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Committee: Ways and Means
Testimony on: HB 412 General Assembly – Special Election to Fill a Vacancy in Office
Position: Favorable
Hearing Date: February 6, 2024

The Maryland Chapter of the Sierra Club supports a favorable report on HB 412 as we believe that reforms to the current process of filling General Assembly vacancies are warranted. We believe that enabling voters to have the opportunity to elect their General Assembly members is a valuable principle underlying Maryland's system of representative government.

Importantly, we recognize that the current system is not without merits. Some of Maryland's truly outstanding legislators first began their service after being appointed through the existing process. The existing process has in recent practice resulted in increased diversity in the House of Delegates, though such effects have been less evident in the Senate. The Sierra Club is strongly committed to social equity and having a General Assembly that fully represents the diversity of Maryland's population. To further that goal, we will continue to support optional public financing of campaigns, making voting and registration convenient, expanding accessibility to voting materials in languages beyond English, and endorsing diverse slates of candidates.

At least two significant proposals are being made this year to change the process to allow voters to be more involved in choosing their legislators. We believe both have merit and encourage the Committee to consider the trade-offs between them in enacting reforms.

HB 412 would require a special election to be held along with the Presidential election to fill a General Assembly vacancy that occurs at least 55 days before the candidate filing deadline for that election. For the current term, 55 days before the filing deadline was December 16, 2023. So, if HB 412 had been law, appointees filling a vacancy that occurred by December 16, 2023, would have needed to face election in the mid-term 2024 election.

Another approach has been offered in SB 29, which would require a prompt special election to fill a General Assembly vacancy if the vacancy occurs during the first three years of the 4-year term of office. Special elections are widely used to fill vacancies in the U.S. House of Representatives and in state legislatures of 25 of the 38 states with 4-year terms.¹ In recent years Maryland has had special elections to fill Congressional vacancies (2008 and 2020), and to fill county council vacancies in Montgomery County (2008 and 2009) and Prince George's County (2022). The Maryland Chapter of the Sierra Club also submitted favorable testimony on that bill.

¹ <https://www.ncsl.org/elections-and-campaigns/filling-legislative-vacancies>,
<https://www.ncsl.org/resources/details/number-of-legislators-and-length-of-terms-in-years>

Founded in 1892, the Sierra Club is America's oldest and largest grassroots environmental organization. The Maryland Chapter has over 70,000 members and supporters, and the Sierra Club nationwide has over 800,000 members and nearly four million supporters.

We used data about vacancies from the 1990’s through 2023 to compare 1) the current appointment system with 2) the system proposed by HB 412 and 3) the system proposed by SB 29 (Table 1).²

Table 1. Percent of Legislative Vacancies that Would Have Been Filled by Voters Before the End of the Term in Office		
	Delegates	Senators
Current appointment system	0%	0%
HB 412	32.5%	21.2%
SB 29	81.5%	70.6%

The analysis shows that HB 412 would increase the share of vacancies filled by elections, but that the approach in SB 29 would have a greater impact.

Table 2 shows the length of time appointed legislators served under the current appointment system during the term in which they were appointed, and the amount of time they would have served as appointees if either of the two reform proposals had been in effect.

Table 2. Average Number of Years an Appointee Served or Would Have Served in Legislative Office		
	Delegates	Senators
Current appointment system	2.13	2.07
HB 412	1.46	1.63
SB 29	0.09	0.12

Both reforms would reduce the reliance on appointed legislators, with the approach in SB 29 having the largest effect. Of course, in comparing the approaches the Committee would need to consider the administrability and other features of special elections to ensure that the State best promotes diverse representation and fairly contested seats.

The Sierra Club and its members advocate on behalf of both the natural and human environments, including promoting racial and social equity. As a grassroots organization, we seek to foster strong relationships between voters and their representatives in government.

We believe one of the principles of democratic systems is that people should have the opportunity to elect the leaders who enact laws and run their government. These proposed reforms would expand the opportunity for voters to elect those leaders in a fully transparent, public process and increase confidence in government.

²We used data from the Maryland Manual on Delegate appointments since 1997 and Senatorial appointments since 1996 to produce Table 1 and Table 2: <https://msa.maryland.gov/msa/mdmanual/06hsc/html/hseapp.html>, <https://msa.maryland.gov/msa/mdmanual/05sen/html/senapp.html>

We hope this information will assist the committee in its deliberations.

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