

Linda Foley
Legislative District 15
Montgomery County

Environment and Transportation
Committee

The Maryland House of
Delegates
6 Bladen Street, Room 220
Annapolis, Maryland 21401
410-841-3052 • 301-858-3052
800-492-7122 *Ext. 3052*
Linda.Foley@house.state.md.us

THE MARYLAND HOUSE OF DELEGATES

ANNAPOLIS, MARYLAND 21401

Democracy is alive and well here in Maryland, with one glaring exception. That's why I am urging you to support HB 417, which would allow Marylanders to vote on a Constitutional Amendment changing the way we fill legislative vacancies that occur during the 4-year term of office.

Currently, when a vacancy occurs in the General Assembly due to the death, resignation, expulsion or other disqualifying event, the voters of a district have no say in who replaces a departing legislator, no matter how much of the incumbent's term remains to be served. Under current constitutional language, the Central Committee of the departing legislator's political party recommends a replacement to the governor, who appoints the Delegate or Senator for the remainder of the unfulfilled term, whether it be 6 months, 2 years or, in some cases, a full 4 years.

This Constitutional Amendment would inject more democracy and voter engagement in the process. The Amendment, if approved by the voters, would require a delegate or senator appointed to fill a vacancy occurring more than 2 years before the end of a legislative term to stand for election. A special election would be held at the same time as the primary and general elections in the Presidential Election year. The state would not incur additional costs since the "special election" would occur during a regularly scheduled vote.

Let me stress that this legislation would continue the current appointment process. Because of the nature of Maryland's 90-day annual General Assembly session, special elections are neither possible nor desirable in many cases. By maintaining the current appointment process, this legislation ensures that no district goes unrepresented or underrepresented during any legislative session.

There are several other concerns that have been raised about this Constitutional Amendment. First, in the past, appointments have opened up opportunities for candidates who otherwise would not have been able to conduct full-scale campaigns in order to serve. Particularly in Montgomery County, the appointment process has made our delegation more diverse over the years. However, in recent years, my research (attached here) shows that in the General Assembly as a whole, the appointment process has not produced significantly more diversity than results produced by elections. Besides, as I stated, this legislation would maintain the appointment process, thus giving appointed delegates and senators the advantage of incumbency when they run for election.

Another concern is the ability of appointed legislators to raise money in order to conduct effective campaigns in the middle of a legislative term. As we know, legislators are prohibited from raising campaign donations while the General Assembly is in session. The proposed legislation allows for a special election only if the vacancy occurs 55 days or more before the candidacy filing deadline for the Presidential Election. Legislators appointed to vacancies that occur after that date would not be required to stand for election until the end of the 4-year-term. This should give appointed legislators ample time to raise campaign contributions before the session starts.

I myself was appointed in December 2021 to serve the remainder of a resigning delegate's term. I had a little more than a month to raise money for a primary election challenge in 2022. Despite the short time frame, the incumbency and experience I gained from serving one 90-day session and the fund-raising I undertook before the legislative session began were enough for me to head off a very competitive primary election challenge and conduct a successful election campaign in 2022.

Prior to my appointment, I was chair of the Montgomery County Democratic Central Committee. The current appointment process is stressful and can create ill-will toward Central Committee members who are doing their best to fulfill constitutional duties. A requirement that legislators appointed less than 2 years into a 4-year term stand for election will help relieve some of the pressure on Central Committee members. I urge you to support HB 417. Thank you.