Department of Legislative Services

Maryland General Assembly
2026 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 5 (Senator Kagan)
Education, Energy, and the Environment

General Assembly - Special Election to Fill a Vacancy in Office

This proposed constitutional amendment, if approved by the voters at the next general election, alters the procedure for filling a vacancy in the office of State senator or delegate. It requires the Governor to, immediately upon a vacancy in the office of State senator or delegate, if the vacancy occurs on or before a specified date, declare special primary and general elections to fill the vacancy. The special primary and general elections must take place during the regular statewide primary and general elections that occur in the second year of a term, and the Governor must appoint an eligible individual to fill the vacancy until a successor is elected. The proposed constitutional amendment exempts a special election to fill a vacancy in a specified office from the quadrennial schedule for the election of State and county officers. The bill also makes stylistic changes to replace gendered language with nongendered language.

Fiscal Summary

State Effect: Any increase in State expenditures can be absorbed within existing resources, as discussed below. Revenues are not affected.

Local Effect: Any increase in local expenditures can be absorbed within existing resources, as discussed below. Local revenues are not affected.

Small Business Effect: None.

Analysis

Bill Summary: If a vacancy in the office of State senator or delegate occurs at least 55 days before the candidacy filing deadline for the regular statewide primary and general elections held in the second year of the term, the Governor must immediately declare special primary and general elections to elect a successor. The special primary and general elections must take place during the regular statewide primary and general elections, as specified, and the Governor must, in accordance with specified procedures, appoint a qualified individual to fill the vacancy until a successor is elected.

If a vacancy occurs after or fewer than 55 days before the specified candidacy filing deadline, the Governor appoints an eligible individual to serve the remainder of the vacating senator's or delegate's unexpired term.

Accordingly, the proposed constitutional amendment exempts a specified special election to fill a vacancy in the office of State senator or delegate from the general requirement that elections for State and county officers take place on a specified quadrennial schedule.

Current Law: In the case of death, disqualification, resignation, refusal to act, or expulsion of a State senator or delegate, or in the case of a senator's or delegate's removal from the city or county from which he or she was elected, the Governor must, in accordance with specified procedures, appoint a person to serve the remainder of the vacating senator's or delegate's unexpired term.

The Governor appoints a person named by the specified central committee of the political party, if any, with which the vacating senator or delegate was affiliated only if that central committee submits, in writing, the name of a qualified person no more than 30 days after the vacancy occurs. In the event of a vacancy in a district that includes all or a portion of two or more counties, the affected central committees follow specified procedures for selecting and submitting a name or list of names to the Governor.

Upon receipt of a submission from the affected central committee, as specified, the Governor must, within 15 days, appoint the central committee's selection to fill the vacancy. If the central committee does not submit a name to the Governor within the 30-day period, as specified, the Governor must, within 15 days of the expiration of the 30-day period, select and appoint a person to fill the vacancy. The appointee must be (1) affiliated with the same political party, if any, as the vacating senator or delegate and (2) otherwise properly qualified to hold the office of senator or delegate in the affected district or county. Similarly, if no central committee exists in the affected county or district, the Governor must, within 15 days after the vacancy occurs, appoint a person who is (1) affiliated with the same political party, if any, as the vacating senator or delegate and (2) otherwise properly qualified to hold the office.

A gubernatorial appointee to fill a vacancy in the office of State senator or delegate serves the remainder of the vacating senator's or delegate's unexpired term.

Elections for State and county offices, with the exception of special elections to fill vacancies in specified county offices, may be held only every four years, as specified.

State and Local Expenditures: To the extent that special elections held in accordance with the bill result in additional unique ballot styles, expenditures for the State Board of Elections and local boards of elections may increase minimally due to printing and programming-related costs. However, for purposes of this fiscal and policy note, it is assumed that any such costs are absorbable within existing resources.

Additional Information

Recent Prior Introductions: Similar legislation has been introduced within the last three years. See SB 2 and HB 174 of 2025; HB 412 of 2024; and HB 417 of 2023.

Designated Cross File: HB 50 (Delegate Foley) - Government, Labor, and Elections.

Information Source(s): Baltimore, Frederick, and Somerset counties; Maryland Association of Counties; Governor's Office; Maryland State Board of Elections; Department of Legislative Services

Fiscal Note History: First Reader - January 19, 2026
gj/mcr

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