

SENATE BILL 10

F3, F5, G1

(PRE-FILED)

01r0389
CF 01r0303

By: **Senator Conway**

Requested: July 15, 2009

Introduced and read first time: January 13, 2010

Assigned to: Education, Health, and Environmental Affairs

A BILL ENTITLED

1 AN ACT concerning

2 **Baltimore City – Board of School Commissioners – Selection of Members –**
3 **Local Referendum**

4 FOR the purpose of altering the membership of the Baltimore City Board of School
5 Commissioners; providing for the appointment of certain members of the board
6 by the Governor and by the Mayor of Baltimore City; providing for the election
7 of certain members of the board; providing for the reimbursement of a member's
8 expenses under certain circumstances; specifying qualifications and
9 requirements for certain members of the board; specifying the terms of members
10 of the board; providing for the removal of certain members of the board under
11 certain circumstances; specifying certain powers and duties of the board;
12 providing for the termination of the term of certain members of the board;
13 submitting this Act to a referendum of the legally qualified voters of Baltimore
14 City; and generally relating to the Baltimore City Board of School
15 Commissioners and the selection of members.

16 BY repealing and reenacting, with amendments,
17 Article – Education
18 Section 3–108.1, 3–114(a) and (b), and 4–303
19 Annotated Code of Maryland
20 (2008 Replacement Volume and 2009 Supplement)

21 BY repealing and reenacting, without amendments,
22 Article – Education
23 Section 4–306.1
24 Annotated Code of Maryland
25 (2008 Replacement Volume and 2009 Supplement)

26 BY repealing and reenacting, without amendments,
27 Article – Election Law

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Section 8–802
2 Annotated Code of Maryland
3 (2003 Volume and 2009 Supplement)

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

6 **Article – Education**

7 3–108.1.

8 (a) In this section, “board” means the Baltimore City Board of School
9 Commissioners of the Baltimore City Public School System.

10 (b) There is a Baltimore City Board of School Commissioners of the
11 Baltimore City Public School System.

12 (c) The board consists of:

13 (1) **[Nine] FOUR APPOINTED** voting members **[jointly]** appointed by
14 the Mayor of Baltimore City and the Governor **IN ACCORDANCE WITH SUBSECTION**
15 **(E)(1) OF THIS SECTION** from a list of qualified individuals submitted to the Mayor
16 and the Governor by the State Board; **[and]**

17 **(2) SEVEN ELECTED VOTING MEMBERS; AND**

18 **[(2)] (3)** One voting student member appointed as provided in
19 subsection **[(o)] (L)** of this section.

20 **[(d)** Each member of the board shall be a resident of Baltimore City.]

21 **(D) (1) EACH VOTING MEMBER APPOINTED TO THE BOARD BY THE**
22 **MAYOR OF BALTIMORE CITY AND BY THE GOVERNOR SHALL:**

23 **(I) SHOW PROOF OF RESIDENCE IN BALTIMORE CITY FOR**
24 **AT LEAST 1 YEAR IMMEDIATELY BEFORE APPOINTMENT; AND**

25 **(II) MAINTAIN RESIDENCY IN BALTIMORE CITY**
26 **THROUGHOUT THE MEMBER’S TERM OF OFFICE.**

27 **(2) AN ELECTED MEMBER FROM A LEGISLATIVE DISTRICT IN**
28 **BALTIMORE CITY SHALL:**

29 **(I) SHOW PROOF OF RESIDENCY OF THAT LEGISLATIVE**
30 **DISTRICT FOR AT LEAST 1 YEAR IMMEDIATELY BEFORE THE FILING OF A**
31 **CERTIFICATE OF CANDIDACY FOR THE OFFICE; AND**

1 **(II) MAINTAIN RESIDENCY IN THAT LEGISLATIVE DISTRICT**
2 **THROUGHOUT THE MEMBER’S TERM OF OFFICE.**

3 **(3) AN ELECTED MEMBER FROM A LEGISLATIVE DISTRICT IN**
4 **BALTIMORE CITY WHO NO LONGER RESIDES IN THAT LEGISLATIVE DISTRICT**
5 **MAY NOT CONTINUE AS A MEMBER OF THE BOARD.**

6 **(E) (1) OF THE FOUR APPOINTED VOTING MEMBERS OF THE BOARD:**

7 **(I) TWO MEMBERS SHALL BE APPOINTED BY THE MAYOR**
8 **OF BALTIMORE CITY; AND**

9 **(II) TWO MEMBERS SHALL BE APPOINTED BY THE**
10 **GOVERNOR.**

11 **(2) OF THE SEVEN ELECTED VOTING MEMBERS OF THE BOARD:**

12 **(I) ONE MEMBER SHALL BE ELECTED FROM EACH OF THE**
13 **SIX LEGISLATIVE DISTRICTS IN BALTIMORE CITY ONLY BY THE REGISTERED**
14 **VOTERS WHO RESIDE IN THAT LEGISLATIVE DISTRICT; AND**

15 **(II) ONE MEMBER SHALL BE ELECTED AT-LARGE BY THE**
16 **REGISTERED VOTERS OF BALTIMORE CITY AND SERVE AS CHAIR OF THE**
17 **BOARD.**

18 **[(e)] (F) To the extent practicable, the [membership] APPOINTED**
19 **MEMBERS of the board shall reflect the demographic composition of Baltimore City.**

20 **[(f)] (G) (1) At least [four] ONE of the APPOINTED voting members**
21 **shall possess a high level of knowledge and expertise concerning the successful**
22 **administration of a large business, nonprofit, or governmental entity and shall have**
23 **served in a high level management position within such an entity.**

24 **[(g)] (2) At least [three] ONE of the APPOINTED voting members shall**
25 **possess a high level of knowledge and expertise concerning education.**

26 **[(h)] (3) At least one OF THE APPOINTED voting [member] MEMBERS**
27 **shall be a parent of a student enrolled in the Baltimore City Public School System as**
28 **of the date of appointment of the member.**

29 **[(i)] (4) [(1)] (I) [Among the nine] AT LEAST ONE OF THE**
30 **APPOINTED voting members[, at least one member] shall also possess knowledge or**
31 **experience in the education of children with disabilities.**

1 **[(2)] (II)** The knowledge or experience **REQUIRED UNDER**
 2 **SUBPARAGRAPH (I) OF THIS PARAGRAPH** may be derived from being the parent of a
 3 child with a disability.

4 **[(j)] (H)** (1) **[The] EXCEPT FOR THE STUDENT MEMBER, THE** term of
 5 a voting member is **[3] 4 years BEGINNING ON THE FIRST MONDAY IN DECEMBER**
 6 **IMMEDIATELY FOLLOWING THE MEMBER'S ELECTION OR APPOINTMENT AND**
 7 **UNTIL A SUCCESSOR IS ELECTED OR APPOINTED AND QUALIFIES.**

8 (2) **[The terms of the voting members are staggered as required by the**
 9 **terms provided for members of the board on June 1, 1997.**

10 **(3)]** At the end of a term, a voting member continues to serve until a
 11 successor is **ELECTED OR** appointed and qualifies.

12 **[(4)] (3)** A voting member who is appointed after a term has begun
 13 serves only for the remainder of the term and until a successor is appointed and
 14 qualifies.

15 **[(5)] (4)** A voting member may not serve more than two consecutive
 16 full terms.

17 **[(6)] (5)** To the extent practicable, the Governor and the Mayor **OF**
 18 **BALTIMORE CITY** shall fill any vacancy on the board within 60 days of the date of the
 19 vacancy from a list of qualified individuals submitted to the Mayor and the Governor
 20 by the State Board.

21 **(6) (I) THE GOVERNOR AND THE MAYOR OF BALTIMORE CITY**
 22 **SHALL APPOINT THE MEMBERS OF THE BOARD AS PROVIDED IN SUBSECTION**
 23 **(E)(1) OF THIS SECTION ON OR BEFORE THE GENERAL ELECTION IN NOVEMBER**
 24 **2012 AND EVERY 4 YEARS THEREAFTER.**

25 **(II) THE ELECTED MEMBERS OF THE BOARD SHALL BE**
 26 **ELECTED:**

27 **1. AT THE GENERAL ELECTION IN NOVEMBER 2012**
 28 **AND EVERY 4 YEARS THEREAFTER; AND**

29 **2. IN ACCORDANCE WITH TITLE 8, SUBTITLE 8 OF**
 30 **THE ELECTION LAW ARTICLE.**

31 **[(k)] (I)** (1) On the joint approval of the Mayor of Baltimore City and the
 32 Governor, **[a] AN APPOINTED** member may be removed only for cause in accordance
 33 with § 3-108 of this subtitle.

1 **(2) FOLLOWING SUBSTANTIAL INVESTIGATION BY, AND ON A**
 2 **UNANIMOUS VOTE OF THE BALTIMORE CITY COUNCIL, AN ELECTED MEMBER**
 3 **MAY BE REMOVED ONLY BY THE BALTIMORE CITY COUNCIL AS A RESULT OF A**
 4 **FINDING BY THE COUNCIL THAT THE BOARD MEMBER HAS COMMITTED:**

5 **(I) AN ETHICAL VIOLATION;**

6 **(II) FRAUD;**

7 **(III) MALFEASANCE;**

8 **(IV) MISFEASANCE;**

9 **(V) NEGLIGENCE; OR**

10 **(VI) AN OMISSION OF DUTY.**

11 **[(l)] (J)** Each member of the board serves without compensation.

12 **[(m)** On appointment of the board, the Governor and the Mayor shall jointly
 13 select one of the voting members to serve as the Chairman of the board who shall
 14 serve through June 30, 1999.

15 (n) Beginning on July 1, 1999 and every 2 years thereafter, from among its
 16 voting members the board shall elect a chairman.]

17 **(K) EACH MEMBER OF THE BOARD IS ENTITLED TO RECEIVE**
 18 **REIMBURSEMENT, AFTER SUBMITTING EXPENSE VOUCHERS, FOR TRAVEL AND**
 19 **OTHER EXPENSES:**

20 **(1) RELATED TO THE MEMBER'S PERFORMANCE OF DUTIES AS A**
 21 **MEMBER OF THE BOARD; AND**

22 **(2) AS PROVIDED IN THE BALTIMORE CITY BUDGET.**

23 **[(o)] (L)** (1) **[(One)] THE** student member shall be a student enrolled in
 24 the Baltimore City Public School System who shall be selected by the Associated
 25 Student Congress of Baltimore City.

26 (2) The term of a student member is 1 year.

27 (3) A student member may not serve more than two consecutive full
 28 terms.

1 (4) The student member may vote on all matters before the board
2 except those relating to:

3 (i) Personnel;

4 (ii) Capital and operating budgets;

5 (iii) School closings, reopenings, and boundaries;

6 (iv) Collective bargaining decisions;

7 (v) Student disciplinary matters; and

8 (vi) Appeals to the board as provided under §§ 4–205 and 6–202
9 of this article.

10 (5) The student member may not attend or participate in an executive
11 or special session of the board.

12 **[(p)] (M)** Any action by the board shall require:

13 (1) A quorum of a majority of the voting members then serving; and

14 (2) The affirmative vote of a majority of the voting members then
15 serving.

16 3–114.

17 (a) **[In] EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, IN**
18 the following counties, the members of the county board shall be elected:

19 (1) Allegany;

20 (2) Calvert;

21 (3) Carroll;

22 (4) Cecil;

23 (5) Charles;

24 (6) Dorchester;

25 (7) Frederick;

26 (8) Garrett;

- 1 (9) Howard;
- 2 (10) Kent;
- 3 (11) Prince George's;
- 4 (12) Montgomery;
- 5 (13) Queen Anne's;
- 6 (14) St. Mary's;
- 7 (15) Somerset;
- 8 (16) Talbot;
- 9 (17) Washington; and
- 10 (18) Worcester.

11 (b) (1) In Harford County, in accordance with Subtitle 6A of this title, the
12 members of the county board shall be a combination of members who are elected and
13 appointed.

14 (2) **IN BALTIMORE CITY, IN ACCORDANCE WITH § 3-108.1 OF**
15 **THIS SUBTITLE, THE BALTIMORE CITY BOARD OF SCHOOL COMMISSIONERS**
16 **SHALL BE COMPOSED OF A COMBINATION OF ELECTED MEMBERS AND**
17 **APPOINTED MEMBERS.**

18 4-303.

19 (a) In order to establish a new partnership between the City of Baltimore
20 and the State to improve the quality of public education in Baltimore City and to
21 encourage more efficient use of the resources of the State and Baltimore City, the
22 Baltimore City Board of School Commissioners is established in accordance with the
23 provisions of this subtitle.

24 (b) The purpose of the board is to:

25 (1) Raise the level of academic achievement of the students in the
26 Baltimore City Public School System; and

27 (2) Improve the management and administration of the public school
28 system in Baltimore City.

29 (c) The board shall be held accountable for the academic achievement of the
30 public school students in Baltimore City.

1 (d) (1) The board shall have the authority and be responsible for all
2 functions relating to the Baltimore City Public School System, **INCLUDING:**

3 (I) **DETERMINING AND SETTING EDUCATIONAL POLICIES**
4 **FOR THE BALTIMORE CITY PUBLIC SCHOOL SYSTEM;**

5 (II) **AS TO A VACANCY OR PENDING VACANCY IN THE OFFICE**
6 **OF CHIEF EXECUTIVE OFFICER, ESTABLISHING A SEARCH COMMITTEE TO**
7 **ASSIST IN THE RECRUITMENT OF CANDIDATES FOR THE POSITION;**

8 (III) **HIRING, MANAGING, AND FIRING ANY EMPLOYEE OR**
9 **VENDOR OF THE BALTIMORE CITY PUBLIC SCHOOL SYSTEM;**

10 (IV) **ESTABLISHING SALARIES, BENEFITS, AND PERSONNEL**
11 **POLICIES FOR EMPLOYEES OF THE BALTIMORE CITY PUBLIC SCHOOL SYSTEM;**

12 (V) **OVERSEEING EMPLOYEE LABOR CONTRACTS AND**
13 **NEGOTIATIONS;**

14 (VI) **OVERSEEING PROCUREMENT ACTIVITIES FOR THE**
15 **BALTIMORE CITY PUBLIC SCHOOL SYSTEM; AND**

16 (VII) **COLLABORATING WITH THE BALTIMORE CITY PARENT**
17 **COMMUNITY ADVISORY BOARD ON MATTERS RELATING TO THE BALTIMORE**
18 **CITY PUBLIC SCHOOL SYSTEM.**

19 (2) Notwithstanding any provision of local law governing the
20 Baltimore City Public School System, the board may adopt rules and regulations and
21 prescribe policies and procedures for the management, maintenance, operation, and
22 control of the Baltimore City Public School System.

23 (3) The board shall assume responsibility for all of the functions
24 formerly performed by the Superintendent of Public Instruction of Baltimore City and
25 the Board of School Commissioners of Baltimore City.

26 (4) The board may not be deemed an agency of the State.

27 4-306.1.

28 (a) In order to provide public school facilities, the board may:

29 (1) Acquire, construct, reconstruct, equip, maintain, repair, or
30 renovate facilities at any location in the City of Baltimore, now existing or hereafter
31 acquired;

1 (2) Issue bonds in accordance with § 4–306.2 of this subtitle;

2 (3) In accordance with State law and the June 24, 1998, memorandum
3 of understanding between the board and the Mayor and City Council of Baltimore,
4 acquire, hold, and dispose of real and personal property in the exercise of its powers
5 and the performance of its duties under this subtitle;

6 (4) Enter into all contracts and agreements necessary or incidental to
7 the performance of its duties and the execution of its powers under this subtitle,
8 employ consulting engineers, architects, attorneys, construction and financial experts,
9 and other employees and agents, and determine their compensation;

10 (5) Receive and accept from the United States of America or any
11 agency of the federal government grants and loans for the purpose of financing or
12 refinancing all or any part of the costs of any project;

13 (6) Receive and accept aid or contributions from any sources of money,
14 property, labor, or other things of value, to be held, used, and applied for the purposes
15 for which the grants and contributions were made; and

16 (7) Perform all acts and things necessary to carry out the powers
17 expressly granted by the provisions of this subtitle.

18 (b) The board shall maintain records identifying the sources and amounts of
19 payments used to support the costs of any project authorized under the provisions of
20 this subtitle.

21 Article – Election Law

22 8–802.

23 (a) (1) (i) Members of boards of education shall be elected on a
24 nonpartisan basis.

25 (ii) In a primary election to nominate board of education
26 candidates, any registered voter of the county, regardless of party affiliation or lack of
27 party affiliation, is eligible to vote in those contests for nomination.

28 (2) Candidates for election to boards of education shall, without party
29 designation or regard to party affiliation:

30 (i) file certificates of candidacy;

31 (ii) be certified to the ballot;

32 (iii) appear on the ballot;

33 (iv) be voted on; and

1 (v) be nominated and elected.

2 (b) This section does not apply to candidates for nomination or election to a
3 board of education if Title 3 of the Education Article requires a partisan election.

4 SECTION 2. AND BE IT FURTHER ENACTED, That the terms of the
5 appointed members of the Baltimore City Board of School Commissioners who are
6 serving on the effective date of this Act shall terminate at the end of December 2,
7 2012.

8 SECTION 3. AND BE IT FURTHER ENACTED, That before this Act becomes
9 effective it shall first be submitted to a referendum of the legally qualified voters of
10 Baltimore City at the general election to be held in November of 2010. The Mayor of
11 Baltimore City and the Baltimore City Board of Elections shall do those things
12 necessary and proper to provide for and hold the referendum required by this section.
13 If a majority of the votes cast on the question are "For the referred law" the provisions
14 of this Act shall become effective on the 30th day following the official canvass of votes
15 for the referendum, but if a majority of the votes cast on the question are "Against the
16 referred law" the provisions of this Act are of no effect and null and void.

17 SECTION 4. AND BE IT FURTHER ENACTED, That, subject to the provisions
18 of Section 3 of this Act and for the sole purpose of providing for the referendum
19 required by Section 3 of this Act, this Act shall take effect July 1, 2010.