

SENATE BILL 766

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By: **Senator Washington**

Introduced and read first time: February 5, 2021

Assigned to: Education, Health, and Environmental Affairs

A BILL ENTITLED

1 AN ACT concerning

2 **State Board of Elections and Local Boards of Elections – Membership and Staff**

3 FOR the purpose of requiring each member of the State Board of Elections to have a certain
4 number of years of experience in administering elections and have certain knowledge
5 of certain election laws; requiring the Maryland Association of Election Officials to
6 submit to the Governor the name of at least one individual for a certain purpose;
7 altering the number of consecutive terms a member of the State Board may serve;
8 establishing the position of Racial Equity Coordinator within the State Board;
9 providing that the Racial Equity Coordinator is to be appointed by the State Board
10 and is to receive a certain salary; requiring a certain individual to take a certain
11 oath; providing for the duties of the Racial Equity Coordinator; requiring the Racial
12 Equity Coordinator to submit a certain report to the General Assembly on or before
13 a certain date each year; requiring the State Board to publish certain reports on its
14 website; repealing the authority of the Governor to appoint and remove members of
15 a local board of elections; requiring members and substitute members of a local board
16 to be appointed by the county executive or the governing body of the county;
17 authorizing a county executive or the governing body of a county to remove a member
18 or a substitute member of a local board under certain circumstances; making
19 conforming changes; and generally relating to members and staff of the State Board
20 of Elections and local boards of elections.

21 BY repealing and reenacting, with amendments,
22 Article – Election Law
23 Section 2–101 and 2–201
24 Annotated Code of Maryland
25 (2017 Replacement Volume and 2020 Supplement)

26 BY adding to
27 Article – Election Law
28 Section 2–103.1
29 Annotated Code of Maryland

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



(2017 Replacement Volume and 2020 Supplement)

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

Article – Election Law

2–101.

(a) There is a State Board of Elections consisting of five members.

(b) The State Board shall maintain its principal office in Annapolis and have staff, subject to the State Personnel and Pensions Article, as provided in the State budget.

(c) (1) Each member of the State Board shall:

(i) subject to subsection [(g)(2)] **(H)(2)** of this section, be appointed by the Governor in accordance with paragraph (2) of this subsection, with the advice and consent of the Senate of Maryland;

(ii) be a registered voter in the State for the 5 years immediately preceding the appointment;

(III) HAVE AT LEAST 5 YEARS OF EXPERIENCE ADMINISTERING ELECTIONS;

(IV) HAVE AN EXTENSIVE KNOWLEDGE OF THE STATE’S ELECTION LAWS;

[(iii)] **(V)** subject to subsection [(f)(3)] **(G)(3)** of this section, be eligible for reappointment;

[(iv)] **(VI)** conform to the restrictions specified under § 2–301 of this title; and

[(v)] **(VII)** be subject to removal by the Governor for incompetence, misconduct, or other good cause, upon written charges filed by the Governor with the State Board and after having been afforded notice and ample opportunity to be heard.

(2) Subject to subsection [(e)] **(F)** of this section, the Governor shall appoint as a member of the State Board an individual whose name is submitted to the Governor by the State Central Committee of the principal political party entitled to the appointment.

(D) THE MARYLAND ASSOCIATION OF ELECTION OFFICIALS SHALL SUBMIT TO THE GOVERNOR THE NAME OF AT LEAST ONE ELIGIBLE INDIVIDUAL WHOM THE GOVERNOR MAY APPOINT AS A MEMBER OF THE STATE BOARD.

1 [(d)] (E) Before taking office, each appointee to the State Board shall take the
2 oath required by Article I, § 9 of the Maryland Constitution.

3 [(e)] (F) (1) Each member of the State Board shall be a member of one of the
4 principal political parties.

5 (2) A person may not be appointed to the State Board if the appointment
6 will result in the State Board having more than three or fewer than two members of the
7 same principal political party.

8 [(f)] (G) (1) The term of a member is 4 years and begins on July 1.

9 (2) The terms of the members are staggered as required by the terms
10 provided for members of the State Board on July 1, 1999.

11 (3) A member may not serve more than [three] **TWO** consecutive terms.

12 (4) At the end of a term, a member continues to serve until a successor is
13 appointed and qualifies.

14 [(g)] (H) (1) If a vacancy occurs on the State Board, it shall be filled for the
15 remainder of the unexpired term and until a successor is appointed and qualifies.

16 (2) An appointment made while the Senate of Maryland is not in session
17 shall be considered temporary until the appointee is confirmed by the Senate.

18 [(h)] (I) Not later than August 1 each year, the State Board shall elect one of its
19 members as chairman.

20 [(i)] (J) Each member shall receive:

21 (1) per diem compensation as provided in the State budget for each day
22 that the member is actually engaged in the discharge of official duties, as authorized by the
23 State Board and in accordance with the State budget; and

24 (2) reimbursement for all necessary and proper expenses, as provided in
25 the State budget.

26 **2-103.1.**

27 (A) **THERE IS A RACIAL EQUITY COORDINATOR.**

28 (B) **THE RACIAL EQUITY COORDINATOR SHALL:**

29 (1) **BE APPOINTED BY THE STATE BOARD; AND**

1 **(2) RECEIVE A SALARY AS PROVIDED IN THE STATE BUDGET.**

2 **(C) BEFORE TAKING OFFICE, THE INDIVIDUAL APPOINTED TO THE OFFICE**
3 **OF RACIAL EQUITY COORDINATOR SHALL TAKE THE OATH REQUIRED BY ARTICLE**
4 **I, § 9 OF THE MARYLAND CONSTITUTION.**

5 **(D) THE RACIAL EQUITY COORDINATOR SHALL:**

6 **(1) ENSURE THAT ALL REGISTERED VOTERS IN EACH DISTRICT**
7 **ACROSS THE STATE RECEIVE THE SAME TREATMENT AND ACCESS TO RESOURCES;**

8 **(2) INVESTIGATE RACIAL DISPARITIES IN BALLOT ACCESS AND VOTER**
9 **TURNOUT ACROSS THE STATE; AND**

10 **(3) MAKE RECOMMENDATIONS TO THE STATE BOARD ON WAYS TO**
11 **IMPROVE RACIAL EQUITY IN THE ADMINISTRATION OF ELECTIONS IN THE STATE.**

12 **(E) (1) ON OR BEFORE DECEMBER 1 EACH YEAR, BEGINNING IN 2021,**
13 **THE RACIAL EQUITY COORDINATOR SHALL SUBMIT A REPORT TO THE GENERAL**
14 **ASSEMBLY, IN ACCORDANCE WITH § 2-1257 OF THE STATE GOVERNMENT ARTICLE,**
15 **ON THE RACIAL EQUITY COORDINATOR'S ACTIVITIES, FINDINGS, AND ANY**
16 **RECOMMENDATIONS MADE TO THE STATE BOARD FOR THE IMMEDIATELY**
17 **PRECEDING YEAR.**

18 **(2) THE STATE BOARD SHALL PUBLISH EACH REPORT REQUIRED**
19 **UNDER PARAGRAPH (1) OF THIS SUBSECTION ON THE STATE BOARD'S WEBSITE.**

20 2-201.

21 (a) (1) There is a county board of elections in each county of the State.

22 (2) Each local board and its staff is subject to the direction and authority
23 of the State Board and is accountable to the State Board for its actions in all matters
24 regarding the implementation of the requirements of this article and any applicable federal
25 law.

26 (b) (1) (i) Except as provided in paragraphs (2) and (3) of this subsection,
27 each local board consists of five regular members.

28 (ii) Three regular members shall be of the majority party, and two
29 regular members shall be of the principal minority party.

30 (2) (i) In Prince George's County, the local board consists of five regular
31 members and three substitute members.

1 (ii) Four regular members and two substitute members shall be of
2 the majority party, and one regular member and one substitute member shall be of the
3 principal minority party.

4 (3) (i) In Montgomery County, the local board consists of five regular
5 members and two substitute members.

6 (ii) Three regular members and one substitute member shall be of
7 the majority party, and two regular members and one substitute member shall be of the
8 principal minority party.

9 (c) Each regular member of a local board and each substitute member of a local
10 board shall:

11 (1) be appointed in accordance with subsection (g) of this section;

12 (2) be a registered voter in the county for which the individual is appointed
13 for the 5 years immediately preceding the appointment; and

14 (3) be eligible for reappointment.

15 (d) (1) The term of a member is 4 years and begins on the first Monday in June
16 of each year following a gubernatorial election.

17 (2) At the end of a term, a member continues to serve until a successor is
18 appointed and qualifies.

19 (e) Before taking office, a member shall take and subscribe to the oath prescribed
20 in Article I, § 9 of the Maryland Constitution.

21 (f) The **[Governor] COUNTY EXECUTIVE OR THE GOVERNING BODY OF THE**
22 **COUNTY** may remove a member for incompetence, misconduct, or other good cause, upon
23 written charges stating the **[Governor's] COUNTY EXECUTIVE'S OR THE GOVERNING**
24 **BODY'S** grounds for dismissal and after affording the member notice and an ample
25 opportunity to be heard.

26 (g) (1) The **[Governor] COUNTY EXECUTIVE OR THE GOVERNING BODY OF**
27 **THE COUNTY** shall request the county central committee representing the majority party
28 or the principal minority party, as appropriate, to submit a list of at least four eligible
29 individuals from which the **[Governor] COUNTY EXECUTIVE OR THE GOVERNING BODY**
30 may make an appointment of a regular member of a local board or a substitute member of
31 the local board.

32 (2) The **[Governor] COUNTY EXECUTIVE OR THE GOVERNING BODY** may
33 reject all of the nominees if the **[Governor] COUNTY EXECUTIVE OR THE GOVERNING**

1 **BODY** determines them to be unfit or incompetent, in which case the **[Governor] COUNTY**
2 **EXECUTIVE OR THE GOVERNING BODY** shall notify the State Board in writing and
3 request an additional list of at least four eligible nominees from the county central
4 committee. A third list may be requested in the same manner.

5 (3) If a list containing the names of four eligible nominees is not submitted
6 within 20 days of a request or if all the nominees on three lists are rejected, the **[Governor]**
7 **COUNTY EXECUTIVE OR THE GOVERNING BODY** may appoint any eligible person who is
8 a member of the appropriate political party.

9 (4) (i) Except as provided in subparagraph (ii) of this paragraph, each
10 appointment shall be subject to confirmation by the Senate of Maryland.

11 (ii) In Caroline, Dorchester, and Kent counties, if there is no resident
12 Senator of the particular county, the confirmation required under subparagraph (i) of this
13 paragraph shall be by the House of Delegates of Maryland.

14 (iii) If an appointee is rejected, the **[Governor] COUNTY EXECUTIVE**
15 **OR THE GOVERNING BODY** shall make another appointment from the list or lists
16 submitted under paragraphs (1) and (2) of this subsection. If a list is not provided, or the
17 nominees on three lists are rejected, the **[Governor] COUNTY EXECUTIVE OR THE**
18 **GOVERNING BODY** may appoint an eligible individual as provided in paragraph (3) of this
19 subsection.

20 (h) (1) Except in Montgomery County and Prince George's County, if a vacancy
21 occurs on the local board, the **[Governor] COUNTY EXECUTIVE OR THE GOVERNING**
22 **BODY OF THE COUNTY** shall appoint an eligible person from the same political party as
23 the predecessor member to fill the vacancy in accordance with subsection (g) of this section
24 for the remainder of the unexpired term and until a successor is appointed and qualifies.

25 (2) An appointment made while the General Assembly is not in session
26 shall be considered temporary until the appointee is confirmed by the General Assembly.

27 (i) (1) This subsection applies only in Montgomery County and Prince
28 George's County.

29 (2) In the event of the absence of a regular member or a vacancy in the
30 office of a regular member, the substitute member of the same political party shall exercise
31 the powers and duties of a regular member until the regular member returns or the vacancy
32 is filled as prescribed in this subsection.

33 (3) Subject to paragraph (4) of this subsection, if a member of a local board
34 dies, resigns, is removed, or becomes ineligible:

35 (i) the substitute member belonging to the same political party shall
36 become a regular member of the local board; and

1 (ii) the [Governor] COUNTY EXECUTIVE shall appoint an eligible
2 person from the same political party to be the new substitute member.

3 (4) In Prince George's County, if a vacancy occurs on the local board among
4 the members from the majority party, the [Governor] COUNTY EXECUTIVE shall designate
5 one of the substitute members from that party to fill the vacancy.

6 (5) If a substitute member of a local board becomes a regular member as
7 provided in paragraph (3)(i) of this subsection, dies, resigns, is removed, or becomes
8 ineligible when the confirming legislative body is not in session, the [Governor] COUNTY
9 EXECUTIVE shall appoint an eligible person from the same political party as the
10 predecessor substitute member to fill the vacancy. That individual shall serve until the
11 earlier of:

12 (i) the adjournment of the next session of the General Assembly; or

13 (ii) the appointment of another individual to fill the same vacancy.

14 (j) A board shall meet within 20 days after the beginning of the term to elect one
15 of its regular members as president.

16 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
17 October 1, 2021.