

**County Council's Proposals for Legislation
Frederick County's 2022
General Assembly Legislative Package**

Proposed Amendment to Maryland State Law to Provide for Limited Special Elections to Fill Vacancies on the Frederick County Board of Education

Goal: A vacancy on the Board of Education should be filled by a vote of Frederick County's residents.

What is the Current Process?

Vacancies on the Board of Education are currently filled by an appointment-based process, whereby the County Executive appoints a replacement, and the County Council confirms the appointment. Appointments are a necessary component to fill a vacancy in this office; however, it should not be the ONLY component. The Board of Education is composed of elected officials with a tremendous amount of authority over both taxpayer funds and the education of our children. The voters should have a voice in this process.

What is being Proposed in this Amendment?

I am proposing a couple of things in this Charter amendment but, first and foremost, it is to enable the voters to choose a replacement for a vacancy on the Board of Education. I am NOT proposing that an election be held any time a vacancy occurs. Rather, I am proposing that we take advantage of the fact that during the mid-term of every elected Member's term, there is an existing election – either Presidential or Gubernatorial – which can be utilized to fill the vacancy. This has practical implications for when a vacancy will trigger an election. Specifically, the vacancy must occur early enough for candidates to register for the election. More specifically, the vacancy should occur no later than 30 days prior to the Primary registration deadline following the vacating Member's last election.

Why not have an election whenever we need one? The simple answer is cost. A “one-off” election has been estimated to cost \$250,000-\$300,000. My strong preference is to avoid such a cost. What if we needed to do more than one during a four-year term? That starts to add up.

How Would the Special Election be Conducted?

In response to a question during our initial Council review, consultations were held with the Frederick County Election Director and the State Board of Elections. Under current State election law, during a non-partisan primary such as the one held for the Board of Education, twice as many candidates as there are open seats are nominated from the Primary Election. Thus, whenever a special election is needed to fill an unexpired term, two additional nominees will come from the Primary. No changes are required in this part of the law.

For the General Election, the State Board of Elections concurred with the idea that the winner of the special election is the next highest vote getter, after the regular BOE openings have been filled. For example, if there are four full-term openings on the ballot and one partial term, then the fifth highest vote-getter receives the partial term.

Are Special Elections Authorized in Maryland Law?

EXPLANATION:

BOLD CAPITALS INDICATE MATTER ADDED TO THE ORDINANCE.

[Brackets and ~~strikethrough~~] indicate matter deleted from the ordinance.

Yes. Maryland law authorizes Counties to hold special elections conducted during regularly scheduled elections to fill vacancies for Board of Education. The State Education Article for Frederick County (Title 3, § 5B-01(d)(2), on the other hand, must be amended to provide this option here.

Do Other Charter Counties Authorize Special Elections?

Yes. As provided by the Frederick County Election Director, the term “special election” is actually a misnomer, but is used here to refer to the filling of a vacancy via the next scheduled election. The process for filling vacancies on the Boards of Education for Maryland’s charter counties varies greatly, including the following:

- Appointment Authority
 - Governor – Baltimore, Cecil, Harford (for appointed members only), Talbot
 - County Executive – Frederick, Howard, Prince Georges
 - County Council – Anne Arundel (effective 11/1/2020), Harford (for elected members only), Dorchester, Wicomico
 - Board of Education - Montgomery
- Nominating Commissions for Appointments – Anne Arundel, Baltimore, Wicomico
- Special Elections (next congressional election) – Howard, Talbot, Wicomico

As you may note, there is just as much precedent for vacancies to be filled by election, as there are for our current system of appointment by the County Executive.

There is Still a Role for Appointments

Even if you agree with this proposal, we will still need an appointment-based process. We will need to make an interim appointment prior to the outcome of a special election. That appointee would serve until the first Monday in December, at which time the winner of the election takes office. Also, if a vacancy occurs after the deadline, then we will need to appoint someone to fill the remainder of the vacating member’s term.

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Proposed Amendment Language

2018 Maryland Code; Education; Division II –Elementary and Secondary Education; Title 3 – Establishment of County Boards of Education; Subtitle 5B – Frederick County; 3-5B-01. Membership

(d) Vacancies. --

(1) The terms of voting members are staggered as provided in subsection (c) of this section.

(2) [~~Subject to confirmation of the County Council, the County Executive shall appoint a qualified individual to fill a vacancy on the county board for the remainder of the term and until a successor is elected and qualifies.~~] **IF THERE IS A VACANCY BY A VOTING MEMBER OF THE COUNTY BOARD OCCURRING 30 DAYS OR LESS BEFORE THE CANDIDATE REGISTRATION DEADLINE FOR THE NEXT PRIMARY ELECTION, THE COUNTY EXECUTIVE SHALL APPOINT, SUBJECT TO CONFIRMATION OF THE COUNTY COUNCIL, A QUALIFIED INDIVIDUAL TO FILL THE VACANCY ON THE COUNTY BOARD FOR THE REMAINDER OF THAT TERM AND UNTIL A SUCCESSOR IS ELECTED IN ACCORDANCE WITH PARAGRAPH (4)(I) OF THIS SUBSECTION AND QUALIFIES.**

(3) IF THERE IS A VACANCY BY A VOTING MEMBER OF THE COUNTY BOARD OCCURRING MORE THAN 30 DAYS BEFORE THE CANDIDATE REGISTRATION DEADLINE FOR THE NEXT PRIMARY ELECTION FOLLOWING THE VACATING MEMBER'S ELECTION:

(I) THE COUNTY EXECUTIVE SHALL APPOINT, SUBJECT TO CONFIRMATION OF THE COUNTY COUNCIL, A QUALIFIED INDIVIDUAL TO TEMPORARILY FILL THE VACANCY ON THE COUNTY BOARD WHO SHALL SERVE UNTIL A QUALIFIED INDIVIDUAL IS ELECTED IN ACCORDANCE WITH PARAGRAPH (4)(II) OF THIS SUBSECTION; AND

(II) THE INDIVIDUAL ELECTED UNDER ITEM (I) OF THIS PARAGRAPH SHALL SERVE FOR THE REMAINDER OF THAT TERM UNTIL A SUCCESSOR IS ELECTED AND QUALIFIES.

(4) AT A GENERAL ELECTION, VACANCIES SHALL BE FILLED AS FOLLOWS:

EXPLANATION:

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(I) THE CANDIDATES WITH THE HIGHEST VOTE TOTALS SHALL FIRST FILL ANY VACANT POSITIONS FOR A FULL TERM OF 4 YEARS; AND

(II) AFTER ALL VACANT POSITIONS FOR A FULL TERM OF 4 YEARS ARE FILLED, THE CANDIDATE WITH THE NEXT HIGHEST VOTE TOTAL SHALL FILL THE POSITION FOR WHICH A SUCCESSOR WAS APPOINTED UNDER PARAGRAPH (3) OF THIS SUBSECTION AND SERVE THE REMAINDER OF THAT TERM.

(5) CANDIDATES FOR A VACATED OFFICE MAY BE NOMINATED AT A PRIMARY ELECTION IN THE SAME MANNER AS ANY OTHER POSITION ON THE COUNTY BOARD.

EXPLANATION:

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**County Council
Frederick County**

POSITION STATEMENT

Requirements for advertisement of
Constant Yield Tax Rate

County Position: SUPPORT

The Frederick County Council request the Frederick County delegation to **SUPPORT** changes to the current requirements in Maryland law specifying exact wording to be used, thus allowing for more easily understood advertisements, removing specific requirements for those advertisements, and allowing for electronic advertisement.

Currently, the language used for a Constant Yield Tax Rate can be misleading or deceiving. If a property assessment by the State of Maryland Department of Assessments and Taxation increases while the County's Constant Yield Tax Rate is held constant, it then requires a larger County tax bill, thereby increasing County revenues. Under this scenario, the State of Maryland requires a County to call this a tax increase, even though the tax rate has not changed.

Additionally, technology has expanded access to online newspapers and information for many residents. Allowing Counties to advertise electronically will allow easier access to the information. Allowing Counties to advertise electronically would allow specific guidelines to be removed from print ads, which may cause confusion.

We respectfully request the Frederick County Delegation's strong advocacy and support to address the issues with the requirements for advertising the Constant Yield Tax Rate.



**County Council
Frederick County**

POSITION STATEMENT

Climate Solutions Now Act

County Council Position: SUPPORT

On behalf of the Frederick County Council we wish to convey our **SUPPORT** of the Climate Solutions Now Act. We respectfully request the Frederick County Delegation support this proposed legislation in the 2022 Session of the Maryland General Assembly.

The legislation as proposed during the 2021 session would have made broad changes to the State's approach to reducing statewide greenhouse gas (GHG) emissions and addressing climate change. While some of the proposed actions were partially addressed in other legislation last session, there are many issues that remain unresolved.

We recognize that a new version of this Act will go through a dynamic process in both chambers of the legislature, but nonetheless wish to make a strong statement of support for the statewide action on climate change that will be the focus of this bill in its future form.

In 2020 The Frederick County Council resolved to "commit to equitable climate emergency mobilization efforts to address global warming, reduce county-wide greenhouse gas emissions 50% from 2010 levels by 2030 and 100% no later than 2050, and employ efforts to safely drawdown carbon from the atmosphere." Climate change is not only a global, national, and state-wide issue- it is also a local issue.

On behalf of the citizens of Frederick County we urge your support for this essential and worthwhile legislation.