

Department of Legislative Services  
Maryland General Assembly  
2016 Session

FISCAL AND POLICY NOTE  
Third Reader

House Bill 1065

(Montgomery County Delegation)

Ways and Means

Education, Health, and Environmental Affairs

---

Montgomery County Board of Education - Special Election to Fill a Vacancy  
MC 2-16

---

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.

---

**Fiscal Summary**

**State Effect:** General fund expenditures increase by at least \$50,000 for each special election held independent of 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. 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 primary election and, if more than two candidates run in the special primary election, the date for a special general election between the two candidates that receive the highest number of votes in the special primary election. 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 60 days but less than 120 days before a previously scheduled countywide 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 primary or general 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 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.

**Local Fiscal Effect:** Montgomery County expenditures increase by at least \$800,000 for each single special election (special primary or general 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.

## **Additional Information**

**Prior Introductions:** HB 176 of 2015 passed in the House and received a favorable with amendments report from the Senate Education, Health, and Environmental Affairs Committee, but no further action was taken.

**Cross File:** None.

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

**Fiscal Note History:** First Reader - March 2, 2016  
mel/hlb

---

Analysis by: Scott D. Kennedy

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