE OFFICER, OR COUNTY EXECUTIVE** 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 § 9–313 of the Local Government Article.

(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.

Article – Local Government

10–205.

A county may provide for the conduct of a special election to fill a vacancy in the county council **OR IN THE OFFICE OF CHIEF EXECUTIVE OFFICER OR COUNTY EXECUTIVE**.

SECTION 3. 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 4. 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 2014 for their adoption or rejection pursuant to Article XIV of the Maryland Constitution. At that general election, the vote on this proposed amendment to the Constitution shall be by ballot, and upon 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.

SECTION 5. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall take effect on the taking effect of Section 1 of this Act. If Section 1 of this Act does not take effect, Section 2 of this Act shall be abrogated and of no further force and effect.

SECTION ~~5.~~ 6. AND BE IT FURTHER ENACTED, That, except as provided in Sections 3 ~~and~~, 4, and 5 of this Act, this Act shall take effect June 1, 2014.