By: Delegate Stewart  
Requested: October 15, 2021  
Introduced and read first time: January 12, 2022  
Assigned to: Health and Government Operations  

A BILL ENTITLED

AN ACT concerning

Public Advocate Act of 2022

FOR the purpose of establishing the Office of the Public Advocate; establishing procedures for the election of the Public Advocate; establishing the duties, term, qualifications, and method of setting the salary of the Public Advocate; establishing procedures for the removal of the Public Advocate from office and for filling a vacancy; establishing that, if vacancies in the offices of Governor and Lieutenant Governor exist at the same time, the Public Advocate shall succeed to the office of Governor for the remainder of the term; and submitting this amendment to the qualified voters of the State of Maryland for their adoption or rejection.

BY proposing an amendment to the Maryland Constitution
Article II – Executive Department
Section 6

BY proposing an addition to the Maryland Constitution
New Article II–A – Office of the Public Advocate
Section 1 through 5

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

Article II – Executive Department

6.

(a) If the Governor–elect is disqualified, resigns, or dies, the Lieutenant Governor–elect shall become Governor for the full term. If the Governor–elect fails to assume office for any other reason, the newly elected Lieutenant Governor shall become
Lieutenant Governor and shall serve as acting Governor until the Governor–elect assumes office or until the office becomes vacant.

(b) The Lieutenant Governor shall serve as acting Governor when notified in writing by the Governor that the Governor will be temporarily unable to perform the duties of his THE GOVERNOR’S office. The Lieutenant Governor also shall serve as acting Governor when the Governor is disabled but is unable to communicate to the Lieutenant Governor the fact of his THE GOVERNOR’S inability to perform the duties of his THE GOVERNOR’S office. In either event the Lieutenant Governor shall serve as acting Governor until notified in writing by the Governor that he THE GOVERNOR is able to resume the duties of his THE GOVERNOR’S office or until the office becomes vacant.

(c) The General Assembly, by the affirmative vote of three–fifths of all its members in joint session, may adopt a resolution declaring that the Governor or Lieutenant Governor is unable by reason of physical or mental disability to perform the duties of his office. When action is undertaken pursuant to this subsection of the Constitution, the officer who concludes that the other officer is unable, by reason of disability to perform the duties of his THE office shall have the power to call the General Assembly into Joint Session. The resolution, if adopted, shall be delivered to the Court of Appeals, which then shall have exclusive jurisdiction to determine whether that officer is unable by reason of the disability to perform the duties of his office. If the Court of Appeals determines that such officer is unable to discharge the duties of his THE office by reason of a permanent disability, the office shall be vacant. If the Court of Appeals determines that such officer is unable to discharge the duties of his office by reason of a temporary disability, it shall declare the office to be vacant during the time of the disability and the Court shall have continuing jurisdiction to determine when the disability has terminated. If the General Assembly and the Court of Appeals, acting in the same manner as described above, determine that the Governor–elect or Lieutenant Governor–elect is unable by reason of physical or mental disability to perform the duties of the ELECTED office [to which he has been elected], [he] THE ELECTED OFFICER shall be disqualified to assume office.

(d) When a vacancy occurs in the office of Governor, the Lieutenant Governor shall succeed to that office for the remainder of the term. When a vacancy occurs in the office of Lieutenant Governor, the Governor shall nominate a person who shall succeed to that office upon confirmation by the affirmative vote of a majority of all members of the General Assembly in joint session.

(E) IF VACANCIES IN THE OFFICES OF GOVERNOR AND LIEUTENANT GOVERNOR EXIST AT THE SAME TIME, THE PUBLIC ADVOCATE SHALL SUCCEED TO THE OFFICE OF GOVERNOR FOR THE REMAINDER OF THE TERM.

(F) If vacancies in the offices of Governor, Lieutenant Governor, AND PUBLIC ADVOCATE exist at the same time, the General Assembly shall convene forthwith, and the office of Governor shall be filled for the remainder of the term by the affirmative vote of a majority of all members of the General Assembly in joint session. The person so chosen as Governor by the General Assembly shall then nominate a person to succeed to
the office of Lieutenant Governor, upon confirmation by the affirmative vote of a majority of all members of the General Assembly in the same joint session. The President of the Senate shall serve as acting Governor until the newly elected Governor has qualified. If a vacancy exists in the office of Lieutenant Governor, at a time when the Lieutenant Governor is authorized to serve as acting Governor, the President of the Senate shall serve as acting Governor. If there is a vacancy in the office of the President of the Senate at a time when [he] THE PRESIDENT is authorized to serve as acting Governor, the Senate shall forthwith convene and fill the vacancy.

[(f)] (G) When the Lieutenant Governor, PUBLIC ADVOCATE, or a person elected by the General Assembly succeeds to the office of Governor, [he] THE PERSON WHO SUCCEEDS TO THE OFFICE shall have the title, powers, duties, and emoluments of that office; but when the Lieutenant Governor or the President of the Senate serves as acting Governor, [he] THE ACTING GOVERNOR shall have only the powers and duties of that office. When the President of the Senate serves as acting Governor, [he] THE PRESIDENT shall continue to be President of the Senate, but [his] THE PRESIDENT’S duties as president shall be performed by such other person as the Senate shall select.

[(g)] (H) The Court of Appeals shall have original and exclusive jurisdiction to adjudicate disputes or questions arising from the failure of the Governor–elect to take office, or the service of the Lieutenant Governor or President of the Senate as acting Governor, or the creation of a vacancy in the office of Governor or Lieutenant Governor by reason of disability, or the succession to the office of Governor or Lieutenant Governor, or the exercise of the powers and duties of a successor to the office of Governor.

ARTICLE II–A – OFFICE OF THE PUBLIC ADVOCATE

1.

THERE SHALL BE A PUBLIC ADVOCATE ELECTED BY THE QUALIFIED VOTERS OF THE STATE, ON GENERAL TICKET, ON THE TUESDAY NEXT AFTER THE FIRST MONDAY IN THE MONTH OF NOVEMBER, TWO THOUSAND AND TWENTY–SIX, AND ON THE SAME DAY, IN EVERY FOURTH YEAR THEREAFTER, WHO SHALL HOLD THE OFFICE FOR 4 YEARS FROM THE TIME OF ELECTION AND QUALIFICATION, AND UNTIL A SUCCESSOR IS ELECTED AND QUALIFIED, AND SHALL BE RE–ELIGIBLE THERETO, AND SHALL BE SUBJECT TO REMOVAL FOR INCOMPETENCY, WILLFUL NEGLECT OF DUTY OR MISDEMEANOR IN OFFICE, ON CONVICTION IN A COURT OF LAW.

2.

ALL ELECTIONS FOR PUBLIC ADVOCATE SHALL BE CERTIFIED TO, AND RETURNS MADE THEREOF BY, THE CLERKS OF THE CIRCUIT COURTS OF THE SEVERAL COUNTIES, AND THE CLERK OF THE SUPERIOR COURT OF BALTIMORE CITY, TO THE GOVERNOR OF THE STATE, WHOSE DUTY IT SHALL BE TO DECIDE ON THE ELECTION AND QUALIFICATION OF THE PERSON RETURNED; AND IN CASE OF A
TIE BETWEEN TWO OR MORE PERSONS, TO DESIGNATE WHICH OF SAID PERSONS
shall qualify as Public Advocate, and to administer the oath of office
to the person elected.

3.

(A) The Public Advocate shall:

(1) Act as an independent liaison between the citizens of
Maryland and the State government;

(2) Facilitate democratic engagement in State
government; and

(3) Receive, respond to, and independently investigate
ethics complaints against State officials in the Executive, Legislative,
and Judicial branches of State government, collaborate with the
appropriate enforcement entities in enforcing ethics complaints, and
advocate for constructive, systemic solutions to ethics complaints.

(B) The Public Advocate may:

(1) Convene public forums in the spirit of democratic voice
and participation;

(2) Explore creative citizen engagement, including
technology–enabled civic engagement, digital citizen complaint and
comment tools, citizen assemblies, government modernization, and
streamlining;

(3) Issue reports;

(4) Hold press conferences; and

(5) Conduct public awareness campaigns.

(C) The Public Advocate shall have and perform any other
duties and possess any other powers, and appoint the number of
deputies or assistants, as the General Assembly from time to time may
prescribe by law.

(D) The Public Advocate shall receive for the Public Advocate’s
services the annual salary as the General Assembly from time to time
MAY PRESCRIBE BY LAW, BUT THE PUBLIC ADVOCATE MAY NOT RECEIVE ANY FEES, PERQUISITES, OR REWARDS WHATEVER, IN ADDITION TO THIS SALARY, FOR THE PERFORMANCE OF ANY OFFICIAL DUTY.

4.

NO PERSON SHALL BE ELIGIBLE TO THE OFFICE OF PUBLIC ADVOCATE, WHO IS NOT A CITIZEN OF THIS STATE, AND A QUALIFIED VOTER THEREIN, AND HAS NOT RESIDED IN THIS STATE FOR AT LEAST 1 YEAR PRECEDING THE DATE OF ELECTION.

5.

(A) IN CASE OF VACANCY IN THE OFFICE OF PUBLIC ADVOCATE, OCCASIONED BY DEATH, RESIGNATION, REMOVAL FROM THE STATE, OR FROM OFFICE, OR OTHER DISQUALIFICATION, THE GOVERNOR SHALL APPOINT AN INDIVIDUAL TO FILL THE VACANCY AS PROVIDED IN THIS SECTION.

(B) THE GOVERNOR SHALL 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 PUBLIC ADVOCATE HAD BEEN AFFILIATED AT THE TIME OF THE PUBLIC ADVOCATE’S LAST ELECTION OR APPOINTMENT.

(C) EACH INDIVIDUAL WHOSE NAME IS SUBMITTED TO THE GOVERNOR MUST HAVE BEEN A REGISTERED VOTER AFFILIATED WITH THE POLITICAL PARTY OF THE VACATING PUBLIC ADVOCATE ON THE DATE IMMEDIATELY PRECEDING THE DATE ON WHICH THE VACANCY OCCURRED.

(D) THE GOVERNOR SHALL MAKE THE APPOINTMENT WITHIN 15 DAYS AFTER NAMES ARE SUBMITTED BY THE STATE CENTRAL COMMITTEE OF THE APPROPRIATE POLITICAL PARTY.


(F) IF THE VACATING PUBLIC ADVOCATE WAS NOT AFFILIATED WITH A POLITICAL PARTY AT THE TIME OF THE ATTORNEY GENERAL’S LAST ELECTION OR
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APPOINTMENT, the Governor shall appoint any qualified individual within 15 days after the occurrence of the vacancy.

(G) Except as provided in subsection (H) of this section, an individual appointed under this section shall serve until a successor is elected under subsection (I) of this section to fill the remainder of the term.

(H) An individual appointed under this section shall serve for the remainder of the term if the vacancy occurs after the date that is 21 days before the deadline for filing certificates of candidacy for the regular statewide election that is held in the second year of the term.

(I) If the vacancy occurs on or before the date that is 21 days before the deadline for filing certificates of candidacy for the regular statewide election that is held in the second year of the term, the Governor shall issue a proclamation immediately after the occurrence of the vacancy declaring that a special primary election and a special general election shall be held at the same time as the regular statewide primary election and regular statewide general election that are held in the second year of the term.

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

SECTION 3. AND BE IT FURTHER ENACTED, That the amendment to the Maryland Constitution proposed by Section 1 of this Act shall be submitted to the qualified voters of the State at the next general election to be held in November 2022 for adoption or rejection pursuant to Article XIV of the Maryland Constitution. At that general election, the vote on the proposed amendment to the Constitution shall be by ballot, and on each ballot there shall be printed the words “For the Constitutional Amendment” and “Against the Constitutional Amendment”, as now provided by law. Immediately after the election, all returns shall be made to the Governor of the vote for and against the proposed amendment, as directed by Article XIV of the Maryland Constitution, and further proceedings had in accordance with Article XIV.