

Elected Maryland County Executive

Procedure for Filling Vacancy

Sections Pulled from Charter Copies Provided to Committee

**Wicomico: Section 407:**

Vacancy in the Office of County Executive.

[Amended 8-2-2016 by Res. No. 101-2016]

A. A vacancy in the Office of County Executive shall exist upon the death, resignation, or removal of the County Executive, or upon his/her forfeiture of office. In the event of a vacancy, the Director of Administration shall serve as Acting County Executive until a new County Executive is appointed, and shall have the same rights, duties, powers and obligations as an elected incumbent in said office.

B. If a vacancy occurs during the first 12 months of a term, a new County Executive shall be nominated and elected by the qualified voters of the County at the same time as members of the House of Representatives of the Congress of the United States are nominated and elected and, in the manner, provided by law. In the interim until a new County Executive is elected, the vacancy shall be temporarily filled by resolution by a majority vote of the members of the County Council within 45 days after the vacancy occurs.

C. If a vacancy occurs after the first 12 months of a term, the vacancy shall be permanently filled by resolution by a majority vote of the members of the County Council, within 45 days after the vacancy occurs.

D. If the former County Executive whose position is being filled was a member of a political party, the new County Executive being appointed, either temporarily or permanently, shall belong to the same political party as his or her predecessor at the time of the executive's most recent election and shall possess the same qualifications for office as provided in Section 405 of this Charter.

E. The new County Executive elected permanently by the County Council or by the voters shall serve the unexpired term of the former County Executive and until a successor is duly elected and qualified.

**Anne Arundel: Section 402:**

(a) A vacancy occurring in the Office of the County Executive prior to the expiration of the term shall be filled as provided in this section.

(b) If a vacancy occurs during the first 12 months of a term, a new County Executive shall be nominated and elected by the qualified voters of the County at the same time as Members of the House of Representatives of the Congress of the United States are nominated and elected and, in the manner,

provided by law. In the interim until a new County Executive is elected, the vacancy shall be temporarily filled by resolution by a majority vote of the Members of the County Council, within 30 days after the vacancy occurs.

(c) If a vacancy occurs after the first 12 months of a term, the vacancy shall be permanently filled by resolution by a majority vote of the Members of the County Council, within 30 days after the vacancy occurs.

(d) A new County Executive appointed by the County Council either temporarily or permanently shall possess the same qualifications for office as provided in Section 401 of this Charter.

(e) If the former County Executive whose position is being filled was a member of a political party, the new County Executive, either temporarily or permanently, shall be registered in the same political party as the former County Executive for the 12-month period immediately prior to his election by the County Council.

(f) The County Council shall hold public interviews of candidates to fill the vacancy, whether temporary or permanent, and the Council shall elect the new County Executive from among those persons interviewed.

(g) The new County Executive elected permanently by the County Council or by the voters shall serve the unexpired term of the former County Executive and until a successor is duly elected and qualified.

#### Sec. 403. Temporary absence or disability of County Executive.

The County Executive may, during his temporary disability or absence from the County, designate in writing the head of one of the County departments or offices as Acting County Executive to perform the duties of the office. In the event that the County Executive is temporarily disabled or absent from the County and fails to designate as above provided, the Chief Administrative Officer shall serve as Acting County Executive. If both the County Executive and Chief Administrative Officer are temporarily disabled or absent and the County Executive has failed to designate an Acting County Executive, the Budget Officer shall serve as Acting County Executive unless the County Council designates the head of another department or office of the County government. An acting County Executive shall have the same rights, duties, powers and obligations as an elected incumbent in said office except the power to veto.

#### **Baltimore City Article IV:**

(b) Vacancy.

In case of vacancy in the office of the Mayor by death, resignation, or permanent disqualification, the President of the City Council shall be Mayor for the remainder of the term for which the Mayor was elected.

(c) Absence.

In case of, and during, sickness, temporary disqualification or necessary absence of the Mayor, the President of the City Council shall be ex officio Mayor of the City.

**Baltimore County 402:**

(b) Vacancy. Whenever for any cause the office of the county executive shall become vacant, the same shall be filled by the affirmative vote of a majority of the total number of county council members established by this Charter. The person so elected by the council shall possess the same qualifications for the office as hereinabove provided in Section 402(a) hereof, shall belong to the same political party as his predecessor (unless his predecessor was not a member of a political party) and shall serve the unexpired term of his predecessor and until his successor shall qualify.

(c) Temporary absence of county executive. During the temporary disability or absence from the county of the county executive, the county administrative officer shall serve as acting county executive. If both the county executive and the county administrative officer are temporarily disabled or absent from the county, the director of the budget, as the acting county administrative officer, shall also serve as acting county executive, unless the county council designates the head of another office in the administrative services, or the director of public works to serve as acting county executive. If a county executive fails actively to perform the daily duties and responsibilities of his office for a continuous period of six months, his office may be declared vacant by the affirmative vote of a majority of the total number of county council members established by this Charter, and such vacancy shall thereupon be filled in the manner above provided in Section 402(b) of this Article. An acting county executive shall have the same rights, duties, powers and obligations as an elected incumbent of said office, exclusive, however, of the power of executive veto.

**Cecil 407 & 409:**

407. Vacancy in the Office of County Executive.

A vacancy in the Office of the Executive shall exist upon the death or resignation of the Executive, or upon forfeiture of office as provided in Section 408 of this Charter. A majority of the Council members shall appoint, within 30 days, a person to fill the vacancy. An appointee, when succeeding a party member, shall be a member of the same political party as the person elected to such office and shall be a nominee of the County central committee of that party. Any person appointed to fill a vacancy shall meet the qualifications provided in Section 405 of this Charter.

409. Temporary absence or disability.

In the event of the temporary absence of the Executive, the Director of Administration shall perform the duties of the Executive.

**Frederick 408:**

408. Vacancy in the Office of County Executive

(a) A vacancy in the Office of the Executive shall exist upon the death or resignation of the Executive, or upon forfeiture of office as provided in Section 407 of this Charter. A majority of the council members shall appoint, within forty-five days, a person to fill the vacancy and to serve a term pursuant to subsection (f) or (g) of this section, as applicable.

(b) If the vacating County Executive was last elected as a member of a political party, the appointee shall be selected from a qualified list of three persons submitted to the Council by the central committee of the same party. The central committee must provide the list of three persons within 30 days of the vacancy date. If no list is provided within 30 days, or if the vacating County Executive was not a member of a political party when last elected, the Council shall appoint a person it deems best qualified to hold office, provided the appointee meets the qualifications and residency requirements provided in subsection (d) of this section.

(c) If the Council has not made an appointment within the forty-five-day period provided in subsection (a) of this section, the Council shall appoint within fifteen days thereafter, the Chief Administrative Officer.

(d) Any person appointed to fill a vacancy pursuant to this section, except the Chief Administrative Officer, shall meet the qualifications provided in Section 405 of this Charter.

(e) All persons considered by the Council for appointment under either subsection (b) or (c) of this section, as applicable, shall be presented to the public, including their names and qualifications. In addition, the nominees shall be interviewed in public by the Council, including the opportunity for public comment.

**Harford 307 & 310:**

Section 307. Vacancy in the office of County Executive. [Amended by Bill No. 12-28]

(a) A vacancy in the office of the County Executive shall exist upon the death, resignation, removal, or forfeiture of office of the County Executive. When a vacancy occurs, a majority of the County Council shall, within thirty calendar days thereafter, appoint a person qualified under Section 305 of this article to fill the vacancy from among those who apply to the County Council for the position. If an appointee is to succeed a member of a political party, that individual shall be a member of the party to which the

former County Executive belonged at the time of his or her election. Except as provided in Subsection (b) of this section, an appointee shall serve for the unexpired term of the appointee's predecessor.

(b) If a vacancy filled by an appointment under Subsection (a) of this section occurred more than ninety calendar days before the next Congressional primary election, an election shall be held simultaneous to the Congressional election to elect a new County Executive to fulfill the remaining term. The appointed County Executive shall serve until the newly elected County Executive takes office.

Section 310. Temporary absence or disability of the County Executive. [Amended by Bill No. 96-37]

In the event of the temporary absence or disability of the County Executive, the Director of Administration shall perform the duties of the County Executive, unless the County Executive designates in writing some other person in the Executive Branch. Such designation shall be filed with the Council Administrator. Any such designation may be revoked by the County Executive at any time by filing a new designation with the Council Administrator. An Acting County Executive shall have the same rights, duties, powers, and obligations.

### **Howard 302 f & g:**

(f) VACANCY. Whenever for any cause the office of the Executive shall become vacant, the same shall be filled by resolution within thirty days by the affirmative vote of a majority of the members of the Council. The person so elected by the Council shall possess the same qualifications for the office as hereinbefore provided in Section 302(b) hereof, shall belong to the same political party as his predecessor (unless his predecessor was not a member of a political party) and shall serve the unexpired term of his predecessor and until his successor shall qualify.

(g) TEMPORARY ABSENCE OR DISABILITY. The Executive shall within thirty days upon taking office, designate in writing the County Administrator or other appointive officer to perform the duties of the Executive during the latter's temporary inability to perform by reason of absence from the County or disability. Such designation shall be filed with the Secretary of the Council. Any such designation may be revoked by the Executive at any time by filing a new designation with the Secretary of the Council. An Acting Executive shall have the same rights, duties, powers, and obligations as an elected incumbent in said office except the power of veto.

### **Montgomery 205 & 207:**

Sec. 205. Vacancy.

A vacancy in the office of the County Executive shall exist upon the death, resignation, disqualification, or removal of the County Executive. Unless the Council has provided by law for filling a vacancy by

special election, the following process for filling a vacancy shall apply. When a vacancy has occurred, the Council, by a vote of not less than five members, shall appoint a successor to fill the vacancy within forty-five days of the vacancy. An appointee to fill a vacancy, when succeeding a party member, shall be a member of the same political party as the person elected to such office at the time of election. If the Council has not made an appointment within forty-five days, the Council shall appoint within fifteen days thereafter the nominee of the County Central Committee of the political party, if any, of the person elected to such office. The Chief Administrative Officer shall act as County Executive and perform all the that office until such time as the vacancy has been filled. (Election of 11-2-82; election of 11-4-86; election of 11-8-16.)

Editor's note—See County Attorney Opinion dated 2/19/99 discussing filling an interim Council vacancy by temporary appointment pending a special election.

CONCLUSION from Count Attorney's Opinion:

*The County Council does not have the inherent authority to provide for temporary appointments pending a special election. That authority would have to come fi-om either the State-through the State Constitution or the Express Powers Act-or the Charter. Because neither the language nor the legislative history of the county-council-interim-vacancy provisions of the Constitution, the Express Powers Act, or the Charter reflect an intent to authorize the County Council to make (or enact a law authorizing it to make) a temporary appointment pending a special election, the Council lacks the authority to enact such a law or make such an appointment.*

Sec. 207. Temporary Absence or Disability.

In the event of the temporary absence or disability of the County Executive, the Chief Administrative Officer shall perform the duties of the County Executive, unless the County Executive shall designate in writing some other person in the Executive Branch.

### **Prince George's 407:**

Section 407. - Vacancy.

A vacancy in the office of County Executive shall exist upon the death, resignation or removal of the County Executive, or upon forfeiture of office by a County Executive. Immediately upon a vacancy, the Chief Administrative Officer shall become the Acting County Executive until a County Executive is chosen by the methods established in this Section of the Charter. In the event of a vacancy in the office of County Executive occurring during the last two years of the term, the Council shall select from among its members, by majority vote, a successor for the office for the balance of the unexpired term. If this selection by the Council is not made within fourteen (14) calendar days after the vacancy occurs, the Chairman of the Council shall succeed to the Office for the balance of the unexpired term. The Council shall provide by law for the conduct of a special election to fill a vacancy in the office of County

Executive that occurs during the first two years of a term and for the appointment, powers and duties of an Acting County Executive pending the outcome of such special election.  
(Amended CB-68-1984, ratified Nov. 6, 1984; Amended, CB-51-2014, ratified Nov. 4, 2014)