

Department of Legislative Services
Maryland General Assembly
2021 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

House Bill 655
Ways and Means

(Delegate Crosby)

Education, Health, and Environmental Affairs

**Local Elections - County Commissioner and County Boards of Education -
District Voting**

This bill requires that the election of a county commissioner to represent a specific county commissioner district must be decided by a plurality of the votes cast within that district. The bill also requires that in counties in which members of the county board of education are elected from individual districts, the election of a member of the county board of education to represent a specific district must be decided by a plurality of the votes cast within that district.

Fiscal Summary

State Effect: None.

Local Effect: The bill does not materially affect local government operations or finances.

Small Business Effect: None.

Analysis

Bill Summary/Current Law: The bill is applicable, beginning with elections held in 2022, to the elections for county commissioner and county boards of education in which members are elected from individual districts. The bill does not affect the tenure of a member of a county board of education who is elected from an individual district or a county commissioner serving in office before the beginning of the next regular full term of office that begins after the bill's effective date.

County Commissioner Election

Maryland counties operate under three forms of government: commission, charter home rule, and code home rule. To date, only 6 counties continue to operate under the commission, or nonhome rule, form of government, while 11 counties operate under charter home rule and 6 counties operate under code home rule. **Exhibit 1** shows the form of government for each Maryland county.

Exhibit 1
Form of County Government

| <u>Charter</u> | <u>Commission</u> | <u>Code</u> |
|-----------------|-------------------|--------------|
| Anne Arundel | Calvert | Allegany |
| Baltimore | Carroll | Caroline |
| Cecil | Garrett | Charles |
| Dorchester | St. Mary's | Kent |
| Frederick | Somerset | Queen Anne's |
| Harford | Washington | Worcester |
| Howard | | |
| Montgomery | | |
| Prince George's | | |
| Talbot | | |
| Wicomico | | |

Source: Department of Legislative Services

The 12 counties operating under commission and code home rule forms of government elect county commissioners. State law requires the number of county commissioners in a county to be set by the public local laws of each county. The public local laws of each county also determine whether commissioners are elected by voters from within a district or by voters of the entire county.

In three counties (Carroll, Somerset, and Worcester), commissioners run by district and are elected by the voters residing in that district.

In four counties (Allegany, Caroline, Kent, and Washington), commissioners run countywide, not by district.

In one county (Garrett), commissioners run by district and are elected by the voters at large.

In four counties (Calvert, Charles, Queen Anne's, and St. Mary's), a hybrid board structure is utilized wherein a specified number of county commissioners represent a district, the remaining run countywide, and all of the commissioners are elected by the voters at large. In Charles and St. Mary's counties, the at-large commissioner serves as the president of the county commissioners.

The following sections show the county commissioner election district structure under current law and the proposed structure under the bill for each affected county:

Calvert County

Under current law, there are five county commissioners who are elected countywide. Of these individuals, three must be residents of specified election districts. The two remaining county commissioners must be residents of the county and represent the county at large.

Under the bill, the three county commissioners who run by district must be elected by the voters who reside in that election district. The two county commissioners who represent the county at large must be residents of the county and must be elected by the voters of the entire county.

Charles County

Under current law, there are five county commissioners who are elected countywide. Of these individuals, four must reside in each of the four county commissioner districts. The fifth county commissioner, who holds the position of President of the County Commissioners, may reside anywhere in the county and is elected by the county at large.

Under the bill, the four county commissioners who run by district must reside and be elected by the voters of that district.

Garrett County

Under current law, there are three county commissioners who run by district and are elected countywide. Furthermore, at primary elections, one candidate for each party is chosen from each commissioner district by the countywide vote of the members of the respective parties.

Under the bill, the three county commissioners who run by district must reside in and be elected by the voters of that district. At primary elections, one candidate for each party is chosen from each commissioner district by the vote of the members of the respective parties within that district.

Queen Anne's County

Under current law, there are five county commissioners who are elected countywide. Of these individuals, four must reside in each of the four county commissioner districts. The fifth county commissioner may reside anywhere in the county.

Under the bill, the four county commissioners who run by district must reside and be elected by the voters of that district.

St. Mary's County

Under current law, there are five county commissioners who are elected countywide. Of these individuals, four run by commissioner district. The fifth county commissioner holds the position of President of the County Commissioners and must be a resident of the county, as specified, and is elected by voters of the entire county.

Under the bill, the four county commissioners who run by district must be elected by the voters who reside in that district.

Board of Education Election

There are 19 elected school boards, 4 hybrid school boards, and 1 appointed school board in the State. **Appendix – Local Boards of Education Membership** shows the selection methods, terms of office, and membership of the 24 local boards of education. Of these local boards, 6 counties will be affected by the bill, as discussed below.

Calvert County

Under current law, the Calvert County Board of Education consists of five voting members and one nonvoting student member. Of the five voting members, one must be elected from each of the three county commissioner districts and two members are elected from the county at large.

Under the bill, voting members elected from within each of the three commissioner districts must be elected by a plurality of the votes cast within that district.

Cecil County

Under current law, the Cecil County Board of Education consists of five voting members elected from each of the five commissioner districts and one nonvoting student member.

Under the bill, the five voting members from commissioner districts must be elected by a plurality of the votes cast within that district.

Garrett County

Under current law, the Garrett County Board of Education consists of two at-large members elected countywide, three elected members from each of the three commissioner districts, and one nonvoting student member.

Under the bill, the three voting members from commissioner districts must be elected by a plurality of the votes cast within that district.

Montgomery County

Under current law, the Montgomery County Board of Education consists of two members who may reside anywhere in the county that are elected countywide, five members who each reside in different county board of education districts that are elected countywide, and one student member.

Under the bill, the five members from each of the county board of education districts must be elected by a plurality of the votes cast within that district.

Queen Anne's County

Under current law, the Queen Anne's County Board of Education consists of one member who may reside anywhere in the county that is elected countywide, four members from each of the four commissioner districts who are elected countywide, and two student members.

Under the bill, the four members from the four county commissioner districts must be elected by a plurality of the votes cast within that district.

St. Mary's County

Under current law, the St. Mary's County Board of Education consists of one member elected from the county at large, four members from each of the four commissioner districts who are elected countywide, and one student member.

Under the bill, the four elected members from the four commissioner districts must be elected by a plurality of the votes cast within that district.

Additional Information

Prior Introductions: None.

Designated Cross File: None.

Information Source(s): Allegany, Calvert, Caroline, Carroll, Charles, Garrett, St. Mary's, Somerset, Washington, and Worcester counties; Maryland State Board of Elections; Department of Legislative Services

Fiscal Note History: First Reader - February 8, 2021
rh/tso Third Reader - March 16, 2021
 Revised - Amendment(s) - March 16, 2021

Analysis by: Arnold Adja

Direct Inquiries to:
(410) 946-5510
(301) 970-5510

Appendix – Local Boards of Education Membership

Membership

The composition of the local boards of education varies, with members serving three- to four-year terms. Nineteen counties have elected school boards, four counties have combined appointed/elected school boards, and one school board consists of appointed members only, until the 2022 general election when it will become an appointed/elected school board. Twenty-two boards have student members but only seven boards allow student members to vote, which generally excludes collective bargaining and other personnel and budgetary decisions. The exhibit below shows the selection methods, terms of office, and membership of the 24 local school boards.

Local Boards of Education As of December 2020

| School System | Number of Members | Term | E | Means of Selection ¹ |
|-----------------------------|-------------------|---------|-----|--|
| Allegany | 6 | 4 years | E | 5 from county at large 1 student (nonvoting, one-year term) |
| Anne Arundel ² | 8 | 4 years | E | 7 from councilmanic districts 1 student (one-year term) |
| Baltimore City ³ | 10 | 3 years | A | 9 from city at large 1 student (one-year term) |
| Baltimore ⁴ | 12 | 4 years | A/E | 4 from county at large (appointed) 7 from councilmanic districts (elected) 1 student (one-year term) |
| Calvert | 6 | 4 years | E | 2 from county at large 3 from commissioner districts 1 student (nonvoting, one-year term) |
| Caroline | 7 | 4 years | A/E | 3 elected from school board districts 2 appointed from county at large 2 students (nonvoting, one-year term) |
| Carroll | 11 | 4 years | E | 5 from county at large 5 commissioners <i>ex officio</i> (nonvoting) 1 student (nonvoting, one-year term) |

| School System | Number of Members | Term | | Means of Selection¹ |
|------------------------------|--------------------------|-------------|-----|--|
| Cecil | 6 | 4 years | E | 5 from commissioner districts 1 student (nonvoting, one-year term) |
| Charles | 8 | 4 years | E | 7 from county at large 1 student (nonvoting, one-year term) |
| Dorchester | 7 | 4 years | E | 5 from councilmanic districts 2 students (nonvoting, one-year term) |
| Frederick | 8 | 4 years | E | 7 from county at large 1 student (nonvoting, one-year term) |
| Garrett | 6 | 4 years | E | 2 from county at large 3 from commissioner districts 1 student (nonvoting, one-year term) |
| Harford | 11 | 4 years | A/E | 6 elected from councilmanic districts 3 appointed from county at large 1 superintendent <i>ex officio</i> (nonvoting) 1 student (one-year term) |
| Howard | 8 | 4 years | E | 2 from county at large 5 from councilmanic districts 1 student (one-year term) |
| Kent ⁵ | 6 | 4 years | E | 5 from county at large 1 student (nonvoting, one-year term) |
| Montgomery | 8 | 4 years | E | 2 from county at large 5 from school districts 1 student (one-year term) |
| Prince George's ⁶ | 14 | 4 years | A/E | 9 elected from school board districts 4 appointed by county 1 student (one-year term) |
| Queen Anne's | 7 | 4 years | E | 1 from county at large 4 from commissioner districts 2 students (nonvoting, one-year term) |
| St. Mary's | 6 | 4 years | E | 1 from county at large 4 from commissioner districts 1 student (nonvoting, one-year term) |

| School System | Number of Members | Term | | Means of Selection¹ |
|-------------------------|--------------------------|-------------|---|--|
| Somerset | 5 | 4 years | E | All from commissioner districts |
| Talbot | 9 | 4 years | E | 7 from school board districts 2 students (nonvoting, one-year term) |
| Washington ⁷ | 8 | 4 years | E | 7 from county at large 1 student (nonvoting, one-year term) |
| Wicomico ⁸ | 7 | 4 years | E | 5 from councilmanic districts 2 from county at large |
| Worcester | 10 | 4 years | E | 7 from commissioner districts 3 students (nonvoting, one-year term) |

¹A = Appointed by Governor, except in Baltimore City, where board is appointed by the Mayor; E = Elected; and A/E = Combined appointed by Governor and elected board, except in Prince George’s County. Entries for local boards that are at any point in the process of transitioning between means of selection reflect the final state the board will be in once the transition fully takes effect.

²Chapter 473 of 2017 restructured the Anne Arundel County Board of Education from a nine-member appointed board to an eight-member elected board consisting of seven elected members (one from each of the seven councilmanic districts on a nonpartisan basis) and one student member. The terms of the elected members are staggered; four members were elected at the 2018 general election and three members were elected at the 2020 general election as the terms of previously appointed board members expired. In this manner, the elected board is phased in. The members elected in November 2018 serve a six-year term, while the members elected in 2020 serve a four-year term. Thus, beginning in 2024, all members must stand for election. An elected member of the board generally serves a four-year term beginning on the first Monday in December after the member’s election and until a successor is elected and qualifies.

³Chapter 593 of 2017 repealed the role of the Governor in making appointments to the Baltimore City Board of School Commissioners; it also repealed the Governor’s role in filling board vacancies and removing board members. As a result, board members are appointed solely by the Mayor of Baltimore City until the appointed/elected board established by the legislation is executed at the 2022 general election. Chapter 593 also established the Baltimore City Public School Board Community Panel (which the Mayor must convene) and specified its membership. The purpose of the panel is to select nominees to be recommended to the Mayor as qualified candidates for appointment to the board (including candidates for vacancies). If the Mayor elects not to appoint a member or to fill a vacancy from a list submitted by the panel, the Mayor must reconvene the panel to submit additional names of qualified candidates. Beginning with the 2022 general election, the board will be restructured as a hybrid board with two members elected from the city at large, nine members appointed by the Mayor, and one student member. Elected members will serve a four-year term whereas appointed members will serve a three-year term.

⁴Chapters 480 and 481 of 2014 restructured the Baltimore County Board of Education from a 12-member appointed board (including 1 student member) to a 12-member board consisting of 4 at-large members appointed by the Governor, 7 nonpartisan members each elected from one of 7 councilmanic districts, and a student member. The elected members were elected at the general election in November 2018 and serve four-year terms. In addition, Chapters 480 and 481 established the Baltimore County Nominating

Commission. Generally, the commission is responsible for submitting to the Governor at least two names for each vacancy on the board. The commission consists of 19 members of the county and must reflect the diversity of the county. Except in extraordinary circumstances, the Governor must appoint members to the board of education from the list the nominating commission provides.

⁵Although not in statute, the Kent County Board of Education reports that there is a nonvoting student member of the board and that he or she does not attend closed sessions.

⁶Chapter 147 of 2013 altered the membership of the Prince George's County Board of Education by adding four appointed members to the existing elected board. The county executive appoints three members with certain experience requirements, and the county council appoints one member who must be a parent of a student in the county school system. If a seat held by an elected member becomes vacant, the county executive must appoint a qualified individual for the remainder of the term, with the appointment subject to rejection by a two-thirds vote of the county council.

⁷Although not in statute, the Washington County Board of Education reports that there is a student member of the board and that he or she can only concur on votes and must abstain from certain matters.

⁸Chapter 169 of 2016, subject to referendum, required the restructuring of the Wicomico County Board of Education. In the 2016 general election, the county approved a fully elected board option, with five members each elected from one of the five councilmanic districts and two members elected from the county at large. Members were elected at the general election in 2018 and serve four-year terms.

Source: Annotated Code of Maryland, Education Article, Sections 3-101 through 3-1405; Local Boards of Education