

Department of Legislative Services  
Maryland General Assembly  
2021 Session

FISCAL AND POLICY NOTE  
Third Reader - Revised

House Bill 738

(Chair, Ways and Means Committee)(By Request -  
Departmental - State Board of Elections)

Ways and Means

Education, Health, and Environmental Affairs

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**Election Law - Certificates of Candidacy and Ballot Questions - Revisions**

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This departmental bill establishes earlier dates, prior to primary and general elections, after which (1) successor candidates or nominees for Governor or Lieutenant Governor may no longer be designated in the event of a candidate's or nominee's death, withdrawal/declination, or disqualification and (2) the existing Governor and Lieutenant Governor unit remain on the ballot. The bill also establishes earlier dates for (1) submission of plain language summaries of constitutional amendment and referendum ballot questions to the State Board of Elections (SBE) and (2) public availability of the complete text of ballot questions.

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**Fiscal Summary**

**State Effect:** The bill is not expected to have a direct, material impact on State finances.

**Local Effect:** The bill is not expected to have a direct, material impact on local government finances.

**Small Business Effect:** SBE has determined that this bill has minimal or no impact on small business (attached). The Department of Legislative Services (DLS) concurs with this assessment. (The attached assessment does not reflect amendments to the bill.)

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## Analysis

### Bill Summary:

#### *Dates after Which a Governor/Lieutenant Governor Unit Must Remain on the Ballot*

##### *Prior to a Primary Election*

The bill establishes an earlier date prior to a primary election after which (1) a successor candidate can no longer be designated if a candidate for Governor or Lieutenant Governor dies or becomes disqualified and (2) the existing Governor and Lieutenant Governor unit whose filing is complete remain on the ballot and, if nominated, a vacancy in nomination is declared and filled as if the death or disqualification had occurred after the primary election. The bill moves that date, when a successor candidate can no longer be designated and the existing Governor and Lieutenant Governor unit remain on the ballot, from 10 days before the day of the primary election to 65 days before the day of the primary election.

##### *Prior to a General Election*

The bill also changes the date prior to a general election after which a Governor and Lieutenant Governor unit must remain on the ballot if a nominee for Governor dies, declines the nomination, or is disqualified, and a certificate of designation and certificates of candidacy for successor nominees for Governor and Lieutenant Governor are not filed. The date is changed from 10 days before the general election to 65 days before the general election.

As mentioned under Current Law, below, there is also a broader, existing provision, not specific to Governor and Lieutenant Governor candidates, which states that the name of each individual who does not decline a nomination must appear on the general election ballot unless, by the eighty-fifth day preceding the general election, the individual's death or disqualification is known to the board with which the certificate of candidacy was filed.

##### *Prior to a General Election – Nominated by Petition*

Under provisions specific to Governor and Lieutenant Governor candidates nominated by petition, the bill also establishes an earlier date prior to a general election after which (1) a successor Governor and Lieutenant Governor unit can no longer be designated in the event of a death, withdrawal of candidacy, or disqualification and (2) the existing Governor and Lieutenant Governor unit whose filing is complete remain on the ballot and, if elected, a vacancy is declared and filled as if the death, withdrawal, or disqualification had occurred after the general election. The date is moved from 10 days before the day of the general election to 65 days before the day of the general election.

### *Submission of Constitutional Amendment and Referendum Summaries*

The bill changes the date, prior to a general election, by which plain language summaries of constitutional amendment and referendum ballot questions, prepared by DLS and approved by the Attorney General, must be submitted to SBE. The date is changed from the fourth Monday in August to the first Monday in August.

### *Public Availability of Ballot Questions*

The bill changes the length of time, prior to a general election, for which the complete text of a ballot question must be posted or available for public inspection in the office of SBE and each applicable local board of elections. The complete text must be available for 65 days prior to the general election rather than for 30 days prior to the general election.

The bill also modifies a provision that allows for an individual to receive from a local board of elections, without charge, a copy of the complete text of all constitutional amendments and questions either in person or by mail. The bill modifies the provision to also allow for a person to receive that information electronically.

### **Current Law:**

#### *Designation of Successor Governor and Lieutenant Governor Candidates/Nominees*

##### *Prior to a Primary Election*

If a candidate for Governor or Lieutenant Governor dies or becomes disqualified for any reason after the deadline for filing a certificate of candidacy for a primary election, a successor candidate may be designated pursuant to specified procedures. A successor candidate must file a certificate of candidacy by (1) the fifth day following the death or disqualification of the former candidate, if the former candidate dies or is disqualified less than 45 days before the primary election, or (2) not later than 40 days before the day of the primary election, if the former candidate dies or is disqualified 45 days or more before the day of the election. In addition, a certificate of candidacy may not be filed less than 10 days before the day of the primary election. If the death or disqualification of a candidate occurs less than 10 days before the day of the primary election, the existing Governor and Lieutenant Governor unit whose filing is complete remain on the ballot and, if nominated, a vacancy in the nomination of the candidate for Governor or Lieutenant Governor must be declared and filled as if the death or disqualification had occurred after the primary election.

### *Prior to a General Election*

Chapter 770 of 2019 established, for candidates in general, that the name of each individual who does not decline a nomination must appear on the general election ballot unless, by the eighty-fifth day preceding the general election, the individual's death or disqualification is known to the board with which the certificate of candidacy was filed.

Separate provisions, specific to Governor and Lieutenant Governor nominees, establish that if a nominee for Governor or Lieutenant Governor dies, declines the nomination, or becomes disqualified after a primary election, a successor nominee may be designated pursuant to specified procedures. A certificate of designation and a certificate of candidacy for a successor Lieutenant Governor nominee must be filed by the fifth day following the day of the death, declination, or disqualification of a Lieutenant Governor nominee. If a nominee for Governor dies, declines the nomination, or becomes disqualified, a certificate of designation and certificates of candidacy for a successor Governor and Lieutenant Governor unit must be filed by the fifth day following the death, declination, or disqualification of the former nominee for Governor. However, a certificate of designation for a successor nominee for Governor may not be filed within 10 days of the day of the general election.

A Governor and Lieutenant Governor unit must remain on the ballot for the general election if a nominee for Governor dies, declines the nomination, or is disqualified less than 15 days before the general election and a certificate of designation and certificates of candidacy for a successor Governor and Lieutenant Governor unit are not filed as required (including not within 10 days of the day of the general election). If a nominee for Governor who has died, declined the nomination, or become disqualified remains on the ballot, the Lieutenant Governor nominee officially becomes the gubernatorial nominee and may assert that status in the campaign.

### *Prior to a General Election – Nominated by Petition*

If a candidate for Governor or Lieutenant Governor nominated by petition dies, withdraws a certificate of candidacy, or becomes disqualified for any reason after the deadline for filing a certificate of candidacy for a primary election, a successor nominee may be designated pursuant to specified procedures. A successor nominee must file a certificate of candidacy by the fifth day following the death, withdrawal, or disqualification of the former nominee; however, the certificate of candidacy may not be filed within 10 days of the day of the general election. If a nominee dies, withdraws a certificate of candidacy, or becomes disqualified less than 15 days before the day of the general election and a certificate of candidacy for a successor nominee is not filed as required, the Governor and Lieutenant Governor unit must remain on the ballot and, if elected, the vacancy is filled as if it had occurred after the general election.

*Submission of Constitutional Amendment and Referendum Summaries*

A local board of elections must provide notice of ballot questions by mailing specimen ballots or by other specified means. For any constitutional amendment or referendum ballot question, the notice must contain a brief statement, prepared in clear and concise language, devoid of technical and legal terms to the extent practicable, summarizing the question. The statement must be (1) prepared by DLS; (2) approved by the Attorney General; and (3) submitted to SBE by the fourth Monday in August.

*Public Availability of Ballot Questions*

The complete text of a ballot question must be posted or available for public inspection in the office of SBE and each applicable local board of elections for 30 days prior to the general election. An individual may receive without charge a copy of the complete text of all constitutional amendments or questions from a local board, either in person or by mail.

**Background:** SBE indicates that the bill's alteration of deadlines is necessary to avoid disruption of ballot printing prior to an election.

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**Additional Information**

**Prior Introductions:** None.

**Designated Cross File:** None.

**Information Source(s):** State Board of Elections; Department of Legislative Services

**Fiscal Note History:** First Reader - February 8, 2021  
rh/hlb Third Reader - March 23, 2021  
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Analysis by: Scott D. Kennedy

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

# **ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES**

TITLE OF BILL: Election Law - Certificates of Candidacy and Ballot Questions -  
Revisions

BILL NUMBER: HB 738

PREPARED BY: Jared DeMarinis  
Director of Candidacy and Campaign Finance  
Maryland State Board of Elections

## **PART A. ECONOMIC IMPACT RATING**

This agency estimates that the proposed bill:

WILL HAVE MINIMAL OR NO ECONOMIC IMPACT ON MARYLAND SMALL  
BUSINESS

**OR**

WILL HAVE MEANINGFUL ECONOMIC IMPACT ON MARYLAND SMALL  
BUSINESSES

## **PART B. ECONOMIC IMPACT ANALYSIS**