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THE SENATE OF MARYLAND  
ANNAPOLIS, MARYLAND 21401

**SB494: Electoral College Reform**

House Ways & Means Committee; March 26, 2024 at 1:00pm

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.

This bill passed both the Senate (3/8/24; 47-0) and House (3/13/24; 137-0) unanimously this year. The language in SB494 and HB471 are identical.

**I urge a favorable report on SB494.**





## 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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