

Department of Legislative Services
Maryland General Assembly
2016 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

House Bill 260
Ways and Means

(Delegate Moon, *et al.*)

Education, Health, and Environmental Affairs

United States Senator, Attorney General, and Comptroller - Appointments and
Special Elections to Fill a Vacancy

This bill includes a constitutional amendment which modifies the manner in which vacancies in the offices of Attorney General and Comptroller are filled, involving both appointment of a successor and, in certain circumstances, special elections held concurrently with regular elections for voters to elect a successor. In statute, the bill modifies the process to fill a vacancy in the office of U.S. Senator to follow a similar process.

The statutory provisions of the bill take effect July 1, 2016.

Fiscal Summary

State Effect: If the constitutional amendment is approved in the November 2016 general election, the bill is not expected to materially affect State finances.

Local Effect: If the constitutional amendment is approved in the November 2016 general election, the bill is not expected to materially affect local government finances.

Small Business Effect: None.

Analysis

Bill Summary:

Appointment of a Replacement

In the case of a vacancy in the offices of Attorney General, Comptroller, or U.S. Senator, the Governor must appoint one of three individuals whose names are submitted to the Governor in writing, within 30 days after the occurrence of the vacancy, by the State Central Committee of the political party, if any, with which the vacating officeholder had been affiliated at the time of the officeholder's last election or appointment. Each individual whose name is submitted to the Governor must have been a registered voter affiliated with the political party of the vacating officeholder on the date immediately preceding the date on which the vacancy occurred. The Governor must make the appointment within 15 days after the names are submitted.

If names are not submitted within 30 days by the State Central Committee of the appropriate political party, the Governor must appoint within another period of 15 days any qualified individual who was a registered voter affiliated with the political party of the vacating officeholder on the date immediately preceding the date on which the vacancy occurred.

If the vacating officeholder was not affiliated with a political party at the time of the officeholder's last election or appointment, the Governor must appoint any qualified individual within 15 days after the occurrence of the vacancy.

This process is established in the Maryland Constitution for the offices of Attorney General and Comptroller, by constitutional amendment, and in statute for the office of U.S. Senator.

Consistent with current law (under the Maryland Constitution), the appointment to fill a vacancy in the office of the Comptroller is made by and with the advice and consent of the Senate.

Duration of Appointment

By constitutional amendment, in the case of Attorney General and Comptroller vacancies, if the vacancy occurs after 21 days before the deadline for filing certificates of candidacy for the regular statewide election in the second year of the term, the appointed individual serves for the remainder of the term. If the vacancy occurs on or before 21 days before the certificate of candidacy deadline, the appointed individual serves until a successor is elected at special primary and general elections held at the same time as the statewide regular primary and general elections in the second year of the term.

In the case of a U.S. Senator vacancy, in accordance with existing statute, if the vacancy occurs after 21 days before the certificate of candidacy deadline for the election held in the fourth year of the term, an appointed individual serves for the remainder of the term. Also in accordance with existing law, if the vacancy occurs on or before 21 days before the certificate of candidacy deadline for the election held in the fourth year of the term, an appointed individual serves until a successor is elected at a special primary election and a special general election held at the same time as the next regular statewide primary and general elections.

Special Elections Held Concurrently with Regular Elections

The constitutional amendment requires the Governor to declare that a special primary and general election be held at the same time as the regular statewide primary and general elections, to fill a vacancy in the office of Attorney General or Comptroller, if the vacancy occurs on or before 21 days before the deadline for filing certificates of candidacy for the regular statewide election held in the second year of the term of office.

Current Law/Background:

Attorney General and Comptroller Vacancies

Under the Maryland Constitution, if a vacancy occurs in the office of the Attorney General, the Governor appoints a person to fill the vacancy for the remainder of the term. If a vacancy occurs in the office of the Comptroller, the Governor, by and with the advice and consent of the Senate, must fill such vacancy by appointment, to continue until another election and until the qualification of the successor.

U.S. Senate Vacancy

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 elections. The appointed individual serves until a successor is elected by special election or the end of the six-year 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 Seventeenth 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.

State Central Committees

Each political party must have a State central committee, which is the governing body of the political party. A State central committee may be composed of the members of the county central committees during their terms in office. The county central committees of the Democratic and Republican parties are elected during the gubernatorial primary.

State Fiscal Effect: State costs of printing ballots may increase to the extent inclusion of the proposed constitutional amendment on the ballot at the next general election would result in a need for a larger ballot card size or an additional ballot card for a given ballot (the content of ballots varies across the State, depending on the offices, candidates, and questions being voted on). However, it is assumed that the potential for such increased costs will have been anticipated in the State Board of Elections' budget. Pursuant to Chapter 564 of 2001, the State Board of Elections shares the costs of printing paper ballots with the local boards of elections.

Local Fiscal Effect: Local boards of elections' printing and mailing costs may increase to include information on the proposed constitutional amendment with specimen ballots mailed to voters prior to the next general election and to include the proposed amendment on ballots. It is assumed, however, that the potential for such increased costs will have been anticipated in local boards of elections' budgets.

Additional Information

Prior Introductions: None.

Cross File: SB 554 (Senator Pinsky) - Education, Health, and Environmental Affairs.

Information Source(s): State Board of Elections, Governor's Office, Comptroller's Office, Department of Legislative Services

Fiscal Note History: First Reader - February 15, 2016
kb/hlb Revised - House Third Reader - March 30, 2016

Analysis by: Scott D. Kennedy

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