

# HOUSE BILL 1348

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By: **Delegates Cox, Arian, Boteler, Mautz, McComas, and Rose**

Introduced and read first time: February 11, 2022

Assigned to: Ways and Means

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## A BILL ENTITLED

1 AN ACT concerning

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

3 FOR the purpose of altering the timeline and process for conducting a manual postelection  
4 tabulation audit; requiring the State Board of Elections to conduct a manual  
5 postelection tabulation audit following each statewide primary election; requiring  
6 that the official result of an election be altered to match the result by the manual  
7 audit if the manual audit finds that the vote totals produced by the electronic voting  
8 system are incorrect; 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 2021 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:

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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 **PRIMARY AND** general election, the State Board  
8 shall conduct an audit of the accuracy of the voting system's tabulation of votes by  
9 completing:

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

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

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

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

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

19 (d)] (1) Following each statewide **PRIMARY AND** general election, the State  
20 Board shall complete a manual audit of[:

21 (i)] at least [2%] **3%** of precincts statewide[, including:

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

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

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

27 1. early votes;

28 2. absentee votes; and

29 3. provisional votes] **IN ACCORDANCE WITH SUBSECTION**  
30 **(E) OF THIS SECTION.**

1           (2)    The manual audit shall [be completed within 120 days after the general  
2 election] **BEGIN ON THE SAME DAY THE FINAL BALLOTS ARE CANVASSED.**

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

4                   (i)    expand the manual audit; and

5                   (ii)   take any other actions it considers necessary to resolve the  
6 discrepancy.

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

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

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

12                   (iii) any discrepancy shown by the manual audit and how the  
13 discrepancy was resolved.

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

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

20           ~~[(e)]~~ **(D)    (1)    An AUTOMATED SOFTWARE audit under this section[**

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

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

24           **(E)    (1)    ON THE DAY THAT THE EARLY VOTING PERIOD BEGINS, BEFORE**  
25 **THE OPENING OF THE EARLY VOTING CENTERS, AND ON ELECTION DAY, BEFORE THE**  
26 **OPENING OF THE POLLS, THE CHIEF ELECTION JUDGE, ALONG WITH ONE ELECTION**  
27 **JUDGE FROM EACH PRINCIPAL POLITICAL PARTY, SHALL:**

28                   **(I)    FOR EACH BALLOT SCANNER MACHINE THAT IS LOCATED AT**  
29 **THE EARLY VOTING CENTER OR POLLING PLACE, FILL OUT A FORM PROVIDED BY**  
30 **THE STATE BOARD WITH:**

- 1                   1.     **THE EARLY VOTING CENTER OR POLLING LOCATION;**  
2                   2.     **THE BALLOT SCANNER MACHINE IDENTIFICATION**  
3 **NUMBER; AND**  
4                   3.     **FOR A POLLING PLACE, THE PRECINCT NUMBER.**

5                   **(II) PLACE EACH COMPLETED FORM IN A SEPARATE**  
6 **UNMARKED, UNIFORM ENVELOPE AND SEAL THE ENVELOPE; AND**

7                   **(III) SELECT ONE SEALED ENVELOPE AT RANDOM AND SIGN THE**  
8 **SELECTED ENVELOPE.**

9                   **(2) ON ELECTION DAY, BEFORE THE OPENING OF THE POLLS, EACH**  
10 **BOARD OF CANVASSERS CHAIRMAN, ALONG WITH ONE BOARD MEMBER FROM EACH**  
11 **PRINCIPAL POLITICAL PARTY, SHALL:**

12                   **(I) FOR EACH BALLOT SCANNER MACHINE THAT IS LOCATED AT**  
13 **THE CANVASSING CENTER, FILL OUT A FORM PROVIDED BY THE STATE BOARD WITH:**

- 14                   1.     **THE CANVASSING CENTER LOCATION; AND**  
15                   2.     **THE BALLOT SCANNER MACHINE IDENTIFICATION**  
16 **NUMBER;**

17                   **(II) PLACE EACH COMPLETED FORM IN A SEPARATE**  
18 **UNMARKED, UNIFORM ENVELOPE AND SEAL EACH ENVELOPE; AND**

19                   **(III) SELECT ONE SEALED ENVELOPE AT RANDOM AND SIGN THE**  
20 **SELECTED ENVELOPE.**

21                   **(3) ON ELECTION DAY, BEFORE THE OPENING OF THE POLLS, THE**  
22 **PRESIDENT OF EACH LOCAL BOARD, ALONG WITH ONE BOARD MEMBER FROM EACH**  
23 **PRINCIPAL POLITICAL PARTY SHALL:**

24                   **(I) FOR EACH EARLY VOTING CENTER, POLLING PLACE, AND**  
25 **COUNTING CENTER IN THE COUNTY, FILL OUT A FORM PROVIDED BY THE STATE**  
26 **BOARD WITH SUFFICIENT INFORMATION TO IDENTIFY THE EARLY VOTING CENTER,**  
27 **POLLING PLACE, OR COUNTING CENTER;**

28                   **(II) PLACE EACH COMPLETED FORM IN A SEPARATE**  
29 **UNMARKED, UNIFORM ENVELOPE AND SEAL THE ENVELOPE; AND**

1                   (III) SELECT 3% OF THE ENVELOPES AT RANDOM AND SIGN THE  
2 ENVELOPES.

3                   (4) ONCE ALL BALLOTS HAVE BEEN CANVASSED:

4                   (I) THE PRESIDENT OF EACH LOCAL BOARD SHALL OPEN THE  
5 ENVELOPES SELECTED UNDER PARAGRAPH (3)(III) OF THIS SUBSECTION TO  
6 IDENTIFY THE LOCATION FOR WHICH THE BALLOT SCANNER MACHINES ARE TO BE  
7 MANUALLY AUDITED; AND

8                   (II) THE CHIEF ELECTION JUDGE OR BOARD OF CANVASSERS  
9 CHAIRMAN FOR EACH LOCATION IDENTIFIED UNDER ITEM (I) OF THIS PARAGRAPH  
10 SHALL OPEN THE ENVELOPE SIGNED AND SEALED UNDER PARAGRAPHS (1) OR (2)  
11 OF THIS SUBSECTION TO IDENTIFY THE BALLOT SCANNER MACHINE TO BE  
12 MANUALLY AUDITED.

13                   (5) FOLLOWING THE IDENTIFICATION OF THE BALLOT SCANNER  
14 MACHINES TO BE MANUALLY AUDITED, ALL OTHER SEALED ENVELOPES PREPARED  
15 UNDER THIS SUBSECTION SHALL BE OPENED TO CONFIRM THAT EACH LOCATION  
16 AND BALLOT SCANNER MACHINE WAS INCLUDED IN A SEALED ENVELOPE EXACTLY  
17 ONCE.

18                   (6) ELECTION JUDGES, LOCAL BOARD MEMBERS, AND BOARD OF  
19 CANVASSERS MEMBERS MAY BE OBSERVED, WHILE PERFORMING THEIR DUTIES  
20 UNDER THIS SECTION, UNTIL THEY HAVE FINISHED THEIR WORK AND LEAVE THE  
21 PREMISES BY:

22                   (I) AUTHORIZED CHALLENGERS, WATCHERS, AND OBSERVERS  
23 IN ACCORDANCE WITH § 10-311 OF THIS ARTICLE;

24                   (II) ANY CANDIDATE;

25                   (III) ANY REPRESENTATIVE OF AN INTERESTED POLITICAL  
26 PARTY; AND

27                   (IV) ANY OTHER INDIVIDUAL LAWFULLY PRESENT.

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

29                   SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June  
30 1, 2022.