

SENATE BILL 693

P5

CONSTITUTIONAL AMENDMENT

8lr1272

By: **Senators Madaleno and Raskin**

Introduced and read first time: February 1, 2008

Assigned to: Education, Health, and Environmental Affairs

A BILL ENTITLED

1 AN ACT concerning

2 **General Assembly – Filling of Vacancy by Special Election**

3 FOR the purpose of proposing an amendment to the Maryland Constitution to provide
4 that a vacancy occurring in the House of Delegates or the Senate of Maryland
5 during a certain period of the term of office shall be filled by a special election to
6 coincide with the next ensuing regular presidential and congressional election;
7 establishing certain procedures for the special election; deleting certain obsolete
8 language; making stylistic changes; and submitting this amendment to the
9 qualified voters of the State of Maryland for their adoption or rejection.

10 BY proposing an amendment to the Maryland Constitution
11 Article III – Legislative Department
12 Section 6, 7, and 13

13 BY proposing an amendment to the Maryland Constitution
14 Article XVII – Quadrennial Elections
15 Section 1, 2, and 3

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

19 **Article III – Legislative Department**

20 6.

21 **[A] EXCEPT AS PROVIDED IN SECTION 13 OF THIS ARTICLE FOR FILLING**
22 **A VACANCY BY SPECIAL ELECTION, A** member of the General Assembly shall be
23 elected by the registered voters of the legislative or delegate district from which he
24 seeks election, to serve for a term of four years beginning on the second Wednesday of
25 January following his election.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 7.

2 [The] **EXCEPT AS PROVIDED IN SECTION 13 OF THIS ARTICLE FOR**
3 **FILLING A VACANCY BY SPECIAL ELECTION, THE** election for [Senators and
4 Delegates] **DELEGATES AND SENATORS** shall take place on the Tuesday next, after
5 the first Monday in the month of November, nineteen hundred and fifty-eight, and in
6 every fourth year thereafter.

7 13.

8 (a) (1) In case of death, disqualification, resignation, refusal to act,
9 expulsion, or removal from the county or city for which he shall have been elected, of
10 any person who shall have been chosen as a Delegate or Senator, or in case of a tie
11 between two or more such qualified persons, the Governor shall appoint a person to fill
12 such vacancy from a person whose name shall be submitted to him in writing, within
13 thirty days after the occurrence of the vacancy, by the Central Committee of the
14 political party, if any, with which the Delegate or Senator, so vacating, had been
15 affiliated, at the time of the last election or appointment of the vacating [Senator or
16 Delegate] **DELEGATE OR SENATOR**, in the County or District from which he or she
17 was appointed or elected, provided that the appointee shall be of the same political
18 party, if any, as was that of the Delegate or Senator, whose office is to be filled, at the
19 time of the last election or appointment of the vacating Delegate or Senator, and it
20 shall be the duty of the Governor to make said appointment within fifteen days after
21 the submission thereof to him.

22 (2) If a name is not submitted by the Central Committee within thirty
23 days after the occurrence of the vacancy, the Governor within another period of fifteen
24 days shall appoint a person, who shall be affiliated with the same political party, if
25 any as was that of the Delegate or Senator, whose office is to be filled, at the time of
26 the last election or appointment of the vacating Delegate or Senator, and who is
27 otherwise properly qualified to hold the office of Delegate or Senator in the District or
28 County.

29 (3) In the event there is no Central Committee in the County or
30 District from which said vacancy is to be filled, the Governor shall within fifteen days
31 after the occurrence of such vacancy appoint a person, from the same political party, if
32 any, as that of the vacating Delegate or Senator, at the time of the last election or
33 appointment of the vacating [Senator or Delegate] **DELEGATE OR SENATOR**, who is
34 otherwise properly qualified to hold the office of Delegate or Senator in such District or
35 County.

36 (4) [In every case when any] **THE APPOINTMENT OF EACH** person
37 [is] so appointed by the [Governor, his appointment] **GOVERNOR** shall be deemed to
38 be for the unexpired term of the person whose office has become vacant **OR, WHEN**
39 **APPLICABLE, UNTIL THE VACANCY IS FILLED BY A SPECIAL ELECTION.**

1 (b) In addition, and in submitting a name to the Governor to fill a vacancy in
 2 a Legislative or Delegate district, as the case may be, in any of the twenty-three
 3 counties of Maryland, the Central Committee or committees shall follow these
 4 provisions:

5 (1) If the vacancy occurs in a district having the same boundaries as a
 6 county, the Central Committee of the county shall submit the name of a resident of the
 7 district.

8 (2) If the vacancy occurs in a district which has boundaries comprising
 9 a portion of one county, the Central Committee of that county shall submit the name
 10 of a resident of the district.

11 (3) If the vacancy occurs in a district which has boundaries comprising
 12 a portion or all of two or more counties, the Central Committee of each county involved
 13 shall have one vote for submitting the name of a resident of the district; and if there is
 14 a tie vote between or among the Central Committees, the list of names there proposed
 15 shall be submitted to the Governor, and he shall make the appointment from the list.

16 (c) (1) **THIS SUBSECTION APPLIES ONLY TO A VACANCY IN THE**
 17 **OFFICE OF DELEGATE OR SENATOR THAT OCCURS BY JULY 1 OF THE SECOND**
 18 **YEAR OF THE TERM OF OFFICE FOR MEMBERS OF THE GENERAL ASSEMBLY.**

19 (2) **NOTWITHSTANDING ANY OTHER PROVISION OF THIS**
 20 **CONSTITUTION RELATING TO THE TIMING AND FREQUENCY OF ELECTIONS AND**
 21 **TO THE PERIODS FOR WHICH OFFICERS ARE ELECTED, A VACANCY IN THE**
 22 **OFFICE OF DELEGATE OR SENATOR FOR THE GENERAL ASSEMBLY OCCURRING**
 23 **DURING THE PERIOD SPECIFIED IN PARAGRAPH (1) OF THIS SUBSECTION SHALL**
 24 **BE FILLED, FOR THE BALANCE OF THE UNEXPIRED TERM OF THE DELEGATE OR**
 25 **SENATOR, AT A SPECIAL ELECTION TO BE HELD AT THE SAME TIME AS, AND**
 26 **CONDUCTED IN ACCORDANCE WITH THE PROCESS ESTABLISHED BY LAW FOR,**
 27 **THE NEXT STATEWIDE ELECTION AT WHICH THE PRESIDENT OF THE UNITED**
 28 **STATES AND REPRESENTATIVES TO CONGRESS ARE ELECTED.**

29 **Article XVII - Quadrennial Elections**

30 1.

31 The purpose of this Article is to reduce the number of elections by providing
 32 that all State and county elections shall be held only in every fourth year, and at the
 33 time provided by law for holding congressional elections, and to bring the terms of
 34 appointive officers into harmony with the changes effected in the time of the beginning
 35 of the terms of elective officers. [The] **EXCEPT AS PROVIDED IN ARTICLE III, §**
 36 **13(C), RELATING TO SPECIAL ELECTIONS TO FILL GENERAL ASSEMBLY**
 37 **VACANCIES, THE** administrative and judicial officers of the State shall construe the
 38 provisions of this Article so as to effectuate that purpose. For the purpose of this

1 Article only the word “officers” shall be construed to include those holding positions
 2 and other places of employment in the state and county governments whose terms are
 3 fixed by law, but it shall not include any appointments made by the Board of Public
 4 Works, nor appointments by the Governor for terms of three years.

5 2.

6 Except **AS PROVIDED IN ARTICLE III, § 13(C), RELATING TO SPECIAL**
 7 **ELECTIONS TO FILL GENERAL ASSEMBLY VACANCIES, AND EXCEPT** for a special
 8 election that may be authorized to fill a vacancy in a County Council under Article
 9 XI–A, Section 3 of the Constitution, elections by qualified voters for State and county
 10 officers shall be held on the Tuesday next after the first Monday of November, in the
 11 year nineteen hundred and twenty–six, and on the same day in every fourth year
 12 thereafter.

13 3.

14 **[All] EXCEPT AS PROVIDED IN ARTICLE III, § 13(C), RELATING TO**
 15 **SPECIAL ELECTIONS TO FILL GENERAL ASSEMBLY VACANCIES, ALL** State and
 16 county officers elected by qualified voters (except judges of the Circuit Courts, judges
 17 of the Supreme Bench of Baltimore City, judges of the Court of Appeals and judges of
 18 any intermediate courts of appeal) shall hold office for terms of four years, and until
 19 their successors shall qualify.

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

25 SECTION 3. AND BE IT FURTHER ENACTED, That the foregoing section
 26 proposed as an amendment to the Maryland Constitution shall be submitted to the
 27 legal and qualified voters of this State at the next general election to be held in
 28 November, 2008 for their adoption or rejection pursuant to Article XIV of the
 29 Maryland Constitution. At that general election, the vote on this proposed amendment
 30 to the Constitution shall be by ballot, and upon each ballot there shall be printed the
 31 words “For the Constitutional Amendment” and “Against the Constitutional
 32 Amendment,” as now provided by law. Immediately after the election, all returns shall
 33 be made to the Governor of the vote for and against the proposed amendment, as
 34 directed by Article XIV of the Maryland Constitution, and further proceedings had in
 35 accordance with Article XIV.