

Bill No. 50-16
Concerning: Elections -- Special
Elections -- Executive Vacancy
Revised: 12/5/2016 Draft No. 1
Introduced: December 13, 2016
Enacted: February 7, 2017
Executive: _____
Effective: _____
Sunset Date: None
Ch. _____, Laws of Mont. Co. _____

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

Lead Sponsor: Councilmember Leventhal

AN ACT to:

- (1) require a special election to fill a vacancy in the Office of the Executive under certain conditions;
- (2) establish the procedures for conducting a special election to fill a vacancy in the Office of the Executive; and
- (3) generally amend the law governing special elections for County elected officials.

By amending

Montgomery County Code
Chapter 16, Elections
Section 16-17

Boldface	<i>Heading or defined term.</i>
<u>Underlining</u>	<i>Added to existing law by original bill.</i>
[Single boldface brackets]	<i>Deleted from existing law by original bill.</i>
<u>Double underlining</u>	<i>Added by amendment.</i>
[[Double boldface brackets]]	<i>Deleted from existing law or the bill by amendment.</i>
* * *	<i>Existing law unaffected by bill.</i>

The County Council for Montgomery County, Maryland approves the following Act:

1 **Sec. 1. Section 16-17 is amended as follows:**

2 **16-17. Council vacancy, Executive vacancy - election required.**

3 (a) In this Section, the following words have the meanings indicated:

4 [(1)] ["Board"] Board means the Montgomery County Board of
5 Elections.

6 [(2)] ["Council vacancy"] Council vacancy means a vacancy on the
7 County Council that must be filled by a special election under this
8 Section.

9 Executive vacancy means a vacancy in the Office of the County
10 Executive that must be filled by a special election under this Section.

11 Special election means the combination of a special primary election and
12 a special general election conducted under this Section.

13 [(3)] ["State law"] State law means [Article 33] the Election Law
14 Article of the Maryland Code, as amended from time to time, any
15 successor provision, and any other relevant provision of state law.

16 [(4)] "Special election means the combination of a special primary
17 election and a special general election conducted under this Section.]

18 (b) (1) A vacancy on the Council or an Executive vacancy that occurs
19 before December 1 of the year before a year in which a quadrennial
20 state election will be held must be filled by a special election as
21 provided in this Section.

22 (2) [The] For a Council vacancy, the special election must be
23 conducted among the registered voters of the Council district
24 represented by the previous member, or among the registered
25 voters of the entire County when the previous member did not
26 represent a Council district.

27 (3) For an Executive vacancy, the special election must be conducted
28 among the registered voters of the entire County.

(4) The person elected to fill a Council vacancy or an Executive vacancy must meet the same qualifications and residence requirements, but need not be registered to vote in the same political party, as the previous [member] office holder.

[(4)] (5) The Councilmember or the Executive elected at a special election serves:

(A) from the date the person elected takes the oath of office after the Board (sitting as a Board of Canvassers under state law) certifies the result of the special election; and

(B) for the rest of the unexpired term of the previous [member] office holder.

(c) Except as otherwise provided in this Section, and to the extent applicable:

(1) The special election must be conducted in a manner consistent with provisions of state law that govern special elections to fill vacancies in the office of representative in Congress. The deadlines and time periods required under those provisions of state law apply to a special Council election or a special Executive election unless the Council, acting under subsection (d) or subsection (e), expressly modifies them.

(2) Except as provided in paragraph (1), the general provisions of state and County law that govern quadrennial elections for Councilmembers and the Executive apply to the special election conducted under this Section.

(d) (1) Within 30 days after a Council vacancy or an Executive vacancy occurs, the Council must adopt a resolution that:

(A) sets the dates of the special primary election and the special general election;

(B) sets the timeline for certification of a candidate for public campaign financing for the special primary election and the special general election; and

(C) takes any other action authorized by this Section or state law.

If a Councilmember or the Executive submits a resignation with a later effective date, the vacancy occurs when the Council receives the resignation.

(2) Notwithstanding subsection (c)(1), if the Council vacancy or the Executive vacancy occurs during the period beginning 120 days before the next regular or special primary or general election conducted in the County under state law and ending 40 days before that election, the special primary election provided for by this Section must be held on the same date as the other election. If a second regular or special primary or general election conducted in the County under state law is held more than 30 but less than 60 days after the special primary election referred to in the preceding sentence, the special general election held under this Section must be held on the same date as the second other election.

(3) Notwithstanding any other provision of law, a special primary or special general election under this Section must not be held within 30 days before or after any regular or special primary or general election conducted in the County under state law.

(e) If the Board advises the Council in writing that certain deadlines or other time periods provided by state law cannot be complied with in a special election held under this Section, or that compliance with those deadlines or time periods would be unreasonable or burdensome, the Council may

in the resolution set other deadlines or time periods appropriate for the special election held under this Section.

(f) Immediately after adopting a resolution under this Section, the Council must deliver the resolution to the Board.

(g) Within 7 calendar days after adopting the resolution, the Council must publish a notice that a vacancy has occurred in at least one newspaper of general circulation in the County. The notice must specify:

(1) the dates of the special primary election and the special general election; and

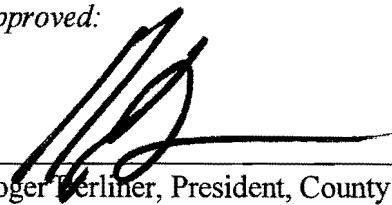
(2) the procedures under which a person may be nominated to fill the vacancy.

(h) (1) An individual who has filed a certificate of candidacy for the special election may, by 5 p.m. on the second business day after the deadline for filing certificates of candidacy, withdraw the certificate on a form prescribed by the Board.

(2) A candidate to whom a certificate of nomination is issued may, by 5 p.m. on the second business day after the certificate of nomination is issued, decline the nomination by filing a certificate of declination on a form prescribed by the Board.

(i) The Board must identify the costs it incurred in holding a special election under this Section and submit a request for a supplemental appropriation to the Director of the Office of Management and Budget within 60 days after the special general election.

Approved:



Roger Berliner, President, County Council

2/7/17

Date

Approved:

Isiah Leggett, County Executive

Date

This is a correct copy of Council action.

Linda M. Lauer, Clerk of the Council

Date