

HOUSE BILL 767

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By: **Delegate Rosenberg**

Introduced and read first time: February 1, 2018

Assigned to: Ways and Means

A BILL ENTITLED

1 AN ACT concerning

2 **Election Law – Securing Elections From Foreign Interference**

3 FOR the purpose of requiring the State Board of Elections to conduct an annual audit of
4 certain voter registration infrastructure to identify any security vulnerabilities;
5 requiring the State Board to mitigate any security vulnerabilities identified in the
6 audit; requiring the State Board to upgrade or replace certain voter registration
7 infrastructure at certain times; prohibiting a voting machine from being used in an
8 election if more than a certain number of years have elapsed after the date the voting
9 machine was manufactured; requiring that each polling place and early voting center
10 have a paper copy of the election register available for use if certain computer devices
11 do not function properly during an election; requiring the State Board to adopt
12 regulations requiring verification of the electronically tabulated election results
13 through a manual audit of a random sample of paper ballots; requiring that the
14 regulations provide for certain matters concerning the conduct of the paper ballot
15 audit; providing that the paper ballot audit is in addition to any other audit or
16 procedure for verifying the vote count that the State Board may prescribe; making a
17 conforming change; altering a certain definition; defining a certain term; requiring
18 that the State Board adopt certain regulations on or before a certain date; and
19 generally relating to securing elections.

20 BY repealing and reenacting, without amendments,
21 Article – Election Law
22 Section 1–101(x)
23 Annotated Code of Maryland
24 (2017 Replacement Volume and 2017 Supplement)

25 BY repealing and reenacting, with amendments,
26 Article – Election Law
27 Section 1–101(vv), 10–302, and 11–308
28 Annotated Code of Maryland
29 (2017 Replacement Volume and 2017 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 BY adding to
2 Article – Election Law
3 Section 3–101.1 and 9–103.1
4 Annotated Code of Maryland
5 (2017 Replacement Volume and 2017 Supplement)

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

8 **Article – Election Law**

9 1–101.

10 (x) “Election register” means the list of voters eligible to vote:

11 (1) in a precinct on election day; or

12 (2) in a county early voting center during early voting.

13 (vv) “Voting machine” includes:

14 (1) [a mechanical lever machine; and

15 (2)] a direct recording electronic voting device;

16 **(2) A BALLOT SCANNER;**

17 **(3) A BALLOT MARKING DEVICE; OR**

18 **(4) ANY OTHER MACHINE OR DEVICE THAT IS USED TO CAST, RECORD,**
19 **OR TABULATE BALLOTS OR VOTES.**

20 **3–101.1.**

21 **(A) IN THIS SECTION, “VOTER REGISTRATION INFRASTRUCTURE” MEANS**
22 **THE STATEWIDE VOTER REGISTRATION LIST AND RELATED INFORMATION**
23 **TECHNOLOGY SYSTEMS, INCLUDING THE ONLINE VOTER REGISTRATION SYSTEM**
24 **ESTABLISHED UNDER § 3–204.1 OF THIS TITLE.**

25 **(B) THE STATE BOARD SHALL:**

26 **(1) CONDUCT AN ANNUAL AUDIT OF THE VOTER REGISTRATION**
27 **INFRASTRUCTURE TO IDENTIFY ANY SECURITY VULNERABILITIES;**

1 **(2) MITIGATE ANY SECURITY VULNERABILITIES IDENTIFIED IN THE**
2 **AUDIT CONDUCTED UNDER ITEM (1) OF THIS SUBSECTION; AND**

3 **(3) UPGRADE OR REPLACE THE VOTER REGISTRATION**
4 **INFRASTRUCTURE AS NECESSARY, BUT NOT LESS THAN ONCE EVERY 10 YEARS.**

5 **9-103.1.**

6 **A VOTING MACHINE MAY NOT BE USED IN AN ELECTION IF MORE THAN 10**
7 **YEARS HAVE ELAPSED SINCE THE DATE THE VOTING MACHINE WAS**
8 **MANUFACTURED.**

9 **10-302.**

10 (a) In a timely manner for each election, the local board shall provide for the
11 delivery to each polling place the supplies, records, and equipment necessary for the
12 conduct of the election.

13 (b) Each polling place shall be equipped with a computer device that contains a
14 record of all registered voters in the county and that is capable of being networked to other
15 polling place computer devices.

16 **(C) EACH POLLING PLACE AND EARLY VOTING CENTER SHALL HAVE A**
17 **PAPER COPY OF THE ELECTION REGISTER AVAILABLE FOR THE USE OF THE**
18 **ELECTION JUDGES IF THE COMPUTER DEVICES REQUIRED UNDER SUBSECTION (B)**
19 **OF THIS SECTION DO NOT FUNCTION PROPERLY DURING AN ELECTION.**

20 **11-308.**

21 (a) **[Within] SUBJECT TO SUBSECTION (B) OF THIS SECTION, WITHIN** 10 days
22 after any election, and before certifying the results of the election, each board of canvassers
23 shall verify the vote count in accordance with the regulations prescribed by the State Board
24 for the voting system used in that election.

25 (b) **(1) THE STATE BOARD SHALL ADOPT REGULATIONS REQUIRING**
26 **VERIFICATION OF THE ELECTRONICALLY TABULATED ELECTION RESULTS**
27 **THROUGH A MANUAL AUDIT OF A RANDOM SAMPLE OF PAPER BALLOTS.**

28 **(2) THE REGULATIONS SHALL PROVIDE FOR:**

29 **(I) THE CONTESTS TO BE AUDITED, WHICH SHALL INCLUDE AT**
30 **A MINIMUM ALL STATEWIDE CONTESTS AND ALL CONTESTS FOR REPRESENTATIVE**
31 **IN CONGRESS;**

1 **(II) THE NUMBER OF BALLOTS TO BE AUDITED IN EACH**
2 **CONTEST, WHICH SHALL BE SUFFICIENT TO PROVIDE A HIGH LEVEL OF STATISTICAL**
3 **CONFIDENCE THAT A SOFTWARE TABULATION ERROR THAT WOULD CHANGE THE**
4 **OUTCOME OF A CONTEST WOULD BE DETECTED BY THE AUDIT;**

5 **(III) CORRECTION OF THE ELECTRONICALLY TABULATED**
6 **RESULTS THROUGH A FULL MANUAL COUNT OF ALL BALLOTS IN A CONTEST IF ANY**
7 **SOFTWARE TABULATION ERROR IS DETECTED;**

8 **(IV) PUBLIC OBSERVATION OF THE AUDIT PROCESS;**

9 **(V) THE DEADLINE FOR COMPLETION OF THE AUDIT, WHICH**
10 **MAY BE LATER THAN 10 DAYS AFTER AN ELECTION; AND**

11 **(VI) ALL OTHER PROCEDURES NECESSARY FOR CONDUCTING**
12 **THE AUDIT.**

13 **(3) THE AUDIT REQUIRED BY REGULATIONS ADOPTED UNDER**
14 **PARAGRAPH (2) OF THIS SUBSECTION IS IN ADDITION TO ANY OTHER AUDIT OR**
15 **PROCEDURE FOR VERIFYING THE VOTE COUNT THAT THE STATE BOARD MAY**
16 **PRESCRIBE UNDER SUBSECTION (A) OF THIS SECTION.**

17 **(C)** Upon completion of the verification process, the members of the board of
18 canvassers shall:

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

21 (2) provide copies of the election results to the persons specified under §
22 11-401 of this title.

23 **[(c)] (D)** (1) If a member of a board of canvassers dissents from a
24 determination of an election result or reasonably believes that the conduct of a local board
25 member or local board proceeding was not in compliance with applicable law or regulation
26 or was otherwise illegal or irregular, the member shall prepare and file with the local board
27 a distinct written statement of the reasons for the dissent or concern.

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

30 SECTION 2. AND BE IT FURTHER ENACTED, That the State Board of Elections
31 shall adopt the regulations required under § 11-308(b)(1) of the Election Law Article, as
32 enacted by Section 1 of this Act, on or before January 1, 2020.

1 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect June
2 1, 2018.