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HOUSE BILL NO. 1926

AMENDMENT IN THE NATURE OF A SUBSTITUTE
(Proposed by the Senate Committee on Education and Health
on February 14, 2013)

(Patron Prior to Substitute—Delegate Morris)

A BILL to amend and reenact §§ 22.1-35, 22.1-36, 22.1-37, 22.1-38, 22.1-39, 22.1-40, 22.1-41, and 22.1-57.3 of the Code of Virginia, relating to school boards; selection and tie breakers.

Be it enacted by the General Assembly of Virginia:

1. That §§ 22.1-35, 22.1-36, 22.1-37, 22.1-38, 22.1-39, 22.1-40, 22.1-41, and 22.1-57.3 of the Code of Virginia are amended and reenacted as follows:

§ 22.1-35. School board selection commission.

In each county to which the provisions of this article are applicable, *except in the case of Southampton County*, there shall be a school board selection commission composed of three members appointed from the county at large or, upon the request of the county governing body, one member appointed from each election district of such county. Members shall be qualified voters, shall reside in the county and shall not be county or state officers. Members shall be appointed by the circuit court of the county within thirty days after the first day of July, 1950, and every four years thereafter. Any vacancy occurring other than by expiration of term shall be filled by the circuit court within thirty days after the vacancy occurs. Each member shall receive twenty-five dollars for each day actually engaged in the performance of duties as such member, to be paid out of the funds of the school board. No person regularly employed by the school board of the division shall be eligible to serve on or as clerk of such school board selection commission.

§ 22.1-36. Composition of school board; appointment.

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

§ 22.1-37. Notice by governing body or selection commission of meeting for appointment.

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

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

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

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

§ 22.1-39. Vacancies in school board.

Vacancies occurring in the membership of the county school board shall be filled for the unexpired term by the school board selection commission, *or in the case of Southampton County by the board of supervisors*.

§ 22.1-40. Appointment of tie breaker.

The school board selection commission may, at the option of the governing body of the county, *or in the case of Southampton County the board of supervisors may*, appoint a qualified voter who is a resident of the county to cast the deciding vote in case of a tie vote of the school board as provided in

60 § 22.1-75. The term of office of each tie breaker so appointed shall be four years whether the
61 appointment is to fill a vacancy caused by expiration of term or otherwise. The commission, *or in the*
62 *case of Southampton County the board of supervisors*, shall give the notice required by § 22.1-37 before
63 appointing any tie breaker.

64 **§ 22.1-41. Application of article.**

65 The provisions of this article shall be applicable in any county constituting a school division except
66 *Southampton County* or a county to which the provisions of §§ 15.2-410, 15.2-531, 15.2-627 or
67 § 15.2-837 are applicable.

68 **§ 22.1-57.3. Election of school board members; appointment of tie breaker.**

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

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

87 The terms of the members of the elected school board for any county, city, or town shall be the
88 same as the terms of the members of the governing body for the county, city, or town. In any locality in
89 which both the school board and the governing body are elected from election districts, as opposed to
90 being elected wholly on an at-large basis, the elections of the school board member and governing body
91 member from each specific district shall be held simultaneously except as otherwise provided in
92 §§ 22.1-57.3:1, 22.1-57.3:1.1, and 22.1-57.3:1.2.

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

102 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
103 the school board shall be staggered only if the terms of the members of the governing body are
104 staggered. If there are more, or fewer, members on the school board than on the governing body, the
105 number of members to be elected to the school board at the first and subsequent election for school
106 board members shall be the number required to establish the staggered term structure so that (i) a
107 majority of the members of the school board is elected at the same time as a majority of the members
108 of the governing body; (ii) if one-half of the governing body is being elected and the school board has
109 an even number of members, one-half of the members of the school board is elected; (iii) if one-half of
110 the governing body is being elected and the school board has an odd number of members, the majority
111 by one member of the school board is elected at the first election and the remainder of the school board
112 is elected at the second election; or (iv) if a majority of the members of the governing body is being
113 elected and the school board has an even number of members, one-half of the members of the school
114 board is elected.

115 If the school board is elected at large and the terms of the members of the school board are
116 staggered, the school board members to be replaced at the first election shall include all appointed
117 school board members whose appointive terms are scheduled to expire on December 31 or on June 30,
118 as the case may be, next following the first election of county, city or town school board members. If
119 the number of school board members whose appointive terms are so scheduled to expire is zero or less
120 than the number of school board members to be elected at the first election, the appointed school board
121 members to be replaced at the first election shall also include those whose appointive terms are

122 scheduled to expire next subsequent to the date on which the terms of office of the first elected school
 123 board members will commence. If the appointive terms of more than one school board member are
 124 scheduled to expire simultaneously, but less than all of such members are to be replaced at the first
 125 election, then the identity of such school board member or members to be replaced at the first election
 126 shall be determined by a drawing held by the county or city electoral board at least ~~ten~~ 10 days prior to
 127 the last day for a person to qualify as a candidate for school board member.

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

133 C. The terms of office for the school board members shall commence on January 1 or July 1, as the
 134 case may be, following their election. On December 31 or June 30, as the case may be, following the
 135 first election of county, city, or town school board members, the terms of office of the members of the
 136 school board in office through appointment shall expire and the school board selection commission, if
 137 there is one, shall be abolished. If the entire school board is not elected at the first election of school
 138 board members, only the terms of the appointed members being replaced shall so expire and the terms
 139 of the appointed members being replaced at a subsequent election shall continue or be extended to
 140 expire on December 31 or June 30, as appropriate, of the year of the election of the school board
 141 members replacing them.

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

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

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

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

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