

# HOUSE BILL 862

G1

EMERGENCY BILL  
ENROLLED BILL

(2lr2165)

— *Ways and Means/Education, Health, and Environmental Affairs* —

Introduced by **Delegate Feldmark**

Read and Examined by Proofreaders:

\_\_\_\_\_  
Proofreader.

\_\_\_\_\_  
Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this

\_\_\_\_\_ day of \_\_\_\_\_ at \_\_\_\_\_ o'clock, \_\_\_\_\_ M.

\_\_\_\_\_  
Speaker.

## CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Election Law – ~~Ballot Canvassing – Multiple Ballots Cast by an Individual~~**  
3 **Ballots – Processing and Reporting Procedures**

4 FOR the purpose of altering the procedures for canvassing of and curing of errors on  
5 absentee and provisional ballots ~~when more than one ballot is cast by the same~~  
6 ~~individual in the same election; and generally relating to canvassing multiple ballots~~  
7 ~~cast by an individual in the same election; repealing the requirements that a certain~~  
8 statement of election results be by precinct and that the local boards of elections  
9 publish copies of the complete election results in a certain manner; requiring that a  
10 certain report of election results by the State Board of Elections be reported by  
11 precinct, including reports of the early, absentee, and provisional vote; and generally  
12 relating to ballot processing and reporting procedures.

13 ~~BY repealing~~

14 ~~Article – Election Law~~

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### 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.

*Italics* indicate opposite chamber/conference committee amendments.



~~Section 11-302(d)(4)~~  
~~Annotated Code of Maryland~~  
~~(2017 Replacement Volume and 2021 Supplement)~~

BY repealing and reenacting, with amendments,

Article – Election Law

~~Section 11-302(d)(4) 11-302(d)(5) and (6) and 11-303(d)(2) Section 11-101, 11-302,~~  
~~11-303(d), and 11-402~~

Annotated Code of Maryland

(2017 Replacement Volume and 2021 Supplement)

BY adding to

Article – Election Law

Section 11-303.2

Annotated Code of Maryland

(2017 Replacement Volume and 2021 Supplement)

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

### Article – Election Law

#### 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.*

(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:*

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

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

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

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

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

10 (2) "Unofficial returns" does not include [the absentee ballot count or] the  
11 provisional ballot count.

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

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

16 (1) a mechanical lever voting machine;

17 (2) an electronic voting device; or

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

19 11-302.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3 1. SUPPLY A SIGNATURE TO THE LOCAL BOARD  
 4 THROUGH A DIGITAL PICTURE MESSAGE SENT BY E-MAIL OR, BEGINNING JUNE 1,  
 5 2023, MOBILE TELEPHONE, IF THE VOTER FAILED TO SIGN THE OATH ON THE BALLOT  
 6 ENVELOPE OR BALLOT/RETURN ENVELOPE; AND

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

10 A. E-MAIL;

11 B. A MAILED FORM;

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

13 AND

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

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

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

19 (ii) reject any other ballot.]

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

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

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

28 ~~(d) (4) (1) If the local board receives more than one legally sufficient~~  
 29 ~~ABSENTEE ballot, in separate envelopes, from the same individual, the local board shall:~~

30 ~~[(i) 1. count only the [ballot with the latest properly signed oath]~~  
 31 ~~FIRST LEGALLY SUFFICIENT ABSENTEE BALLOT RECEIVED; and~~

1 ~~[(ii)] 2. reject any other ABSENTEE ballot.~~

2 ~~[(5)] (4) If the intent of the voter is not clearly demonstrated, the local~~  
 3 ~~board shall reject only the vote for that office or question.~~

4 ~~[(6)] (5) If an absentee voter casts a vote for an individual who has ceased~~  
 5 ~~to be a candidate, the vote for that candidate may not be counted, but that vote does not~~  
 6 ~~invalidate the remainder of the ballot.~~

7 ~~(H) EXCEPT AS PROVIDED IN SUBPARAGRAPH (III) OF THIS~~  
 8 ~~PARAGRAPH, IF THE LOCAL BOARD RECEIVES A LEGALLY SUFFICIENT ABSENTEE~~  
 9 ~~BALLOT AND A PROVISIONAL BALLOT FROM THE SAME INDIVIDUAL, THE LOCAL~~  
 10 ~~BOARD SHALL:~~

11 ~~1. COUNT THE ABSENTEE BALLOT; AND~~

12 ~~2. REJECT THE PROVISIONAL BALLOT.~~

13 ~~(III) IF THE LOCAL BOARD RECEIVES A LEGALLY SUFFICIENT~~  
 14 ~~ABSENTEE BALLOT AFTER A PROVISIONAL BALLOT FROM THE SAME VOTER HAS~~  
 15 ~~BEEN CANVASSED, THE LOCAL BOARD SHALL REJECT THE ABSENTEE BALLOT.~~

16 ~~11-303.~~

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

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

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

23 ~~(iii) EXCEPT AS PROVIDED IN § 11-302(D)(4)(III) OF THIS~~  
 24 ~~SUBTITLE, the individual cast more than one ballot for the same election; or~~

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

28 ~~11-303.~~

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

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

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

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

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

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

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

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

18                   (i)   the individual is registered in the State;

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

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

25   **11-303.2.**

26           **IF A LOCAL BOARD RECEIVES MORE THAN ONE BALLOT, IN SEPARATE**  
27 **ENVELOPES, FROM THE SAME INDIVIDUAL, THE LOCAL BOARD SHALL:**

28                   **(1) COUNT THE FIRST BALLOT FROM THE INDIVIDUAL THAT IS**  
29 **DETERMINED TO BE LEGALLY SUFFICIENT; AND**

30                   **(2) REJECT ANY OTHER BALLOT.**

31   11-402.

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

5 (1) who is elected or nominated for office:

6 (i) in county government; or

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

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

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

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

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

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

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

22 (iii) by county legislative district; and

23 (iv) for each county as a whole.

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

26 SECTION 2. AND BE IT FURTHER ENACTED, That, notwithstanding §  
 27 11-302(b)(3) of the Election Law Article, as enacted by Section 1 of this Act, only during the  
 28 2022 statewide primary election, a local board of elections or an employee of a local board:

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



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

3                   SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act ~~shall take effect~~  
4 ~~June 1, 2022~~ is an emergency measure, is necessary for the immediate preservation of the  
5 public health or safety, has been passed by a yea and nay vote supported by three-fifths of  
6 all the members elected to each of the two Houses of the General Assembly, and shall take  
7 effect from the date it is enacted.

Approved:

\_\_\_\_\_  
Governor.

\_\_\_\_\_  
Speaker of the House of Delegates.

\_\_\_\_\_  
President of the Senate.