

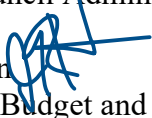



October 4, 2024

**FISCAL AND POLICY NOTE**

TO: Jennifer A. Jenkins  
Council Administrator

Colette R. Gresham, Esq.  
Deputy Council Administrator

THRU: Josh Hamlin   
Director of Budget and Policy Analysis

FROM: Andrew Stover   
Legislative Budget and Policy Analyst

RE: Policy Analysis and Fiscal Impact Statement  
CB-092-2024 County Council Special Primary Elections and Special General Elections

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**CB-092-2024** (*Proposed and presented by: Council Members Fisher and Watson*)

Assigned to the Committee of the Whole

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**AN EMERGENCY ACT CONCERNING COUNTY COUNCIL SPECIAL PRIMARY ELECTIONS AND SPECIAL GENERAL ELECTIONS** for the purpose of providing for a special primary election and special general election to fill a vacancy on the County Council; providing for the adoption of a certain Resolution regarding a certain vacancy; providing for certain dates for a special primary election and a special general election; providing for the removal of a prohibition on a special primary election and special general election from being held at a certain time; providing for references to the voting for an At-Large seat; providing for references to the Board of Elections; providing for references to special primary elections and special general elections; making this Act an emergency bill; providing for the effective date of this Act; providing for the adoption of this Act; and generally regarding special primary elections and special general elections in Prince George's County.

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## Fiscal Summary

### Direct Impact:

#### *Expenditures:*

- No direct impact on expenditures.

#### *Revenues:*

- No direct impact on revenues.

### Indirect Impact:

- No indirect fiscal impact likely.
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### Legislative Summary:

CB-092-2024<sup>1</sup>, proposed and sponsored by Council Members Fisher and Watson, was presented on September 24<sup>th</sup>, 2024, and was referred to the Committee of the Whole. The bill makes changes to special election procedures for County Council vacancies, including extending the timeframe for the Council to run special elections, striking language regarding the occurrence of special elections in relation to regularly scheduled elections, and requiring that ballots indicate party affiliation. It also includes technical amendments to improve legal clarity.

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### Current Law/Background:

Section 317<sup>2</sup> of the County Charter says that the County may enact emergency bills to address a public emergency affecting the public health, safety, or welfare of the County and its residents. Emergency bills may take effect immediately after being passed into law and must be passed with a two-thirds majority vote of the Council.

In June of 2024, the Office of the Maryland Attorney General sent a letter<sup>3</sup> to the State Administrator of Elections advising that the current laws regarding special elections in the County are inconsistent with state law, and that State law must be followed over County law under the principles of preemption. Specifically, the letter points out that the County's requirement that a special primary election be held within 45 days of a vacancy and that a special general election

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<sup>1</sup> [Prince George's County Council - CB-092-2024](#)

<sup>2</sup> [Prince George's County Charter Section 317](#)

<sup>3</sup> [Letter from the Maryland Office of Attorney General](#)

should be held within 45 days of the special primary election is a shorter time period than required by state law, which the AG's Office cites to be a minimum of 59 days.

Under current County law, Section 2-104<sup>4</sup> of the Prince George's County Code, a special primary election must take place 45 to 60 calendar days after the vacancy occurs, and a special general election must take place 60 to 90 days after the vacancy occurs. No special election can be held within 30 days of any other regularly scheduled election. Parts of this law are not enforceable due to conflicts with State law.

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### **Discussion/Policy Analysis:**

CB-092-2024 amends County laws on County Council special elections by (1) increasing the minimum number of calendar days between an occurrence of a vacancy on the Council and a primary special election to 100 days and removing the maximum number of days, (2) increasing the minimum number of calendar days between a primary special election and a special general election to 100 and removing the maximum number of days, (3) striking language prohibiting special primary or general elections from being held within 30 calendar days prior to any regularly scheduled election, (4) requiring that ballots for the special primary and special general elections shall indicate the party of each candidate, and (5) making other technical amendments to ensure clarity of the law.

The increase of the minimum number of days to 100 does ensure compliance with the State law, as referenced in the letter from the Office of the Maryland Attorney General, but could also extend the timeline for special elections. Taking the guidance of the Maryland AG's Office into account, a minimum of 59 days is required between when a ballot is ready to be finalized and when the election takes place. This period includes one day to design and finalize the ballot, three days for public display before printing<sup>5</sup>, and a required 45-day window for the ballot to be available to uniformed service members outside the state<sup>6</sup>. Under a scenario where the council passes a resolution authorizing a special election within 7 days of a vacancy and gives candidates 30 days to file for candidacy, there must be a minimum of 59 days between the deadline for candidates to file to run for the office and the special primary election, as well as 59 between the special primary election and the special general election, for a total of 155 days total between the occurrence of the vacancy and the special general election. Compared to this bill's proposal of a minimum of 200 days, the current process under state law is approximately 45 days shorter, which may be a considerable amount of extra time in which a district could potentially be without representation in County proceedings. It is also important to point out that CB-092-2024 removes the maximum amount of time in which special elections should be scheduled, which could potentially leave the vacancy open for an indefinite amount of time under an inexpedient County Council.

The striking of language prohibiting special primary or general elections from being held within 30 calendar days prior to any regularly scheduled election is not expected to have any material impact on actual practices in the County, as the State has restrictions on the dates in which a special

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<sup>4</sup> [Prince George's County Code Section 2-104](#)

<sup>5</sup> As required by [Section 9-207](#) of the Election Law Article of the State of Maryland

<sup>6</sup> As required by [Section 8-401](#) of the Election Law Article of the State of Maryland

election can be scheduled in proximity to a regularly scheduled election. While the letter from the Office of the Maryland Attorney General does not give a specific number of days in which special elections are prohibited from being conducted in proximity to a regularly scheduled election, it does say that there are “systemic limitations” that prevent the State Board of Elections from administering a special election and a regularly scheduled election at the same time. Because the County must follow State guidance on this matter, the actual practices in the County are not expected to change.

Finally, while page 3, line 9 is not changed in regard to the number of days that a candidate must file for candidacy prior to a special primary election is not changed in the bill, it should be noted that this part of the law is unenforceable as it directly contradicts state law. Once again, the Office of the Maryland Attorney General states in their letter that there must be a minimum of 59 days between the finalization of the ballot and the special election. Therefore, the specific number of 28 days can be considered void.

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### **Fiscal Impact:**

- *Direct Impact:*

Enactment of CB-092-2024 is not likely to have a fiscal impact on the County, as it makes no changes to how special elections should be budgeted for. However, it is expected that a special election for a vacant District 5 Council seat will be necessary following the November 4<sup>th</sup> presidential election<sup>7</sup>. Under this bill, the cost of conducting that election would not change, which will be approximately \$661,459<sup>8</sup>.

- *Indirect Impact:*

Enactment of CB-092-2024 is not expected to have any indirect fiscal impact on the County.

- *Appropriated in the Current Fiscal Year Budget:*

No.

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### **Effective Date of Proposed Legislation:**

The proposed Act shall become effective on the date it becomes law.

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<sup>7</sup> While there is technically a possibility that the special election for the currently vacant at-large seat will be won by a Republican or other nominee, which would result in the District 5 seat being held, this possibility is extremely remote.

<sup>8</sup> The District 8 2021/2022 special election cost the County \$661,459 in total, per the Office of Management and Budget.

If you require additional information, or have questions about this fiscal impact statement, please email me.