

Department of Legislative Services
Maryland General Assembly
2015 Session

FISCAL AND POLICY NOTE
Revised

House Bill 176
Ways and Means

(Montgomery County Delegation)

Education, Health, and Environmental Affairs

Montgomery County Board of Education - Special Election to Fill a Vacancy
MC 22-15

This bill requires a vacancy for an elected member on the Montgomery County Board of Education to be filled by special election if the vacancy date is at least 365 days before the end of the elected member's term. If the vacancy date is less than 365 days before the end of the elected member's term, the remaining members of the board must select a qualified individual to fill the vacancy for the remainder of the term until a successor is elected and qualifies.

The bill takes effect October 1, 2016.

Fiscal Summary

State Effect: General fund expenditures increase by at least \$50,000 for each special election held independent of a previously scheduled election. In certain cases, general fund expenditures may increase to reprint ballots if a special election is held at the same time as a previously scheduled election. Revenues are not affected.

Local Effect: Montgomery County expenditures increase by at least \$800,000 for each special election held independent of a previously scheduled election. In certain cases, Montgomery County expenditures may increase to reprint and resend ballots if a special election is held at the same time as a previously scheduled election. Revenues are not affected. **This bill may impose a mandate on a unit of local government.**

Small Business Effect: Minimal.

Analysis

Bill Summary: The “vacancy date” is the date on which an elected member is unable to continue to serve as a member of the board or, for an elected member who resigns, the effective date of the resignation. The board must immediately notify the county executive of the vacancy date and, within seven days of receiving notice and after consultation with the county board of elections, the county executive must issue a proclamation establishing the date for a special election and, if more than two candidates run in the special election, the date for a special runoff election between the two candidates that receive the highest number of votes. The special election(s) must be conducted in accordance with provisions under the Election Law Article that govern voting-by-mail in special elections.

If the county executive is notified of a vacancy that will occur more than 40 days but less than 120 days before a previously scheduled county-wide regular or special primary or general election, the county executive must issue a proclamation establishing a special election at the same time and conducted in the same manner as the previously scheduled election.

Current Law/Background:

Montgomery County Board of Education

The Montgomery County Board of Education consists of seven elected members and one student member. Five of the elected members each reside in a different board of education district and two may reside anywhere in the county. The elected members are elected by the voters of the entire county. Members of the board serve four-year terms that are staggered so that four members are elected in gubernatorial election years and three are elected in presidential election years. The board members are elected on a nonpartisan basis.

When a vacancy occurs on the elected board, the remaining members of the board select a qualified individual to fill the vacancy for the remainder of the term and until a successor is elected and qualifies.

Vote-by-mail Special Elections

Chapter 677 of 2012 authorized county council special elections in Montgomery County to be conducted largely by mail, and Chapters 197 and 198 of 2013 expanded those provisions to apply to special elections to fill a vacancy in the office of representative in Congress, special elections to fill a vacancy in a county council, and other specified local special elections (including special elections to fill board of education vacancies), statewide. Pursuant to a constitutional amendment (Chapter 261 of 2014) adopted by the

voters at the November 2014 general election, special elections for a county executive vacancy may also be conducted by mail.

In a vote-by-mail special election, a vote-by-mail ballot is mailed to each registered voter who is eligible to vote in the special election, and in Montgomery County, the ballot must be accompanied by a postage-paid envelope to return the ballot to the local board of elections. The completed ballot must be mailed by the voter on or before the day of the special election or returned to the local board of elections office in person by 8 p.m. on the day of the special election. In Montgomery County, for a countywide vote-by-mail special election, at least one voting center must be established in each county council district for voters who choose to cast a ballot in person, and the county council determines the days and hours that the voting centers are open.

State Fiscal Effect: General fund expenditures increase by at least \$50,000 for each single special election (special election or special runoff election) held independent of a previously scheduled election, to fill a vacancy for an elected member on the Montgomery County Board of Education, reflecting the State share of certain voting system-related costs. The State Board of Elections (SBE) generally shares voting system-related costs, such as voting equipment delivery, voting system/machine technicians, and ballot printing costs, with the local boards of elections (pursuant to a requirement under Chapter 564 of 2001), though some local boards obtain certain services such as voting system/machine technicians independently and bear the whole cost of those services.

General fund expenditures may also increase to the extent a special election to be held at the same time as a previously scheduled election is established within a relatively short period of time prior to the previously scheduled election. The bill requires the county executive to establish such a special election if the county executive is notified of a vacancy that will occur more than 40 days but less than 120 days before a previously scheduled county-wide election. SBE advises that if the special election is established by the county executive close to 40 days prior to a regular election, ballots that have already been printed and absentee ballots that have already been sent to voters will likely need to be reprinted and resent. SBE shares ballot printing costs with the local boards of elections, but the local boards incur the cost of postage. The extent of any increase in costs will depend on the amount of ballots that have already been printed and cannot be reliably estimated.

Local Fiscal Effect: Montgomery County expenditures increase by at least \$800,000 for each single special election (special election or special runoff election) held independent of a previously scheduled election to fill a vacancy for an elected member on the Montgomery County Board of Education. It is unclear whether the bill requires a special election held independent of a previously scheduled election to be conducted by mail. The bill requires such a special election to be conducted in accordance with provisions governing voting-by-mail in special elections but those provisions also appear to provide

discretion to the county executive as to whether to direct that the election be conducted by mail. The make up of the costs of the special election will be different depending on whether it is conducted at polling places or largely by mail pursuant to the vote-by-mail law, but in both cases, costs are expected to be at least \$800,000. For a special election held at polling places, election judge costs make up a significant portion of the overall costs of the election, and for a vote-by-mail special election, costs associated with printing, assembly, and mailing of the vote-by-mail ballots make up a majority of the costs.

Similar to the State impact above, Montgomery County expenditures may also increase to the extent a special election to be held at the same time as a previously scheduled election is established within a relatively short period of time prior to the previously scheduled election. The extent of any increase in costs will depend on the amount of ballots that need to be reprinted and resent and cannot be reliably estimated.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): State Board of Elections, Montgomery County, Department of Legislative Services

Fiscal Note History: First Reader - February 10, 2015
min/hlb Revised - House Third Reader - March 25, 2015

Analysis by: Scott D. Kennedy

Direct Inquiries to:
(410) 946-5510
(301) 970-5510