





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-094-2024 County Council Special Election

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**CB-094-2024** (*Proposed and presented by: Council Members Dernoga, Hawkins, Burroughs, and Blegay*)

Assigned to the Committee of the Whole

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**AN EMERGENCY ACT CONCERNING COUNTY COUNCIL SPECIAL ELECTION** for the purpose of providing for a special election to fill a vacancy on the County Council; eliminating special primary elections; providing for the adoption of a certain Resolution regarding a certain vacancy; providing for certain dates for a special election; providing for polling place hours; providing for certain funding and requirements to cover the costs of a special election; prohibiting a special election from being held at a certain time; providing for the conduct of a special election pursuant to State law; providing that State law, the County Charter, and County law shall be applicable to a special election, unless otherwise unreasonable; removing a special primary election from publication requirements; providing for special election publication; providing for the filing of a certain certificate of candidacy by a certain date; providing for a certain party designation; providing for the voting for an At-Large seat; providing for proposed candidates and the specimen ballot; providing for the reference to the Board of Elections; making this Act an

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emergency bill; providing for the effective date of this Act; providing for the adoption of this Act; and generally regarding a special election in Prince George's County.

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### **Fiscal Summary**

#### **Direct Impact:**

##### *Expenditures:*

- Expenditures for special elections expected to decrease by as much as half.

##### *Revenues:*

- No direct impact on revenues.

#### **Indirect Impact:**

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

CB-094-2024, proposed and sponsored by Council Members Dernoga, Hawkins, and Burroughs, 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 authorize a special election, eliminating the primary process, adjusting filing and withdrawal deadlines, and setting specific timelines to avoid conflicts with other elections. It also includes technical amendments to improve legal clarity.

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#### **Current Law/Background:**

Section 317<sup>1</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>2</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 Charter Section 317](#)

<sup>2</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>3</sup> of the Prince George's County Code, the County Council must adopt a Resolution within 7 days of a Council vacancy directing that a special election be held. Both a special primary election and a special general election will be conducted with the specific dates for these elections to be established by the Resolution. The special primary election must take place 45 to 60 calendar days after the vacancy occurs, and the 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, and candidates must file to run for the vacancy no later than 28 days prior to the special primary election. Parts of this law are not enforced due to conflicts with State law.

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

CB-094-2025 amends Section 2-104 of the Prince George's County Code regarding special elections for County Council vacancies by (1) changing the number of days the Council has to adopt a resolution authorizing a special election following a vacancy from 7 days to 10 days, (2) removing the primary process from special elections and allowing for only one special general election, (3) setting the date of withdrawal from candidacy for the vacant Council seat to be filled by special election at 2 calendar days after the final filing date, (4) requiring that the special election take place between 90 to 100 calendar days following the vacancy in the Council, (5) prohibiting special elections from being held within 60 calendar days of any regularly scheduled election and providing that if the timing of an election would conflict with a State or Federal election, the special election will be held at the earliest possible date that would not result in conflict, (6) changing the number of days prior to the election that a proposed candidate must file for candidacy from 28 to 60 days and adding that the special election ballot shall indicate the party designation of each candidate, and (7) making other technical amendments to ensure clarity of the law.

The most impactful element of this bill is the removal of a primary from the special election process. Under this bill, instead of having a primary to determine a nominee from each major party, there will be only one general election where all candidates of any party compete, with the winner being determined by who earns the most votes.

This change would provide multiple benefits to the County, including a reduction in the costs of special elections, a decrease in the amount of time between a Council vacancy and when that vacancy is filled, and a decrease on the demands of the Board of Elections. Without a primary process, the Board of Elections will need only to conduct one election instead of the two that would be required for a special primary and general election, which should cut the costs of conducting special elections by half. This could reduce the financial burden of holding a special election by hundreds of thousands of dollars, or in the case of an at-large Council seat, millions of dollars. By

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<sup>3</sup> [Prince George's County Code Section 2-104](#)

limiting the process to a single required election, the Board of Elections will experience less strain on its resources, allowing them to manage the demands of a special election more effectively. Reducing the time between a vacancy and its filling will promote greater continuity on the Council and ensure that all nine counties remain fully represented in the Council's proceedings.

There are potential drawbacks to this proposal, such as the risk that without a primary, a candidate could be elected who represents only a minority of the County. For example, if multiple candidates from one political party run for a vacant Council seat, the vote could be split among them, allowing a candidate from another party to win with a plurality, even if they don't fully reflect the views of the district or County. While parties might try to coordinate to avoid this, such efforts could also limit the range and diversity of candidates seeking County office. However, recent voting trends in the County indicate that the risk of something like this happening is quite remote.

Council staff is aware that there are legal questions about the County's authority to conduct a special general election without a primary process. Council attorneys are expected to provide further guidance on this issue, should this bill move forward.

Many of the timeline and deadline changes in the bill respond to the Attorney General's opinion that the County's current special election laws conflict with state law. The document from the AG's Office specifies that at least 59 days must pass between a vacancy and the special election. This period includes one day to design and finalize the ballot, three days for public display before printing<sup>4</sup>, and a required 45-day window for the ballot to be available to uniformed service members outside the state<sup>5</sup>.

Based on this information, the increase from 28 to 60 days for candidates to file before a special election only just provides the Board of Elections enough time to prepare and present the ballot according to state requirements, leaving little flexibility. Furthermore, given the state-mandated 59-day minimum, the requirement for the special election to be held between 90 and 100 days after the vacancy allows candidates 30 to 40 days to file before the ballot is finalized. While this timeline complies with state law, it offers limited room for adjustments.

It should be pointed out that using only a 10-day window for when the special election can be held may significantly limit the options of dates that the Council has to choose from. In some cases, this limits the option to only one specific day. For example, if the 90<sup>th</sup> day after a vacancy starts on a Wednesday, Thursday, or Friday, there will only be one Tuesday that the election is legally allowed to be held under County law. If the election cannot be held on that Tuesday, such as in the instance of a religious holiday, that would put the law in conflict with the election. The Council may want to consider extending the window for the election to 14 or 21 days to give the County more options for when the election can be held.

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<sup>4</sup> As required by [Section 9-207](#) of the Election Law Article of the State of Maryland

<sup>5</sup> As required by [Section 8-401](#) of the Election Law Article of the State of Maryland

### **Fiscal Impact:**

- *Direct Impact:*

Enactment of CB-094-2024 is likely to have a significant fiscal impact on the County by reducing costs for future special elections, both over the short-term and long-term.

In the short-term, this bill will save the County money by reducing the cost to run the next special election for a vacant District 5 Council seat, which is expected to become necessary following the November 4<sup>th</sup> presidential election<sup>6</sup>, which will include voting for the election of a new at-large Council Member. This savings is due to the omission of a primary process in this bill in favor of conducting only one special general election for any vacant Council seat. Specifically, the County is expected to save an estimated \$330,730<sup>7</sup>, which is half of the amount needed to fund the special District 8 election in 2021 and 2022 that included both a primary and general election.

Furthermore, it is possible there will be a need for additional special elections in the near future, which this bill would help reduce the costs of by necessitating only one election instead of the two that would be required with a primary and general election process. A County-wide election may be necessary to fill a potential vacancy in the County Executive role. While CB-094-2024 does not change the special election process for the County Executive (CB-095-2024<sup>8</sup> proposes this), the results of a potential County Executive race could dictate whether another County Council special election is needed. Should there be a special election for County Executive and a member of the sitting Council is elected to that role, an additional special election will be needed to fill that former Council member's vacant seat. Under this bill, the County could save an additional \$330,730 or \$2.1 million<sup>9</sup> in special election costs, depending on if the election was district-specific or County-wide.

It is difficult to say what the exact fiscal impact may be over the long-term, as unexpected vacancies of County elected positions cannot be predicted. However, it can be concluded that this bill would have a less costly fiscal impact for the County in the event of any future special elections when compared with existing law.

- *Indirect Impact:*

Enactment of CB-094-2024 is not expected to have any indirect fiscal impact on the County.

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<sup>6</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>7</sup> The District 8 2021/2022 election cost the County \$661,459 in total, per the Office of Management and Budget.

<sup>8</sup> [CB-095-2024](#)

<sup>9</sup> The amount required to run the County-wide special primary election for the at large Council seat in August 2024, provided by the Office of Management and Budget

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