

HOUSE BILL 1415

G1, L2

CONSTITUTIONAL AMENDMENT

4lr2959
CF SB 1017

By: **Montgomery County Delegation**

Introduced and read first time: February 13, 2014

Assigned to: Rules and Executive Nominations

A BILL ENTITLED

1 AN ACT concerning

2 **Chief Executive Officer or County Executive – Special Election to Fill a**
3 **Vacancy in Office**

4 **MC 23–14**

5 FOR the purpose of proposing an amendment to the Maryland Constitution to provide
6 that a county charter may provide for the filling of a vacancy in the office of
7 chief executive officer or county executive of a county by special election;
8 proposing an amendment to the Maryland Constitution regarding a special
9 election to fill certain vacancies in office; submitting an amendment to the
10 Maryland Constitution to the qualified voters of the State for their adoption or
11 rejection; altering provisions of law regarding the filling of a vacancy by special
12 election to allow a county to have a special election to fill a vacancy in the office
13 of chief executive officer or county executive; and generally relating to the filling
14 of a vacancy in the office of chief executive officer or county executive by special
15 election.

16 BY proposing an amendment to the Maryland Constitution
17 Article XI–A – Local Legislation
18 Section 3

19 BY proposing an amendment to the Maryland Constitution
20 Article XVII – Quadrennial Elections
21 Section 2

22 BY repealing and reenacting, without amendments,
23 Article – Election Law
24 Section 5–303
25 Annotated Code of Maryland
26 (2010 Replacement Volume and 2013 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 BY repealing and reenacting, with amendments,
2 Article – Election Law
3 Section 8–401
4 Annotated Code of Maryland
5 (2010 Replacement Volume and 2013 Supplement)

6 BY repealing and reenacting, with amendments,
7 Article – Local Government
8 Section 10–205
9 Annotated Code of Maryland
10 (2013 Volume)

11 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
12 MARYLAND, (Three–fifths of all the members elected to each of the two Houses
13 concurring), That it be proposed that the Maryland Constitution read as follows:

14 **Article XI–A – Local Legislation**

15 3.

16 Every charter so formed shall provide for an elective legislative body in which
17 shall be vested the law–making power of said City or County. Such legislative body in
18 the City of Baltimore shall be known as the City Council of the City of Baltimore, and
19 in any county shall be known as the County Council of the County. The chief executive
20 officer **OR COUNTY EXECUTIVE**, if any such charter shall provide for the election of
21 such executive officer **OR COUNTY EXECUTIVE**, or the presiding officer of said
22 legislative body, if such charter shall not provide for the election of a chief executive
23 officer **OR COUNTY EXECUTIVE**, shall be known in the City of Baltimore as Mayor of
24 Baltimore, and in any County as the President or Chairman of the County Council of
25 the County, and all references in the Constitution and laws of this State to the Mayor
26 of Baltimore and City Council of the City of Baltimore or to the County Commissioners
27 of the Counties, shall be construed to refer to the Mayor of Baltimore and City Council
28 of the City of Baltimore and to the President or Chairman and County Council herein
29 provided for whenever such construction would be reasonable. From and after the
30 adoption of a charter by the City of Baltimore, or any County of this State, as
31 hereinbefore provided, the Mayor of Baltimore and City Council of the City of
32 Baltimore or the County Council of said County, subject to the Constitution and Public
33 General Laws of this State, shall have full power to enact local laws of said City or
34 County including the power to repeal or amend local laws of said City or County
35 enacted by the General Assembly, upon all matters covered by the express powers
36 granted as above provided, and, as expressly authorized by statute, to provide for the
37 filling of a vacancy in the County Council **OR COUNTY EXECUTIVE** by special
38 election; provided that nothing herein contained shall be construed to authorize or
39 empower the County Council of any County in this State to enact laws or regulations
40 for any incorporated town, village, or municipality in said County, on any matter
41 covered by the powers granted to said town, village, or municipality by the Act
42 incorporating it, or any subsequent Act or Acts amendatory thereto. Provided,

1 however, that the charters for the various Counties shall specify the number of days,
2 not to exceed forty-five, which may but need not be consecutive, that the County
3 Council of the Counties may sit in each year for the purpose of enacting legislation for
4 such Counties, and all legislation shall be enacted at the times so designated for that
5 purpose in the charter, and the title or a summary of all laws and ordinances proposed
6 shall be published once a week for two successive weeks prior to enactment followed by
7 publication once after enactment in at least one newspaper of general circulation in
8 the county, so that the taxpayers and citizens may have notice thereof. The validity of
9 emergency legislation shall not be affected if enacted prior to the completion of
10 advertising thereof. These provisions concerning publication shall not apply to
11 Baltimore City. All such local laws enacted by the Mayor of Baltimore and City
12 Council of the City of Baltimore or the Council of the Counties as hereinbefore
13 provided, shall be subject to the same rules of interpretation as those now applicable
14 to the Public Local Laws of this State, except that in case of any conflict between said
15 local law and any Public General Law now or hereafter enacted the Public General
16 Law shall control.

17 **Article XVII – Quadrennial Elections**

18 2.

19 Except for a special election that may be authorized to fill a vacancy in a County
20 Council **OR A VACANCY IN THE OFFICE OF CHIEF EXECUTIVE OFFICER OR**
21 **COUNTY EXECUTIVE**, under Article XI–A, Section 3 of the Constitution, elections by
22 qualified voters for State and county officers shall be held on the Tuesday next after
23 the first Monday of November, in the year nineteen hundred and twenty-six, and on
24 the same day in every fourth year thereafter.

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

27 **Article – Election Law**

28 5–303.

29 (a) Except as provided in subsections (b) and (c) of this section:

30 (1) in the year in which the Governor is elected, a certificate of
31 candidacy shall be filed not later than 9 p.m. on the last Tuesday in February in the
32 year in which the primary election will be held; and

33 (2) for any other regularly scheduled election, a certificate of
34 candidacy shall be filed not later than 9 p.m. on the Wednesday that is 83 days before
35 the day on which the primary election will be held.

36 (b) A certificate of candidacy for an office to be filled by a special election
37 under this article shall be received and filed in the office of the appropriate board not

1 later than 5 p.m. on the Monday that is 3 weeks or 21 days prior to the date for the
2 special primary election specified by the Governor in the proclamation for the special
3 primary election.

4 (c) The certificate of candidacy for the election of a write-in candidate shall
5 be filed by the earlier of:

6 (1) 7 days after a total expenditure of at least \$51 is made to promote
7 the candidacy by a campaign finance entity of the candidate; or

8 (2) 5 p.m. on the Wednesday preceding the day of the election for
9 which the certificate is filed.

10 8-401.

11 (a) A special primary election and a special general election may be held at a
12 time other than the date of a regular primary election and a regular general election:

13 (1) to fill a vacancy in the office of Representative in Congress; or

14 (2) to fill a vacancy in the county council **OR IN THE OFFICE OF**
15 **CHIEF EXECUTIVE OFFICER OR COUNTY EXECUTIVE** if the charter of that county
16 provides for special elections.

17 (b) (1) Special elections to fill a vacancy in the office of Representative in
18 Congress shall be held at the time specified in Subtitle 7 of this title.

19 (2) Special elections to fill vacancies in a county council **OR IN THE**
20 **OFFICE OF CHIEF EXECUTIVE OFFICER OR COUNTY EXECUTIVE** shall be held as
21 provided in the county charter.

22 (c) An election to fill a vacancy in the office of United States Senator shall be
23 held concurrently with a regular election as provided in Subtitle 6 of this title.

24 Article – Local Government

25 10-205.

26 A county may provide for the conduct of a special election to fill a vacancy in the
27 county council **OR IN THE OFFICE OF CHIEF EXECUTIVE OFFICER OR COUNTY**
28 **EXECUTIVE**.

29 SECTION 3. AND BE IT FURTHER ENACTED, That the General Assembly
30 determines that the amendment to the Maryland Constitution proposed by Section 1
31 of this Act affects multiple jurisdictions and that the provisions of Article XIV, § 1 of

1 the Maryland Constitution concerning local approval of constitutional amendments do
2 not apply.

3 SECTION 4. AND BE IT FURTHER ENACTED, That the amendment to the
4 Maryland Constitution proposed by Section 1 of this Act shall be submitted to the
5 qualified voters of the State at the next general election to be held in November 2014
6 for their adoption or rejection pursuant to Article XIV of the Maryland Constitution.
7 At that general election, the vote on this proposed amendment to the Constitution
8 shall be by ballot, and upon each ballot there shall be printed the words "For the
9 Constitutional Amendment" and "Against the Constitutional Amendment," as now
10 provided by law. Immediately after the election, all returns shall be made to the
11 Governor of the vote for and against the proposed amendment, as directed by Article
12 XIV of the Maryland Constitution, and further proceedings had in accordance with
13 Article XIV.

14 SECTION 5. AND BE IT FURTHER ENACTED, That, except as provided in
15 Sections 3 and 4 of this Act, this Act shall take effect June 1, 2014.