

UNOFFICIAL COPY OF HOUSE BILL 675  
EMERGENCY BILL

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By: **Delegates Hixson and Patterson**

Introduced and read first time: February 7, 2005

Assigned to: Ways and Means

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A BILL ENTITLED

1 AN ACT concerning

2 **Elections - State Elections Office and State Elections Advisory Committee**

3 FOR the purpose of establishing a State Elections Office and State Elections Advisory  
4 Committee to provide guidance and recommendations to the State  
5 Administrator of Elections on certain election matters; providing for the  
6 membership, appointment, powers, and duties of the Committee; establishing a  
7 State Administrator Appointment and Removal Commission; specifying the  
8 membership, powers, and duties of the Commission; altering the process for the  
9 appointment and removal of the State Administrator; altering the powers and  
10 duties of the State Administrator; abolishing the State Board of Elections;  
11 making this Act an emergency measure; and generally relating to the  
12 establishment of the State Elections Advisory Committee and the governance of  
13 State elections.

14 BY repealing and reenacting, with amendments,  
15 Article - Election Law  
16 Section 2-101, 2-103, and 2-107 to be under the amended title "Title 2. State  
17 Elections Office, State Elections Advisory Committee, and Local Boards of  
18 Election" and the amended subtitle "Subtitle 1. State Elections Office and  
19 State Elections Advisory Committee"  
20 Annotated Code of Maryland  
21 (2003 Volume and 2004 Supplement)

22 BY repealing  
23 Article - Election Law  
24 Section 2-102  
25 Annotated Code of Maryland  
26 (2003 Volume and 2004 Supplement)

27 BY adding to  
28 Article - Election Law  
29 Section 2-101.1, 2-102, and 2-107  
30 Annotated Code of Maryland

1 (2003 Volume and 2004 Supplement)

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

4 **Article - Election Law**

5 Title 2. [Powers and Duties of the State] STATE ELECTIONS OFFICE, STATE  
6 ELECTIONS ADVISORY COMMITTEE, and Local Boards OF ELECTION.

7 Subtitle 1. [State Board] STATE ELECTIONS OFFICE AND STATE ELECTIONS  
8 ADVISORY COMMITTEE.

9 2-101.

10 (a) There is a State [Board] OFFICE of Elections [consisting of five  
11 members].

12 (b) The State [Board] OFFICE shall [maintain its principal office] BE  
13 LOCATED in Annapolis and have staff, subject to the State Personnel and Pensions  
14 Article, as provided in the State budget.

15 [(c) Each member of the State Board shall:

16 (1) subject to subsection (g)(2) of this section, be appointed by the  
17 Governor, with the advice and consent of the Senate of Maryland;

18 (2) be a registered voter in the State for the 5 years immediately  
19 preceding the appointment;

20 (3) subject to subsection (f)(3) of this section, be eligible for  
21 reappointment;

22 (4) conform to the restrictions specified under § 2-301 of this title; and

23 (5) be subject to removal by the Governor for incompetence, misconduct,  
24 or other good cause, upon written charges filed by the Governor with the State Board  
25 and after having been afforded notice and ample opportunity to be heard.

26 (d) Before taking office, each appointee to the State Board shall take the oath  
27 required by Article I, § 9 of the Maryland Constitution.

28 (e) (1) Each member of the State Board shall be a member of one of the  
29 principal political parties.

30 (2) A person may not be appointed to the State Board if the appointment  
31 will result in the State Board having more than three or fewer than two members of  
32 the same principal political party.

33 (f) (1) The term of a member is 4 years and begins on July 1.

1 (2) The terms of the members are staggered as required by the terms  
2 provided for members of the State Board on July 1, 1999.

3 (3) A member may not serve more than three consecutive terms.

4 (4) At the end of a term, a member continues to serve until a successor is  
5 appointed and qualifies.

6 (g) (1) If a vacancy occurs on the State Board, it shall be filled for the  
7 remainder of the unexpired term and until a successor is appointed and qualifies.

8 (2) An appointment made while the Senate of Maryland is not in session  
9 shall be considered temporary until the appointee is confirmed by the Senate.

10 (h) Not later than August 1 each year, the State Board shall elect one of its  
11 members as chairman.

12 (i) Each member shall receive:

13 (1) per diem compensation as provided in the State budget for each day  
14 that the member is actually engaged in the discharge of official duties, as authorized  
15 by the State Board and in accordance with the State budget; and

16 (2) reimbursement for all necessary and proper expenses, as provided in  
17 the State budget.]

18 2-101.1.

19 (A) THERE IS A STATE ELECTIONS ADVISORY COMMITTEE CONSISTING OF 12  
20 MEMBERS APPOINTED AS PROVIDED UNDER SUBSECTION (B) OF THIS SECTION.

21 (B) (1) THE STATE ADMINISTRATOR SHALL APPOINT EIGHT MEMBERS TO  
22 THE COMMITTEE AS FOLLOWS:

23 (I) TWO MEMBERS WHO HAVE EXPERTISE IN STATE ELECTIONS  
24 ADMINISTRATION;

25 (II) THREE MEMBERS WHO HAVE EXPERTISE IN LOCAL ELECTIONS  
26 ADMINISTRATION, WHO SHALL INCLUDE A REPRESENTATIVE OF A SMALL, A  
27 MEDIUM, AND A LARGE JURISDICTION;

28 (III) ONE MEMBER WHO HAS EXPERTISE IN INFORMATION  
29 TECHNOLOGY AND SECURITY;

30 (IV) ONE MEMBER WHO IS A REPRESENTATIVE OF COUNTY  
31 GOVERNMENT, CHOSEN FROM A LIST SUBMITTED TO THE STATE ADMINISTRATOR BY  
32 THE MARYLAND ASSOCIATION OF COUNTIES; AND

33 (V) ONE MEMBER WHO REPRESENTS THE DISABLED.

1           (2)     THE PRESIDENT OF THE SENATE OF MARYLAND SHALL APPOINT TO  
2 THE COMMITTEE TWO SENATORS, ONE FROM EACH OF THE PRINCIPAL POLITICAL  
3 PARTIES.

4           (3)     THE SPEAKER OF THE HOUSE OF DELEGATES SHALL APPOINT TO  
5 THE COMMITTEE TWO DELEGATES, ONE FROM EACH OF THE PRINCIPAL POLITICAL  
6 PARTIES.

7     (C)     EACH MEMBER OF THE COMMITTEE SHALL SERVE AT THE PLEASURE OF  
8 THE MEMBER'S APPOINTING AUTHORITY.

9     (D)     THE COMMITTEE SHALL ELECT A CHAIR FROM AMONG ITS MEMBERS.

10    (E)     A MEMBER OF THE COMMITTEE MAY NOT RECEIVE COMPENSATION BUT  
11 SHALL RECEIVE REIMBURSEMENT FOR REASONABLE EXPENSES INCURRED IN THE  
12 PERFORMANCE OF THE MEMBER'S DUTIES, AS PROVIDED FOR IN THE STATE  
13 BUDGET.

14 [2-102.

15    (a)     The State Board shall manage and supervise elections in the State and  
16 ensure compliance with the requirements of this article and any applicable federal  
17 law by all persons involved in the elections process.

18    (b)     In exercising its authority under this article and in order to ensure  
19 compliance with this article and with any requirements of federal law, the State  
20 Board shall:

21           (1)     supervise the conduct of elections in the State;

22           (2)     direct, support, monitor, and evaluate the activities of each local  
23 board;

24           (3)     have a staff sufficient to perform its functions;

25           (4)     adopt regulations to implement its powers and duties;

26           (5)     receive, and in its discretion audit, campaign finance reports;

27           (6)     appoint a State Administrator in accordance with § 2-103 of this  
28 subtitle;

29           (7)     maximize the use of technology in election administration, including  
30 the development of a plan for a comprehensive computerized elections management  
31 system;

32           (8)     canvass and certify the results of elections as prescribed by law;

33           (9)     make available to the general public, in a timely and efficient  
34 manner, information on the electoral process, including a publication that includes

1 the text of this article, relevant portions of the Maryland Constitution, and  
2 information gathered and maintained regarding elections;

3 (10) subject to §§ 2-106 and 13-341 of this article, receive, maintain, and  
4 serve as a depository for elections documents, materials, records, statistics, reports,  
5 certificates, proclamations, and other information prescribed by law or regulation;

6 (11) prescribe all forms required under this article; and

7 (12) serve as the official designated office in accordance with the  
8 Uniformed and Overseas Citizens Absentee Voting Act for providing information  
9 regarding voter registration and absentee ballot procedures for absent uniformed  
10 services voters and overseas voters with respect to elections for federal office.]

11 2-102.

12 (A) THE COMMITTEE SHALL MEET:

13 (1) AT LEAST ONCE EVERY 3 MONTHS AT A TIME AND LOCATION  
14 ESTABLISHED BY THE STATE ADMINISTRATOR; AND

15 (2) AS REQUESTED BY THE STATE ADMINISTRATOR.

16 (B) THE COMMITTEE SHALL PROVIDE GUIDANCE AND RECOMMENDATIONS  
17 TO THE STATE ADMINISTRATOR ON ANY POLICY, REGULATION, FORM, OR PROGRAM  
18 ESTABLISHED BY THE STATE ADMINISTRATOR.

19 (C) IN THE EVENT OF A VACANCY IN THE OFFICE OF THE STATE  
20 ADMINISTRATOR, THE COMMITTEE SHALL SUBMIT A LIST OF RECOMMENDED  
21 APPOINTEES FOR THE VACANCY TO THE STATE ADMINISTRATOR APPOINTMENT AND  
22 REMOVAL COMMISSION.

23 2-103.

24 (a) There is a State Administrator of Elections.

25 (b) The State Administrator shall:

26 (1) be appointed by [and serve at the pleasure of the State Board] THE  
27 STATE ADMINISTRATOR APPOINTMENT AND REMOVAL COMMISSION WITH THE  
28 ADVICE AND CONSENT OF THE SENATE;

29 (2) receive a salary as provided in the State budget;

30 (3) as provided in the State budget, employ and supervise:

31 (i) a deputy administrator; and

32 (ii) pursuant to the State Personnel and Pensions Article, other  
33 staff [of the State Board] SUFFICIENT TO CARRY OUT THE FUNCTIONS OF THIS  
34 ARTICLE;

1 (4) supervise the CONDUCT OF ELECTIONS IN THE STATE AND THE  
2 operations of the local boards;

3 (5) perform all duties and exercise all powers that are assigned by law to  
4 the State Administrator [or delegated by the State Board];

5 (6) be subject to removal [by the affirmative vote of four members of the  
6 State Board for incompetence, misconduct, or other good cause; however, prior to  
7 removal, the State Board shall set forth written charges stating the grounds for  
8 dismissal and afford the State Administrator notice and an ample opportunity to be  
9 heard] AS PROVIDED UNDER § 2-107(D) OF THIS SUBTITLE; [and]

10 (7) be the chief State election official;

11 (8) ADOPT REGULATIONS TO IMPLEMENT THE POWERS AND DUTIES  
12 PRESCRIBED UNDER THIS ARTICLE;

13 (9) MAXIMIZE THE USE OF TECHNOLOGY IN ELECTION  
14 ADMINISTRATION, INCLUDING THE DEVELOPMENT OF A PLAN FOR A  
15 COMPREHENSIVE COMPUTERIZED ELECTIONS MANAGEMENT SYSTEM;

16 (10) CANVASS AND CERTIFY THE RESULTS OF ELECTIONS AS  
17 PRESCRIBED BY LAW;

18 (11) MAKE AVAILABLE TO THE GENERAL PUBLIC, IN A TIMELY AND  
19 EFFICIENT MANNER, INFORMATION ON THE ELECTORAL PROCESS, INCLUDING A  
20 PUBLICATION THAT INCLUDES THE TEXT OF THIS ARTICLE, RELEVANT PORTIONS OF  
21 THE CONSTITUTION OF MARYLAND, AND INFORMATION GATHERED AND  
22 MAINTAINED REGARDING ELECTIONS;

23 (12) SUBJECT TO §§ 2-106 AND 13-341 OF THIS ARTICLE, RECEIVE,  
24 MAINTAIN, AND SERVE AS A DEPOSITORY FOR ELECTIONS DOCUMENTS, MATERIALS,  
25 RECORDS, STATISTICS, REPORTS, CERTIFICATES, PROCLAMATIONS, AND OTHER  
26 INFORMATION PRESCRIBED BY LAW OR REGULATION; AND

27 (13) PRESCRIBE ALL FORMS REQUIRED UNDER THIS ARTICLE.

28 (c) Before taking office, the appointee to the office of State Administrator shall  
29 take the oath required by Article I, § 9 of the Maryland Constitution.

30 2-107.

31 (A) (1) THERE IS A STATE ADMINISTRATOR APPOINTMENT AND REMOVAL  
32 COMMISSION.

33 (2) THE COMMISSION CONSISTS OF:

34 (I) THE BOARD OF STATE CANVASSERS AS DESCRIBED IN § 11-502;

35 (II) THE PRESIDENT OF THE SENATE OF MARYLAND OR THE  
36 PRESIDENT'S DESIGNEE; AND

1 (III) THE SPEAKER OF THE HOUSE OF DELEGATES OR THE  
2 SPEAKER'S DESIGNEE.

3 (3) THE COMMISSION SHALL ELECT A CHAIR FROM AMONG ITS  
4 MEMBERS.

5 (4) A MEMBER OF THE COMMISSION MAY NOT RECEIVE COMPENSATION  
6 BUT SHALL RECEIVE REIMBURSEMENT FOR REASONABLE EXPENSES INCURRED IN  
7 THE PERFORMANCE OF THE MEMBER'S DUTIES, AS PROVIDED FOR IN THE STATE  
8 BUDGET.

9 (B) (1) ON NOTIFICATION THAT A VACANCY EXISTS OR IS ABOUT TO OCCUR,  
10 THE COMMISSION SHALL:

11 (I) APPOINT AN ACTING STATE ADMINISTRATOR;

12 (II) NOTIFY THE STATE ELECTIONS ADVISORY COMMITTEE OF THE  
13 VACANCY AND REQUEST RECOMMENDATIONS FROM THAT COMMITTEE; AND

14 (III) SEEK AND REVIEW THE APPLICATIONS OF POTENTIAL  
15 APPOINTEES TO THE POSITION OF STATE ADMINISTRATOR.

16 (2) THE COMMISSION SHALL INTERVIEW EACH ELIGIBLE APPLICANT  
17 AND SELECT THE MOST QUALIFIED CANDIDATE.

18 (3) THE SELECTION SHALL BE MADE:

19 (I) BASED ON AN AFFIRMATIVE VOTE OF FIVE MEMBERS OF THE  
20 COMMISSION; AND

21 (II) WITHIN 70 DAYS AFTER NOTIFICATION THAT A VACANCY  
22 EXISTS OR IS ABOUT TO OCCUR.

23 (C) (1) BY AFFIRMATIVE VOTE OF FIVE MEMBERS OF THE COMMISSION,  
24 THE COMMISSION MAY REMOVE THE STATE ADMINISTRATOR FOR INCOMPETENCE,  
25 MISCONDUCT, OR OTHER GOOD CAUSE.

26 (2) PRIOR TO REMOVAL, THE COMMISSION SHALL:

27 (I) SET FORTH WRITTEN CHARGES STATING THE GROUNDS FOR  
28 REMOVAL;

29 (II) PROVIDE THE STATE ADMINISTRATOR WITH THE WRITTEN  
30 CHARGES; AND

31 (III) AFFORD THE STATE ADMINISTRATOR NOTICE AND AN AMPLE  
32 OPPORTUNITY TO BE HEARD.

33 [2-107.] 2-108.

34 (a) (1) There is a Maryland Election Modernization Fund.

1           (2)     The Fund is established as a continuing fund for programs relating to  
2 the federal Help America Vote Act of 2002 and related expenditures.

3           (3)     The Fund is a special, continuing, nonlapsing fund that is not subject  
4 to § 7-302 of the State Finance and Procurement Article.

5           (4)     The Treasurer shall separately hold and the Comptroller shall  
6 account for the Fund.

7           (5)     The Fund shall be invested and reinvested in the same manner as  
8 other State funds.

9           (6)     Any investment earnings shall be retained to the credit of the Fund.

10       (b)     The Fund consists of:

11           (1)     moneys appropriated in the State budget to the Fund;

12           (2)     moneys otherwise appropriated for the purposes of the Fund, which  
13 may be transferred to the Fund by an approved budget amendment; and

14           (3)     moneys received by the State from the federal government under the  
15 federal Help America Vote Act of 2002 or under other federal programs for similar  
16 purposes.

17       (c)     Expenditures from the Fund may be made only in accordance with an  
18 appropriation for:

19           (1)     complying with requirements of the federal Help America Vote Act of  
20 2002;

21           (2)     improving the administration of elections for federal office;

22           (3)     educating voters regarding voting procedures, voting rights, and  
23 voting technology;

24           (4)     training election officials, poll workers, and election volunteers;

25           (5)     developing the State plan required by the federal Help America Vote  
26 Act of 2002;

27           (6)     improving, acquiring, leasing, modifying, or replacing voting systems  
28 and technology and methods for casting and counting votes;

29           (7)     improving the quantity and accessibility of polling places, including  
30 providing physical access for individuals with disabilities, nonvisual access for  
31 individuals with visual impairments, and access for individuals with limited  
32 proficiency in the English language;

33           (8)     establishing toll-free telephone hotlines that voters may use to  
34 report possible voting fraud and voting rights violations, to obtain general election



1 information, and to access detailed automated information on their own voter  
2 registration status, specific polling place locations, and other relevant information;  
3 and

4 (9) any other uses that may be allowed for funds received under the  
5 federal Help America Vote Act of 2002.

6 SECTION 2. AND BE IT FURTHER ENACTED, That this Act is an emergency  
7 measure, is necessary for the immediate preservation of the public health or safety,  
8 has been passed by a yea and nay vote supported by three-fifths of all the members  
9 elected to each of the two Houses of the General Assembly, and shall take effect from  
10 the date it is enacted.