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

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Assigned to: Ways and Means

Committee Report: Favorable

House action: Adopted

March 22, 2005

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House action: Adopted with floor amendments

Read second time: Read second time: March 24, 2005

CHAPTER _____

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

1 (2003 Volume and 2004 Supplement)

2 BY repealing

3 Article - Election Law

4 Section 5-1102

5 Annotated Code of Maryland

6 (2003 Volume and 2004 Supplement)

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

9 **Article - Election Law**

10 4-102.

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

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

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

18 5-701.

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

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

22 (2) by petition, for[:

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

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

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

28 5-702.

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

31 (1) nominated by:

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

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

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

3 5-703.

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

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

9 5-703.1.

10 (A) EXCEPT FOR A CANDIDATE FOR A NONPARTISAN COUNTY BOARD OF
11 EDUCATION, THIS SECTION APPLIES TO ANY CANDIDATE FOR PUBLIC OFFICE
12 SUBJECT TO THIS TITLE.

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

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

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

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

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

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

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

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

31 2. FOR A LOCAL PUBLIC OFFICE, BY THE DATE AND TIME
32 SPECIFIED IN THE COUNTY PROCLAMATION FOR A CANDIDATE TO FILE A
33 CERTIFICATE OF CANDIDACY.

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

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

5 (2) EXCEPT FOR THE TIME OF FILING, THE CERTIFICATE OF CANDIDACY
6 FOR A CANDIDATE WHO SEEKS NOMINATION BY POLITICAL PARTY SHALL COMPLY
7 WITH THE REQUIREMENTS FOR A CERTIFICATE OF CANDIDACY UNDER SUBTITLE 3
8 OF THIS TITLE.

9 (E) A CANDIDATE FOR NOMINATION BY POLITICAL PARTY MAY NOT HAVE THE
10 CANDIDATE'S NAME PLACED ON THE GENERAL ELECTION BALLOT UNLESS THE
11 CANDIDATE FILES WITH THE APPROPRIATE BOARD A CERTIFICATE OF NOMINATION,
12 SIGNED BY THE OFFICERS OF THE POLITICAL PARTY, ON A FORM THE STATE BOARD
13 PRESCRIBES.

14 ~~5-1002.~~

15 (a) ~~This section applies only to a nominee for statewide office, except for a~~
16 ~~Governor and Lieutenant Governor unit.~~

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

20 (2) ~~By the later of the [40th] 60TH day before the general election or the~~
21 ~~fifth day following the death, declination, or disqualification of the former nominee;~~

22 (i) ~~the State central committee shall file a certificate of designation~~
23 ~~for the nominee with the State Board; and~~

24 (ii) ~~the successor nominee designated by the State central~~
25 ~~committee under subparagraph (i) of this paragraph shall file a certificate of~~
26 ~~candidacy with the State Board.~~

27 5-1003.

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

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

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

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

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

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

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

10 (4) By the later of the ~~{40th}~~ ~~60TH~~ day before the general election or the
11 fifth day following the death, declination, or disqualification of the nominee:

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

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

17 5-1004.

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

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

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

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

26 (1) the ~~{40th}~~ ~~60TH~~ day before the general election; or

27 (2) the fifth day following the death, declination, or disqualification of
28 the nominee.

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

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

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

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

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

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

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

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

13 [5-1102.

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

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

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

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

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

27 7-103.

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

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

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

35 (b) Each question shall appear on the ballot containing the following
36 information:

- 1 (1) a question number or letter as determined under subsection (d) of
2 this section;
- 3 (2) a brief designation of the type or source of the question;
- 4 (3) a brief descriptive title in boldface type;
- 5 (4) a condensed statement of the purpose of the question; and
- 6 (5) the voting choices that the voter has.

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

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

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

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

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

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

31 (i) by years of sessions of the General Assembly at which enacted;
32 and

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

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

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

4 8-803.

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

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

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