

HB0862/463623/1

BY: Education, Health, and Environmental Affairs Committee

AMENDMENTS TO HOUSE BILL 862
(Third Reading File Bill)

AMENDMENT NO. 1

On page 1, at the top of the page, insert “EMERGENCY BILL”; in line 2, strike “**Ballot Canvassing – Multiple Ballots Cast by an Individual**” and substitute “**Ballots – Processing and Reporting Procedures**”; in line 3, after “canvassing” insert “of and curing of errors on”; strike beginning with “when” in line 4 down through “election” in line 6 and substitute “; repealing the requirements that a certain statement of election results be by precinct and that the local boards of elections publish copies of the complete election results in a certain manner; requiring that a certain report of election results by the State Board of Elections be reported by precinct, including reports of the early, absentee, and provisional vote; and generally relating to ballot processing and reporting procedures”; strike in their entirety lines 7 through 11, inclusive; and strike line 14 in its entirety and substitute “Section 11–101, 11–302, 11–303(d), and 11–402”.

AMENDMENT NO. 2

On page 2, after line 3, insert:

“11–101.

(a) In this title the following words have the meanings indicated.

(b) “Board of canvassers” means the local board of elections in a county after the local board organizes itself for the purpose of canvassing the vote [after] **FOR** an election in that county.

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(c) (1) “Canvass” means the entire process of vote tallying, vote tabulation, and vote verification [or audit], culminating in the production and certification of the official election results.

(2) For absentee ballots, the “canvass” includes the opening of any envelope accompanying an absentee ballot and the assembly and review of absentee ballots in preparation for vote tallying.

(3) For provisional ballots, the “canvass” includes the review of the provisional ballot applications described in § 11–303 of this title and the assembly and review of provisional ballots in preparation for vote tallying.

(4) For votes cast during early voting, the “canvass” includes the tabulation of votes cast during early voting.

(5) For votes cast in a special election conducted by mail under Title 9, Subtitle 5 of this article, the “canvass” includes:

(i) the opening of any envelope accompanying a vote-by-mail ballot and the assembly and review of vote-by-mail ballots in preparation for vote tabulation; and

(ii) the tabulation of vote-by-mail ballots.

(d) “Counting center” means one or more central locations designated by a local board to conduct the canvass.

(e) “Removable data storage device” means a read-only memory device that is programmed to record votes as they are cast on an electronic voting system.

(f) (1) “Unofficial returns” means [a] vote [tabulation] TOTALS reported on election night after the polls close.

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(2) “Unofficial returns” does not include [the absentee ballot count or] the provisional ballot count.

(g) “Vote tabulation” or “vote counting” means the aggregation of the votes cast by individual voters to produce vote totals at any level.

(h) “Vote tallying” means the recording of votes cast by individual voters on a certified voting system [whether done by:

(1) a mechanical lever voting machine;

(2) an electronic voting device; or

(3) making marks manually on a tally sheet].”;

and after line 4, insert:

“(a) (1) [Following an election, each] EACH local board shall meet at its designated counting center to canvass the absentee ballots cast in that election in accordance with the regulations and guidelines established by the State Board.

(2) PROMPTLY AFTER RECEIPT OF AN ABSENTEE BALLOT, A LOCAL BOARD SHALL REVIEW THE BALLOT ENVELOPE OR BALLOT/RETURN ENVELOPE FOR THE OMISSION OF THE VOTER’S SIGNATURE ON THE OATH.

(b) (1) [A] SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION AND EXCEPT AS PROVIDED IN SUBSECTION (A)(2) OF THIS SECTION, A local board may not [open] ACCEPT, REJECT, OPEN, OR PROCESS any [envelope of an] absentee ballot [prior to] BEFORE 8 a.m. on the [Wednesday following election day] DAY THAT IS 8 BUSINESS DAYS BEFORE THE FIRST DAY OF EARLY VOTING.

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(2) A local board may not delay the commencement of the canvass to await the receipt of late-arriving, timely absentee ballots.

(3) A LOCAL BOARD OR AN EMPLOYEE OF A LOCAL BOARD MAY NOT TABULATE ABSENTEE BALLOT VOTE TOTALS BEFORE THE POLLS CLOSE ON ELECTION DAY.

(c) (1) An absentee ballot shall be deemed timely received if it is received in accordance with the regulations and guidelines established by the State Board.

(2) An absentee ballot that is received after the deadline specified by the regulations and guidelines may not be counted.

(d) (1) The State Board shall adopt regulations that reflect the policy that the clarity of the intent of the voter is the overriding consideration in determining the validity of an absentee ballot or the vote cast in a particular contest.

(2) [A] SUBJECT TO § 11-303.2 OF THIS SUBTITLE, A local board may not reject an absentee ballot except by unanimous vote and in accordance with regulations of the State Board.

(3) The local board shall reject an absentee ballot if:

(i) the voter failed to sign the oath on the ballot envelope OR BALLOT/RETURN ENVELOPE AND FAILED TO CORRECT THE OMISSION BEFORE 10 A.M. ON THE DAY THAT IS 10 DAYS AFTER ELECTION DAY;

(ii) the local board received more than one ballot from the same individual for the same election in the same ballot envelope; or

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(iii) the local board determines that an absentee ballot is intentionally marked with an identifying mark that is clearly evident and placed on the ballot for the purpose of identifying the ballot.

(4) (I) THE STATE BOARD SHALL ADOPT REGULATIONS REQUIRING A LOCAL BOARD TO:

1. AS SOON AS PRACTICABLE BUT NOT LATER THAN 3 BUSINESS DAYS AFTER THE DATE ON WHICH IT WAS DETERMINED THAT A VOTER FAILED TO SIGN THE OATH ON THE BALLOT ENVELOPE OR BALLOT/RETURN ENVELOPE, NOTIFY THE VOTER OF THE FAILURE; AND

2. PROVIDE THE VOTER AN OPPORTUNITY TO CORRECT THE OMISSION AND HAVE THE BALLOT COUNTED.

(II) THE REGULATIONS UNDER THIS PARAGRAPH SHALL ALLOW A VOTER TO:

1. SUPPLY A SIGNATURE TO THE LOCAL BOARD THROUGH A DIGITAL PICTURE MESSAGE SENT BY E-MAIL OR, BEGINNING JUNE 1, 2023, MOBILE TELEPHONE, IF THE VOTER FAILED TO SIGN THE OATH ON THE BALLOT ENVELOPE OR BALLOT/RETURN ENVELOPE; AND

2. CHOOSE AMONG MULTIPLE METHODS OF COMMUNICATING WITH THE LOCAL BOARD TO CORRECT THE FAILURE TO SIGN THE OATH ON THE BALLOT ENVELOPE OR BALLOT/RETURN ENVELOPE, INCLUDING:

A. E-MAIL;

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B. A MAILED FORM;

**C. AN IN-PERSON VISIT TO THE LOCAL BOARD
OFFICE; AND**

**D. BEGINNING JUNE 1, 2023, TEXT MESSAGE AND AN
ACCESSIBLE ONLINE PORTAL.**

[(4) If the local board receives more than one legally sufficient ballot, in separate envelopes, from the same individual, the local board shall:

- (i) count only the ballot with the latest properly signed oath; and
- (ii) reject any other ballot.]

(5) If the intent of the voter is not clearly demonstrated, the local board shall reject only the vote for that office or question.

(6) If an absentee voter casts a vote for an individual who has ceased to be a candidate, the vote for that candidate may not be counted, but that vote does not invalidate the remainder of the ballot.

(e) [At] BEGINNING AFTER THE POLLS CLOSE ON ELECTION DAY, AT the end of each day of canvassing, a local board shall prepare and release a report of the unofficial [results] RETURNS of the absentee ballot vote tabulation.”.

On pages 2 and 3, strike in their entirety the lines beginning with line 5 on page 2 through line 5 on page 3, inclusive.

On page 3, after line 5, insert:

“11-303.

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(d) (1) [A] SUBJECT TO § 11-303.2 OF THIS SUBTITLE, A local board may not reject a provisional ballot except by unanimous vote and in accordance with regulations of the State Board.

(2) The local board shall reject a provisional ballot if:

(i) pursuant to paragraph (4) of this subsection, the local board determines that the individual who cast the provisional ballot is not qualified to vote that provisional ballot;

(ii) the individual failed to sign the oath on the provisional ballot application; OR

(iii) [the individual cast more than one ballot for the same election; or

(iv)] the local board determines that a provisional ballot is intentionally marked with an identifying mark that is clearly evident and placed on the ballot for the purpose of identifying the ballot.

(3) If the intent of the voter with respect to a particular contest is not clearly demonstrated, the local board shall reject only the vote for that contest.

(4) For the purposes of this section, an individual is qualified to vote the provisional ballot cast if the local board determines that:

(i) the individual is registered in the State;

(ii) if the provisional ballot was cast because the voter failed to provide required identification, the individual who cast the provisional ballot has met the identification requirements established by the State Board; and

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(iii) if the provisional ballot was cast during a period covered by a court order or other order extending the time for closing the polls, the order has not been invalidated by a subsequent court order.”;

and after line 11, insert:

“11-402.

(a) Unless otherwise provided by the Maryland Constitution, and [except as provided in] SUBJECT TO subsection (b) of this section, each board of canvassers shall prepare a statement of election results [by precinct] for each candidate or question voted on at the election and declare:

(1) who is elected or nominated for office:

(i) in county government; or

(ii) for any other office voted for only within that county, if the certificate of candidacy for that office was issued by the local board; and

(2) whether or not a question is adopted or approved.

(b) The statement prepared by the board of canvassers under SUBSECTION (A) OF this section [may not] SHALL report the EARLY, absentee, AND PROVISIONAL vote separately [by precinct].

[(c) Each local board shall publish a sufficient number of copies of the complete election results, tabulated by precinct, and shall make the copies available to the public at cost.]

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[(d)] (C) (1) In addition to the statement of election results specified under subsection (a) of this section, the State Board shall make available in an electronic format a report of election results for each candidate or question voted on at the election:

(i) by precinct, INCLUDING THE EARLY, ABSENTEE, AND PROVISIONAL VOTE;

(ii) by State legislative district, including any subdistrict;

(iii) by county legislative district; and

(iv) for each county as a whole.

(2) The State Board may make the report specified under paragraph (1) of this subsection available to the public at cost.

SECTION 2. AND BE IT FURTHER ENACTED, That, notwithstanding § 11–302(b)(3) of the Election Law Article, as enacted by Section 1 of this Act, only during the 2022 statewide primary election, a local board of elections or an employee of a local board:

(1) may tabulate absentee ballot vote totals before the polls close on election day; and

(2) may not release absentee ballot vote totals before the polls close on election day.”;

in line 12, strike “2.” and substitute “3.”; and in lines 12 and 13, strike “shall take effect June 1, 2022” and substitute “is an emergency measure, is necessary for the immediate preservation of the public health or safety, has been passed by a ye and nay vote supported by three-fifths of all the members elected to each of the two Houses of the General Assembly, and shall take effect from the date it is enacted”.