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HOUSE BILL NO. 1060

Offered January 13, 2010

Prefiled January 13, 2010

A BILL to amend and reenact § 22.1-57.3 of the Code of Virginia, relating to staggered school board elections.

Patron—Marshall, R.G.

Referred to Committee on Privileges and Elections

Be it enacted by the General Assembly of Virginia:**1. That § 22.1-57.3 of the Code of Virginia is amended and reenacted as follows:**

§ 22.1-57.3. Election of school board members; appointment of tie breaker.

A. If a majority of the qualified voters voting in such referendum vote in favor of changing the method of selecting school board members to direct election by the voters, then the members of the school board shall be elected by popular vote. Elections of school board members in a county, city, or town shall be held to coincide with the elections for members of the governing body of the county, city, or town at the regular general election in November or the regular general election in May, as the case may be.

B. The initial elected board shall consist of the same number of members as the appointed school board it replaces, and the members shall be elected from the established county or municipal election districts, at large, or a combination thereof, on the same basis as the school board previously was appointed. If the appointed school board being replaced has not been appointed either on an at-large basis or on the basis of the established county or municipal election districts, or a combination thereof, the members shall be elected at large unless the governing body of the county, city, or town provides for the election of school board members on the basis of the established county or municipal election districts. If the appointed school board being replaced has been appointed at large, the governing body of the county, city, or town may establish school election districts for the election of school board members. The governing body may provide for a locality-wide district, one or more districts comprised of a part of the locality, or any combination thereof, and for the apportionment of one or more school board members to any district.

The terms of the members of the elected school board for any county, city, or town shall be the same as the terms of the members of the governing body for the county, city, or town. In any locality in which both the school board and the governing body are elected from election districts, as opposed to being elected wholly on an at-large basis, the elections of the school board member and governing body member from each specific district shall be held simultaneously except as otherwise provided in § 22.1-57.3:1.

At the first election for members of the school board, so many members shall be elected as there are members to be elected at the regular election for the governing body. At each subsequent regular election for members of the governing body, the same number of members of the school board shall be elected as the number of members to be elected at the regular election to the governing body. However, if the number of members on the school board differs from the number of members of the governing body, the number of members elected to the school board at the first and subsequent general election shall be either more or less than the number of governing body members, as appropriate, to the end that the number of members on the initial elected school board is the same as the number of members on the appointed board being replaced.

Except as provided in § 22.1-57.3:1, the terms of the members of the school board shall be staggered only if the terms of the members of the governing body are staggered; *however, any locality in Planning District 8, upon majority vote of the local governing body, may establish a system of staggered elections for the school board regardless of whether the terms of the local governing body are staggered.* If there are more, or fewer, members on the school board than on the governing body, the number of members to be elected to the school board at the first and subsequent election for school board members shall be the number required to establish the staggered term structure so that (i) a majority of the members of the school board is elected at the same time as a majority of the members of the governing body; (ii) if one-half of the governing body is being elected and the school board has an even number of members, one-half of the members of the school board is elected; (iii) if one-half of the governing body is being elected and the school board has an odd number of members, the majority by one member of the school board is elected at the first election and the remainder of the school board is elected at the second election; or (iv) if a majority of the members of the governing body is being

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59 elected and the school board has an even number of members, one-half of the members of the school
60 board is elected.

61 If the school board is elected at large and the terms of the members of the school board are
62 staggered, the school board members to be replaced at the first election shall include all appointed
63 school board members whose appointive terms are scheduled to expire on December 31 or on June 30,
64 as the case may be, next following the first election of county, city or town school board members. If
65 the number of school board members whose appointive terms are so scheduled to expire is zero or less
66 than the number of school board members to be elected at the first election, the appointed school board
67 members to be replaced at the first election shall also include those whose appointive terms are
68 scheduled to expire next subsequent to the date on which the terms of office of the first elected school
69 board members will commence. If the appointive terms of more than one school board member are
70 scheduled to expire simultaneously, but less than all of such members are to be replaced at the first
71 election, then the identity of such school board member or members to be replaced at the first election
72 shall be determined by a drawing held by the county or city electoral board at least ten days prior to the
73 last day for a person to qualify as a candidate for school board member.

74 In any case in which school board members are elected from election districts, as opposed to being
75 elected from the county, city, or town at large, the election districts for the school board shall be
76 coterminous with the election districts for the county, city, or town governing body, except as may be
77 specifically provided for the election of school board members in a county, city, or town in which the
78 governing body is elected at large.

79 C. The terms of office for the school board members shall commence on January 1 or July 1, as the
80 case may be, following their election. On December 31 or June 30, as the case may be, following the
81 first election of county, city or town school board members, the terms of office of the members of the
82 school board in office through appointment shall expire and the school board selection commission, if
83 there is one, shall be abolished. If the entire school board is not elected at the first election of school
84 board members, only the terms of the appointed members being replaced shall so expire and the terms
85 of the appointed members being replaced at a subsequent election shall continue or be extended to
86 expire on December 31 or June 30, as appropriate, of the year of the election of the school board
87 members replacing them.

88 D. Except as otherwise provided herein, a vacancy in the office of any elected school board member
89 shall be filled pursuant to §§ 24.2-226 and 24.2-228. In any county that has adopted the urban county
90 executive form of government and that has adopted an elected school board, any vacancy on the elected
91 school board shall be filled in accordance with the procedures set forth in § 15.2-802, mutatis mutandis.
92 Notwithstanding any provision of law or charter to the contrary, if no candidates file for election to a
93 school board office and no person who is qualified to hold the office is elected by write-in votes, a
94 vacancy shall be deemed to exist in the office as of January 1 or July 1, as the case may be, following
95 the general election. For the purposes of this subsection and Article 6 (§ 24.2-225 et seq.) of Chapter 2
96 of Title 24.2, local school boards comprised of elected and appointed members shall be deemed elected
97 school boards.

98 E. In order to have their names placed on the ballot, all candidates shall be nominated only by
99 petition as provided by general law pursuant to § 24.2-506.

100 F. For the purposes of this section, the election and term of the mayor or chairman of the board of
101 supervisors shall be deemed to be an election and term of a member of the governing body of the
102 municipality or county, respectively, whether or not the mayor or chairman is deemed to be a member
103 of the governing body for any other purpose.

104 G. No employee of a school board shall be eligible to serve on the board with whom he is
105 employed.

106 H. Any elected school board may appoint a qualified voter who is a resident of the county, city, or
107 town to cast the deciding vote in case of a tie vote of the school board as provided in § 22.1-75. The
108 term of office of each tiebreaker so appointed shall be four years whether the appointment is to fill a
109 vacancy caused by expiration of term or otherwise.

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