SENATE BILL 352

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EMERGENCY BILL

2lr1880
CF 2lr2198

By: Senator Lam
Introduced and read first time: January 21, 2022
Assigned to: Education, Health, and Environmental Affairs

A BILL ENTITLED

AN ACT concerning

Election Law – Ballots – Processing and Reporting Procedures

FOR the purpose of altering the procedures for the canvassing of absentee and provisional ballots; requiring the State Board of Elections to adopt regulations related to the curing of problems on absentee ballot envelopes; and generally relating to absentee and provisional ballots.

BY repealing and reenacting, with amendments,

Article – Election Law
Section 11–302 and 11–303(d)
Annotated Code of Maryland
(2017 Replacement Volume and 2021 Supplement)

BY adding to

Article – Election Law
Section 11–303.2
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

11–302.

(a) (1) [Following an election, each] EACH local board shall meet at its designated counting center to canvass the absentee ballots cast in that election in accordance with the regulations and guidelines established by the State Board.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
[Brackets] indicate matter deleted from existing law.
(2) AFTER THE COMMENCEMENT OF THE CANVASS OF ABSENTEE BALLOTS IN ACCORDANCE WITH THIS SECTION, A LOCAL BOARD SHALL REVIEW THE BALLOT ENVELOPE OR BALLOT/RETURN ENVELOPE FOR ANY OMISSION BY THE VOTER.

(b) (1) A local board may not OPEN, ACCEPT, REJECT, OPEN, OR PROCESS any envelope of an absentee ballot prior to BEFORE 8 a.m. on the [Wednesday following election day] DAY THAT IS 8 BUSINESS DAYS BEFORE THE FIRST DAY OF THE EARLY VOTING PERIOD.

(2) A local board may not delay the commencement of the canvass to await the receipt of late–arriving, timely absentee ballots.

(c) A local board may not CANVASS ABSENTEE BALLOTS DURING THE EARLY VOTING PERIOD.

(c) (1) An absentee ballot shall be deemed timely received if it is received in accordance with the regulations and guidelines established by the State Board.

(2) An absentee ballot that is received after the deadline specified by the regulations and guidelines may not be counted.

(d) (1) The State Board shall adopt regulations that reflect the policy that the clarity of the intent of the voter is the overriding consideration in determining the validity of an absentee ballot or the vote cast in a particular contest.

(2) [A] SUBJECT TO § 11–303.2 OF THIS SUBTITLE, A local board may not reject an absentee ballot except by unanimous vote and in accordance with regulations of the State Board.

(3) The local board shall reject an absentee ballot if:

(i) the voter failed to sign the oath on the ballot envelope AND FAILED TO CORRECT THE OMISSION BEFORE 10 A.M. ON THE DAY THAT IS 10 DAYS AFTER ELECTION DAY;

(ii) the local board received more than one ballot from the same individual for the same election in the same ballot envelope; or

(iii) the local board determines that an absentee ballot is intentionally marked with an identifying mark that is clearly evident and placed on the ballot for the purpose of identifying the ballot.

(4) (i) THE STATE BOARD SHALL ADOPT REGULATIONS REQUIRING A LOCAL BOARD TO:
1. AS SOON AS PRACTICABLE AFTER THE DATE ON WHICH IT WAS DETERMINED THAT THERE IS A PROBLEM ON THE BALLOT ENVELOPE, NOTIFY THE VOTER OF THE PROBLEM; AND

2. PROVIDE THE VOTER AN OPPORTUNITY TO CORRECT THE PROBLEM AND HAVE THE BALLOT COUNTED.

(ii) The regulations under this paragraph shall allow a voter to:

1. supply a signature to the local board if the voter failed to sign the oath on the ballot envelope or ballot/return envelope; and

2. choose among multiple methods of communicating with the local board to correct a problem on the ballot envelope, including:

   A. text message;

   B. e-mail;

   C. an accessible online portal;

   D. a mailed form; and

   E. an in-person visit to the local board office.

[(4)] (5) If the local board receives more than one legally sufficient ballot, in separate envelopes, from the same individual, the local board shall:

(i) count only the ballot with the [latest] first properly signed oath; and

(ii) reject any other ballot.

[(5)] (6) If the intent of the voter is not clearly demonstrated, the local board shall reject only the vote for that office or question.

[(6)] (7) If an absentee voter casts a vote for an individual who has ceased to be a candidate, the vote for that candidate may not be counted, but that vote does not invalidate the remainder of the ballot.

(e) [At] Beginning after the polls close on election day, at the end
of each day of canvassing, a local board shall prepare and release a report of the unofficial results of the absentee ballot vote tabulation.

11–303.

(d)  (1)  **[A]** **SUBJECT TO § 11–303.2 OF THIS SUBTITLE, A** local board may not reject a provisional ballot except by unanimous vote and in accordance with regulations of the State Board.

(2)  The local board shall reject a provisional ballot if:

(i)  pursuant to paragraph (4) of this subsection, the local board determines that the individual who cast the provisional ballot is not qualified to vote that provisional ballot;

(ii)  the individual failed to sign the oath on the provisional ballot application;

(iii)  the individual cast more than one ballot for the same election; or

(iv)  the local board determines that a provisional ballot is intentionally marked with an identifying mark that is clearly evident and placed on the ballot for the purpose of identifying the ballot.

(3)  If the intent of the voter with respect to a particular contest is not clearly demonstrated, the local board shall reject only the vote for that contest.

(4)  For the purposes of this section, an individual is qualified to vote the provisional ballot cast if the local board determines that:

(i)  the individual is registered in the State;

(ii)  if the provisional ballot was cast because the voter failed to provide required identification, the individual who cast the provisional ballot has met the identification requirements established by the State Board; and

(iii)  if the provisional ballot was cast during a period covered by a court order or other order extending the time for closing the polls, the order has not been invalidated by a subsequent court order.

11–303.2.

(A)  **A LOCAL BOARD SHALL COUNT AN ABSENTEE BALLOT AND REJECT A PROVISIONAL BALLOT CAST BY THE SAME INDIVIDUAL IF THE LOCAL BOARD:**

(1)  RECEIVED THE ABSENTEE BALLOT BEFORE THE COMMENCEMENT
OF THE CANVASS OF PROVISIONAL BALLOTS; AND

(2) (I) THE ABSENTEE BALLOT WAS LEGALLY SUFFICIENT WHEN RECEIVED; OR

(II) 1. THE ABSENTEE BALLOT WAS LEGALLY INSUFFICIENT; AND

2. THE VOTER CORRECTED THE PROBLEM UNDER § 11–302 OF THIS SUBTITLE.

(B) A LOCAL BOARD SHALL COUNT A PROVISIONAL BALLOT AND REJECT AN ABSENTEE BALLOT CAST BY THE SAME INDIVIDUAL IF:

(1) THE LOCAL BOARD RECEIVED THE ABSENTEE BALLOT AFTER THE COMMENCEMENT OF THE CANVASS OF PROVISIONAL BALLOTS; AND

(2) THE PROVISIONAL BALLOT IS LEGALLY SUFFICIENT.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act is an emergency measure, is necessary for the immediate preservation of the public health or safety, has been passed by a yea and nay vote supported by three–fifths of all the members elected to each of the two Houses of the General Assembly, and shall take effect from the date it is enacted.