

UNOFFICIAL COPY OF SENATE BILL 444
EMERGENCY BILL

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5lr2097
CF 5lr2773

By: **Senators Hollinger, Astle, Britt, Brochin, Conway, Currie, DeGrange, Della, Dyson, Exum, Forehand, Frosh, Garagiola, Giannetti, Gladden, Green, Grosfeld, Hogan, Hughes, Jimeno, Jones, Kasemeyer, Kelley, Klausmeier, Kramer, Lawlah, McFadden, Middleton, Miller, Pinsky, Ruben, Stone, and Teitelbaum**

Introduced and read first time: February 4, 2005

Assigned to: Education, Health, and Environmental Affairs

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

1 Article - Election Law
2 Section 2-101.1, 2-102, and 2-107
3 Annotated Code of Maryland
4 (2003 Volume and 2004 Supplement)

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

7 **Article - Election Law**

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

10 Subtitle 1. [State Board] STATE ELECTIONS OFFICE AND STATE ELECTIONS
11 ADVISORY COMMITTEE.

12 2-101.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

16 (i) Each member shall receive:

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

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

22 2-101.1.

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

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

27 (I) TWO MEMBERS WHO HAVE EXPERTISE IN STATE ELECTIONS
28 ADMINISTRATION;

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

32 (III) ONE MEMBER WHO HAS EXPERTISE IN INFORMATION
33 TECHNOLOGY AND SECURITY;

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

4 (V) ONE MEMBER WHO REPRESENTS THE DISABLED.

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

8 (3) THE SPEAKER OF THE HOUSE OF DELEGATES SHALL APPOINT TO
9 THE COMMITTEE TWO DELEGATES, ONE FROM EACH OF THE PRINCIPAL POLITICAL
10 PARTIES.

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

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

14 (E) A MEMBER OF THE COMMITTEE MAY NOT RECEIVE COMPENSATION BUT
15 SHALL RECEIVE REIMBURSEMENT FOR REASONABLE EXPENSES INCURRED IN THE
16 PERFORMANCE OF THE MEMBER'S DUTIES, AS PROVIDED FOR IN THE STATE
17 BUDGET.

18 [2-102.

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

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

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

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

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

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

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

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

33 (7) maximize the use of technology in election administration, including
34 the development of a plan for a comprehensive computerized elections management
35 system;

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

2 (9) make available to the general public, in a timely and efficient
3 manner, information on the electoral process, including a publication that includes
4 the text of this article, relevant portions of the Maryland Constitution, and
5 information gathered and maintained regarding elections;

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

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

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

14 2-102.

15 (A) THE COMMITTEE SHALL MEET:

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

18 (2) AS REQUESTED BY THE STATE ADMINISTRATOR.

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

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

26 2-103.

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

28 (b) The State Administrator shall:

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

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

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

34 (i) a deputy administrator; and

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

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

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

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

13 (7) be the chief State election official;

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

16 (9) MAXIMIZE THE USE OF TECHNOLOGY IN ELECTION
17 ADMINISTRATION, INCLUDING THE DEVELOPMENT OF A PLAN FOR A
18 COMPREHENSIVE COMPUTERIZED ELECTIONS MANAGEMENT SYSTEM;

19 (10) CANVASS AND CERTIFY THE RESULTS OF ELECTIONS AS
20 PRESCRIBED BY LAW;

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

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

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

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

33 2-107.

34 (A) (1) THERE IS A STATE ADMINISTRATOR APPOINTMENT AND REMOVAL
35 COMMISSION.

36 (2) THE COMMISSION CONSISTS OF:

- 1 (I) THE BOARD OF STATE CANVASSERS AS DESCRIBED IN § 11-502;
- 2 (II) THE PRESIDENT OF THE SENATE OF MARYLAND OR THE
3 PRESIDENT'S DESIGNEE; AND
- 4 (III) THE SPEAKER OF THE HOUSE OF DELEGATES OR THE
5 SPEAKER'S DESIGNEE.
- 6 (3) THE COMMISSION SHALL ELECT A CHAIR FROM AMONG ITS
7 MEMBERS.
- 8 (4) A MEMBER OF THE COMMISSION MAY NOT RECEIVE COMPENSATION
9 BUT SHALL RECEIVE REIMBURSEMENT FOR REASONABLE EXPENSES INCURRED IN
10 THE PERFORMANCE OF THE MEMBER'S DUTIES, AS PROVIDED FOR IN THE STATE
11 BUDGET.
- 12 (B) (1) ON NOTIFICATION THAT A VACANCY EXISTS OR IS ABOUT TO OCCUR,
13 THE COMMISSION SHALL:
- 14 (I) APPOINT AN ACTING STATE ADMINISTRATOR;
- 15 (II) NOTIFY THE STATE ELECTIONS ADVISORY COMMITTEE OF THE
16 VACANCY AND REQUEST RECOMMENDATIONS FROM THAT COMMITTEE; AND
- 17 (III) SEEK AND REVIEW THE APPLICATIONS OF POTENTIAL
18 APPOINTEES TO THE POSITION OF STATE ADMINISTRATOR.
- 19 (2) THE COMMISSION SHALL INTERVIEW EACH ELIGIBLE APPLICANT
20 AND SELECT THE MOST QUALIFIED CANDIDATE.
- 21 (3) THE SELECTION SHALL BE MADE:
- 22 (I) BASED ON AN AFFIRMATIVE VOTE OF FIVE MEMBERS OF THE
23 COMMISSION; AND
- 24 (II) WITHIN 70 DAYS AFTER NOTIFICATION THAT A VACANCY
25 EXISTS OR IS ABOUT TO OCCUR.
- 26 (C) (1) BY AFFIRMATIVE VOTE OF FIVE MEMBERS OF THE COMMISSION,
27 THE COMMISSION MAY REMOVE THE STATE ADMINISTRATOR FOR INCOMPETENCE,
28 MISCONDUCT, OR OTHER GOOD CAUSE.
- 29 (2) PRIOR TO REMOVAL, THE COMMISSION SHALL:
- 30 (I) SET FORTH WRITTEN CHARGES STATING THE GROUNDS FOR
31 REMOVAL;
- 32 (II) PROVIDE THE STATE ADMINISTRATOR WITH THE WRITTEN
33 CHARGES; AND

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

3 [2-107.] 2-108.

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

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

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

9 (4) The Treasurer shall separately hold and the Comptroller shall
10 account for the Fund.

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

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

14 (b) The Fund consists of:

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

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

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

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

23 (1) complying with requirements of the federal Help America Vote Act of
24 2002;

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

26 (3) educating voters regarding voting procedures, voting rights, and
27 voting technology;

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

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

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

1 (7) improving the quantity and accessibility of polling places, including
2 providing physical access for individuals with disabilities, nonvisual access for
3 individuals with visual impairments, and access for individuals with limited
4 proficiency in the English language;

5 (8) establishing toll-free telephone hotlines that voters may use to
6 report possible voting fraud and voting rights violations, to obtain general election
7 information, and to access detailed automated information on their own voter
8 registration status, specific polling place locations, and other relevant information;
9 and

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

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