

HOUSE BILL 760

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By: **Delegate Kaiser**

Introduced and read first time: January 29, 2021

Assigned to: Ways and Means

A BILL ENTITLED

1 AN ACT concerning

2 **Election Law – Time for Processing Absentee Ballots**

3 FOR the purpose of authorizing a local board of elections to take certain actions to prepare
4 an absentee ballot for tabulation during a certain period; prohibiting a local board
5 from tabulating absentee ballots before a certain time; altering a requirement that
6 a local board prepare and release a report of the unofficial results of the absentee
7 ballot tabulation at the end of the each day of canvassing to apply the requirement
8 only to a certain period; repealing the prohibition on a local board opening an
9 envelope of an absentee ballot before a certain time; making a conforming change;
10 and generally relating to the time for processing absentee ballots.

11 BY repealing and reenacting, with amendments,
12 Article – Election Law
13 Section 11–302
14 Annotated Code of Maryland
15 (2017 Replacement Volume and 2020 Supplement)

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

18 **Article – Election Law**

19 11–302.

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

23 (b) **[(1) A local board may not open any envelope of an absentee ballot prior to**
24 **8 a.m. on the Wednesday following election day.]**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 **(1) DURING THE PERIOD BEGINNING 14 DAYS BEFORE ELECTION DAY**
2 **THROUGH 8 P.M. ON ELECTION DAY, A LOCAL BOARD MAY TAKE ANY ACTION TO**
3 **PREPARE AN ABSENTEE BALLOT FOR TABULATION, INCLUDING:**

4 **(I) REMOVING ABSENTEE BALLOTS FROM THEIR ENVELOPES;**

5 **(II) REVIEWING ABSENTEE BALLOTS FOR COMPLIANCE WITH**
6 **THE LAW; AND**

7 **(III) DUPLICATING ABSENTEE BALLOTS THAT ARE NOT**
8 **ACCEPTABLE FOR MACHINE TABULATION.**

9 **(2) A LOCAL BOARD MAY NOT TABULATE ABSENTEE BALLOTS BEFORE**
10 **THE LATER OF:**

11 **(I) 8 P.M. ON ELECTION DAY; OR**

12 **(II) A TIME PRESCRIBED BY THE STATE BOARD BY**
13 **REGULATION.**

14 **[(2)] (3)** A local board may not delay the commencement of the canvass to
15 await the receipt of late-arriving, timely absentee ballots.

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

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

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

23 (2) A local board may not reject an absentee ballot except by unanimous
24 vote and in accordance with regulations of the State Board.

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

26 (i) the voter failed to sign the oath on the ballot envelope;

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

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

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

6 (i) count only the ballot with the latest properly signed oath; and

7 (ii) reject any other ballot.

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

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

13 (e) **[At] DURING THE PERIOD BEGINNING ON THE DAY VOTE TABULATION**
14 **BEGINS UNDER SUBSECTION (B)(2) OF THIS SUBSECTION UNTIL THE COMPLETION**
15 **OF THE CANVASS, AT** the end of each day of canvassing, a local board shall prepare and
16 release a report of the unofficial results of the absentee ballot vote tabulation.

17 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
18 October 1, 2021.