

Department of Legislative Services  
Maryland General Assembly  
2022 Session

FISCAL AND POLICY NOTE  
First Reader

House Bill 1281  
Ways and Means

(Delegate Rose, *et al.*)

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County Boards of Education - Elected Members - Recall Procedures

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This bill establishes a process that, under certain conditions, an elected member of a local board of education may be subject to a recall election by the voters of the elected member's county who are qualified to vote for a successor of the incumbent.

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Fiscal Summary

**State Effect:** To the extent an elected member of a local board of education is subject to a recall election, the State Board of Elections will share in the cost of administering any election.

**Local Effect:** To the extent an elected member of a local board of education is subject to a recall election, local expenditures increase by a significant amount. The local cost to conduct a recall election on a statewide basis is projected to total at least \$12.0 million. The potential cost in each jurisdiction is projected to be proportional to the estimated statewide costs. **This bill imposes a mandate on a unit of local government.**

**Small Business Effect:** None.

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Analysis

**Bill Summary:** An elected board member may not be recalled if (1) the member has not held office during the current term for more than 90 days; (2) a recall election has been determined in the elected member's favor in the preceding six months; or (3) the elected member's term ends within the next six months.

A registered voter may initiate a recall by service, filing, and publication of a notice of intention that includes (1) the name and title of the elected member; (2) a statement

indicating the reason for the recall; (3) a statement that the elected member may file an answer to the notice of intention; and (4) the name, business or residential address, and signature of the voter or voters who are seeking the recall. The voter or voters seeking the recall must (1) deliver a copy of the notice of intention to the elected member by registered or certified mail; (2) publish the notice of intention in a newspaper of general circulation; and (3) file the original notice of intention and proof of publication with the local board of elections within seven days after the day on which the copy is delivered to the elected member.

The elected member may file a response to the notice of intention including the sworn signature of the elected member to the local board of elections within 14 days of filing of the notice of intention.

In order to recall an elected member of a local board of education, a petition must be signed by not less than 30% of the registered voters of the county in which the elected member is being recalled. The petition must contain the reason for the recall as specified in the notice of intention, demand an election of a successor to the elected member, and satisfy all legal requirements for petitions established in the Election Law Article.

A candidate to succeed the elected member must file a certificate of candidacy at least 30 days before the date of the recall election and meet all other requirements for candidacy established in the Election Law Article.

At the recall election, the reasons for the recall, response by the elected member, and the question “Shall (name of the elected member), an elected member of the Board of Education of (name of county) be removed from office?” must appear on the ballot. If a voter casts a vote in favor of recalling the elected member, the voter may cast a vote for a successor. The local board of elections must hold an election at least 60 days, but not more than 90 days, from the date on which the local board of elections’ chief election official certifies that the petition has satisfied all requirements. If a majority of voters vote to recall the elected member, the elected member is removed, and the candidate receiving the highest number of votes must serve the remainder of the elected member’s term until a successor is elected and qualifies.

**Current Law:** The State Board of Education may remove a member of a local board of education for immorality, misconduct in office, incompetency, or willful neglect of duty. In 10 counties, the board member may be removed for the failure to attend, without good cause, at least 75% of the scheduled meetings of the board in any one calendar year. Prior to removing a member of a local board of education, the State Board of Education must send the member a copy of the charges against the individual and give the individual an opportunity to request a public hearing before the State Board of Education. A board

member removed in this manner generally has a right to review by the circuit court for the relevant jurisdiction.

In three counties (Caroline, Charles, and Prince George's), the State Board of Education needs the approval of the Governor prior to removing a board member. In Montgomery County, the county council, not the State Board of Education, has the authority to remove a board member. In Baltimore City, the mayor must approve the removal of an appointed board member.

**State and Local Fiscal Effect:** To the extent a special recall election is held, independent of a regular election, State general fund and local government expenditures increase by a significant amount to conduct the election. Costs include compensation for election judges, local board of elections temporary staff and overtime, ballots (in-person and mail-in), ballot drop box delivery and pick up, and contractual services for voting system staffing and voting equipment transportation. Some of these costs are solely local costs (compensation for election judges and local temporary staff and overtime) and others are shared by the State Board of Elections and local boards of elections. *For illustrative purposes*, the local costs for a statewide recall election have been estimated by the Department of Legislative Services to total at least \$12.0 million. The potential cost in each jurisdiction is projected to be proportional to the estimated statewide costs.

Local boards of elections may also incur costs to verify the signatures on a petition for recall, assuming local boards would have that responsibility, similar to referendum and other petitions.

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### **Additional Information**

**Prior Introductions:** None.

**Designated Cross File:** None.

**Information Source(s):** Baltimore and Garrett counties; Department of Legislative Services

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