

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

1 AN ACT concerning

2 **Election Law – Ballots – Processing and Reporting Procedures**

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

7 BY repealing and reenacting, with amendments,
8 Article – Election Law
9 Section 11–302 and 11–303(d)
10 Annotated Code of Maryland
11 (2017 Replacement Volume and 2021 Supplement)

12 BY adding to
13 Article – Election Law
14 Section 11–303.2
15 Annotated Code of Maryland
16 (2017 Replacement Volume and 2021 Supplement)

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

19 **Article – Election Law**

20 11–302.

21 (a) **(1)** [Following an election, each] **EACH** local board shall meet at its
22 designated counting center to canvass the absentee ballots cast in that election in
23 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.



1 **(2) AFTER THE COMMENCEMENT OF THE CANVASS OF ABSENTEE**
2 **BALLOTS IN ACCORDANCE WITH THIS SECTION, A LOCAL BOARD SHALL REVIEW THE**
3 **BALLOT ENVELOPE OR BALLOT/RETURN ENVELOPE FOR ANY OMISSION BY THE**
4 **VOTER.**

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

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

11 **(3) A LOCAL BOARD MAY NOT CANVASS ABSENTEE BALLOTS DURING**
12 **THE EARLY VOTING PERIOD.**

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

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

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

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

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

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

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

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

32 **(4) (I) THE STATE BOARD SHALL ADOPT REGULATIONS**
33 **REQUIRING A LOCAL BOARD TO:**

1 1. AS SOON AS PRACTICABLE AFTER THE DATE ON
2 WHICH IT WAS DETERMINED THAT THERE IS A PROBLEM ON THE BALLOT ENVELOPE,
3 NOTIFY THE VOTER OF THE PROBLEM; AND

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

6 (II) THE REGULATIONS UNDER THIS PARAGRAPH SHALL ALLOW
7 A VOTER TO:

8 1. SUPPLY A SIGNATURE TO THE LOCAL BOARD IF THE
9 VOTER FAILED TO SIGN THE OATH ON THE BALLOT ENVELOPE OR BALLOT/RETURN
10 ENVELOPE; AND

11 2. CHOOSE AMONG MULTIPLE METHODS OF
12 COMMUNICATING WITH THE LOCAL BOARD TO CORRECT A PROBLEM ON THE BALLOT
13 ENVELOPE, INCLUDING:

14 A. TEXT MESSAGE;

15 B. E-MAIL;

16 C. AN ACCESSIBLE ONLINE PORTAL;

17 D. A MAILED FORM; AND

18 E. AN IN-PERSON VISIT TO THE LOCAL BOARD OFFICE.

19 [(4)] (5) If the local board receives more than one legally sufficient ballot,
20 in separate envelopes, from the same individual, the local board shall:

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

23 (ii) reject any other ballot.

24 [(5)] (6) If the intent of the voter is not clearly demonstrated, the local
25 board shall reject only the vote for that office or question.

26 [(6)] (7) If an absentee voter casts a vote for an individual who has ceased
27 to be a candidate, the vote for that candidate may not be counted, but that vote does not
28 invalidate the remainder of the ballot.

29 (e) [At] BEGINNING AFTER THE POLLS CLOSE ON ELECTION DAY, AT the end

1 of each day of canvassing, a local board shall prepare and release a report of the unofficial
2 results of the absentee ballot vote tabulation.

3 11-303.

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

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

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

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

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

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

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

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

21 (i) the individual is registered in the State;

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

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

28 **11-303.2.**

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

31 **(1) RECEIVED THE ABSENTEE BALLOT BEFORE THE COMMENCEMENT**

1 OF THE CANVASS OF PROVISIONAL BALLOTS; AND

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

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

6 2. THE VOTER CORRECTED THE PROBLEM UNDER §
7 11-302 OF THIS SUBTITLE.

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

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

12 (2) THE PROVISIONAL BALLOT IS LEGALLY SUFFICIENT.

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