

HOUSE BILL 399

F3

11r1345
CF SB 114

By: **Delegate McConkey**

Introduced and read first time: February 3, 2011

Assigned to: Ways and Means

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 under certain
14 circumstances; and generally relating to contested elections for certain
15 appointed members of 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 2010 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 2010 Supplement)

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

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 Caroline County Board of Education in accordance with
13 § 3–3A–02 of this title;

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

16 (v) The county boards of education in the counties listed in
17 § 3–114 of this subtitle in accordance with the provisions of that section.

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

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

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

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

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

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

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

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

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

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

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

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

19 (i) A complete statement of all charges made against the
20 member;

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

22 (iii) A complete record of the proceedings.

23 3-110.

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

26 (i) 3 from the county at large;

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

29 (iii) 1 student member.

1 (2) Except for the student member, the Governor shall appoint a
2 member of the county board from a list of nominees submitted by the School Board
3 Nominating Commission of Anne Arundel County as provided in subsection (b) of this
4 section.

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

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

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

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

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

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

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

20 1. The Teachers Association of Anne Arundel County;

21 2. The Annapolis and Anne Arundel County Chamber of
22 Commerce;

23 3. The Anne Arundel County Council of Parent Teacher
24 Associations;

25 4. The Anne Arundel County Community College Board
26 of Trustees; and

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

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

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

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

- 1 (iv) The term of a member of the Commission is 4 years.
- 2 (4) The Department of Legislative Services shall provide staff for the
3 Commission.
- 4 (5) [Beginning January 1, 2008, for] **FOR** each nomination to the
5 county board, the Commission shall submit to the Governor a list of nominees that
6 contains:
- 7 (i) At least two names for each vacancy; or
- 8 (ii) If there are fewer than two applicants for a vacancy, the
9 number of names that is equal to the number of applicants for the vacancy.
- 10 (c) (1) Following the initial appointment of a member of the Anne
11 Arundel County Board of Education by the Governor, a member may continue to serve
12 for the remainder of the member's first term [subject to the approval or rejection of the
13 registered voters of the county], **PROVIDED THE MEMBER IS ELECTED** at the next
14 general election:
- 15 **(I) BY THE REGISTERED VOTERS OF THE COUNTY, IF THE**
16 **MEMBER WAS APPOINTED FROM THE COUNTY AT LARGE; OR**
- 17 **(II) BY THE REGISTERED VOTERS OF THE APPLICABLE**
18 **LEGISLATIVE DISTRICT, IF THE MEMBER WAS APPOINTED FROM A LEGISLATIVE**
19 **DISTRICT.**
- 20 (2) **[A] AN APPOINTED** member of the county board may serve for a
21 second consecutive term [subject to the approval of or rejection by the registered
22 voters of the county at the next general election], **PROVIDED THE MEMBER IS**
23 **REELECTED AT THE NEXT GENERAL ELECTION FOLLOWING THE END OF THE**
24 **MEMBER'S INITIAL TERM:**
- 25 **(I) BY THE REGISTERED VOTERS OF THE COUNTY, IF THE**
26 **MEMBER WAS APPOINTED FROM THE COUNTY AT LARGE; OR**
- 27 **(II) BY THE REGISTERED VOTERS OF THE APPLICABLE**
28 **LEGISLATIVE DISTRICT, IF THE MEMBER WAS APPOINTED FROM A LEGISLATIVE**
29 **DISTRICT.**
- 30 **[(3) (i) The approval or rejection of a member of the county board by**
31 **the registered voters of the county provided for in subparagraph (ii) of this paragraph**
32 **shall be a vote for the member's retention or removal.**

1 (ii) On receipt of the notice required under § 5–301(h) of the
2 Election Law Article, the name of the member of the county board shall be placed on
3 the appropriate ballot and shown, without opposition, and the voters shall vote for or
4 against the member’s retention as a member of the county board.

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

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

8 (ii) The member serves until a successor is appointed and
9 qualifies.]

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

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

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

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

16 2. Continue to serve after graduation and until a
17 successor is appointed and qualifies.

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

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

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

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

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

31 (g) (1) The President of the Anne Arundel County Board of Education is
32 entitled to receive \$8,000 annually as compensation and, except for the student

1 member, the other board members are entitled to receive \$6,000 each annually as
2 compensation.

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

6 3-114.

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

- 9 (1) Allegany;
- 10 (2) Calvert;
- 11 (3) Carroll;
- 12 (4) Cecil;
- 13 (5) Charles;
- 14 (6) Dorchester;
- 15 (7) Frederick;
- 16 (8) Garrett;
- 17 (9) Howard;
- 18 (10) Kent;
- 19 (11) Prince George's;
- 20 (12) Montgomery;
- 21 (13) Queen Anne's;
- 22 (14) St. Mary's;
- 23 (15) Somerset;
- 24 (16) Talbot;
- 25 (17) Washington; and
- 26 (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 REELECTED 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 **REELECTION TO A SECOND TERM, REGARDLESS OF WHETHER THE MEMBER**
15 **SEEKING REELECTION GAINED MEMBERSHIP ON THE COUNTY BOARD INITIALLY**
16 **BY APPOINTMENT OR BY ELECTION.**

17 **[(b)] (C)** In Caroline County, in accordance with Subtitle 3A 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)** In Harford County, in accordance with Subtitle 6A of this title, the
21 members of the county board shall be a combination of members who are elected and
22 appointed.

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

30 **[(e)] (F)** The election of the county boards shall be held as provided in
31 Subtitles 2 through 14 of this title and the Election Law Article.

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

33 **3-2A-01.**

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

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

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

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

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

14 **(2) IN A PRIMARY ELECTION, THE NAME OF AN APPOINTED**
15 **MEMBER AND EACH CANDIDATE CONTESTING THAT MEMBER'S APPOINTMENT**
16 **OR REELECTION SHALL BE LISTED ON EVERY PRIMARY BALLOT.**

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

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

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

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

23 **(4) BE VOTED ON; AND**

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

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

29 **(2) IF, AFTER THE DEADLINE FOR WITHDRAWAL AS PROVIDED IN**
30 **§ 5-503 OF THE ELECTION LAW ARTICLE, THE NUMBER OF CANDIDATES**

1 HAVING FILED CERTIFICATES OF CANDIDACY IN ANY CONTEST DOES NOT
2 EXCEED TWICE THE NUMBER OF OFFICES TO BE FILLED:

3 (I) A CERTIFICATE OF NOMINATION SHALL BE ISSUED TO
4 EACH CANDIDATE; AND

5 (II) THE NAMES OF THE CANDIDATES AND THE OFFICES
6 SHALL BE OMITTED FROM THE PRIMARY BALLOT.

7 (F) (1) BEFORE THE PRIMARY ELECTION:

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

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

16 (2) AFTER THE PRIMARY ELECTION BUT BEFORE THE GENERAL
17 ELECTION:

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

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

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

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

1 **(II) IF TWO OR MORE NOMINEES EACH RECEIVE THE**
2 **LOWEST NUMBER OF VOTES NECESSARY TO QUALIFY FOR ELECTION, CREATING**
3 **A TIE FOR THE LAST OFFICE TO BE FILLED, THE OFFICE SHALL BE CONSIDERED**
4 **VACANT.**

5 **(III) A VACANCY OCCURRING UNDER SUBPARAGRAPH (II) OF**
6 **THIS PARAGRAPH SHALL BE FILLED BY THE GOVERNOR:**

7 **1. AS IF THE VACANCY OCCURRED DURING THE**
8 **TERM OF OFFICE FOR WHICH THE ELECTION IS BEING HELD; AND**

9 **2. BY THE SELECTION OF ONE OF THE NOMINEES**
10 **WHO TIES IN THE GENERAL ELECTION.**

11 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
12 October 1, 2011.