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**HOUSE BILL NO. 866**

Offered January 11, 2012

Prefiled January 11, 2012

*A BILL to amend and reenact § 22.1-57.3 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 22.1-57.3:1.3, relating to the Fairfax County School Board; staggered elections.*

Patrons—Rust and Keam

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 and that the Code of Virginia is amended by adding a section numbered 22.1-57.3:1.3 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, 22.1-57.3:1.1, and 22.1-57.3:1.2, and 22.1-57.3:1.3.

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, 22.1-57.3:1.1, and 22.1-57.3:1.2, and 22.1-57.3:1.3, 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. 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

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

110 § 22.1-57.3:1.3. *Fairfax County School Board; staggered terms.*

111 *The school board of Fairfax County shall be elected as provided in § 22.1-57.3, except that upon a*  
112 *majority vote of its members the terms of school board members may be staggered as provided in this*  
113 *section. At the November 2015 general election, the at-large members and two members from districts,*  
114 *to be determined by lot by the electoral board of the county prior to its meeting immediately preceding*  
115 *the deadline for candidate filing, shall be elected for four-year terms and the remaining districts'*  
116 *successful candidates shall be elected for two-year terms.*

117 *Thereafter, all members shall be elected for four-year terms and the school board elections shall be*  
118 *conducted biennially for staggered terms.*