

HOUSE BILL 738

G1

11r0097

By: **Chair, Ways and Means Committee (By Request – Departmental – State Board of Elections)**

Introduced and read first time: January 26, 2021

Assigned to: Ways and Means

Committee Report: Favorable with amendments

House action: Adopted

Read second time: February 23, 2021

CHAPTER _____

1 AN ACT concerning

2 **Election Law – Certificates of Candidacy and Ballot Questions – Revisions**

3 FOR the purpose of altering the deadlines by which a certificate of candidacy for a successor
4 candidate for Governor or Lieutenant Governor must be filed under certain
5 circumstances; altering the day by which a certain statement regarding certain
6 statewide questions to appear on a ballot is required to be submitted to the State
7 Board of Elections; altering the number of days prior to the general election during
8 which the complete text of a certain question is required to be posted in the office of
9 the State Board and certain local boards of elections; authorizing an individual to
10 receive a copy of the complete text of all constitutional amendments and questions
11 electronically; making conforming changes; and generally relating to certificates of
12 candidacy and ballot questions.

13 BY repealing and reenacting, with amendments,
14 Article – Election Law
15 Section 5–903, 5–904, 5–1005, 5–1101, and 7–105
16 Annotated Code of Maryland
17 (2017 Replacement Volume and 2020 Supplement)

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

20 **Article – Election Law**

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 5-903.

2 (a) (1) If a candidate for Lieutenant Governor dies, withdraws the candidacy,
3 or becomes disqualified for any reason after the deadline for filing a certificate of candidacy
4 for a primary election under § 5-303 of this title, the remaining candidate for Governor of
5 that unit may designate a successor candidate for Lieutenant Governor.

6 (2) Provided the successor candidate for Lieutenant Governor files a
7 certificate of candidacy in accordance with subsection (b) of this section, the name of the
8 successor candidate for Lieutenant Governor shall appear on the ballot.

9 (b) (1) The successor candidate for Lieutenant Governor designated by the
10 candidate for Governor under subsection (a) of this section shall file a certificate of
11 candidacy with the State Board.

12 (2) The certificate of candidacy shall be filed:

13 (i) by the fifth day following the withdrawal deadline specified
14 under § 5-502 of this title, if the former Lieutenant Governor candidate files a certificate
15 of withdrawal; **OR**

16 (ii) by the fifth day following the death or disqualification of the
17 former Lieutenant Governor candidate, if that former candidate dies or is disqualified less
18 than **[45] 70** days before the day of the primary election]; or

19 (iii) not later than 40 days before the day of the primary, if the former
20 Lieutenant Governor candidate dies or is disqualified 45 days or more before the day of the
21 primary election].

22 (3) A certificate of candidacy for a successor candidate for Lieutenant
23 Governor under subsection (b)(2)(ii) of this section may not be filed less than **[10] 65** days
24 before the day of the primary election.

25 (c) If the death or disqualification of a former Lieutenant Governor candidate
26 occurs less than **[10] 65** days before the day of the primary election, the existing Governor
27 and Lieutenant Governor unit whose filing is complete:

28 (1) shall remain on the ballot; and

29 (2) if nominated, a vacancy in the nomination of the candidate for
30 Lieutenant Governor shall be declared and be filled under § 5-1005(b) of this title as if the
31 death or disqualification had occurred after the primary election.

32 5-904.

1 (a) This section does not apply if only one Governor and Lieutenant Governor unit
2 files a certificate of candidacy for the nomination of a political party for those offices in a
3 primary election.

4 (b) (1) If a candidate for Governor dies, withdraws the candidacy, or becomes
5 disqualified for any reason after the deadline for filing a certificate of candidacy for a
6 primary election under § 5-303 of this title, the remaining candidate for Lieutenant
7 Governor of that unit may:

8 (i) designate the Lieutenant Governor candidate as the successor
9 candidate for Governor and appoint a successor candidate for Lieutenant Governor; or

10 (ii) designate a successor candidate for Governor.

11 (2) The names of any Governor and Lieutenant Governor candidate unit
12 that is designated under paragraph (1) of this subsection shall be listed jointly on the
13 primary election ballot.

14 (c) (1) The successor candidate for Governor designated by the Lieutenant
15 Governor candidate under subsection (b)(1)(ii) of this section, or the former candidate for
16 Lieutenant Governor who subsequently is designated as the candidate for Governor
17 together with the candidate appointed as the successor candidate for Lieutenant Governor
18 under subsection (b)(1)(i) of this section, each shall file a certificate of candidacy with the
19 State Board.

20 (2) The certificate of candidacy shall be filed:

21 (i) by the fifth day following the withdrawal deadline specified
22 under § 5-502 of this title, if the former candidate for Governor files a certificate of
23 withdrawal; **OR**

24 (ii) by the fifth day following the day of the death or disqualification
25 of the former candidate for Governor, if that former candidate dies or is disqualified less
26 than **[45] 70** days before the day of the primary election]; or

27 (iii) not later than 40 days before the day of the primary election, if
28 the former candidate for Governor dies or is disqualified 45 days or more before the day of
29 the primary election].

30 (3) A certificate of candidacy may not be filed under paragraph (2)(ii) of
31 this subsection less than **[10] 65** days before the day of the primary election.

32 (d) If the death or disqualification of a former candidate for Governor occurs less
33 than **[10] 65** days before the day of the primary election, the existing Governor and
34 Lieutenant Governor unit whose filing is complete:

35 (1) shall remain on the ballot; and

1 (2) if nominated, a vacancy in the office of Governor shall be declared and
2 filled under § 5–1005 of this title as if the death or disqualification had occurred after the
3 primary election.

4 5–1005.

5 (a) This section applies:

6 (1) to the nominees of a Governor and Lieutenant Governor unit; and

7 (2) whether or not a certificate of nomination has been issued to the
8 nominees by the State Board.

9 (b) (1) If, after the primary election, a candidate for Lieutenant Governor dies,
10 declines the nomination, or becomes disqualified, the remaining nominee for Governor of
11 that unit may designate a successor nominee for Lieutenant Governor.

12 (2) By the fifth day following the day of the death, declination, or
13 disqualification of the nominee for Lieutenant Governor:

14 (i) the nominee for Governor shall designate the successor nominee
15 for Lieutenant Governor and notify the State central committee of the applicable political
16 party of the selection;

17 (ii) the State central committee of the political party of the nominee
18 shall file a certificate of designation with the State Board; and

19 (iii) the successor nominee for Lieutenant Governor shall file a
20 certificate of candidacy with the State Board.

21 (c) (1) If a nominee for Governor dies, declines the nomination, or becomes
22 disqualified after the primary election, the remaining nominee for Lieutenant Governor is
23 disqualified, except as otherwise provided in this section.

24 (2) (i) The State central committee of the political party of the nominee
25 for Lieutenant Governor disqualified under paragraph (1) of this subsection shall select a
26 successor nominee for Governor.

27 (ii) The disqualified nominee for Lieutenant Governor is eligible to
28 be chosen as the nominee for Governor.

29 (3) (i) The successor nominee for Governor promptly shall select a
30 successor nominee for Lieutenant Governor and notify the State central committee of the
31 applicable political party of the selection.

1 (ii) The disqualified nominee for Lieutenant Governor is eligible to
2 be selected again as the nominee for Lieutenant Governor.

3 (4) Except as provided under paragraph (5) of this subsection, by the fifth
4 day following the death, declination, or disqualification of the former nominee for Governor:

5 (i) the State central committee shall file a certificate of designation
6 for the successor nominee for Governor and the successor nominee for Lieutenant Governor
7 with the State Board; and

8 (ii) each of the successor nominees shall file a certificate of candidacy
9 with the State Board.

10 (5) A State central committee may not file a certificate of designation for a
11 successor nominee for Governor under this subsection within ~~10~~ **65** days of the day of the
12 general election.

13 (6) A Governor and Lieutenant Governor unit shall remain on the ballot
14 for the general election if:

15 (i) a nominee for Governor dies, declines the nomination, or is
16 disqualified less than **[15] 65** days before the general election; and

17 (ii) a certificate of designation and certificates of candidacy for
18 successor nominees for Governor and Lieutenant Governor are not filed in accordance with
19 this section.

20 (7) If a Governor and Lieutenant Governor unit comprised of a nominee for
21 Governor who has died, declined the nomination, or become disqualified remains on the
22 ballot as provided under paragraph (6) of this subsection, during the campaign period
23 following the death, declination, or disqualification of the gubernatorial nominee until the
24 general election, the Lieutenant Governor nominee officially becomes the gubernatorial
25 nominee and may assert that status in the campaign.

26 (8) If a Governor and Lieutenant Governor unit comprised of a nominee for
27 Governor who has died, declined the nomination, or become disqualified remains on the
28 ballot as provided under paragraph (6) of this subsection and is elected, the vacancy
29 resulting from the death, declination, or disqualification shall be filled as if it had occurred
30 after the general election in accordance with applicable law.

31 5-1101.

32 (a) This section applies to petition candidates for the office of Governor and
33 Lieutenant Governor.

34 (b) (1) If either of the candidates of a Governor and Lieutenant Governor unit
35 nominated by petition under § 5-703 of this title dies, withdraws a certificate of candidacy,

1 or becomes disqualified prior to the deadline for filing a certificate of candidacy for a
2 primary election under § 5–303 of this title, the remaining candidate may:

3 (i) select a successor candidate and:

4 1. file a certificate or designation with the State Board; and

5 2. have the individual designated file a certificate of
6 candidacy with the State Board in accordance with paragraph (2) of this subsection; or

7 (ii) withdraw the certificate of candidacy and form a new unit for
8 Governor and Lieutenant Governor.

9 (2) Each member of the successor unit for Governor and Lieutenant
10 Governor formed under this section shall file a certificate of candidacy before the later of:

11 (i) the deadline specified under § 5–303 of this title; or

12 (ii) the fifth day following the death, withdrawal, or disqualification
13 of the former nominee.

14 (c) (1) Subject to paragraph (2) of this subsection, if either of the nominees of
15 a Governor and Lieutenant Governor unit nominated by petition dies, withdraws a
16 certificate of candidacy, or becomes disqualified after the deadline for filing a certificate of
17 candidacy for a primary election under § 5–303 of this title, the remaining nominee may:

18 (i) designate another nominee as the successor nominee for the
19 vacancy in nomination; or

20 (ii) assume the vacancy in nomination of the prior nominee and
21 designate another nominee for the position in the unit that formerly was held by the
22 successor nominee who assumed the vacancy created by the death, withdrawal, or
23 disqualification of the prior nominee.

24 (2) (i) The successor nominees or the nominee who exercises the option
25 to assume a position in the Governor and Lieutenant Governor unit previously held by a
26 nominee who dies, withdraws a certificate of candidacy, or becomes disqualified shall file
27 with the State Board either:

28 1. a certificate of candidacy, if no certificate was filed
29 previously; or

30 2. a change of candidacy, if the nominee is a candidate for a
31 different office as a part of the successor unit.

32 (ii) The certificate of candidacy:

1 1. shall be filed by the fifth day following the death,
2 withdrawal, or disqualification of a prior nominee after the deadline specified in paragraph
3 (1) of this subsection; and

4 2. may not be filed within [10] **65** days of the day of the
5 general election.

6 (d) If a nominee for Governor or Lieutenant Governor subject to this section dies,
7 withdraws a certificate of candidacy, or becomes disqualified less than [15] **69** days before
8 the day of the general election and the certificate of candidacy required by subsection (b) of
9 this section is not filed with the State Board, the unit:

10 (1) shall remain on the ballot; and

11 (2) if elected, the vacancy resulting from the death, declination, or
12 disqualification shall be filled as if it had occurred after the general election, in accordance
13 with this article or other applicable provisions of law.

14 (e) (1) The certificate for nomination by petition for a nominee subject to this
15 section shall be issued by the State Board under § 5–703 of this title.

16 (2) No additional petitions are required if one of the members of the
17 original Governor and Lieutenant Governor unit remains a nominee of the successor unit.
18 7–105.

19 (a) A local board shall provide notice of each question to be submitted statewide
20 and each question to be submitted to the voters of the county, by:

21 (1) specimen ballot mailed at least 1 week before any early voting period
22 before the general election; or

23 (2) publication or dissemination by mass communication during the 3
24 weeks immediately preceding the general election at which a question will appear on the
25 ballot.

26 (b) (1) For any question submitted under Article XIV or Article XVI of the
27 Maryland Constitution, the notice required by subsection (a) of this section shall contain
28 the information specified in § 7–103(b) of this title and a brief statement, prepared in clear
29 and concise language, devoid of technical and legal terms to the extent practicable,
30 summarizing the question.

31 (2) The statement required under paragraph (1) of this subsection shall be:

32 (i) prepared by the Department of Legislative Services;

33 (ii) approved by the Attorney General; and

1 (iii) submitted to the State Board by the [fourth] **FIRST** Monday in
2 August.

3 (3) The statement required under paragraph (1) of this subsection is
4 sufficient if it is:

5 (i) contained in an enactment by the General Assembly, and the
6 enactment clearly specifies that the statement is to be used on the ballot; or

7 (ii) consistent with some other process mandated by the Maryland
8 Constitution.

9 (c) The State Board shall adopt regulations governing notice of questions to
10 appear on the ballot, including the use and content of specimen ballots and the publication
11 or dissemination of notice by mass communication.

12 (d) (1) The complete text of a question shall be posted or available for public
13 inspection in the office of the State Board and each applicable local board for [30] **65** days
14 prior to the general election.

15 (2) Copies of the complete text of all statewide questions shall be furnished
16 by the State Board to the local boards in quantities as determined by the State Board,
17 including quantities sufficient to provide one copy of each for posting in each polling place
18 and in each local board office.

19 (3) An individual may receive without charge a copy of the complete text of
20 all constitutional amendments and questions from a local board, either in person [or], by
21 mail, **OR ELECTRONICALLY**.

22 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
23 October 1, 2021.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.