

Department of Legislative Services
Maryland General Assembly
2014 Session

FISCAL AND POLICY NOTE

Senate Bill 637 (Senator Simonaire)
Education, Health, and Environmental Affairs

**Anne Arundel County - Board of Education Member - Limitation on Candidacy
for Other Elective Office**

This bill prohibits a member of the Anne Arundel County Board of Education from being a candidate for municipal, county, or State office during the two years immediately following the end of the member's appointed term on the board. The bill does not apply to any member of the Anne Arundel County Board of Education on or before the bill's effective date (October 1, 2014).

Fiscal Summary

State Effect: None.

Local Effect: None. Prohibiting certain individuals from seeking office in the State for a two-year period does not affect local expenditures.

Small Business Effect: None.

Analysis

Current Law: The Anne Arundel County Board of Education consists of nine members, of whom three members are appointed from the county at large, five members are appointed from each of the five legislative districts in the county, and one is a student member. Except for the student member, the Governor must appoint a member of the county board from a list of nominees submitted by the School Board Nominating Commission of Anne Arundel County.

The School Board Nominating Commission of Anne Arundel County was established in 2007 (Chapter 454). The commission must submit at least two nominees to the Governor

for each vacancy for the county board, unless there are fewer than two applicants for a vacancy.

Chapters 177 and 178 of 2011 specify that a member of the Anne Arundel County Board of Education must be appointed by the Governor from a list of nominees submitted by the School Board Nominating Commission, subject to election by the registered voters of the county at the general election following the member's nomination and appointment, regardless of whether that member is serving a first or second term.

Background: In January 2014, the Maryland Attorney General's Office advised that legislation similar to the bill could be upheld by a court, if challenged, unless the limitations on candidacy are shown to lack a rational basis, that is "that there are no considerations relating to the public welfare by which it can be supported."

The advice cited, among other cases, the U.S. Supreme Court ruling in *Clements v. Fashing* (1982), which upheld a provision of the Texas constitution that denied eligibility to serve in the state legislature to certain officials during their (elected or appointed) term in office, even if they resigned prior to the end of their term. The affect of the Texas law was to prevent candidacy for the state legislature for up to two years.

The U.S. Supreme Court found no violation of the Equal Protection Clause of the U.S. Constitution, noting that the State of Texas has a "legitimate interest in discouraging" certain officials "from vacating their current terms of office" (including avoidance of interim appointments and interim elections) and that the "waiting period" established by the law "places a *de minimis* burden on the political aspirations of a current officeholder." However, the advice from the Maryland Attorney General's Office noted that the Texas law did not prohibit candidacy *after* the end of a term and that no case was found involving a limitation that closely matches the provisions of the bill.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Office of the Attorney General, Department of Legislative Services

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ncs/hlb

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