

# HOUSE BILL 1278

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By: ~~Delegates Kaiser and A. Washington~~, A. Washington, and Ali

Introduced and read first time: February 9, 2018

Assigned to: Ways and Means

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Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 12, 2018

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## 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  
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

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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.



1 Annotated Code of Maryland  
2 (2017 Replacement Volume and 2017 Supplement)

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

5 **Article – Election Law**

6 **11-309.**

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

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

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

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

16 (II) IN A GUBERNATORIAL ELECTION YEAR, THE  
17 GUBERNATORIAL ELECTION HELD 4 YEARS EARLIER.

18 ~~(3)~~ (4) “VOTER-VERIFIABLE PAPER RECORD” HAS THE MEANING  
19 STATED IN § 9-102 OF THIS ARTICLE.

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

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

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

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

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

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

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

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

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

8                           2.   ADDITIONAL PRECINCTS SELECTED BY THE STATE  
9 BOARD; ~~AND~~

10                   ~~(II)   AT LEAST 1% OF THE STATEWIDE TOTAL OF EACH OF THE~~  
11 ~~FOLLOWING, INCLUDING AT LEAST A MINIMUM NUMBER OF EACH OF THE~~  
12 ~~FOLLOWING IN EACH COUNTY, AS PRESCRIBED BY THE STATE BOARD;~~

13                           ~~1.   EARLY VOTES;~~

14                           ~~2.   ABSENTEE VOTES; AND~~

15                           ~~3.   PROVISIONAL VOTES.~~

16                   (II)   AT LEAST 1% OF THE STATEWIDE TOTAL OF EARLY VOTES,  
17 INCLUDING AT LEAST A MINIMUM NUMBER OF EARLY VOTES IN EACH COUNTY, AS  
18 PRESCRIBED BY THE STATE BOARD; AND

19                   (III)   A NUMBER OF VOTES EQUAL TO AT LEAST 1% OF THE  
20 STATEWIDE TOTAL IN THE PREVIOUS COMPARABLE GENERAL ELECTION OF EACH  
21 OF THE FOLLOWING, INCLUDING AT LEAST A MINIMUM NUMBER OF EACH OF THE  
22 FOLLOWING IN EACH COUNTY, AS PRESCRIBED BY THE STATE BOARD:

23                           1.   ABSENTEE VOTES; AND

24                           2.   PROVISIONAL VOTES.

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

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

29                   (I)   EXPAND THE MANUAL AUDIT; AND

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

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

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

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

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

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

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

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

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

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

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

29                   SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect June  
30 1, 2018.