

HOUSE BILL 665

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9lr2295
CF SB 595

By: **Delegates Hixson, Bobo, Boteler, Cardin, Frick, George, Ivey, Myers, Olszewski, and F. Turner**

Introduced and read first time: February 9, 2009

Assigned to: Ways and Means

A BILL ENTITLED

1 AN ACT concerning

2 **Election Law – Audit of Election Results – Transparency in Election**
3 **Administration**

4 FOR the purpose of requiring the State Board of Elections to adopt regulations that
5 provide for convenient and timely public access to certain information
6 concerning the administration of elections; requiring that certain information
7 concerning a meeting of the State Board or a local board of elections be posted
8 on the website of the State Board or local board by a certain date before the
9 meeting and a certain date after the meeting; requiring that the public be
10 allowed to speak, hear the proceedings, and obtain certain documents at each
11 meeting of the State Board and the local boards; authorizing a poll monitoring
12 organization to designate a registered voter as a challenger or watcher;
13 providing that a certificate signed by a certain group is sufficient evidence of the
14 right of a challenger or watcher to be present in the voting room; repealing
15 certain provisions of law relating to nonaccredited challengers and watchers;
16 requiring that a nonaccredited challenger or watcher have all the rights of an
17 accredited challenger or watcher and be subject to the same restrictions as an
18 accredited challenger or watcher; requiring that a board of canvassers verify the
19 vote count in certain statewide contests and contests for Representative in
20 Congress by means of a certain audit before certifying the results of an election;
21 requiring that an audit include a comparison of a manual count of votes with
22 the machine count; requiring that the manual count be considered the official
23 and accurate record of the votes cast in a contest; requiring that precincts be
24 selected to be manually counted by means of random draws; requiring that
25 random draws be conducted in a certain manner; requiring that the selection of
26 precincts to be manually counted may not commence before the machine count
27 is complete and election results are posted on the State Board’s website, except
28 under certain circumstances; requiring that additional precincts be added to the
29 manual count under certain circumstances if the selection of precincts to be
30 manually counted commences before the machine count is complete; requiring

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 that additional precincts be manually counted in a certain manner if the vote
2 totals produced by an initial manual count vary by a certain amount from the
3 machine count; authorizing a certain candidate to request that a certain
4 number of precincts be manually counted in addition to those otherwise
5 required to be manually counted under this Act; requiring a candidate to pay
6 the costs of a manual count requested by the candidate, except under certain
7 circumstances; providing that a candidate who requests a manual count retains
8 the right to petition for a recount and seek certain judicial relief in a contested
9 election; requiring the State Board to develop written procedures to govern
10 audits under this Act; requiring the procedures to address certain matters;
11 requiring the State Board to post the procedures on its website, solicit public
12 comments, and revise the procedures as necessary; requiring the State Board to
13 allow the public to witness, verify, and comment on all aspects of the audit
14 process; requiring the State Board to provide certain notice of each activity
15 related to an audit at least a certain number of days in advance; requiring that
16 precinct level vote totals produced by the machine count and the final results of
17 an audit be posted on the websites of the State Board and local boards at certain
18 times; requiring final audit results to include certain information; requiring the
19 State Board to post a report on its website relating to voting system and election
20 process deficiencies identified during an audit by a certain date; requiring that
21 all documents, reports, and results of an audit be available to the public and
22 may be used as evidence in an election contest; defining certain terms; and
23 generally relating to audits of election results and transparency and accuracy in
24 election administration.

25 BY adding to
26 Article – Election Law
27 Section 2–108 and 11–309
28 Annotated Code of Maryland
29 (2003 Volume and 2008 Supplement)

30 BY repealing and reenacting, with amendments,
31 Article – Election Law
32 Section 10–311 and 11–308
33 Annotated Code of Maryland
34 (2003 Volume and 2008 Supplement)

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

37 **Article – Election Law**

38 **2–108.**

39 (A) **THE STATE BOARD SHALL ADOPT REGULATIONS THAT PROVIDE**
40 **FOR CONVENIENT AND TIMELY PUBLIC ACCESS TO INFORMATION CONCERNING**
41 **THE ADMINISTRATION OF ELECTIONS, INCLUDING:**

1 (1) MINUTES OF EACH MEETING OF THE STATE BOARD AND THE
2 LOCAL BOARDS;

3 (2) REPORTS AND STUDIES RELATED TO ELECTION
4 ADMINISTRATION;

5 (3) INFORMATION RELATING TO PROBLEMS IN ELECTION
6 ADMINISTRATION, SUCH AS MISSING BALLOTS OR MALFUNCTIONING
7 EQUIPMENT;

8 (4) COMMENTS FROM THE PUBLIC REGARDING ELECTIONS
9 ADMINISTRATION; AND

10 (5) INFORMATION CONCERNING OTHER ACTIVITIES OF THE
11 STATE BOARD AND THE LOCAL BOARDS, INCLUDING POLICY DECISIONS AND
12 PUBLIC SESSIONS.

13 (B) THE INFORMATION MADE PUBLICLY AVAILABLE UNDER
14 SUBSECTION (A) OF THIS SECTION SHALL BE:

15 (1) POSTED ON THE WEBSITES OF THE STATE BOARD AND LOCAL
16 BOARDS; AND

17 (2) AVAILABLE FOR PUBLIC INSPECTION AT THE OFFICES OF THE
18 STATE BOARD AND LOCAL BOARDS.

19 (C) AT LEAST 7 BUSINESS DAYS BEFORE EACH MEETING OF THE STATE
20 BOARD OR A LOCAL BOARD, THE FOLLOWING SHALL BE POSTED ON THE
21 WEBSITE OF THE STATE BOARD OR LOCAL BOARD:

22 (1) THE DATE, TIME, AND LOCATION OF THE MEETING;

23 (2) THE AGENDA FOR THE MEETING; AND

24 (3) ANY DOCUMENTS THAT WILL BE DISCUSSED AT THE MEETING.

25 (D) AT EACH MEETING OF THE STATE BOARD AND THE LOCAL BOARDS:

26 (1) MEMBERS OF THE PUBLIC SHALL BE PERMITTED TO SPEAK
27 FOR A REASONABLE PERIOD OF TIME;

28 (2) AN AMPLIFIED SOUND SYSTEM SHALL BE USED IF NECESSARY
29 TO ENSURE THAT THE PUBLIC CAN HEAR THE PROCEEDINGS; AND

1 **(3) ALL WRITTEN MATERIALS DISTRIBUTED AT THE MEETING**
2 **SHALL BE MADE AVAILABLE TO MEMBERS OF THE PUBLIC WHO ATTEND THE**
3 **MEETING.**

4 **(E) WITHIN 2 DAYS AFTER EACH MEETING OF THE STATE BOARD AND**
5 **THE LOCAL BOARDS, THE FOLLOWING SHALL BE POSTED ON THE WEBSITE OF**
6 **THE STATE BOARD OR LOCAL BOARD:**

7 **(1) ALL WRITTEN MATERIALS DISTRIBUTED AT THE MEETING;**
8 **AND**

9 **(2) AN AUDIO RECORDING OF THE MEETING.**

10 10–311.

11 (a) (1) The following persons or entities have the right to designate a
12 registered voter as a challenger or a watcher at each place of registration and election:

13 (i) the State Board for any polling place in the State;

14 (ii) a local board for any polling place located in the county of
15 the local board;

16 (iii) a candidate;

17 (iv) a political party; [and]

18 (v) any [other] group of voters supporting or opposing a
19 candidate, principle, or proposition on the ballot; **AND**

20 **(VI) A LOCAL, STATE, NATIONAL, OR INTERNATIONAL POLL**
21 **MONITORING ORGANIZATION.**

22 (2) A person who appoints a challenger or watcher may remove the
23 challenger or watcher at any time.

24 (b) Except as provided in § 10–303(d)(2) of this subtitle and subsection (d) of
25 this section, a challenger or watcher has the right to:

26 (1) enter the polling place one–half hour before the polls open;

27 (2) enter or be present at the polling place at any time when the polls
28 are open;

1 (3) remain in the polling place until the completion of all tasks
2 associated with the close of the polls under § 10–314 of this subtitle and the election
3 judges leave the polling place;

4 (4) maintain a list of registered voters who have voted, or individuals
5 who have cast provisional ballots, and take the list outside of the polling place; and

6 (5) enter and leave a polling place for the purpose of taking outside of
7 the polling place information that identifies registered voters who have cast ballots or
8 individuals who have cast provisional ballots.

9 (c) (1) (i) A certificate signed by any party [or], candidate, **OR OTHER**
10 **GROUP LISTED IN SUBSECTION (A) OF THIS SECTION** shall be sufficient evidence of
11 the right of a challenger or watcher to be present in the voting room.

12 (ii) The State Board shall prescribe a form that shall be
13 supplied to the challenger or watcher by the person or entity designating the
14 challenger or watcher.

15 (2) A challenger or watcher shall be positioned near the election
16 judges and inside the voting room so that the challenger or watcher may see and hear
17 each person as the person offers to vote.

18 (d) (1) A challenger or watcher may not attempt to:

19 (i) ascertain how a voter voted or intends to vote;

20 (ii) converse in the polling place with any voter;

21 (iii) assist any voter in voting; or

22 (iv) physically handle an original election document.

23 (2) An election judge may eject a challenger or watcher who violates
24 the prohibitions under paragraph (1) of this subsection.

25 (e) [(1) Except as provided in paragraphs (2) and (3) of this subsection, an
26 election judge shall permit an individual other than an accredited challenger or
27 watcher who desires to challenge the right to vote of any other individual to enter the
28 polling place for that purpose.

29 (2) A majority of the election judges may limit the number of
30 nonaccredited challengers and watchers allowed in the polling place at any one time
31 for the purpose of challenging the right of an individual to vote.

1 (3) A nonaccredited challenger or watcher shall leave the polling place
2 as soon as a majority of the election judges decides the right to vote of the individual
3 challenged by the challenger or watcher.

4 (4) In addition to restrictions provided under this subsection, all
5 restrictions on the actions of an accredited challenger or watcher provided under this
6 subtitle apply to a nonaccredited challenger or watcher.] **A NONACCREDITED**
7 **CHALLENGER OR WATCHER SHALL:**

8 (1) **HAVE ALL THE RIGHTS OF AN ACCREDITED CHALLENGER OR**
9 **WATCHER UNDER THIS SUBTITLE; AND**

10 (2) **BE SUBJECT TO THE SAME RESTRICTIONS THAT APPLY TO AN**
11 **ACCREDITED CHALLENGER OR WATCHER UNDER THIS SUBTITLE.**

12 11-308.

13 (a) [Within 10 days after any election, and before] **BEFORE** certifying the
14 results of [the] AN election, each board of canvassers shall:

15 (1) **VERIFY THE VOTE COUNT IN A CONTEST SUBJECT TO AUDIT IN**
16 **ACCORDANCE WITH § 11-309 OF THIS SUBTITLE; AND**

17 (2) **WITHIN 10 DAYS AFTER THE ELECTION,** verify the vote count in
18 **A CONTEST NOT SUBJECT TO AUDIT UNDER § 11-309 OF THIS SUBTITLE IN**
19 accordance with the regulations prescribed by the State Board for the voting system
20 used in that election.

21 (b) Upon completion of the verification process, **INCLUDING ANY AUDIT**
22 **CONDUCTED UNDER § 11-309 OF THIS SUBTITLE,** the members of the board of
23 canvassers shall:

24 (1) certify in writing that the election results are accurate and that the
25 vote has been verified; and

26 (2) provide copies of the election results to the persons specified under
27 § 11-401 of this title.

28 (c) (1) If a member of a board of canvassers dissents from a determination
29 of an election result or reasonably believes that the conduct of a local board member or
30 local board proceeding was not in compliance with applicable law or regulation or was
31 otherwise illegal or irregular, the member shall prepare and file with the local board a
32 distinct written statement of the reasons for the dissent or concern.

33 (2) The State Board shall maintain a file of the written statements
34 submitted under this subsection by members of the local boards.

1 **11-309.**

2 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE
3 MEANINGS INDICATED.

4 (2) "MACHINE COUNT" MEANS:

5 (I) THE PROCESS OF VOTE TALLYING AND VOTE
6 TABULATION BY THE STATE'S CERTIFIED ELECTRONIC VOTING SYSTEM; OR

7 (II) THE VOTE TOTALS PRODUCED BY THE PROCESS IN ITEM
8 (I) OF THIS PARAGRAPH.

9 (3) "MANUAL COUNT" MEANS:

10 (I) A PROCESS OF VOTE TALLYING AND VOTE TABULATION
11 IN WHICH VOTER-VERIFIED PAPER BALLOTS ARE INSPECTED BY HAND AND EYE
12 TO DETERMINE THE INTENT OF THE VOTER; OR

13 (II) THE VOTE TOTALS PRODUCED BY THE PROCESS IN ITEM
14 (I) OF THIS PARAGRAPH.

15 (4) "MARGIN OF DIFFERENCE" MEANS THE DIFFERENCE
16 BETWEEN THE NUMBER OF VOTES RECEIVED BY THE APPARENT WINNING
17 CANDIDATE AND THE NUMBER OF VOTES RECEIVED BY THE APPARENT LOSING
18 CANDIDATE WITH THE HIGHEST NUMBER OF VOTES, EXPRESSED AS A
19 PERCENTAGE OF THE TOTAL NUMBER OF VOTES CAST IN A CONTEST.

20 (5) "RANDOM DRAW" MEANS THE RANDOM SELECTION OF ONE
21 PRECINCT FROM AMONG ALL THE PRECINCTS WHERE A CONTEST APPEARED ON
22 THE BALLOT, USING A PUBLICLY OBSERVED METHOD OF PRODUCING RANDOM
23 NUMBERS, SUCH AS ROLLS OF FAIR DICE.

24 (6) "STATEWIDE CONTEST" MEANS A CONTEST FOR THE OFFICES
25 OF PRESIDENT OF THE UNITED STATES, UNITED STATES SENATOR, GOVERNOR
26 AND LIEUTENANT GOVERNOR, ATTORNEY GENERAL, AND COMPTROLLER.

27 (7) "VOTER-VERIFIED PAPER BALLOT" MEANS A
28 VOTER-VERIFIABLE PAPER RECORD AS DEFINED IN § 9-102 OF THIS ARTICLE.

29 (B) (1) AN AUDIT OF THE VOTE COUNT SHALL BE CONDUCTED IN
30 EACH STATEWIDE CONTEST AND EACH CONTEST FOR REPRESENTATIVE IN
31 CONGRESS IN WHICH:

1 (I) MORE THAN ONE CANDIDATE'S NAME APPEARED ON
2 THE BALLOT; OR

3 (II) ONE CANDIDATE'S NAME APPEARED ON THE BALLOT
4 AND THE NUMBER OF VALID WRITE-IN VOTES IS EQUAL TO OR GREATER THAN
5 10% OF THE TOTAL NUMBER OF VOTES CAST IN THE CONTEST.

6 (2) AN AUDIT UNDER THIS SECTION SHALL BE COMPLETED
7 BEFORE THE RESULTS OF AN ELECTION MAY BE CERTIFIED IN ACCORDANCE
8 WITH § 11-308 OF THIS SUBTITLE.

9 (C) (1) AN AUDIT UNDER THIS SECTION SHALL INCLUDE A
10 COMPARISON OF A MANUAL COUNT CONDUCTED IN ACCORDANCE WITH THIS
11 SECTION WITH THE MACHINE COUNT.

12 (2) IF THERE IS A DISCREPANCY BETWEEN THE MACHINE COUNT
13 AND A MANUAL COUNT UNDER THIS SECTION, THE MANUAL COUNT SHALL BE
14 CONSIDERED THE OFFICIAL AND ACCURATE RECORD OF THE VOTES CAST.

15 (D) FOR PURPOSES OF THIS SECTION, THE LIKELIHOOD THAT A
16 PRECINCT WILL BE CHOSEN IN A RANDOM DRAW SHALL BE PROPORTIONAL TO
17 THE NUMBER OF ACTIVE REGISTERED VOTERS IN THE PRECINCT 60 DAYS
18 BEFORE THE ELECTION.

19 (E) (1) THE PRECINCTS TO BE MANUALLY COUNTED SHALL BE
20 SELECTED BY MEANS OF RANDOM DRAWS.

21 (2) THE MARGIN OF DIFFERENCE IN EACH AUDITED CONTEST
22 SHALL DETERMINE THE NUMBER OF RANDOM DRAWS PERFORMED TO SELECT
23 PRECINCTS TO BE MANUALLY COUNTED.

24 (3) A PRECINCT THAT IS SELECTED IN MORE THAN ONE RANDOM
25 DRAW SHALL BE MANUALLY COUNTED ONLY ONCE.

26 (4) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS
27 PARAGRAPH, THE NUMBER OF RANDOM DRAWS PERFORMED TO SELECT THE
28 PRECINCTS TO BE MANUALLY COUNTED SHALL BE DETERMINED BY THE
29 FOLLOWING TABLES.

30 (II) IF ALL OF THE PRECINCTS IN WHICH AN AUDITED
31 CONTEST APPEARED ON THE BALLOT ARE SELECTED TO BE MANUALLY
32 COUNTED BY MEANS OF RANDOM DRAWS, NO FURTHER RANDOM DRAWS SHALL
33 BE PERFORMED.

MARGIN OF DIFFERENCE	NUMBER OF RANDOM DRAWS PER AUDITED STATEWIDE CONTEST MANUAL COUNT OF ALL PRECINCTS
LESS THAN OR EQUAL TO 0.10%	1840
GREATER THAN 0.10%	1226
GREATER THAN OR EQUAL TO 0.15%	919
GREATER THAN OR EQUAL TO 0.20%	735
GREATER THAN OR EQUAL TO 0.25%	612
GREATER THAN OR EQUAL TO 0.30%	524
GREATER THAN OR EQUAL TO 0.35%	459
GREATER THAN OR EQUAL TO 0.40%	408
GREATER THAN OR EQUAL TO 0.45%	367
GREATER THAN OR EQUAL TO 0.50%	333
GREATER THAN OR EQUAL TO 0.55%	305
GREATER THAN OR EQUAL TO 0.60%	282
GREATER THAN OR EQUAL TO 0.65%	261
GREATER THAN OR EQUAL TO 0.70%	244
GREATER THAN OR EQUAL TO 0.75%	228
GREATER THAN OR EQUAL TO 0.80%	215
GREATER THAN OR EQUAL TO 0.85%	203
GREATER THAN OR EQUAL TO 0.90%	192
GREATER THAN OR EQUAL TO 0.95%	182
GREATER THAN OR EQUAL TO 1.00%	174
GREATER THAN OR EQUAL TO 1.05%	166
GREATER THAN OR EQUAL TO 1.10%	158
GREATER THAN OR EQUAL TO 1.15%	152
GREATER THAN OR EQUAL TO 1.20%	146
GREATER THAN OR EQUAL TO 1.25%	140
GREATER THAN OR EQUAL TO 1.30%	135
GREATER THAN OR EQUAL TO 1.35%	130
GREATER THAN OR EQUAL TO 1.40%	125
GREATER THAN OR EQUAL TO 1.45%	121
GREATER THAN OR EQUAL TO 1.50%	113
GREATER THAN OR EQUAL TO 1.60%	107
GREATER THAN OR EQUAL TO 1.70%	101
GREATER THAN OR EQUAL TO 1.80%	95
GREATER THAN OR EQUAL TO 1.90%	90
GREATER THAN OR EQUAL TO 2.00%	86
GREATER THAN OR EQUAL TO 2.10%	82
GREATER THAN OR EQUAL TO 2.20%	78
GREATER THAN OR EQUAL TO 2.30%	75
GREATER THAN OR EQUAL TO 2.40%	72
GREATER THAN OR EQUAL TO 2.50%	69
GREATER THAN OR EQUAL TO 2.60%	

1	GREATER THAN OR EQUAL TO 2.70%	66
2	GREATER THAN OR EQUAL TO 2.80%	64
3	GREATER THAN OR EQUAL TO 2.90%	62
4	GREATER THAN OR EQUAL TO 3.00%	60
5	GREATER THAN OR EQUAL TO 3.25%	55
6	GREATER THAN OR EQUAL TO 3.50%	51
7	GREATER THAN OR EQUAL TO 3.75%	47
8	GREATER THAN OR EQUAL TO 4.00%	44
9	GREATER THAN OR EQUAL TO 4.25%	41
10	GREATER THAN OR EQUAL TO 4.50%	39
11	GREATER THAN OR EQUAL TO 5.00%	35
12	GREATER THAN OR EQUAL TO 6.00%	29
13	GREATER THAN OR EQUAL TO 7.00%	24
14	GREATER THAN OR EQUAL TO 8.00%	21
15	GREATER THAN OR EQUAL TO 9.00%	19
16	GREATER THAN OR EQUAL TO 10.00%	17
17	GREATER THAN OR EQUAL TO 12.00%	13
18	GREATER THAN OR EQUAL TO 15.00%	10
19	GREATER THAN OR EQUAL TO 20.00%	7
20	GREATER THAN OR EQUAL TO 25.00%	5

21	MARGIN OF DIFFERENCE	NUMBER OF RANDOM DRAWS PER
22		CONTEST FOR REPRESENTATIVE IN
23		CONGRESS
24	LESS THAN OR EQUAL TO 0.10%	MANUAL COUNT OF ALL PRECINCTS
25	GREATER THAN 0.10%	643
26	GREATER THAN OR EQUAL TO 0.15%	429
27	GREATER THAN OR EQUAL TO 0.20%	322
28	GREATER THAN OR EQUAL TO 0.25%	257
29	GREATER THAN OR EQUAL TO 0.30%	214
30	GREATER THAN OR EQUAL TO 0.35%	184
31	GREATER THAN OR EQUAL TO 0.40%	161
32	GREATER THAN OR EQUAL TO 0.45%	143
33	GREATER THAN OR EQUAL TO 0.50%	128
34	GREATER THAN OR EQUAL TO 0.55%	117
35	GREATER THAN OR EQUAL TO 0.60%	107
36	GREATER THAN OR EQUAL TO 0.65%	99
37	GREATER THAN OR EQUAL TO 0.70%	92
38	GREATER THAN OR EQUAL TO 0.75%	86
39	GREATER THAN OR EQUAL TO 0.80%	80
40	GREATER THAN OR EQUAL TO 0.85%	75
41	GREATER THAN OR EQUAL TO 0.90%	71
42	GREATER THAN OR EQUAL TO 0.95%	67

1	GREATER THAN OR EQUAL TO 1.00%	64
2	GREATER THAN OR EQUAL TO 1.05%	61
3	GREATER THAN OR EQUAL TO 1.10%	58
4	GREATER THAN OR EQUAL TO 1.15%	56
5	GREATER THAN OR EQUAL TO 1.20%	53
6	GREATER THAN OR EQUAL TO 1.25%	51
7	GREATER THAN OR EQUAL TO 1.30%	49
8	GREATER THAN OR EQUAL TO 1.35%	47
9	GREATER THAN OR EQUAL TO 1.40%	46
10	GREATER THAN OR EQUAL TO 1.45%	44
11	GREATER THAN OR EQUAL TO 1.50%	43
12	GREATER THAN OR EQUAL TO 1.60%	40
13	GREATER THAN OR EQUAL TO 1.70%	38
14	GREATER THAN OR EQUAL TO 1.80%	35
15	GREATER THAN OR EQUAL TO 1.90%	34
16	GREATER THAN OR EQUAL TO 2.00%	32
17	GREATER THAN OR EQUAL TO 2.10%	30
18	GREATER THAN OR EQUAL TO 2.20%	29
19	GREATER THAN OR EQUAL TO 2.30%	27
20	GREATER THAN OR EQUAL TO 2.40%	26
21	GREATER THAN OR EQUAL TO 2.50%	25
22	GREATER THAN OR EQUAL TO 2.60%	24
23	GREATER THAN OR EQUAL TO 2.70%	24
24	GREATER THAN OR EQUAL TO 2.80%	23
25	GREATER THAN OR EQUAL TO 2.90%	22
26	GREATER THAN OR EQUAL TO 3.00%	21
27	GREATER THAN OR EQUAL TO 3.25%	19
28	GREATER THAN OR EQUAL TO 3.50%	18
29	GREATER THAN OR EQUAL TO 3.75%	17
30	GREATER THAN OR EQUAL TO 4.00%	16
31	GREATER THAN OR EQUAL TO 4.25%	15
32	GREATER THAN OR EQUAL TO 4.50%	14
33	GREATER THAN OR EQUAL TO 5.00%	13
34	GREATER THAN OR EQUAL TO 6.00%	10
35	GREATER THAN OR EQUAL TO 7.00%	9
36	GREATER THAN OR EQUAL TO 8.00%	8
37	GREATER THAN OR EQUAL TO 9.00%	7
38	GREATER THAN OR EQUAL TO 10.00%	6
39	GREATER THAN OR EQUAL TO 12.00%	5
40	GREATER THAN OR EQUAL TO 15.00%	4
41	GREATER THAN OR EQUAL TO 20.00%	3
42	GREATER THAN OR EQUAL TO 25.00%	2

1 **(F) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS**
2 **SUBSECTION, THE SELECTION OF PRECINCTS TO BE MANUALLY COUNTED MAY**
3 **NOT COMMENCE UNTIL THE MACHINE COUNT OF ALL BALLOTS CAST IN A**
4 **CONTEST IS COMPLETED AND PRECINCT LEVEL VOTE TOTALS ARE POSTED ON**
5 **THE STATE BOARD'S WEBSITE.**

6 **(2) THE SELECTION OF PRECINCTS TO BE MANUALLY COUNTED**
7 **MAY COMMENCE AFTER THE COMPLETION OF THE FIRST ABSENTEE BALLOT**
8 **CANVASS BUT BEFORE THE MACHINE COUNT OF ALL BALLOTS CAST IN A**
9 **CONTEST IS COMPLETED ONLY IF NECESSARY TO ENSURE TIMELY**
10 **CERTIFICATION OF THE ELECTION RESULTS.**

11 **(3) IF THE SELECTION OF PRECINCTS TO BE MANUALLY COUNTED**
12 **COMMENCES BEFORE THE MACHINE COUNT OF ALL BALLOTS CAST IN A**
13 **CONTEST IS COMPLETED, ADDITIONAL PRECINCTS SHALL BE ADDED TO THE**
14 **MANUAL COUNT IF THE BALLOTS THAT ARE MACHINE COUNTED AFTER THE**
15 **SELECTION OF PRECINCTS IS COMPLETE ALTER THE MARGIN OF DIFFERENCE**
16 **AND THE NUMBER OF RANDOM DRAWS THAT MUST BE PERFORMED IN**
17 **ACCORDANCE WITH SUBSECTION (E)(4) OF THIS SECTION.**

18 **(G) (1) IF THE VOTE TOTALS PRODUCED BY AN INITIAL MANUAL**
19 **COUNT CONDUCTED UNDER THIS SECTION VARY FROM THE MACHINE COUNT BY**
20 **AN AMOUNT SPECIFIED IN THIS SUBSECTION, ADDITIONAL PRECINCTS SHALL**
21 **BE MANUALLY COUNTED AS PROVIDED IN THIS SUBSECTION.**

22 **(2) (I) ADDITIONAL PRECINCTS SHALL BE MANUALLY**
23 **COUNTED AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH IF:**

24 **1. THE MARGIN OF DIFFERENCE VARIES BY 0.2% OR**
25 **MORE OF THE TOTAL NUMBER OF VOTES CAST IN THE PRECINCTS MANUALLY**
26 **COUNTED COMPARED TO THE MACHINE COUNT IN THOSE PRECINCTS; OR**

27 **2. THE MARGIN OF DIFFERENCE VARIES BY 50 OR**
28 **MORE VOTES IN ANY OF THE PRECINCTS MANUALLY COUNTED COMPARED TO**
29 **THE MACHINE COUNT IN THOSE PRECINCTS.**

30 **(II) 1. EXCEPT AS PROVIDED IN SUBSUBPARAGRAPH 2**
31 **OF THIS SUBPARAGRAPH, TWICE AS MANY PRECINCTS SHALL BE SELECTED TO**
32 **BE MANUALLY COUNTED BY MEANS OF RANDOM DRAWS AS WERE INCLUDED IN**
33 **THE INITIAL MANUAL COUNT.**

34 **2. IF AT LEAST HALF THE PRECINCTS IN A COUNTY**
35 **WERE INCLUDED IN THE INITIAL MANUAL COUNT, ALL THE REMAINING**

1 **PRECINCTS IN WHICH THE CONTEST APPEARED ON THE BALLOT SHALL BE**
2 **MANUALLY COUNTED.**

3 **(3) IF THE INITIAL MANUAL COUNT DIFFERS FROM THE MACHINE**
4 **COUNT BY A NUMBER OF VOTES GREATER THAN 20% OF THE MARGIN OF**
5 **DIFFERENCE IN A CONTEST, ALL THE REMAINING PRECINCTS IN WHICH THE**
6 **CONTEST APPEARED ON THE BALLOT SHALL BE MANUALLY COUNTED.**

7 **(4) IF AT THE CONCLUSION OF AN EXPANDED MANUAL COUNT**
8 **CONDUCTED UNDER THIS SUBSECTION THE COMBINED MANUAL COUNT OF ALL**
9 **THE PRECINCTS INCLUDED IN THE INITIAL MANUAL COUNT AND THE**
10 **PRECINCTS INCLUDED IN THE EXPANDED MANUAL COUNT DIFFERS FROM THE**
11 **MACHINE COUNT OF THE SAME PRECINCTS BY A NUMBER OF VOTES GREATER**
12 **THAN 20% OF THE MARGIN OF DIFFERENCE IN A CONTEST, ALL THE REMAINING**
13 **PRECINCTS IN WHICH THE CONTEST APPEARED ON THE BALLOT SHALL BE**
14 **MANUALLY COUNTED.**

15 **(H) (1) A CANDIDATE WHOSE NAME APPEARED ON THE BALLOT IN A**
16 **CONTEST, OR A CANDIDATE WHO RECEIVED A NUMBER OF WRITE-IN VOTES**
17 **EQUAL TO 20% OR MORE OF THE TOTAL NUMBER OF VOTES CAST IN A CONTEST,**
18 **MAY REQUEST THAT UP TO THREE PRECINCTS BE MANUALLY COUNTED IN**
19 **ADDITION TO THOSE OTHERWISE SELECTED TO BE MANUALLY COUNTED UNDER**
20 **THIS SECTION.**

21 **(2) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS**
22 **PARAGRAPH, A MANUAL COUNT REQUESTED UNDER THIS SUBSECTION SHALL**
23 **BE CONDUCTED AT THE EXPENSE OF THE CANDIDATE WHO REQUESTED IT.**

24 **(II) IF THE VOTE TOTALS PRODUCED BY A MANUAL COUNT**
25 **REQUESTED UNDER THIS SUBSECTION VARY FROM THE MACHINE COUNT OF**
26 **THE SAME PRECINCTS BY AN AMOUNT SPECIFIED IN SUBSECTION (G) OF THIS**
27 **SECTION SO THAT AN EXPANDED MANUAL COUNT IS REQUIRED, THE COST OF**
28 **THE MANUAL COUNT IN THE PRECINCTS REQUESTED AND THE EXPANDED**
29 **MANUAL COUNT SHALL BE PAID BY THE STATE.**

30 **(3) A CANDIDATE WHO REQUESTS A MANUAL COUNT UNDER THIS**
31 **SUBSECTION RETAINS THE RIGHT TO PETITION FOR A RECOUNT AND SEEK**
32 **APPROPRIATE JUDICIAL RELIEF IN A CONTESTED ELECTION UNDER TITLE 12**
33 **OF THIS ARTICLE.**

34 **(I) (1) THE STATE BOARD SHALL:**

35 **(I) DEVELOP OR REVISE WRITTEN PROCEDURES**
36 **GOVERNING AUDITS UNDER THIS SECTION PRIOR TO EACH ELECTION;**

1 (II) POST THE PROCEDURES ON THE STATE BOARD'S
2 WEBSITE;

3 (III) SOLICIT PUBLIC COMMENTS ON THE PROCEDURES AND
4 POST THE COMMENTS ON THE STATE BOARD'S WEBSITE; AND

5 (IV) REVISE THE PROCEDURES AS NECESSARY TO RESPOND
6 TO PUBLIC COMMENTS.

7 (2) THE WRITTEN PROCEDURES UNDER PARAGRAPH (1) OF THIS
8 SUBSECTION SHALL ADDRESS:

9 (I) SELECTION OF PRECINCTS FOR A MANUAL COUNT;

10 (II) SORTING AND COUNTING VOTER-VERIFIED PAPER
11 BALLOTS; AND

12 (III) WHEN AN EXPANDED MANUAL COUNT IS REQUIRED.

13 (3) THE STATE BOARD SHALL ALLOW THE PUBLIC TO WITNESS,
14 VERIFY, AND COMMENT ON ALL ASPECTS OF THE AUDIT PROCESS, INCLUDING:

15 (I) THE RANDOM SELECTION OF PRECINCTS TO BE
16 MANUALLY COUNTED; AND

17 (II) THE MANUAL COUNT, INCLUDING ANY EXPANDED
18 MANUAL COUNT OR A MANUAL COUNT REQUESTED BY A CANDIDATE.

19 (4) (I) THE STATE BOARD SHALL PROVIDE ADEQUATE NOTICE
20 OF EACH ACTIVITY RELATED TO AN AUDIT AT LEAST 2 DAYS IN ADVANCE.

21 (II) NOTICE UNDER THIS PARAGRAPH SHALL:

22 1. BE POSTED ON THE STATE BOARD'S WEBSITE;

23 2. INCLUDE THE DATE, TIME, LOCATION, STREET
24 ADDRESS, AND BUILDING ROOM NUMBER; AND

25 3. INCLUDE A STATEMENT THAT PUBLIC
26 OBSERVATION OF THE AUDIT PROCESS IS GUARANTEED BY LAW.

27 (5) (I) THE STATE BOARD AND LOCAL BOARDS SHALL POST ON
28 THEIR WEBSITES:

1 **1. PRECINCT LEVEL VOTE TOTALS PRODUCED BY**
2 **THE MACHINE COUNT AS SOON AS THEY ARE AVAILABLE; AND**

3 **2. FINAL RESULTS OF AN AUDIT AS SOON AS THEY**
4 **ARE AVAILABLE BUT BEFORE THE ELECTION RESULTS ARE CERTIFIED IN**
5 **ACCORDANCE WITH § 11-308 OF THIS SUBTITLE.**

6 **(II) THE FINAL AUDIT RESULTS POSTED UNDER THIS**
7 **PARAGRAPH SHALL INCLUDE:**

8 **1. AN ANALYSIS OF THE CAUSES OF ANY**
9 **DIFFERENCES BETWEEN THE MANUAL COUNT PRODUCED BY THE AUDIT AND**
10 **THE MACHINE COUNT; AND**

11 **2. PRELIMINARY RECOMMENDATIONS FOR**
12 **ADDRESSING ANY PROBLEMS RAISED BY THE AUDIT.**

13 **(6) WITHIN 3 MONTHS AFTER THE COMPLETION OF AN AUDIT,**
14 **THE STATE BOARD, IN CONSULTATION WITH THE LOCAL BOARDS, SHALL POST A**
15 **REPORT ON ITS WEBSITE THAT:**

16 **(I) IDENTIFIES AND EXPLAINS ANY VOTING SYSTEM OR**
17 **ELECTION PROCESS DEFICIENCIES IDENTIFIED AS A RESULT OF THE AUDIT;**
18 **AND**

19 **(II) DESCRIBES SPECIFIC ACTIONS THAT WILL BE TAKEN TO**
20 **ADDRESS THOSE DEFICIENCIES.**

21 **(7) ALL DOCUMENTS, REPORTS, AND RESULTS OF AN AUDIT**
22 **SHALL:**

23 **(I) BE PERMANENTLY MAINTAINED AND POSTED ON THE**
24 **WEBSITES OF THE STATE BOARD AND LOCAL BOARDS;**

25 **(II) BE AVAILABLE IN HARD COPY FOR PUBLIC INSPECTION**
26 **AT THE OFFICE OF THE STATE BOARD AND EACH LOCAL BOARD; AND**

27 **(III) MAY BE USED AS PRIMA FACIE EVIDENCE OF AN**
28 **IRREGULARITY IN AN ELECTION CONTEST UNDER TITLE 12 OF THIS ARTICLE.**

29 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
30 July 1, 2009.