

HOUSE BILL 108

L1

0lr0846

By: **Delegate Kelly**

Introduced and read first time: January 15, 2010

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 or resolution, create or
6 expand a county police bureau, unit, or department or transfer duties from the
7 Sheriff's Office to a county police bureau, unit, or department, the ordinance or
8 resolution is to be submitted to a referendum of the legally qualified voters of
9 the county; requiring the county commissioners and the local board of elections
10 of the appropriate county to take certain actions to provide for and hold the
11 referendum; requiring any ordinance enacted or resolution passed prior to the
12 effective date of this Act relating to the creation or expansion of a police bureau,
13 unit, or department, authorizing the appointment of individuals as police
14 officers with certain powers, or the transfer of duties from the Sheriff's Office to
15 a county police bureau, unit, or department to be submitted by the county
16 commissioners to a referendum of the legally qualified voters of the county;
17 requiring the county commissioners and the local board of elections of the
18 appropriate county to take certain actions and hold the referendum on the
19 previously enacted ordinance; providing that the Sheriff's Office of Allegany
20 County is responsible for highway and road patrol duties in the county, with
21 certain law enforcement powers; providing for the construction of this Act; and
22 generally relating to police departments in code home rule counties in the
23 Western Maryland class and to the Sheriff's Office of Allegany County.

24 BY adding to

25 Article 25B – Home Rule for Code Counties

26 Section 13C–2

27 Annotated Code of Maryland

28 (2005 Replacement Volume and 2009 Supplement)

29 BY adding to

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Article – Courts and Judicial Proceedings
2 Section 2–309(b)(8)
3 Annotated Code of Maryland
4 (2006 Replacement Volume and 2009 Supplement)

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

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

8 **13C–2.**

9 (A) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, IF THE
10 COUNTY COMMISSIONERS OF A CODE HOME RULE COUNTY IN THE WESTERN
11 MARYLAND CLASS, BY ORDINANCE OR RESOLUTION, CREATE OR EXPAND A
12 COUNTY POLICE BUREAU, UNIT, OR DEPARTMENT OR TRANSFER DUTIES FROM
13 THE SHERIFF’S OFFICE TO A COUNTY POLICE BUREAU, UNIT, OR DEPARTMENT,
14 THE COUNTY COMMISSIONERS SHALL SUBMIT THE ORDINANCE OR RESOLUTION
15 TO A LOCAL REFERENDUM OF THE LEGALLY QUALIFIED VOTERS OF THE CODE
16 HOME RULE COUNTY TO BE HELD AT THE NEXT ENSUING GENERAL ELECTION IN
17 THE STATE.

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

23 (2) IF A MAJORITY OF THE VOTES CAST ON THE QUESTION BY THE
24 LEGALLY QUALIFIED VOTERS OF THE COUNTY ARE “FOR THE REFERRED LAW”,
25 THE PROVISIONS OF THE ORDINANCE OR RESOLUTION CREATING OR
26 EXPANDING A COUNTY POLICE BUREAU, UNIT, OR DEPARTMENT OR
27 TRANSFERRING DUTIES FROM THE SHERIFF’S OFFICE TO A COUNTY POLICE
28 BUREAU, UNIT, OR DEPARTMENT SHALL BECOME EFFECTIVE ON THE 30TH DAY
29 FOLLOWING THE OFFICIAL CANVASS OF VOTES FOR THE REFERENDUM.

30 (3) IF A MAJORITY OF THE VOTES CAST ON THE QUESTION BY THE
31 LEGALLY QUALIFIED VOTERS OF THE COUNTY ARE “AGAINST THE REFERRED
32 LAW”, THE PROVISIONS OF THE ORDINANCE OR RESOLUTION CREATING OR
33 EXPANDING A COUNTY POLICE BUREAU, UNIT, OR DEPARTMENT OR
34 TRANSFERRING DUTIES FROM THE SHERIFF’S OFFICE TO A COUNTY POLICE
35 BUREAU, UNIT, OR DEPARTMENT ARE OF NO EFFECT AND ARE NULL AND VOID.

36 (C) ANY ORDINANCE OR RESOLUTION RELATING TO THE CREATION OR
37 EXPANSION OF A POLICE BUREAU, UNIT, OR DEPARTMENT, THE AUTHORITY

1 GRANTED TO THE COUNTY COMMISSIONERS TO DESIGNATE AND APPOINT
2 INDIVIDUALS AS POLICE OFFICERS WITH FULL LAW ENFORCEMENT POWERS IN
3 THE COUNTY, OR THE TRANSFER OF DUTIES FROM THE SHERIFF'S OFFICE TO A
4 COUNTY POLICE BUREAU, UNIT, OR DEPARTMENT THAT WAS ENACTED OR
5 PASSED BY THE COUNTY COMMISSIONERS OF A CODE HOME RULE COUNTY IN
6 THE WESTERN MARYLAND CLASS PRIOR TO JULY 1, 2010, SHALL BE
7 SUBMITTED BY THE COUNTY COMMISSIONERS TO A LOCAL REFERENDUM OF
8 THE LEGALLY QUALIFIED VOTERS OF THE COUNTY IN THE 2010 GENERAL
9 ELECTION OF THE STATE.

10 (D) (1) THE COUNTY COMMISSIONERS AND THE COUNTY BOARD OF
11 ELECTIONS OF THE APPROPRIATE CODE HOME RULE COUNTY IN THE WESTERN
12 MARYLAND CLASS SHALL DO THOSE THINGS NECESSARY AND PROPER TO
13 PROVIDE FOR AND HOLD THE REFERENDUM REQUIRED BY SUBSECTION (C) OF
14 THIS SECTION.

15 (2) IF A MAJORITY OF THE VOTES CAST ON THE QUESTIONS BY
16 THE LEGALLY QUALIFIED VOTERS OF THE COUNTY ARE "FOR THE REFERRED
17 LAW", THE PROVISIONS OF THE ORDINANCE OR RESOLUTION THAT CREATED OR
18 EXPANDED A COUNTY POLICE BUREAU, UNIT, OR DEPARTMENT, AUTHORIZED
19 THE APPOINTMENT OF INDIVIDUALS AS POLICE OFFICERS WITH FULL LAW
20 ENFORCEMENT POWERS FOR THE COUNTY, OR TRANSFERRED DUTIES FROM
21 THE SHERIFF'S OFFICE TO A COUNTY POLICE BUREAU, UNIT, OR DEPARTMENT,
22 SHALL REMAIN EFFECTIVE AS OF THE 30TH DAY FOLLOWING THE OFFICIAL
23 CANVASS OF VOTES FOR THE REFERENDUM.

24 (3) IF A MAJORITY OF THE VOTES CAST ON THE QUESTIONS BY
25 THE LEGALLY QUALIFIED VOTERS OF THE COUNTY ARE "AGAINST THE
26 REFERRED LAW", THE PROVISIONS OF THE ORDINANCE OR RESOLUTION THAT
27 CREATED OR EXPANDED A COUNTY POLICE BUREAU, UNIT, OR DEPARTMENT,
28 AUTHORIZED THE APPOINTMENT OF INDIVIDUALS AS POLICE OFFICERS WITH
29 FULL LAW ENFORCEMENT POWERS IN THE COUNTY, OR TRANSFERRED DUTIES
30 FROM THE SHERIFF'S OFFICE TO A COUNTY POLICE BUREAU, UNIT, OR
31 DEPARTMENT, ARE OF NO EFFECT AND ARE NULL AND VOID AND ANY
32 ORDINANCE ENACTED OR RESOLUTION PASSED BY THE COUNTY
33 COMMISSIONERS OF A CODE HOME RULE COUNTY IN THE WESTERN MARYLAND
34 CLASS UNDER THE AUTHORITY OF THE REFERRED ORDINANCE OR RESOLUTION
35 IS OF NO EFFECT AND IS NULL AND VOID.

36 Article – Courts and Judicial Proceedings

37 2-309.

1 (b) (8) **THE SHERIFF'S OFFICE IS RESPONSIBLE FOR CARRYING OUT,**
2 **WITH FULL LAW ENFORCEMENT POWERS GRANTED TO CERTIFIED POLICE**
3 **OFFICERS UNDER TITLE 3, SUBTITLE 2 OF THE PUBLIC SAFETY ARTICLE,**
4 **HIGHWAY AND ROAD PATROL DUTIES THROUGHOUT THE COUNTY BY THE**
5 **OPERATION OF VEHICLES UNDER THE CONTROL OF THE SHERIFF'S OFFICE.**

6 SECTION 2. AND BE IT FURTHER ENACTED, That nothing in this Act may
7 be construed to alter or otherwise affect the powers and duties of a law enforcement
8 department, bureau, or unit of a code home rule county in the Western Maryland class
9 or the Office of the Sheriff of Allegany County until after the 30th day following the
10 official canvass of the votes cast in the referendum required under § 13C-2(c) of
11 Article 25B (Home Rule for Code Counties) of the Annotated Code of Maryland, as
12 enacted by Section 1 of this Act.

13 SECTION 3. AND BE IT FURTHER ENACTED, That, if the voters of a code
14 home rule county in the Western Maryland class reject, at local referendum in the
15 county in the 2010 general election of the State, any ordinance or resolution passed or
16 enacted by the governing body of that county prior to July 1, 2010, that is the subject
17 of that local referendum, as required under § 13C-2(c), (d), and (e) of Article 25B
18 (Home Rule for Code Counties) of the Annotated Code of Maryland (as enacted by
19 Section 1 of this Act), the number of positions in a police department, bureau, or unit
20 of the county shall be transferred to the Office of the Sheriff of that county after the
21 30th day following the official canvass of the votes cast in the referendum.

22 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect
23 July 1, 2010.