

Chapter 318

(Senate Bill 5)

AN ACT concerning

Election Law – Canvass of Votes – Public Observation

FOR the purpose of clarifying the definition of “canvass” as it applies to votes cast during early voting; providing that a board of canvassers and the staff of a local board may be observed as they complete each part of the canvass by authorized observers *and any other individuals who wish to be present*; specifying certain individuals or entities who have the right to designate a registered voter as an observer at each counting center; authorizing the State Board of Elections to adopt regulations prohibiting public observation of the canvass only if necessary to accomplish certain purposes; requiring the State Board to ensure that the requirements of this Act are implemented uniformly and consistently by each local board; making conforming changes; and generally relating to public observation of the canvass of votes.

BY repealing and reenacting, with amendments,
 Article – Election Law
 Section 11–101 and 11–301
 Annotated Code of Maryland
 (2010 Replacement Volume and 2014 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 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.

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

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

(f) (1) “Unofficial returns” means a vote tabulation reported on election night after the polls close.

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

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

(h) “Vote tallying” means the recording of votes cast by individual voters on a certified voting system whether done by:

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

11–301.

(a) A board of canvassers shall:

(1) convene at the designated counting center for that county on or before the day of the election, but not later than 5 p.m. on that day, and be sworn in; **AND**

(2) meet only in public session[; and

(3) subject to regulations adopted by the State Board to ensure the integrity of the electoral process and that the accuracy of the vote tabulation is not impeded or compromised, provide for observation and understanding of the canvass by those individuals in attendance].

(A-1) (1) SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, A BOARD OF CANVASSERS AND THE STAFF OF A LOCAL BOARD MAY BE OBSERVED AS THEY COMPLETE EACH PART OF THE CANVASS BY AUTHORIZED OBSERVERS DESIGNATED UNDER PARAGRAPH (2) OF THIS SUBSECTION AND ANY OTHER INDIVIDUALS WHO WISH TO BE PRESENT.

(2) THE FOLLOWING INDIVIDUALS OR ENTITIES HAVE THE RIGHT TO DESIGNATE A REGISTERED VOTER AS AN OBSERVER AT EACH COUNTING CENTER:

(I) A CANDIDATE;

(II) A POLITICAL PARTY; AND

(III) ANY OTHER GROUP OF VOTERS SUPPORTING OR OPPOSING A CANDIDATE, PRINCIPLE, OR PROPOSITION ON THE BALLOT.

(3) THE STATE BOARD MAY ADOPT REGULATIONS PROHIBITING PUBLIC OBSERVATION OF A PART OF THE CANVASS ONLY IF PROHIBITING PUBLIC OBSERVATION IS NECESSARY TO ENSURE:

(I) THE INTEGRITY OR ACCURACY OF THE CANVASS; OR

(II) THAT THE CANVASS PROCESS IS NOT IMPEDED.

(4) THE STATE BOARD SHALL ENSURE THAT THE REQUIREMENTS OF THIS SUBSECTION ARE IMPLEMENTED UNIFORMLY AND CONSISTENTLY BY EACH LOCAL BOARD.

(b) Each board of canvassers shall elect by majority vote a chairman and secretary from among its members.

(c) Each member of the board of canvassers shall take an oath, administered and recorded by the clerk of the circuit court, to canvass and declare the votes cast truthfully and to perform other duties required by law.

(d) (1) At the first meeting of the board of canvassers for the purpose of canvassing, a majority of the whole board of canvassers shall be a quorum.

(2) If a quorum is not present, the members present shall adjourn until the next day.

(e) Except as otherwise provided in this article, all decisions shall be reached by a majority vote of the members present.

(f) If a member is not present at the scheduled time for vote canvassing, a substitute member of the board of canvassers may be sworn in.

(g) At least one member of the board of canvassers present shall be a registered voter of the principal minority party.

(h) Once the board has satisfied the requirements of subsections (a) through (g) of this section, it may proceed with the canvass in accordance with the regulations of the State Board.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2015.

Approved by the Governor, May 12, 2015.