

HOUSE BILL 1627

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EMERGENCY BILL

8lr0280
CF SB 1014

By: **The Speaker (By Request – Administration) and Delegates Howard, Ali, and Ivey**

Rules suspended

Introduced and read first time: March 31, 2008

Assigned to: Rules and Executive Nominations

Re-referred to: Ways and Means, April 2, 2008

Committee Report: Favorable with amendments

House action: Adopted

Read second time: April 4, 2008

CHAPTER _____

1 AN ACT concerning

2 **Election Law – Special Congressional Election**

3 FOR the purpose of altering the dates by which the Governor must issue a
4 proclamation following a vacancy in the office of Representative in Congress;
5 specifying circumstances in which a special primary election is not required;
6 specifying procedures for filing certificates of candidacy, certificates of
7 nomination, and petitions for a special general election when a special primary
8 election is not held; establishing procedures for the certification, posting, and
9 challenge of certain ballots; authorizing the State Administrator of Elections to
10 alter certain time limits under certain circumstances; providing for a certain
11 exception; providing for the resolution of certain conflicts of law; making this
12 Act an emergency measure; providing for the termination of this Act; and
13 generally relating to special elections to fill a vacancy in the office of
14 Representative in Congress.

15 BY repealing and reenacting, with amendments,
16 Article – Election Law
17 Section 5–303, 5–703, 8–202, 8–710, and 8–711
18 Annotated Code of Maryland
19 (2003 Volume and 2007 Supplement)

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike-out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 **Article - Election Law**

2 5-303.

3 (a) Except as provided in subsections (b) and (c) of this section, a certificate
4 of candidacy shall be filed not later than 9 p.m. on the Monday that is 10 weeks or 70
5 days before the day on which the primary election will be held.

6 (b) A certificate of candidacy for an office to be filled by a special election
7 under this article shall be received and filed in the office of the appropriate board not
8 later than 5 p.m. on the Monday that is 3 weeks or 21 days prior to the date for the
9 special primary election specified by the Governor in the proclamation for the special
10 primary election, **OR IF THERE IS ONLY A SPECIAL GENERAL ELECTION, ON THE**
11 **DATE SPECIFIED BY THE GOVERNOR IN THE PROCLAMATION FOR THE SPECIAL**
12 **GENERAL ELECTION.**

13 (c) The certificate of candidacy for the election of a write-in candidate shall
14 be filed by the earlier of:

15 (1) 7 days after a total expenditure of at least \$51 is made to promote
16 the candidacy by a campaign finance entity of the candidate; or

17 (2) 5 p.m. on the Wednesday preceding the day of the election for
18 which the certificate is filed.

19 5-703.

20 (a) Except for a candidate for a nonpartisan county board of education, this
21 section applies to any candidate for public office subject to this title.

22 (b) A candidate for a public office may be nominated by petition under this
23 subtitle if the candidate is not affiliated with any political party.

24 (c) (1) A candidate for public office who seeks nomination by petition shall
25 file a declaration of intent to seek nomination by petition.

26 (2) The declaration of intent shall be filed with the board at which the
27 candidate files a certificate of candidacy under Subtitle 3 of this title.

28 (3) The declaration of intent shall be filed as follows:

29 (i) in a year in which the Governor is elected or the Baltimore
30 City municipal election is held, by the date and time specified for a candidate to file a
31 certificate of candidacy;

32 (ii) in a year in which the President is elected, by July 1; and

1 (iii) for a special election to fill a vacancy for Representative in
2 Congress, by the date and time specified for a candidate to file a certificate of
3 candidacy in the Governor's proclamation.

4 (4) A candidate who seeks nomination by petition may not be charged
5 a fee for filing the declaration of intent.

6 (d) (1) A candidate for public office who seeks nomination by petition shall
7 file a certificate of candidacy not later than 5 p.m. on the first Monday in August in
8 the year of the general election for the office.

9 (2) Except for the time of filing, the certificate of candidacy for a
10 candidate who seeks nomination by petition shall comply with the requirements for a
11 certificate of candidacy under Subtitle 3 of this title.

12 (e) (1) A candidate who seeks nomination by petition may not have the
13 candidate's name placed on the general election ballot unless the candidate files with
14 the appropriate board petitions signed by not less than 1% of the total number of
15 registered voters who are eligible to vote for the office for which the nomination by
16 petition is sought, except that the petitions shall be signed by at least 250 registered
17 voters who are eligible to vote for the office.

18 (2) The petitions shall be filed as required in Title 6 of this article.

19 (3) The number of registered voters required to satisfy the
20 requirements of paragraph (1) of this section shall be determined as of the deadline for
21 changing party affiliation before the primary election for which the nomination is
22 sought.

23 (f) (1) Except as provided in paragraph (2) of this subsection, a petition
24 that contains the required number of signatures specified under subsection (e)(1) of
25 this section shall be filed with the appropriate board by 5 p.m. on the first Monday in
26 August in the year in which the general election is held.

27 (2) In a special election to fill a vacancy in the office of Representative
28 in Congress, a petition that contains the required number of signatures shall be filed
29 with the State Board by 5 p.m. on the day of the special primary election, **OR IF**
30 **THERE IS ONLY A SPECIAL GENERAL ELECTION, ON THE DAY BY WHICH THE**
31 **STATE CENTRAL COMMITTEES OF THE POLITICAL PARTIES MUST DESIGNATE**
32 **THEIR CANDIDATES UNDER § 8-710(E) OF THIS ARTICLE FOR THE SPECIAL**
33 **GENERAL ELECTION.**

34 8-202.

35 (a) A principal political party, as determined by the statement of registration
36 issued by the State Board:

1 (1) shall use the primary election to:

2 (i) nominate its candidates for public office; and

3 (ii) elect all members of the local central committees of the
4 political party; and

5 (2) may use the primary election in the year of a presidential election
6 to elect delegates to a national presidential nominating convention.

7 (b) Except for a nominee for President or Vice President, the name of a
8 nominee of a principal political party may not appear on the ballot in a general
9 election if the individual has not:

10 (1) been nominated in the primary election; [or]

11 (2) been designated to fill a vacancy in nomination in accordance with
12 Subtitle 5 of this title; **OR**

13 **(3) BEEN DESIGNATED TO BE A CANDIDATE IN A SPECIAL**
14 **GENERAL ELECTION IN ACCORDANCE WITH SUBTITLE 7 OF THIS TITLE.**

15 (c) If a political party chooses to permit voters not affiliated with the party to
16 vote in the party's primary election, the chairman of the party's State central
17 committee shall so notify the State Board at least 6 months before the date of the
18 primary election.

19 8-710.

20 (a) (1) Except as provided in paragraph (2) of this subsection, [if there is a
21 vacancy in the office of Representative in Congress,] the Governor shall issue a
22 proclamation[,] **IN ACCORDANCE WITH THIS SECTION** within 10 days after the date
23 that:

24 **(I) [the vacancy occurs or becomes known to the Governor,**
25 **declaring that a special primary election and a special general election shall be held to**
26 **fill the vacancy] AN OFFICE OF REPRESENTATIVE IN CONGRESS BECOMES**
27 **VACANT; OR**

28 **(II) THE GOVERNOR ACCEPTS A WRITTEN NOTICE FROM**
29 **THE REPRESENTATIVE ANNOUNCING A FUTURE DATE OF RESIGNATION.**

30 (2) If the vacancy occurs during the period beginning 60 days before
31 the regular primary election and ending on the last day of the term, the Governor
32 may:

- 1 (i) decline to issue a proclamation; and
2 (ii) allow the office to remain vacant for the remainder of the
3 term.

4 (b) **EXCEPT AS PROVIDED IN SUBSECTION (E) OF THIS SECTION:**

5 (1) [The] **THE** Governor's proclamation shall specify the dates of the
6 special primary election and the special general election[.];

7 (2) [The] **THE** special primary election shall be held on a Tuesday that
8 is at least 36 days after the date of the proclamation[.]; **AND**

9 (3) [The] **THE** special general election shall be held on a Tuesday that
10 is at least 36 days after the date of the special primary election.

11 (c) (1) The Governor shall:

12 (i) immediately give public notice of the proclamation; and

13 (ii) deliver the proclamation to the State Administrator.

14 (2) The State Administrator shall:

15 (i) immediately notify the State Board members and the local
16 boards of the counties that comprise the congressional district; and

17 (ii) forward to each of those local boards a copy of the
18 proclamation.

19 (d) (1) Notwithstanding any other provision of this section, if the vacancy
20 occurs or becomes known to the Governor during the period beginning 120 days before
21 the regular primary election for Representatives in Congress and ending 40 days
22 before the primary election, the Governor's proclamation shall order that:

23 (i) the special primary election shall be merged with the
24 regular primary election;

25 (ii) any individual who files a certificate of candidacy for the
26 regular primary election shall be deemed to have filed a certificate of candidacy for the
27 special primary election; and

28 (iii) any other qualified individual may file a certificate of
29 candidacy, for both the special primary election and the regular primary election, not
30 later than 9 p.m. on the day that is 2 days after the issuance of the proclamation.

1 (2) A vote cast for a candidate in the merged primary election shall be
2 deemed a vote for that candidate in both the special primary election and the regular
3 primary election.

4 (3) Two certificates of nomination, one for the special primary election
5 and one for the regular primary election, shall be issued to each candidate nominated
6 in the merged primary election.

7 (4) Notwithstanding any provision of this article:

8 (i) a nominee for the special primary election may decline the
9 nomination by notifying the State Board not later than 5 p.m. on the Wednesday
10 following the primary election;

11 (ii) the appropriate political party shall fill the vacancy in
12 nomination not later than 5 p.m. on the Thursday following the primary election; and

13 (iii) a petition for recount and recanvass of the special primary
14 election shall be filed not later than 5 p.m. on the Wednesday following the primary
15 election.

16 **(E) (1) IF THE OFFICE BECOMES VACANT, OR WILL BECOME VACANT**
17 **DUE TO RESIGNATION, AFTER THE DATE OF THE REGULAR PRIMARY ELECTION,**
18 **THE GOVERNOR MAY ISSUE A PROCLAMATION PROVIDING:**

19 **(I) THAT A SPECIAL PRIMARY ELECTION MAY NOT BE HELD;**

20 **(II) FOR THE DATE OF THE SPECIAL GENERAL ELECTION,**
21 **WHICH SHALL BE AT LEAST 36 DAYS AND NOT MORE THAN 60 DAYS AFTER THE**
22 **DATE OF THE PROCLAMATION; AND**

23 **(III) FOR DATES BY WHICH CERTIFICATES OF CANDIDACY,**
24 **CERTIFICATES OF NOMINATION, AND PETITIONS MUST BE FILED WITH THE**
25 **APPROPRIATE BOARD.**

26 **(2) IF THE GOVERNOR ISSUES A PROCLAMATION UNDER THIS**
27 **SUBSECTION:**

28 **(I) NOMINATIONS FOR THE OFFICE SHALL BE MADE:**

29 **A 1. WITH RESPECT TO A CANDIDATE OF A**
30 **NONPRINCIPAL POLITICAL PARTY THAT DOES NOT HAVE LOCAL CENTRAL**
31 **COMMITTEES, BY THE STATE CENTRAL COMMITTEE OF THE POLITICAL PARTY;**
32 **AND**

1 ~~B. 2.~~ WITH RESPECT TO A CANDIDATE NOT AFFILIATED
2 WITH A POLITICAL PARTY, IN ACCORDANCE WITH § 5-703 OF THIS ARTICLE; AND

3 3. WITH RESPECT TO A CANDIDATE OF A POLITICAL
4 PARTY THAT HAS LOCAL CENTRAL COMMITTEES, AS PROVIDED IN PARAGRAPH
5 (3) OF THIS SUBSECTION;

6 (II) NOTWITHSTANDING TITLE 9, SUBTITLE 2 OF THIS
7 ARTICLE, THE STATE ADMINISTRATOR SHALL CERTIFY THE CONTENTS AND
8 ARRANGEMENT OF EACH BALLOT FOR THE SPECIAL GENERAL ELECTION AS
9 SOON AS PRACTICABLE, THE BALLOT SHALL BE POSTED FOR 1 DAY, AND ANY
10 CHALLENGES MUST BE FILED BY 5:00 P.M. ON THE DAY OF THE POSTING;

11 (III) NOTWITHSTANDING ANY OTHER PROVISION OF THIS
12 ARTICLE THAT SETS MINIMUM TIME LIMITS AND EXCEPT AS PROVIDED IN ITEM
13 (IV) OF THIS PARAGRAPH, THE STATE ADMINISTRATOR MAY REDUCE THE
14 AMOUNT OF TIME REQUIRED OR ALLOWED FOR ANY ELECTION-RELATED
15 ACTION RELATING TO THE SPECIAL GENERAL ELECTION; AND

16 (IV) THE STATE ADMINISTRATOR MAY NOT ALTER ANY TIME
17 REQUIREMENT RELATING TO VOTING OR POLLING PLACE PROCEDURES ON
18 ELECTION DAY UNLESS AUTHORIZED BY THE PROCLAMATION.

19 (3) A POLITICAL PARTY THAT HAS LOCAL CENTRAL COMMITTEES
20 SHALL MAKE A NOMINATION FOR A SPECIAL GENERAL ELECTION CALLED
21 UNDER THIS SUBSECTION AS FOLLOWS:

22 (I) THE CENTRAL COMMITTEES OF THE POLITICAL PARTY
23 IN EACH OF THE COUNTIES INCLUDED IN THE DISTRICT OF THE OFFICE SHALL
24 VOTE TO RECOMMEND A CANDIDATE.

25 (II) IF THE CENTRAL COMMITTEES IN EACH COUNTY THAT IS
26 INCLUDED IN THE DISTRICT OF THE OFFICE RECOMMEND THE SAME
27 CANDIDATE, THE STATE CENTRAL COMMITTEE SHALL NOMINATE THAT
28 CANDIDATE.

29 (III) IF THE CENTRAL COMMITTEES IN EACH COUNTY THAT IS
30 INCLUDED IN THE DISTRICT OF THE OFFICE RECOMMEND DIFFERENT
31 CANDIDATES, THE STATE CENTRAL COMMITTEE SHALL SELECT ONE OF THE
32 CANDIDATES RECOMMENDED BY THE LOCAL CENTRAL COMMITTEES AS THE
33 NOMINEE.

1 (a) [At] **IF THERE IS A SPECIAL PRIMARY ELECTION**, AT least 20 days
 2 before the special primary election, the State Board shall certify to the appropriate
 3 local boards the name, residence, and party affiliation of each candidate who qualifies
 4 to appear on the primary election ballot.

5 (b) At least 20 days before the special general election, the State Board shall
 6 certify to the appropriate local boards the name, residence, and party affiliation of
 7 each nominee who qualifies to appear on the general election ballot.

8 SECTION 2. AND BE IT FURTHER ENACTED, That as to any conflict
 9 between this Act and any other provision of the Election Law Article, the provisions of
 10 this Act shall prevail.

11 SECTION 3. AND BE IT FURTHER ENACTED, That this Act is an emergency
 12 measure, is necessary for the immediate preservation of the public health or safety,
 13 has been passed by a ye and nay vote supported by three-fifths of all the members
 14 elected to each of the two Houses of the General Assembly, and shall take effect from
 15 the date it is enacted. It shall remain effective until December 31, 2008, and at the end
 16 of December 31, 2008, with no further action required by the General Assembly, this
 17 Act shall be abrogated and of no further force and effect.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.