

# HOUSE BILL 1070

P5, G1

CONSTITUTIONAL AMENDMENT

5lr1354

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By: **Delegates Vitale, Aumann, Metzgar, and Shoemaker**

Introduced and read first time: February 13, 2015

Assigned to: Ways and Means

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## A BILL ENTITLED

1 AN ACT concerning

2 **General Assembly – Filling of Vacancy**

3 FOR the purpose of proposing an amendment to the Maryland Constitution to provide that  
4 a vacancy occurring in the House of Delegates or the Senate of Maryland during a  
5 certain period of the term of office shall be filled at the next ensuing regular  
6 presidential and congressional election; establishing certain procedures for the  
7 election; deleting certain obsolete language; making stylistic changes; and  
8 submitting this amendment to the qualified voters of the State of Maryland for their  
9 adoption or rejection.

10 BY proposing an amendment to the Maryland Constitution  
11 Article III – Legislative Department  
12 Section 6, 7, and 13

13 BY proposing an amendment to the Maryland Constitution  
14 Article XVII – Quadrennial Elections  
15 Section 1, 2, and 3

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

19 **Article III – Legislative Department**

20 6.

21 **[A] EXCEPT AS PROVIDED IN SECTION 13 OF THIS ARTICLE FOR FILLING A**  
22 **VACANCY, A** member of the General Assembly shall be elected by the registered voters of  
23 the legislative or delegate district from which he seeks election, to serve for a term of four  
24 years beginning on the second Wednesday of January following his election.

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 7.

2 [The] **EXCEPT AS PROVIDED IN SECTION 13 OF THIS ARTICLE FOR FILLING A**  
3 **VACANCY, THE** election for [Senators and Delegates] **DELEGATES AND SENATORS** shall  
4 take place on the Tuesday next, after the first Monday in the month of November, nineteen  
5 hundred and fifty-eight, and in every fourth year thereafter.

6 13.

7 (a) (1) In case of death, disqualification, resignation, refusal to act, expulsion,  
8 or removal from the county or city for which he shall have been elected, of any person who  
9 shall have been chosen as a Delegate or Senator, or in case of a tie between two or more  
10 such qualified persons, the Governor shall appoint a person to fill such vacancy from a  
11 person whose name shall be submitted to him in writing, within thirty days after the  
12 occurrence of the vacancy, by the Central Committee of the political party, if any, with  
13 which the Delegate or Senator, so vacating, had been affiliated, at the time of the last  
14 election or appointment of the vacating [Senator or Delegate] **DELEGATE OR SENATOR,**  
15 in the County or District from which he or she was appointed or elected, provided that the  
16 appointee shall be of the same political party, if any, as was that of the Delegate or Senator,  
17 whose office is to be filled, at the time of the last election or appointment of the vacating  
18 Delegate or Senator, and it shall be the duty of the Governor to make said appointment  
19 within fifteen days after the submission thereof to him.

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

26 (3) In the event there is no Central Committee in the County or District  
27 from which said vacancy is to be filled, the Governor shall within fifteen days after the  
28 occurrence of such vacancy appoint a person, from the same political party, if any, as that  
29 of the vacating Delegate or Senator, at the time of the last election or appointment of the  
30 vacating [Senator or Delegate] **DELEGATE OR SENATOR,** who is otherwise properly  
31 qualified to hold the office of Delegate or Senator in such District or County.

32 (4) [In every case when any] **THE APPOINTMENT OF EACH** person [is] so  
33 appointed by the [Governor, his appointment] **GOVERNOR** shall be deemed to be for the  
34 unexpired term of the person whose office has become vacant **OR, WHEN APPLICABLE,**  
35 **UNTIL THE VACANCY IS FILLED BY AN ELECTION AS PRESCRIBED IN SUBSECTION (C)**  
36 **OF THIS SECTION.**

1 (b) In addition, and in submitting a name to the Governor to fill a vacancy in a  
2 Legislative or Delegate district, as the case may be, in any of the twenty–three counties of  
3 Maryland, the Central Committee or committees shall follow these provisions:

4 (1) If the vacancy occurs in a district having the same boundaries as a  
5 county, the Central Committee of the county shall submit the name of a resident of the  
6 district.

7 (2) If the vacancy occurs in a district which has boundaries comprising a  
8 portion of one county, the Central Committee of that county shall submit the name of a  
9 resident of the district.

10 (3) If the vacancy occurs in a district which has boundaries comprising a  
11 portion or all of two or more counties, the Central Committee of each county involved shall  
12 have one vote for submitting the name of a resident of the district; and if there is a tie vote  
13 between or among the Central Committees, the list of names there proposed shall be  
14 submitted to the Governor, and he shall make the appointment from the list.

15 **(c) (1) THIS SUBSECTION APPLIES ONLY TO A VACANCY IN THE OFFICE**  
16 **OF DELEGATE OR SENATOR FOR THE GENERAL ASSEMBLY THAT OCCURS ON OR**  
17 **BEFORE THE 30TH DAY BEFORE THE DEADLINE TO FILE A CERTIFICATE OF**  
18 **CANDIDACY FOR THE NEXT STATEWIDE ELECTION THAT OCCURS AFTER THE**  
19 **MEMBER TAKES OFFICE AND AT WHICH THE PRESIDENT OF THE UNITED STATES**  
20 **AND REPRESENTATIVES TO CONGRESS ARE ELECTED.**

21 **(2) NOTWITHSTANDING ANY OTHER PROVISION OF THIS**  
22 **CONSTITUTION RELATING TO THE TIMING AND FREQUENCY OF ELECTIONS AND TO**  
23 **THE PERIODS FOR WHICH OFFICERS ARE ELECTED, A VACANCY IN THE OFFICE OF**  
24 **DELEGATE OR SENATOR FOR THE GENERAL ASSEMBLY OCCURRING DURING THE**  
25 **PERIOD SPECIFIED IN PARAGRAPH (1) OF THIS SUBSECTION SHALL BE FILLED, FOR**  
26 **THE BALANCE OF THE UNEXPIRED TERM OF THE DELEGATE OR SENATOR, AT AN**  
27 **ELECTION TO BE HELD AT THE SAME TIME AS, AND CONDUCTED IN ACCORDANCE**  
28 **WITH THE PROCESS ESTABLISHED BY LAW FOR, THE NEXT STATEWIDE ELECTION AT**  
29 **WHICH THE PRESIDENT OF THE UNITED STATES AND REPRESENTATIVES TO**  
30 **CONGRESS ARE ELECTED.**

### 31 **Article XVII – Quadrennial Elections**

32 1.

33 The purpose of this Article is to reduce the number of elections by providing that all  
34 State and county elections shall be held only in every fourth year, and at the time provided  
35 by law for holding congressional elections, and to bring the terms of appointive officers into  
36 harmony with the changes effected in the time of the beginning of the terms of elective  
37 officers. [The] **EXCEPT AS PROVIDED IN ARTICLE III, § 13(c), RELATING TO**

1 **ELECTIONS TO FILL GENERAL ASSEMBLY VACANCIES, THE** administrative and judicial  
2 officers of the State shall construe the provisions of this Article so as to effectuate that  
3 purpose. For the purpose of this Article only the word “officers” shall be construed to include  
4 those holding positions and other places of employment in the state and county  
5 governments whose terms are fixed by law, but it shall not include any appointments made  
6 by the Board of Public Works, nor appointments by the Governor for terms of three years.

7 2.

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

15 3.

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

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

25 SECTION 3. AND BE IT FURTHER ENACTED, That the foregoing section  
26 proposed as an amendment to the Maryland Constitution shall be submitted to the  
27 qualified voters of the State at the next general election to be held in November 2016 for  
28 their adoption or rejection pursuant to Article XIV of the Maryland Constitution. At that  
29 general election, the vote on this proposed amendment to the Constitution shall be by  
30 ballot, and upon each ballot there shall be printed the words “For the Constitutional  
31 Amendment” and “Against the Constitutional Amendment,” as now provided by law.  
32 Immediately after the election, all returns shall be made to the Governor of the vote for and  
33 against the proposed amendment, as directed by Article XIV of the Maryland Constitution,  
34 and further proceedings had in accordance with Article XIV.