

# HOUSE BILL 1083

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CF SB 765

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By: **Delegates McConkey, Costa, Dwyer, George, King, Kipke, and Schuh**

Introduced and read first time: February 17, 2010

Assigned to: Ways and Means

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## A BILL ENTITLED

1 AN ACT concerning

2 **Anne Arundel County Board of Education – Appointed Members Subject to**  
3 **Contested Elections**

4 FOR the purpose of requiring that the appointed members of the Anne Arundel  
5 County Board of Education be subject to contested elections; repealing certain  
6 provisions relating to a retention election for certain appointed members of the  
7 county board; providing for a nonpartisan election for the county board under  
8 certain circumstances; providing that certain candidates for election to the  
9 county board be nominated and that the elections be conducted in a certain  
10 manner; establishing rules regarding the inclusion of a candidate's name on the  
11 ballot and the counting of votes in the event a candidate dies, declines the  
12 nomination, or becomes disqualified; requiring the Governor to appoint a  
13 certain individual to fill a vacancy on the county board in certain circumstances;  
14 and generally relating to contested elections for certain appointed members of  
15 the Anne Arundel County Board of Education.

16 BY repealing and reenacting, with amendments,  
17 Article – Education  
18 Section 3–108, 3–110, and 3–114  
19 Annotated Code of Maryland  
20 (2008 Replacement Volume and 2009 Supplement)

21 BY adding to  
22 Article – Education  
23 Section 3–2A–01 to be under the new subtitle “Subtitle 2A. Anne Arundel  
24 County”  
25 Annotated Code of Maryland  
26 (2008 Replacement Volume and 2009 Supplement)

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

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 **Article – Education**

2 3–108.

3 (a) (1) Except as provided in paragraph (2) of this subsection, the  
4 Governor shall appoint the members of each county board from the residents of that  
5 county.

6 (2) The members of the following county boards of education shall be  
7 selected as follows:

8 (i) The Baltimore City Board of School Commissioners in  
9 accordance with § 3–108.1 of this subtitle;

10 (ii) The Harford County Board of Education in accordance with  
11 § 3–6A–01 of this title;

12 (iii) The Anne Arundel County Board of Education in accordance  
13 with § 3–110 of this subtitle **AND § 3–2A–01 OF THIS TITLE**; and

14 (iv) The county boards of education in the counties listed in  
15 § 3–114 of this subtitle in accordance with the provisions of that section.

16 (b) (1) Each member shall be appointed solely because of character and  
17 fitness and without regard to political affiliation.

18 (2) An individual who is subject to the authority of the county board  
19 may not be appointed to or serve on the county board.

20 (c) (1) Each member serves for a term of 5 years beginning July 1 after  
21 the member's appointment and until a successor is appointed and qualifies.

22 (2) The Governor shall appoint a new member to fill any vacancy on  
23 an appointed board for the remainder of that term and until a successor is appointed  
24 and qualifies.

25 (3) Unless otherwise disqualified under this section, a member of a  
26 board is eligible for reappointment. However, an individual may not serve for more  
27 than 2 consecutive terms.

28 (d) (1) With the approval of the Governor, the State Superintendent may  
29 remove any member of a county board appointed under this section for:

30 (i) Immorality;

31 (ii) Misconduct in office;

- 1 (iii) Incompetency;
- 2 (iv) Willful neglect of duty; or
- 3 (v) Failure to attend, without good cause, at least half of the  
4 scheduled meetings of the board in any one calendar year.

5 (2) Before removing a member, the State Superintendent shall send  
6 the member a copy of the charges against him and give him an opportunity within 10  
7 days to request a hearing.

8 (3) If the member requests a hearing within the 10-day period:

9 (i) The State Superintendent promptly shall hold a hearing, but  
10 a hearing may not be set within 10 days after the State Superintendent sends the  
11 member a notice of the hearing; and

12 (ii) The member shall have an opportunity to be heard publicly  
13 before the State Superintendent in his own defense, in person or by counsel.

14 (4) If a member who is removed so requests, the State Superintendent  
15 shall file with the clerk of the circuit court for the county from which the member was  
16 appointed:

17 (i) A complete statement of all charges made against the  
18 member;

19 (ii) The findings of the State Superintendent; and

20 (iii) A complete record of the proceedings.

21 3-110.

22 (a) (1) **[The] SUBJECT TO § 3-2A-01 OF THIS TITLE, THE** Anne  
23 Arundel County Board consists of 9 members who shall be appointed as follows:

24 (i) 3 from the county at large;

25 (ii) 1 each from legislative districts 30, 31, 32, 33, and that  
26 portion of legislative district 21 that lies within Anne Arundel County; and

27 (iii) 1 student member.

28 (2) Except for the student member, the Governor shall appoint a  
29 member of the county board from a list of nominees submitted by the School Board

1 Nominating Commission of Anne Arundel County as provided in subsection (b) of this  
2 section.

3 (b) (1) (i) There is a School Board Nominating Commission of Anne  
4 Arundel County.

5 (ii) The purpose of the Commission is to select nominees to be  
6 recommended to the Governor as qualified candidates for appointment to the Anne  
7 Arundel County Board of Education.

8 (iii) The Commission shall hold at least two public hearings on  
9 the selection of nominees before recommending to the Governor nominees for  
10 appointment to the county board.

11 (2) (i) The Commission consists of 11 members who shall be  
12 appointed in accordance with this paragraph.

13 (ii) The Governor shall appoint five members, one from each  
14 legislative district that lies in whole or in part in Anne Arundel County.

15 (iii) The County Executive of Anne Arundel County shall appoint  
16 one member from the county at large.

17 (iv) The following organizations shall each appoint one member:

18 1. The Teachers Association of Anne Arundel County;

19 2. The Annapolis and Anne Arundel County Chamber of  
20 Commerce;

21 3. The Anne Arundel County Council of Parent Teacher  
22 Associations;

23 4. The Anne Arundel County Community College Board  
24 of Trustees; and

25 5. The Association of Educational Leaders (AEL).

26 (3) (i) The Governor shall designate as chair of the Commission  
27 one of the five members appointed by the Governor under subsection (b)(2)(ii) of this  
28 section.

29 (ii) The term of the chair of the Commission is 4 years.

30 (iii) The Governor may reappoint the chair of the Commission for  
31 a second term.

32 (iv) The term of a member of the Commission is 4 years.

1           (4)    The Department of Legislative Services shall provide staff for the  
2 Commission.

3           (5)    [Beginning January 1, 2008, for] **FOR** each nomination to the  
4 county board, the Commission shall submit to the Governor a list of nominees that  
5 contains:

6                   (i)    At least two names for each vacancy; or

7                   (ii)   If there are fewer than two applicants for a vacancy, the  
8 number of names that is equal to the number of applicants for the vacancy.

9           (c)    (1)    Following the initial appointment of a member of the Anne  
10 Arundel County Board of Education by the Governor, a member may continue to serve  
11 for the remainder of the member's first term [subject to the approval or rejection of the  
12 registered voters of the county], **PROVIDED THE MEMBER IS ELECTED** at the next  
13 general election:

14                           **(I)    BY THE REGISTERED VOTERS OF THE COUNTY, IF THE**  
15 **MEMBER WAS APPOINTED FROM THE COUNTY AT LARGE; OR**

16                           **(II)   BY THE REGISTERED VOTERS OF THE APPLICABLE**  
17 **LEGISLATIVE DISTRICT, IF THE MEMBER WAS APPOINTED FROM A LEGISLATIVE**  
18 **DISTRICT.**

19           (2)    **[A] AN APPOINTED** member of the county board may serve for a  
20 second consecutive term [subject to the approval of or rejection by the registered  
21 voters of the county at the next general election], **PROVIDED THE MEMBER IS**  
22 **RE-ELECTED AT THE NEXT GENERAL ELECTION FOLLOWING THE END OF THE**  
23 **MEMBER'S INITIAL TERM:**

24                           **(I)    BY THE REGISTERED VOTERS OF THE COUNTY, IF THE**  
25 **MEMBER WAS APPOINTED FROM THE COUNTY AT LARGE; OR**

26                           **(II)   BY THE REGISTERED VOTERS OF THE APPLICABLE**  
27 **LEGISLATIVE DISTRICT, IF THE MEMBER WAS APPOINTED FROM A LEGISLATIVE**  
28 **DISTRICT.**

29           (3)    (i)    The approval or rejection of a member of the county board by  
30 the registered voters of the county provided for in subparagraph (ii) of this paragraph  
31 shall be a vote for the member's retention or removal.

32                   (ii)   On receipt of the notice required under § 5-301(h) of the  
33 Election Law Article, the name of the member of the county board shall be placed on

1 the appropriate ballot and shown, without opposition, and the voters shall vote for or  
2 against the member's retention as a member of the county board.

3 (4) If the voters reject the retention of the member, or the vote is tied:

4 (i) The position shall become vacant 10 days after certification  
5 of the election returns; and

6 (ii) The member serves until a successor is appointed and  
7 qualifies.]

8 (d) (1) The student member shall:

9 (i) Be a regularly enrolled senior year student of good character  
10 and in good standing in an Anne Arundel County public high school;

11 (ii) Be selected in the student's junior year by a method selected  
12 by the Chesapeake Regional Association of Student Councils of Anne Arundel County;

13 (iii) 1. Serve a term of 1 year; and

14 2. Continue to serve after graduation and until a  
15 successor is appointed and qualifies.

16 (2) If a vacancy in the position of the student member occurs during  
17 the term of the student member, the Chesapeake Regional Association of Student  
18 Councils shall:

19 (i) Conduct a special election at its next general meeting; and

20 (ii) By utilizing the same method that it used to select the  
21 previous student member of the board, select another student member to fill the  
22 vacancy.

23 (e) A board member who does not maintain the residency qualification shall  
24 be replaced as a member.

25 (f) If the boundary line of a legislative district changes, an incumbent  
26 member of the county board who, because of the change, no longer resides in the  
27 legislative district from which the member was appointed **OR ELECTED** may complete  
28 the term.

29 (g) (1) The President of the Anne Arundel County Board of Education is  
30 entitled to receive \$8,000 annually as compensation and, except for the student  
31 member, the other board members are entitled to receive \$6,000 each annually as  
32 compensation.

1                   (2)    A student member who completes a full term on the board shall be  
2 granted a scholarship of \$6,000 to be applied toward the student's higher education  
3 costs.

4    3-114.

5                   (a)    In the following counties, the members of the county board shall be  
6 elected:

- 7                   (1)    Allegany;
- 8                   (2)    Calvert;
- 9                   (3)    Carroll;
- 10                  (4)    Cecil;
- 11                  (5)    Charles;
- 12                  (6)    Dorchester;
- 13                  (7)    Frederick;
- 14                  (8)    Garrett;
- 15                  (9)    Howard;
- 16                  (10)   Kent;
- 17                  (11)   Prince George's;
- 18                  (12)   Montgomery;
- 19                  (13)   Queen Anne's;
- 20                  (14)   St. Mary's;
- 21                  (15)   Somerset;
- 22                  (16)   Talbot;
- 23                  (17)   Washington; and
- 24                  (18)   Worcester.

1           **(B) IN ANNE ARUNDEL COUNTY, IN ACCORDANCE WITH § 3-110 OF**  
2 **THIS SUBTITLE AND § 3-2A-01 OF THIS TITLE, A MEMBER OF THE COUNTY**  
3 **BOARD MAY BE:**

4           **(1) AN APPOINTED MEMBER WHO:**

5                   **(I) SUBSEQUENTLY IS ELECTED AT THE FIRST GENERAL**  
6 **ELECTION FOLLOWING THE MEMBER'S INITIAL APPOINTMENT; OR**

7                   **(II) AFTER SERVING AN INITIAL TERM, IS RE-ELECTED AT**  
8 **THE NEXT GENERAL ELECTION FOLLOWING THE COMPLETION OF THE**  
9 **MEMBER'S INITIAL TERM;**

10           **(2) AN INDIVIDUAL ELECTED TO REPLACE AN APPOINTED**  
11 **MEMBER AT THE GENERAL ELECTION FOLLOWING THE APPOINTED MEMBER'S**  
12 **INITIAL APPOINTMENT; OR**

13           **(3) AN INDIVIDUAL ELECTED TO REPLACE A MEMBER SEEKING**  
14 **RE-ELECTION TO A SECOND TERM, REGARDLESS OF WHETHER THE MEMBER**  
15 **SEEKING RE-ELECTION GAINED MEMBERSHIP ON THE COUNTY BOARD**  
16 **INITIALLY BY APPOINTMENT OR BY ELECTION.**

17           **[(b)] (C)** In Harford County, in accordance with Subtitle 6A of this title, the  
18 members of the county board shall be a combination of members who are elected and  
19 appointed.

20           **[(c)] (D)** An individual subject to the authority of the county board may not  
21 serve as a member of the county board. At the time of filing a certificate of candidacy  
22 for election to a county board, a person shall certify to the local board of supervisors of  
23 election whether or not he is subject to the authority of the county board. The  
24 Governor shall not issue a commission of election to a person who has certified  
25 affirmatively and who is elected to a county board until the member-elect offers proof  
26 that he is no longer subject to the authority of the county board.

27           **[(d)] (E)** The election of the county boards shall be held as provided in  
28 Subtitles 2 through 14 of this title and the Election Law Article.

29                   **SUBTITLE 2A. ANNE ARUNDEL COUNTY.**

30           **3-2A-01.**

31           **(A) IN ANNE ARUNDEL COUNTY, A MEMBER APPOINTED TO THE**  
32 **COUNTY BOARD BY THE GOVERNOR UNDER § 3-110 OF THIS TITLE IS SUBJECT**  
33 **TO NOMINATION AND ELECTION:**



1           **(1) AT THE FIRST PRIMARY AND GENERAL ELECTION FOLLOWING**  
2 **THE MEMBER'S INITIAL APPOINTMENT; AND**

3           **(2) IF APPOINTED TO A SECOND TERM, AT THE FIRST PRIMARY**  
4 **AND GENERAL ELECTION AFTER THE END OF THE MEMBER'S INITIAL TERM.**

5           **(B) THE PROVISIONS OF TITLE 8, SUBTITLE 8 OF THE ELECTION LAW**  
6 **ARTICLE GOVERNING THE ELECTION OF MEMBERS OF COUNTY BOARDS OF**  
7 **EDUCATION DO NOT APPLY TO ANNE ARUNDEL COUNTY.**

8           **(C) (1) A MEMBER OF THE COUNTY BOARD SHALL BE NOMINATED**  
9 **AND ELECTED ON A NONPARTISAN BASIS IN THE SAME MANNER AS JUDGES OF**  
10 **THE CIRCUIT COURT.**

11           **(2) IN A PRIMARY ELECTION, THE NAME OF AN APPOINTED**  
12 **MEMBER AND EACH CANDIDATE CONTESTING THAT MEMBER'S APPOINTMENT**  
13 **OR RE-ELECTION SHALL BE LISTED ON EVERY PRIMARY BALLOT.**

14           **(D) IN ACCORDANCE WITH THE GENERAL REQUIREMENTS OF THE**  
15 **ELECTION LAW ARTICLE, A CANDIDATE FOR NOMINATION FOR ELECTION TO**  
16 **THE COUNTY BOARD SHALL:**

17           **(1) FILE A CERTIFICATE OF CANDIDACY;**

18           **(2) BE CERTIFIED TO THE BALLOT;**

19           **(3) APPEAR ON THE BALLOT;**

20           **(4) BE VOTED ON; AND**

21           **(5) BE NOMINATED AND ELECTED.**

22           **(E) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS**  
23 **SUBSECTION, IN EACH YEAR THAT ONE OR MORE MEMBERS ARE TO BE ELECTED**  
24 **TO THE COUNTY BOARD, CANDIDATES SHALL BE NOMINATED AT THE PRIMARY**  
25 **ELECTION.**

26           **(2) IF, AFTER THE DEADLINE FOR WITHDRAWAL AS PROVIDED IN**  
27 **§ 5-503 OF THE ELECTION LAW ARTICLE, THE NUMBER OF CANDIDATES**  
28 **HAVING FILED CERTIFICATES OF CANDIDACY IN ANY CONTEST DOES NOT**  
29 **EXCEED TWICE THE NUMBER OF OFFICES TO BE FILLED:**

1                   **(I) A CERTIFICATE OF NOMINATION SHALL BE ISSUED TO**  
2 **EACH CANDIDATE; AND**

3                   **(II) THE NAMES OF THE CANDIDATES AND THE OFFICES**  
4 **SHALL BE OMITTED FROM THE PRIMARY BALLOT.**

5           **(F) (1) BEFORE THE PRIMARY ELECTION:**

6                   **(I) IF A CANDIDATE DIES OR BECOMES DISQUALIFIED**  
7 **BEFORE THE BALLOTS ARE CERTIFIED UNDER TITLE 9, SUBTITLE 2 OF THE**  
8 **ELECTION LAW ARTICLE, THE NAME OF THE CANDIDATE MAY NOT APPEAR ON**  
9 **THE BALLOT; AND**

10                   **(II) IF A CANDIDATE DIES OR BECOMES DISQUALIFIED**  
11 **AFTER THE BALLOTS ARE CERTIFIED UNDER TITLE 9, SUBTITLE 2 OF THE**  
12 **ELECTION LAW ARTICLE, AND IT IS TOO LATE FOR THE BALLOTS TO BE**  
13 **CORRECTED, ANY VOTES FOR THAT CANDIDATE MAY NOT BE COUNTED.**

14                   **(2) AFTER THE PRIMARY ELECTION BUT BEFORE THE GENERAL**  
15 **ELECTION:**

16                   **(I) IF A NOMINEE DIES, DECLINES THE NOMINATION, OR**  
17 **BECOMES DISQUALIFIED BEFORE THE BALLOTS ARE CERTIFIED UNDER TITLE 9,**  
18 **SUBTITLE 2 OF THE ELECTION LAW ARTICLE, OR AT A TIME WHEN THE**  
19 **BALLOTS CAN BE CORRECTED, THE NAME OF THE NOMINEE MAY NOT APPEAR**  
20 **ON THE BALLOT; AND**

21                   **(II) IF A NOMINEE DIES, DECLINES THE NOMINATION, OR IS**  
22 **DISQUALIFIED AFTER THE BALLOTS ARE CERTIFIED UNDER TITLE 9, SUBTITLE**  
23 **2 OF THE ELECTION LAW ARTICLE, AND IT IS TOO LATE FOR THE BALLOTS TO**  
24 **BE CORRECTED, AND IF THE NOMINEE RECEIVES SUFFICIENT VOTES TO HAVE**  
25 **BEEN ELECTED, THE OFFICE SHALL BE DEEMED VACANT AND SHALL BE FILLED**  
26 **AS IF THE VACANCY HAD OCCURRED DURING THE TERM OF OFFICE.**

27                   **(G) (1) IN A GENERAL ELECTION, A VOTER MAY VOTE ONLY FOR**  
28 **NOMINEES FOR WHOM THE VOTER IS ELIGIBLE TO VOTE AT THAT ELECTION.**

29                   **(2) (I) THE NOMINEES, EQUAL IN NUMBER TO THE NUMBER OF**  
30 **OFFICES TO BE FILLED, WHO RECEIVE THE HIGHEST NUMBER OF VOTES IN THE**  
31 **GENERAL ELECTION SHALL BE DECLARED ELECTED.**

32                   **(II) IF TWO OR MORE NOMINEES EACH RECEIVE THE**  
33 **LOWEST NUMBER OF VOTES NECESSARY TO QUALIFY FOR ELECTION, CREATING**

1 A TIE FOR THE LAST OFFICE TO BE FILLED, THE OFFICE SHALL BE CONSIDERED  
2 VACANT.

3 (III) A VACANCY OCCURRING UNDER SUBPARAGRAPH (II) OF  
4 THIS PARAGRAPH SHALL BE FILLED BY THE GOVERNOR:

5 1. AS IF THE VACANCY OCCURRED DURING THE  
6 TERM OF OFFICE FOR WHICH THE ELECTION IS BEING HELD; AND

7 2. BY THE SELECTION OF ONE OF THE NOMINEES  
8 WHO TIES IN THE GENERAL ELECTION.

9 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
10 October 1, 2010.