

Department of Legislative Services
Maryland General Assembly
2025 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

Senate Bill 262

(Chair, Education, Energy, and the Environment
Committee)(By Request - Departmental - State Board of
Elections)

Education, Energy, and the Environment

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) 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 (3) the administration of special elections conducted by mail.

Fiscal Summary

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

Local Effect: The bill may affect local government finances, as discussed below.

Small Business Effect: The State Board of Elections (SBE) has determined that this bill has minimal or no impact on small business (attached). The Department of Legislative Services concurs with this assessment. (The attached assessment does not reflect amendments to the bill.)

Analysis

Bill Summary:

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

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.

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) changes the date – 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:

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: 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: (1) a countywide special primary election (conducted by mail) on August 6, 2024; (2) a special general election on November 5, 2024, (during the presidential general election); and (3) another

countywide special primary election (conducted by mail) on March 4, 2025. A countywide special general election (conducted by mail) is scheduled for June 3, 2025.

Local Fiscal Effect: The bill is not expected to have a direct effect on local government finances; however, the bill significantly limits when special elections can be held independent of regularly scheduled elections (see Additional Comments below) and may indirectly affect the number of special elections a county holds that are independent of regularly scheduled elections (and, consequently, the extent to which the county incurs the increased costs associated with holding special elections independent of regularly scheduled elections).

For illustrative purposes:

- If the bill had been in effect in 2024 (hypothetically), Prince George’s County would not have been able to hold the August 6, 2024, special primary election since it would have been within 90 days of the adoption of the resolution establishing the date of the election (adopted in late June 2024) and within 120 days of both the regularly scheduled primary election on May 14, 2024, and the regularly scheduled general election on November 5, 2024. This presumably would have required the county to wait to hold both the special primary and special general elections until 120 days after the November 5, 2024, election (March 2025), and to pay the increased costs of holding a special election independent of a regularly scheduled election for both the special primary election and special general election (instead of only paying the increased costs for the special primary election and holding the special general election during the regularly scheduled general election, as the county did in 2024).
- Alternatively, if instead a vacancy occurs at least 90 days prior to a regularly scheduled presidential primary election, and the bill’s 120-day prohibition is interpreted to allow for a special primary and special general election to be held during a regularly scheduled primary and general election (as described below under Additional Comments), a county’s costs may be reduced if the special primary and general elections are held during the regularly scheduled presidential primary and general elections when the county otherwise would have held one or both of the special primary and general elections independent of a regularly scheduled election.

For context regarding the costs of a special election held independent of a regularly scheduled election:

- 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.

Additional Comments: If the bill’s prohibition on setting the date of a special election within 120 days of a regularly scheduled election is interpreted to apply to both the 120 days before a regularly scheduled election and after the election, the bill prohibits holding a special election during a period greater than one year surrounding regularly scheduled elections. During a presidential election year, for example, under the bill, a special election cannot be held during the period beginning in late December of the year before the presidential election year (120 days before the regularly scheduled primary election on the fourth Tuesday in April of the presidential election year) and ending in early March of the year after the presidential election year (120 days after the regularly scheduled general election on the Tuesday following the first Monday in November of the presidential election year). Every date within that approximately 14-month period is within 120 days of a regularly scheduled election.

However, if the bill’s 120-day prohibition is interpreted to not prohibit a special election from being held during a regularly scheduled election (provided the resolution establishing the date of the special election is adopted at least 90 days before the date of the regularly scheduled primary election) the special primary and general elections could be held during the regularly scheduled presidential primary and general elections.

Additional Information

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

Designated Cross File: HB 75 (Chair, Ways and Means Committee)(By Request - Departmental - State Board of Elections) - Ways and Means.

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

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ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: Election Law – Special Elections - Vote by Mail

BILL NUMBER: SB 262

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PART A. ECONOMIC IMPACT RATING

This agency estimates that the proposed bill:

WILL HAVE MINIMAL OR NO ECONOMIC IMPACT ON MARYLAND SMALL BUSINESS

OR

WILL HAVE MEANINGFUL ECONOMIC IMPACT ON MARYLAND SMALL BUSINESSES

PART B. ECONOMIC IMPACT ANALYSIS