

Chapter 357

(Senate Bill 169)

AN ACT concerning

**Election Law – Local Vote by Mail Special Elections – Start of Canvassing
Special Elections – Voting by Mail – Canvass of Votes**

FOR the purpose of authorizing a local board of elections, ~~under certain circumstances,~~ to commence the canvass of vote-by-mail ballots cast in a special election conducted by mail at a certain time on the day of a special election; authorizing the State Board of Elections to adopt regulations authorizing a local board to commence the canvass of vote-by-mail ballots before a certain time on the day of a special election; requiring the State Board to adopt regulations that provide for public observation of the canvass of vote-by-mail ballots and maintaining the secrecy of the election results until after a certain time on the day after a special election; altering the definition of “canvass” to include the canvass of vote-by-mail ballots; and generally relating to the canvassing of vote-by-mail ballots.

BY repealing and reenacting, without amendments,
 Article – Election Law
 Section ~~9-501(b) and (c)~~ 9-501 and 11-301(a-1)
 Annotated Code of Maryland
 (2010 Replacement Volume and 2015 Supplement)

BY adding to
Article – Election Law
Section 9-506
Annotated Code of Maryland
(2010 Replacement Volume and 2015 Supplement)

BY repealing and reenacting, with amendments,
 Article – Election Law
 Section ~~11-302(b)~~ 9-506 and 11-101(c)
 Annotated Code of Maryland
 (2010 Replacement Volume and 2015 Supplement)

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

Article – Election Law

9-501.

(a) This subtitle applies only to a special election that is not held concurrently with a regularly scheduled primary or general election.

(b) Voting by mail may be utilized in a special election in accordance with this subtitle.

(c) A special election to fill a vacancy in the Office of Representative in Congress shall be conducted by mail if the Governor's proclamation issued under § 8-710 of this article directs that the election be conducted by mail.

(d) (1) In this subsection, "local special election" means a special election to:

(i) fill a vacancy in the offices of county council member, chief executive officer, or county executive of a charter county if the charter of that county provides for special elections;

(ii) fill a vacancy in the board of county commissioners of a code home rule county if a local law enacted by that county provides for special elections;

(iii) fill a vacancy in the board of county commissioners of a commission county if a law provides for special elections;

(iv) fill a vacancy in a local board of education if State law provides for special elections;

(v) elect members of a charter board or submit a proposed charter to the voters for adoption or rejection in accordance with Article XI-A, § 1A of the Maryland Constitution; or

(vi) submit a local law enacted by a code home rule county to the voters for adoption or rejection in accordance with § 9-313 of the Local Government Article.

(2) A local special election shall be conducted by mail if the resolution of the county council or board of county commissioners establishing the date of the special election directs that the election be conducted by mail.

(e) Except as otherwise provided in this subtitle:

(1) provisions of this article relating to absentee voting apply to voting by mail; and

(2) all pertinent State or local laws relating to the conduct of a special election apply to a special election conducted under this subtitle.

(f) Provisions of this article relating to the conduct of elections apply to a special election conducted under this subtitle, unless a law specifically relevant to a special election applies.

~~11-302.~~

~~(b) (1) [A] EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION, A local board may not open any envelope of an absentee ballot prior to 8 a.m. on the Wednesday following election day.~~

~~(2) A local board may not delay the commencement of the canvass to await the receipt of late arriving, timely absentee ballots.~~

~~(3) IF A LOCAL SPECIAL ELECTION IS CONDUCTED BY MAIL UNDER TITLE 9, SUBTITLE 5 OF THIS ARTICLE, THE LOCAL BOARD MAY COMMENCE THE CANVASS OF VOTE BY MAIL BALLOTS AT 2 P.M. ON THE DAY OF THE SPECIAL ELECTION.~~

9-506.

(A) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, A LOCAL BOARD MAY COMMENCE THE CANVASS OF VOTE-BY-MAIL BALLOTS AT 2 P.M. ON THE DAY OF A SPECIAL ELECTION.

(B) THE STATE BOARD MAY ADOPT REGULATIONS AUTHORIZING A LOCAL BOARD TO COMMENCE THE CANVASS OF VOTE-BY-MAIL BALLOTS BEFORE THE TIME SPECIFIED IN SUBSECTION (A) OF THIS SECTION.

(C) THE STATE BOARD SHALL ADOPT REGULATIONS THAT PROVIDE FOR:

(1) PUBLIC OBSERVATION OF THE CANVASS OF VOTE-BY-MAIL BALLOTS IN ACCORDANCE WITH § 11-301(A-1) OF THIS ARTICLE; AND

(2) PROCEDURES FOR MAINTAINING THE SECRECY OF THE ELECTION RESULTS UNTIL AFTER 12 A.M. ON THE DAY AFTER A SPECIAL ELECTION.

[9-506.] 9-507.

The State Board may adopt regulations as necessary to implement this subtitle.

11-101.

(c) (1) "Canvass" means the entire process of vote tallying, vote tabulation, and vote verification or audit, culminating in the production and certification of the official election results.

(2) For absentee ballots, the "canvass" includes the opening of any envelope accompanying an absentee ballot and the assembly and review of absentee ballots in preparation for vote tallying.

(3) For provisional ballots, the “canvass” includes the review of the provisional ballot applications described in § 11–303 of this title and the assembly and review of provisional ballots in preparation for vote tallying.

(4) For votes cast during early voting, the “canvass” includes the tabulation of votes cast during early voting.

(5) FOR VOTES CAST IN A SPECIAL ELECTION CONDUCTED BY MAIL UNDER TITLE 9, SUBTITLE 5 OF THIS ARTICLE, THE “CANVASS” INCLUDES:

(I) THE OPENING OF ANY ENVELOPE ACCOMPANYING A VOTE-BY-MAIL BALLOT AND THE ASSEMBLY AND REVIEW OF VOTE-BY-MAIL BALLOTS IN PREPARATION FOR VOTE TABULATION; AND

(II) THE TABULATION OF VOTE-BY-MAIL BALLOTS.

11–301.

(a–1) (1) Subject to paragraph (3) of this subsection, a board of canvassers and the staff of a local board may be observed as they complete each part of the canvass by authorized observers designated under paragraph (2) of this subsection and any other individuals who wish to be present.

(2) The following individuals or entities have the right to designate a registered voter as an observer at each counting center:

(i) a candidate;

(ii) a political party; and

(iii) any other group of voters supporting or opposing a candidate, principle, or proposition on the ballot.

(3) The State Board may adopt regulations prohibiting public observation of a part of the canvass only if prohibiting public observation is necessary to ensure:

(i) the integrity or accuracy of the canvass; or

(ii) that the canvass process is not impeded.

(4) The State Board shall ensure that the requirements of this subsection are implemented uniformly and consistently by each local board.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2016.

Approved by the Governor, May 10, 2016.