

April 5, 2016

The Honorable Michael E. Busch
Speaker of the House
H-101 State House
Annapolis, MD 21401

Dear Mr. Speaker:

In accordance with Article II, Section 17 of the Maryland Constitution, I have vetoed House Bill 172 – *Anne Arundel County Board of Education and School Board Nominating Commission*.

On its face, House Bill 172 is unconstitutional because it only terminates the terms of the Governor's members of the Anne Arundel County School Board Nominating Commission. This action by the Legislature violates the separation of powers doctrine as outlined by the Court of Appeals in *Schisler v. State*, 394 Md. 519 (2006). While the General Assembly may change the appointment method of prospective members of a governmental body, it cannot abrogate the Governor's authority under Article II, Section 15 of the Maryland Constitution by terminating his current appointees prior to the expiration of their terms.

In its current form, Section 3-110 of the Education Article of the Maryland Code provides that the Governor shall appoint five of the eleven members of the School Board Nominating Commission of Anne Arundel County, with each member serving a four-year term. Section 2 of House Bill 172, however, provides for premature termination, *i.e.*, removal, of the Governor's incumbent members, an improper reconstitution of the Commission that the Court of Appeals has found to be an unconstitutional "usurpation of executive power in violation of Article II, [Sections] 1, 9 and 15 of the Maryland Constitution" and a "violation of Article 8 of the Declaration of Rights of Maryland." *Schisler*, 394 Md. at 596. Ultimately, the Governor's appointees must remain in office until the end of their terms, unless terminated earlier by the Governor pursuant to Article II, Section 15 of the Maryland Constitution.

In addition to the legal flaws with the bill, House Bill 172 also unnecessarily injects the politics of the General Assembly into a local school issue and significantly diminishes public accountability by adding commission members appointed by private advocacy organizations instead of elected officials. A recent *Baltimore Sun* editorial stated that House Bill 172 "goes too far to dilute public accountability" by skewing the membership of the Commission towards special interest groups instead of those who answer to the broader education community.

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I am open to a dialog with the General Assembly on ways to improve the process for appointing school board members to ensure that they reflect the needs and values of Anne Arundel County, including legislation to provide for direct election of school board members by the voters or appointment by a local authority such as the County Executive.

House Bill 172 is not the appropriate vehicle to ensure public accountability of the nominating process for members of the Anne Arundel County Board of Education. For these reasons, I have vetoed House Bill 172.

Sincerely,

Governor Lawrence J. Hogan, Jr.