

HOUSE BILL 604

P5, G1, L1

CONSTITUTIONAL AMENDMENT

51r0636
CF SB 166

By: **Delegates Moon, Miele, Barkley, Carr, Cullison, Ebersole, Folden, Fraser-Hidalgo, Gutierrez, Kelly, Kittleman, Korman, Kramer, Krimm, Luedtke, A. Miller, Morales, Parrott, Platt, S. Robinson, Smith, Tarlau, M. Washington, C. Wilson, and K. Young**

Introduced and read first time: February 12, 2015

Assigned to: Ways and Means

A BILL ENTITLED

1 AN ACT concerning

2 **General Assembly – Special Election to Fill a Vacancy in Office**

3 FOR the purpose of proposing an amendment to the Maryland Constitution authorizing the
4 counties and the Mayor and City Council of Baltimore to enact legislation
5 authorizing a special election to fill a vacancy in the office of Delegate or Senator;
6 establishing certain voting procedures for the authorization of special elections by
7 the counties and City of Baltimore; establishing that if a vacancy occurs during a
8 certain period of the term of the office and a special election is authorized, the special
9 election shall coincide with the next ensuing regular presidential and congressional
10 election; establishing that the Governor's appointee to fill a vacancy in the General
11 Assembly is temporary under certain circumstances; specifying the term of office for
12 a member elected by special election; establishing who is qualified for candidacy and
13 to vote in a special election; making certain clarifying changes; submitting this
14 amendment to the qualified voters of the State for their adoption or rejection; making
15 certain stylistic changes; and generally relating to special elections to fill vacancies
16 in the General Assembly.

17 BY proposing an amendment to the Constitution of Maryland
18 Article III – Legislative Department
19 Section 6, 7, and 13

20 BY proposing an amendment to the Constitution of Maryland
21 Article XVII – Quadrennial Elections
22 Section 1 through 3

23 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
24 (Three-fifths of all the members elected to each of the two Houses concurring), That it be
25 proposed that the Maryland Constitution read as follows:

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



Article III – Legislative Department

1

2 6.

3 [A] EXCEPT AS PROVIDED IN SECTION 13 OF THIS ARTICLE FOR FILLING A
4 VACANCY BY SPECIAL ELECTION, A member of the General Assembly shall be elected by
5 the registered voters of the legislative or delegate district from which [he] THE MEMBER
6 seeks election, to serve for a term of four years beginning on the second Wednesday of
7 January following [his] THE MEMBER'S election.

8 7.

9 [The] EXCEPT AS PROVIDED IN SECTION 13 OF THIS ARTICLE FOR FILLING A
10 VACANCY BY SPECIAL ELECTION, THE election for Senators and Delegates shall take
11 place on the Tuesday next, after the first Monday in the month of November, nineteen
12 hundred and fifty-eight, and in every fourth year thereafter.

13 13.

14 (a) (1) [In] EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION,
15 IN case of A VACANCY IN THE GENERAL ASSEMBLY DUE TO death, disqualification,
16 resignation, refusal to act, expulsion, or removal from the county or city for which [he] A
17 DELEGATE OR SENATOR shall have been elected, [of any person who shall have been
18 chosen as a Delegate or Senator,] or in case of a tie between two or more such qualified
19 persons, the Governor shall appoint a person to fill such vacancy from a person whose name
20 shall be submitted to [him] THE GOVERNOR in writing, within [thirty] 30 days after the
21 occurrence of the vacancy, by the Central Committee of the political party, if any, with
22 which the Delegate or Senator, so vacating, had been affiliated, at the time of the last
23 election or appointment of the vacating Senator or Delegate, in the County or District from
24 which [he or she] THE DELEGATE OR SENATOR was appointed or elected, provided that
25 the appointee shall be of the same political party, if any, as was that of the Delegate or
26 Senator, whose office is to be filled, at the time of the last election or appointment of the
27 vacating Delegate or Senator, and it shall be the duty of the Governor to make [said] THE
28 appointment within [fifteen] 15 days after the [submission thereof to him] CENTRAL
29 COMMITTEE SUBMITS ITS NOMINEES TO THE GOVERNOR.

30 (2) If a name is not submitted by the Central Committee within [thirty] 30
31 days after the occurrence of the vacancy, the Governor within another period of [fifteen] 15
32 days shall appoint a person, who shall be affiliated with the same political party, if any as
33 was that of the Delegate or Senator, whose office is to be filled, at the time of the last
34 election or appointment of the vacating Delegate or Senator, and who is otherwise properly
35 qualified to hold the office of Delegate or Senator in the District or County.

1 (3) In the event there is no Central Committee in the County or District
2 from which [said] **THE** vacancy is to be filled, the Governor shall within [fifteen] **15** days
3 after the occurrence of such vacancy appoint a person, from the same political party, if any,
4 as that of the vacating Delegate or Senator, at the time of the last election or appointment
5 of the vacating Senator or Delegate, who is otherwise properly qualified to hold the office
6 of Delegate or Senator in such District or County.

7 (4) [In every case when any] **THE APPOINTMENT OF EACH** person [is] so
8 appointed by the [Governor, his appointment] **GOVERNOR** shall be deemed to be for the
9 unexpired term of the person whose office has become vacant **OR UNTIL THE VACANCY IS**
10 **FILLED BY SPECIAL ELECTION UNDER SUBSECTION (C) OF THIS SECTION.**

11 (b) In addition, and in submitting a name to the Governor to fill a vacancy in a
12 Legislative or Delegate district, as the case may be, in any of the twenty–three counties of
13 Maryland **OR IN THE CITY OF BALTIMORE**, the Central Committee or committees shall
14 follow these provisions:

15 (1) If the vacancy occurs in a district having the same boundaries as a
16 county **OR THE CITY OF BALTIMORE**, the Central Committee of the county **OR THE CITY**
17 **OF BALTIMORE** shall submit the name of a resident of the district.

18 (2) If the vacancy occurs in a district which has boundaries comprising a
19 portion of one county **OR THE CITY OF BALTIMORE**, the Central Committee of that county
20 **OR THE CITY OF BALTIMORE** shall submit the name of a resident of the district.

21 (3) If the vacancy occurs in a district which has boundaries comprising a
22 portion or all of two or more counties **OR THE CITY OF BALTIMORE**, the Central
23 Committee of each county [involved] **OR THE CITY OF BALTIMORE** shall have one vote
24 for submitting the name of a resident of the district; and if there is a tie vote between or
25 among the Central Committees, the list of names there proposed shall be submitted to the
26 Governor, and [he] **THE GOVERNOR** shall make the appointment from the list.

27 **(C) (1) THE GOVERNING BODY OF A COUNTY AND THE MAYOR AND CITY**
28 **COUNCIL OF BALTIMORE MAY ENACT LEGISLATION AUTHORIZING A SPECIAL**
29 **ELECTION TO FILL A VACANCY IN THE GENERAL ASSEMBLY AS PROVIDED IN**
30 **PARAGRAPH (2) OF THIS SUBSECTION.**

31 **(2) (I) THIS PARAGRAPH APPLIES ONLY IF THE GOVERNING BODY**
32 **OF EACH AFFECTED JURISDICTION ENACTS LEGISLATION AUTHORIZING A SPECIAL**
33 **ELECTION UNDER PARAGRAPH (1) OF THIS SUBSECTION.**

34 **(II) IF A VACANCY IN THE GENERAL ASSEMBLY OCCURS IN A**
35 **DISTRICT THAT HAS BOUNDARIES COMPRISING:**

1 **1. PART OR ALL OF ONE COUNTY OR THE CITY OF**
2 **BALTIMORE, THE VACANCY SHALL BE FILLED BY A MAJORITY VOTE OF THE**
3 **MEMBERS OF THE GENERAL ASSEMBLY ELECTED TO REPRESENT THAT COUNTY OR**
4 **THE CITY OF BALTIMORE; OR**

5 **2. MORE THAN ONE COUNTY OR ONE COUNTY AND THE**
6 **CITY OF BALTIMORE, THE VACANCY SHALL BE FILLED FROM AMONG THE NOMINEES**
7 **SELECTED BY THE AFFECTED JURISDICTIONS WHO RECEIVES:**

8 **A. AN AFFIRMATIVE VOTE OF THE MEMBERS OF THE**
9 **GENERAL ASSEMBLY ELECTED TO REPRESENT EACH AFFECTED COUNTY AND, IF**
10 **APPLICABLE, THE CITY OF BALTIMORE; AND**

11 **B. A MAJORITY VOTE OF THE TOTAL NUMBER OF VOTING**
12 **MEMBERS OF THE GENERAL ASSEMBLY ELECTED TO REPRESENT THE AFFECTED**
13 **JURISDICTIONS.**

14 **(III) IN FILLING A VACANCY UNDER SUBPARAGRAPH (II)2 OF**
15 **THIS PARAGRAPH, THE MEMBERS OF THE GENERAL ASSEMBLY ELECTED TO**
16 **REPRESENT EACH COUNTY AND, IF APPLICABLE, THE CITY OF BALTIMORE SHALL**
17 **CAST A VOTE PROPORTIONATE TO THE MEMBER'S SHARE OF THE POPULATION OF**
18 **THE DISTRICT AS REPORTED IN THE MOST RECENT DECENNIAL CENSUS OF THE**
19 **UNITED STATES.**

20 **(3) IF A SPECIAL ELECTION IS AUTHORIZED UNDER PARAGRAPH (1)**
21 **OF THIS SUBSECTION AND A VACANCY IN THE GENERAL ASSEMBLY OCCURS BY**
22 **JANUARY 1 OF THE YEAR IMMEDIATELY FOLLOWING THE YEAR THAT THE**
23 **DELEGATE OR SENATOR TAKES OFFICE, THE VACANCY SHALL BE FILLED, FOR THE**
24 **BALANCE OF THE UNEXPIRED TERM OF THE DELEGATE OR SENATOR, AT A SPECIAL**
25 **ELECTION TO BE HELD AT THE SAME TIME AS, AND CONDUCTED IN ACCORDANCE**
26 **WITH THE PROCESS ESTABLISHED BY LAW FOR, THE NEXT STATEWIDE ELECTION AT**
27 **WHICH THE PRESIDENT OF THE UNITED STATES AND REPRESENTATIVES TO**
28 **CONGRESS ARE ELECTED.**

29 **(4) ONLY INDIVIDUALS WHO WOULD BE QUALIFIED FOR CANDIDACY**
30 **IN A REGULAR ELECTION FOR THE OFFICE SHALL BE ELIGIBLE FOR CANDIDACY IN**
31 **THE SPECIAL ELECTION.**

32 **(5) ONLY VOTERS WHO ARE REGISTERED IN THE LEGISLATIVE**
33 **DISTRICT IN WHICH THE VACANCY OCCURRED SHALL BE ELIGIBLE TO VOTE IN THE**
34 **SPECIAL ELECTION.**

1 1.

2 The purpose of this Article is to reduce the number of elections by providing that all
3 State and county elections shall be held only in every fourth year, and at the time provided
4 by law for holding congressional elections, and to bring the terms of appointive officers into
5 harmony with the changes effected in the time of the beginning of the terms of elective
6 officers. **[The] EXCEPT AS PROVIDED IN ARTICLE III, § 13(C), RELATING TO SPECIAL**
7 **ELECTIONS TO FILL GENERAL ASSEMBLY VACANCIES, THE** administrative and judicial
8 officers of the State shall construe the provisions of this Article so as to effectuate that
9 purpose. For the purpose of this Article only the word “officers” shall be construed to include
10 those holding positions and other places of employment in the state and county
11 governments whose terms are fixed by law, but it shall not include any appointments made
12 by the Board of Public Works, nor appointments by the Governor for terms of three years.

13 2.

14 Except **AS PROVIDED IN ARTICLE III, § 13(C), RELATING TO SPECIAL**
15 **ELECTIONS TO FILL GENERAL ASSEMBLY VACANCIES, AND EXCEPT** for a special
16 election that may be authorized to fill a vacancy in a County Council or a vacancy in the
17 office of chief executive officer or County Executive, under Article XI–A, Section 3 of the
18 Constitution, elections by qualified voters for State and county officers shall be held on the
19 Tuesday next after the first Monday of November, in the year nineteen hundred and
20 twenty–six, and on the same day in every fourth year thereafter.

21 3.

22 **[All] EXCEPT AS PROVIDED IN ARTICLE III, § 13(C), RELATING TO SPECIAL**
23 **ELECTIONS TO FILL GENERAL ASSEMBLY VACANCIES, ALL** State and county officers
24 elected by qualified voters (except judges of the Circuit Courts, judges of the Supreme
25 Bench of Baltimore City, judges of the Court of Appeals and judges of any intermediate
26 courts of appeal) shall hold office for terms of four years, and until their successors shall
27 qualify.

28 **SECTION 2. AND BE IT FURTHER ENACTED,** That the General Assembly
29 determines that the amendment to the Maryland Constitution proposed by this Act affects
30 multiple jurisdictions and that the provisions of Article XIV, § 1 of the Maryland
31 Constitution concerning local approval of constitutional amendments do not apply.

32 **SECTION 3. AND BE IT FURTHER ENACTED,** That the amendment to the
33 Maryland Constitution proposed by this Act shall be submitted to the qualified voters of
34 the State at the next general election to be held in November 2016 for their adoption or
35 rejection pursuant to Article XIV of the Maryland Constitution. At that general election,
36 the vote on this proposed amendment to the Constitution shall be by ballot, and upon each
37 ballot there shall be printed the words “For the Constitutional Amendment” and “Against
38 the Constitutional Amendment,” as now provided by law. Immediately after the election,
39 all returns shall be made to the Governor of the vote for and against the proposed

1 amendment, as directed by Article XIV of the Maryland Constitution, and further
2 proceedings had in accordance with Article XIV.