

SENATE BILL 166
Constitutional Amendment

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P1

2004 Regular Session
4r0542

By: **Senators Frosh, Hollinger, and Green**
Introduced and read first time: January 23, 2004
Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Constitutional Amendment - Elected Constitutional Officers - Vacancy**

3 FOR the purpose of proposing an amendment to the Maryland Constitution to add
4 certain requirements in the appointment process of certain Constitutional
5 officers in the event of a vacancy in the office of certain Constitutional officers;
6 and submitting this amendment to the qualified voters of the State of Maryland
7 for their adoption or rejection.

8 BY proposing an amendment to the Maryland Constitution
9 Article V - Attorney-General and State's Attorneys
10 Section 5

11 BY proposing an amendment to the Maryland Constitution
12 Article VI - Treasury Department
13 Section 1

14 **Preamble**

15 WHEREAS, The use of the appointment method in filling vacancies in elected
16 offices serves the legitimate purpose of ensuring that vacancies are filled promptly;
17 and

18 WHEREAS, In Maryland, as in many other states, vacancies in the General
19 Assembly are filled by appointment, provided that the appointee is of the same
20 political party as that to which the previous incumbent belonged; and

21 WHEREAS, In the case of a vacancy in the office of Governor, the Lieutenant
22 Governor, who necessarily belongs to the same political party as the Governor, shall
23 succeed to the office of Governor for the remainder of the term; and

24 WHEREAS, Vacancies in the elected Constitutional offices of the Attorney
25 General and Comptroller are also filled by appointment, but presently there is no
26 requirement that the appointee be of the same political party as the previous
27 incumbent; and

1 WHEREAS, Because the Attorney General is the legal advisor to the General
2 Assembly, it is appropriate for the Senate to have a vote in confirming an appointee to
3 the office; and

4 WHEREAS, In filling a vacancy in an elected office by appointment, there is a
5 compelling interest in protecting the electoral mandate of the previous election; now,
6 therefore,

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

10 **Article V - Attorney-General and State's Attorneys**

11 5.

12 In case of vacancy in the office of Attorney General, occasioned by death,
13 resignation, removal from the State, or from office, or other disqualification, the
14 [Governor] GOVERNOR, BY AND WITH THE ADVICE AND CONSENT OF THE SENATE,
15 shall appoint a person to fill the vacancy for the residue of the [term] TERM,
16 PROVIDED THAT THE APPOINTEE SHALL BE OF THE SAME POLITICAL PARTY, IF ANY,
17 AS THAT OF THE ATTORNEY GENERAL WHOSE OFFICE IS TO BE FILLED, AT THE TIME
18 OF THE LAST ELECTION OR APPOINTMENT OF THE VACATING ATTORNEY GENERAL.

19 **Article VI - Treasury Department**

20 1.

21 There shall be a Treasury Department, consisting of a Comptroller chosen by
22 the qualified electors of the State, who shall receive such salary as may be fixed by
23 law; and a Treasurer, to be appointed on joint ballot by the two Houses of the
24 Legislature at each regular session in which begins the term of the Governor, who
25 shall receive such salary as may be fixed by law. The terms of office of the Comptroller
26 and Treasurer shall be for four years, and until their successors shall qualify; and
27 neither of the officers shall be allowed, or receive any fees, commissions or perquisites
28 of any kind in addition to his salary for the performance of any duty or services
29 whatsoever. In case of a vacancy in the office of the Comptroller by death or
30 otherwise, the Governor, by and with the advice and consent of the Senate, shall fill
31 such vacancy by appointment, to continue until another election and until the
32 qualification of the [successor] SUCCESSOR, PROVIDED THAT THE APPOINTEE SHALL
33 BE OF THE SAME POLITICAL PARTY, IF ANY, AS THAT OF THE COMPTROLLER WHOSE
34 OFFICE IS TO BE FILLED, AT THE TIME OF THE LAST ELECTION OR APPOINTMENT OF
35 THE VACATING COMPTROLLER. In case of a vacancy in the office of the Treasurer by
36 death or otherwise, the Deputy Treasurer shall act as Treasurer until the next regular
37 or extraordinary session of the Legislature following the creation of the vacancy,
38 whereupon the Legislature shall choose a successor to serve for the duration of the
39 unexpired term of office. The Comptroller and the Treasurer shall keep their offices at
40 the seat of government, and shall take such oaths and enter into such bonds for the
41 faithful discharge of their duties as are now or may hereafter be prescribed by law.

1 SECTION 2. AND BE IT FURTHER ENACTED, That the General Assembly
2 determines that the amendment to the Maryland Constitution proposed by this Act
3 affects multiple jurisdictions and that the provisions of Article XIV, § 1 of the
4 Maryland Constitution concerning local approval of constitutional amendments do
5 not apply.

6 SECTION 3. AND BE IT FURTHER ENACTED, That the foregoing section
7 proposed as an amendment to the Maryland Constitution shall be submitted to the
8 legal and qualified voters of this State at the next general election to be held in
9 November, 2004 for their adoption or rejection in pursuance of directions contained in
10 Article XIV of the Maryland Constitution. At that general election, the vote on this
11 proposed amendment to the Constitution shall be by ballot, and upon each ballot
12 there shall be printed the words "For the Constitutional Amendment" and "Against
13 the Constitutional Amendment," as now provided by law. Immediately after the
14 election, all returns shall be made to the Governor of the vote for and against the
15 proposed amendment, as directed by Article XIV of the Maryland Constitution, and
16 further proceedings had in accordance with Article XIV.