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SENATE BILL NO. 502

Offered January 11, 2006

Prefiled January 11, 2006

A BILL to amend and reenact §§ 22.1-57.3 and 22.1-75 of the Code of Virginia, relating to the appointment of tie breakers by an elected school board.

Patron—Puckett

Referred to Committee on Education and Health

Be it enacted by the General Assembly of Virginia:**1. That §§ 22.1-57.3 and 22.1-75 of the Code of Virginia are 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. 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 elected and the school board has an even number of members, one-half of the members of the school board is elected.

If the school board is elected at large and the terms of the members of the school board are

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

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

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

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

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

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

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

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

107 § 22.1-75. Procedure in case of tie vote.

108 In any case in which there is a tie vote of the school board of any school division in a county when
109 all the members are not present, the question shall be passed by until the next meeting when it shall
110 again be voted upon even though all members are not present. In any case in which there is a tie vote
111 on any question after complying with this procedure or in any case in which there is a tie vote when all
112 the members of the school board are present, the proceedings thereon shall be in conformity with the
113 proceedings prescribed below, except that the tie breaker, if any, appointed pursuant to §§ 15.2-410,
114 15.2-531, 15.2-627, 15.2-837, 22.1-40, 22.1-44, ~~or~~ § 22.1-47, or 22.1-57.3, whichever is applicable, shall
115 cast the deciding vote.

116 In any case in which there is a tie vote of the school board, the clerk shall record the vote;
117 immediately notify the tie breaker to vote; and request his presence, if practicable, at the present
118 meeting of the board. However, if that is not practicable, the board may adjourn to a day fixed in the
119 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
120 minutes. At the present meeting or on the day named in the minutes, the tie breaker shall attend. He

121 shall be entitled to be fully advised on the matter upon which he is to vote. If not prepared to vote at
122 the time, he may require the clerk to enter an order adjourning the meeting to some future day, not to
123 exceed thirty days, to be named in the minutes. He may have continuances, not to exceed thirty days,
124 entered until he is ready to vote. When he votes, the clerk shall record his vote; the tie shall be broken;
125 and the question shall be decided as he votes. If a meeting for any reason is not held on the day named
126 in the minutes, the clerk shall enter on the minute book a day within ten days as a substitute day and
127 notify all the members, and this shall continue until a meeting is held. After a tie has occurred, the tie
128 breaker shall be considered a member of the board for the purpose of counting a quorum for the sole
129 purpose of breaking the tie.

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