

HOUSE BILL 1278

G1

(8lr2962)

ENROLLED BILL

— *Ways and Means/Education, Health, and Environmental Affairs* —

Introduced by **Delegates Kaiser ~~and A. Washington~~, A. Washington, and Ali**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this

_____ day of _____ at _____ o'clock, _____ M.

Speaker.

CHAPTER _____

1 AN ACT concerning

2 **Election Law – Postelection Tabulation Audit**

3 FOR the purpose of requiring the State Board of Elections to conduct an audit of the
4 accuracy of the voting system’s tabulation of votes by completing a certain audit of
5 electronic ballot images and a certain manual audit after each statewide general
6 election; requiring the State Board to complete a certain audit of electronic ballot
7 images after each statewide primary election; authorizing the State Board to
8 complete a certain manual audit after each statewide primary election; requiring the
9 State Board to complete a manual audit of certain precincts and certain early,
10 absentee, and provisional votes following each statewide general election; requiring
11 a manual audit to be completed within a certain period of time; authorizing the State
12 Board to take certain actions if a manual audit shows a discrepancy; requiring the
13 State Board to post a certain report on its website within a certain period of time
14 after the conclusion of a manual audit; requiring the State Board to allow for public
15 observation of a manual audit to the extent practicable; prohibiting an audit under

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.

Italics indicate opposite chamber/conference committee amendments.



1 this Act from affecting the certified election results; requiring an audit under this
 2 Act to be used to improve the voting system and voting process for future elections;
 3 requiring the State Board to adopt certain regulations; requiring the State Board to
 4 submit a certain report to certain committees of the General Assembly on or before
 5 a certain date; defining certain terms; and generally relating to a postelection audit
 6 of the voting system's tabulation of votes.

7 BY adding to

8 Article – Election Law

9 Section 11–309

10 Annotated Code of Maryland

11 (2017 Replacement Volume and 2017 Supplement)

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

14 **Article – Election Law**

15 **11–309.**

16 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
 17 INDICATED.

18 (2) “MANUAL AUDIT” MEANS INSPECTION OF VOTER–VERIFIABLE
 19 PAPER RECORDS BY HAND AND EYE TO OBTAIN VOTE TOTALS IN A CONTEST THAT
 20 ARE COMPARED TO THE VOTE TOTALS PRODUCED FOR THAT CONTEST BY THE
 21 ELECTRONIC VOTING SYSTEM.

22 (3) “PREVIOUS COMPARABLE GENERAL ELECTION” MEANS:

23 (I) IN A PRESIDENTIAL ELECTION YEAR, THE PRESIDENTIAL
 24 ELECTION HELD 4 YEARS EARLIER; AND

25 (II) IN A GUBERNATORIAL ELECTION YEAR, THE
 26 GUBERNATORIAL ELECTION HELD 4 YEARS EARLIER.

27 ~~(3)~~ (4) “VOTER–VERIFIABLE PAPER RECORD” HAS THE MEANING
 28 STATED IN § 9–102 OF THIS ARTICLE.

29 (B) FOLLOWING EACH STATEWIDE GENERAL ELECTION, THE STATE BOARD
 30 SHALL CONDUCT AN AUDIT OF THE ACCURACY OF THE VOTING SYSTEM'S
 31 TABULATION OF VOTES BY COMPLETING:

32 (1) AN AUTOMATED SOFTWARE AUDIT OF THE ELECTRONIC IMAGES
 33 OF ALL BALLOTS CAST IN THE ELECTION; AND

1 (2) A MANUAL AUDIT OF VOTER-VERIFIABLE PAPER RECORDS IN
2 ACCORDANCE WITH SUBSECTION (D) OF THIS SECTION.

3 (C) FOLLOWING EACH STATEWIDE PRIMARY ELECTION, THE STATE BOARD:

4 (1) SHALL COMPLETE AN AUTOMATED SOFTWARE AUDIT OF THE
5 ELECTRONIC IMAGES OF ALL BALLOTS CAST IN THE ELECTION; AND

6 (2) MAY COMPLETE A MANUAL AUDIT OF VOTER-VERIFIABLE PAPER
7 RECORDS IN A MANNER PRESCRIBED BY THE STATE BOARD.

8 (D) (1) FOLLOWING EACH STATEWIDE GENERAL ELECTION, THE STATE
9 BOARD SHALL COMPLETE A MANUAL AUDIT OF:

10 (I) AT LEAST 2% OF PRECINCTS STATEWIDE, INCLUDING:

11 1. AT LEAST ONE RANDOMLY CHOSEN PRECINCT IN
12 EACH COUNTY; AND

13 2. ADDITIONAL PRECINCTS SELECTED BY THE STATE
14 BOARD; AND ~~AND~~

15 ~~(II) AT LEAST 1% OF THE STATEWIDE TOTAL OF EACH OF THE~~
16 ~~FOLLOWING, INCLUDING AT LEAST A MINIMUM NUMBER OF EACH OF THE~~
17 ~~FOLLOWING IN EACH COUNTY, AS PRESCRIBED BY THE STATE BOARD:~~

18 ~~1. EARLY VOTES;~~

19 ~~2. ABSENTEE VOTES; AND~~

20 ~~3. PROVISIONAL VOTES.~~

21 ~~(III) AT LEAST 1% OF THE STATEWIDE TOTAL OF EARLY VOTES,~~
22 ~~INCLUDING AT LEAST A MINIMUM NUMBER OF EARLY VOTES IN EACH COUNTY, AS~~
23 ~~PRESCRIBED BY THE STATE BOARD; AND~~

24 ~~(III) (II)~~ A NUMBER OF VOTES EQUAL TO AT LEAST 1% OF THE
25 STATEWIDE TOTAL IN THE PREVIOUS COMPARABLE GENERAL ELECTION OF EACH
26 OF THE FOLLOWING, INCLUDING AT LEAST A MINIMUM NUMBER OF EACH OF THE
27 FOLLOWING IN EACH COUNTY, AS PRESCRIBED BY THE STATE BOARD:

28 1. EARLY VOTES;

~~1.~~ 2. ABSENTEE VOTES; AND

~~2.~~ 3. PROVISIONAL VOTES.

(2) THE MANUAL AUDIT SHALL BE COMPLETED WITHIN 120 DAYS AFTER THE GENERAL ELECTION.

(3) IF THE MANUAL AUDIT SHOWS A DISCREPANCY, THE STATE BOARD MAY:

(I) EXPAND THE MANUAL AUDIT; AND

(II) TAKE ANY OTHER ACTIONS IT CONSIDERS NECESSARY TO RESOLVE THE DISCREPANCY.

(4) WITHIN 14 DAYS AFTER THE CONCLUSION OF THE AUDIT, THE STATE BOARD SHALL POST ON ITS WEBSITE A REPORT THAT DESCRIBES:

(I) THE PRECINCTS AND NUMBER OF VOTES SELECTED FOR THE MANUAL AUDIT IN EACH COUNTY AND THE MANNER IN WHICH THE PRECINCTS AND VOTES WERE SELECTED;

(II) THE RESULTS OF THE MANUAL AUDIT; AND

(III) ANY DISCREPANCY SHOWN BY THE MANUAL AUDIT AND HOW THE DISCREPANCY WAS RESOLVED.

(5) THE STATE BOARD SHALL ALLOW FOR PUBLIC OBSERVATION OF EACH PART OF THE MANUAL AUDIT PROCESS TO THE EXTENT PRACTICABLE.

(E) AN AUDIT UNDER THIS SECTION:

(1) MAY NOT HAVE ANY EFFECT ON THE CERTIFIED ELECTION RESULTS; AND

(2) SHALL BE USED TO IMPROVE THE VOTING SYSTEM AND VOTING PROCESS FOR FUTURE ELECTIONS.

(F) THE STATE BOARD SHALL ADOPT REGULATIONS TO CARRY OUT THIS SECTION.

SECTION 2. AND BE IT FURTHER ENACTED, That on or before May 1, 2019, the State Board of Elections shall submit a report, in accordance with § 2-1246 of the State Government Article, to the Senate Education, Health, and Environmental Affairs Committee and the House Ways and Means Committee that describes the resources

1 required to complete the audit required under this Act following the 2018 general election.
2 The report shall include the amount of time needed to complete the audit, the number of
3 personnel required to complete the audit, any other costs incurred by the State Board or
4 the local boards of elections to complete the audit, and any other administrative obstacles
5 to completing the audit.

6 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect June
7 1, 2018.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.