

## Chapter 40

**(Senate Bill 1007)**

AN ACT concerning

**State Government – Executive Appointments**

FOR the purpose of authorizing the Governor to appoint an individual to ~~the State Board of Elections~~ certain boards during a certain time period under certain circumstances; requiring the Governor to submit a certain nomination to the Senate under certain circumstances; authorizing the Governor to submit a certain nomination to the Senate during a certain time period only if the Senate consents; establishing that an individual nominated for an Executive office during a certain period of time is eligible for confirmation only if the Senate consents and under certain circumstances; establishing that an Executive officer may continue to serve a certain amount of time only after the end of the officer's term; and generally relating to Executive appointments.

BY repealing and reenacting, with amendments,  
 Article – State Government  
 Section 17–109  
 Annotated Code of Maryland  
 (2021 Replacement Volume and 2023 Supplement)

BY repealing and reenacting, with amendments,  
 Article – State Government  
 Section 17–109  
 Annotated Code of Maryland  
 (2021 Replacement Volume and 2023 Supplement)  
 (As enacted by Section 1 of this Act)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,  
 That the Laws of Maryland read as follows:

**Article – State Government**17–109.(a) This section applies:

(1) only to an office for which an appointment to fill a vacancy is required to be made with the advice and consent of the Senate; and

(2) regardless of whether a salary or any other compensation is provided to the holder of the office.

**(B) (1) SUBJECT TO ~~§ 2-201~~ § 2-101 OF THE ELECTION LAW ARTICLE, THE GOVERNOR MAY APPOINT AN INDIVIDUAL TO BE A MEMBER OF THE STATE BOARD OF ELECTIONS DURING THE RECESS OF THE SENATE REGARDLESS OF WHETHER THE TERM OF OFFICE OF THE MEMBER WILL END DURING THE NEXT UPCOMING RECESS.**

**(2) SUBJECT TO § 5-402 OF THE EDUCATION ARTICLE, THE GOVERNOR MAY APPOINT AN INDIVIDUAL TO BE A MEMBER OF THE ACCOUNTABILITY AND IMPLEMENTATION BOARD DURING THE RECESS OF THE SENATE REGARDLESS OF WHETHER THE TERM OF OFFICE OF THE MEMBER WILL END DURING THE NEXT UPCOMING RECESS.**

**[(b)] (C) An individual who was appointed to fill a vacancy in an office during the recess of the Senate or who was nominated to fill a vacancy in an office during a regular session of the Senate may not be nominated for the same office at the same session, unless requested by the Senate, be appointed to the same office during the recess of the Senate, or continue to serve in the office or be designated to serve in an acting capacity for the same office after the adjournment of the regular session of the Senate at which the nomination was made, if:**

**(1) the Governor withdrew the nomination during the regular session of the Senate at which the nomination was made;**

**(2) the Senate failed to act on the nomination before the Senate adjourned the regular session of the Senate at which the nomination was made and the individual was not reappointed to the office by the Governor;**

**(3) the individual withdrew the individual's nomination;**

**(4) the Governor fails to make the nomination on the first day of the regular session of the Senate if required under Article II, § 11 of the Maryland Constitution; or**

**(5) the individual is not confirmed by the Senate and is designated by the Governor to fill the vacancy in an acting capacity.**

**[(c)] (D) An individual who is prohibited from continuing to serve in an office under subsection [(b)] (C) of this section may not:**

**(1) carry out the responsibilities of the office in any capacity; or**

**(2) make representations that the individual:**

**(i) serves in the office in any capacity; or**

(ii) is legally authorized to carry out the responsibilities of the office in any capacity.

[(d)] (E) If the holder is in an office on a public body for which no salary is provided:

(1) any votes cast by an individual who, at the time the vote is conducted by the public body, is prohibited from continuing to serve in the office under subsection [(b)] (C) of this section may not be counted; and

(2) the presence of an individual described in item (1) of this subsection may not be counted for purposes of a quorum.

[(e)] (F) (1) Subject to paragraph (2) of this subsection, an individual who is designated to serve in an acting capacity to fill a vacancy in an office for which an appointment is required to be made with the advice and consent of the Senate may not serve in the office for more than 275 days after the date the designation was made.

(2) An individual may not continue to serve in an acting capacity after the adjournment of a regular session of the Senate if:

(i) the individual was serving in the acting capacity before the start of the regular session; and

(ii) the individual was not nominated to fill the vacancy in the office during that regular session.

[(f)] (G) An individual who violates this section may not receive any compensation, including a salary or reimbursement for expenses out of the State budget, related to serving in the office or carrying out the responsibilities of the office.

SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

### Article – State Government

17–109.

(a) This section applies:

(1) only to an office for which an appointment to fill a vacancy is required to be made with the advice and consent of the Senate; and

(2) regardless of whether a salary or any other compensation is provided to the holder of the office.

~~(B)~~ (b) (1) IF THE TERM OF AN OFFICE SUBJECT TO THE REQUIREMENTS OF THIS SECTION WILL END DURING THE NEXT UPCOMING RECESS OF THE SENATE, THE GOVERNOR SHALL SUBMIT A NOMINATION TO THE SENATE TO FILL THE OFFICE WITHIN 40 DAYS FROM THE COMMENCEMENT OF THE REGULAR SESSION OF THE LEGISLATURE.

(2) IF THE GOVERNOR BECOMES AWARE THAT THE TERM OF AN OFFICE SUBJECT TO THE REQUIREMENTS OF THIS SECTION WILL END DURING THE NEXT UPCOMING RECESS OF THE SENATE MORE THAN 40 DAYS AFTER THE COMMENCEMENT OF THE REGULAR SESSION OF THE LEGISLATURE BUT BEFORE THE LEGISLATURE ADJOURNS SINE DIE, THE GOVERNOR MAY SUBMIT A NOMINATION TO THE SENATE TO FILL THE OFFICE ONLY IF THE SENATE CONSENTS TO EXAMINE THE NOMINEE, SUBJECT TO ITS RULES.

(3) AN INDIVIDUAL NOMINATED MORE THAN 40 DAYS AFTER THE COMMENCEMENT OF THE REGULAR SESSION OF THE LEGISLATURE BUT BEFORE THE LEGISLATURE ADJOURNS SINE DIE IS NOT ELIGIBLE FOR CONFIRMATION IF THERE IS AN INCUMBENT IN THE OFFICE UNLESS THE SENATE CONSENTS TO EXAMINE THE NOMINEE, SUBJECT TO ITS RULES.

(4) Subject to § 2-201 of the Election Law Article, the Governor may appoint an individual to be a member of the State Board of Elections during the recess of the Senate regardless of whether the term of office of the member will end during the next upcoming recess.

(C) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, AT THE END OF A TERM, AN OFFICER CONTINUES TO SERVE UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIES.

(2) AN OFFICER MAY NOT CONTINUE TO SERVE MORE THAN ~~2~~ 4 YEARS AFTER THE END OF THE OFFICER'S TERM.

~~(B)~~ (c) (D) (1) [An] SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, AN individual who was appointed to fill a vacancy in an office during the recess of the Senate or who was nominated to fill a vacancy in an office during a regular session of the Senate may not:

(I) be nominated for the same office at the same session, unless requested by the [Senate,] SENATE;

(II) be appointed to the same office during the recess of the [Senate,] SENATE; or

**(III)** continue to serve in the office or be designated to serve in an acting capacity for the same office after the adjournment of the regular session of the Senate at which the nomination was ~~made,~~ **MADE**.

**(2) PARAGRAPH (1) OF THIS SUBSECTION APPLIES ONLY if:**

~~[(1)]~~ **(I)** the Governor withdrew the nomination **OR THE INDIVIDUAL WITHDREW THE INDIVIDUAL'S NOMINATION** during the regular session of the Senate at which the nomination was made;

~~[(2)]~~ **(II)** the Senate failed to act on the nomination before the Senate adjourned the regular session of the Senate at which the nomination was made and the individual was not ~~reappointed]~~ **APPOINTED AS A RECESS APPOINTMENT** to the office by the Governor;

~~[(3)]~~ the individual withdrew the individual's nomination;

~~[(4)]~~ **(III)** the Governor fails to make the nomination on the first day of the regular session of the Senate if required under Article II, § 11 of the Maryland Constitution; or

~~[(5)]~~ **(IV)** the individual is ~~not confirmed]~~ **REJECTED** by the Senate ~~and is designated by the Governor to fill the vacancy in an acting capacity]~~.

~~[(d)]~~ **(E)** An individual who is prohibited from continuing to serve in an office under subsection ~~[(c)]~~ **(D)** of this section may not:

(1) carry out the responsibilities of the office in any capacity; or

(2) make representations that the individual:

(i) serves in the office in any capacity; or

(ii) is legally authorized to carry out the responsibilities of the office in any capacity.

~~[(e)]~~ **(F)** If the holder is in an office on a public body for which no salary is provided:

(1) any votes cast by an individual who, at the time the vote is conducted by the public body, is prohibited from continuing to serve in the office under subsection ~~[(c)]~~ **(D)** of this section may not be counted; and

(2) the presence of an individual described in item (1) of this subsection may not be counted for purposes of a quorum.

~~[(e) (f)] (G)~~ (1) Subject to paragraph (2) of this subsection, an individual who is designated to serve in an acting capacity to fill a vacancy in an office for which an appointment is required to be made with the advice and consent of the Senate may not serve in the office for more than 275 days after the date the designation was made.

(2) An individual may not continue to serve in an acting capacity after the adjournment of a regular session of the Senate if:

(i) the individual was serving in the acting capacity before the start of the regular session; and

(ii) the individual was not nominated to fill the vacancy in the office during that regular session.

~~[(f) (g)] (H)~~ An individual who violates this section may not receive any compensation, including a salary or reimbursement for expenses out of the State budget, related to serving in the office or carrying out the responsibilities of the office.

SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall take effect ~~June 1, 2024~~ January 1, 2025.

SECTION 4. AND BE IT FURTHER ENACTED, That this Act is an emergency measure, is necessary for the immediate preservation of the public health or safety, has been passed by a ye and nay vote supported by three-fifths of all the members elected to each of the two Houses of the General Assembly, and, except as provided in Section 3 of this Act, shall take effect from the date it is enacted.

**Approved by the Governor, April 9, 2024.**