

Testimony of David L. Cahn, Vice President
Prince George's County Civic Federation
before the
Senate Committee on Education, Health, and Environmental Affairs
March 29, 2022

**Regarding House Bill 355
FAVORABLE WITH AMENDMENTS**

The Prince George's County Civic Federation, representing civic associations and civic-minded residents throughout the county, recommends adoption of H.B. 355 with amendments.

The Civic Federation, together with other organizations across the political spectrum, has been advocating on behalf of an all-elected school board for Prince George's County since 2002. For twenty years, we have been fighting for democracy, for our schools to be governed by board members chosen directly by the citizens of our county, not by politicians. In some years we fought to keep our elected board; in other years we fought to return to one, as we are doing today.

In its present form, H.B. 355 purports to represent the consensus of a study group comprised of legislators, the county executive and her administration, school leaders, and a few others. We are told it reflects various compromises necessary to reach that consensus and, for that reason, should not be changed in any substantive way.

The General Assembly is perfectly capable of crafting a bill to return to a board comprised solely of members elected from nine single-member districts plus a student member, so this bill should not be necessary. As that does not seem to be possible in the short time remaining in this legislative session, H.B. 355 is the next best thing.

However, in one respect, the bill does not achieve its objective of reflecting the consensus of the study group. Section 2 of the bill, which will go into effect later this year, was

added to the bill to permit the school board to elect its own officers. From its wording, the section appears to do that. However, the reality is different.

When the school board meets on the first Monday in December this year, the four appointed members will still be on the board, as will some members appointed by the county executive to fill vacancies among the elected members. Although Section 2 permits the board to elect a chair and vice chair from among its members, that board will be dominated by these appointed members, thus defeating the purpose for which the section was added to the bill.

It makes little difference whether the county executive appoints the chair and vice chair or her appointees elect those officers. The county executive still will be able to determine the outcome. This was not what was agreed, but it is what will happen.

The Civic Federation recommends that H.B. 355 be amended to permit only the *elected* members of the board to vote for a chair and vice chair from among the *elected* members of the board. The text of an amendment to subsection (a)(1) of Section 2 to accomplish that is attached to and forms a part of this testimony.

Adoption of this amendment would not violate the compromise for which Section 2 was added to the bill. Rather, it would fulfill the purpose of the section and reflect the consensus of the study group.

We would not oppose action by this committee to add the student member to those who would be permitted for vote for chair and vice chair, although that is not included in our proposed amendment.

We also recommend another amendment, which will help avoid expensive litigation. Section 2 does not specify what will happen to the appointed board chair when the chair elected by the board takes over on December 5. Does that member leave the board or stay on the board

as a regular appointed member? Attempts to answer to that question could be a source of contention and litigation that would divert the board from performing its duties and perpetuate the division that has paralyzed the board for more than a year. The cost of any litigation would come out of school operating funds, thus taking money away from our children for a fight that does not need to happen.

We recommend that this committee amend the bill to specify that the term on the board of an appointed member serving as chair terminate on December 4, 2022, the day before the new chair is elected.

There is precedent for ending the term of a member of the Prince George's County Board of Education before its expiration. That is exactly what the General Assembly did in 2002, when it truncated the terms of all the elected members of the board upon instituting the appointed board. It is right that you treat the appointed board chair the same way this year.

The second amendment, which is appended to the first one and forms a part of this testimony, would do that by adding a new subsection (a)(3) to Section 2. If the committee prefers, it could easily be changed to a stand-alone section and inserted either before or after Section 4.

There are other problems with the bill, which the committee could fix by amendment.

For example, the workgroup established by Section 1 is supposed to help implement an all-elected school board. The presence of the current appointed board chair as a member of the workgroup represents a clear conflict of interest. She would lose her position if the workgroup does a good job. The board chair should be removed from membership on the workgroup and could instead testify at one of its hearings.

If the school board member appointed to the workgroup by the State Superintendent of Schools is an appointed member of the board, the same conflict of interest would result. That appointment should be limited to an elected board member.

We understand the Section 3 of the bill, which returns the school board to one comprised of nine members elected from individual school board districts in 2024 (plus the student member), is intended to be amended next year. Among its several problems, it has two major omissions that will need to be remedied.

Although that future elected board will be able to select its own CEO (which we hope will be changed back to Superintendent), once selected the CEO will act independently of the board in most respects. A supermajority of the board would be necessary to overturn most operating decisions of the CEO. The CEO also would continue to be able to close schools unilaterally without any oversight at all, as well as hire and set the salaries of senior staff free of fiscal constraints set by the board. Prince George's is the only jurisdiction in Maryland where the superintendent or CEO is not subordinate to the school board. That needs to be changed, so that the school board, as the representative of the people, has effective control of our school system.

The other major problem with Section 3 is that it perpetuates the power of the county executive to fill elected vacancies with patronage appointments. For various reasons, it is not uncommon for a school board member to resign during the four-year term of office. The appointment system represents a creeping transition from an all-elected board to one with several appointed members. Next year's legislation should provide for a return to special elections to fill vacancies, as was the case before the 2013 takeover.

As Prince George's is a majority minority county, the General Assembly should be particularly conscious of the effect of its legislation on civil rights and equity. You can demonstrate this committee's dedication to these principles by adopting our amendments now and correcting the flaws in Section 3 before it goes into effect. The people of Prince George's deserve to elect our own school board directly on a nonpartisan basis, free of political control.

Thank you.

Prince George's County Civic Federation
Proposed Amendments to House Bill 0355

SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article - Education

3-1004.

(a) (1) [The County Executive shall appoint] BEGINNING ON DECEMBER 5, 2022, THE ELECTED MEMBERS OF THE COUNTY BOARD SHALL ELECT a chair and vice chair of the county board from among the ELECTED members of the county board.

(2) [The County Executive shall select the vice chair from among the elected members of the county board.

(3) [The term of the chair and vice chair appointed under this subsection shall be 2 years.

(3) THE TERM OF OFFICE AS A MEMBER OF THE COUNTY BOARD OF ANY APPOINTED MEMBER SERVING AS CHAIR OF THE COUNTY BOARD ON JULY 1, 2022, OR ANY APPOINTED MEMBER APPOINTED TO SUCCEED SUCH MEMBER AS CHAIR, SHALL TERMINATE ON DECEMBER 4, 2022, NOTWITHSTANDING ANY OTHER PROVISION OF THIS SUBTITLE.