

Department of Legislative Services
Maryland General Assembly
2015 Session

FISCAL AND POLICY NOTE

House Bill 595 (Delegate Moon, *et al.*)
Ways and Means

Special Elections for United States Senate Vacancies Act

This bill amends the process for filling a vacancy in the office of U.S. Senator, requiring the Governor, in most circumstances, to call a special primary election to be held between 60 and 90 days after the vacancy occurs and a special general election to be held between 60 and 90 days after the special primary election. A special election may not be called if the vacancy occurs less than 60 days before the regular primary election for the office or on or after the date of that primary election. The bill requires the Governor to temporarily appoint an individual to fill the vacancy until the vacancy is filled by special election, or if a special election is not called, until the results of the next general election are certified. The appointed individual may not be a candidate in the special election to fill the vacancy.

Fiscal Summary

State Effect: General fund expenditures increase by over \$1 million due to voting system costs in the event a vacancy occurs and special primary and general elections, held independent of regular elections, are called. Revenues are not affected.

Local Effect: Local government expenditures increase by over \$10 million in the event a vacancy occurs and special primary and general elections, held independent of regular elections, are called. Local revenues are not affected. **This bill may impose a mandate on a unit of local government.**

Small Business Effect: Minimal.

Analysis

Current Law: If a vacancy occurs in the office of U.S. Senator, the Governor has to appoint an eligible individual to fill the vacancy. If the vacancy occurs before the date that is 21 days before the deadline for filing certificates of candidacy for the next succeeding

regular statewide election in the second or fourth year of the term, a special primary and general election are called, to be held at the same time as the next regular statewide primary and general election. The appointed individual serves until a successor is elected or the end of the term (if the vacancy occurs after the date 21 days before the deadline for filing certificates of candidacy for the election held in the fourth year of the term).

The 17th Amendment to the U.S. Constitution specifies that when vacancies occur in the U.S. Senate, the executive authority of the applicable state must issue “writs of election” to fill such vacancies. A state legislature, however, may also empower the executive to make temporary appointments until such vacancies are filled by election as the legislature may direct.

Background: The National Conference of State Legislatures indicates that most states fill a U.S. Senate vacancy at their next regularly scheduled, statewide general election (36 states, as of January 2013), with a gubernatorial appointee filling the seat in the interim. The remaining states fill vacancies by special election. A vacancy in a Maryland U.S. Senate seat has not occurred since 1912. A vacancy in the U.S. Representative seat for the 4th Congressional District was filled by special election in 2008.

State Fiscal Effect: If a U.S. Senate vacancy occurs and a stand-alone special primary and general election must be called pursuant to the bill, general fund expenditures increase by over \$1 million due to the State’s share of voting system costs associated with the elections. Pursuant to Chapter 564 of 2001, the State generally share’s voting system costs with the counties. This estimate is based on information provided in the **Appendix – Election Administration/Costs in Maryland** regarding State and local fiscal 2014 elections costs (which include the costs associated with the regular, statewide 2014 primary election) and communication with the State Board of Elections (SBE).

Special Election Held Concurrently with a Regular Election

The bill requires that the special primary and/or general election be held on the same date as a regularly scheduled election if the regularly scheduled election is held within the prescribed period in which the special election must be held. Any costs of conducting a special election concurrently with a regular election are considerably less than the costs of conducting a stand-alone special election.

Operational Impact

In addition to increased expenditures, SBE has advised in the past that a stand-alone special election would have a considerable operational impact on the board, potentially causing upgrades, improvements, and changes scheduled for periods between elections to be delayed or rushed.

Local Fiscal Effect: If a U.S. Senate vacancy occurs and a stand-alone special primary and general election must be called pursuant to the bill, local government expenditures increase by over \$10 million due to the counties' share of voting system costs and other election administration costs including election judge compensation, temporary staff/overtime costs, and polling place rental costs. This estimate is based on (1) information provided in the attached appendix regarding State and local fiscal 2014 elections costs, which include the costs associated with the statewide, regular 2014 primary election, and (2) estimates of the impact of this bill provided by certain counties.

As mentioned with respect to the State fiscal effect, costs associated with a special election held concurrently with a regular election are considerably less than the costs of a stand-alone special election.

Additional Information

Prior Introductions: HB 4 of 2010 was referred to the House Ways and Means Committee, but subsequently withdrawn. HB 158 of 2010 received a hearing in the House Ways and Means Committee, but no further action was taken.

Cross File: SB 529 (Senator Raskin, *et al.*) - Education, Health, and Environmental Affairs.

Information Source(s): State Board of Elections; Baltimore, Carroll, Frederick, Harford, Montgomery, Queen Anne's, and St. Mary's counties; National Conference of State Legislatures; Department of Legislative Services

Fiscal Note History: First Reader - March 3, 2015
min/hlb

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Appendix – Election Administration/Costs in Maryland

Election Schedule

- Most State- and county-level offices are voted on during the gubernatorial elections, with a smaller number of offices, including Baltimore City offices (beginning in 2016), voted on during the presidential elections.

Four-year election cycle (for statewide elections)

Year 1 (2015)	Year 2 (2016)		Year 3 (2017)	Year 4 (2018)	
	Presidential Elections			Gubernatorial Elections	
	Primary (April)	General (November)		Primary (June)	General (November)

- Elections for offices in municipalities other than Baltimore City are held at various times during the year and with varying frequency.

Election Administration

	<u>State Board of Elections</u>	<u>Local (County and Balt. City) Boards of Elections</u>
	<ul style="list-style-type: none"> • Policy making • Management and coordination of statewide elections-related systems (e.g., voting system, voter registration system) • Supervision and support of local boards of elections 	<ul style="list-style-type: none"> • Voter registration • Hiring and training election judges (poll workers) • Mailing specimen (sample) ballots • Processing absentee ballot applications • Voting equipment testing • Early voting centers and polling places (establishment, staffing, supervising, supporting) • Canvassing (vote counting)

Annual Election Costs*	FY 2014 <i>(based on budgeted amounts)</i>	State Board of Elections	\$11.2 million
		Local Boards of Elections	\$39.4 million
		Total	\$50.6 million

*The timing of elections results in one primary or general election occurring in each fiscal year.
(see second page for more detail on FY 2014 costs)

Exhibit 1
Fiscal 2014 Election Administration Costs

State Board Costs
<ul style="list-style-type: none">● Total – \$11.2 million<ul style="list-style-type: none">● Regular personnel and nonelection-related office operations costs – \$3.4 million● State share of touchscreen voting system operations and maintenance costs – \$1.7 million● State share of final financing payment for touchscreen voting system – \$1.7 million● Other election-related costs – \$1.8 million● Planning for new voting system – \$1.15 million● Studies required under Chapters 157/158 of 2013 – \$0.25 million● Federal grant funding used for costs associated with online voter registration, the voter registration interface with the Motor Vehicle Administration, a call center, online absentee ballot delivery, and voter accessibility projects – \$1.2 million
Local Boards' Costs (collective totals for 24 local boards)
<ul style="list-style-type: none">● Total – \$39.4 million<ul style="list-style-type: none">● Regular personnel and nonelection-related office operations costs – \$15.5 million● Costs billed by the State board to the local boards (primarily the local share of voting system financing and operations and maintenance costs and voter registration system costs) – \$9.0 million● Voter mailings (voter notification cards and sample ballots) – \$1.4 million● Temporary office staff/overtime – \$3.4 million● Election judges – \$6.0 million● Early voting center/polling place rental/maintenance costs – \$0.2 million● Other costs – \$3.9 million
Overall Total – \$50.6 million

Note: Aside from the \$1.2 million in federal grant funding, the State board expenditures are almost entirely general fund expenditures.

Source: Department of Legislative Services; State Board of Elections; Local Boards of Elections
