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THE SENATE OF MARYLAND
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**Testimony Regarding SB 414 – Baltimore County – Board of Education –
Election of Officers
Before the Ways and Means Committee
March 24, 2022**

“[w]hen a quorum is present, a majority vote, that is a majority of the votes cast, ignoring blanks, is sufficient for the adoption of any motion that is in order.” Robert’s Rules of Order, Article VIII, Section 46

Good afternoon Chair Atterbeary, members of the Ways and Means Committee.

SB 414 is the same bill this Committee will be familiar with. This is the second year that the Education, Health and Environmental Affairs Committee has voted this bill out favorably. Last year our full body sent it to the House with a unanimous vote in favor of this bill. This year our full body voted 45-1 to send it to the House. SB 414 seeks to increase the number of appointed members on the school board by one member, appointed by the County Executive, to achieve a total number of 13 members on the Baltimore County Board of Education as well as clarifying the process by which the Board Chair and Vice Chair are elected.

In December, 2019, the Baltimore County Board of Education voted by a 6-5 vote, to replace the existing chairperson. However, the vote did not represent a majority of the Board member seats as one of the 12 seats was vacant. The existing Chairperson retained the position with only 5 votes. When I first read about the circumstances surrounding the December, 2019 Baltimore County School Board election, I did not understand how a chair and vice chair could remain in office in spite of receiving fewer overall votes. I questioned how one could even govern when they were unable to convince the majority of their colleagues that they were the best choice. Baltimore County Public Schools’ website and read their legal counsel’s legal explanation in the minutes. I was also under the impression that elections should follow parliamentary procedure which states: “[w]hen a quorum is present, a majority vote - that is a majority of the votes cast, ignoring blanks - is sufficient for the adoption of any motion that is in order.”¹ Later, I contacted the Attorney General’s office to confirm his legal advice because this vote did not follow proper parliamentary procedure.

The advice that I received from the Attorney General’s office and the state board’s advisory opinion² confirmed the board counsel’s guidance because the results of this election were based

¹ Robert’s Rules of Order, Article VIII, Section 46.

² Maryland State Board of Education in Opinion No. 20-08.

on the concept of a majority being defined as “a majority of the whole board”³ rather than majority being defined as “a majority of the votes cast, ignoring blanks.”⁴ When this rule was interpreted with the common law rule for holding over, the chair and vice chair, despite their inability to convince a majority of sitting board members to vote for them, remained as the chair and vice chair of the Board. Under current law, once in the seat, a chair could conceivably sit in as a hold over for an entire term if a challenger was unable to convince six other members to vote for them rather than a simple majority. I cannot imagine that this was the intent of this body.

I was also advised that another school system, Baltimore City, was more in line with parliamentary procedure.⁵ It was then that I requested a bill be drafted. I worked with the bill drafters to update the language to be similar to that of Baltimore City where a majority is based on the votes cast rather than the number of seats on the board. This bill does make the process more democratic. SB 414 offers Baltimore County an updated method for governance for this new hybrid board should members vacate their seat for any reason including, but not limited to a member relocating, stepping down for health reasons or even death.

Merriam Webster defines majority as “a number or percentage equaling more than half of a total.” The bill simply provides that a majority of the board members present will determine who their chair and vice chair are by requiring a quorum of a majority of the voting members then serving instead of a majority of board member seats. While opponents of the bill in a previous session falsely claimed that “[b]y creating an exception for the election of officers, the bill would allow for the election of officers without majority support,”⁶ the fact of the matter is, without this bill we are already allowing for the election of officers without majority support. If you convince the majority of your colleagues to vote for you, under SB 414, you will be the next chair or vice chair. What is more basic to democracy than the fundamental principal of “majority will”? What could be more democratic? Does it make sense to require the board to count a vacant seat to determine whether a majority has been reached or does it make more sense to follow something more akin to Rule 46?

Regarding the matter of adding an additional board member, the bill seeks to increase the board by one member appointed by the Baltimore County Executive so that the Board has an uneven number of board members. This will eliminate deadlock votes and improve the efficiency of the Board proceeding as a simple majority will decide the vote without the need to break the possible tie in future actions. Last year, the school board had an election where the board’s vice chair election resulted in a 6 to 6 tie and the vice chair resumed the seat because neither candidate could obtain a majority. Additionally, the addition of a member appointed by the County Executive reflects the high priority held by education and the School Board in Baltimore County.

For the aforementioned reasons, I ask that this bill be reported out favorably.

³ COMAR 13A.02.01.01.

⁴ Robert’s Rules of Order, Article VIII, Section 46.

⁵ Md. Ann. Code, Education § 3-108.1(p).

⁶ Ibid.