

HOUSE BILL 361

P5, G1

CONSTITUTIONAL AMENDMENT

7lr1296

By: **Delegates Tarlau, Moon, Angel, Barron, Carr, Dumais, Ebersole, Gutierrez, Hayes, Hettleman, Hill, Jackson, Kelly, Knotts, Korman, Krimm, Lafferty, Lam, Lierman, Luedtke, Malone, McConkey, McCray, Miele, A. Miller, Morales, Pena-Melnyk, Platt, Rey, Robinson, Sanchez, Sydnor, M. Washington, and K. Young**

Introduced and read first time: January 25, 2017

Assigned to: Ways and Means

A BILL ENTITLED

1 AN ACT concerning

2 **General Assembly – Special Election to Fill a Vacancy in Office**

3 FOR the purpose of requiring an individual appointed by the Governor to fill a vacancy in
4 the office of Delegate or Senator in the General Assembly to serve for the remainder
5 of the term if the vacancy occurs after a certain date; requiring that a special election
6 be held at the same time as a certain regular statewide election to fill a vacancy in
7 the office of Delegate or Senator in the General Assembly if the vacancy occurs on or
8 before a certain date; providing that a special election to fill a vacancy in the office
9 of Delegate or Senator in the General Assembly is not subject to a requirement that
10 elections for State and county officers occur on certain dates; making conforming
11 changes; submitting this amendment to the qualified voters of the State for their
12 adoption or rejection; and generally relating to special elections to fill a vacancy in
13 the office of Delegate or Senator in the General Assembly.

14 BY proposing an amendment to the Maryland Constitution
15 Article III – Legislative Department
16 Section 13

17 BY proposing an amendment to the Maryland Constitution
18 Article XVII – Quadrennial Elections
19 Section 2

20 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
21 (Three-fifths of all the members elected to each of the two Houses concurring), That it be
22 proposed that the Maryland Constitution read as follows:

23 **Article III – Legislative Department**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 13.

2 (a) (1) In case of death, disqualification, resignation, refusal to act, expulsion,
3 or removal from the county or city for which he shall have been elected, of any person who
4 shall have been chosen as a Delegate or Senator, or in case of a tie between two or more
5 such qualified persons, the Governor shall appoint a person to fill such vacancy from a
6 person whose name shall be submitted to him in writing, within thirty days after the
7 occurrence of the vacancy, by the Central Committee of the political party, if any, with
8 which the Delegate or Senator, so vacating, had been affiliated, at the time of the last
9 election or appointment of the vacating Senator or Delegate, in the County or District from
10 which he or she was appointed or elected, provided that the appointee shall be of the same
11 political party, if any, as was that of the Delegate or Senator, whose office is to be filled, at
12 the time of the last election or appointment of the vacating Delegate or Senator, and it shall
13 be the duty of the Governor to make said appointment within fifteen days after the
14 submission thereof to him.

15 (2) If a name is not submitted by the Central Committee within thirty days
16 after the occurrence of the vacancy, the Governor within another period of fifteen days shall
17 appoint a person, who shall be affiliated with the same political party, if any as was that of
18 the Delegate or Senator, whose office is to be filled, at the time of the last election or
19 appointment of the vacating Delegate or Senator, and who is otherwise properly qualified
20 to hold the office of Delegate or Senator in the District or County.

21 (3) In the event there is no Central Committee in the County or District
22 from which said vacancy is to be filled, the Governor shall within fifteen days after the
23 occurrence of such vacancy appoint a person, from the same political party, if any, as that
24 of the vacating Delegate or Senator, at the time of the last election or appointment of the
25 vacating Senator or Delegate, who is otherwise properly qualified to hold the office of
26 Delegate or Senator in such District or County.

27 [(4) In every case when any person is so appointed by the Governor, his
28 appointment shall be deemed to be for the unexpired term of the person whose office has
29 become vacant.]

30 (b) In addition, and in submitting a name to the Governor to fill a vacancy in a
31 Legislative or Delegate district, as the case may be, in any of the twenty-three counties of
32 Maryland, the Central Committee or committees shall follow these provisions:

33 (1) If the vacancy occurs in a district having the same boundaries as a
34 county, the Central Committee of the county shall submit the name of a resident of the
35 district.

36 (2) If the vacancy occurs in a district which has boundaries comprising a
37 portion of one county, the Central Committee of that county shall submit the name of a
38 resident of the district.

1 (3) If the vacancy occurs in a district which has boundaries comprising a
2 portion or all of two or more counties, the Central Committee of each county involved shall
3 have one vote for submitting the name of a resident of the district; and if there is a tie vote
4 between or among the Central Committees, the list of names there proposed shall be
5 submitted to the Governor, and he shall make the appointment from the list.

6 (C) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION,
7 AN INDIVIDUAL APPOINTED UNDER THIS SECTION SHALL SERVE UNTIL A
8 SUCCESSOR IS ELECTED UNDER PARAGRAPH (3) OF THIS SUBSECTION TO FILL THE
9 REMAINDER OF THE TERM.

10 (2) AN INDIVIDUAL APPOINTED UNDER THIS SECTION SHALL SERVE
11 FOR THE REMAINDER OF THE TERM IF THE VACANCY OCCURS AFTER THE DATE THAT
12 IS 21 DAYS BEFORE THE DEADLINE FOR FILING CERTIFICATES OF CANDIDACY FOR
13 THE REGULAR STATEWIDE ELECTION THAT IS HELD IN THE SECOND YEAR OF THE
14 TERM.

15 (3) IF THE VACANCY OCCURS ON OR BEFORE THE DATE THAT IS 21
16 DAYS BEFORE THE DEADLINE FOR FILING CERTIFICATES OF CANDIDACY FOR THE
17 REGULAR STATEWIDE ELECTION THAT IS HELD IN THE SECOND YEAR OF THE TERM,
18 THE GOVERNOR SHALL ISSUE A PROCLAMATION IMMEDIATELY AFTER THE
19 OCCURRENCE OF THE VACANCY DECLARING THAT A SPECIAL PRIMARY ELECTION
20 AND A SPECIAL GENERAL ELECTION SHALL BE HELD AT THE SAME TIME AS THE
21 REGULAR STATEWIDE PRIMARY ELECTION AND REGULAR STATEWIDE GENERAL
22 ELECTION THAT ARE HELD IN THE SECOND YEAR OF THE TERM.

23 Article XVII – Quadrennial Elections

24 2.

25 [Except for a special election that may be authorized to fill a vacancy in a County
26 Council or a vacancy in the office of chief executive officer or County Executive, under
27 Article XI–A, Section 3 of the Constitution, elections]

28 (A) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, ELECTIONS
29 by qualified voters for State and county officers shall be held on the Tuesday next after the
30 first Monday of November, in the year nineteen hundred and twenty–six, and on the same
31 day in every fourth year thereafter.

32 (B) THIS SECTION DOES NOT APPLY TO A SPECIAL ELECTION:

33 (1) TO FILL A VACANCY IN A COUNTY COUNCIL OR A VACANCY IN THE
34 OFFICE OF CHIEF EXECUTIVE OFFICER OR COUNTY EXECUTIVE UNDER ARTICLE
35 XI–A, SECTION 3; OR

1 **(2) TO FILL A VACANCY IN THE OFFICE OF DELEGATE OR SENATOR IN**
2 **THE GENERAL ASSEMBLY UNDER ARTICLE III, § 13(C).**

3 SECTION 2. AND BE IT FURTHER ENACTED, That the General Assembly
4 determines that the amendment to the Maryland Constitution proposed by this Act affects
5 multiple jurisdictions and that the provisions of Article XIV, § 1 of the Maryland
6 Constitution concerning local approval of constitutional amendments do not apply.

7 SECTION 3. AND BE IT FURTHER ENACTED, That the foregoing section
8 proposed as an amendment to the Maryland Constitution shall be submitted to the
9 qualified voters of the State at the next general election to be held in November 2018 for
10 their adoption or rejection pursuant to Article XIV of the Maryland Constitution. At that
11 general election, the vote on this proposed amendment to the Constitution shall be by
12 ballot, and upon each ballot there shall be printed the words "For the Constitutional
13 Amendment" and "Against the Constitutional Amendment," as now provided by law.
14 Immediately after the election, all returns shall be made to the Governor of the vote for and
15 against the proposed amendment, as directed by Article XIV of the Maryland Constitution,
16 and further proceedings had in accordance with Article XIV.