

HOUSE BILL 35

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EMERGENCY BILL
(PRE-FILED)

2lr0890
CF SB 158

By: **Delegate Palakovich Carr**

Requested: October 21, 2021

Introduced and read first time: January 12, 2022

Assigned to: Ways and Means

Committee Report: Favorable with amendments

House action: Adopted with floor amendments

Read second time: March 2, 2022

CHAPTER _____

1 AN ACT concerning

2 ~~State Board of Elections – Contracts and Invoices – Requirements~~
3 Election Law – Voting Systems Costs and, Polling Places, and Primary Election
4 Date – Requirements

5 FOR the purpose of ~~establishing certain duties of the State Board of Elections and the State~~
6 ~~Administrator of Elections related to the consideration of and reporting on contracts~~
7 ~~and related items; requiring the State and counties to pay certain costs related to~~
8 ~~election related goods and services; requiring that an invoice for payment sent to a~~
9 ~~local board by the State Board itemize certain information and costs; and generally~~
10 ~~relating to the State Board of Elections and contracts and invoices~~ codifying a
11 requirement that a county pay its share of a certain percentage of the State's costs
12 to acquire and operate the uniform statewide voting systems; requiring that in
13 certain statewide elections in-person voting on election day be conducted at a certain
14 number of precinct polling places; prohibiting a court from postponing the date of a
15 certain primary election to any date after a certain date; and generally relating to
16 voting systems costs and, polling places, and the primary election date.

17 BY repealing and reenacting, with amendments,
18 Article – Election Law
19 Section ~~2-102~~, 2-202(b)(3), 2-203, and 9-311(b)
20 Annotated Code of Maryland
21 (2017 Replacement Volume and 2021 Supplement)

22 BY adding to

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 Article – Election Law
 2 Section ~~2-103.1, 2-110, and 2-111~~ 9-106
 3 Annotated Code of Maryland
 4 (2017 Replacement Volume and 2021 Supplement)

5 BY repealing
 6 Chapter 564 of the Acts of the General Assembly of 2001
 7 Section 4, 5, and 6

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

10 **Article – Election Law**

11 ~~2-102.~~

12 ~~(a) The State Board shall manage and supervise elections in the State and ensure~~
 13 ~~compliance with the requirements of this article and any applicable federal law by all~~
 14 ~~persons involved in the elections process.~~

15 ~~(b) In exercising its authority under this article and in order to ensure compliance~~
 16 ~~with this article and with any requirements of federal law, the State Board shall:~~

17 ~~(1) supervise the conduct of elections in the State;~~

18 ~~(2) direct, support, monitor, and evaluate the activities of each local board;~~

19 ~~(3) have a staff sufficient to perform its functions;~~

20 ~~(4) REVIEW AND VOTE ON EACH CONTRACT WITH A VALUE OF \$50,000~~
 21 ~~OR MORE;~~

22 ~~[(4)] (5) adopt regulations to implement its powers and duties;~~

23 ~~[(5)] (6) receive, or in its discretion audit, campaign finance reports,~~
 24 ~~account books and records kept under § 13-221 of this article, independent expenditure~~
 25 ~~reports filed and records kept under § 13-306 of this article, electioneering communication~~
 26 ~~reports filed and records kept under § 13-307 of this article, and statements filed and~~
 27 ~~records kept under § 14-105 of this article;~~

28 ~~[(6)] (7) appoint a State Administrator in accordance with § 2-103 of this~~
 29 ~~subtitle;~~

30 ~~[(7)] (8) maximize the use of technology in election administration,~~
 31 ~~including the development of a plan for a comprehensive computerized elections~~
 32 ~~management system;~~

1 ~~[(8)] (9)~~ ~~canvass and certify the results of elections as prescribed by law;~~

2 ~~[(9)] (10)~~ ~~make available to the general public, in a timely and efficient~~
3 ~~manner, information on the electoral process, including a publication that includes the text~~
4 ~~of this article, relevant portions of the Maryland Constitution, and information gathered~~
5 ~~and maintained regarding elections;~~

6 ~~(11) ENSURE THE COST EFFECTIVE USE OF FEDERAL, STATE, AND~~
7 ~~COUNTY RESOURCES IN ADMINISTERING ELECTIONS;~~

8 ~~[(10)] (12)~~ ~~subject to § 2-106 of this subtitle and § 13-341 of this article,~~
9 ~~receive, maintain, and serve as a depository for elections documents, materials, records,~~
10 ~~statistics, reports, certificates, proclamations, and other information prescribed by law or~~
11 ~~regulation;~~

12 ~~[(11)] (13)~~ ~~prescribe all forms required under this article; and~~

13 ~~[(12)] (14)~~ ~~serve as the official designated office in accordance with the~~
14 ~~Uniformed and Overseas Citizens Absentee Voting Act for providing information regarding~~
15 ~~voter registration and absentee ballot procedures for absent uniformed services voters and~~
16 ~~overseas voters with respect to elections for federal office.~~

17 ~~(e) The powers and duties assigned to the State Board under this article shall be~~
18 ~~exercised in accordance with an affirmative vote by a supermajority of the members of the~~
19 ~~State Board.~~

20 ~~(d) (1) The State Board shall make publicly available on its website:~~

21 ~~(i) each open meeting agenda:~~

22 ~~1. at least 48 hours in advance of each meeting; or~~

23 ~~2. if the meeting is being held due to an emergency, a natural~~
24 ~~disaster, or any other unanticipated situation, as far in advance of the meeting as~~
25 ~~practicable;~~

26 ~~(ii) meeting minutes from the portions of a meeting that were held~~
27 ~~in open session, not more than 2 business days after the minutes are approved; and~~

28 ~~(iii) live video streaming of each portion of a meeting that is held in~~
29 ~~open session.~~

30 ~~(2) The State Board shall maintain on its website:~~

~~(i) meeting minutes made available under paragraph (1)(ii) of this subsection for a minimum of 5 years after the date of the meeting; and~~

~~(ii) a complete and unedited archived video recording of each open meeting for which live video streaming was made available under paragraph (1)(iii) of this subsection for a minimum of 1 year after the date of the meeting.~~

~~(3) The Department of Information Technology shall provide to the State Board the technical staff, support, and equipment necessary to stream live video of the open meetings of the State Board.~~

~~2-103.1.~~

~~(A) THE STATE ADMINISTRATOR SHALL REPORT EACH PROPOSED CONTRACT, CONTRACT RENEWAL, AND CHANGE ORDER TO THE STATE BOARD.~~

~~(B) THE REPORT REQUIRED UNDER SUBSECTION (A) OF THIS SECTION SHALL INCLUDE:~~

~~(1) THE PURPOSE OF THE CONTRACT, CONTRACT RENEWAL, OR CHANGE ORDER;~~

~~(2) HOW THE PROPOSED CONTRACT, CONTRACT RENEWAL, OR CHANGE ORDER WILL BE FUNDED;~~

~~(3) THE DISTRIBUTION OF ANY FEDERAL OR STATE FUNDS RELATING TO THE PROPOSED CONTRACT, CONTRACT RENEWAL, OR CHANGE ORDER; AND~~

~~(4) A LIST OF ANY SHARED COSTS WITH LOCAL BOARDS.~~

~~(C) THE STATE ADMINISTRATOR MAY FINALIZE A CONTRACT, CONTRACT RENEWAL, OR CHANGE ORDER ONLY AFTER AN AFFIRMATIVE VOTE BY THE STATE BOARD.~~

~~2-110.~~

~~A STATE BOARD REPORT TO THE BOARD OF PUBLIC WORKS ON A PROPOSED CONTRACT, CONTRACT RENEWAL, OR CHANGE ORDER:~~

~~(1) SHALL INCLUDE:~~

~~(i) THE PURPOSE OF THE CONTRACT, CONTRACT RENEWAL, OR CHANGE ORDER;~~

1 ~~(H) HOW THE PROPOSED CONTRACT, CONTRACT RENEWAL, OR~~
2 ~~CHANGE ORDER WILL BE FUNDED;~~

3 ~~(III) THE DISTRIBUTION OF ANY FEDERAL OR STATE FUNDS~~
4 ~~RELATING TO THE PROPOSED CONTRACT, CONTRACT RENEWAL, OR CHANGE~~
5 ~~ORDER; AND~~

6 ~~(IV) A DESCRIPTION OF ANY SHARED COSTS WITH LOCAL~~
7 ~~BOARDS; AND~~

8 ~~(2) MAY NOT ITEMIZE FUNDING AS "SPECIAL FUNDS".~~

9 ~~2-111.~~

10 ~~(A) (1) THE COUNTIES SHALL REIMBURSE THE STATE BOARD FOR 50%~~
11 ~~OF THE STATE'S COST OF ALL ELECTION RELATED GOODS AND SERVICES~~
12 ~~MANDATED BY THE STATE BOARD.~~

13 ~~(2) ALL OF THE COSTS OF ANY ELECTION RELATED GOODS AND~~
14 ~~SERVICES NOT MANDATED BY THE STATE BOARD SHALL BE PAID FOR BY COUNTY~~
15 ~~FUNDS.~~

16 ~~(B) THIS SECTION MAY NOT BE CONSTRUED TO PROHIBIT THE STATE~~
17 ~~BOARD FROM FACILITATING THE PROCUREMENT OF SUPPLIES, EQUIPMENT, OR~~
18 ~~MATERIALS AT LOCAL EXPENSE THAT IS NOT MANDATED BY THE STATE BOARD OR~~
19 ~~IN A QUANTITY OR AN AMOUNT IN EXCESS OF THAT DETERMINED NECESSARY BY THE~~
20 ~~STATE BOARD, AT THE REQUEST OF A LOCAL BOARD.~~

21 ~~(C) AN INVOICE FOR PAYMENT SENT TO A LOCAL BOARD BY THE STATE~~
22 ~~BOARD SHALL ITEMIZE THE GOODS AND SERVICES AND COST OF EACH ITEM FOR~~
23 ~~WHICH THE STATE BOARD IS REQUESTING PAYMENT.~~

24 ~~2-202.~~

25 (b) Each local board, in accordance with the provisions of this article and
26 regulations adopted by the State Board, shall:

27 (3) maintain an office and be open for business as provided in this article,
28 and, ~~SUBJECT TO § 2-111 OF THIS TITLE~~ § 9-106 OF THIS ARTICLE, provide the
29 supplies and equipment necessary for the proper and efficient conduct of voter registration
30 and election, including:

31 (i) supplies and equipment required by the State Board; and

32 (ii) office and polling place equipment expenses;

1 2-203.

2 Each county shall appropriate the funds essential for the operations of its local board
3 to enable the local board to pay the reasonable expenses incurred by the local board to
4 exercise the powers and perform the duties prescribed for it by law, including:

5 (1) personnel expenses, such as compensation, workers' compensation, and
6 unemployment insurance;

7 (2) ~~SUBJECT TO § 2-111 OF THIS TITLE~~ § 9-106 OF THIS ARTICLE,
8 polling place operation expenses; and

9 (3) ~~SUBJECT TO § 2-111 OF THIS TITLE~~ § 9-106 OF THIS ARTICLE,
10 supplies and equipment required under § 2-202(b)(3) of this subtitle.

11 9-106.

12 (A) EACH COUNTY SHALL PAY FOR ITS SHARE OF 50% OF THE STATE'S COST
13 OF ACQUIRING AND OPERATING THE UNIFORM STATEWIDE VOTING SYSTEMS FOR
14 VOTING IN POLLING PLACES AND FOR ABSENTEE VOTING PROVIDED FOR IN THIS
15 TITLE, INCLUDING THE COST OF MAINTENANCE, STORAGE, PRINTING OF BALLOTS,
16 TECHNICAL SUPPORT AND PROGRAMMING, RELATED SUPPLIES AND MATERIALS,
17 AND SOFTWARE LICENSING FEES.

18 (B) A COUNTY'S SHARE OF THE COST OF ACQUIRING AND OPERATING THE
19 UNIFORM STATEWIDE VOTING SYSTEMS SHALL BE BASED ON THE COUNTY'S VOTING
20 AGE POPULATION.

21 9-311.

22 (b) [The] ~~SUBJECT TO § 2-111 OF THIS ARTICLE~~ § 9-106 OF THIS TITLE, THE
23 governing body of a county shall provide to the local board of the county an amount that is
24 reasonable and necessary to pay for expenses, including the employment of temporary
25 personnel, required for performing the duties required under this subtitle.

26 **Chapter 564 of the Acts of 2001**

27 [SECTION 4. AND BE IT FURTHER ENACTED, That, subject to Section 5 of this
28 Act, each county shall pay its share of one-half of the State's cost of acquiring and operating
29 the uniform statewide voting systems for voting in polling places and for absentee voting
30 provided for under this Act, including the cost of maintenance, storage, printing of ballots,
31 technical support and programming, related supplies and materials, and software licensing
32 fees. A county's share of the cost of acquiring and operating the uniform statewide voting
33 systems shall be based upon the county's voting age population.]

1 [SECTION 5. AND BE IT FURTHER ENACTED, That:

2 (a) A county that has purchased a voting system for voting at polling places
3 within the last 10 years and before December 31, 2000 is not required to implement the
4 uniform statewide voting system for voting at polling places provided for under this Act
5 until July 1, 2006, and is not required to pay a share of the cost of acquiring and operating
6 the uniform statewide voting system for voting at polling places until the system is
7 implemented in the county; and

8 (b) A county that has purchased a voting system for absentee voting within the
9 last 10 years and before December 31, 2000 is not required to implement the uniform
10 statewide system for absentee voting provided for under this Act until July 1, 2006, and is
11 not required to pay a share of the cost of acquiring and operating the uniform statewide
12 system for absentee voting until the system is implemented in the county.]

13 [SECTION 6. AND BE IT FURTHER ENACTED, That fifty percent of any federal
14 funds received for improvements in voting systems and equipment shall be distributed to
15 the State and fifty percent of any federal funds received for improvements in voting systems
16 and equipment shall be distributed, on the basis of a county's voting age population, to the
17 counties that have implemented the uniform statewide voting system provided for under
18 this Act in the fiscal year in which the funds are received.]

19 SECTION 2. AND BE IT FURTHER ENACTED, That it is the intent of the General
20 Assembly that § 9–106 of the Election Law Article, as enacted by Section 1 of this Act,
21 codifies, and makes no substantive change to, the cost-sharing requirements for the
22 uniform statewide voting systems between the State and county governments as enacted
23 by Section 4 of Chapter 564 of the Acts of the General Assembly of 2001.

24 SECTION 3. AND BE IT FURTHER ENACTED, That:

25 (a) In this section, “precinct” has the meaning stated in § 1–101 of the Election
26 Law Article.

27 (b) In both the 2022 statewide primary election and the 2022 statewide general
28 election, in-person voting on election day shall be conducted at a total number of precinct
29 polling places that is at least equal to the total number of precinct polling places that were
30 open for in-person voting on election day in the 2018 statewide general election.

31 (c) The total number of precinct polling places required to be open for voting in
32 the 2022 statewide primary election and the 2022 statewide general election under
33 subsection (b) of this section may not be reduced:

34 (1) by a local board of elections or the State Board of Elections under §
35 2–303 of the Election Law Article;

36 (2) by a circuit court or any other court under § 8–103(b) of the Election
37 Law Article; or

1 (3) except as provided in subsection (d) of this section, by a person acting
2 under authority of any other provision of law.

3 (d) This section does not limit the authority of the Governor to specify alternate
4 voting locations under § 8–103(a) of the Election Law Article during a declared state of
5 emergency.

6 SECTION 4. AND BE IT FURTHER ENACTED, That a circuit court or any other
7 court acting under authority of § 8–103(b) of the Election Law Article or any other provision
8 of law may not postpone the date of the 2022 statewide primary election to any date after
9 July 12, 2022.

10 SECTION ~~4~~ 5. AND BE IT FURTHER ENACTED, That this Act is an emergency
11 measure, is necessary for the immediate preservation of the public health or safety, has
12 been passed by a yea and nay vote supported by three–fifths of all the members elected to
13 each of the two Houses of the General Assembly, and shall take effect from the date it is
14 enacted.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.