

Bill No.: _____
Requested: _____
Committee: _____

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By: **Delegate Flanagan**

A BILL ENTITLED

1 AN ACT concerning

2 **Howard County – Elected School Board and Districting Commission**

3 **Ho. Co. 13–17**

4 FOR the purpose of requiring that, beginning with a certain election, certain members of
5 the Howard County Board of Education be elected by districts; providing that a
6 member elected to the county board from a certain geographic area but whose district
7 boundaries are subsequently altered may remain as a member of the county board
8 for a certain period; providing for the termination of the terms of certain members of
9 the county board; establishing an independent Board of Education Districting
10 Commission to draw the districts for the election of the members of the county board;
11 specifying the membership, qualifications, duties, and term of the Commission;
12 requiring the County Executive of Howard County to conduct a certain lottery to
13 choose the members of the Commission; specifying the conditions under which the
14 lottery must be conducted; specifying the qualifications an individual must meet to
15 be entered into the lottery; providing that a nonaffiliated voter is not required to
16 meet a certain qualification; specifying that a member of the Commission is subject
17 to certain public ethics laws and entitled to certain reimbursement; requiring the
18 Commission to adopt rules and procedures to govern its activities; requiring the
19 County Executive to provide funds in the county budget for the Commission;
20 requiring the Howard County Office of Law to provide certain assistance to the
21 Commission; providing for the application of this Act; submitting this Act to a

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 referendum of the qualified voters of Howard County for their adoption or rejection;
2 defining certain terms; repealing obsolete provisions; and generally relating to the
3 election of the members of the Howard County Board of Education.

4 BY repealing and reenacting, with amendments,
5 Article – Education
6 Section 3–701
7 Annotated Code of Maryland
8 (2014 Replacement Volume and 2016 Supplement)

9 BY adding to
10 Article – Education
11 Section 3–705
12 Annotated Code of Maryland
13 (2014 Replacement Volume and 2016 Supplement)

14 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
15 That the Laws of Maryland read as follows:

16 **Article – Education**

17 3–701.

18 (a) **(1)** The Howard County Board consists of:

19 **[(1)] (I)** Seven elected members; and

20 **[(2)] (II)** One student member.

21 **(2) (I) THE SEVEN ELECTED MEMBERS SHALL BE ELECTED AT THE**
22 **GENERAL ELECTION.**

23 **(II) ONE MEMBER SHALL BE ELECTED FROM EACH OF THE**
24 **SEVEN BOARD OF EDUCATION DISTRICTS ESTABLISHED IN ACCORDANCE WITH THIS**
25 **SECTION ONLY BY THE VOTERS OF THAT DISTRICT.**

26 (b) **(1)** A candidate who becomes an elected member of the county board shall
27 be a resident and registered voter of Howard County.

1 **(2) (I)** Any elected member who no longer resides in Howard County
2 may not continue as a member of the board.

3 **(II) ANY MEMBER ELECTED FROM A BOARD OF EDUCATION**
4 **DISTRICT WHO NO LONGER RESIDES IN THAT DISTRICT MAY NOT CONTINUE AS A**
5 **MEMBER OF THE BOARD.**

6 **(3) IF THE BOUNDARY LINE OF A BOARD OF EDUCATION DISTRICT IS**
7 **CHANGED, THE TERM OF AN INCUMBENT MEMBER OF THE COUNTY BOARD WHO NO**
8 **LONGER RESIDES IN THAT BOARD OF EDUCATION DISTRICT BECAUSE OF THE**
9 **CHANGE IS NOT AFFECTED DURING THAT TERM.**

10 (c) The seven elected members of the Howard County Board shall be elected:

11 (1) **[At] BEGINNING IN 2020, AT** the general election every **[2] 4** years as
12 required by subsection (d) of this section; and

13 (2) From Howard County **[at large] AS SPECIFIED IN SUBSECTION (A)**
14 **OF THIS SECTION.**

15 (d) (1) (i) The terms of the elected members are **[staggered]** as provided in
16 this subsection.

17 (ii) Each term of office begins on the first Monday in December after
18 the election of a member and until a successor is elected and qualifies.

19 (2) (i) The term of office of **[the] EACH** member elected at the **[2002]**
20 **2020** election is 4 years.

21 (ii) The successor to this office shall serve for a term of 4 years.

22 **[(3) (i)** Two members shall be elected at the 2004 election.

23 (ii) The successors to these offices elected at the 2008 election shall
24 serve a term of 4 years.

25 (4) (i) Five members shall be elected at the 2006 election.

1 (ii) Subject to paragraph (5) of this subsection, the successors to
2 these offices shall be elected at the 2010 election and shall serve for a term of 4 years.

3 (5) (i) Except as provided in subparagraph (ii) of this paragraph, as of
4 the 2006 election, the term of each office is 4 years.

5 (ii) 1. At the 2006 election, the individual elected as a member
6 who receives the lowest number of votes among the five members elected in that election
7 shall serve for a term of 2 years.

8 2. The successor to the office for the member elected at the
9 2006 election who receives the lowest number of votes among the five members elected in
10 that election shall be elected at the 2008 election and shall serve for a term of 4 years.]

11 [(6)] (3) Except as provided in paragraph [(7)] (4) of this subsection and
12 subject to the confirmation of the County Council, the County Executive of Howard County
13 shall appoint a qualified individual to fill any vacancy **FOR AN ELECTED MEMBER** on the
14 county board for the remainder of that term and until a successor is appointed and qualifies.

15 [(7)] (4) If a vacancy **FOR AN ELECTED MEMBER** occurs before the date
16 that is 1 year following the date of the member's election, the individual appointed under
17 paragraph [(6)] (3) of this subsection shall serve only until a successor is elected by the
18 voters at the next general election.

19 [(8)] (5) Candidates for the vacated office may be nominated at a primary
20 election in the same manner as for any other position on the [Howard County Board]
21 **COUNTY BOARD.**

22 [(9) When more than two members of the county board are to be elected at
23 an election and the terms of the offices to be filled at the election vary, the elected
24 candidates receiving the greater number of votes shall fill the offices with the longer terms.]

25 [(10)] (6) The candidate receiving the vacated position shall take office on
26 the first Monday in December after the election and shall continue to serve for the
27 remainder of the vacated term and until a successor is elected and qualifies.

1 **[(11)] (7)** Except as provided in this subsection, an election to fill a vacancy
2 on the Howard County Board of Education shall be governed by §§ 8–801 through 8–806 of
3 the Election Law Article.

4 (e) (1) The student member shall be a bona fide resident of Howard County
5 and a regularly enrolled junior or senior year student from a Howard County public high
6 school.

7 (2) The student member shall serve for a term of 1 year beginning on July
8 1 after the member’s election, subject to confirmation of the election results by the county
9 board.

10 (3) The nomination and election process for the student member:

11 (i) Shall be approved by the Howard County Board of Education;

12 (ii) Shall include a provision that provides for the replacement of one
13 or both of the final candidates if one or both of them are unable, ineligible, or disqualified
14 to proceed in the election; and

15 (iii) Shall allow for any student in grades 6 through 11 enrolled in a
16 Howard County public school to vote directly for one of the two student member candidates.

17 (4) The student member candidate who receives the second highest
18 number of votes in the direct election:

19 (i) Shall become the alternate student member; and

20 (ii) Shall serve if the student member who is elected is unable,
21 ineligible, or disqualified to complete the student member’s term of office.

22 (5) Except as provided in paragraphs (6) and (7) of this subsection, the
23 student member has the same rights and privileges as an elected member.

24 (6) Unless invited to attend by the affirmative vote of a majority of the
25 county board, the student member may not attend a closed session addressing a matter on
26 which a student member is prohibited from voting under paragraph (7) of this subsection.

- 1 (7) The student member shall vote on all matters except those relating to:
- 2 (i) Geographical attendance areas under § 4–109 of this article;
- 3 (ii) Acquisition and disposition of real property and matters
4 pertaining to school construction under § 4–115 of this article;
- 5 (iii) Employment of architects under § 4–117 of this article;
- 6 (iv) Donations under § 4–118 of this article;
- 7 (v) Condemnation under § 4–119 of this article;
- 8 (vi) Consolidation of schools and transportation of students under §
9 4–120 of this article;
- 10 (vii) Appointment and salary of a county superintendent under §§
11 4–201 and 4–202 of this article;
- 12 (viii) Employee discipline and other appeals under § 4–205(c) of this
13 article;
- 14 (ix) Budgetary matters under Title 5 of this article;
- 15 (x) Appointment and promotion of staff under § 6–201 of this article;
- 16 (xi) Discipline of certificated staff under § 6–202 of this article;
- 17 (xii) Collective bargaining for certificated employees under Title 6,
18 Subtitle 4 of this article;
- 19 (xiii) Collective bargaining for noncertificated employees under Title
20 6, Subtitle 5 of this article; and
- 21 (xiv) Student suspension and expulsion under § 7–305 of this article.
- 22 (8) The student member may not receive compensation but, after
23 submitting expense vouchers, shall be reimbursed for out-of-pocket expenses incurred in

1 connection with official duties, in accordance with the procedures and regulations
2 established by the county board.

3 (f) Passage of a motion by the county board requires the affirmative vote of:

4 (1) Five members if the student member is authorized to vote; or

5 (2) Four members if the student member is not authorized to vote **OR IS**
6 **NOT PRESENT.**

7 (g) (1) The State Board may remove a member of the county board for:

8 (i) Immorality;

9 (ii) Misconduct in office;

10 (iii) Incompetency; or

11 (iv) Willful neglect of duty.

12 (2) Before removing a member, the State Board shall send the member a
13 copy of the charges against the member and give the member an opportunity within 10
14 days to request a hearing.

15 (3) If the member requests a hearing within the 10-day period:

16 (i) The State Board promptly shall hold a hearing, but a hearing
17 may not be set within 10 days after the State Board sends the member a notice of the
18 hearing; and

19 (ii) The member shall have an opportunity to be heard publicly
20 before the State Board in the member's own defense, in person or by counsel.

21 (4) A member removed under this subsection has the right to a de novo
22 review of the removal by the Circuit Court for Howard County.

23 **3-705.**

1 **(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS**
2 **INDICATED.**

3 **(2) “COMMISSION” MEANS THE BOARD OF EDUCATION DISTRICTING**
4 **COMMISSION.**

5 **(3) “COUNTY EXECUTIVE” MEANS THE COUNTY EXECUTIVE OF**
6 **HOWARD COUNTY.**

7 **(4) “PLAN” MEANS THE BOARD OF EDUCATION DISTRICTING PLAN**
8 **PREPARED BY THE COMMISSION.**

9 **(5) (I) “PUBLIC OFFICIAL” HAS THE MEANING STATED IN § 5-101**
10 **OF THE GENERAL PROVISIONS ARTICLE.**

11 **(II) “PUBLIC OFFICIAL” INCLUDES A MEMBER OF A POLITICAL**
12 **PARTY CENTRAL COMMITTEE.**

13 **(B) (1) THERE IS A BOARD OF EDUCATION DISTRICTING COMMISSION.**

14 **(2) THE COMMISSION CONSISTS OF:**

15 **(I) ELEVEN REGULAR MEMBERS WHO ARE CHOSEN BY A**
16 **LOTTERY CONDUCTED IN ACCORDANCE WITH PARAGRAPH (3) OF THIS SUBSECTION;**
17 **AND**

18 **(II) A RETIRED JUDGE, SELECTED BY THE COUNTY COUNCIL,**
19 **WHO SHALL SERVE AS A NONVOTING MEMBER AND AS CHAIR OF THE COMMISSION.**

20 **(3) (I) THE COUNTY EXECUTIVE SHALL CONDUCT A LOTTERY TO**
21 **CHOOSE THE REGULAR, VOTING MEMBERS OF THE COMMISSION.**

22 **(II) A LOTTERY CONDUCTED UNDER SUBPARAGRAPH (I) OF**
23 **THIS PARAGRAPH SHALL BE CONDUCTED:**

24 **1. AS SOON AS PRACTICABLE AFTER THE CENSUS DATA**
25 **BECOMES AVAILABLE;**

1 **2. SUBJECT TO ITEM 1 OF THIS SUBPARAGRAPH, AT A**
2 **TIME AND PLACE DETERMINED BY THE COUNTY EXECUTIVE; AND**

3 **3. IN A MANNER THAT RESULTS IN THE COMMISSION**
4 **BEING COMPOSED OF REGISTERED DEMOCRATS, REGISTERED REPUBLICANS, AND**
5 **REGISTERED NONAFFILIATED VOTERS IN THE SAME PROPORTION THAT**
6 **DEMOCRATS, REPUBLICANS, AND NONAFFILIATED VOTERS COMPOSE REGISTERED**
7 **VOTERS IN HOWARD COUNTY.**

8 **(III) TO BE ENTERED IN A LOTTERY CONDUCTED UNDER**
9 **SUBPARAGRAPH (I) OF THIS PARAGRAPH, AN INDIVIDUAL:**

10 **1. SHALL BE A REGISTERED VOTER IN HOWARD**
11 **COUNTY;**

12 **2. EXCEPT AS PROVIDED IN SUBPARAGRAPH (IV) OF**
13 **THIS PARAGRAPH, SHALL HAVE VOTED IN THE LAST THREE STATEWIDE PRIMARY**
14 **AND GENERAL ELECTIONS IMMEDIATELY PRECEDING THE LOTTERY;**

15 **3. MAY NOT BE OR HAVE SERVED AS A PUBLIC OFFICIAL**
16 **IN THE STATE; AND**

17 **4. SHALL MAKE A REQUEST TO BE INCLUDED IN THE**
18 **LOTTERY TO THE COUNTY EXECUTIVE.**

19 **(IV) A NONAFFILIATED VOTER IS NOT REQUIRED TO HAVE**
20 **VOTED IN THE LAST THREE STATEWIDE PRIMARY ELECTIONS IMMEDIATELY**
21 **PRECEDING THE LOTTERY.**

22 **(4) A MEMBER OF THE COMMISSION IS:**

23 **(I) SUBJECT TO THE PUBLIC ETHICS LAWS, AS APPLICABLE,**
24 **THAT APPLY TO A PUBLIC OFFICIAL; AND**

25 **(II) ENTITLED TO REIMBURSEMENT FOR EXPENSES IN THE**
26 **SAME MANNER THAT AN OFFICIAL OR EMPLOYEE OF THE HOWARD COUNTY**
27 **GOVERNMENT IS ENTITLED TO REIMBURSEMENT.**

1 **(5) THE TERM OF A MEMBER OF THE COMMISSION BEGINS WHEN THE**
2 **MEMBER IS CHOSEN IN THE LOTTERY AND ENDS WHEN A BOARD OF EDUCATION**
3 **DISTRICTING PLAN IS SUBMITTED TO THE COUNTY EXECUTIVE.**

4 **(6) THE COMMISSION SHALL ADOPT RULES AND PROCEDURES TO**
5 **GOVERN ITS ACTIVITIES.**

6 **(7) THE COUNTY EXECUTIVE SHALL PROVIDE FUNDS IN THE COUNTY**
7 **BUDGET FOR STAFF FOR THE COMMISSION.**

8 **(8) THE HOWARD COUNTY OFFICE OF LAW SHALL:**

9 **(I) PROVIDE LEGAL ASSISTANCE TO THE COMMISSION;**

10 **(II) RECOMMEND RULES AND PROCEDURES FOR ADOPTION BY**
11 **THE COMMISSION; AND**

12 **(III) PROVIDE OTHER ASSISTANCE TO THE COMMISSION AS**
13 **NEEDED.**

14 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall apply to the
15 election of the members of the Howard County Board of Education for the term of office
16 that begins on December 7, 2020.

17 SECTION 3. AND BE IT FURTHER ENACTED, That the terms of the elected
18 members of the Howard County Board of Education in office on the effective date of this
19 Act shall expire at the end of December 6, 2020.

20 SECTION 4. AND BE IT FURTHER ENACTED, That before this Act becomes
21 effective it shall first be submitted to a referendum of the qualified voters of Howard County
22 at the general election to be held in November of 2018. The County governing body and the
23 Howard County Board of Elections shall do those things necessary and proper to provide
24 for and hold the referendum required by this section. If a majority of the votes cast on the
25 question are “For the referred law” the provisions of this Act shall become effective on the
26 30th day following the official canvass of votes for the referendum, but if a majority of the
27 votes cast on the question are “Against the referred law” the provisions of this Act are of no
28 effect and null and void.

1 SECTION 5. AND BE IT FURTHER ENACTED, That, subject to the provisions of
2 Section 4 of this Act and for the sole purpose of providing for the referendum required by
3 Section 4 of this Act, this Act shall take effect July 1, 2017.