

HOUSE BILL 1040

F3

5lr2039
CF SB 730

By: **Wicomico County Delegation**

Introduced and read first time: February 13, 2015

Assigned to: Ways and Means

A BILL ENTITLED

1 AN ACT concerning

2 **Wicomico County – Board of Education**

3 FOR the purpose of requiring that certain members of the Wicomico County Board of
4 Education be elected; requiring that certain members of the county board be
5 appointed; providing for a student member of the county board; establishing the
6 composition of the county board; providing for the qualifications, terms of office, and
7 the filling of a vacancy of certain members of the county board; establishing a
8 procedure for the election and appointment of members of the county board;
9 establishing certain removal, hearing, and appeal procedures for certain members of
10 the county board; providing for the termination of the terms of certain members of
11 the county board; submitting this Act to a referendum of the legally qualified voters
12 of Wicomico County for their adoption or rejection; and generally relating to the
13 Wicomico County Board of Education.

14 BY repealing and reenacting, with amendments,
15 Article – Education
16 Section 3–105 and 3–114
17 Annotated Code of Maryland
18 (2014 Replacement Volume and 2014 Supplement)

19 BY adding to
20 Article – Education
21 Section 3–13A–01 through 3–13A–03 to be under the new subtitle “Subtitle 13A.
22 Wicomico County”
23 Annotated Code of Maryland
24 (2014 Replacement Volume and 2014 Supplement)

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

27 **Article – Education**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 3–105.

2 (a) Subsections (b), (c), and (d) of this section do not apply to a county if the
3 number of members of the county board is regulated by other provisions of this title.

4 (b) If a county school system has an enrollment of less than 50,000 students, the
5 county board shall have five members, except that:

6 (1) The Worcester County Board shall have the number of members
7 provided in subsection (e) of this section; **AND**

8 (2) Any county board that had more than five members on July 1, 1969,
9 shall retain that number of members[; and

10 (3) The Wicomico County Board shall have the number of members
11 provided in subsection (f) of this section].

12 (c) If a county school system has an enrollment of 50,000 students or more but
13 less than 100,000 students, the county board shall have seven members.

14 (d) If a county school system has an enrollment of 100,000 students or more, the
15 county board shall have nine members except as provided in § 3–901 of this title for
16 Montgomery County and § 3–1002 of this title for Prince George’s County.

17 (e) The Worcester County Board consists of seven voting members and one
18 nonvoting student member from each public high school in the county.

19 [(f) (1) The Wicomico County Board consists of seven members.

20 (2) The term of a member is 5 years.]

21 3–114.

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

23 (1) Allegany;

24 (2) Calvert;

25 (3) Carroll;

26 (4) Cecil;

27 (5) Charles;

28 (6) Dorchester;

- 1 (7) Frederick;
- 2 (8) Garrett;
- 3 (9) Howard;
- 4 (10) Kent;
- 5 (11) Montgomery;
- 6 (12) Queen Anne's;
- 7 (13) St. Mary's;
- 8 (14) Somerset;
- 9 (15) Talbot;
- 10 (16) Washington; [and]
- 11 **(17) WICOMICO; AND**
- 12 **[(17)] (18) Worcester.**

13 (b) In Baltimore County, in accordance with Subtitle 2A of this title, the members
14 of the county board shall be a combination of members who are elected and appointed.

15 (c) In Caroline County, in accordance with Subtitle 3A of this title, the members
16 of the county board shall be a combination of members who are elected and appointed.

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

19 (e) In Prince George's County, in accordance with Subtitle 10 of this title, the
20 members of the county board shall be a combination of members who are elected and
21 appointed.

22 **(F) IN WICOMICO COUNTY, IN ACCORDANCE WITH SUBTITLE 13A OF THIS**
23 **TITLE, THE MEMBERS OF THE COUNTY BOARD SHALL BE A COMBINATION OF**
24 **MEMBERS WHO ARE ELECTED AND APPOINTED.**

25 **[(f)] (G)** An individual subject to the authority of the county board may not serve
26 as a member of the county board. At the time of filing a certificate of candidacy for election
27 to a county board, a person shall certify to the local board of supervisors of elections whether
28 or not he is subject to the authority of the county board. The Governor shall not issue a

1 commission of election to a person who has certified affirmatively and who is elected to a
2 county board until the member-elect offers proof that he is no longer subject to the
3 authority of the county board.

4 **[(g)] (H)** The election of the county boards shall be held as provided in Subtitles
5 2 through 14 of this title and the Election Law Article.

6 **SUBTITLE 13A. WICOMICO COUNTY.**

7 **3-13A-01.**

8 **(A) THE WICOMICO COUNTY BOARD SHALL CONSIST OF:**

9 **(1) FIVE ELECTED MEMBERS;**

10 **(2) TWO APPOINTED MEMBERS; AND**

11 **(3) ONE STUDENT MEMBER.**

12 **(B) EACH ELECTED AND APPOINTED MEMBER SHALL:**

13 **(1) BE A RESIDENT OF THE COUNTY FOR AT LEAST 1 YEAR BEFORE**
14 **THE MEMBER'S ELECTION OR APPOINTMENT; AND**

15 **(2) BE A REGISTERED VOTER OF WICOMICO COUNTY.**

16 **(C) (1) ONE ELECTED MEMBER SHALL BE ELECTED FROM EACH OF THE**
17 **FIVE COUNCILMANIC DISTRICTS IN THE COUNTY.**

18 **(2) AN ELECTED MEMBER SHALL BE:**

19 **(I) A RESIDENT OF THE DISTRICT FROM WHICH THE MEMBER**
20 **IS ELECTED; AND**

21 **(II) ELECTED ONLY BY THE VOTERS OF THAT DISTRICT.**

22 **(D) (1) THE APPOINTED MEMBERS SHALL BE APPOINTED BY THE COUNTY**
23 **EXECUTIVE, WITH THE ADVICE AND CONSENT OF THE COUNTY COUNCIL, FROM THE**
24 **COUNTY AT LARGE.**

25 **(2) IN APPOINTING MEMBERS TO THE COUNTY BOARD, THE COUNTY**
26 **EXECUTIVE SHALL ENSURE, TO THE EXTENT PRACTICABLE, THAT THE COUNTY**
27 **BOARD REFLECTS THE GENDER, ETHNIC, AND RACIAL MAKEUP OF THE COUNTY.**

1 (E) THE STUDENT MEMBER SHALL:

2 (1) BE AN 11TH OR 12TH GRADE STUDENT IN THE WICOMICO COUNTY
3 PUBLIC SCHOOL SYSTEM;

4 (2) BE NONVOTING;

5 (3) SERVE FOR A TERM OF 1 YEAR; AND

6 (4) ADVISE THE COUNTY BOARD ON THE THOUGHTS AND FEELINGS
7 OF STUDENTS.

8 3-13A-02.

9 (A) (1) EXCEPT FOR THE STUDENT MEMBER, EACH MEMBER SERVES FOR
10 A TERM OF 4 YEARS BEGINNING ON THE THIRD MONDAY IN DECEMBER AFTER THE
11 ELECTION AND UNTIL A SUCCESSOR IS ELECTED AND QUALIFIES.

12 (2) IF THE THIRD MONDAY IN DECEMBER IS A LEGAL HOLIDAY, THE
13 TERM BEGINS ON THE FIRST DAY AFTER THE THIRD MONDAY IN DECEMBER THAT
14 IS NOT A LEGAL HOLIDAY.

15 (B) THE COUNTY EXECUTIVE, WITH THE ADVICE AND CONSENT OF THE
16 COUNTY COUNCIL, SHALL APPOINT A NEW MEMBER TO FILL A VACANCY ON THE
17 BOARD FOR THE REMAINDER OF THAT TERM AND UNTIL A SUCCESSOR IS ELECTED
18 OR APPOINTED AND QUALIFIES.

19 (C) UNLESS OTHERWISE DISQUALIFIED UNDER THIS SECTION, A MEMBER
20 OF THE BOARD IS ELIGIBLE FOR REELECTION OR REAPPOINTMENT. HOWEVER, AN
21 INDIVIDUAL MAY NOT SERVE FOR MORE THAN TWO CONSECUTIVE TERMS.

22 (D) A MEMBER WHO NO LONGER RESIDES WITHIN THE COUNCILMANIC
23 DISTRICT FROM WHICH THE MEMBER WAS ELECTED MAY NOT CONTINUE AS A
24 MEMBER OF THE BOARD.

25 3-13A-03.

26 (A) THE STATE BOARD MAY REMOVE A MEMBER OF THE COUNTY BOARD
27 FOR ANY OF THE FOLLOWING REASONS:

28 (1) IMMORALITY;

29 (2) MISCONDUCT IN OFFICE;

1 **(3) INCOMPETENCY;**

2 **(4) WILLFUL NEGLECT OF DUTY; OR**

3 **(5) FAILURE TO ATTEND, WITHOUT GOOD CAUSE, AT LEAST 75% OF**
4 **THE SCHEDULED MEETINGS OF THE COUNTY BOARD IN A CALENDAR YEAR.**

5 **(B) BEFORE REMOVING A MEMBER, THE STATE BOARD SHALL SEND THE**
6 **MEMBER A COPY OF THE CHARGES PENDING AND GIVE THE MEMBER AN**
7 **OPPORTUNITY WITHIN 10 DAYS TO REQUEST A HEARING.**

8 **(C) IF THE MEMBER REQUESTS A HEARING WITHIN THE 10-DAY PERIOD:**

9 **(1) THE STATE BOARD SHALL PROMPTLY HOLD A HEARING, BUT A**
10 **HEARING MAY NOT BE SET WITHIN 10 DAYS AFTER THE STATE BOARD SENDS THE**
11 **MEMBER A NOTICE OF THE HEARING; AND**

12 **(2) THE MEMBER SHALL HAVE AN OPPORTUNITY TO BE HEARD**
13 **PUBLICLY BEFORE THE STATE BOARD IN THE MEMBER'S OWN DEFENSE, IN PERSON**
14 **OR BY COUNSEL.**

15 **(D) A MEMBER REMOVED UNDER THIS SECTION HAS THE RIGHT TO A DE**
16 **NOVO REVIEW OF THE REMOVAL BY THE CIRCUIT COURT FOR WICOMICO COUNTY.**

17 SECTION 2. AND BE IT FURTHER ENACTED, That the terms of the members of
18 the Wicomico County Board of Education in office at the end of December 16, 2018, shall
19 expire at the end of December 16, 2018.

20 SECTION 3. AND BE IT FURTHER ENACTED, That before this Act becomes
21 effective it shall first be submitted to a referendum of the qualified voters of Wicomico
22 County at the general election to be held in November of 2016. The cost of the election shall
23 be paid by the County governing body. The County governing body and the Wicomico
24 County Board of Elections shall do those things necessary and proper to provide for and
25 hold the referendum required by this section. There shall be printed on the ballot to be used
26 at this election the title of this Act and underneath the title, on separate lines, a square or
27 box opposite the words "For an Elected/Appointed Board of Education" and a corresponding
28 square or box opposite the words "Against an Elected/Appointed Board of Education". A
29 voter may choose only one of the two options. If a majority of the votes cast on the question
30 are "For an Elected/Appointed Board of Education" the provisions of Section 1 and Section
31 2 of this Act shall become effective on the 30th day following the official canvass of votes
32 for the referendum. If a majority of the votes cast on the question are "Against an
33 Elected/Appointed Board of Education" the provisions of Section 1 and Section 2 of this Act
34 are of no effect and null and void.

1 SECTION 4. AND BE IT FURTHER ENACTED, That, subject to the provisions of
2 Section 3 of this Act and for the sole purpose of providing for the referendum required by
3 Section 3 of this Act, this Act shall take effect October 1, 2015.