

HOUSE BILL 1165

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By: **Delegate Cox**

Introduced and read first time: February 8, 2021

Assigned to: Ways and Means

A BILL ENTITLED

1 AN ACT concerning

2 **Election Law – Manual Postelection Tabulation Audit – Timing and Effect**

3 FOR the purpose of requiring that the manual postelection tabulation audit be completed
4 before the certification of statewide general election results, rather than a certain
5 number of days after the general election; requiring that, if the manual audit finds
6 that the vote totals produced by the electronic voting system are incorrect, the official
7 result of the election be altered to match the result found by the manual audit;
8 making conforming changes; and generally relating to postelection tabulation audits.

9 BY repealing and reenacting, with amendments,
10 Article – Election Law
11 Section 11–309
12 Annotated Code of Maryland
13 (2017 Replacement Volume and 2020 Supplement)

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

16 **Article – Election Law**

17 11–309.

18 (a) (1) In this section the following words have the meanings indicated.

19 (2) “Manual audit” means inspection of voter–verifiable paper records by
20 hand and eye to obtain vote totals in a contest that are compared to the vote totals produced
21 for that contest by the electronic voting system.

22 (3) “Previous comparable general election” means:

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (i) in a presidential election year, the presidential election held 4
2 years earlier; and

3 (ii) in a gubernatorial election year, the gubernatorial election held
4 4 years earlier.

5 (4) "Voter-verifiable paper record" has the meaning stated in § 9-102 of
6 this article.

7 (b) Following each statewide general election, the State Board shall conduct an
8 audit of the accuracy of the voting system's tabulation of votes by completing:

9 (1) an automated software audit of the electronic images of all ballots cast
10 in the election; and

11 (2) a manual audit of voter-verifiable paper records in accordance with
12 subsection (d) of this section.

13 (c) Following each statewide primary election, the State Board:

14 (1) shall complete an automated software audit of the electronic images of
15 all ballots cast in the election; and

16 (2) may complete a manual audit of voter-verifiable paper records in a
17 manner prescribed by the State Board.

18 (d) (1) Following each statewide general election, the State Board shall
19 complete a manual audit of:

20 (i) at least 2% of precincts statewide, including:

21 1. at least one randomly chosen precinct in each county; and

22 2. additional precincts selected by the State Board; and

23 (ii) a number of votes equal to at least 1% of the statewide total in
24 the previous comparable general election of each of the following, including at least a
25 minimum number of each of the following in each county, as prescribed by the State Board:

26 1. early votes;

27 2. absentee votes; and

28 3. provisional votes.

29 (2) The manual audit shall be completed [within 120 days after the general
30 election] **BEFORE CERTIFICATION OF THE ELECTION RESULTS.**

1 (3) If the manual audit shows a discrepancy, the State Board may:

2 (i) expand the manual audit; and

3 (ii) take any other actions it considers necessary to resolve the
4 discrepancy.

5 (4) Within 14 days after the conclusion of the audit, the State Board shall
6 post on its website a report that describes:

7 (i) the precincts and number of votes selected for the manual audit
8 in each county and the manner in which the precincts and votes were selected;

9 (ii) the results of the manual audit; and

10 (iii) any discrepancy shown by the manual audit and how the
11 discrepancy was resolved.

12 (5) The State Board shall allow for public observation of each part of the
13 manual audit process to the extent practicable.

14 **(6) IF THE MANUAL AUDIT FINDS THAT THE VOTE TOTALS PRODUCED**
15 **BY THE ELECTRONIC VOTING SYSTEM ARE INCORRECT, THE OFFICIAL RESULT OF**
16 **THE ELECTION SHALL BE ALTERED TO MATCH THE RESULT FOUND BY THE MANUAL**
17 **AUDIT.**

18 (e) **(1)** An **AUTOMATED SOFTWARE** audit under this section[:

19 **(1)]** may not have any effect on the certified election results[; and].

20 **(2) AN AUDIT UNDER THIS SECTION** shall be used to improve the voting
21 system and voting process for future elections.

22 (f) The State Board shall adopt regulations to carry out this section.

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