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HOUSE BILL NO. 1926

House Amendments in [] — January 31, 2013

A *BILL to amend and reenact §§ 2.2-1837, 2.2-2801, 15.2-1211, 22.1-34, 22.1-36, 22.1-37 through 22.1-40, 22.1-57.2, 22.1-57.3, 22.1-57.4, and 22.1-75 of the Code of Virginia and to repeal § 22.1-35 and Article 3 (§§ 22.1-41 through 22.1-46) of Chapter 5 of Title 22.1 of the Code of Virginia, relating to the abolition of school board selection commissions in school divisions composed of a single county.*

Patron Prior to Engrossment—Delegate Morris

Referred to Committee on Education

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-1837, 2.2-2801, 15.2-1211, 22.1-34, 22.1-36, 22.1-37 through 22.1-40, 22.1-57.2, 22.1-57.3, 22.1-57.4, and 22.1-75 of the Code of Virginia are amended and reenacted as follows:

§ 2.2-1837. Risk management plan for public liability.

A. Subject to the approval of the Governor, the Division shall establish a risk management plan, which may be purchased insurance, self-insurance or a combination of self-insurance and purchased insurance to provide:

1. Protection against liability imposed by law for damages resulting from any claim:

a. Made against any state department, agency, institution, board, commission, officer, agent, or employee for acts or omissions of any nature while acting in an authorized governmental or proprietary capacity and in the course and scope of employment or authorization;

b. Made against participants, other than professional counsel, in student disciplinary proceedings at public institutions of higher education for nonmalicious acts or omissions of any nature in the course and scope of participation in the proceedings; or

c. Resulting from an authorized indemnification agreement entered into by a Virginia public institution of higher education in accordance with this subsection.

A Virginia public institution of higher education may execute an indemnification agreement if the Governor (i) considers in advance of execution (a) the institution's analysis of the relevant public benefit and risk of liability, (b) the Division's charge to be assessed against the institution for providing insurance or self-insurance coverage for the claims resulting from the indemnification agreement, and (c) the Office of the Attorney General's comments and (ii) determines that execution is necessary to further the public's best interests.

The indemnification agreement shall limit the institution's total liability to a stated dollar amount and shall notify the contractor that the full faith and credit of the Commonwealth are not pledged or committed to payment of the institution's obligation under the agreement. However, no such institution shall be authorized to enter into an indemnification agreement in accordance with this subsection to indemnify any person or entity against damages arising from a sponsored project conducted by such institution. For the purposes of this section, a "sponsored project" is a research, instruction, or service project conducted at a Virginia public institution of higher education pursuant to a grant, cooperative agreement, or other contract;

2. Protection against tort liability and incidental medical payments arising out of the ownership, maintenance or use of buildings, grounds or properties owned or leased by the Commonwealth or used by state employees or other authorized persons in the course of their employment;

3. For the payment of attorney fees and expenses incurred in defending such persons and entities concerning any claim that (i) arises from their governmental employment or authorization, that (ii) arises from their participation in such student disciplinary proceedings, or (iii) is described in any such indemnification agreement, where the Division is informed by the Attorney General's office that it will not provide a defense due to a conflict or other appropriate reason; and

4. For the payment of attorney fees and expenses awarded to any individual or entity against the Commonwealth, or any department, agency, institution, board, commission, officer, agent, or employee of the Commonwealth for acts or omissions of any nature while acting in an authorized governmental or proprietary capacity, or in reliance upon any constitutional provision, or law of the Commonwealth. It is the obligation of the Division to provide for such indemnification regardless of whether there is a request for or an award of damages associated with the award of such fees and expenses.

a. As a condition of coverage for the payment of attorney fees and expenses, the department, agency, institution, board, commission, officer, agent, or employee of the Commonwealth shall (i) promptly notify the Division of the commencement of any claim, suit, action or other proceeding prior to its

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59 settlement, (ii) provide the Division with full nonprivileged information on the matter as requested, and
60 (iii) permit the Division to participate in the investigation of such claim, suit, action or other proceeding.
61 Failure to promptly notify the Division or to reasonably cooperate may, at the Division's discretion,
62 result in no payment or a reduced payment being made.

63 b. The Division shall set the premium and administrative costs to be paid to it for providing payment
64 of attorney fees and expenses awarded pursuant to this section. The premiums and administrative costs
65 set by the Division shall be payable in the amounts, at the time and in the manner that the Division in
66 its sole discretion requires. Premiums and administrative costs shall be set to best ensure the financial
67 stability of the plan.

68 B. Any risk management plan established pursuant to this section shall provide for the establishment
69 of a trust fund or contribution to the State Insurance Reserve Trust Fund for the payment of claims
70 covered under the plan. The funds shall be invested as provided in § 2.2-1806 and interest shall be
71 added to the fund as earned. The trust fund shall also provide for payment of administrative costs,
72 contractual costs, and other expenses related to the administration of such plan.

73 C. The risk management plan for public liability shall be submitted to the Governor for approval
74 prior to implementation.

75 D. The risk management plan established pursuant to this section shall provide protection against
76 professional liability imposed by law as provided in § 24.2-121, resulting from any claim made against a
77 local electoral board, any of its members, any general registrar, or any employee of or paid assistant to a
78 registrar for acts or omissions of any nature while acting in an authorized governmental or proprietary
79 capacity and in the course and scope of employment or authorization, regardless of whether or not the
80 civil action requests monetary damages, subject to the limitations of the risk management plan.

81 E. The risk management plan established pursuant to this section shall provide protection against any
82 claim made against any soil and water conservation district, director, officer, agent or employee thereof,
83 (i) arising out of the ownership, maintenance or use of buildings, grounds or properties owned, leased or
84 maintained by any such district or used by district employees or other authorized persons in the course
85 of their employment or (ii) arising out of acts or omissions of any nature while acting in an authorized
86 governmental or proprietary capacity and in the course and scope of employment or authorization.

87 F. ~~The risk management plan established pursuant to this section shall provide protection against~~
88 ~~professional liability imposed by law for damages resulting from any claim made against a local school~~
89 ~~board selection commission or local school board selection commission members for acts or omissions~~
90 ~~of any nature while acting in an authorized governmental or proprietary capacity and in the course and~~
91 ~~scope of authorization, subject to the limitations of the risk management plan.~~

92 G. The risk management plan established pursuant to this section shall provide coverage for any
93 matter that involves or could involve an action or proceeding against a judge, the nature of which is
94 designed to determine whether discipline or other sanction of the judge for malfeasance or misfeasance
95 is appropriate or to otherwise determine the fitness of the judge to hold office or to continue his
96 employment. No coverage or indemnification shall be made pursuant to this subsection when the
97 Supreme Court of Virginia finds that the judge should be censured or removed from office pursuant to
98 Section 10 of Article VI of the Constitution of Virginia or statutes enacted pursuant thereto.

99 H. ~~G.~~ The risk management plan established pursuant to this section shall provide protection against
100 claims made against chaplains by persons incarcerated in a state correctional facility, a juvenile
101 correctional center, or a facility operated pursuant to the Corrections Private Management Act
102 (§ 53.1-261 et seq.) arising out of services provided by the chaplains to such incarcerated persons,
103 regardless of whether such services were provided on a volunteer basis or for compensation. For the
104 purposes of this subsection, chaplains shall include only those persons, who, at the time any claim may
105 arise, were acting pursuant to, and in compliance with, an agreement between the chaplain or an
106 organization to which the chaplain belongs, and the Department of Corrections, the Department of
107 Juvenile Justice, or an operator of a facility operated pursuant to the Corrections Private Management
108 Act.

109 **§ 2.2-2801. Disability to hold state office; exceptions.**

110 A. Section 2.2-2800 shall not be construed to prevent:

111 1. Members of Congress from acting as visitors of the University of Virginia or the Virginia Military
112 Institute; or from holding offices in the militia;

113 2. United States commissioners ~~or~~, United States census enumerators, supervisors, or the clerks under
114 the supervisor of the United States census, ~~or~~ fourth-class or third-class postmasters, or United States
115 caretakers of the Virginia National Guard; from acting as notaries; ~~school board selection commission~~
116 ~~members~~, or supervisors; or from holding any district office under the government of any county; or the
117 office of councilman of any town or city in the Commonwealth;

118 3. Any United States rural mail carrier; or ~~star route mail~~ *highway contract route* carrier from being
119 appointed and acting as notary public or holding any county or district office;

120 4. Any civilian employee of the United States government from being appointed and acting as notary

public;

5. Any United States commissioners or United States park commissioners from holding the office of commissioner in chancery, bail commissioner, jury commissioner, commissioner of accounts, assistant commissioner of accounts, substitute or assistant civil justice, ~~or~~ assistant judge of a municipal court of any city or assistant judge of a juvenile and domestic relations district court of any city, or judge of any county court or juvenile and domestic relations district court of any county, or the municipal court or court of limited jurisdiction, by whatever name designated, of any incorporated town;

6. Any person employed by, or holding office or a post of profit, trust, or emolument, civil, legislative, executive, or judicial, under the government of the United States; from being a member of the militia or holding office therein; or from being a member or director of any board, council, commission, or institution of the Commonwealth who serves without compensation except one who serves on a per diem compensation basis;

7. Foremen, quartermen, leading men, artisans, clerks, or laborers; employed in any navy yard or naval reservation in Virginia from holding any office under the government of any city, town, or county in the Commonwealth;

8. Any United States government clerk from holding any office under the government of any town or city; or from being appointed as special policeman for a county by the circuit court or judge thereof as provided for in § 15.2-1737;

9. Any person holding an office under the United States government from holding a position under the management and control of the State Board of Health;

10. Any state federal director of the Commonwealth in the employment service of the United States Department of Labor from holding the office of Commissioner of Labor of the Commonwealth;

11. Clerks and employees of the federal government engaged in the departmental service in Washington from acting as school trustees;

12. Any person, who is otherwise eligible, from serving as a member of the governing body or school board of any county, city, or town, ~~or~~ as a member of any public body who is appointed by such governing body or school board, or as an appointive officer or employee of any county, city, or town or the school board thereof;

13. Game management agents of the United States Fish and Wildlife Service or United States deputy game wardens from acting as special conservation police officers;

14. Any appointive state or local official or employee from serving, with compensation, on an advisory board of the federal government;

15. Any state or local law-enforcement officer from serving as a United States law-enforcement officer; however, this subdivision shall not be construed to authorize any law-enforcement officer to receive double compensation;

16. Any United States law-enforcement officer from serving as a state or local law-enforcement officer when requested by the chief law-enforcement officer of the subject jurisdiction; however, this subdivision shall not be construed to authorize any law-enforcement officer to receive double compensation;

17. Any attorney for the Commonwealth or assistant attorney for the Commonwealth from serving as or performing the duties of a special assistant United States attorney or assistant United States attorney; however, this subdivision shall not be construed to authorize any attorney for the Commonwealth or assistant attorney for the Commonwealth to receive double compensation;

18. Any assistant United States attorney from serving as or performing the duties of an assistant attorney for the Commonwealth when requested by the attorney for the Commonwealth of the subject jurisdiction; however, this subdivision shall not be construed to authorize any assistant United States attorney to receive double compensation;

19. Any elected state or local official from serving, without compensation, on an advisory board of the federal government; however, this subdivision shall not be construed to prohibit reimbursement for actual expenses;

20. Sheriffs' deputies from patrolling federal lands pursuant to contracts between federal agencies and local sheriffs;

21. State judicial officers from performing acts or functions with respect to United States criminal proceedings when such acts or functions are authorized by federal law to be performed by state judicial officers; or

22. Any member of the Armed Forces of the United States from serving on the Virginia Military Advisory Council or the Virginia Offshore Wind Development Authority.

B. Nor shall § 2.2-2800 be construed to exclude:

1. A person to whom a pension has been granted by the United States or who receives retirement compensation in any manner from the United States; or any person receiving or entitled to receive benefits under the Federal Old-Age and Survivors' Insurance System or under the Federal Railroad

182 Retirement Act.

183 2. Officers or soldiers on account of the recompense they may receive from the United States when
184 called out in actual duty.

185 **§ 15.2-1211. Boundaries of magisterial and election districts.**

186 A. County magisterial district boundary lines and names shall be as the governing bodies may
187 establish. Subject to the provisions of § 24.2-304.1, whenever the boundaries of a county have been
188 altered, the governing body shall, as may be necessary, redistrict the county into magisterial districts,
189 change the boundaries of existing districts, change the name of any district, or increase or diminish the
190 number of districts.

191 B. Whenever redistricting of magisterial or election districts is required as a result of annexation, the
192 governing body of such county shall, within a reasonable time from the effective date of such
193 annexation, not to exceed ~~ninety~~ 90 days, commence the redistricting process, which shall be completed
194 within a reasonable time thereafter, not to exceed ~~twelve~~ 12 months.

195 C. A county may by ordinance provide that the magisterial districts of the county shall remain the
196 same, but that representation on the governing body shall be by election districts, in which event all
197 sections of this Code providing for election or appointment on the basis of magisterial districts shall be
198 construed to provide for election or appointment on the basis of election districts, including appointment
199 to a school board as prescribed by §§ 22.1-36 and 22.1-44.

200 **§ 22.1-34. Application of article.**

201 The school board in each county constituting a school division, except a county to which the
202 provisions of §§ 15.2-410, 15.2-531, 15.2-627, or 15.2-837 ~~or § 22.1-44~~ are applicable, shall be selected
203 as provided in this article.

204 **§ 22.1-36. Composition of school board; to be appointed by governing body.**

205 The county school board shall consist of the same number of members from each magisterial district
206 or, if the provisions of subsection C of § 15.2-1211 are applicable, election district in the county as
207 there are members of the board of supervisors from each such district in the county. Each school board
208 member shall be appointed by the ~~school board selection commission~~ *county governing body*. In addition
209 to the members selected by districts, the governing body may ~~authorize the school board selection~~
210 ~~commission to~~ appoint no more than two members from the county at large.

211 **§ 22.1-37. Notice by governing body of meeting for appointment.**

212 Before any appointment is made by the ~~school board selection commission~~ *county governing body*, it
213 shall give notice, by publication once a week for four successive weeks in a newspaper having general
214 circulation in such county, of the time and place of any meeting for the purpose of appointing the
215 members of the county school board. Such notice shall be given whether the appointment is of a
216 member or members of the county school board for the full term of office as provided by law or of a
217 member to fill a vacancy occurring in the membership of the county school board or of a member from
218 a new school district.

219 **§ 22.1-38. Terms of members of school board.**

220 Within ~~sixty~~ 60 days prior to July 1 in each and every year, the ~~school board selection commission~~
221 *county governing body* shall appoint, for terms of four years beginning July 1 next following their
222 appointment, successors to the members of the county school board whose terms of office expire on
223 June 30 of such year.

224 In any county having five or more districts in which it is found by the ~~school board selection~~
225 ~~commission~~ *county governing body* that it is not in the best interest of the schools for the terms of the
226 school board members from two certain districts to expire simultaneously and such terms have been so
227 expiring, the ~~commission~~ *governing body* may, on the next occasion thereafter for appointing successors
228 to the school board members from such two districts, appoint the member from one of such districts for
229 a term of one year with appointments thereafter to be made for terms of four years.

230 **§ 22.1-38.1. Provisions for school board where division consolidated as result of certain**
231 **governmental consolidations.**

232 A. Notwithstanding the provisions of §§ 22.1-38 and 22.1-57 or any other statutory provision, in any
233 consolidation of school divisions comprised of single cities and single counties, which consolidation
234 constitutes a part of a governmental consolidation resulting in the formation of a consolidated county
235 and a tier-city, the consolidation agreement may provide as follows:

236 1. The effective date for consolidation of school divisions may be prior or subsequent to the effective
237 date for general governmental consolidation.

238 2. Initial members of the consolidated school board selection committee may be selected as provided
239 in § 22.1-35 from the consolidating divisions at any time after certification by the appropriate electoral
240 boards of approval by referendum of the consolidation plan.

241 3. Initial members of the consolidated school board may be selected to assume office at any agreed
242 time prior to the effective date for consolidation of school divisions, only for such of the following
243 limited purposes as may be provided by the consolidation agreement or plan:

- 244 a. Organization of itself and election of one of its members as chairman.
 245 b. Preparation and approval of an initial budget applicable to the newly consolidated school divisions.
 246 c. Preparation of job descriptions, pay ranges, and qualifications for each position in the consolidated
 247 school division.
 248 d. Hiring of individuals to hold each position in the consolidated school division.
 249 e. Designation of school attendance zones.
 250 f. Allocation of office space and furniture to accommodate the administrative staff of the
 251 consolidated school division.
 252 g. Preparation of seniority lists and reductions in force policy.
 253 h. Approval of initial curriculum, grading systems, and all such forms of records as may be required.
 254 i. Adoption of a transportation plan for the consolidated school division.
 255 B. Any member of a school board of a consolidating school division may be appointed to the
 256 consolidated school board, and for the limited time period as provided in the consolidation agreement
 257 may hold both offices.

258 C. Upon the effective date of consolidation of school divisions, all school board members shall
 259 assume full powers, duties, rights, and responsibilities of their offices.

260 **§ 22.1-39. Vacancies in school board.**

261 Vacancies occurring in the membership of the county school board shall be filled for the unexpired
 262 term by the school board selection commission county governing body.

263 **§ 22.1-40. Appointment of tie breaker.**

264 The school board selection commission county governing body may, at the option of the governing
 265 body of the county, appoint a qualified voter who is a resident of the county to cast the deciding vote in
 266 case of a tie vote of the school board as provided in § 22.1-75. The term of office of each tie breaker so
 267 appointed shall be four years whether the appointment is to fill a vacancy caused by expiration of term
 268 or otherwise. The commission governing body shall give the notice required by § 22.1-37 before
 269 appointing any tie breaker.

270 **§ 22.1-57.2. Referendum on direct election of school board members by the voters.**

271 The registered voters of any such county, city, or town may, by petition filed with the circuit court
 272 thereof, ask that a referendum be held on the question of whether the members of the school board of
 273 the county, city, or town shall be elected directly by the voters. The petition shall be signed by
 274 registered voters equal in number to at least 10 percent of the number registered in such locality on the
 275 January 1 preceding its filing. Upon the filing of a petition, the circuit court shall order and require the
 276 election officials at the next general election to open the polls and take the sense of the voters therein
 277 on that question. The petition shall be filed with the court not less than 111 days prior to the general
 278 election. The clerk of the court shall cause notice of the referendum to be published once a week for the
 279 three consecutive weeks prior to the referendum in a newspaper having general circulation in the county,
 280 city, or town, and a copy of the notice shall be posted during the same time on the door of the
 281 courthouse of the county or city, or of the county within which the town is located. The question on the
 282 ballot shall be:

283 "Shall the method of selecting the school board be changed from appointment by the governing body
 284 (or the school board selection commission, whichever is applicable) to direct election by the voters?"

285 ☐ YES

286 ☐ NO"

287 The election shall be held and the results certified as provided in § 24.2-684.

288 **§ 22.1-57.3. Election of school board members; appointment of tie breaker.**

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

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

305 of a part of the locality, or any combination thereof, and for the apportionment of one or more school
306 board members to any district.

307 The terms of the members of the elected school board for any county, city, or town shall be the
308 same as the terms of the members of the governing body for the county, city, or town. In any locality in
309 which both the school board and the governing body are elected from election districts, as opposed to
310 being elected wholly on an at-large basis, the elections of the school board member and governing body
311 member from each specific district shall be held simultaneously except as otherwise provided in
312 §§ 22.1-57.3:1, 22.1-57.3:1.1, and 22.1-57.3:1.2.

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

322 Except as provided in §§ 22.1-57.3:1, 22.1-57.3:1.1, and 22.1-57.3:1.2, the terms of the members of
323 the school board shall be staggered only if the terms of the members of the governing body are
324 staggered. If there are more, or fewer, members on the school board than on the governing body, the
325 number of members to be elected to the school board at the first and subsequent election for school
326 board members shall be the number required to establish the staggered term structure so that (i) a
327 majority of the members of the school board is elected at the same time as a majority of the members
328 of the governing body; (ii) if one-half of the governing body is being elected and the school board has
329 an even number of members, one-half of the members of the school board is elected; (iii) if one-half of
330 the governing body is being elected and the school board has an odd number of members, the majority
331 by one member of the school board is elected at the first election and the remainder of the school board
332 is elected at the second election; or (iv) if a majority of the members of the governing body is being
333 elected and the school board has an even number of members, one-half of the members of the school
334 board is elected.

335 If the school board is elected at large and the terms of the members of the school board are
336 staggered, the school board members to be replaced at the first election shall include all appointed
337 school board members whose appointive terms are scheduled to expire on December 31 or on June 30,
338 as the case may be, next following the first election of county, city or town school board members. If
339 the number of school board members whose appointive terms are so scheduled to expire is zero or less
340 than the number of school board members to be elected at the first election, the appointed school board
341 members to be replaced at the first election shall also include those whose appointive terms are
342 scheduled to expire next subsequent to the date on which the terms of office of the first elected school
343 board members will commence. If the appointive terms of more than one school board member are
344 scheduled to expire simultaneously, but less than all of such members are to be replaced at the first
345 election, then the identity of such school board member or members to be replaced at the first election
346 shall be determined by a drawing held by the county or city electoral board at least ~~ten~~ 10 days prior to
347 the last day for a person to qualify as a candidate for school board member.

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

353 C. The terms of office for the school board members shall commence on January 1 or July 1, as the
354 case may be, following their election. On December 31 or June 30, as the case may be, following the
355 first election of county, city, or town school board members, the terms of office of the members of the
356 school board in office through appointment shall expire ~~and the school board selection commission, if~~
357 ~~there is one, shall be abolished.~~ If the entire school board is not elected at the first election of school
358 board members, only the terms of the appointed members being replaced shall so expire and the terms
359 of the appointed members being replaced at a subsequent election shall continue or be extended to
360 expire on December 31 or June 30, as appropriate, of the year of the election of the school board
361 members replacing them.

362 D. Except as otherwise provided herein, a vacancy in the office of any elected school board member
363 shall be filled pursuant to §§ 24.2-226 and 24.2-228. In any county that has adopted the urban county
364 executive form of government and that has adopted an elected school board, any vacancy on the elected
365 school board shall be filled in accordance with the procedures set forth in § 15.2-802, mutatis mutandis.
366 Notwithstanding any provision of law or charter to the contrary, if no candidates file for election to a

school board office and no person who is qualified to hold the office is elected by write-in votes, a vacancy shall be deemed to exist in the office as of January 1 or July 1, as the case may be, following the general election. For the purposes of this subsection and Article 6 (§ 24.2-225 et seq.) of Chapter 2 of Title 24.2, local school boards comprised of elected and appointed members shall be deemed elected school boards.

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

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

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

H. Any elected school board may appoint a qualified voter who is a resident of the county, city, or town to cast the deciding vote in case of a tie vote of the school board as provided in § 22.1-75. [*Any such appointment of a tie breaker shall be made at the annual organizational meeting of the school board.*] The term of office of each ~~tiebreaker~~ *tie breaker* so appointed shall be four years whether the appointment is to fill a vacancy caused by expiration of term or otherwise.

§ 22.1-57.4. Referendum to revert to appointment of the school board.

A. By the same procedure and under the same requirements as provided in § 22.1-57.2, the registered voters of any county, city, or town ~~which~~ *that* selects members of the school board by direct election of the voters may petition for, and the circuit court shall so order, a referendum on the question of changing from direct election of the school board to appointment of school board members by the governing body ~~or, if the petition so states in the case of a county, by a school board selection commission.~~ The question on the ballot shall be:

"Shall the method of selecting the school board be changed from direct election by the voters to appointment by the governing body ~~(or, if the petition in a county so requests, a school board selection commission)?~~

☐ YES

☐ NO"

B. If a majority of the qualified voters voting in such referendum vote in favor of changing the method of selecting school board members to appointment by the governing body ~~or by a school board selection commission, as the case may be,~~ the terms of the school board members in office through direct election shall terminate on June 30 following the referendum. ~~A school board selection commission shall be appointed pursuant to § 22.1-35 if a majority have voted in the referendum for that selection method.~~ The members of the appointed school board shall be appointed for the terms and in the manner provided in the article of this chapter or the chapter of Title 15.2 applicable to the county, city, or town in which the referendum has been held.

§ 22.1-75. Procedure in case of tie vote.

In any case in which there is a tie vote of the school board of any school division when all the members are not present, the question shall be passed by until the next meeting when it shall again be voted upon even though all members are not present. In any case in which there is a tie vote on any question after complying with this procedure or in any case in which there is a tie vote when all the members of the school board are present, the proceedings thereon shall be in conformity with the proceedings prescribed below, except that the tie breaker, if any, appointed pursuant to § 15.2-410, 15.2-531, 15.2-627, 15.2-837, 22.1-40, ~~22.1-44~~, 22.1-47, or 22.1-57.3, whichever is applicable, shall cast the deciding vote.

In any case in which there is a tie vote of the school board, the clerk shall record the vote; immediately notify the tie breaker to vote; and request his presence, if practicable, at the present meeting of the board. However, if that is not practicable, the board may adjourn to a day fixed in the minutes of the board or, in case of a failure to agree on a day, to a day the clerk fixes and enters in the minutes. At the present meeting or on the day named in the minutes, the tie breaker shall attend. He shall be entitled to be fully advised on the matter upon which he is to vote. If not prepared to vote at the time, he may require the clerk to enter an order adjourning the meeting to some future day, not to exceed ~~thirty~~ 30 days, to be named in the minutes. He may have continuances, not to exceed ~~thirty~~ 30 days, entered until he is ready to vote. When he votes, the clerk shall record his vote; the tie shall be broken; and the question shall be decided as he votes. If a meeting for any reason is not held on the day named in the minutes, the clerk shall enter on the minute book a day within ~~ten~~ 10 days as a substitute day and notify all the members, and this shall continue until a meeting is held. After a tie has occurred, the tie breaker shall be considered a member of the board for the purpose of counting a quorum for the sole purpose of breaking the tie.

428 2. That § 22.1-35 and Article 3 (§§ 22.1-41 through 22.1-46) of Chapter 5 of Title 22.1 of the Code
429 of Virginia are repealed.