

2024 Kagan Testimony SB494.pdf

Uploaded by: Sen. Cheryl Kagan

Position: FAV

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THE SENATE OF MARYLAND ANNAPOLIS, MARYLAND 21401

SB494: Electoral College Reform Education, Energy, & the Environment Committee February 21, 2024: 1:00 PM

The 2020 Presidential Election saw the losing candidate's team create a "fake elector" scheme in an attempt to overturn our election by naming slates of alternative electors in Arizona, Georgia, Michigan, Nevada, New Mexico, Pennsylvania, and Wisconsin. This spurred Congress to pass the Election Count Reform Act (ECRA) of 2022, updating the procedures that states must follow for certification. Maryland must now modify our process to come into compliance with these new standards, according to our State Board of Elections (SBE). [SB494](#) clarifies our post-election procedures to create greater integrity, efficiency, and transparency.

Clarity Of Post-Election Certification: Currently, there is confusion as the State Board of Elections certifies Primary Elections while the Board of State Canvassers certifies the General Election. SB494 stipulates that the Board of State Canvassers will certify the statewide presidential elections. The bill also deputizes alternate members for each canvasser in case of unexpected absences during the certification process.

Streamlines Timeline: SB494 updates critical deadlines to the presidential post-election process, guaranteeing that certification will meet the new ECRA deadlines. The bill shortens county reporting by five days, ensuring that the State Board of Canvassers will meet within one day of county certification. The bill, as amended, also directs the SBE Administrator to release the results to the Governor within three days of certification.

Transparency In Certification: The legislation allows individual members of the Board of State Canvassers to submit a written statement if they believe that another Board member was inaccurate in a certification finding. If the State Board finds the decision of a local election board to be inaccurate, the State Board is authorized to reject the faulty conclusion.

Governor's Required Role: Finally, as required by ECRA, SB494 directs the Governor to transmit the findings of the Board of State Canvassers to Congress and publish the proclamation of the winner on the State Board of Elections' website. This provision removes any ambiguity in the Governor's role in election certification.

In conclusion, SB494 is a federally mandated step forward in our efforts to clarify and update our election processes.

I urge a favorable report on SB494 as amended.

2024 SB0494 Testimony against 2024-02-21.pdf

Uploaded by: Alan Lang

Position: UNF

Testimony Against SB0494

Please vote against SB0494.

In Section 11-503(a)(3) on page 4, lines 10-13 state that "If the Board of State Canvassers determines, ... that a statement by a board of canvassers is inaccurate, reject that statement and ascertain the accurate election results;" (Underline added) However, the bill does not state how they would do this ascertainment or prescribe the time period allowed to do so.

How will 5 politicians or their deputies determine what the accurate results should be if they believe a canvass report received is inaccurate? If such a rejection occurs, Section 11-503(b)(1) on page 4, lines 18-23, states that the "... Board of State Canvassers shall prepare and transmit [to the State Board] a distinct written statement of the reasons for the determination, including the evidence on which the determination was based ..."

HOWEVER, this written statement is not required to describe how the Board of Canvassers ascertained the accurate election results. Section 11-503(c) on page 4, lines 33-34 states that, "The State Administrator shall transmit the certified election results to the Governor within 30 days after the receipt."

In my opinion, the State Board of Elections (SBE) has no clear direction as to whether it can review what the Board of Canvassers (BOC) did, should the BOC reject the report by one or more of the local board of canvassers. Even if the SBE decides to review what the BOC did, the SBE only has 30 days to do so.

I believe this bill is flawed for the above reasons.

Please vote against SB0494.

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SB494_StateBoardofElections_Information_JaredDeMar

Uploaded by: Jared DeMarinis

Position: INFO



Maryland State Board of Elections

SB494 – Senator Kagan Election Law - Postelection Procedures

Purpose:

1. Alters the records and documents that a board of canvassers is required to investigate under certain circumstances.
2. Alters the responsibilities of the State Board of Elections and the Board of State Canvassers regarding the certification of election results.
3. Authorizes the members of the Board of State Canvassers to appoint certain designees to serve on the Board of State Canvassers.
4. Alters the responsibilities of the Governor regarding election results.

Comments:

The Maryland State Board of Elections submits this informational testimony on SB494.

The Electoral Count Reform and Presidential Transition Improvement Act of 2022 (ECRA) was signed into Federal law in December of 2022. ECRA imposed new requirements on the conduct of a presidential election, including specific post-election timelines. Certain deadline adjustments are needed to the provisions governing post-election certification and certification processes, in order to bring State law into compliance with ECRA.

Pursuant to Election Law Article §11-503, the Board of State Canvassers must convene by the 35th day after Election Day. Once convened, the Board is tasked with preparing statewide elections results and transmitting certified copies of those results to the State Board of Elections. However, the statute does not impose any deadline by which the Board of State Canvassers certifies election results. Then on receipt of election returns for presidential and vice-presidential electors, the Governor issues a proclamation announcing the elected electors. Accordingly, there is no deadline by which the Governor, after receiving certified results, must ascertain, enumerate, and proclaim the victorious electors for President and Vice-President. Again, there is no deadline set for that proclamation.

This legislation amends the post-election calendar of events to align the Election Law Article with the requirements of ECRA starting with moving the certification date to the 30th day.

Moverover, the legislation allows for members of the State Board of Canvassers to designate certain individuals to attend the meeting. This provision allows for greater flexibility in scheduling and allows for timely completion of the certification process.

Finally, the proposed legislation allows the State Board of Elections to promulgate regulations in the efficient administration of the certification process.

Thank you for the opportunity to provide this informational testimony concerning SB494.

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EEE 2/21/2024