

# SENATE BILL 1007

P1

EMERGENCY BILL

4lr3354

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By: **Senator Hayes**

Introduced and read first time: February 2, 2024

Assigned to: Executive Nominations

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Committee Report: Favorable with amendments

Senate action: Adopted with floor amendments

Read second time: March 1, 2024

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## CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **State Government – Executive Appointments**

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

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

18 BY repealing and reenacting, with amendments,  
19 Article – State Government  
20 Section 17–109  
21 Annotated Code of Maryland  
22 (2021 Replacement Volume and 2023 Supplement)  
23 (As enacted by Section 1 of this Act)

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



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

3 **Article – State Government**

4 17–109.

5 (a) This section applies:

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

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

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

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

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

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

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

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

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

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

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

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

8           (2) make representations that the individual:

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

31                      (2) make representations that the individual:

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

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

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

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

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

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

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

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

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

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

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

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