

14103156D

**HOUSE BILL NO. 1242**

Offered January 17, 2014

A *BILL to amend and reenact §§ 15.2-627, 22.1-57.3, and 22.1-75 of the Code of Virginia, relating to elected school boards; tie breaker.*

Patrons—O'Quinn, Kilgore and Chafin

Referred to Committee on Education

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 15.2-627, 22.1-57.3, and 22.1-75 of the Code of Virginia are amended and reenacted as follows:**

**§ 15.2-627. Department of education.**

The department of education shall consist of the county school board, the division superintendent of schools and the officers and employees thereof. Except as herein otherwise provided, the county school board and the division superintendent of schools shall exercise all the powers conferred and perform all the duties imposed upon them by general law. Except for the initial elected board which shall consist of five members, the county school board shall be composed of not less than three nor more than nine members; however, there shall be at least one school board member elected from each of the county's magisterial or election districts. The members shall be elected by popular vote from election districts coterminous with the election districts for the board of county supervisors. The exact number of members shall be determined by the board of county supervisors. Elections of school board members shall be held to coincide with the elections of members of the board of county supervisors at the regular general election in November. The terms of office for the county school board members shall be the same as the terms of the members of the board of county supervisors and shall commence on January 1 following their election.

A vacancy in the office of school board member shall be filled pursuant to §§ 24.2-226 and 24.2-228.

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.

The county school board may also ~~appoint a resident of the county to east create the position of tie breaker for the purpose of casting~~ the deciding vote in case of a tie vote of the school board as provided in § 22.1-75. The tie breaker, if any, shall be ~~appointed elected in the same manner as the members of the school board and shall be a resident of the county. The tie breaker shall serve for a~~ four-year term whether ~~appointed elected~~ to fill a vacancy caused by expiration of term or otherwise.

The chairman of the county school board, for the purpose of appearing before the board of county supervisors, shall be considered head of this department, unless some other person in the department shall be designated by the school board for such purpose.

**§ 22.1-57.3. Election of school board members; election 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 th0e 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

59 which both the school board and the governing body are elected from election districts, as opposed to  
60 being elected wholly on an at-large basis, the elections of the school board member and governing body  
61 member from each specific district shall be held simultaneously except as otherwise provided in  
62 §§ 22.1-57.3:1, 22.1-57.3:1.1, and 22.1-57.3:1.2.

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

72 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  
73 the school board shall be staggered only if the terms of the members of the governing body are  
74 staggered. If there are more, or fewer, members on the school board than on the governing body, the  
75 number of members to be elected to the school board at the first and subsequent election for school  
76 board members shall be the number required to establish the staggered term structure so that (i) a  
77 majority of the members of the school board is elected at the same time as a majority of the members  
78 of the governing body; (ii) if one-half of the governing body is being elected and the school board has  
79 an even number of members, one-half of the members of the school board is elected; (iii) if one-half of  
80 the governing body is being elected and the school board has an odd number of members, the majority  
81 by one member of the school board is elected at the first election and the remainder of the school board  
82 is elected at the second election; or (iv) if a majority of the members of the governing body is being  
83 elected and the school board has an even number of members, one-half of the members of the school  
84 board is elected.

85 If the school board is elected at large and the terms of the members of the school board are  
86 staggered, the school board members to be replaced at the first election shall include all appointed  
87 school board members whose appointive terms are scheduled to expire on December 31 or on June 30,  
88 as the case may be, next following the first election of county, city or town school board members. If  
89 the number of school board members whose appointive terms are so scheduled to expire is zero or less  
90 than the number of school board members to be elected at the first election, the appointed school board  
91 members to be replaced at the first election shall also include those whose appointive terms are  
92 scheduled to expire next subsequent to the date on which the terms of office of the first elected school  
93 board members will commence. If the appointive terms of more than one school board member are  
94 scheduled to expire simultaneously, but less than all of such members are to be replaced at the first  
95 election, then the identity of such school board member or members to be replaced at the first election  
96 shall be determined by a drawing held by the county or city electoral board at least ten days prior to the  
97 last day for a person to qualify as a candidate for school board member.

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

103 C. The terms of office for the school board members shall commence on January 1 or July 1, as the  
104 case may be, following their election. On December 31 or June 30, as the case may be, following the  
105 first election of county, city or town school board members, the terms of office of the members of the  
106 school board in office through appointment shall expire and the school board selection commission, if  
107 there is one, shall be abolished. If the entire school board is not elected at the first election of school  
108 board members, only the terms of the appointed members being replaced shall so expire and the terms  
109 of the appointed members being replaced at a subsequent election shall continue or be extended to  
110 expire on December 31 or June 30, as appropriate, of the year of the election of the school board  
111 members replacing them.

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

121 school boards.

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

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

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

130 H. Any elected school board may ~~appoint a qualified voter who is a resident of the county, city, or~~  
131 ~~town to east create the position of tie breaker for the purpose of casting the deciding vote in case of a~~  
132 ~~tie vote of the school board as provided in § 22.1-75. The tie breaker, if any, shall be elected in the~~  
133 ~~same manner as the members of the school board and shall be a qualified voter who is a resident of the~~  
134 ~~county, city, or town. The term of office of each tiebreaker tie breaker so appointed elected shall be four~~  
135 ~~years whether the appointment election is to fill a vacancy caused by expiration of term or otherwise.~~

136 **§ 22.1-75. Procedure in case of tie vote.**

137 In any case in which there is a tie vote of the school board of any school division when all the  
138 members are not present, the question shall be passed by until the next meeting when it shall again be  
139 voted upon even though all members are not present. In any case in which there is a tie vote on any  
140 question after complying with this procedure or in any case in which there is a tie vote when all the  
141 members of the school board are present, the proceedings thereon shall be in conformity with the  
142 proceedings prescribed below, except that the tie breaker, if any, appointed pursuant to § 15.2-410,  
143 15.2-531, ~~15.2-627~~, 15.2-837, 22.1-40, 22.1-44, or 22.1-47; or *elected pursuant to § 15.2-627 or*  
144 *22.1-57.3, whichever is applicable, shall cast the deciding vote.*

145 In any case in which there is a tie vote of the school board, the clerk shall record the vote;  
146 immediately notify the tie breaker to vote; and request his presence, if practicable, at the present  
147 meeting of the board. However, if that is not practicable, the board may adjourn to a day fixed in the  
148 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  
149 minutes. At the present meeting or on the day named in the minutes, the tie breaker shall attend. He  
150 shall be entitled to be fully advised on the matter upon which he is to vote. If not prepared to vote at  
151 the time, he may require the clerk to enter an order adjourning the meeting to some future day, not to  
152 exceed thirty days, to be named in the minutes. He may have continuances, not to exceed thirty days,  
153 entered until he is ready to vote. When he votes, the clerk shall record his vote; the tie shall be broken;  
154 and the question shall be decided as he votes. If a meeting for any reason is not held on the day named  
155 in the minutes, the clerk shall enter on the minute book a day within ten days as a substitute day and  
156 notify all the members, and this shall continue until a meeting is held. After a tie has occurred, the tie  
157 breaker shall be considered a member of the board for the purpose of counting a quorum for the sole  
158 purpose of breaking the tie.

159 **2. That the provisions of this act shall not be construed to affect the term of any tie breaker**  
160 **appointed by an elected school board prior to July 1, 2014.**