

Department of Legislative Services

Maryland General Assembly

2023 Session

FISCAL AND POLICY NOTE

First Reader

Senate Bill 176 (Senator Kagan)

Education, Energy, and the Environment

Election Law - Insufficient Number of Candidates for a Primary Election

This bill requires the State Board of Elections (SBE) to extend the certificate of candidacy filing deadline for a primary election under certain circumstances. The bill also establishes a process for the State central committee of the appropriate political party to select a candidate for each of the offices of Governor and Lieutenant Governor if there are no candidates after the extended filing deadline passes.

Fiscal Summary

State Effect: The bill is not expected to materially affect State finances.

Local Effect: The bill is not expected to materially affect local government finances.

Small Business Effect: None.

Analysis

Bill Summary:

Office Other Than Governor or Lieutenant Governor

SBE must extend the filing deadline for a primary election, for an office other than Governor or Lieutenant Governor, until seven days after the filing deadline, if at any time during the 48-hour period immediately preceding the filing deadline (1) an unopposed candidate dies, is disqualified, or withdraws or (2) the number of candidates for a political party that have filed a certificate of candidacy for the office is less than the number of nominations the political party is allowed for the office.

Offices of Governor and Lieutenant Governor

SBE must extend the filing deadline for the primary election, for the offices of Governor and Lieutenant Governor, until 7 days after the filing deadline, if during the 48-hour period immediately preceding the filing deadline (1) unopposed candidates for the offices of Governor and Lieutenant Governor both die, are disqualified, or withdraw or (2) no candidate for the political party has filed a certificate of candidacy for either of the offices of Governor and Lieutenant Governor.

If the filing deadline for the primary election was extended for the offices of Governor and Lieutenant Governor and there are still no candidates for either of the offices after the extended filing deadline passes, the State central committee of the appropriate political party must select a candidate to fill each of the two vacancies. On or before the seventh day after the extended deadline passes (1) the State central committee must file a certificate of designation for the candidate for Governor and the candidate for Lieutenant Governor selected by the State central committee and (2) the candidate for Governor and the candidate for Lieutenant Governor selected by the State central committee must each file a certificate of candidacy with SBE.

Current Law:

Certificate of Candidacy Filing Deadline

In the year in which the Governor is elected, a certificate of candidacy must be filed not later than 9:00 p.m. on the last Tuesday in February in the year in which the primary election will be held. For any other regularly scheduled election, a certificate of candidacy must be filed not later than 9:00 p.m. on the ninety-fifth day before the day on which the primary election will be held.

Vacancy in Candidacy for Primary Election

If there is a vacancy in candidacy for a primary election that occurs because of the death, disqualification, or withdrawal of an unopposed candidate, or no candidate for the political party files a certificate of candidacy for the election, then:

- for an office elected by the voters of more than one county (other than member of the Senate of Maryland or the House of Delegates), the vacancy in candidacy for a political party that is entitled to have a candidate on the ballot is filled by the State central committee or governing body of that political party;
- for the office of a member of the Senate of Maryland or the House of Delegates that is elected by the voters of more than one county, the vacancy in candidacy for a political party that is entitled to have a candidate on the ballot is filled by a

- proportional vote of the central committees in the counties in the State legislative or delegate district; and
- for any other public or party office, the vacancy in candidacy is filled by the central committee of the political party in the county in which the office is located.

In the case of a vacancy in candidacy because of the withdrawal of an unopposed candidate or because no candidate filed for the office, a central committee authorized to fill the vacancy in candidacy must file a certificate of designation, and the individual designated must file a certificate of candidacy, 4 days after the certificate of candidacy withdrawal deadline (the withdrawal deadline is 10 days after the filing deadline).

In the case of a vacancy in candidacy because of the death or disqualification of an unopposed candidate, a central committee authorized to fill the vacancy in candidacy must file a certificate of designation, and the individual designated must file a certificate of candidacy, four days after the death or disqualification becomes known to the board designated to receive the certificate of candidacy for the office.

It is unclear whether these provisions apply to vacancies in candidacy for a primary election for the offices of Governor and Lieutenant Governor. Statute only establishes that the provisions do not apply to a vacancy in *nomination* in the office of a Governor and Lieutenant Governor unit. Statute does not otherwise explicitly provide for filling of vacancies in candidacy for a primary election for the offices of Governor and Lieutenant Governor in circumstances where, before the filing deadline, unopposed candidates for the offices of Governor and Lieutenant Governor both die, are disqualified, or withdraw, or no candidate for the political party has filed for either of the offices.

Additional Information

Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: HB 643 (Delegate Grossman, *et al.*) - Ways and Means.

Information Source(s): Charles and Garrett counties; Maryland State Board of Elections; Department of Legislative Services

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Analysis by: Arnold H. Adja

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