

Department of Legislative Services
Maryland General Assembly
2008 Session

FISCAL AND POLICY NOTE

Senate Bill 693 (Senators Madaleno and Raskin)
Education, Health, and Environmental Affairs

General Assembly - Filling of Vacancy by Special Election

This constitutional amendment requires that a vacancy in the office of Delegate or Senator for the General Assembly that occurs by July 1 of the second year of the term of office for members of the General Assembly be filled, for the balance of the unexpired term, at a special election held at the same time as, and conducted in accordance with the process established by law for, the next presidential election. A person appointed by the Governor to fill such a vacancy under existing constitutional requirements is deemed to be appointed until the vacancy is filled by a special election.

Fiscal Summary

State Effect: If the constitutional amendment is approved by the voters of the State, general fund expenditures could increase in presidential election years subsequent to the 2008 election, to account for the additional contests during the presidential election. Costs to hold a special election concurrently with the presidential election, however, are not expected to be significant.

Local Effect: If approved by the General Assembly, this constitutional amendment will be submitted to the voters at the 2008 general election. It should not result in additional costs for the local election boards. If the constitutional amendment is approved by the voters of the State, expenditures could increase for local election boards in jurisdictions containing affected legislative districts to account for additional contests during future presidential elections. Costs to hold a special election concurrently with the presidential election, however, are not expected to be significant.

Small Business Effect: None.

Analysis

Current Law/Background: Article III of the Maryland Constitution requires the Governor to appoint a person to fill a vacancy in the General Assembly within 15 days of receiving a name in writing from the central committee of the appropriate political party in the county or district of the vacating senator or delegate. The central committee must submit a name within 30 days of the vacancy.

If a name is not submitted by the appropriate central committee, the Governor must within another period of 15 days appoint a person who is affiliated with the same political party, if any, as was the vacating delegate or senator at the time of their last election or appointment and who is otherwise properly qualified to hold office.

In the current General Assembly term, there have been 8 vacancies (House – 5, Senate – 3) to date and there were 17 vacancies (House – 16, Senate – 1) in the previous term with 6 of the 17 occurring before July 1 of the second year of the term.

State Fiscal Effect: General fund expenditures could increase as a result of the constitutional amendment, if approved by the voters, to provide for a special election for any applicable vacant General Assembly seats. The State Board of Elections advises that costs associated with ballot preparation, programming of the election management system, processing of candidate filings, campaign finance administration, and development of voter and candidate information relating to offices on the ballot could increase to account for additional contests for vacant General Assembly seats during the presidential election. Any increased costs, however, are not expected to be significant.

Local Fiscal Effect: Local government expenditures could also increase as a result of the constitutional amendment, if approved by the voters, in those jurisdictions in which a special election for a vacant General Assembly seat would be held during the presidential election. Frederick County, for example, indicates that adding an additional contest to the presidential election ballot could increase printing and postage costs associated with absentee/provisional ballots and specimen ballots. Any increased costs, however, are not expected to be significant.

The Maryland Constitution requires that proposed amendments to the constitution be publicized either • in at least two newspapers in each county, if available, and in at least three newspapers in Baltimore City once a week for four weeks immediately preceding the general election; or • by order of the Governor in a manner provided by law. State law requires local boards of elections to publicize proposed amendments to the constitution either in newspapers or on specimen ballots; local boards of elections are responsible for the costs associated with these requirements. It is anticipated that the fiscal 2009 budgets of local election boards will contain funding for notifying qualified

voters about proposed constitutional amendments for the 2008 general election in newspapers or on specimen ballots.

Additional Comments: The above-mentioned fiscal impacts assume that any special elections to fill a vacant General Assembly seat would occur concurrently with scheduled presidential elections, based on the constitutional amendment's requirement that the special election be held at the same time as the next presidential election. However, because the constitutional amendment applies to vacancies occurring prior to July 1 of the second year of the term for General Assembly members (the year of the presidential election), yet the presidential primary is currently held on the second Tuesday in February under State law, there may be cases where a vacancy occurs at a time when a primary for the special election could not be held concurrently with the presidential primary. It is unclear whether, in such a case, a separate primary may be needed to nominate principal political party candidates for the general election. Significant costs could be incurred by any affected local boards to hold separate primary elections, and State expenditures could similarly increase to support those elections.

Additional Information

Prior Introductions: HB 994 of 2003, a similar bill, received a hearing in the House Ways and Means Committee, but no further action was taken.

Cross File: None.

Information Source(s): Allegany County, Montgomery County, Prince George's County, Talbot County, Frederick County, Baltimore City, State Board of Elections, Department of Legislative Services

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mcp/ljm

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