

Chapter 677

(House Bill 725)

AN ACT concerning

Montgomery County – County Council Special Elections – Voting by Mail

MC 5-12

FOR the purpose of ~~requiring~~ authorizing the Montgomery County Council to direct that voting by mail be utilized in certain special elections for the Montgomery County Council; specifying the application of certain provisions of law to a special election for the Montgomery County Council; requiring the local board of elections to mail a vote-by-mail ballot to each ~~active~~ registered voter who is eligible to vote in a ~~certain~~ special election conducted by mail unless the voter has requested that the ballot be transmitted by other means; specifying that a voter is not required to submit an application to receive a vote-by-mail ballot; requiring the local board to send a vote-by-mail ballot to each eligible voter at least a certain number of days before the day of a special election; requiring that a postage-paid envelope be provided in which a voter may return a vote-by-mail ballot to the local board; requiring that vote-by-mail ballots be mailed to the address on file in the statewide voter registration list for each eligible voter except in certain circumstances; requiring the local board to issue a replacement vote-by-mail ballot to a voter under certain circumstances; ~~requiring the Montgomery County Council to establish the date of a special election; specifying certain deadlines for candidate filing, ballot certification, and mailing of vote-by-mail ballots to voters~~; requiring the local board to establish ~~at least one polling place~~ a certain number of voting centers for the use of any eligible voter who chooses to cast a ballot in person in a special election; specifying certain requirements for a ~~polling place~~ voting center established by the local board; authorizing the local board to establish a ~~polling place~~ voting center during a certain time period; providing that a certain process for applying in person for an absentee ballot at the office of a local board does not apply to a special election conducted by mail; providing that certain provisions of law relating to voting at a polling place on election day also apply to voting at a voting center established under this Act; requiring a voter to return a vote-by-mail ballot by certain methods; authorizing a voter to designate an agent to return a vote-by-mail ballot to the local board; requiring that a vote-by-mail ballot be returned to the local board by certain deadlines and meet certain requirements to be considered timely and be counted; ~~providing for the application of this Act; requiring~~ authorizing the State Board of Elections to adopt regulations as necessary to implement this Act; and generally relating to voting by mail in special elections for the Montgomery County Council.

BY adding to

Article – Election Law

Section 9–501 through ~~9–507~~ 9–506 to be under the new subtitle “Subtitle 5.
Montgomery County Voting by Mail”

Annotated Code of Maryland

(2010 Replacement Volume and 2011 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – Election Law

SUBTITLE 5. MONTGOMERY COUNTY VOTING BY MAIL.

9–501.

(A) THIS SUBTITLE APPLIES ONLY TO A SPECIAL ELECTION FOR THE MONTGOMERY COUNTY COUNCIL THAT IS NOT HELD CONCURRENTLY WITH A REGULARLY SCHEDULED PRIMARY OR GENERAL ELECTION.

(B) VOTING BY MAIL ~~SHALL~~ MAY BE UTILIZED IN A SPECIAL ELECTION FOR THE MONTGOMERY COUNTY COUNCIL IN ACCORDANCE WITH THIS SUBTITLE.

(C) A SPECIAL ELECTION TO FILL A VACANCY IN THE MONTGOMERY COUNTY COUNCIL SHALL BE CONDUCTED BY MAIL IF THE RESOLUTION OF THE MONTGOMERY COUNTY COUNCIL ESTABLISHING THE DATE OF THE SPECIAL ELECTION DIRECTS THAT THE ELECTION BE CONDUCTED BY MAIL.

~~(D)~~ (D) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBTITLE:

(1) PROVISIONS OF THIS ARTICLE RELATING TO ABSENTEE VOTING APPLY TO VOTING BY MAIL; AND

(2) COUNTY LAWS RELATING TO THE CONDUCT OF A COUNTY COUNCIL SPECIAL ELECTION APPLY TO A SPECIAL ELECTION CONDUCTED UNDER THIS SUBTITLE.

~~(D)~~ (E) PROVISIONS OF THIS ARTICLE RELATING TO THE CONDUCT OF ELECTIONS APPLY TO A SPECIAL ELECTION CONDUCTED UNDER THIS SUBTITLE, UNLESS A LAW SPECIFICALLY RELEVANT TO A SPECIAL ELECTION APPLIES.

9-502.

(A) (1) THE EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, THE LOCAL BOARD SHALL MAIL BY NONFORWARDABLE MAIL A VOTE-BY-MAIL BALLOT TO EACH ACTIVE REGISTERED VOTER WHO IS ELIGIBLE TO VOTE IN A SPECIAL ELECTION FOR THE MONTGOMERY COUNTY COUNCIL.

(2) THE LOCAL BOARD IS NOT REQUIRED TO MAIL A VOTE-BY-MAIL BALLOT TO A VOTER IF THE VOTER HAS REQUESTED THAT THE BALLOT BE SENT BY OTHER MEANS.

(B) A VOTER IS NOT REQUIRED TO SUBMIT AN APPLICATION TO RECEIVE A VOTE-BY-MAIL BALLOT.

(C) (1) EACH VOTE-BY-MAIL BALLOT SHALL BE ACCOMPANIED BY A POSTAGE-PAID ENVELOPE IN WHICH A VOTER MAY RETURN THE VOTED BALLOT TO THE LOCAL BOARD.

(2) THE LOCAL BOARD SHALL PAY THE COST OF POSTAGE-PAID ENVELOPES PROVIDED UNDER THIS SUBSECTION.

(D) THE LOCAL BOARD SHALL SEND A VOTE-BY-MAIL BALLOT TO EACH ELIGIBLE VOTER AT LEAST 14 DAYS BEFORE THE DAY OF A SPECIAL ELECTION.

(E) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A VOTE-BY-MAIL BALLOT SHALL BE MAILED TO THE ADDRESS THAT IS ON FILE IN THE STATEWIDE VOTER REGISTRATION LIST FOR EACH ELIGIBLE VOTER.

(2) A REGISTERED VOTER MAY REQUEST TO RECEIVE A VOTE-BY-MAIL BALLOT AT AN ADDRESS OTHER THAN THE ADDRESS THAT IS ON FILE IN THE STATEWIDE VOTER REGISTRATION LIST BY:

(I) SUBMITTING AN ABSENTEE BALLOT APPLICATION IN ACCORDANCE WITH § 9-305(A) OF THIS TITLE NOT LATER THAN THE TUESDAY PRECEDING THE DAY OF A SPECIAL ELECTION, IF THE VOTER IS TEMPORARILY ABSENT FROM THE ADDRESS THAT IS ON FILE IN THE STATEWIDE VOTER REGISTRATION LIST; OR

(II) NOTIFYING A LOCAL BOARD OF A CHANGE OF ADDRESS NOT LATER THAN THE TUESDAY PRECEDING THE DAY OF A SPECIAL ELECTION, IF THE VOTER'S RESIDENCE HAS CHANGED FROM THE ADDRESS THAT IS ON FILE IN THE STATEWIDE VOTER REGISTRATION LIST TO ANOTHER LOCATION WITHIN THE STATE.

~~(D)~~ (F) THE LOCAL BOARD SHALL ISSUE A REPLACEMENT VOTE-BY-MAIL BALLOT TO A VOTER IF THE ELECTION DIRECTOR OF THE LOCAL BOARD HAS REASONABLE GROUNDS TO BELIEVE THAT THE VOTE-BY-MAIL BALLOT PREVIOUSLY ISSUED TO THE VOTER HAS BEEN LOST, DESTROYED, OR SPOILED.

~~9-503.~~

(A) (1) ~~THE MONTGOMERY COUNTY COUNCIL SHALL ESTABLISH THE DATE OF A SPECIAL ELECTION.~~

(2) ~~THE DATE OF A SPECIAL ELECTION SHALL BE THE LAST DAY ON WHICH A VOTER MAY MAIL A VOTE BY MAIL BALLOT TO THE LOCAL BOARD FOR THE BALLOT TO BE CONSIDERED TIMELY.~~

~~(B) (1) THE DEADLINE FOR CANDIDATE FILING SHALL BE 75 DAYS BEFORE THE DAY OF A SPECIAL PRIMARY ELECTION.~~

(2) ~~VOTE BY MAIL BALLOTS SHALL BE CERTIFIED 60 DAYS BEFORE THE DAY OF A SPECIAL ELECTION.~~

(3) ~~THE LOCAL BOARD SHALL MAIL A VOTE BY MAIL BALLOT TO EACH ELIGIBLE ABSENT UNIFORMED SERVICES VOTER OR OVERSEAS VOTER AS DEFINED IN THE FEDERAL UNIFORMED AND OVERSEAS CITIZENS ABSENTEE VOTING ACT 45 DAYS BEFORE THE DAY OF A SPECIAL ELECTION.~~

(4) ~~THE LOCAL BOARD SHALL MAIL A VOTE BY MAIL BALLOT TO EACH ELIGIBLE VOTER NOT INCLUDED IN PARAGRAPH (3) OF THIS SUBSECTION 20 DAYS BEFORE THE DAY OF A SPECIAL ELECTION.~~

~~9-504.~~ 9-503.

(A) THE LOCAL BOARD SHALL ESTABLISH ~~AT LEAST ONE POLLING PLACE~~ VOTING CENTERS FOR THE USE OF ANY ELIGIBLE VOTER WHO CHOOSES TO CAST A BALLOT IN PERSON IN A SPECIAL ELECTION IN ACCORDANCE WITH THIS SECTION.

(B) (1) IN A SPECIAL ELECTION HELD IN A SINGLE COUNTY COUNCIL DISTRICT, AT LEAST ~~THREE VOTING CENTERS~~ ONE VOTING CENTER SHALL BE ESTABLISHED IN THE COUNTY COUNCIL DISTRICT WHERE THE SPECIAL ELECTION IS BEING HELD.

(2) IN A COUNTYWIDE SPECIAL ELECTION, AT LEAST ~~THREE~~ VOTING CENTERS ONE VOTING CENTER SHALL BE ESTABLISHED IN EACH COUNTY COUNCIL DISTRICT.

~~(B)~~ (C) A ~~POLLING PLACE~~ VOTING CENTER ESTABLISHED UNDER THIS SECTION SHALL:

(1) ~~BE LOCATED AT THE LOCAL BOARD OFFICE OR ANOTHER LOCATION WITHIN THE COUNCIL DISTRICT WHERE THE SPECIAL ELECTION IS BEING HELD;~~

~~(2)~~ PROVIDE ACCESS TO A VOTING SYSTEM THAT IS ACCESSIBLE TO VOTERS WITH DISABILITIES IN ACCORDANCE WITH THE FEDERAL AMERICANS WITH DISABILITIES ACT AND THE FEDERAL HELP AMERICA VOTE ACT; ~~AND~~

(2) PROVIDE FOR PROVISIONAL VOTING IN ACCORDANCE WITH SUBTITLE 4 OF THIS TITLE;

(3) SATISFY THE REQUIREMENTS OF § 10-101 OF THIS ARTICLE;
AND

~~(3)~~ (4) BE OPEN FOR VOTING BEGINNING THE DAY THAT THE VOTE BY MAIL BALLOTS ARE MAILED TO VOTERS UNTIL 8 P.M. ON THE DAY OF A SPECIAL ELECTION DURING THE DAYS AND FOR THE HOURS THAT THE COUNTY COUNCIL DIRECTS IN THE RESOLUTION UNDER § 9-501(C) OF THIS SUBTITLE.

(C) IF NECESSARY TO EXPEDITE THE CONDUCT OF A SPECIAL ELECTION AND SUBJECT TO THE APPROVAL OF THE STATE BOARD, THE LOCAL BOARD MAY ESTABLISH A POLLING PLACE UNDER THIS SECTION DURING A PERIOD WHEN A CHANGE IN POLLING PLACES IS PROHIBITED UNDER § 2-303 OF THIS ARTICLE.

(D) THE PROCESS FOR APPLYING IN PERSON FOR AN ABSENTEE BALLOT AT THE OFFICE OF A LOCAL BOARD UNDER § 9-305(C) OF THIS TITLE DOES NOT APPLY TO A SPECIAL ELECTION CONDUCTED BY MAIL.

(E) EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, ANY PROVISION OF THIS ARTICLE THAT APPLIES TO VOTING AT A POLLING PLACE ON ELECTION DAY ALSO APPLIES TO VOTING AT A VOTING CENTER ESTABLISHED UNDER THIS SECTION.

~~9-505.~~ 9-504.

(A) A VOTER MAY RETURN A VOTE-BY-MAIL BALLOT TO THE LOCAL BOARD:

- (1) BY MAIL;
- (2) IN PERSON DURING REGULAR OFFICE HOURS; OR
- (3) THROUGH A DULY AUTHORIZED AGENT IN ACCORDANCE WITH SUBSECTION (B) OF THIS SECTION.

(B) (1) A VOTER MAY DESIGNATE A DULY AUTHORIZED AGENT IN ACCORDANCE WITH § 9-307 OF THIS TITLE TO RETURN A VOTE-BY-MAIL BALLOT TO THE LOCAL BOARD DURING REGULAR OFFICE HOURS.

(2) NOTWITHSTANDING § 9-307(B)(4)(I) OF THIS TITLE, AN AGENT IS REQUIRED ONLY TO:

(I) WITNESS THE VOTER MARK THE BALLOT AND PLACE IT IN AN ENVELOPE; AND

(II) RETURN THE BALLOT TO THE LOCAL BOARD.

~~9-506.~~

~~(A) A VOTE BY MAIL BALLOT THAT IS POSTMARKED BY 8 P.M. ON THE DAY OF A SPECIAL ELECTION AND RECEIVED BY THE LOCAL BOARD NO LATER THAN 5 P.M. ON THE THURSDAY AFTER A SPECIAL ELECTION SHALL BE CONSIDERED TIMELY AND MAY BE COUNTED.~~

~~(B) A VOTE BY MAIL BALLOT THAT IS RETURNED IN PERSON TO THE OFFICE OF THE LOCAL BOARD BY THE VOTER OR THE VOTER'S DULY AUTHORIZED AGENT NO LATER THAN 8 P.M. ON THE DAY OF A SPECIAL ELECTION SHALL BE CONSIDERED TIMELY AND MAY BE COUNTED.~~

~~(C) A VOTE BY MAIL BALLOT THAT DOES NOT MEET THE REQUIREMENTS OF SUBSECTION (A) OR (B) OF THIS SECTION IS NOT TIMELY AND MAY NOT BE COUNTED.~~

~~9-507.~~

9-505.

(A) A VOTE-BY-MAIL BALLOT IS CONSIDERED TIMELY AND MAY BE COUNTED IF THE BALLOT:

(1) IS RETURNED IN PERSON TO THE OFFICE OF THE LOCAL BOARD BY THE VOTER OR THE VOTER'S DULY AUTHORIZED AGENT NO LATER THAN 8 P.M. ON THE DAY OF A SPECIAL ELECTION; OR

(2) (I) IS RECEIVED BY MAIL BY THE LOCAL BOARD NO LATER THAN 10 A.M. ON THE SECOND FRIDAY AFTER A SPECIAL ELECTION; AND

(II) WAS MAILED ON OR BEFORE ELECTION DAY, AS VERIFIED:

1. BY A POSTMARK; OR

2. IF THE RETURN ENVELOPE DOES NOT CONTAIN A POSTMARK OR THE POSTMARK IS ILLEGIBLE, BY THE VOTER'S AFFIDAVIT THAT THE BALLOT WAS MAILED ON OR BEFORE ELECTION DAY.

(B) A VOTE-BY-MAIL BALLOT THAT DOES NOT MEET THE REQUIREMENTS OF SUBSECTION (A) OF THIS SECTION IS NOT TIMELY AND MAY NOT BE COUNTED.

9-506.

THE STATE BOARD ~~SHALL~~ MAY ADOPT REGULATIONS AS NECESSARY TO IMPLEMENT THIS SUBTITLE.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2012.

Approved by the Governor, May 22, 2012.