

Justin Gallardo, HB0256, Unfavorable  
January 19, 2021

**Testimony on HB0256  
Special Elections to Fill A Vacancy in Office  
Election Law**

**Position: UNFAVORABLE**

I, Justin Gallardo of Parkville, oppose HB0256, “Special Elections to Fill A Vacancy in Office.” I am not dismissing the urgency to abolish Central Committee appointments when there are vacancies as I do support the concept of legislative special elections to fill vacancies similar to the process of filling vacant Congressional seats. The language of this bill does not address the problem. There are false claims that legislative special elections held out of alignment with the filing deadline of a presidential election are too expensive.

A better bill can be written. Maryland voters should not be misled by this legislation should it be placed on the ballot. They deserve a better bill!

**Misleading Language:**

This bill only permits legislative special elections in concurrency to the filing deadline during and ONLY DURING the years of a presidential election.

HB0256, Article III, Section (c)(3):

“IF THE VACANCY OCCURS ON OR BEFORE THE DATE THAT IS 55 12 DAYS BEFORE THE DEADLINE FOR FILING CERTIFICATES OF CANDIDACY FOR THE 13 REGULAR STATEWIDE ELECTION THAT IS HELD IN THE SECOND YEAR OF THE TERM, 14 THE GOVERNOR SHALL ISSUE A PROCLAMATION IMMEDIATELY AFTER THE 15 OCCURRENCE OF THE VACANCY DECLARING THAT A SPECIAL PRIMARY ELECTION 16 AND A SPECIAL GENERAL ELECTION SHALL BE HELD AT THE SAME TIME AS THE 17 REGULAR STATEWIDE PRIMARY ELECTION AND REGULAR STATEWIDE GENERAL 18 ELECTION THAT ARE HELD IN THE SECOND YEAR OF THE TERM”

In accordance with MD Elec Law Code § 8-710 – “Congressional vacancy – Governor’s proclamation,” the Governor must call a special election within 10 days of the vacancy. It also gives guidance as to when special primaries and regular primaries can be combined based on the timeframe of the proclamation of vacancy; however, it does not permit the use of a Central Committee appointment. This was used last year to fill the vacancy of the late-Congressman Elijah Cummings as a Special Primary was designated months in advance of the Regular 2020 Presidential Primary. Then, the Special General Election for the vacant Congressional seat was held concurrently with Regular 2020 Presidential Primary which included the Regular Primary for that congressional seat in anticipation for the 2020 Congressional General Election, November 3, 2020.

This procedure can happen again if there was a vacancy in 2021 – in between the previous Presidential Election and the upcoming 2022 Midterm Election. This bill would not permit this. Instead, there would be a Central Committee appointment.

**False Claims of Costs:**

The sponsor of this bill states that elections out of alignment with the Presidential Election cycle would be too expensive. None of this is true as the State and County Board of Elections are well equipped and well prepared to roll out elections on an as-needed basis.

State Board of Elections:

As stated in the proposed FY 2019 State Operating Budget, “State Board of Elections 038I01.02 Help America Vote Act” in compliance with the Federal Help America Vote Act (HAVA), the Board of Elections was allocated \$28,130,521; however, it only spent \$21,045,620.

Baltimore County Board of Elections:

My home county, Baltimore County, has not cited cost issues. Based on the FY 2019 Budget Analysis from the Office of the Auditor, the County Board of Elections saved money! The proposed budget for FY 2019 was \$5.4 million, a decrease of \$146 thousand from FY 2018. Why? The agency found ways to save money and ensure greater voting access.

Under FY 2018, the County Board of Elections was allocated funds for 35 optical scanners. With additional funds from the State Board of Elections, they were able to buy an additional 17 scanners. That totaled 52 optical scanners once FY 2018 concluded. All completed before the 2018 midterm elections. As a result of these purchases, those funds were not needed in the proposed FY 2019 budget.

Equipment like tablets and printers are leased and covered by the County operating budget years in advanced – from FY 2018 to FY 2022 – at an estimated cost of \$1.6 million. These devices in addition to the 52 optical scanners are stored in a Hunt Valley warehouse at no charge and secured by the Baltimore County Police Department. The County Board of Elections, Office of Information and Technology, and the optical scanner manufacturers have representatives available on election days to ensure functional operations.

**Emergency Closure Days:**

The sponsor of this bill claims that holding a legislative special election would adversely impact school instruction time. Marylanders use to the colloquial term “Snow Days” and assume emergency closure days are synonymous and limited to natural weather occurrences – they are not. Emergency Closures can be used for weather, civil unrest, or even a Congressional Special

Election. Local public school systems explain how they address emergency closure days. Baltimore County has 5 emergency closure days and explain how the calendar can be adjusted if more the 5 emergency closure days are used. This is not an additional expenditure for the public school system:

“Please note that if more than five (5) emergency closures occur and/or there are a significant number of delayed openings and/or early dismissals used, the school calendar also may be adjusted appropriately in order to meet the minimum required student days **AND** the required number of student hours.

These readjustments may include the re-designation of holidays as student days; the adjustment of Spring break; the re-designation of professional development days as student days; the cancellation of planned early releases; and the extension of the school year beyond Thursday, June 16, 2022.”

### **Use of Public Buildings:**

Maryland is clear about the need for holding elections in public buildings such as schools. Even if not all schools are used as polling sites, the entire school system must close for the day. Using educational institutes (in addition to other public buildings like recreational centers) are of no charge to the Board of Elections. There are more school buildings in most jurisdictions than libraries and community centers; therefore, they are more prime and have the capacity to hold elections.

If a legislative special election were to be held during Spring Break that would have little impact on student instruction as there is no instruction. Even summer school classes are limited in both time and what facilities hold instruction. This would have little impact on setting up polling sites. It is a matter then of the Board of Elections utilizing these facilities:

Md. Election Law Code Ann. § 2-303:

“K-12 schools not specified. If a precinct is located on a higher education campus, the educational institution must provide a polling place for free.”

Md. Election Law Code Ann. § 10-401(3)(i):

“The public official responsible for the use of any public building requested by a local board for a polling place shall make available to the local board, without charge, the space that is needed in the building for the proper conduct of an election.”

Md. Election Law Code Ann. § 10-401(4)(i):

“If suitable space in a public building is not available, a local board may pay a reasonable fee for the use of space in a privately owned building.”