

SENATE BILL 964

F3

9lr3265

By: **Senators Colburn and Pipkin**

Introduced and read first time: February 23, 2009

Assigned to: Rules

Re-referred to: Education, Health, and Environmental Affairs, March 5, 2009

Committee Report: Favorable with amendments

Senate action: Adopted with floor amendments

Read second time: April 4, 2009

CHAPTER _____

1 AN ACT concerning

2 **Caroline County Board of Education – Election and Appointment of Members**
3 **– Referendum**

4 FOR the purpose of requiring that ~~the~~ certain members of the Caroline County Board
5 of Education be elected; requiring that certain members of the Caroline County
6 Board of Education be appointed by the Governor with the advice and consent of
7 the Senate; establishing a procedure for the election of certain members of the
8 county board; specifying that the certain members be elected by certain
9 districts; specifying elected member qualifications; establishing qualifications
10 for certain student members; providing that certain high schools in Caroline
11 County have representation through a student member of the county board;
12 providing for the appointment of certain members by the Governor with the
13 advice and consent of the Senate; specifying certain criteria for the Governor
14 with regard to the appointment of certain members; providing for the
15 nomination and selection of certain student members; establishing a certain
16 term of office for the elected members; specifying the initial terms of the elected
17 members and staggering their terms; providing a procedure for filling ~~a vacancy~~
18 certain vacancies on the county board; requiring the county board to conduct
19 certain interviews and publish certain notices when filling a vacancy; providing
20 for the removal of certain members under certain circumstances; providing for
21 the election of the president and vice president of the county board; providing
22 for the compensation and expenses of ~~the~~ certain members of the county board;
23 requiring the county board to meet at certain intervals; providing that the
24 terms of certain appointed members of the county board shall expire on a
25 certain date; making a stylistic change; submitting this Act to a referendum of

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike-out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



the legally qualified voters of Caroline County; and generally relating to the Caroline County Board of Education and the election and appointment of its members.

BY repealing and reenacting, with amendments,
Article – Education
Section ~~3–114(a)~~ 3–108(a) and 3–114
Annotated Code of Maryland
(2008 Replacement Volume)

BY adding to
Article – Education
Section 3–3A–01 through 3–3A–06 to be under the new subtitle “Subtitle 3A.
Caroline County”
Annotated Code of Maryland
(2008 Replacement Volume)

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

Article – Education

3–108.

(a) **(1)** Except [for the Baltimore City Board of School Commissioners established under § 3–108.1 of this subtitle, counties listed in § 3–114 of this subtitle, and subject to the provisions of § 3–110 of this subtitle with respect to the Anne Arundel County Board of Education] AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, the Governor shall appoint the members of each county board from the residents of that county.

(2) THE MEMBERS OF THE FOLLOWING COUNTY BOARDS OF EDUCATION SHALL BE SELECTED AS FOLLOWS:

(I) THE BALTIMORE CITY BOARD OF SCHOOL COMMISSIONERS IN ACCORDANCE WITH § 3–108.1 OF THIS SUBTITLE;

(II) THE CAROLINE COUNTY BOARD OF EDUCATION IN ACCORDANCE WITH § 3–3A–02 OF THIS TITLE;

(III) THE ANNE ARUNDEL COUNTY BOARD OF EDUCATION IN ACCORDANCE WITH § 3–110 OF THIS SUBTITLE; AND

(IV) THE COUNTY BOARDS OF EDUCATION IN THE COUNTIES LISTED IN § 3–114 OF THIS SUBTITLE IN ACCORDANCE WITH THE PROVISIONS OF THAT SECTION.

1 3-114.

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

4 (1) Allegany;

5 (2) Calvert;

6 ~~(3) CAROLINE;~~

7 ~~[(3)] (4) Carroll;~~

8 ~~[(4)] (5) Cecil;~~

9 ~~[(5)] (6) Charles;~~

10 ~~[(6)] (7) Dorchester;~~

11 ~~[(7)] (8) Frederick;~~

12 ~~[(8)] (9) Garrett;~~

13 ~~[(9)] (10) Howard;~~

14 ~~[(10)] (11) Kent;~~

15 ~~[(11)] Prince George's;~~

16 ~~[(12)] Montgomery;~~

17 ~~(12) MONTGOMERY;~~

18 ~~(13) PRINCE GEORGE'S;~~

19 ~~[(13)] (14) Queen Anne's;~~

20 ~~[(14)] (15) St. Mary's;~~

21 ~~[(15)] (16) Somerset;~~

22 ~~[(16)] (17) Talbot;~~

23 ~~[(17)] (18) Washington; and~~

~~[(18)] (19) Worcester.~~

(3) Carroll;

(4) Cecil;

(5) Charles;

(6) Dorchester;

(7) Frederick;

(8) Garrett;

(9) Howard;

(10) Kent;

(11) Prince George's;

(12) Montgomery;

(13) Queen Anne's;

(14) St. Mary's;

(15) Somerset;

(16) Talbot;

(17) Washington; and

(18) Worcester.

(B) IN CAROLINE COUNTY, IN ACCORDANCE WITH SUBTITLE 3A OF THIS TITLE, THE MEMBERS OF THE COUNTY BOARD SHALL BE A COMBINATION OF MEMBERS WHO ARE ELECTED AND APPOINTED.

[(b)] (C) An individual subject to the authority of the county board may not serve as a member of the county board. At the time of filing a certificate of candidacy for election to a county board, a person shall certify to the local board of supervisors of election whether or not he is subject to the authority of the county board. The Governor shall not issue a commission of election to a person who has certified affirmatively and who is elected to a county board until the member-elect offers proof that he is no longer subject to the authority of the county board.

1 ~~[(c)]~~ (D) The election of the county boards shall be held as provided in
2 Subtitles 2 through 14 of this title and the Election Law Article.

3 **SUBTITLE 3A. CAROLINE COUNTY.**

4 **3-3A-01.**

5 (A) **IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS**
6 **INDICATED.**

7 (B) **“APPOINTED MEMBER” MEANS ONE OF THE ~~THREE~~ TWO VOTING**
8 **MEMBERS APPOINTED BY THE GOVERNOR, WITH THE ADVICE AND CONSENT OF**
9 **THE SENATE, UNDER ~~§ 3-3A-02(B)(2)~~ § 3-3A-02(B)(3)(I)1 OF THIS SUBTITLE.**

10 ~~(B)~~ (C) **“BOARD OF EDUCATION DISTRICT” OR “DISTRICT” MEANS A**
11 **GEOGRAPHIC AREA OF CAROLINE COUNTY IN WHICH AN ELECTED MEMBER OF**
12 **THE CAROLINE COUNTY BOARD OF EDUCATION MUST BE A LEGAL RESIDENT.**

13 ~~(C)~~ (D) (1) **“ELECTED MEMBER” MEANS ONE OF THE ~~FIVE~~ THREE**
14 **NONPARTISAN VOTING MEMBERS OF THE CAROLINE COUNTY BOARD OF**
15 **EDUCATION ELECTED BY THE VOTERS OF CAROLINE COUNTY.**

16 (2) **“ELECTED MEMBER” DOES NOT INCLUDE THE NONVOTING**
17 **STUDENT MEMBERS SELECTED UNDER § 3-3A-02(F) OF THIS SUBTITLE.**

18 **3-3A-02.**

19 (A) **THE CAROLINE COUNTY BOARD OF EDUCATION CONSISTS OF ~~FIVE~~:**

20 (1) **~~FIVE~~ THREE ELECTED MEMBERS;**

21 (2) **~~THREE~~ TWO APPOINTED MEMBERS; AND**

22 (3) **TWO NONVOTING STUDENT MEMBERS.**

23 (B) (1) **ONE ELECTED MEMBER SHALL BE ELECTED FROM EACH OF**
24 **THE ~~FIVE~~ THREE BOARD OF EDUCATION DISTRICTS ESTABLISHED IN CAROLINE**
25 **COUNTY.**

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

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

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

1 **(3) (I) 1. ~~THREE~~ TWO APPOINTED MEMBERS SHALL BE**
2 **APPOINTED BY THE GOVERNOR, WITH THE ADVICE AND CONSENT OF THE**
3 **SENATE, FROM THE COUNTY AT-LARGE.**

4 **2. EACH APPOINTED MEMBER SHALL BE A RESIDENT**
5 **OF THE COUNTY.**

6 **(II) IN APPOINTING MEMBERS TO THE COUNTY BOARD, THE**
7 **GOVERNOR SHALL ENSURE, TO THE EXTENT PRACTICABLE, THAT THE TOTAL**
8 **MAKEUP OF THE COUNTY BOARD REFLECTS GENDER, ETHNIC, AND RACIAL**
9 **DIVERSITY.**

10 **(C) (1) THE BOARD OF EDUCATION DISTRICTS SHALL:**

11 **(I) BE ESTABLISHED BY THE COUNTY COMMISSIONERS OF**
12 **CAROLINE COUNTY; AND**

13 **(II) BE SUBSTANTIALLY EQUAL IN POPULATION AND**
14 **REAPPORTIONED ON THE BASIS OF EACH DECENNIAL CENSUS OF THE UNITED**
15 **STATES.**

16 **(2) REAPPORTIONED DISTRICTS SHALL BECOME EFFECTIVE FOR**
17 **THE TERM OF OFFICE COMMENCING AFTER THE FIRST REGULAR PRIMARY**
18 **ELECTION HELD AT LEAST 15 MONTHS AFTER THE OFFICIAL REPORT ON**
19 **POPULATION IS RECEIVED BY THE STATE FROM THE BUREAU OF THE CENSUS.**

20 **(D) (1) AS APPLICABLE FOR THAT BOARD OF EDUCATION DISTRICT,**
21 **AT THE GENERAL ELECTION THE BALLOT SHALL PROVIDE THE VOTER WITH THE**
22 **CHOICE TO CAST A VOTE "FOR" A CANDIDATE FOR ELECTION FROM THAT**
23 **DISTRICT.**

24 **(2) AFTER THE ELECTION RESULTS ARE CERTIFIED, THE STATE**
25 **BOARD OF ELECTIONS SHALL DECLARE FOR EACH DISTRICT WHETHER A**
26 **CANDIDATE HAS BEEN ELECTED.**

27 **(E) (1) AN INDIVIDUAL ELECTED TO THE COUNTY BOARD SHALL BE**
28 **AT LEAST 21 YEARS OLD AND A REGISTERED VOTER AND RESIDENT OF**
29 **CAROLINE COUNTY FOR AT LEAST 3 YEARS.**

30 **(2) A MEMBER MAY NOT CONTINUE AS A MEMBER OF THE COUNTY**
31 **BOARD IF THE MEMBER:**

32 **(I) NO LONGER RESIDES IN THE BOARD OF EDUCATION**
33 **DISTRICT THAT THE MEMBER IS DESIGNATED TO REPRESENT; OR**

1 (II) IS NOT A REGISTERED VOTER OF CAROLINE COUNTY.

2 (3) AN INDIVIDUAL EMPLOYED BY, OR UNDER THE DIRECTION OF,
3 THE COUNTY BOARD OR THE CAROLINE COUNTY SUPERINTENDENT OF
4 SCHOOLS IS NOT ELIGIBLE TO SERVE ON THE COUNTY BOARD.

5 (F) (1) A STUDENT MEMBER OF THE COUNTY BOARD SHALL:

6 (I) BE A REGULARLY ENROLLED ELEVENTH OR TWELFTH
7 GRADE STUDENT OF GOOD CHARACTER AND IN GOOD STANDING IN A CAROLINE
8 COUNTY PUBLIC HIGH SCHOOL DURING THE STUDENT'S TERM IN OFFICE;

9 (II) BE SELECTED IN THE STUDENT'S TENTH OR ELEVENTH
10 GRADE IN ACCORDANCE WITH PARAGRAPH (3) OF THIS SUBSECTION; AND

11 (III) 1. SERVE FOR A TERM OF 1 YEAR; AND

12 2. IF THE STUDENT IS IN THE TWELFTH GRADE,
13 CONTINUE TO SERVE AFTER GRADUATION AND UNTIL A SUCCESSOR IS
14 SELECTED AND QUALIFIES.

15 (2) EACH HIGH SCHOOL IN THE COUNTY SHALL BE REPRESENTED
16 BY A STUDENT MEMBER OF THE COUNTY BOARD.

17 (3) (I) FOR NOMINATION TO THE COUNTY BOARD, THE
18 STUDENT BODY SHALL SUBMIT TO THE PRINCIPAL OF THE HIGH SCHOOL A LIST
19 OF NOMINEES THAT CONTAINS THE NAMES OF ELIGIBLE STUDENTS.

20 (II) THE PRINCIPAL OF THE HIGH SCHOOL SHALL SELECT
21 THE STUDENT MEMBER FROM THE LIST OF NOMINEES SUBMITTED TO THE
22 PRINCIPAL UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH.

23 (4) IF A VACANCY IN THE POSITION OF STUDENT MEMBER
24 OCCURS DURING THE TERM OF A STUDENT MEMBER, THE PRINCIPAL OF THE
25 HIGH SCHOOL REPRESENTED ON THE COUNTY BOARD SHALL SELECT ANOTHER
26 STUDENT MEMBER USING THE METHOD SET FORTH UNDER PARAGRAPH (3) OF
27 THIS SUBSECTION.

28 ~~(F)~~ (G) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION,
29 EACH ELECTED MEMBER SERVES FOR A TERM OF 4 YEARS BEGINNING ON THE
30 FIRST MONDAY IN DECEMBER AFTER THE MEMBER'S ELECTION AND UNTIL A
31 SUCCESSOR IS ELECTED AND QUALIFIES.

1 (2) THE INITIAL TERMS OF THE ELECTED MEMBERS ARE
2 STAGGERED AS FOLLOWS:

3 (I) THE ~~THREE~~ TWO MEMBERS ELECTED TO THE COUNTY
4 BOARD AT THE GENERAL ELECTION IN NOVEMBER 2012 WHO RECEIVE THE
5 HIGHEST NUMBER OF VOTES CAST FROM AMONG THE SUCCESSFUL CANDIDATES
6 AT THAT ELECTION SHALL SERVE FOR A TERM OF 4 YEARS; AND

7 (II) THE ~~TWO MEMBERS~~ MEMBER ELECTED TO THE COUNTY
8 BOARD AT THE GENERAL ELECTION IN NOVEMBER 2012 WHO ~~RECEIVE~~
9 RECEIVES THE LEAST NUMBER OF VOTES CAST FROM AMONG THE SUCCESSFUL
10 CANDIDATES AT THAT ELECTION SHALL SERVE FOR A TERM OF 2 YEARS.

11 ~~(G)~~ (H) (1) IN THE EVENT OF A VACANCY OF AN ELECTED MEMBER
12 ON THE COUNTY BOARD DUE TO DEATH, RESIGNATION, DISQUALIFICATION, OR
13 REMOVAL, THE REMAINING ~~ELECTED~~ VOTING MEMBERS SHALL SELECT A
14 QUALIFIED INDIVIDUAL TO FILL THE VACANCY FOR THE REMAINDER OF THE
15 TERM OF THE VACATING MEMBER AND UNTIL A SUCCESSOR IS ELECTED AND
16 QUALIFIES.

17 (2) AN INDIVIDUAL APPOINTED TO FILL A VACANCY FOR AN
18 ELECTED MEMBER SHALL BE A RESIDENT OF THE SAME BOARD OF EDUCATION
19 DISTRICT AS THAT OF THE VACATING MEMBER.

20 (3) BEFORE FILLING A VACANCY FOR AN ELECTED MEMBER, THE
21 REMAINING ~~ELECTED~~ VOTING MEMBERS OF THE COUNTY BOARD SHALL
22 CONDUCT AN INTERVIEW OF EACH APPLICANT AT AN OPEN MEETING.

23 (4) (I) THE COUNTY BOARD SHALL PUBLISH A LIST OF THE
24 NAMES OF THE APPLICANTS FOR A VACANCY ON THE COUNTY BOARD AT LEAST 2
25 WEEKS BEFORE THE INTERVIEW OF THE FIRST APPLICANT IS SCHEDULED TO
26 OCCUR.

27 (II) THE COUNTY BOARD SHALL CAUSE PUBLIC NOTICE OF
28 THE DATE, TIME, AND LOCATION OF THE INTERVIEW FOR EACH APPLICANT TO
29 BE PUBLISHED:

30 1. AT LEAST 2 WEEKS BEFORE THE INTERVIEW IS
31 SCHEDULED TO OCCUR; AND

32 2. IN THE SAME MANNER AS PUBLIC NOTICE OF A
33 REGULAR MEETING OF THE COUNTY BOARD IS PUBLISHED.

(5) THE COUNTY BOARD IS NOT REQUIRED TO CONDUCT DISCUSSIONS OF THE APPLICANTS OR MAKE THE FINAL SELECTION OF THE ELECTED MEMBER TO FILL THE VACANCY AT AN OPEN MEETING.

3-3A-03.

(A) WITH THE APPROVAL OF THE GOVERNOR, THE STATE BOARD MAY REMOVE ANY MEMBER OF THE COUNTY BOARD FOR ANY OF THE FOLLOWING REASONS:

(1) IMMORALITY;

(2) MISCONDUCT IN OFFICE;

(3) INCOMPETENCY; OR

(4) WILLFUL NEGLECT OF DUTY.

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

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

(1) (I) THE STATE BOARD PROMPTLY SHALL HOLD A HEARING; BUT

(II) A HEARING MAY NOT BE SET WITHIN 10 DAYS AFTER THE STATE BOARD SENDS THE MEMBER A NOTICE OF THE HEARING; AND

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

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

3-3A-04.

(A) AT ITS FIRST MEETING IN DECEMBER OF EACH YEAR, THE ~~ELECTED~~ VOTING MEMBERS OF THE COUNTY BOARD SHALL ELECT A PRESIDENT AND VICE PRESIDENT FROM AMONG ITS MEMBERS.

(B) IN THE EVENT OF A VACANCY IN THE OFFICE OF PRESIDENT OR VICE PRESIDENT OF THE COUNTY BOARD, THE ~~ELECTED~~ VOTING MEMBERS OF THE COUNTY BOARD SHALL ELECT A NEW OFFICER TO FILL THE VACANCY WITHIN 30 DAYS AFTER THE VACANCY OCCURS.

3-3A-05.

(A) THE PRESIDENT OF THE COUNTY BOARD IS ENTITLED TO RECEIVE \$4,000 ANNUALLY AS COMPENSATION, AND THE OTHER VOTING MEMBERS ARE ENTITLED TO RECEIVE \$3,500 EACH ANNUALLY AS COMPENSATION.

(B) AS PROVIDED IN THE CAROLINE COUNTY BUDGET, EACH ~~ELECTED~~ VOTING MEMBER IS ENTITLED TO AN ALLOWANCE FOR TRAVEL AND OTHER EXPENSES.

(C) ~~AN ELECTED~~ A VOTING MEMBER IS NOT ELIGIBLE FOR ANY FRINGE BENEFIT PROVIDED BY THE CAROLINE COUNTY PUBLIC SCHOOL SYSTEM, THE CAROLINE COUNTY BOARD OF EDUCATION, OR THE COUNTY COMMISSIONERS OF CAROLINE COUNTY, INCLUDING:

(1) HEALTH INSURANCE;

(2) LIFE INSURANCE; AND

(3) A PENSION.

3-3A-06.

(A) THE COUNTY BOARD SHALL MEET AT LEAST ONCE EACH MONTH.

(B) (1) EACH MEETING OF THE COUNTY BOARD SHALL BE CONDUCTED IN ACCORDANCE WITH THE PROVISIONS OF THE MARYLAND OPEN MEETINGS ACT, TITLE 10, SUBTITLE 5 OF THE STATE GOVERNMENT ARTICLE.

(2) THE COUNTY BOARD MAY AVAIL ITSELF OF ANY EXCLUSION AUTHORIZED UNDER THE MARYLAND OPEN MEETINGS ACT.

SECTION 2. AND BE IT FURTHER ENACTED, That, notwithstanding the provisions of this Act, the terms of the appointed members of the Caroline County Board of Education in office on the effective date of this Act shall expire at the end of December 2, 2012.

SECTION 3. AND BE IT FURTHER ENACTED, That before this Act becomes effective it shall first be submitted to a referendum of the legally qualified voters of Caroline County at the general election to be held in November of 2010. The County

1 governing body and the Caroline County Board of Elections shall do those things
2 necessary and proper to provide for and hold the referendum required by this section.
3 There shall be printed on the ballot to be used at this election the title of this Act and
4 underneath the title, on separate lines, a square or box opposite the words "For a
5 Board of Education Elected by the Voters of Caroline County" and a corresponding
6 square box opposite the words "For a Board of Education Appointed by the Governor".
7 A voter may choose only one of the methods of selection. If a majority of the votes cast
8 on the question are "For a Board of Education Elected by the Voters of Caroline
9 County", the provisions of this Act shall become effective on the 30th day following the
10 official canvass of votes for the referendum.

11 SECTION 4. AND BE IT FURTHER ENACTED, That, subject to the provisions
12 of Section 3 of this Act and for the sole purpose of providing for the referendum
13 required by Section 3 of this Act, this Act shall take effect October 1, 2009.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.