

HOUSE BILL 535

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3lr0387
CF SB 379

By: Delegates Feldmark, Allen, Amprey, Attar, Atterbeary, Bagnall, D. Barnes, Bartlett, Barve, Bhandari, Boyce, Bridges, Chang, Charles, Crosby, Crutchfield, Ebersole, Fennell, Foley, Forbes, Grossman, Guzzone, Healey, Henson, Jackson, A. Johnson, S. Johnson, D. Jones, Kaiser, Kaufman, Kelly, Kerr, Lehman, Love, Mireku–North, Moon, Pasteur, Patterson, Pena–Melnyk, Pruski, Rogers, Ruth, Shetty, Simmons, Simpson, Smith, Stewart, Taveras, Terrasa, Toles, Valderrama, Vogel, Watson, Wells, White, Williams, and Wu

Introduced and read first time: February 1, 2023

Assigned to: Ways and Means

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 3, 2023

CHAPTER _____

1 AN ACT concerning

2 **Election Law – Ballots – Issuance, Processing, and Reporting Procedures**

3 FOR the purpose of requiring that a local board of elections send a ballot to certain voters
4 who have made a request and qualify to vote by absentee ballot not later than a
5 certain number of days before an election; altering the procedures for the canvassing
6 of and curing of errors on absentee and provisional ballots; repealing the
7 requirements that a certain statement of election results be by precinct and that the
8 local boards ~~of elections~~ publish copies of the complete election results in a certain
9 manner; requiring that a certain report of election results by the State Board of
10 Elections be reported by precinct, including reports of the early, absentee, and
11 provisional vote; and generally relating to ballot issuance, processing, and reporting
12 procedures.

13 BY repealing and reenacting, without amendments,

14 Article – Election Law

15 Section 9–306(b)

16 Annotated Code of Maryland

17 (2022 Replacement Volume and 2022 Supplement)

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.



1 BY repealing and reenacting, with amendments,
 2 Article – Election Law
 3 Section 9–306(c), 11–101, 11–302, 11–303(d), and 11–402
 4 Annotated Code of Maryland
 5 (2022 Replacement Volume and 2022 Supplement)

6 BY adding to
 7 Article – Election Law
 8 Section 11–303.2
 9 Annotated Code of Maryland
 10 (2022 Replacement Volume and 2022 Supplement)

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

13 **Article – Election Law**

14 9–306.

15 (b) If the applicant qualifies to vote by absentee ballot, the local board shall
 16 provide the ballot by one of the following methods requested by the voter:

17 (1) mail;

18 (2) facsimile transmission;

19 (3) the Internet; or

20 (4) by hand during an in–person transaction.

21 (c) (1) [Once ballots are available, the] NOT LATER THAN 43 DAYS BEFORE
 22 AN ELECTION, THE LOCAL BOARD SHALL SEND A BALLOT TO EACH VOTER WHO
 23 QUALIFIES TO VOTE BY ABSENTEE BALLOT AND HAS MADE A REQUEST AT LEAST 60
 24 DAYS BEFORE THE ELECTION TO RECEIVE THE BALLOT BY MAIL, FACSIMILE
 25 TRANSMISSION, OR THE INTERNET.

26 (2) A local board shall provide [the] A ballot to a [qualified applicant]
 27 VOTER WHO QUALIFIES TO VOTE BY ABSENTEE BALLOT AND MAKES A REQUEST LESS
 28 THAN 60 DAYS BEFORE AN ELECTION:

29 [(1)] (I) as soon as practicable after receipt of the request; or

30 [(2)] (II) immediately for an in–person transaction with a voter or the
 31 voter’s duly authorized agent.

1 11–101.

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

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

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

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

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

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

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

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

22 (ii) the tabulation of vote–by–mail ballots.

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

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

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

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

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

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

- 3 (1) a mechanical lever voting machine;
4 (2) an electronic voting device; or
5 (3) making marks manually on a tally sheet].

6 11-302.

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

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

13 (3) **A LOCAL BOARD SHALL RECORD THE RECEIPT OF AN ABSENTEE**
14 **BALLOT IN THE STATEWIDE VOTER REGISTRATION SYSTEM AND MAKE THE**
15 **INFORMATION AVAILABLE THROUGH THE FREE ACCESS SYSTEM ESTABLISHED**
16 **UNDER COMAR 33.11.06.03 AS SOON AS PRACTICABLE, BUT NOT LATER THAN 2**
17 **BUSINESS DAYS AFTER RECEIPT OF THE ABSENTEE BALLOT.**

18 (b) (1) (I) [A] **EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS**
19 **PARAGRAPH AND SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, A local board**
20 **[may not open any envelope of an] SHALL BEGIN PROCESSING absentee [ballot prior to 8**
21 **a.m.] BALLOTS on the [Wednesday following election day] DAY THAT IS 8 BUSINESS DAYS**
22 **BEFORE THE FIRST DAY OF EARLY VOTING.**

23 (II) ~~THE ADMINISTRATOR~~ **STATE ADMINISTRATOR MAY GRANT**
24 **A WAIVER TO A LOCAL BOARD FROM THE REQUIREMENT UNDER SUBPARAGRAPH (I)**
25 **OF THIS PARAGRAPH IF THE LOCAL BOARD ~~DETERMINES~~ SEEKS A DETERMINATION**
26 **BY THE STATE ADMINISTRATOR THAT EARLY CANVASSING IS NOT:**

27 **1. NECESSARY ~~BASED ON~~ DUE TO THE LOW NUMBER OF**
28 **ABSENTEE BALLOTS RECEIVED BY THE LOCAL BOARD; OR**

29 **2. PRACTICABLE DUE TO LIMITED RESOURCES OR**
30 **OTHER CONSTRAINTS ON THE LOCAL BOARD.**

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

1 **(3) A LOCAL BOARD MAY CONDUCT VOTE TALLYING WHEN ABSENTEE**
 2 **BALLOTS ARE PROCESSED UNDER PARAGRAPH (1)(I) OF THIS SUBSECTION.**

3 ~~(3)~~ **(4) A LOCAL BOARD OR AN EMPLOYEE OF A LOCAL BOARD MAY**
 4 **NOT ~~TABULATE~~ CONDUCT ABSENTEE BALLOT VOTE ~~TOTALS~~ TABULATION BEFORE**
 5 **THE POLLS CLOSE ON 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
 23 intentionally marked with an identifying mark that is clearly evident and placed on the
 24 ballot for the purpose of identifying the ballot.

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

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

28 (ii) reject any other ballot.]

29 **(4) (I) THE STATE BOARD SHALL ADOPT REGULATIONS**
 30 **REQUIRING A LOCAL BOARD:**

31 **1. AS SOON AS PRACTICABLE BUT NOT LATER THAN 3**
 32 **BUSINESS DAYS AFTER THE DATE ON WHICH IT WAS DETERMINED THAT A VOTER**

1 FAILED TO SIGN THE OATH ON THE BALLOT ENVELOPE OR BALLOT/RETURN
2 ENVELOPE, TO NOTIFY THE VOTER OF THE FAILURE; AND

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

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

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

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

14 A. TEXT MESSAGE;

15 B. E-MAIL;

16 C. AN ACCESSIBLE ONLINE PORTAL;

17 D. A MAILED FORM; AND

18 E. AN IN-PERSON VISIT TO THE LOCAL BOARD OFFICE.

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

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

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

27 11-303.

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

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

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

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

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

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

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

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

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

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

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

23 **11-303.2.**

24 **SUBJECT TO § 11-302(D)(3)(II) OF THIS SUBTITLE, IF A LOCAL BOARD**
25 **RECEIVES MORE THAN ONE BALLOT FROM THE SAME INDIVIDUAL, THE LOCAL**
26 **BOARD SHALL:**

27 **(1) COUNT THE FIRST BALLOT FROM THE INDIVIDUAL THAT THE**
28 **LOCAL BOARD DETERMINES IS LEGALLY SUFFICIENT; AND**

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

30 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
4 on 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)**
11 **OF** 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] (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
18 a 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 this Act shall take effect
27 October 1, 2023.