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By: **Senator Hafer**

Introduced and read first time: January 29, 2001

Assigned to: Economic and Environmental Affairs

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A BILL ENTITLED

1 AN ACT concerning

2 **Allegany County - Board of Education - Elections**

3 FOR the purpose of providing a procedure for filling a vacancy if a nominee for  
4 membership on the Allegany Board of Education dies, declines the nomination,  
5 or becomes disqualified after the primary election but before the general  
6 election; and generally relating to the election of members of the Allegany  
7 County Board of Education.

8 BY repealing and reenacting, with amendments,  
9 Article - Education  
10 Section 3-201  
11 Annotated Code of Maryland  
12 (1999 Replacement Volume and 2000 Supplement)

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

15 **Article - Education**

16 3-201.

17 (a) (1) In this subtitle, "elected member" means a voting member elected  
18 under subsection (d) or (e) of this section or a member appointed to an elected position  
19 on the County Board under subsection (e)(3) of this section.

20 (2) "Elected member" does not include a:

21 (i) County Commissioner serving as an ex officio member of the  
22 County Board; or

23 (ii) Nonvoting student member selected under subsection (f) of this  
24 section.

25 (b) The Allegany County Board consists of:

26 (1) Five elected members;

1           (2)     The Chairman of the Board of County Commissioners, or any County  
2 Commissioner so designated by the Chairman, who is an ex officio nonvoting member;  
3 and

4           (3)     One nonvoting student member, who is to advise the other members  
5 of the County Board on the viewpoint of students who attend Allegany County public  
6 schools.

7       (c)     An individual nominated for membership as an elected member on the  
8 County Board shall be a qualified voter and a resident of Allegany County for at least  
9 3 years.

10       (d)     The elected members of the Allegany County Board shall be elected:

11           (1)     At a general election as required by this subsection or as provided  
12 under subsection (e) of this section; and

13           (2)     From Allegany County at large.

14       (E)     (1)     IF, AFTER THE PRIMARY ELECTION BUT BEFORE THE GENERAL  
15 ELECTION, A NOMINEE DIES, DECLINES THE NOMINATION, OR BECOMES  
16 DISQUALIFIED, AND THE NUMBER OF REMAINING NOMINEES IS FEWER THAN THE  
17 NUMBER OF OFFICES TO BE FILLED, THE CANDIDATE WHO RECEIVED THE NEXT  
18 HIGHEST NUMBER OF VOTES AFTER THE NOMINEES ELECTED AT THE PRIMARY  
19 ELECTION SHALL FILL THE VACANCY.

20           (2)     IF THERE IS NO CANDIDATE TO FILL THE VACANCY, A NEW NOMINEE  
21 SHALL BE APPOINTED TO FILL THE VACANCY IN THE SAME MANNER AS PROVIDED IN  
22 SUBSECTION (F)(3) OF THIS SECTION.

23       [(e)]   (F)     (1)     Each elected member serves for a term of 4 years beginning on  
24 January 2 after the member's election and until a successor is elected and qualifies. If  
25 January 2 is a legal holiday, the term begins on the first day after January 2 that is  
26 not a legal holiday.

27           (2)     The terms of elected members are staggered as required by the terms  
28 of the members serving on the County Board on July 1, 1978.

29           (3)     Except as provided in paragraph (4) of this subsection, the Governor  
30 shall appoint a new member to fill any vacancy of an elected member's position on the  
31 Board for the remainder of that term and until a successor is elected and qualifies.

32           (4)     If a vacancy occurs before the date that is 10 days prior to the filing  
33 deadline for candidates for the primary election that is held in the second year of the  
34 term, the individual appointed under paragraph (3) of this subsection shall serve only  
35 until a successor is elected by the voters at the time of the next general election.

36           (5)     Candidates for the vacated office may be nominated at a primary  
37 election in the same manner as for any other position on the County Board.

1           (6)     When more than 1 member of the Board is to be elected at an election  
2 and the terms of the offices to be filled at the election vary, the elected candidate  
3 receiving the greater number of votes shall fill the office with the longer term.

4           (7)     The candidate receiving the vacated position shall take office as soon  
5 as possible after the election, and shall continue to serve for the remainder of the  
6 vacated term and until a successor is elected and qualifies.

7           (8)     Except as provided in this [subsection] SECTION, an election to fill a  
8 vacancy on the Allegany County Board of Education shall be governed by §§ 8-801  
9 through 8-806 of Article 33 of the Code.

10          (9)     The Allegany County Board of Supervisors of Elections may adopt  
11 regulations to implement this subsection.

12   [(f)]   (G)    (1)     The nonvoting student member of the County Board shall be:

13                   (i)     A twelfth grade student, in good standing, and regularly  
14 enrolled in an Allegany County public school;

15                   (ii)    A resident of Allegany County for at least 2 years; and

16                   (iii)   Of good character.

17          (2)     The nonvoting student member shall be nominated and elected for a  
18 1-year term during the school year prior to the school year that the member is to  
19 serve on the County Board in accordance with procedures adopted by the Allegany  
20 County Association of Student Councils.

21          (3)     If a vacancy occurs in the student member's position before the end of  
22 the term, a qualified student shall be selected for the remainder of the term in  
23 accordance with procedures of the Allegany County Association of Student Councils.

24   [(g)]   (H)    (1)     The State Board may remove an elected member of the County  
25 Board for:

26                   (i)     Immorality;

27                   (ii)    Misconduct in office;

28                   (iii)   Incompetency; or

29                   (iv)    Willful neglect of duty.

30          (2)     Before removing a member, the State Board shall send the member a  
31 copy of the charges and give the member an opportunity within 10 days to request a  
32 hearing.

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

1                   (i)       The State Board promptly shall hold a hearing, but a hearing  
2 may not be set within 10 days after the State Board sends the member a notice of the  
3 hearing; and

4                   (ii)       The member shall have an opportunity to be heard publicly  
5 before the State Board in the member's own defense, in person or by counsel.

6                   (4)       A member removed under this subsection has the right to a de novo  
7 review of the removal by the Circuit Court for Allegany County.

8       SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
9 October 1, 2001.