

Department of Legislative Services
Maryland General Assembly
2008 Session

FISCAL AND POLICY NOTE
Revised

Senate Bill 1014 (The President and Senator Dyson)
(By Request – Administration)

Education, Health, and Environmental Affairs

Ways and Means

Election Law - Special Congressional Election

This emergency Administration bill allows the Governor, if the office of Representative in Congress becomes vacant, or will become vacant, due to resignation after the date of the regular primary election, to issue a proclamation providing only for a special general election (with no preceding primary) to be held to fill the vacancy. The bill specifies the manner in which candidates are nominated for such an election in addition to powers and requirements of the State Administrator of Elections with respect to administering the special general election. The Governor's proclamation must specify the date of the election, which must be held on a Tuesday at least 36 days after the proclamation, and must also specify related candidacy, nomination, and petition filing deadlines.

The bill terminates one year from the date it is enacted.

Fiscal Summary

State Effect: If a special general election is called, as authorized by the bill, to fill a vacancy in the 4th Congressional District, it would cost the State Board of Elections at least \$50,000 to conduct one general election versus at least \$100,000 for a primary and general election under current law.

Local Effect: If a special general election is called, as authorized by the bill, to fill a vacancy in the 4th Congressional District, it could cost Montgomery County as much as \$600,000 to conduct one general election versus as much as \$1.2 million for a primary and general election. In Prince George's County, costs would be approximately \$700,000 to conduct one general election versus approximately \$1.4 million for a primary and general election.

Small Business Effect: A small business impact statement was not provided by the Administration in time for inclusion in this fiscal note. A revised fiscal note will be issued when the Administration's assessment becomes available.

Analysis

Current Law: In general, special elections may be held independent of a regular primary and general election to fill a vacancy in the office of Representative in Congress or on a county council if a county's charter provides for special elections.

The Governor must issue a proclamation within 10 days of the date a vacancy in the office of Representative in Congress occurs or becomes known to the Governor, declaring that a special primary and general election be held and the dates of the elections. The Governor may also allow the office to remain vacant for the remainder of the term if the vacancy occurs during the period beginning 60 days prior to the regular primary election for the office and ending on the last day of the term.

The special primary election must be held on a Tuesday that is at least 36 days after the date of the proclamation and the special general election must be held on a Tuesday that is at least 36 days after the date of the special primary election. However, if the vacancy occurs or becomes known to the Governor between 120 and 40 days prior to a scheduled regular primary election for the office, the special and regular primary elections must be merged and a vote cast for a candidate is deemed a vote for that candidate in both the special and regular primary election.

The U.S. Constitution specifies that when vacancies occur in the U.S. House of Representatives, the executive authority of the applicable state must issue "writs of election" to fill such vacancies.

Background: A vacancy in the office of Representative for the 4th Congressional District is anticipated later this year based on recent media reports.

The most recent special election held to fill a congressional vacancy occurred in 1996 to fill the seat representing the 7th Congressional District (under the State's congressional districts at the time). The special primary election was held concurrently with the March 5 regular primary (after the seat was vacated in mid-February) and the special general election was held April 16. Emergency legislation was enacted during the 1996 General Assembly session to allow the special primary election to be merged with the regular primary. The provision of State law mentioned above, specifying that a special primary election be merged with the regular primary election if a vacancy occurs

or becomes known to the Governor between 120 and 40 days prior to a scheduled regular primary election, was enacted subsequent to the 1996 special election.

State Fiscal Effect: Under current law and under the bill, if a vacancy occurs (or, under the bill, will occur) due to resignation in the office of Representative in Congress after the date of the regular primary election, the Governor has the option of calling a special election to fill the vacancy or allowing the office to remain vacant for the remainder of the term. If the Governor chooses to call a special election in these circumstances, there would be both a primary and general election under current law versus just a general election as allowed under the bill.

Due to the timing of the anticipated vacancy in the 4th Congressional District, under both current law and under the bill, the Governor could allow the office to remain vacant for the remainder of the term. However, if a special general election is called, as authorized by the bill, to fill the anticipated vacancy, it would cost the State Board of Elections at least \$50,000 to conduct one general election versus at least \$100,000 for a primary and general election. These estimates include ballot printing costs and contractual services costs related to the voting system. The estimates do not account for potential additional costs, including staff overtime, that are not expected to be substantial. Costs to the State for special elections held in other congressional districts could be higher due to a need for additional voting system-related contractual services that, in the 4th Congressional District, would be handled by Montgomery and Prince George's counties.

Local Fiscal Effect: If a special general election is called, as authorized by the bill, to fill the anticipated vacancy in the 4th Congressional District, it could cost Montgomery County, which has 69 voting precincts within the district, as much as \$600,000 to conduct one general election versus as much as \$1.2 million for a primary and general election. It is estimated it would cost Prince George's County, which has 112 precincts within the district, approximately \$700,000 to conduct one general election versus \$1.4 million for a primary and general election. Costs that could be incurred by local jurisdictions for special elections in other congressional districts cannot be reliably estimated at this time and would depend on several factors including the portion of the jurisdiction encompassed by the district, availability of polling places, personnel needs, and voting system-related services costs.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): State Board of Elections, Montgomery County, Prince George's County, Department of Legislative Services

Fiscal Note History: First Reader - April 4, 2008
ncs/ljm Revised - Senate Third Reader - April 7, 2008

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