HOUSE BILL 1348

By: Delegates Cox, Arikan, Boteler, Mautz, McComas, and Rose
Introduced and read first time: February 11, 2022
Assigned to: Ways and Means

A BILL ENTITLED

AN ACT concerning


FOR the purpose of altering the timeline and process for conducting a manual postelection tabulation audit; requiring the State Board of Elections to conduct a manual postelection tabulation audit following each statewide primary election; requiring that the official result of an election be altered to match the result by the manual audit if the manual audit finds that the vote totals produced by the electronic voting system are incorrect; and generally relating to postelection tabulation audits.

BY repealing and reenacting, with amendments,
Article – Election Law
Section 11–309
Annotated Code of Maryland
(2017 Replacement Volume and 2021 Supplement)

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

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) “Previous comparable general election” means:

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
[Brackets] indicate matter deleted from existing law.
(i) in a presidential election year, the presidential election held 4 years earlier; and

(ii) in a gubernatorial election year, the gubernatorial election held 4 years earlier.

(4) “Voter–verifiable paper record” has the meaning stated in § 9–102 of this article.

(b) Following each statewide PRIMARY AND 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) (c)] 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 PRIMARY AND general election, the State Board shall complete a manual audit of:

(i) at least [2%] 3% of precincts statewide[, including:

1. at least one randomly chosen precinct in each county; and

2. additional precincts selected by the State Board; and

(ii) a number of votes equal to at least 1% of the statewide total in the previous comparable general election of each of the following, including at least a minimum number of each of the following in each county, as prescribed by the State Board:

1. early votes;

2. absentee votes; and

3. provisional votes] IN ACCORDANCE WITH SUBSECTION (E) OF THIS SECTION.
(2) The manual audit shall be completed within 120 days after the general election BEGIN ON THE SAME DAY THE FINAL BALLOTS ARE CANVASSED.

(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.

(6) IF THE MANUAL AUDIT FINDS THAT THE VOTE TOTALS PRODUCED BY THE ELECTRONIC VOTING SYSTEM ARE INCORRECT, THE OFFICIAL RESULT OF THE ELECTION SHALL BE ALTERED TO MATCH THE RESULT FOUND BY THE MANUAL AUDIT.

[(e) (D)] (1) An AUTOMATED SOFTWARE audit under this section:

   (1) may not have any effect on the certified election results; and.

   (2) AN AUDIT UNDER THIS SECTION shall be used to improve the voting system and voting process for future elections.

[(E) (1)] (1) ON THE DAY THAT THE EARLY VOTING PERIOD BEGINS, BEFORE THE OPENING OF THE EARLY VOTING CENTERS, AND ON ELECTION DAY, BEFORE THE OPENING OF THE POLLS, THE CHIEF ELECTION JUDGE, ALONG WITH ONE ELECTION JUDGE FROM EACH PRINCIPAL POLITICAL PARTY, SHALL:

   (I) FOR EACH BALLOT SCANNER MACHINE THAT IS LOCATED AT THE EARLY VOTING CENTER OR POLLING PLACE, FILL OUT A FORM PROVIDED BY THE STATE BOARD WITH:
1. THE EARLY VOTING CENTER OR POLLING LOCATION;

2. THE BALLOT SCANNER MACHINE IDENTIFICATION NUMBER; AND

3. FOR A POLLING PLACE, THE PRECINCT NUMBER.

(II) PLACE EACH COMPLETED FORM IN A SEPARATE UNMARKED, UNIFORM ENVELOPE AND SEAL THE ENVELOPE; AND

(III) SELECT ONE SEALED ENVELOPE AT RANDOM AND SIGN THE SELECTED ENVELOPE.

(2) ON ELECTION DAY, BEFORE THE OPENING OF THE POLLS, EACH BOARD OF CANVASSERS CHAIRMAN, ALONG WITH ONE BOARD MEMBER FROM EACH PRINCIPAL POLITICAL PARTY, SHALL:

(I) FOR EACH BALLOT SCANNER MACHINE THAT IS LOCATED AT THE CANVASSING CENTER, FILL OUT A FORM PROVIDED BY THE STATE BOARD WITH:

1. THE CANVASSING CENTER LOCATION; AND

2. THE BALLOT SCANNER MACHINE IDENTIFICATION NUMBER;

(II) PLACE EACH COMPLETED FORM IN A SEPARATE UNMARKED, UNIFORM ENVELOPE AND SEAL EACH ENVELOPE; AND

(III) SELECT ONE SEALED ENVELOPE AT RANDOM AND SIGN THE SELECTED ENVELOPE.

(3) ON ELECTION DAY, BEFORE THE OPENING OF THE POLLS, THE PRESIDENT OF EACH LOCAL BOARD, ALONG WITH ONE BOARD MEMBER FROM EACH PRINCIPAL POLITICAL PARTY SHALL:

(I) FOR EACH EARLY VOTING CENTER, POLLING PLACE, AND COUNTING CENTER IN THE COUNTY, FILL OUT A FORM PROVIDED BY THE STATE BOARD WITH SUFFICIENT INFORMATION TO IDENTIFY THE EARLY VOTING CENTER, POLLING PLACE, OR COUNTING CENTER;

(II) PLACE EACH COMPLETED FORM IN A SEPARATE UNMARKED, UNIFORM ENVELOPE AND SEAL THE ENVELOPE; AND
(III) SELECT 3% OF THE ENVELOPES AT RANDOM AND SIGN THE
ENVELOPES.

(4) ONCE ALL BALLOTS HAVE BEEN CANVASSED:

(I) THE PRESIDENT OF EACH LOCAL BOARD SHALL OPEN THE
ENVELOPES SELECTED UNDER PARAGRAPH (3)(III) OF THIS SUBSECTION TO
IDENTIFY THE LOCATION FOR WHICH THE BALLOT SCANNER MACHINES ARE TO BE
MANUALLY AUDITED; AND

(II) THE CHIEF ELECTION JUDGE OR BOARD OF CANVASSERS
CHAIRMAN FOR EACH LOCATION IDENTIFIED UNDER ITEM (I) OF THIS PARAGRAPH
SHALL OPEN THE ENVELOPE SIGNED AND SEALED UNDER PARAGRAPHS (1) OR (2)
OF THIS SUBSECTION TO IDENTIFY THE BALLOT SCANNER MACHINE TO BE
MANUALLY AUDITED.

(5) FOLLOWING THE IDENTIFICATION OF THE BALLOT SCANNER
MACHINES TO BE MANUALLY AUDITED, ALL OTHER SEALED ENVELOPES PREPARED
UNDER THIS SUBSECTION SHALL BE OPENED TO CONFIRM THAT EACH LOCATION
AND BALLOT SCANNER MACHINE WAS INCLUDED IN A SEALED ENVELOPE EXACTLY
ONCE.

(6) ELECTION JUDGES, LOCAL BOARD MEMBERS, AND BOARD OF
CANVASSERS MEMBERS MAY BE OBSERVED, WHILE PERFORMING THEIR DUTIES
UNDER THIS SECTION, UNTIL THEY HAVE FINISHED THEIR WORK AND LEAVE THE
PREMISES BY:

(I) AUTHORIZED CHALLENGERS, WATCHERS, AND OBSERVERS
IN ACCORDANCE WITH § 10–311 OF THIS ARTICLE;

(II) ANY CANDIDATE;

(III) ANY REPRESENTATIVE OF AN INTERESTED POLITICAL
PARTY; AND

(IV) ANY OTHER INDIVIDUAL LAWFULLY PRESENT.

(f) The State Board shall adopt regulations to carry out this section.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June
1, 2022.