

# HOUSE BILL 725

G1

2lr0374

---

By: **Montgomery County Delegation**

Introduced and read first time: February 8, 2012

Assigned to: Ways and Means

---

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 21, 2012

---

## CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Montgomery County – County Council Special Elections – Voting by Mail**

3 **MC 5–12**

4 FOR the purpose of ~~requiring~~ authorizing the Montgomery County Council to direct  
5 that voting by mail be utilized in certain special elections for the Montgomery  
6 County Council; specifying the application of certain provisions of law to a  
7 special election for the Montgomery County Council; requiring the local board of  
8 elections to mail a vote-by-mail ballot to each ~~active~~ registered voter who is  
9 eligible to vote in a ~~certain~~ special election conducted by mail unless the voter  
10 has requested that the ballot be transmitted by other means; specifying that a  
11 voter is not required to submit an application to receive a  
12 vote-by-mail ballot; requiring the local board to send a vote-by-mail ballot to  
13 each eligible voter at least a certain number of days before the day of a special  
14 election; requiring that a postage-paid envelope be provided in which a voter  
15 may return a vote-by-mail ballot to the local board; requiring that  
16 vote-by-mail ballots be mailed to the address on file in the statewide voter  
17 registration list for each eligible voter except in certain circumstances; requiring  
18 the local board to issue a replacement vote-by-mail ballot to a voter under  
19 certain circumstances; ~~requiring the Montgomery County Council to establish~~  
20 ~~the date of a special election; specifying certain deadlines for candidate filing,~~  
21 ~~ballot certification, and mailing of vote by mail ballots to voters;~~ requiring the  
22 local board to establish ~~at least one polling place~~ a certain number of voting  
23 centers for the use of any eligible voter who chooses to cast a ballot in person in  
24 a special election; specifying certain requirements for a ~~polling place~~ voting

---

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 center established by the local board; authorizing the local board to establish a  
 2 ~~polling place~~ voting center during a certain time period; providing that a certain  
 3 process for applying in person for an absentee ballot at the office of a local board  
 4 does not apply to a special election conducted by mail; providing that certain  
 5 provisions of law relating to voting at a polling place on election day also apply  
 6 to voting at a voting center established under this Act; requiring a voter to  
 7 return a vote-by-mail ballot by certain methods; authorizing a voter to  
 8 designate an agent to return a vote-by-mail ballot to the local board; requiring  
 9 that a vote-by-mail ballot be returned to the local board by certain deadlines  
 10 and meet certain requirements to be considered timely and be counted;  
 11 ~~providing for the application of this Act; requiring~~ authorizing the State Board  
 12 of Elections to adopt regulations as necessary to implement this Act; and  
 13 generally relating to voting by mail in special elections for the Montgomery  
 14 County Council.

15 BY adding to  
 16 Article – Election Law  
 17 Section 9–501 through ~~9–507~~ 9–506 to be under the new subtitle “Subtitle 5.  
 18 Montgomery County Voting by Mail”  
 19 Annotated Code of Maryland  
 20 (2010 Replacement Volume and 2011 Supplement)

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

23 **Article – Election Law**

24 **SUBTITLE 5. MONTGOMERY COUNTY VOTING BY MAIL.**

25 **9–501.**

26 (A) THIS SUBTITLE APPLIES ONLY TO A SPECIAL ELECTION FOR THE  
 27 MONTGOMERY COUNTY COUNCIL THAT IS NOT HELD CONCURRENTLY WITH A  
 28 REGULARLY SCHEDULED PRIMARY OR GENERAL ELECTION.

29 (B) VOTING BY MAIL ~~SHALL~~ MAY BE UTILIZED IN A SPECIAL ELECTION  
 30 FOR THE MONTGOMERY COUNTY COUNCIL IN ACCORDANCE WITH THIS  
 31 SUBTITLE.

32 (C) A SPECIAL ELECTION TO FILL A VACANCY IN THE MONTGOMERY  
 33 COUNTY COUNCIL SHALL BE CONDUCTED BY MAIL IF THE RESOLUTION OF THE  
 34 MONTGOMERY COUNTY COUNCIL ESTABLISHING THE DATE OF THE SPECIAL  
 35 ELECTION DIRECTS THAT THE ELECTION BE CONDUCTED BY MAIL.

36 ~~(e)~~ (D) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBTITLE:

1           (1) PROVISIONS OF THIS ARTICLE RELATING TO ABSENTEE  
2 VOTING APPLY TO VOTING BY MAIL; AND

3           (2) COUNTY LAWS RELATING TO THE CONDUCT OF A COUNTY  
4 COUNCIL SPECIAL ELECTION APPLY TO A SPECIAL ELECTION CONDUCTED  
5 UNDER THIS SUBTITLE.

6           ~~(D)~~ (E) PROVISIONS OF THIS ARTICLE RELATING TO THE CONDUCT  
7 OF ELECTIONS APPLY TO A SPECIAL ELECTION CONDUCTED UNDER THIS  
8 SUBTITLE, UNLESS A LAW SPECIFICALLY RELEVANT TO A SPECIAL ELECTION  
9 APPLIES.

10 **9-502.**

11           (A) (1) ~~THE~~ EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS  
12 SUBSECTION, THE LOCAL BOARD SHALL MAIL BY NONFORWARDABLE MAIL A  
13 VOTE-BY-MAIL BALLOT TO EACH ~~ACTIVE~~ REGISTERED VOTER WHO IS ELIGIBLE  
14 TO VOTE IN A SPECIAL ELECTION FOR THE MONTGOMERY COUNTY COUNCIL.

15           (2) THE LOCAL BOARD IS NOT REQUIRED TO MAIL A  
16 VOTE-BY-MAIL BALLOT TO A VOTER IF THE VOTER HAS REQUESTED THAT THE  
17 BALLOT BE SENT BY OTHER MEANS.

18           (B) A VOTER IS NOT REQUIRED TO SUBMIT AN APPLICATION TO  
19 RECEIVE A VOTE-BY-MAIL BALLOT.

20           (C) (1) EACH VOTE-BY-MAIL BALLOT SHALL BE ACCOMPANIED BY A  
21 POSTAGE-PAID ENVELOPE IN WHICH A VOTER MAY RETURN THE VOTED BALLOT  
22 TO THE LOCAL BOARD.

23           (2) THE LOCAL BOARD SHALL PAY THE COST OF POSTAGE-PAID  
24 ENVELOPES PROVIDED UNDER THIS SUBSECTION.

25           (D) THE LOCAL BOARD SHALL SEND A VOTE-BY-MAIL BALLOT TO EACH  
26 ELIGIBLE VOTER AT LEAST 14 DAYS BEFORE THE DAY OF A SPECIAL ELECTION.

27           (E) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS  
28 SUBSECTION, A VOTE-BY-MAIL BALLOT SHALL BE MAILED TO THE ADDRESS  
29 THAT IS ON FILE IN THE STATEWIDE VOTER REGISTRATION LIST FOR EACH  
30 ELIGIBLE VOTER.

31           (2) A REGISTERED VOTER MAY REQUEST TO RECEIVE A  
32 VOTE-BY-MAIL BALLOT AT AN ADDRESS OTHER THAN THE ADDRESS THAT IS ON  
33 FILE IN THE STATEWIDE VOTER REGISTRATION LIST BY:

1                    (I) SUBMITTING AN ABSENTEE BALLOT APPLICATION IN  
 2 ACCORDANCE WITH § 9-305(A) OF THIS TITLE NOT LATER THAN THE TUESDAY  
 3 PRECEDING THE DAY OF A SPECIAL ELECTION, IF THE VOTER IS TEMPORARILY  
 4 ABSENT FROM THE ADDRESS THAT IS ON FILE IN THE STATEWIDE VOTER  
 5 REGISTRATION LIST; OR

6                    (II) NOTIFYING A LOCAL BOARD OF A CHANGE OF ADDRESS  
 7 NOT LATER THAN THE TUESDAY PRECEDING THE DAY OF A SPECIAL ELECTION,  
 8 IF THE VOTER'S RESIDENCE HAS CHANGED FROM THE ADDRESS THAT IS ON  
 9 FILE IN THE STATEWIDE VOTER REGISTRATION LIST TO ANOTHER LOCATION  
 10 WITHIN THE STATE.

11            ~~(D)~~ (F)        THE LOCAL BOARD SHALL ISSUE A REPLACEMENT  
 12 VOTE-BY-MAIL BALLOT TO A VOTER IF THE ELECTION DIRECTOR OF THE LOCAL  
 13 BOARD HAS REASONABLE GROUNDS TO BELIEVE THAT THE VOTE-BY-MAIL  
 14 BALLOT PREVIOUSLY ISSUED TO THE VOTER HAS BEEN LOST, DESTROYED, OR  
 15 SPOILED.

16 ~~9-503.~~

17            ~~(A) (1) THE MONTGOMERY COUNTY COUNCIL SHALL ESTABLISH THE~~  
 18 ~~DATE OF A SPECIAL ELECTION.~~

19            ~~(2) THE DATE OF A SPECIAL ELECTION SHALL BE THE LAST DAY~~  
 20 ~~ON WHICH A VOTER MAY MAIL A VOTE BY MAIL BALLOT TO THE LOCAL BOARD~~  
 21 ~~FOR THE BALLOT TO BE CONSIDERED TIMELY.~~

22            ~~(B) (1) THE DEADLINE FOR CANDIDATE FILING SHALL BE 75 DAYS~~  
 23 ~~BEFORE THE DAY OF A SPECIAL PRIMARY ELECTION.~~

24            ~~(2) VOTE BY MAIL BALLOTS SHALL BE CERTIFIED 60 DAYS~~  
 25 ~~BEFORE THE DAY OF A SPECIAL ELECTION.~~

26            ~~(3) THE LOCAL BOARD SHALL MAIL A VOTE BY MAIL BALLOT TO~~  
 27 ~~EACH ELIGIBLE ABSENT UNIFORMED SERVICES VOTER OR OVERSEAS VOTER AS~~  
 28 ~~DEFINED IN THE FEDERAL UNIFORMED AND OVERSEAS CITIZENS ABSENTEE~~  
 29 ~~VOTING ACT 45 DAYS BEFORE THE DAY OF A SPECIAL ELECTION.~~

30            ~~(4) THE LOCAL BOARD SHALL MAIL A VOTE BY MAIL BALLOT TO~~  
 31 ~~EACH ELIGIBLE VOTER NOT INCLUDED IN PARAGRAPH (3) OF THIS SUBSECTION~~  
 32 ~~20 DAYS BEFORE THE DAY OF A SPECIAL ELECTION.~~

33 ~~9-504.~~ 9-503.

1 (A) THE LOCAL BOARD SHALL ESTABLISH ~~AT LEAST ONE POLLING~~  
2 ~~PLACE~~ VOTING CENTERS FOR THE USE OF ANY ELIGIBLE VOTER WHO CHOOSES  
3 TO CAST A BALLOT IN PERSON IN A SPECIAL ELECTION IN ACCORDANCE WITH  
4 THIS SECTION.

5 (B) (1) IN A SPECIAL ELECTION HELD IN A SINGLE COUNTY COUNCIL  
6 DISTRICT, AT LEAST THREE VOTING CENTERS SHALL BE ESTABLISHED IN THE  
7 COUNTY COUNCIL DISTRICT WHERE THE SPECIAL ELECTION IS BEING HELD.

8 (2) IN A COUNTYWIDE SPECIAL ELECTION, AT LEAST THREE  
9 VOTING CENTERS SHALL BE ESTABLISHED IN EACH COUNTY COUNCIL DISTRICT.

10 ~~(B)~~ (C) A ~~POLLING PLACE~~ VOTING CENTER ESTABLISHED UNDER  
11 THIS SECTION SHALL:

12 (1) ~~BE LOCATED AT THE LOCAL BOARD OFFICE OR ANOTHER~~  
13 ~~LOCATION WITHIN THE COUNCIL DISTRICT WHERE THE SPECIAL ELECTION IS~~  
14 ~~BEING HELD;~~

15 ~~(2)~~ PROVIDE ACCESS TO A VOTING SYSTEM THAT IS ACCESSIBLE  
16 TO VOTERS WITH DISABILITIES IN ACCORDANCE WITH THE FEDERAL  
17 AMERICANS WITH DISABILITIES ACT AND THE FEDERAL HELP AMERICA VOTE  
18 ACT; ~~AND~~

19 (2) PROVIDE FOR PROVISIONAL VOTING IN ACCORDANCE WITH  
20 SUBTITLE 4 OF THIS TITLE;

21 (3) SATISFY THE REQUIREMENTS OF § 10-101 OF THIS ARTICLE;  
22 AND

23 ~~(3)~~ (4) BE OPEN FOR VOTING ~~BEGINNING THE DAY THAT THE~~  
24 ~~VOTE BY MAIL BALLOTS ARE MAILED TO VOTERS UNTIL 8 P.M. ON THE DAY OF A~~  
25 ~~SPECIAL ELECTION~~ DURING THE DAYS AND FOR THE HOURS THAT THE COUNTY  
26 COUNCIL DIRECTS IN THE RESOLUTION UNDER § 9-501(C) OF THIS SUBTITLE.

27 (C) IF NECESSARY TO EXPEDITE THE CONDUCT OF A SPECIAL ELECTION  
28 AND SUBJECT TO THE APPROVAL OF THE STATE BOARD, THE LOCAL BOARD  
29 MAY ESTABLISH A POLLING PLACE UNDER THIS SECTION DURING A PERIOD  
30 WHEN A CHANGE IN POLLING PLACES IS PROHIBITED UNDER § 2-303 OF THIS  
31 ARTICLE.

1           **(D) THE PROCESS FOR APPLYING IN PERSON FOR AN ABSENTEE BALLOT**  
2 **AT THE OFFICE OF A LOCAL BOARD UNDER § 9-305(C) OF THIS TITLE DOES NOT**  
3 **APPLY TO A SPECIAL ELECTION CONDUCTED BY MAIL.**

4           **(E) EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, ANY**  
5 **PROVISION OF THIS ARTICLE THAT APPLIES TO VOTING AT A POLLING PLACE ON**  
6 **ELECTION DAY ALSO APPLIES TO VOTING AT A VOTING CENTER ESTABLISHED**  
7 **UNDER THIS SECTION.**

8 ~~9-505. 9-504.~~

9           **(A) A VOTER MAY RETURN A VOTE-BY-MAIL BALLOT TO THE LOCAL**  
10 **BOARD:**

11                   **(1) BY MAIL;**

12                   **(2) IN PERSON DURING REGULAR OFFICE HOURS; OR**

13                   **(3) THROUGH A DULY AUTHORIZED AGENT IN ACCORDANCE WITH**  
14 **SUBSECTION (B) OF THIS SECTION.**

15           **(B) (1) A VOTER MAY DESIGNATE A DULY AUTHORIZED AGENT IN**  
16 **ACCORDANCE WITH § 9-307 OF THIS TITLE TO RETURN A VOTE-BY-MAIL**  
17 **BALLOT TO THE LOCAL BOARD DURING REGULAR OFFICE HOURS.**

18                   **(2) NOTWITHSTANDING § 9-307(B)(4)(I) OF THIS TITLE, AN**  
19 **AGENT IS REQUIRED ONLY TO:**

20                           **(I) WITNESS THE VOTER MARK THE BALLOT AND PLACE IT**  
21 **IN AN ENVELOPE; AND**

22                           **(II) RETURN THE BALLOT TO THE LOCAL BOARD.**

23 ~~9-506.~~

24           ~~**(A) A VOTE BY MAIL BALLOT THAT IS POSTMARKED BY 8 P.M. ON THE**~~  
25 ~~**DAY OF A SPECIAL ELECTION AND RECEIVED BY THE LOCAL BOARD NO LATER**~~  
26 ~~**THAN 5 P.M. ON THE THURSDAY AFTER A SPECIAL ELECTION SHALL BE**~~  
27 ~~**CONSIDERED TIMELY AND MAY BE COUNTED.**~~

28           ~~**(B) A VOTE BY MAIL BALLOT THAT IS RETURNED IN PERSON TO THE**~~  
29 ~~**OFFICE OF THE LOCAL BOARD BY THE VOTER OR THE VOTER'S DULY**~~  
30 ~~**AUTHORIZED AGENT NO LATER THAN 8 P.M. ON THE DAY OF A SPECIAL**~~  
31 ~~**ELECTION SHALL BE CONSIDERED TIMELY AND MAY BE COUNTED.**~~

1 ~~(C) A VOTE-BY-MAIL BALLOT THAT DOES NOT MEET THE~~  
2 ~~REQUIREMENTS OF SUBSECTION (A) OR (B) OF THIS SECTION IS NOT TIMELY~~  
3 ~~AND MAY NOT BE COUNTED.~~

4 ~~9-507.~~

5 9-505.

6 (A) A VOTE-BY-MAIL BALLOT IS CONSIDERED TIMELY AND MAY BE  
7 COUNTED IF THE BALLOT:

8 (1) IS RETURNED IN PERSON TO THE OFFICE OF THE LOCAL  
9 BOARD BY THE VOTER OR THE VOTER'S DULY AUTHORIZED AGENT NO LATER  
10 THAN 8 P.M. ON THE DAY OF A SPECIAL ELECTION; OR

11 (2) (I) IS RECEIVED BY MAIL BY THE LOCAL BOARD NO LATER  
12 THAN 10 A.M. ON THE SECOND FRIDAY AFTER A SPECIAL ELECTION; AND

13 (II) WAS MAILED ON OR BEFORE ELECTION DAY, AS  
14 VERIFIED:

15 1. BY A POSTMARK; OR

16 2. IF THE RETURN ENVELOPE DOES NOT CONTAIN A  
17 POSTMARK OR THE POSTMARK IS ILLEGIBLE, BY THE VOTER'S AFFIDAVIT THAT  
18 THE BALLOT WAS MAILED ON OR BEFORE ELECTION DAY.

19 (B) A VOTE-BY-MAIL BALLOT THAT DOES NOT MEET THE  
20 REQUIREMENTS OF SUBSECTION (A) OF THIS SECTION IS NOT TIMELY AND MAY  
21 NOT BE COUNTED.

22 9-506.

23 THE STATE BOARD ~~SHALL~~ MAY ADOPT REGULATIONS AS NECESSARY TO  
24 IMPLEMENT THIS SUBTITLE.

25 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
26 June 1, 2012.