
By: **Chair, Ways and Means Committee (By Request - Departmental -
Elections, State Board of)**

Introduced and read first time: February 7, 2005

Assigned to: Ways and Means

A BILL ENTITLED

1 AN ACT concerning

2 **Election Law - Ballots - Nomination of Candidates and Certification of**
3 **Questions**

4 FOR the purpose of allowing certain political parties to nominate candidates to the
5 ballot if the parties do not nominate candidates by primary election; altering the
6 date for filling vacancies in nomination prior to a general election; clarifying
7 how political parties may fill vacancies; providing that unless a board of
8 education race is partisan a candidate may not qualify by petition or party
9 nomination; removing a certain exception to the requirements for certifying
10 certain questions to the ballot; and generally relating to certification of
11 questions and nomination of candidates.

12 BY repealing and reenacting, with amendments,
13 Article - Election Law
14 Section 4-102(f), 5-701, 5-702, 5-703(a) and (b), 5-1002, 5-1003, 5-1004,
15 7-103, and 8-803
16 Annotated Code of Maryland
17 (2003 Volume and 2004 Supplement)

18 BY adding to
19 Article - Election Law
20 Section 5-703.1
21 Annotated Code of Maryland
22 (2003 Volume and 2004 Supplement)

23 BY repealing
24 Article - Election Law
25 Section 5-1102
26 Annotated Code of Maryland
27 (2003 Volume and 2004 Supplement)

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

3 **Article - Election Law**

4 4-102.

5 (f) Unless a new political party is required to hold a primary election to
6 nominate its candidates under Title 8 of this article, the new political party may
7 nominate its candidates [by:

8 (1) petition in accordance with Title 5 of this article; or

9 (2) if at least 1% of the State's registered voters, as of January 1 in the
10 year of the election, are affiliated with the political party, convention] in accordance
11 with rules adopted by the political party.

12 5-701.

13 Nominations for public offices that are filled by elections governed by this
14 article shall be made:

15 (1) by party primary, for candidates of a principal political party; [or]

16 (2) by petition, for[:

17 (i) candidates of a political party that does not nominate by
18 primary; or

19 (ii)] candidates not affiliated with any political party; OR

20 (3) IN ACCORDANCE WITH PARTY RULES, FOR CANDIDATES OF A
21 POLITICAL PARTY THAT DOES NOT NOMINATE BY PARTY PRIMARY.

22 5-702.

23 A candidate for public office of a political party shall be nominated in accordance
24 with the requirements of Subtitles 2 through 4 of this title unless the candidate is:

25 (1) nominated by:

26 (I) petition under § 5-703 of this subtitle; or

27 (II) POLITICAL PARTY UNDER § 5-703.1 OF THIS SUBTITLE; OR

28 (2) a write-in candidate under § 5-704 of this subtitle.

29 5-703.

30 (a) Except for a candidate for a NONPARTISAN county board of education, this
31 section applies to any candidate for public office subject to this title.

1 (b) A candidate for a public office may be nominated by petition under this
2 subtitle if the candidate [does] IS not [seek nomination] AFFILIATED WITH ANY
3 POLITICAL PARTY [through a party primary].

4 5-703.1.

5 (A) EXCEPT FOR A CANDIDATE FOR A NONPARTISAN COUNTY BOARD OF
6 EDUCATION, THIS SECTION APPLIES TO ANY CANDIDATE FOR PUBLIC OFFICE
7 SUBJECT TO THIS TITLE.

8 (B) A CANDIDATE FOR A PUBLIC OFFICE MAY BE NOMINATED BY A POLITICAL
9 PARTY UNDER THIS SUBTITLE IF THE POLITICAL PARTY IS NOT REQUIRED TO
10 NOMINATE ITS CANDIDATES BY PARTY PRIMARY.

11 (C) (1) A CANDIDATE FOR PUBLIC OFFICE WHO SEEKS POLITICAL PARTY
12 NOMINATION UNDER THIS SECTION SHALL FILE A DECLARATION OF INTENT TO
13 SEEK POLITICAL PARTY NOMINATION.

14 (2) THE DECLARATION OF INTENT SHALL BE FILED WITH THE BOARD AT
15 WHICH THE CANDIDATE FILES A CERTIFICATE OF CANDIDACY UNDER SUBTITLE 3 OF
16 THIS TITLE.

17 (3) THE DECLARATION OF INTENT SHALL BE FILED AS FOLLOWS:

18 (I) IN A YEAR IN WHICH THE GOVERNOR IS ELECTED, BY THE DATE
19 AND TIME SPECIFIED FOR A CANDIDATE TO FILE A CERTIFICATE OF CANDIDACY;

20 (II) IN THE YEAR IN WHICH THE PRESIDENT OF THE UNITED
21 STATES AND THE MAYOR OF BALTIMORE CITY ARE ELECTED, BY JULY 1; AND

22 (III) FOR A SPECIAL ELECTION TO FILL A VACANCY:

23 1. FOR REPRESENTATIVE IN CONGRESS, BY THE DATE AND
24 TIME SPECIFIED IN THE GOVERNOR'S PROCLAMATION FOR A CANDIDATE TO FILE A
25 CERTIFICATE OF CANDIDACY; OR

26 2. FOR A LOCAL PUBLIC OFFICE, BY THE DATE AND TIME
27 SPECIFIED IN THE COUNTY PROCLAMATION FOR A CANDIDATE TO FILE A
28 CERTIFICATE OF CANDIDACY.

29 (4) A CANDIDATE WHO SEEKS NOMINATION BY POLITICAL PARTY MAY
30 NOT BE CHARGED A FEE FOR FILING THE DECLARATION OF INTENT.

31 (D) (1) A CANDIDATE FOR PUBLIC OFFICE WHO SEEKS NOMINATION BY
32 POLITICAL PARTY SHALL FILE A CERTIFICATE OF CANDIDACY NOT LATER THAN 5
33 P.M. ON THE FIRST MONDAY IN AUGUST IN THE YEAR OF THE GENERAL ELECTION
34 FOR THE OFFICE.

35 (2) EXCEPT FOR THE TIME OF FILING, THE CERTIFICATE OF CANDIDACY
36 FOR A CANDIDATE WHO SEEKS NOMINATION BY POLITICAL PARTY SHALL COMPLY

1 WITH THE REQUIREMENTS FOR A CERTIFICATE OF CANDIDACY UNDER SUBTITLE 3
2 OF THIS TITLE.

3 (E) A CANDIDATE FOR NOMINATION BY POLITICAL PARTY MAY NOT HAVE THE
4 CANDIDATE'S NAME PLACED ON THE GENERAL ELECTION BALLOT UNLESS THE
5 CANDIDATE FILES WITH THE APPROPRIATE BOARD A CERTIFICATE OF NOMINATION,
6 SIGNED BY THE OFFICERS OF THE POLITICAL PARTY, ON A FORM THE STATE BOARD
7 PRESCRIBES.

8 5-1002.

9 (a) This section applies only to a nominee for statewide office, except for a
10 Governor and Lieutenant Governor unit.

11 (b) (1) A vacancy in nomination that occurs because a nominee dies, declines
12 the nomination, or is disqualified for any cause shall be filled by the State central
13 committee of the political party to which the nominee belongs.

14 (2) By the later of the [40th] 60TH day before the general election or the
15 fifth day following the death, declination, or disqualification of the former nominee:

16 (i) the State central committee shall file a certificate of designation
17 for the nominee with the State Board; and

18 (ii) the successor nominee designated by the State central
19 committee under subparagraph (i) of this paragraph shall file a certificate of
20 candidacy with the State Board.

21 5-1003.

22 (a) This section applies to a vacancy in nomination for Representative in
23 Congress, State Senator, or member of the House of Delegates, if the district includes
24 more than one county.

25 (b) (1) A vacancy in nomination under this section that occurs because the
26 nominee dies, withdraws the candidacy, or is disqualified for any reason shall be filled
27 by:

28 (I) a vote of the central committees of the political party in each of
29 the counties included in the district of that nominee; OR

30 (II) A STATE CENTRAL COMMITTEE FOR A NONPRINCIPAL
31 POLITICAL PARTY THAT DOES NOT HAVE LOCAL CENTRAL COMMITTEES.

32 (2) The central committee of each county shall cast a vote that is
33 proportionate to its share of the population in that district as reported in the most
34 recent decennial census of the United States and promptly notify its State central
35 committee of the results of its vote.

1 (3) (i) If no person receives a majority of the votes cast under
2 paragraph (2) of this subsection, or if there is a tie vote by the central committees, the
3 vacancy in nomination shall be filled by the State central committee.

4 (ii) In the event of a tie vote, the nominee selected by the State
5 central committee shall be one of the candidates involved in the tie.

6 (4) By the later of the [40th] 60TH day before the general election or the
7 fifth day following the death, declination, or disqualification of the nominee:

8 (i) the State central committee shall file a certificate of designation
9 for the nominee with the State Board; and

10 (ii) the successor nominee designated by the State central
11 committee under subparagraph (i) of this paragraph shall file a certificate of
12 candidacy with the State Board.

13 5-1004.

14 (a) A vacancy in nomination for an office that is entirely in one county shall be
15 filled by:

16 (1) a central committee in that county as provided in this section; OR

17 (2) A STATE CENTRAL COMMITTEE FOR A NONPRINCIPAL POLITICAL
18 PARTY THAT DOES NOT HAVE A LOCAL CENTRAL COMMITTEE.

19 (b) If a nominee for an office that is entirely in one county dies, declines the
20 nomination, becomes disqualified, or gains a tie vote with another candidate in a
21 primary election, the vacancy in nomination shall be filled by the later of:

22 (1) the [40th] 60TH day before the general election; or

23 (2) the fifth day following the death, declination, or disqualification of
24 the nominee.

25 (c) (1) The vacancy shall be filled by the central committee of the same
26 political party as the individual vacating the nomination.

27 (2) If the office is to be voted on by the voters of the entire county, the
28 vacancy shall be filled by the central committee of that county.

29 (3) If the office is voted on only by the voters of one legislative district
30 and the central committee is elected by legislative district, the vacancy shall be filled
31 by the members of the central committee of that legislative district.

32 (4) If the office is for Representative in Congress and is a district that is
33 wholly within one county, the vacancy shall be filled by the central committee for that
34 county.

35 (5) By the deadline prescribed in subsection (b) of this section:

1 (i) the applicable central committee shall file a certificate of
2 designation with the [local board] APPLICABLE BOARD; and

3 (ii) the successor nominee designated by the applicable central
4 committee under subparagraph (i) of this paragraph shall file a certificate of
5 candidacy with the applicable board.

6 (d) If the vacancy results because of a tie vote between two or more
7 candidates, the nominee selected by the central committee under this section shall be
8 one of those candidates.

9 [5-1102.

10 (a) This section applies only to a petition candidate, other than Governor and
11 Lieutenant Governor, of a nonqualified party that does not nominate its candidates by
12 party primary.

13 (b) A vacancy in nomination of a petition candidate subject to this section that
14 occurs because the candidate dies, declines the nomination, or is disqualified for any
15 cause shall be filled by the party governing body of the nonqualified party to which
16 the vacating candidate belongs.

17 (c) Within 5 days of the death, declination, or disqualification of a petition
18 candidate subject to this section:

19 (1) the applicable party governing body shall file a certificate of
20 designation with the appropriate board; and

21 (2) the successor candidate shall file a certificate of candidacy with the
22 appropriate board.]

23 7-103.

24 (a) In this section, "county attorney" means:

25 (1) the attorney or law department established by a county charter or
26 local law to represent the county generally, including its legislative and executive
27 officers; or

28 (2) if the county charter or local laws provide for different attorneys to
29 represent the legislative and executive branches of county government, the attorney
30 designated to represent the county legislative body.

31 (b) Each question shall appear on the ballot containing the following
32 information:

33 (1) a question number or letter as determined under subsection (d) of
34 this section;

35 (2) a brief designation of the type or source of the question;

- 1 (3) a brief descriptive title in boldface type;
- 2 (4) a condensed statement of the purpose of the question; and
- 3 (5) the voting choices that the voter has.

4 (c) (1) The Secretary of State shall prepare and certify to the State Board,
5 not later than the third Monday in August, the information required under subsection
6 (b) of this section, for all statewide ballot questions and all questions relating to an
7 enactment of the General Assembly which is petitioned to referendum.

8 (2) The State Board shall prepare and certify to the appropriate local
9 board, not later than the second Monday in August, the information required under
10 subsection (b) of this section for all questions that have been referred to the voters of
11 one county or part of one county pursuant to an enactment of the General Assembly.

12 (3) (i) [Unless some other process is mandated by law, the] THE
13 county attorney of the appropriate county shall prepare and certify to the appropriate
14 local board, not later than the third Monday in August, the information required
15 under subsection (b) of this section for each question to be voted on in a single county
16 or part of a county, except a question covered by paragraph (1) or paragraph (2) of this
17 subsection.

18 (ii) If the information required under subsection (b) of this section
19 has not been timely certified under subparagraph (i) of this paragraph, the clerk of
20 the circuit court for the jurisdiction shall prepare and certify that information to the
21 local board not later than the fourth Monday in August.

22 (iii) A local board shall provide a copy of each certified question to
23 the State Board within 48 hours after receipt of the certification from the certifying
24 authority.

25 (d) (1) Each statewide question and each question relating to an enactment
26 of the General Assembly which is petitioned to referendum shall be assigned a
27 numerical identifier in the following order:

28 (i) by years of sessions of the General Assembly at which enacted;
29 and

30 (ii) for each such session, by chapter numbers of the Session Laws
31 of that session.

32 (2) A question that has been referred to the voters of one county or part
33 of one county pursuant to an enactment of the General Assembly shall be assigned an
34 alphabetical identifier in an order established by the State Board.

35 (3) Questions certified under subsection (c)(3)(i) or (ii) of this section
36 shall be assigned an alphabetical identifier in an order established by the certifying
37 authority, consistent with and following the questions certified by the State Board.

1 8-803.

2 (a) Before certifying the name of a board of education candidate to appear on
3 the ballot, the local board shall determine whether the candidate qualifies as
4 provided under Title 3 of the Education Article and Title 5 of this article.

5 (b) [An] UNLESS TITLE 3 OF THE EDUCATION ARTICLE REQUIRES A
6 PARTISAN ELECTION, AN individual may not qualify as a board of education candidate
7 or nominee by filing a petition OR BEING NOMINATED BY A POLITICAL PARTY.

8 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take
9 effect October 1, 2005.