

HOUSE BILL 1278

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8lr2962

By: **Delegates Kaiser and A. Washington**

Introduced and read first time: February 9, 2018

Assigned to: Ways and Means

A BILL ENTITLED

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

22 BY adding to

23 Article – Election Law

24 Section 11–309

25 Annotated Code of Maryland

26 (2017 Replacement Volume and 2017 Supplement)

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



Article – Election Law

11-309.

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

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

(3) “VOTER-VERIFIABLE PAPER RECORD” HAS THE MEANING STATED IN § 9-102 OF THIS ARTICLE.

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

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

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

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

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

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

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

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

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

2. ADDITIONAL PRECINCTS SELECTED BY THE STATE BOARD; AND

1 **(II) AT LEAST 1% OF THE STATEWIDE TOTAL OF EACH OF THE**
2 **FOLLOWING, INCLUDING AT LEAST A MINIMUM NUMBER OF EACH OF THE**
3 **FOLLOWING IN EACH COUNTY, AS PRESCRIBED BY THE STATE BOARD:**

- 4 **1. EARLY VOTES;**
5 **2. ABSENTEE VOTES; AND**
6 **3. PROVISIONAL VOTES.**

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

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

11 **(I) EXPAND THE MANUAL AUDIT; AND**

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

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

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

19 **(II) THE RESULTS OF THE MANUAL AUDIT; AND**

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

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

24 **(E) AN AUDIT UNDER THIS SECTION:**

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

27 **(2) SHALL BE USED TO IMPROVE THE VOTING SYSTEM AND VOTING**

1 **PROCESS FOR FUTURE ELECTIONS.**

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

4 SECTION 2. AND BE IT FURTHER ENACTED, That on or before May 1, 2019, the
5 State Board of Elections shall submit a report, in accordance with § 2-1246 of the State
6 Government Article, to the Senate Education, Health, and Environmental Affairs
7 Committee and the House Ways and Means Committee that describes the resources
8 required to complete the audit required under this Act following the 2018 general election.
9 The report shall include the amount of time needed to complete the audit, the number of
10 personnel required to complete the audit, any other costs incurred by the State Board or
11 the local boards of elections to complete the audit, and any other administrative obstacles
12 to completing the audit.

13 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect June
14 1, 2018.