

UNOFFICIAL COPY OF SENATE BILL 444
EMERGENCY BILL

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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

Committee Report: Favorable with amendments
Senate action: Adopted
Read second time: March 16, 2005

CHAPTER _____

1 AN ACT concerning

2 **Elections - State ~~Elections Office and State Elections Advisory Committee~~**
3 **Board of Elections - Membership Appointment Process and Authority over**
4 **the State Administrator**

5 FOR the purpose of ~~establishing a State Elections Office and State Elections Advisory~~
6 ~~Committee to provide guidance and recommendations to the State~~
7 ~~Administrator of Elections on certain election matters; providing for the~~
8 ~~membership, appointment, powers, and duties of the Committee; establishing a~~
9 ~~State Administrator Appointment and Removal Commission; specifying the~~
10 ~~membership, powers, and duties of the Commission; altering the process for the~~
11 ~~appointment and removal of the State Administrator; altering the powers and~~
12 ~~duties of the State Administrator; abolishing the State Board of Elections;~~
13 ~~making this Act an emergency measure; and generally relating to the~~
14 ~~establishment of the State Elections Advisory Committee and the governance of~~
15 ~~State elections~~ altering the appointment process for the members of the State
16 Board of Elections; requiring the Governor to appoint to the State Board an
17 individual whose name is submitted by the State Central Committee of a certain
18 principal political party; providing that the appointment of the State
19 Administrator of Elections by the State Board is subject to the advice and
20 consent of the Senate of Maryland; clarifying the authority of the State Board to
21 remove the State Administrator; providing that the deputy administrator shall
22 serve as the State Administrator for a certain period under certain
23 circumstances; providing that the State Administrator is authorized to continue
24 to serve until a successor is appointed and confirmed by the Senate of Maryland

1 under certain circumstances; and generally relating to the appointment of the
 2 members of the State Board of Elections and the authority of the State Board
 3 over the State Administrator.

4 ~~BY repealing and reenacting, with amendments,~~
 5 ~~Article - Election Law~~
 6 ~~Section 2-101, 2-103, and 2-107 to be under the amended title "Title 2. State~~
 7 ~~Elections Office, State Elections Advisory Committee, and Local Boards of~~
 8 ~~Election" and the amended subtitle "Subtitle 1. State Elections Office and~~
 9 ~~State Elections Advisory Committee"~~
 10 ~~Annotated Code of Maryland~~
 11 ~~(2003 Volume and 2004 Supplement)~~

12 ~~BY repealing and reenacting, with amendments,~~
 13 ~~Article - Election Law~~
 14 ~~Section 2-102 2-101 and 2-103~~
 15 ~~Annotated Code of Maryland~~
 16 ~~(2003 Volume and 2004 Supplement)~~

17 ~~BY adding to~~
 18 ~~Article - Election Law~~
 19 ~~Section 2-101.1, 2-102, and 2-107~~
 20 ~~Annotated Code of Maryland~~
 21 ~~(2003 Volume and 2004 Supplement)~~

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

24 **Article - Election Law**

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

27 ~~Subtitle 1. [State Board] STATE ELECTIONS OFFICE AND STATE ELECTIONS~~
 28 ~~ADVISORY COMMITTEE.~~

29 2-101.

30 (a) There is a State ~~{Board}~~ OFFICE of Elections ~~{consisting of five~~
 31 ~~members}~~.

32 (b) The State ~~{Board}~~ OFFICE shall ~~{maintain its principal office}~~ ~~BE~~
 33 ~~LOCATED~~ in Annapolis and have staff, subject to the State Personnel and Pensions
 34 Article, as provided in the State budget.

35 ~~{(c)}~~ (1) Each member of the State Board shall:

1 (+) (I) subject to subsection (g)(2) of this section, be appointed by the
 2 ~~Governor~~, GOVERNOR IN ACCORDANCE WITH PARAGRAPH (2) OF THIS SUBSECTION,
 3 with the advice and consent of the Senate of Maryland;

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

6 (3) (III) subject to subsection (f)(3) of this section, be eligible for
 7 reappointment;

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

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

13 (2) SUBJECT TO SUBSECTION (E) OF THIS SECTION, THE GOVERNOR
 14 SHALL APPOINT AS A MEMBER OF THE STATE BOARD AN INDIVIDUAL WHOSE NAME
 15 IS SUBMITTED TO THE GOVERNOR BY THE STATE CENTRAL COMMITTEE OF THE
 16 PRINCIPAL POLITICAL PARTY ENTITLED TO THE APPOINTMENT.

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

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

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

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

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

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

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

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

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

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

1 (i) Each member shall receive:

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

5 (2) reimbursement for all necessary and proper expenses, as provided in
6 the State budget.}

7 ~~2-101.1.~~

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

10 ~~(B) (1) THE STATE ADMINISTRATOR SHALL APPOINT EIGHT MEMBERS TO~~
11 ~~THE COMMITTEE AS FOLLOWS:~~

12 ~~(I) TWO MEMBERS WHO HAVE EXPERTISE IN STATE ELECTIONS~~
13 ~~ADMINISTRATION;~~

14 ~~(II) THREE MEMBERS WHO HAVE EXPERTISE IN LOCAL ELECTIONS~~
15 ~~ADMINISTRATION, WHO SHALL INCLUDE A REPRESENTATIVE OF A SMALL, A~~
16 ~~MEDIUM, AND A LARGE JURISDICTION;~~

17 ~~(III) ONE MEMBER WHO HAS EXPERTISE IN INFORMATION~~
18 ~~TECHNOLOGY AND SECURITY;~~

19 ~~(IV) ONE MEMBER WHO IS A REPRESENTATIVE OF COUNTY~~
20 ~~GOVERNMENT, CHOSEN FROM A LIST SUBMITTED TO THE STATE ADMINISTRATOR BY~~
21 ~~THE MARYLAND ASSOCIATION OF COUNTIES; AND~~

22 ~~(V) ONE MEMBER WHO REPRESENTS THE DISABLED.~~

23 ~~(2) THE PRESIDENT OF THE SENATE OF MARYLAND SHALL APPOINT TO~~
24 ~~THE COMMITTEE TWO SENATORS, ONE FROM EACH OF THE PRINCIPAL POLITICAL~~
25 ~~PARTIES.~~

26 ~~(3) THE SPEAKER OF THE HOUSE OF DELEGATES SHALL APPOINT TO~~
27 ~~THE COMMITTEE TWO DELEGATES, ONE FROM EACH OF THE PRINCIPAL POLITICAL~~
28 ~~PARTIES.~~

29 ~~(C) EACH MEMBER OF THE COMMITTEE SHALL SERVE AT THE PLEASURE OF~~
30 ~~THE MEMBER'S APPOINTING AUTHORITY.~~

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

32 ~~(E) A MEMBER OF THE COMMITTEE MAY NOT RECEIVE COMPENSATION BUT~~
33 ~~SHALL RECEIVE REIMBURSEMENT FOR REASONABLE EXPENSES INCURRED IN THE~~
34 ~~PERFORMANCE OF THE MEMBER'S DUTIES, AS PROVIDED FOR IN THE STATE~~
35 ~~BUDGET.~~

1 ~~2-102.~~

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

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

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

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

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

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

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

14 (6) appoint a State Administrator in accordance with ~~§ 2-103~~ of this
15 subtitle;

16 (7) maximize the use of technology in election administration, including
17 the development of a plan for a comprehensive computerized elections management
18 system;

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

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

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

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

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

32 ~~2-102.~~

33 (A) THE COMMITTEE SHALL MEET:

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

3 (2) ~~AS REQUESTED BY THE STATE ADMINISTRATOR.~~

4 (B) ~~THE COMMITTEE SHALL PROVIDE GUIDANCE AND RECOMMENDATIONS~~
5 ~~TO THE STATE ADMINISTRATOR ON ANY POLICY, REGULATION, FORM, OR PROGRAM~~
6 ~~ESTABLISHED BY THE STATE ADMINISTRATOR.~~

7 (C) ~~IN THE EVENT OF A VACANCY IN THE OFFICE OF THE STATE~~
8 ~~ADMINISTRATOR, THE COMMITTEE SHALL SUBMIT A LIST OF RECOMMENDED~~
9 ~~APPOINTEES FOR THE VACANCY TO THE STATE ADMINISTRATOR APPOINTMENT AND~~
10 ~~REMOVAL COMMISSION.~~

11 2-103.

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

13 (b) The State Administrator shall:

14 (1) be appointed by THE STATE BOARD, WITH THE ADVICE AND
15 CONSENT OF THE SENATE OF MARYLAND, {and serve at the pleasure of the State
16 Board} ~~THE STATE ADMINISTRATOR APPOINTMENT AND REMOVAL COMMISSION~~
17 ~~WITH THE ADVICE AND CONSENT OF THE SENATE;~~

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

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

20 (i) a deputy administrator, WHO SHALL SERVE AS STATE
21 ADMINISTRATOR IN THE EVENT THE STATE ADMINISTRATOR RESIGNS, BECOMES
22 DISABLED, OR DIES, PENDING THE APPOINTMENT OF A SUCCESSOR STATE
23 ADMINISTRATOR; and

24 (ii) pursuant to the State Personnel and Pensions Article, other
25 staff {of the State Board} ~~SUFFICIENT TO CARRY OUT THE FUNCTIONS OF THIS~~
26 ~~ARTICLE;~~

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

29 (5) perform all duties and exercise all powers that are assigned by law to
30 the State Administrator {or delegated by the State Board};

31 (6) PROVIDED THE STATE BOARD IS FULLY CONSTITUTED WITH FIVE
32 DULY CONFIRMED MEMBERS, be subject to removal {by the affirmative vote of four
33 DULY CONFIRMED members of the State Board for incompetence, misconduct, or
34 other good cause; ~~however,~~ EXCEPT THAT:

35 (I) prior to removal, the State Board shall set forth written charges
36 stating the grounds for dismissal and afford the State Administrator notice and an

1 ample opportunity to be heard] ~~AS PROVIDED UNDER § 2-107(D) OF THIS SUBTITLE;~~
 2 ~~and]~~

3 (II) SUBSEQUENT TO A VALID VOTE FOR REMOVAL BY AT LEAST
 4 FOUR DULY CONFIRMED MEMBERS OF THE STATE BOARD, THE STATE
 5 ADMINISTRATOR IS AUTHORIZED TO CONTINUE TO SERVE UNTIL A SUCCESSOR IS
 6 APPOINTED AND CONFIRMED BY THE SENATE OF MARYLAND; AND

7 (7) be the chief State election ~~official;~~ OFFICIAL.

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

10 ~~(9) MAXIMIZE THE USE OF TECHNOLOGY IN ELECTION~~
 11 ~~ADMINISTRATION, INCLUDING THE DEVELOPMENT OF A PLAN FOR A~~
 12 ~~COMPREHENSIVE COMPUTERIZED ELECTIONS MANAGEMENT SYSTEM;~~

13 ~~(10) CANVASS AND CERTIFY THE RESULTS OF ELECTIONS AS~~
 14 ~~PRESCRIBED BY LAW;~~

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

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

24 ~~(13) PRESCRIBE ALL FORMS REQUIRED UNDER THIS ARTICLE.~~

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

27 ~~2-107.~~

28 ~~(A) (1) THERE IS A STATE ADMINISTRATOR APPOINTMENT AND REMOVAL~~
 29 ~~COMMISSION.~~

30 ~~(2) THE COMMISSION CONSISTS OF:~~

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

32 ~~(II) THE PRESIDENT OF THE SENATE OF MARYLAND OR THE~~
 33 ~~PRESIDENT'S DESIGNEE; AND~~

34 ~~(III) THE SPEAKER OF THE HOUSE OF DELEGATES OR THE~~
 35 ~~SPEAKER'S DESIGNEE.~~

1 (3) ~~THE COMMISSION SHALL ELECT A CHAIR FROM AMONG ITS~~
2 ~~MEMBERS.~~

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

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

9 (1) ~~APPOINT AN ACTING STATE ADMINISTRATOR;~~

10 (II) ~~NOTIFY THE STATE ELECTIONS ADVISORY COMMITTEE OF THE~~
11 ~~VACANCY AND REQUEST RECOMMENDATIONS FROM THAT COMMITTEE; AND~~

12 (III) ~~SEEK AND REVIEW THE APPLICATIONS OF POTENTIAL~~
13 ~~APPOINTEES TO THE POSITION OF STATE ADMINISTRATOR.~~

14 (2) ~~THE COMMISSION SHALL INTERVIEW EACH ELIGIBLE APPLICANT~~
15 ~~AND SELECT THE MOST QUALIFIED CANDIDATE.~~

16 (3) ~~THE SELECTION SHALL BE MADE:~~

17 (1) ~~BASED ON AN AFFIRMATIVE VOTE OF FIVE MEMBERS OF THE~~
18 ~~COMMISSION; AND~~

19 (II) ~~WITHIN 70 DAYS AFTER NOTIFICATION THAT A VACANCY~~
20 ~~EXISTS OR IS ABOUT TO OCCUR.~~

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

24 (2) ~~PRIOR TO REMOVAL, THE COMMISSION SHALL:~~

25 (1) ~~SET FORTH WRITTEN CHARGES STATING THE GROUNDS FOR~~
26 ~~REMOVAL;~~

27 (II) ~~PROVIDE THE STATE ADMINISTRATOR WITH THE WRITTEN~~
28 ~~CHARGES; AND~~

29 (III) ~~AFFORD THE STATE ADMINISTRATOR NOTICE AND AN AMPLE~~
30 ~~OPPORTUNITY TO BE HEARD.~~

31 ~~[2-107.]2-108.~~

32 (a) (1) ~~There is a Maryland Election Modernization Fund.~~

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

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

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

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

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

8 (b) The Fund consists of:

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

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

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

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

17 (1) complying with requirements of the federal Help America Vote Act of
18 2002;

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

20 (3) educating voters regarding voting procedures, voting rights, and
21 voting technology;

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

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

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

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

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

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

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