

# HOUSE BILL 873

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By: **Delegates Smith, Luedtke, Hixson, and P. Young**

Introduced and read first time: February 8, 2016

Assigned to: Ways and Means

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Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 8, 2016

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## CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Election Law – Special Elections – Absentee Ballots for Absent Uniformed**  
3 **Services Voters and Overseas Voters**

4 FOR the purpose of requiring a county council to set the date for a special election to fill a  
5 vacancy in certain county offices that allows the local board of elections time to  
6 provide absentee ballots for the special election to absent uniformed services voters  
7 and overseas voters at least a certain number of days before the special election;  
8 requiring the State Administrator of Elections to require local boards of elections to  
9 provide absentee ballots for a special election to fill a vacancy in the office of  
10 Representative in Congress to absent uniformed services voters and overseas voters  
11 at least a certain number of days before the special election; altering the time frame  
12 within which the Governor may set by proclamation the date for a special primary  
13 election and a special general election to fill a vacancy in the office of Representative  
14 in Congress; requiring the State Board of Elections to adopt regulations concerning  
15 notice and the process for voting by absentee ballot in special elections by absent  
16 uniformed services voters and overseas voters; and generally relating to absentee  
17 voting in special elections by absent uniformed services voters and overseas voters.

18 BY repealing and reenacting, with amendments,  
19 Article – Election Law  
20 Section 8–401 and 8–710  
21 Annotated Code of Maryland  
22 (2010 Replacement Volume and 2015 Supplement)

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### EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



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

**Article – Election Law**

8–401.

(a) A special primary election and a special general election may be held at a time other than the date of a regular primary election and a regular general election:

(1) to fill a vacancy in the office of Representative in Congress; or

(2) to fill a vacancy in the county council or in the office of chief executive officer or county executive if the charter of that county provides for special elections.

(b) (1) Special elections to fill a vacancy in the office of Representative in Congress shall be held at the time specified in Subtitle 7 of this title.

(2) (I) Special elections to fill vacancies in a county council or in the office of chief executive officer or county executive shall be held as provided in the county charter.

(II) **THE DATE SET FOR THE SPECIAL ELECTION TO FILL A VACANCY UNDER THIS PARAGRAPH SHALL ALLOW AT LEAST 45 DAYS BETWEEN THE DATE A LOCAL BOARD MAKES AN ABSENTEE BALLOT AVAILABLE TO AN ABSENT UNIFORMED SERVICES VOTER OR OVERSEAS VOTER, AS DEFINED UNDER THE UNIFORMED AND OVERSEAS CITIZENS ABSENTEE VOTING ACT, AND THE DATE OF THE SPECIAL ELECTION.**

(c) An election to fill a vacancy in the office of United States Senator shall be held concurrently with a regular election as provided in Subtitle 6 of this title.

**(D) THE STATE BOARD SHALL ADOPT REGULATIONS TO ESTABLISH REQUIREMENTS CONCERNING:**

**(1) NOTICE TO ABSENT UNIFORMED SERVICES VOTERS AND OVERSEAS VOTERS CONCERNING A SPECIAL ~~GENERAL~~ ELECTION; AND**

**(2) ~~THE PROCESS FOR THE ABSENT UNIFORMED SERVICES VOTER OR OVERSEAS VOTER TO REQUEST AND RETURN THE ABSENTEE BALLOT FOR THE SPECIAL ELECTION IN A TIMELY MANNER~~ ABSENT UNIFORMED SERVICES VOTERS AND OVERSEAS VOTERS TO:**

**(I) REQUEST AN ABSENTEE BALLOT FOR A SPECIAL ELECTION;**  
**AND**

1                    **(II) RETURN AN ABSENTEE BALLOT BY MAIL IN A TIMELY**  
2 **MANNER.**

3 8–710.

4            (a)    (1)    Except as provided in paragraph (2) of this subsection, if there is a  
5 vacancy in the office of Representative in Congress, the Governor shall issue a  
6 proclamation, within 10 days after the date that the vacancy occurs or becomes known to  
7 the Governor, declaring that a special primary election and a special general election shall  
8 be held to fill the vacancy.

9                    (2)    If the vacancy occurs during the period beginning 60 days before the  
10 regular primary election and ending on the last day of the term, the Governor may:

11                    (i)    decline to issue a proclamation; and

12                    (ii)   allow the office to remain vacant for the remainder of the term.

13            (b)    (1)    The Governor’s proclamation shall specify the dates of the special  
14 primary election and the special general election.

15                    (2)    The special primary election shall be held on a Tuesday that is at least  
16 ~~[36] 60~~ **65** days after the date of the proclamation.

17                    (3)    The special general election shall be held on a Tuesday that is at least  
18 ~~[36] 50~~ **65** days after the date of the special primary election.

19            (c)    (1)    The Governor shall:

20                    (i)    immediately give public notice of the proclamation; and

21                    (ii)   deliver the proclamation to the State Administrator.

22                    (2)    The State Administrator shall:

23                    (i)    immediately notify the State Board members and the local  
24 boards of the counties that comprise the congressional district; **[and]**

25                    (ii)   forward to each of those local boards a copy of the proclamation;

26 **AND**

27                    **(III) DIRECT THE LOCAL BOARDS OF ELECTION TO MAKE THE**  
28 **ABSENTEE BALLOT FOR THE SPECIAL PRIMARY ELECTION OR SPECIAL GENERAL**  
29 **ELECTION AVAILABLE TO AN ABSENT UNIFORMED SERVICES VOTER OR OVERSEAS**

1 **VOTER, AS DEFINED UNDER THE UNIFORMED AND OVERSEAS CITIZENS ABSENTEE**  
2 **VOTING ACT, AT LEAST 45 DAYS BEFORE THE DATE OF THE SPECIAL ELECTION.**

3 (d) (1) Notwithstanding any other provision of this section, if the vacancy  
4 occurs or becomes known to the Governor during the period beginning 120 days before the  
5 regular primary election for Representatives in Congress and ending 40 days before the  
6 primary election, the Governor's proclamation shall order that:

7 (i) the special primary election shall be merged with the regular  
8 primary election;

9 (ii) any individual who files a certificate of candidacy for the regular  
10 primary election shall be deemed to have filed a certificate of candidacy for the special  
11 primary election; and

12 (iii) any other qualified individual may file a certificate of candidacy,  
13 for both the special primary election and the regular primary election, not later than 9 p.m.  
14 on the day that is 2 days after the issuance of the proclamation.

15 (2) A vote cast for a candidate in the merged primary election shall be  
16 deemed a vote for that candidate in both the special primary election and the regular  
17 primary election.

18 (3) Two certificates of nomination, one for the special primary election and  
19 one for the regular primary election, shall be issued to each candidate nominated in the  
20 merged primary election.

21 (4) Notwithstanding any provision of this article:

22 (i) a nominee for the special primary election may decline the  
23 nomination by notifying the State Board not later than 5 p.m. on the Wednesday following  
24 the primary election;

25 (ii) the appropriate political party shall fill the vacancy in  
26 nomination not later than 5 p.m. on the Thursday following the primary election; and

27 (iii) a petition for recount and recanvass of the special primary  
28 election shall be filed not later than 5 p.m. on the Wednesday following the primary  
29 election.

30 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
31 October 1, 2016.