

**County Council's Proposals for Legislation
Frederick County's 2021
General Assembly Legislative Package**



**County Council
Frederick County**

PROPOSED LEGISLATION

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

County Position: SUPPORT

The Frederick County Council requests the Frederick County Delegation to support legislation authorizing a vacancy on the Frederick County Board of Education to be filled by a vote of Frederick County's residents.

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

This proposal is to enable the voters to choose a replacement for a vacancy on the Board of Education. The legislative request does not propose that an election be held any time a vacancy occurs. Rather, the request suggests that Frederick County take advantage of the fact that during the mid-term of every elected board 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 board member's last election.

In answering the question of 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. 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 the 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 Board of Education 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. Language has been added to the bill to reflect this information.

Special Elections are Authorized in Maryland Law

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.

Other Charter Counties Authorize Special Elections

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 is for our current system of appointment by the County Executive.

There is Still a Role for Appointments

Finally, an appointment-based process is still needed. The County will need to make an interim appointment prior to the outcome of a special election. The appointee will serve until the first convened meeting of the Board of Education in December. Additionally, if a vacancy occurs after the deadline, then the County will need to appoint someone to fill the remainder of the vacating member’s term.

SENATE BILL 316

F3

0lr2452
CF HB 410

By: **Senators Hough and Young**

Introduced and read first time: January 22, 2020

Assigned to: Education, Health, and Environmental Affairs

Committee Report: Favorable

Senate action: Adopted

Read second time: February 29, 2020

CHAPTER _____

1 AN ACT concerning

2 **Frederick County Board of Education – Vacancies**

3 FOR the purpose of altering the method for filling a vacancy on the Frederick County Board
4 of Education; specifying that an individual appointed to fill a vacancy serves for the
5 remainder of a certain term and until a successor is appointed and qualifies except
6 that under certain circumstances the individual serves only until a successor is
7 elected at the next general election; specifying how certain positions are to be filled
8 at a general election; establishing the manner for nominating candidates for vacated
9 offices; establishing the term of an individual elected to fill a vacated position; and
10 generally relating to the Frederick County Board of Education.

11 BY repealing and reenacting, without amendments,
12 Article – Education
13 Section 3–5B–01(a)
14 Annotated Code of Maryland
15 (2018 Replacement Volume and 2019 Supplement)

16 BY repealing and reenacting, with amendments,
17 Article – Education
18 Section 3–5B–01(d)
19 Annotated Code of Maryland
20 (2018 Replacement Volume and 2019 Supplement)

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.

sb0316

Article – Education

3–5B–01.

(a) The Frederick County Board consists of eight members as follows:

(1) Seven members elected from the county at large; and

(2) One nonvoting student member.

(d) (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.]

(2) EXCEPT AS PROVIDED IN PARAGRAPHS (3) AND (4) OF THIS SUBSECTION AND SUBJECT TO CONFIRMATION OF THE COUNTY COUNCIL, THE COUNTY EXECUTIVE SHALL APPOINT A QUALIFIED INDIVIDUAL TO FILL ANY VACANCY ON THE COUNTY BOARD FOR THE REMAINDER OF THAT TERM AND UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIES.

(3) IF A VACANCY FOR AN ELECTED MEMBER OCCURS MORE THAN 30 DAYS BEFORE THE CANDIDATE REGISTRATION DEADLINE FOR THE NEXT PRIMARY ELECTION FOLLOWING THE VACATING MEMBER'S ELECTION, THE INDIVIDUAL APPOINTED UNDER PARAGRAPH (2) OF THIS SUBSECTION SHALL SERVE ONLY UNTIL A SUCCESSOR IS ELECTED AND QUALIFIES AT THE NEXT GENERAL ELECTION.

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

(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 (2) 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.

1 **(6) A CANDIDATE ELECTED TO FILL A VACATED POSITION SHALL**
2 **TAKE OFFICE ON THE FIRST MONDAY IN DECEMBER AFTER THE ELECTION AND**
3 **SHALL CONTINUE TO SERVE FOR THE REMAINDER OF THE VACATED TERM AND**
4 **UNTIL A SUCCESSOR IS ELECTED AND QUALIFIES.**

5 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July
6 1, 2020.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.



**County Council
Frederick County**

POSITION STATEMENT

Local Zoning Authority for Large Solar
Utility Projects

County Position: SUPPORT

The Frederick County Council requests the Frederick County Delegation to support legislation retaining local authority over project siting for large solar utility projects.

The siting of large, utility-scale solar facilities in Maryland remains an ongoing concern for local jurisdictions. A recent Court of Appeals decision finding that the Maryland Public Service Commission can preempt local zoning on solar siting is a growing concern for Frederick County.

The County Council supports the State's renewable energy goals but it is vital to retain local authority to balance the competing interests of protecting and preserving prime farm land to ensure the viability of agriculture and to support the Farm Bureau's position.

The County Council urges the Delegation's support for large solar utility projects to comply with local zoning and siting requirements as part of the project approval process.



**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

Maryland Strategic Energy Investment Fund -
Regional Greenhouse Gas Initiative -Use of
Proceeds for Maryland Healthy Soils
Program

County Position: SUPPORT

The Frederick County Council requests the Frederick County Delegation to support the Maryland Strategic Energy Investment Fund allocating a certain percentage of sales of allowance to go towards the Maryland Healthy Soils Program.

Climate change programs such as the Strategic Energy Investment Fund have a goal to decrease energy demand and increase energy supply. Currently, 20% of the proceeds from the auction of carbon allowances are required to go toward renewable and clean energy programs, including climate change and resiliency programs.

Having funds available to support farmers as they transition to regenerative agriculture best practices is essential in promoting healthy soils and building climate resilience. Regenerative Agriculture is a system of farming principles and practices that increases biodiversity, enriches soils, improves watersheds, and enhances ecosystem services.

We respectfully request the Frederick County Delegation's strong advocacy and support to pass the allocation of funds from Maryland Strategic Energy Investment Fund towards Maryland Healthy Soils Program.