

SENATE BILL 115

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SB 339/23 – EEE

EMERGENCY BILL
(PRE-FILED)

4lr0694
CF HB 371

By: **Senator Kagan**

Requested: September 24, 2023

Introduced and read first time: January 10, 2024

Assigned to: Education, Energy, and the Environment

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: February 8, 2024

CHAPTER _____

1 AN ACT concerning

2 **Election Law – Recounts – Procedures**

3 FOR the purpose of requiring a petitioner for a recount to select the method for conducting
4 the recount; limiting the methods from which the selection must be made; requiring
5 a local board of elections to preserve and store certain voter-verifiable paper records
6 in a certain manner and count ~~duplicate ballots~~ the voter-verifiable paper record in
7 a manual recount after a certain review; establishing the process for an automated
8 recount; and generally relating to recount procedures.

9 BY repealing and reenacting, without amendments,
10 Article – Election Law
11 Section 9–102(a)
12 Annotated Code of Maryland
13 (2022 Replacement Volume and 2023 Supplement)

14 BY adding to
15 Article – Election Law
16 Section 12–108
17 Annotated Code of Maryland
18 (2022 Replacement Volume and 2023 Supplement)

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

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 9–102.

3 (a) In this section, a “voter–verifiable paper record” includes:

4 (1) a paper ballot prepared by the voter for the purpose of being read by a
5 precinct–based optical scanner;6 (2) a paper ballot prepared by the voter to be mailed to the applicable local
7 board, whether mailed from a domestic or an overseas location; and

8 (3) a paper ballot created through the use of a ballot marking device.

9 **12–108.**10 **(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS**
11 **INDICATED.**12 **(2) “DUPLICATE BALLOT” MEANS A PAPER BALLOT THAT:**13 **(I) IS CREATED BY A LOCAL BOARD FOR PURPOSES OF VOTE**
14 **TABULATION BY AN OPTICAL SCANNER BECAUSE THE VOTER–VERIFIABLE PAPER**
15 **RECORD SUBMITTED BY THE VOTER IS NOT ACCEPTABLE FOR VOTE TABULATION BY**
16 **AN OPTICAL SCANNER; AND**17 **(II) IS A COPY OF A VOTER–VERIFIABLE PAPER RECORD THAT:**18 **1. FOR AN ABSENTEE BALLOT RETURNED BY MAIL,**
19 **REFLECTS THE INTENT OF THE VOTER; OR**20 **2. FOR A PROVISIONAL BALLOT, INCLUDES ONLY THE**
21 **VOTES FOR CONTESTS FOR WHICH THE VOTER IS ELIGIBLE TO VOTE.**22 **(3) “VOTER–VERIFIABLE PAPER RECORD” HAS THE MEANING STATED**
23 **IN § 9–102 OF THIS ARTICLE.**24 **(B) (1) IN A RECOUNT UNDER THIS SUBTITLE, SUBJECT TO PARAGRAPH**
25 **(2) OF THIS SUBSECTION, THE PETITIONER SHALL SELECT THE METHOD FOR**
26 **CONDUCTING THE RECOUNT.**27 **(2) THE PETITIONER MAY SELECT ONLY ONE OF THE FOLLOWING**
28 **METHODS:**29 **(I) RESCANNING THE BALLOTS USING:**

1 1. THE SAME VOTE TABULATING EQUIPMENT THAT WAS
2 USED IN THE ELECTION; OR

3 2. ALTERNATIVE VOTE TABULATING EQUIPMENT, IF
4 ALTERNATIVE EQUIPMENT IS AVAILABLE AND ITS USE IS FEASIBLE, AS DETERMINED
5 BY THE STATE BOARD;

6 (II) A MANUAL RECOUNT OF VOTER-VERIFIABLE PAPER
7 RECORDS; OR

8 (III) ANY OTHER RECOUNT METHOD APPROVED BY THE STATE
9 ADMINISTRATOR.

10 (C) A LOCAL BOARD SHALL:

11 (1) PRESERVE THE VOTER-VERIFIABLE PAPER RECORD
12 CORRESPONDING TO EACH DUPLICATE BALLOT THAT IS CREATED; AND

13 (2) STORE EACH DUPLICATE BALLOT THAT IS CREATED TOGETHER
14 WITH THE CORRESPONDING VOTER-VERIFIABLE PAPER RECORD; ~~AND.~~

15 ~~(3)~~ (D) ~~IN~~ IN A MANUAL RECOUNT UNDER THIS SUBTITLE, A LOCAL
16 BOARD SHALL COUNT THE DUPLICATE BALLOT VOTER-VERIFIABLE PAPER RECORD
17 AFTER REVIEW OF THE VOTER-VERIFIABLE PAPER RECORD.

18 (E) IN AN AUTOMATED RECOUNT UNDER THIS SUBTITLE, A LOCAL BOARD:

19 (1) SHALL EXAMINE THE VOTER-VERIFIABLE PAPER RECORD AND
20 DUPLICATE BALLOT; AND

21 (2) (I) IF THE VOTER-VERIFIABLE PAPER RECORD AND
22 DUPLICATE BALLOT DO NOT MATCH, SHALL COUNT THE BALLOT THAT ACCURATELY
23 REFLECTS THE VOTER'S INTENT; OR

24 (II) IF THE VOTER-VERIFIABLE PAPER RECORD AND
25 DUPLICATE BALLOT MATCH, MAY COUNT THE DUPLICATE BALLOT.

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