

CHAPTER 118

(House Bill 1627)

AN ACT concerning

Election Law – Special Congressional Election

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

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

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

Article – Election Law

5–303.

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

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

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

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

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

5-703.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

8-202.

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

(1) shall use the primary election to:

(i) nominate its candidates for public office; and

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

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

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

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

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

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

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

8-710.

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

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

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

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

(i) decline to issue a proclamation; and

(ii) allow the office to remain vacant for the remainder of the term.

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

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

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

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

(c) (1) The Governor shall:

- (i) immediately give public notice of the proclamation; and
- (ii) deliver the proclamation to the State Administrator.

(2) The State Administrator shall:

- (i) immediately notify the State Board members and the local boards of the counties that comprise the congressional district; and
- (ii) forward to each of those local boards a copy of the proclamation.

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

- (i) the special primary election shall be merged with the regular primary election;
- (ii) any individual who files a certificate of candidacy for the regular primary election shall be deemed to have filed a certificate of candidacy for the special primary election; and
- (iii) any other qualified individual may file a certificate of candidacy, for both the special primary election and the regular primary election, not later than 9 p.m. on the day that is 2 days after the issuance of the proclamation.

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

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

(4) Notwithstanding any provision of this article:

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

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

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

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

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

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

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

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

(I) NOMINATIONS FOR THE OFFICE SHALL BE MADE:

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

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

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

(II) NOTWITHSTANDING TITLE 9, SUBTITLE 2 OF THIS ARTICLE, THE STATE ADMINISTRATOR SHALL CERTIFY THE CONTENTS AND

ARRANGEMENT OF EACH BALLOT FOR THE SPECIAL GENERAL ELECTION AS SOON AS PRACTICABLE, THE BALLOT SHALL BE POSTED FOR 1 DAY, AND ANY CHALLENGES MUST BE FILED BY 5:00 P.M. ON THE DAY OF THE POSTING;

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

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

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

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

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

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

8-711.

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

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

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

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

Approved by the Governor, April 17, 2008.