

**Department of Legislative Services**

Maryland General Assembly

2016 Session

**FISCAL AND POLICY NOTE**

**Enrolled - Revised**

House Bill 852

(Delegate Lisanti, *et al.*)

Ways and Means

Education, Health, and Environmental Affairs

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**Local Government - Municipal Elections - Tie Votes**

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This bill requires municipalities to fill a vacancy that resulted from a tie vote in an election for a municipal office within 90 days after the date of the election.

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**Fiscal Summary**

**State Effect:** None.

**Local Effect:** The bill will not significantly affect municipal government operations or finances.

**Small Business Effect:** None.

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**Analysis**

**Current Law:** Municipalities are not specifically required to have a procedure for resolving tie votes in a municipal election.

*Election of Local Officials*

Because municipalities are not subject to Article XVII of the Maryland Constitution (Quadrennial Elections), they have considerable discretion as to the manner in which local officials are elected. Local election procedures are outlined in the charters of the municipalities. Municipal charters establish the terms of office and dates of elections. Often, the terms of office for municipal officials are staggered.

State laws governing elections generally do not apply to municipal elections. However, two State laws dealing with municipal elections are noteworthy. Title 3, Subtitle 4 of the Election Law Article provides generally for the universal registration of voters in municipal elections, so that the list of individuals eligible to vote in a municipal election includes those residents of the municipality who are registered to vote with the local elections board for the county in which an individual's residence is located. In addition, § 4-108 of the Local Government Article requires municipalities to allow voting in municipal elections by absentee ballot. In practice, municipalities may, and frequently do, rely on county election boards to administer municipal elections. Overall, the flexibility that municipalities possess in election matters contributes to the autonomy of Maryland's municipalities.

**Background:** In November 2015, a city council election in the City of Aberdeen ended in a tie vote. Because the city charter had no provision on how to deal with a tie election, there was some dispute on how to address the issue. Some officials believed that there should be a run-off election similar to the practice in other municipalities. However, the City Attorney and the City Manager recommended that the Mayor follow the provisions of the city charter relating to vacant council seats which is outlined in Section 5, Paragraph 17.

*Aberdeen City Charter, Section 5, Paragraph 17. In the case of a vacancy in the office of Council member, that office shall be filled by the Mayor with the approval of the majority of the remaining members of the Council.*

Based on their advice, the Mayor of Aberdeen nominated a new council member to fill the vacant city council seat on December 21, 2015, and February 8, 2016. In both cases, the nomination failed on a 3-1 vote. A new city council member was appointed on April 11 after an agreement between the mayor and city council.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** City of Aberdeen, City of Bowie, City of Takoma Park, Maryland Municipal League, Maryland State Board of Elections, Department of Legislative Services

**Fiscal Note History:** First Reader - February 24, 2016  
kb/hlb Revised - Enrolled Bill - May 4, 2016

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