

HOUSE BILL 176

F3

5lr0670

By: **Montgomery County Delegation**

Introduced and read first time: January 29, 2015

Assigned to: Ways and Means

A BILL ENTITLED

1 AN ACT concerning

2 **Montgomery County Board of Education – Special Election to Fill a Vacancy**

3 **MC 22–15**

4 FOR the purpose of providing for the conduct of a special election to fill a vacancy for an
5 elected member on the Montgomery County Board of Education; repealing the
6 authority of the elected members of the county board to appoint an individual to fill
7 a vacancy for an elected member on the county board; providing that, under certain
8 circumstances, the special election shall be held concurrently with a regularly
9 scheduled general election in the county; requiring the County Executive for
10 Montgomery County to establish the date for the special election; providing that a
11 local special election to fill a vacancy shall be conducted by mail if the proclamation
12 of the chief executive officer or county executive of a charter county directs that the
13 election be conducted by mail; and generally relating to a special election to fill a
14 vacancy for an elected member of the Montgomery County Board of Education.

15 BY repealing and reenacting, without amendments,
16 Article – Education
17 Section 3–901(a) through (e), (f)(1), (2), (4), and (6), and (g)
18 Annotated Code of Maryland
19 (2014 Replacement Volume and 2014 Supplement)

20 BY repealing and reenacting, with amendments,
21 Article – Education
22 Section 3–901(f)(5)
23 Annotated Code of Maryland
24 (2014 Replacement Volume and 2014 Supplement)

25 BY repealing and reenacting, with amendments,
26 Article – Election Law
27 Section 9–501

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Annotated Code of Maryland
2 (2010 Replacement Volume and 2014 Supplement)

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

5 **Article – Education**

6 3–901.

7 (a) (1) In this subtitle the following words have the meanings indicated.

8 (2) “Board of Education District” means a geographic area of Montgomery
9 County in which an elected member of the Montgomery County Board of Education must
10 be a legal resident. The geographic area of each district is described in subsection (f) of this
11 section. Each district shall be substantially equal in population, and the districts shall be
12 reapportioned on the basis of each decennial census of the United States.

13 (3) “Elected member” means 1 of the 7 elected and voting members of the
14 Montgomery County Board or a member appointed to fill a vacancy of 1 of these 7 members.

15 (b) The Montgomery County Board consists of:

16 (1) 5 elected members, each of whom resides in a different board of
17 education district;

18 (2) 2 elected members who may reside anywhere in the county; and

19 (3) 1 student member.

20 (c) An elected member of the county board shall be a registered voter of
21 Montgomery County.

22 (d) Members of the Montgomery County Board shall be elected at the general
23 election every 2 years as required by subsection (f) of this section.

24 (e) (1) The student member shall be a bona fide resident of Montgomery
25 County and a regularly enrolled junior or senior year student from a Montgomery County
26 public high school.

27 (2) The nomination and election process shall be as agreed on by the county
28 board and the Montgomery County region of the Maryland Association of Student Councils.
29 This agreement shall include a process by which to replace one or both of the final
30 candidates if they are unable to proceed in the election. Any student enrolled in a middle
31 or high school in the Montgomery County public schools may:

32 (i) Nominate a student member candidate;

1 (ii) Vote for delegates from the student's school, who in turn vote in
2 a nominating convention to reduce to 2 the number of candidates for student board member
3 if there are 3 or more candidates; and

4 (iii) Vote directly for 1 of the 2 remaining student board member
5 candidates.

6 (3) The candidate receiving the second highest number of votes in the
7 direct election shall become the alternate student member. The alternate shall serve if the
8 student member is unable to complete his elected term.

9 (4) Except as provided in paragraphs (5), (6), and (7) of this subsection, the
10 student member has the same rights and privileges of an elected member.

11 (5) Unless invited to attend by the affirmative vote of a majority of the
12 county board, the student member may not attend an executive session that relates to:

13 (i) Hearings held under § 6–202(a) of this article; or

14 (ii) Collective bargaining.

15 (6) As provided in paragraph (7) of this subsection, the student member
16 shall vote on all matters except those relating to:

17 (i) § 6–202(a) of this article;

18 (ii) Collective bargaining;

19 (iii) Capital and operating budgets; and

20 (iv) School closings, reopenings, and boundaries.

21 (7) On a majority vote of the elected members, the board may determine,
22 on a case by case basis, whether a matter under consideration is covered by the exclusionary
23 provisions listed in paragraph (6) of this subsection.

24 (f) (1) Each elected member serves for a term of 4 years beginning on
25 December 1 after the member's election and until a successor is elected and qualifies. The
26 terms of elected members are staggered as required by the terms of the members serving
27 on the county board as of July 1, 1978 so that 4 members are elected in gubernatorial
28 election years and 3 members are elected in presidential election years.

29 (2) Elected members of the county board shall be elected by the voters of
30 the entire county.

1 (4) (i) The student member serves for a term of 1 year beginning on
2 July 1 after the election.

3 (ii) The student member shall be replaced for the remainder of the
4 term by the alternate student member if the student member:

5 1. Resigns or otherwise is unable to complete the term; or

6 2. Is removed under the provisions of subsection (g) of this
7 section.

8 (iii) The elected members of the county board shall select a student
9 to complete the remainder of the term if the student member is replaced as provided in
10 subparagraph (ii) of this paragraph and the alternate member:

11 1. Resigns or otherwise is unable to complete the term; or

12 2. Is removed under the provisions of subsection (g) of this
13 section.

14 (5) **(I)** [The remaining members of the county board shall select a
15 qualified individual] **IN THE EVENT OF A VACANCY FOR AN ELECTED MEMBER ON THE**
16 **COUNTY BOARD, A SPECIAL ELECTION SHALL BE CONDUCTED IN ACCORDANCE WITH**
17 **§ 9-501 OF THE ELECTION LAW ARTICLE** to fill [any] **THE** vacancy on the [elected]
18 **COUNTY** board for the remainder of that term and until a successor is elected and qualifies.

19 **(II)** **IF THE VACANCY OCCURS ON OR AFTER THE DAY THAT IS**
20 **180 DAYS BEFORE THE NEXT GENERAL ELECTION IN THE COUNTY, BUT MORE THAN**
21 **10 DAYS BEFORE THE FILING DEADLINE FOR CANDIDATES FOR THAT ELECTION, THE**
22 **SPECIAL ELECTION TO FILL THE VACANCY SHALL BE HELD AT THE SAME TIME AS**
23 **THE PENDING GENERAL ELECTION.**

24 **(III)** **THE COUNTY EXECUTIVE OF MONTGOMERY COUNTY**
25 **SHALL ESTABLISH BY PROCLAMATION THE DATE FOR THE SPECIAL ELECTION.**

26 (6) (i) Subject to subparagraph (ii) of this paragraph, an elected county
27 board member shall forfeit the office if the member fails to reside in the board of education
28 district from which the member was elected.

29 (ii) If the failure to continue to reside in the district is caused by an
30 alteration in the board of education district boundaries because of reapportionment, the
31 member may complete the term for which the member was elected.

32 (iii) In the event of a vacancy caused by a member who is required to
33 reside in a particular board of education district, the person appointed to fill the vacancy

1 shall reside in the same district at the time of appointment and while filling out the
2 unexpired term.

3 (g) (1) The Montgomery County Council may remove a member of the county
4 board for:

5 (i) Immorality;

6 (ii) Misconduct in office;

7 (iii) Incompetency; or

8 (iv) Willful neglect of duty.

9 (2) Before removing a member, the County Council shall provide the
10 member a copy of the charges against him and give him an opportunity within 10 days to
11 request a hearing.

12 (3) If the member requests a hearing within the 10-day period:

13 (i) The County Council promptly shall hold a hearing, but a hearing
14 may not be set within 10 days after the County Council sends the member a notice of the
15 hearing; and

16 (ii) The member shall have an opportunity to be heard publicly
17 before the County Council in the member's own defense, in person or by counsel.

18 (4) A member removed under this subsection has the right to a de novo
19 review of the removal by the Circuit Court for Montgomery County.

20 Article – Election Law

21 9–501.

22 (a) This subtitle applies only to a special election that is not held concurrently
23 with a regularly scheduled primary or general election.

24 (b) Voting by mail may be utilized in a special election in accordance with this
25 subtitle.

26 (c) A special election to fill a vacancy in the Office of Representative in Congress
27 shall be conducted by mail if the Governor's proclamation issued under § 8–710 of this
28 article directs that the election be conducted by mail.

29 (d) (1) In this subsection, “local special election” means a special election to:

1 (i) fill a vacancy in the offices of county council member, chief
2 executive officer, or county executive of a charter county if the charter of that county
3 provides for special elections;

4 (ii) fill a vacancy in the board of county commissioners of a code
5 home rule county if a local law enacted by that county provides for special elections;

6 (iii) fill a vacancy in the board of county commissioners of a
7 commission county if a law provides for special elections;

8 (iv) fill a vacancy in a local board of education if State law provides
9 for special elections;

10 (v) elect members of a charter board or submit a proposed charter to
11 the voters for adoption or rejection in accordance with Article XI–A, § 1A of the Maryland
12 Constitution; or

13 (vi) submit a local law enacted by a code home rule county to the
14 voters for adoption or rejection in accordance with § 9–313 of the Local Government Article.

15 (2) A local special election shall be conducted by mail if **THE**
16 **PROCLAMATION OF THE CHIEF EXECUTIVE OFFICER OR COUNTY EXECUTIVE OF A**
17 **CHARTER COUNTY, OR** the resolution of the county council or board of county
18 commissioners **OF THE AFFECTED COUNTY**, establishing the date of the special election
19 directs that the election be conducted by mail.

20 (e) Except as otherwise provided in this subtitle:

21 (1) provisions of this article relating to absentee voting apply to voting by
22 mail; and

23 (2) all pertinent State or local laws relating to the conduct of a special
24 election apply to a special election conducted under this subtitle.

25 (f) Provisions of this article relating to the conduct of elections apply to a special
26 election conducted under this subtitle, unless a law specifically relevant to a special election
27 applies.

28 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
29 October 1, 2015.