

SENATE BILL 747

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9lr2134
CF HB 238

By: **Senators Lam, Guzzone, and Rosapepe**
Introduced and read first time: February 4, 2019
Assigned to: Education, Health, and Environmental Affairs

Committee Report: Favorable with amendments
Senate action: Recommitted to Education, Health, and Environmental Affairs (Senator Lam), March 7, 2019
Committee Report: Favorable with amendments
Senate action: Adopted with floor amendments
Read second time: March 26, 2019
Returned to second reading: March 27, 2019
Senate action: Adopted with floor amendments
Read second time: March 27, 2019

CHAPTER _____

1 AN ACT concerning

2 **Education – Removal of County Superintendents – Procedures**

3 FOR the purpose of requiring the State Superintendent of Schools to provide a county
4 superintendent of schools with certain information if the State Superintendent
5 intends to remove the county superintendent; authorizing a county board of
6 education to ~~file a complaint with the State Superintendent of Schools requesting~~
7 ~~the removal of~~ remove a county superintendent of schools in a certain manner;
8 authorizing a county superintendent to appeal a certain decision by the State
9 Superintendent to the State Board of Education; authorizing a county
10 superintendent to appeal a certain decision by the county board to the State Board;
11 ~~specifying the manner in which a county board may file a certain complaint;~~
12 ~~requiring the State Superintendent to make a decision to remove or retain a county~~
13 ~~superintendent within a certain period of time; requiring the State Superintendent~~
14 ~~to provide a county board with a written explanation of a certain decision; altering~~
15 ~~the period of time within which a county superintendent may request a hearing after~~
16 ~~being removed; establishing a period of time during which the State Superintendent~~
17 ~~may hold a certain hearing under certain circumstances; authorizing a county~~
18 ~~superintendent to request arbitration under certain circumstances; authorizing the~~
19 ~~county superintendent to appeal a certain decision to the State Board of Education~~

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



~~or an arbitrator; specifying the procedures for arbitration; assigning responsibility for certain costs; providing that an arbitrator's decision and award is final and binding on the parties, subject to review by a circuit court; authorizing the county superintendent or, under certain circumstances, the county board to appeal a certain decision to the State Board of Education; making stylistic changes; and generally relating to the procedures for removing a county superintendent of schools.~~

BY repealing and reenacting, with amendments,
 Article – Education
 Section 4–201
 Annotated Code of Maryland
 (2018 Replacement Volume and 2018 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
 That the Laws of Maryland read as follows:

Article – Education

4–201.

(a) (1) This section does not apply to Baltimore City.

(2) Subsections (b), (c), (d), and (f) of this section do not apply in Prince George's County.

(b) (1) The term of a county superintendent is 4 years beginning on July 1. A county superintendent continues to serve until a successor is appointed and qualifies.

(2) By February 1 of the year in which a term ends, the county superintendent shall notify the county board whether the superintendent is a candidate for reappointment.

(3) In the year in which a term begins, the county board shall appoint a county superintendent between February 1 and June 30. However, if the county board decides to reappoint the incumbent superintendent, the county board shall take final action at a public meeting no later than March 1 of that year.

(4) If a county board is unable to appoint a county superintendent by July 1 of a year in which a term begins, the provisions of subsection (d) of this section apply.

(c) (1) An individual may not be appointed as county superintendent unless the individual:

(i) Is eligible to be issued a certificate for the office by the State Superintendent;

(ii) Has graduated from an accredited college or university; and

1 (iii) Has completed 2 years of graduate work at an accredited college
2 or university, including public school administration, supervision, and methods of teaching.

3 (2) The appointment of a county superintendent is not valid unless
4 approved in writing by the State Superintendent.

5 (3) If the State Superintendent disapproves an appointment, [he] **THE**
6 **STATE SUPERINTENDENT** shall give [his] **THE** reasons for disapproval in writing to the
7 county board.

8 (d) If a vacancy occurs in the office of county superintendent, the county board
9 shall appoint an interim county superintendent who serves until July 1 after [his] **THE**
10 **INTERIM COUNTY SUPERINTENDENT'S** appointment.

11 (e) (1) **[The] SUBJECT TO THE PROVISIONS OF THIS SUBSECTION, THE**
12 **State Superintendent OR A COUNTY BOARD** may remove a county superintendent for:

- 13 (i) Immorality;
- 14 (ii) Misconduct in office;
- 15 (iii) Insubordination;
- 16 (iv) Incompetency; or
- 17 (v) Willful neglect of duty.

18 ~~(2) (I) A COUNTY BOARD MAY FILE A COMPLAINT WITH THE STATE~~
19 ~~SUPERINTENDENT REQUESTING THE REMOVAL OF THE COUNTY SUPERINTENDENT~~
20 ~~UNDER THIS SUBSECTION.~~

21 ~~(II) IN FILING A COMPLAINT UNDER THIS PARAGRAPH, THE~~
22 ~~COUNTY BOARD SHALL PROVIDE, IN A MANNER PRESCRIBED BY THE STATE~~
23 ~~SUPERINTENDENT:~~

24 ~~1. THE REASON FOR REMOVAL, CHOSEN FROM ONE OR~~
25 ~~MORE OF THE ITEMS IN PARAGRAPH (1) OF THIS SUBSECTION; AND~~

26 ~~2. DOCUMENTATION SUPPORTING THE CASE FOR~~
27 ~~REMOVAL.~~

28 ~~(III) WITHIN 90 DAYS OF RECEIVING A COMPLAINT UNDER THIS~~
29 ~~PARAGRAPH, THE STATE SUPERINTENDENT SHALL MAKE A DECISION TO REMOVE~~
30 ~~OR RETAIN THE COUNTY SUPERINTENDENT.~~

~~(IV) THE STATE SUPERINTENDENT SHALL PROVIDE THE COUNTY BOARD WITH A WRITTEN EXPLANATION OF THE REASON FOR THE STATE SUPERINTENDENT'S DECISION.~~

~~[(2)] (3) Before removing a county superintendent, the State Superintendent shall send the county superintendent a copy of the charges against the county superintendent and give the county superintendent an opportunity within [10] 30 days to request [a]:~~

~~(I) A hearing BEFORE THE STATE SUPERINTENDENT; OR~~

~~(II) A HEARING BEFORE AN ARBITRATOR IN ACCORDANCE WITH PARAGRAPH (5) OF THIS SUBSECTION~~

(I) THE STATE SUPERINTENDENT MAY REMOVE A COUNTY SUPERINTENDENT UNDER THIS SUBSECTION IF THE STATE SUPERINTENDENT PROVIDES THE COUNTY SUPERINTENDENT WITH:

~~(I)~~ 1. THE REASON FOR REMOVAL, CHOSEN FROM ONE OR MORE OF THE ITEMS IN PARAGRAPH (1) OF THIS SUBSECTION;

~~(II)~~ 2. DOCUMENTATION SUPPORTING THE CASE FOR REMOVAL; AND

~~(III)~~ 3. THE OPPORTUNITY TO REQUEST A HEARING WITHIN 10 DAYS BEFORE THE STATE SUPERINTENDENT IN ACCORDANCE WITH THIS SUBSECTION.

(II) THE COUNTY SUPERINTENDENT MAY APPEAL THE DECISION OF THE STATE SUPERINTENDENT TO THE STATE BOARD.

~~[(3)] (4) If the county superintendent requests a hearing BEFORE THE STATE SUPERINTENDENT within the [10-day] 30-DAY period:~~

(i) The State Superintendent promptly shall hold a hearing~~], but a hearing may not be set within 10] THAT SHALL BE SET:~~

~~1. NOT EARLIER THAN 11 days after the State Superintendent sends the county superintendent a notice of the hearing; AND~~

~~2. IF THE DECISION FOR REMOVAL ORIGINATED FROM A COMPLAINT UNDER PARAGRAPH (2) OF THIS SUBSECTION, WITHIN 90 DAYS OF RECEIVING A COMPLAINT FROM THE COUNTY BOARD; and~~

1 (ii) The county superintendent shall have an opportunity to be heard
2 publicly before the State Superintendent in the county superintendent's own defense, in
3 person or by counsel.

4 (4) (I) A COUNTY BOARD MAY REMOVE A COUNTY
5 SUPERINTENDENT UNDER THIS SUBSECTION IF THE COUNTY BOARD PROVIDES THE
6 COUNTY SUPERINTENDENT WITH:

7 ~~(I) 1. THE REASON FOR REMOVAL, CHOSEN FROM ONE OR~~
8 ~~MORE OF THE ITEMS IN PARAGRAPH (1) OF THIS SUBSECTION; AND~~

9 ~~(II) 2. DOCUMENTATION SUPPORTING THE CASE FOR~~
10 ~~REMOVAL; AND; AND~~

11 ~~3. THE OPPORTUNITY TO REQUEST A HEARING WITHIN~~
12 ~~10 DAYS BEFORE THE COUNTY BOARD IN ACCORDANCE WITH THIS SUBSECTION.~~

13 ~~(II) THE COUNTY SUPERINTENDENT MAY APPEAL THE~~
14 ~~DECISION OF THE COUNTY BOARD TO THE STATE BOARD.~~

15 ~~(III) THE OPPORTUNITY TO REQUEST A HEARING WITHIN 10~~
16 ~~DAYS BEFORE THE COUNTY BOARD IN ACCORDANCE WITH THIS SUBSECTION.~~

17 ~~(5) IF A COUNTY SUPERINTENDENT REQUESTS A HEARING BEFORE~~
18 ~~THE COUNTY BOARD WITHIN THE 10-DAY PERIOD:~~

19 ~~(I) THE COUNTY BOARD PROMPTLY SHALL HOLD A HEARING,~~
20 ~~BUT A HEARING MAY NOT BE SET WITHIN 10 DAYS AFTER THE COUNTY BOARD SENDS~~
21 ~~THE COUNTY SUPERINTENDENT A NOTICE OF THE HEARING; AND~~

22 ~~(II) THE COUNTY SUPERINTENDENT SHALL HAVE AN~~
23 ~~OPPORTUNITY TO BE HEARD PUBLICLY BEFORE THE COUNTY BOARD IN THE COUNTY~~
24 ~~SUPERINTENDENT'S OWN DEFENSE, IN PERSON OR BY COUNSEL.~~

25 ~~(6) THE COUNTY SUPERINTENDENT MAY APPEAL THE DECISION OF~~
26 ~~THE STATE SUPERINTENDENT OR THE COUNTY BOARD TO:~~

27 ~~(I) THE STATE BOARD; OR~~

28 ~~(II) AN ARBITRATOR IN ACCORDANCE WITH PARAGRAPH (7) OF~~
29 ~~THIS SUBSECTION.~~

~~(5) (7) (i) If the county superintendent requests a hearing before an arbitrator within the 30 day period, the hearing appeals the decision of the state superintendent or the county board to an arbitrator, the hearing before the arbitrator shall be conducted in accordance with this paragraph.~~

~~(ii) 1. An arbitrator shall be selected as provided in this subparagraph.~~

~~2. If the state superintendent or county board and the county superintendent agree on an arbitrator, the arbitrator shall be chosen by mutual agreement of the parties.~~

~~3. If the state superintendent or county board and the county superintendent cannot agree on an arbitrator:~~

~~A. The state superintendent or county board shall request from the American Arbitration Association a list of the arbitrators that are available to hear this type of dispute and make a decision in a timely manner; and~~

~~B. The parties alternately shall strike arbitrators from the list.~~

~~(iii) A stenographic record shall be made of the proceedings before the arbitrator.~~

~~(iv) 1. The arbitrator shall determine whether the state superintendent or county board has sufficient cause for removal of the county superintendent.~~

~~2. A lesser penalty than removal may be imposed by the arbitrator only to the extent that either party proposes the lesser penalty in the proceeding.~~

~~(v) 1. The state superintendent or county board and the county superintendent shall pay their own respective costs and expenses associated with any witness or evidence produced by the respective parties.~~

~~2. If the arbitrator determines that the state superintendent or county board had sufficient cause to remove the county superintendent, the county superintendent shall pay the fees~~

1 ~~AND EXPENSES INCURRED OR CHARGED BY THE ARBITRATOR AND THE~~
2 ~~ADMINISTRATIVE FEES, IF ANY, OF THE AMERICAN ARBITRATION ASSOCIATION.~~

3 ~~3. IF THE ARBITRATOR DETERMINES THAT THE STATE~~
4 ~~SUPERINTENDENT OR COUNTY BOARD DID NOT HAVE SUFFICIENT CAUSE TO~~
5 ~~REMOVE THE COUNTY SUPERINTENDENT, THE STATE SUPERINTENDENT OR~~
6 ~~COUNTY BOARD SHALL PAY THE FEES AND EXPENSES INCURRED OR CHARGED BY~~
7 ~~THE ARBITRATOR AND THE ADMINISTRATIVE FEES, IF ANY, OF THE AMERICAN~~
8 ~~ARBITRATION ASSOCIATION.~~

9 ~~(VI) 1. THE DECISION AND AWARD BY THE ARBITRATOR ARE~~
10 ~~FINAL AND BINDING ON THE PARTIES.~~

11 ~~2. AN INDIVIDUAL A PARTY MAY REQUEST JUDICIAL~~
12 ~~REVIEW BY A CIRCUIT COURT, WHICH SHALL BE GOVERNED BY THE MARYLAND~~
13 ~~UNIFORM ARBITRATION ACT.~~

14 ~~(6) THE COUNTY SUPERINTENDENT OR, IN CASES ORIGINATING FROM~~
15 ~~A COMPLAINT OF THE COUNTY BOARD UNDER PARAGRAPH (2) OF THIS SUBSECTION,~~
16 ~~THE COUNTY BOARD MAY APPEAL THE DECISION OF THE STATE SUPERINTENDENT~~
17 ~~TO THE STATE BOARD.~~

18 (f) On notification of pending criminal charges against a county superintendent
19 as provided under § 4-206 of this subtitle, the county board may suspend the county
20 superintendent with pay until the final disposition of the criminal charges.

21 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July
22 1, 2019.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.