

HOUSE BILL 123

L1

9lr0494

By: **Delegate Kelly**

Introduced and read first time: January 23, 2009

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Western Maryland Code Home Rule Counties - Police Departments - Local**
3 **Referendum Required**

4 FOR the purpose of requiring that, if the county commissioners of a code home rule
5 county in the Western Maryland class, by ordinance, create or expand a county
6 police bureau, unit, or department or authorize the appointment of individuals
7 as police officers with full law enforcement powers, or transfer certain
8 responsibilities for the county detention center from the Sheriff's Office, the
9 ordinance is to be submitted to a referendum of the legally qualified voters of
10 the county; requiring the county commissioners and the local board of elections
11 of the appropriate county to take certain actions to provide for and hold the
12 referendum; prohibiting, under certain circumstances, the implementation of
13 certain ordinances or resolutions enacted prior to the effective date of this Act;
14 requiring a certain ordinance that was enacted on a certain date relating to the
15 authorization of the appointment of individuals as police officers with certain
16 powers to be submitted by the county commissioners to a referendum of the
17 legally qualified voters of the county; requiring the county commissioners and
18 the local board of elections of the appropriate county to take certain actions and
19 hold the referendum on the previously enacted ordinance; providing that the
20 Sheriff's Office of Allegany County is responsible for highway and road patrol
21 duties in the county, with certain law enforcement powers, and continuing, in a
22 certain manner, the operation of and security for the county detention center;
23 making this Act subject to a certain contingency; and generally relating to police
24 departments in code home rule counties in the Western Maryland class and to
25 the Sheriff's Office in Allegany County.

26 BY adding to
27 Article 25B – Home Rule for Code Counties
28 Section 13C–2
29 Annotated Code of Maryland
30 (2005 Replacement Volume and 2008 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 BY adding to
2 Article – Courts and Judicial Proceedings
3 Section 2–309(b)(8)
4 Annotated Code of Maryland
5 (2006 Replacement Volume and 2008 Supplement)

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

8 **Article 25B – Home Rule for Code Counties**

9 **13C–2.**

10 (A) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, IF THE
11 COUNTY COMMISSIONERS OF A CODE HOME RULE COUNTY IN THE WESTERN
12 MARYLAND CLASS, BY ORDINANCE, CREATE OR EXPAND A COUNTY POLICE
13 BUREAU, UNIT, OR DEPARTMENT, AUTHORIZE THE COUNTY COMMISSIONERS, BY
14 RESOLUTION, TO APPOINT INDIVIDUALS AS POLICE OFFICERS WITH FULL LAW
15 ENFORCEMENT POWERS IN THE COUNTY, OR TRANSFER FROM THE SHERIFF’S
16 OFFICE THE RESPONSIBILITY FOR MANAGING THE OPERATION AND SECURITY
17 OF THE COUNTY DETENTION CENTER, THE COUNTY COMMISSIONERS SHALL
18 SUBMIT THE ORDINANCE TO A LOCAL REFERENDUM OF THE LEGALLY
19 QUALIFIED VOTERS OF THE CODE HOME RULE COUNTY TO BE HELD AT THE
20 NEXT ENSUING GENERAL ELECTION IN THE STATE.

21 (B) (1) THE COUNTY COMMISSIONERS AND THE COUNTY BOARD OF
22 ELECTIONS OF THE APPROPRIATE CODE HOME RULE COUNTY IN THE WESTERN
23 MARYLAND CLASS SHALL DO THOSE THINGS NECESSARY AND PROPER TO
24 PROVIDE FOR AND HOLD THE REFERENDUM REQUIRED BY SUBSECTION (A) OF
25 THIS SECTION.

26 (2) IF A MAJORITY OF THE VOTES CAST ON THE QUESTION BY THE
27 LEGALLY QUALIFIED VOTERS OF THE COUNTY ARE “FOR THE REFERRED LAW”,
28 THE PROVISIONS OF THE ORDINANCE CREATING OR EXPANDING A COUNTY
29 POLICE BUREAU, UNIT, OR DEPARTMENT, AUTHORIZING THE APPOINTMENT OF
30 INDIVIDUALS AS POLICE OFFICERS WITH FULL LAW ENFORCEMENT POWERS
31 FOR THE COUNTY, OR TRANSFERRING FROM THE SHERIFF’S OFFICE THE
32 RESPONSIBILITY FOR MANAGING THE OPERATION AND SECURITY OF THE
33 COUNTY DETENTION CENTER SHALL BECOME EFFECTIVE ON THE 30TH DAY
34 FOLLOWING THE OFFICIAL CANVASS OF VOTES FOR THE REFERENDUM.

35 (3) IF A MAJORITY OF THE VOTES CAST ON THE QUESTION BY THE
36 LEGALLY QUALIFIED VOTERS OF THE COUNTY ARE “AGAINST THE REFERRED
37 LAW”, THE PROVISIONS OF THE ORDINANCE CREATING OR EXPANDING A

1 COUNTY POLICE BUREAU, UNIT, OR DEPARTMENT, AUTHORIZING THE
2 APPOINTMENT OF INDIVIDUALS AS POLICE OFFICERS WITH FULL LAW
3 ENFORCEMENT POWERS IN THE COUNTY, OR TRANSFERRING FROM THE
4 SHERIFF'S OFFICE THE RESPONSIBILITY FOR MANAGING THE OPERATION AND
5 SECURITY OF THE COUNTY DETENTION CENTER ARE OF NO EFFECT AND ARE
6 NULL AND VOID.

7 (C) IF THE COUNTY COMMISSIONERS OF A CODE HOME RULE COUNTY IN
8 THE WESTERN MARYLAND CLASS ENACT AN ORDINANCE OR RESOLUTION THAT
9 CREATES OR EXPANDS A COUNTY POLICE BUREAU, UNIT, OR DEPARTMENT,
10 AUTHORIZES THE APPOINTMENT OF INDIVIDUALS OR APPOINTS INDIVIDUALS
11 AS POLICE OFFICERS WITH FULL LAW ENFORCEMENT POWERS IN THE COUNTY,
12 OR TRANSFERS FROM THE SHERIFF'S OFFICE THE RESPONSIBILITY FOR
13 MANAGING THE OPERATION AND SECURITY OF THE COUNTY DETENTION
14 CENTER, BEFORE THE PROVISIONS OF SUBSECTION (A) OF THIS SECTION TAKE
15 EFFECT, THE ORDINANCE OR RESOLUTION SHALL HAVE NO EFFECT AND MAY
16 NOT BE IMPLEMENTED.

17 (D) THE ORDINANCE RELATING TO THE AUTHORITY GRANTED TO THE
18 COUNTY COMMISSIONERS TO DESIGNATE AND APPOINT INDIVIDUALS AS POLICE
19 OFFICERS WITH FULL LAW ENFORCEMENT POWERS IN THE COUNTY THAT WAS
20 ENACTED BY THE COUNTY COMMISSIONERS OF A CODE HOME RULE COUNTY IN
21 THE WESTERN MARYLAND CLASS ON MAY 10, 2007, SHALL BE SUBMITTED BY
22 THE COUNTY COMMISSIONERS TO A LOCAL REFERENDUM OF THE LEGALLY
23 QUALIFIED VOTERS OF THE COUNTY IN THE 2010 GENERAL ELECTION OF THE
24 STATE.

25 (E) (1) THE COUNTY COMMISSIONERS AND THE COUNTY BOARD OF
26 ELECTIONS OF THE APPROPRIATE CODE HOME RULE COUNTY IN THE WESTERN
27 MARYLAND CLASS SHALL DO THOSE THINGS NECESSARY AND PROPER TO
28 PROVIDE FOR AND HOLD THE REFERENDUM REQUIRED BY SUBSECTION (D) OF
29 THIS SECTION.

30 (2) IF A MAJORITY OF THE VOTES CAST ON THE QUESTIONS BY
31 THE LEGALLY QUALIFIED VOTERS OF THE COUNTY ARE "FOR THE REFERRED
32 LAW", THE PROVISIONS OF THE ORDINANCE THAT AUTHORIZED THE
33 APPOINTMENT OF INDIVIDUALS AS POLICE OFFICERS WITH FULL LAW
34 ENFORCEMENT POWERS FOR THE COUNTY SHALL REMAIN EFFECTIVE AS OF
35 THE 30TH DAY FOLLOWING THE OFFICIAL CANVASS OF VOTES FOR THE
36 REFERENDUM.

37 (3) IF A MAJORITY OF THE VOTES CAST ON THE QUESTIONS BY
38 THE LEGALLY QUALIFIED VOTERS OF THE COUNTY ARE "AGAINST THE
39 REFERRED LAW", THE PROVISIONS OF THE ORDINANCE THAT AUTHORIZED THE

1 APPOINTMENT OF INDIVIDUALS AS POLICE OFFICERS WITH FULL LAW
2 ENFORCEMENT POWERS IN THE COUNTY ARE OF NO EFFECT AND ARE NULL AND
3 VOID AND ANY RESOLUTION PASSED BY THE COUNTY COMMISSIONERS OF A
4 CODE HOME RULE COUNTY IN THE WESTERN MARYLAND CLASS UNDER THE
5 AUTHORITY OF THE REFERRED ORDINANCE IS OF NO EFFECT AND IS NULL AND
6 VOID.

7 **Article – Courts and Judicial Proceedings**

8 2–309.

9 (b) (8) **THE SHERIFF’S OFFICE IS SOLELY RESPONSIBLE FOR:**

10 (i) **CARRYING OUT, WITH FULL LAW ENFORCEMENT**
11 **POWERS GRANTED TO CERTIFIED POLICE OFFICERS UNDER TITLE 3, SUBTITLE**
12 **2 OF THE PUBLIC SAFETY ARTICLE, HIGHWAY AND ROAD PATROL DUTIES**
13 **THROUGHOUT THE COUNTY BY THE OPERATION OF VEHICLES UNDER THE**
14 **CONTROL OF THE SHERIFF’S OFFICE; AND**

15 (ii) **CONTINUING THE OPERATION OF AND SECURITY FOR**
16 **THE COUNTY DETENTION CENTER IN THE MANNER IN WHICH THE SHERIFF’S**
17 **OFFICE MANAGED THE OPERATION OF AND SECURITY FOR THE COUNTY**
18 **DETENTION CENTER AS OF JANUARY 1, 2009.**

19 SECTION 2. AND BE IT FURTHER ENACTED, That the provisions of §
20 2–309(b)(8)(i) of the Courts and Judicial Proceedings Article, as enacted by Section 1 of
21 this Act, are contingent on (1) the rejection of the question on the referendum required
22 under § 13C–2(d) and (e) of Article 25B of the Code, as enacted by Section 1 of this Act,
23 and (2) the provision of adequate funding for performance of highway and road patrol
24 duties by the Sheriff’s Office of Allegany County.

25 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
26 October 1, 2009.