

Department of Legislative Services
Maryland General Assembly
2025 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 75

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

Ways and Means

Election Law – Special Elections

This emergency departmental bill makes changes to State law governing special elections that relate to (1) the timing of special elections to fill a vacancy in a county council or in the office of chief executive officer or county executive; (2) authorization of a county council to direct that a vacancy in the county council or in the office of chief executive officer or county executive be filled solely through a special general election; (3) a conflict between a county charter or other county law and the provisions of the Election Law Article or the Code of Maryland Regulations (COMAR) relating to the conduct of a special election; and (4) the administration of special elections conducted by mail.

Fiscal Summary

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

Local Effect: Local government expenditures decrease by a significant amount to the extent a county council uses the authority under the bill and directs that a vacancy be filled solely through a special general election, as discussed below.

Small Business Effect: Minimal.

Analysis

Bill Summary:

Special Elections to Fill a Vacancy in a County Council or in the Office of Chief Executive Officer or County Executive

Timing of Special Elections

The bill modifies a provision governing the timing of a special election to fill a vacancy in a county council or in the office of chief executive officer or county executive (if the charter of that county provides for special elections) which, under existing law, requires that there be at least 45 days between the date an absentee ballot is made available to an absent uniformed services voter or an overseas voter and the date of the special election. The bill modifies that provision by also requiring that the date of a special election (1) be at least 90 days after the adoption of the resolution of the county council establishing the date of the special election and (2) not be within 120 days of a regularly scheduled election.

Authorization to Fill a Vacancy Solely through a Special General Election

The bill authorizes the resolution of a county council establishing the date of a special election to fill a vacancy in the county council or in the office of chief executive officer or county executive to direct that (1) a special primary election not be held and (2) the vacancy be filled solely through a special general election.

If the county council directs that a special primary election not be held, the resolution of the county council (establishing the date of the special election) must specify the method by which the special general election must be conducted: (1) as a partisan election in which there are no party nominees but each filed candidate appears on the ballot with the candidate's party affiliation, if any, or (2) as a nonpartisan election in which there are no party nominees and each filed candidate appears on the ballot without the candidate's party affiliation.

Conflict of Laws Relating to the Conduct of a Special Election

If the State Administrator of Elections determines that a conflict exists between a county charter or other county law relating to the conduct of a special election and the provisions of the Election Law Article or COMAR, the State Administrator must conduct the special election entirely in accordance with the Election Law Article and COMAR.

Special Elections Conducted by Mail

The bill establishes that, for a special election conducted by mail, a local board of elections is not required to mail specimen ballots to the registered voters who are eligible to vote in the special election.

The bill also (1) increases the period – from at least 14 days, to at least 30 days, before the day of a special election – by which a local board must send a vote-by-mail ballot to each eligible voter and (2) establishes that a voter may return a vote-by-mail ballot to a local board of elections through a ballot drop box.

Current Law:

Use of Primary Election to Nominate a Candidate for Public Office

A principal party (Democratic Party and Republican Party) must use the primary election to nominate its candidates for public office and has discretion whether to allow voters not affiliated with the party to vote in the party's primary.

Except for a nominee for President or Vice President, the name of a nominee of a principal political party may not appear on the ballot in a general election if the individual has not (1) been nominated in the primary election or (2) been designated to fill a vacancy in nomination.

Timing of Special Elections to Fill a Vacancy in a County Council or in the Office of Chief Executive Officer or County Executive

A special primary election and a special general election may be held at a time other than the date of a regular primary election and a regular general election to fill a vacancy in a county council or in the office of chief executive officer or county executive if the charter of that county provides for special elections.

Special elections to fill vacancies in a county council or in the office of chief executive officer or county executive must be held as provided in the county charter. The date set for a special election must allow at least 45 days between the date an absentee ballot is made available to an absent uniformed services voter or an overseas voter and the date of the special election.

Special Elections Conducted by Mail

Statute generally authorizes special elections that are not held concurrently with a regularly scheduled primary or general election to be conducted by mail. A local special election

must be conducted by mail if the resolution of the county council or board of county commissioners establishing the date of the special election directs that the election be conducted by mail.

In a special election conducted by mail, a vote-by-mail ballot is mailed to each registered voter who is eligible to vote in the special election, unless the voter has requested that the ballot be sent by other means. A local board must send a vote-by-mail ballot to each eligible voter at least 14 days before the day of a special election.

A local board of elections must establish at least one in-person voting center for the use of any eligible voter, which must be open for voting each day beginning six days before the day of a special election through the day of the special election; however, separate in-person voting center provisions apply in Montgomery County.

A voter may return a vote-by-mail ballot to a local board (1) by mail; (2) in person during regular office hours; or (3) through a duly authorized agent. A ballot is considered timely and may be counted if the ballot is returned in person to the office of a local board by 8:00 p.m. on the day of the special election or (1) is received by mail by a local board by 10:00 a.m. on the second Friday after the special election and (2) was mailed by election day.

Background: The State Board of Elections (SBE) indicates that the bill's changes are needed to ensure that special elections do not interfere with the administration of regular elections and to ensure that voters are given sufficient time to vote in special elections.

The most recent special elections were held in Prince George's County, which held a countywide special primary election (conducted by mail) on August 6, 2024, and a special general election on November 5, 2024, (at the same time as the presidential general election). The county also has a countywide special primary election and special general election scheduled for March 4, 2025, and June 3, 2025, respectively (both conducted by mail).

Local Fiscal Effect: Local government expenditures decrease by a significant amount to the extent a county council uses the authority under the bill and directs that a special primary election not be held and that a vacancy be filled solely through a special general election. Assuming a foregone special primary election would have been conducted by mail, the extent of the decrease in expenditures varies, depending primarily on the number of registered voters that would have been eligible to vote in the special primary election (and sent a vote-by-mail ballot) and the extent of resources the county would have devoted to in-person voting at one or more vote centers.

For illustrative purposes:

- Prince George’s County spent \$2.1 million on its August 2024 special primary election conducted by mail (a countywide election, for which there were 489,053 eligible registered voters), the most significant costs of which were \$791,381 for the mailing and return of vote-by-mail ballots and \$768,150 for election judges to staff nine voting centers for seven days; and
- assuming the county’s special election costs are largely proportional to the size of the electorate, a special primary election held in a single councilmanic district (of which there are nine in the county) results in county expenditures of at least one-ninth of the costs for the August 2024 special primary election, or \$235,156.

While the State and the local boards of elections share certain election costs in regular elections, including voting system-related costs and mail-in ballot costs, SBE indicates that local boards are responsible for 100% of the costs of local special elections.

Additional Information

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

Designated Cross File: SB 262 (Chair, Education, Energy, and the Environment Committee)(By Request - Departmental - State Board of Elections) - Education, Energy, and the Environment.

Information Source(s): Anne Arundel, Baltimore, Charles, Dorchester, Howard, and Prince George’s counties; Maryland Association of Counties; Maryland State Board of Elections; Department of Legislative Services

Fiscal Note History: First Reader - January 27, 2025
km/sdk

Analysis by: Arnold H. Adja

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