

**Maryland General Assembly  
Department of Legislative Services**

**Proposed Regulations  
State Board of Elections**  
(DLS Control No. 15-275)

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## **Overview and Legal and Fiscal Impact**

These regulations clarify requirements and processes for recounts of votes, including: the security of voting devices and materials; methods for recounts; the basis for challenges during a recount; and the standard for determining whether a vote may be disallowed when resolving a challenge to a ballot.

The regulations present no legal issues of concern.

There is no fiscal impact on State or local agencies.

## **Regulations of COMAR Affected**

### **State Board of Elections:**

Recounts: Definitions; Scope: COMAR 33.12.01.02

General Conduct of Recount: COMAR 33.12.03.04

Recount Procedures – In General: COMAR 33.12.04.06

Recount Procedures – Optical Scan Voting System: COMAR 33.12.05.02, and .03

Challenges: COMAR 33.12.07.02, and .04

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## **Legal Analysis**

### **Summary of Regulations**

The State Board of Elections proposes amending the following regulations under Subtitle 12 to clarify the requirements and processes for recounts of votes:

- 01.02: adding the definition of the term “precinct”;
- 03.04: amending provisions relating to the security of the room and duties of the election director regarding security of election materials and devices during a recount;
- .04.06: requiring voting machines and direct recording equipment reviewed in a recount to be secured and remain secured until released by the State Administrator;

- .05.02 and .03: updating language regarding optional recount methods to allow for other recount options approved by the State Administrator and correcting a tabulation error;
- .07.02: repealing a list of specified grounds on which a challenge may be based and replacing with broader language that allows a challenge to be based on an action or decision of a local board during a recount; and
- .07.04: repealing language requiring a local board to discern voter intent using a specified set of standards set by the state board when resolving a challenge to a ballot.

## **Legal Issues**

The regulations present no legal issues of concern.

## **Statutory Authority and Legislative Intent**

The State board cites §§ 2-102(b)(4), 2-202(b), and 12-106(a) of the Elections Law Article as statutory authority for these regulations. Section 2-102(b)(4) requires the State board to adopt regulations to implement its powers and duties under the Election Law Article. Section 2-202(b) requires each local board of elections, in accordance with the Election Law Article and regulations adopted by the State board to, in relevant part, make determinations and hear and decide challenges and appeals as provided by law. Section 12-106(a) requires a local board of elections to conduct a recount and certify the official results of an election or question which is the subject of a recount and ensure the public's ability to be present while the recount is conducted.

This authority is correct and complete. The regulations comply with the legislative intent of the law.

## **Fiscal Analysis**

There is no fiscal impact on State or local agencies.

## **Agency Estimate of Projected Fiscal Impact**

The State Board of Elections advises that the regulations have no impact on State or local governments. The Department of Legislative Services concurs.

## **Impact on Budget**

There is no impact on the State operating or capital budget.

## **Agency Estimate of Projected Small Business Impact**

The State Board of Elections advises that the regulations have minimal or no economic impact on small businesses in the State. The Department of Legislative Services concurs.

### **Contact Information**

**Legal Analysis:** Stacy M. Goodman – (410) 946/(301) 970-5350

**Fiscal Analysis:** Scott D. Kennedy – (410) 946/(301) 970-5510