

Chapter 320

(Senate Bill 313)

AN ACT concerning

Election Law – Postelection Tabulation Audits – Risk-Limiting Audits

FOR the purpose of requiring the State Board of Elections, in collaboration with the local boards of elections, to conduct a risk-limiting audit after each statewide election; authorizing the State Board, in collaboration with the local boards, to conduct a risk-limiting audit after a special general election; authorizing, rather than requiring, the State Board, in collaboration with the local boards, to conduct an automated software audit after a statewide election; authorizing a local board to conduct a risk-limiting audit of a local contest under certain circumstances; repealing a requirement to conduct a manual audit after each statewide general election; and generally relating to postelection tabulation audits.

BY repealing and reenacting, with amendments,
Article – Election Law
Section 11–309
Annotated Code of Maryland
(2022 Replacement Volume and 2024 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) “AUTOMATED SOFTWARE AUDIT” MEANS AN AUDIT OF ELECTRONIC IMAGES OF BALLOTS CAST IN AN ELECTION USING SOFTWARE THAT IS INDEPENDENT OF THE VOTING SYSTEM.

(3) “ELECTRONIC COUNT” MEANS THE VOTE TOTALS PRODUCED BY THE VOTING SYSTEM.

(4) “LOCAL CONTEST” MEANS A CONTEST THAT:

(I) IS NOT A STATEWIDE CONTEST; AND

(II) APPEARS ON THE BALLOT IN ALL OR PART OF A COUNTY, INCLUDING A CONTEST TO REPRESENT A DISTRICT THAT INCLUDES MORE THAN ONE COUNTY.

[(2)] (5) “Manual [audit] COUNT” 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:

- (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.]

(6) “RISK LIMIT” MEANS THE SMALL, PREDETERMINED MAXIMUM CHANCE THAT A RISK-LIMITING AUDIT WILL NOT REQUIRE A FULL MANUAL COUNT OF VOTER-VERIFIABLE PAPER RECORDS IN AN AUDITED CONTEST IF A FULL MANUAL COUNT OF THE VOTER-VERIFIABLE PAPER RECORDS WOULD FIND A DIFFERENT OUTCOME THAN THE OUTCOME DETERMINED BY THE ELECTRONIC COUNT.

(7) “RISK-LIMITING AUDIT” MEANS A POSTELECTION AUDIT PROCEDURE THAT EMPLOYS STATISTICAL METHODS TO ENSURE A LARGE, PREDETERMINED MINIMUM CHANCE OF REQUIRING A FULL MANUAL COUNT OF VOTER-VERIFIABLE PAPER RECORDS IN AN AUDITED CONTEST IF A FULL MANUAL COUNT OF THE VOTER-VERIFIABLE PAPER RECORDS WOULD FIND A DIFFERENT OUTCOME THAN THE OUTCOME DETERMINED BY THE ELECTRONIC COUNT.

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

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

(i) at least 2% 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.

(2) The manual audit shall be completed within 120 days after the general election.

(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.

(e) An audit under this section:

- (1) may not have any effect on the certified election results; and
- (2) shall be used to improve the voting system and voting process for future elections.]

(B) (1) FOLLOWING EACH STATEWIDE ELECTION, THE STATE BOARD, IN COLLABORATION WITH ~~THE LOCAL BOARDS~~ EACH LOCAL BOARD, SHALL AUDIT THE ACCURACY OF THE VOTING SYSTEM'S TABULATION OF VOTES IN EACH COUNTY BY CONDUCTING A RISK-LIMITING AUDIT OF:

(I) AT LEAST ONE STATEWIDE CONTEST; AND

(II) ~~AT LEAST ONE LOCAL CONTEST IN EACH COUNTY; AND~~

~~(III)~~ ANY OTHER CONTESTS SELECTED FOR AUDIT BY THE STATE BOARD.

(2) FOLLOWING A SPECIAL GENERAL ELECTION, THE STATE BOARD, IN COLLABORATION WITH THE LOCAL BOARDS, MAY CONDUCT A RISK-LIMITING AUDIT.

(3) (I) SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH, THE STATE BOARD SHALL SELECT THE SPECIFIC CONTESTS TO BE AUDITED UNDER PARAGRAPH (1) OF THIS SUBSECTION.

(II) A CONTEST FOR AN OFFICE FOR WHICH THE TERM BEGINS IN THE MONTH OF DECEMBER MAY NOT BE SELECTED FOR AUDIT UNLESS THE ELECTION DIRECTOR FOR THE COUNTY AGREES TO AUDIT THE CONTEST.

(4) A RISK-LIMITING AUDIT SHALL:

(I) MANUALLY EXAMINE RANDOMLY CHOSEN INDIVIDUAL VOTER-VERIFIABLE PAPER RECORDS OR BATCHES OF VOTER-VERIFIABLE PAPER RECORDS UNTIL THE RISK LIMIT IS MET OR THE CORRECT ELECTION OUTCOME IS ESTABLISHED;

(II) BE COMPLETED BEFORE ~~CERTIFICATION OF THE ELECTION RESULTS~~ THE BOARD OF STATE CANVASSERS TRANSMITS A CERTIFIED STATEMENT

OF THE ELECTION RESULTS TO THE STATE BOARD UNDER § 11-503(A) OF THIS TITLE; AND

(III) BE OBSERVABLE BY THE PUBLIC TO THE MAXIMUM EXTENT PRACTICABLE.

(5) (I) IF A RISK-LIMITING AUDIT FINDS THAT THE ELECTION OUTCOME DETERMINED BY THE ELECTRONIC COUNT IS INCORRECT, THE OFFICIAL RESULT OF THE ELECTION SHALL BE ALTERED TO MATCH THE OUTCOME DETERMINED BY THE RISK-LIMITING AUDIT.

~~(6) WITHIN 10 DAYS AFTER THE CONCLUSION OF THE RISK-LIMITING AUDIT, THE STATE BOARD SHALL POST ON THE STATE BOARD'S WEBSITE A REPORT THAT DESCRIBES THE AUDIT PROCESS AND THE RESULTS OF THE AUDIT~~
INACCURATE, THE STATE ADMINISTRATOR, IN CONSULTATION WITH THE STATE BOARD, SHALL DIRECT THE RELEVANT BOARD OF CANVASSERS TO IMMEDIATELY INVESTIGATE THE MATTER TO DETERMINE AN ACCURATE ELECTION RESULT.

(II) THE BOARD OF CANVASSERS SHALL CONCLUDE THE INVESTIGATION WITHIN 3 DAYS.

(III) THE BOARD OF CANVASSERS SHALL CORRECT THE ELECTION RESULT IN ACCORDANCE WITH REGULATIONS ADOPTED BY THE STATE BOARD.

(6) THE STATE ADMINISTRATOR SHALL REPORT THE RESULTS OF THE RISK-LIMITING AUDIT TO THE BOARD OF STATE CANVASSERS AND THE STATE BOARD.

(C) IN ADDITION TO THE RISK-LIMITING AUDIT REQUIRED UNDER SUBSECTION (B) OF THIS SECTION, THE STATE BOARD, IN COLLABORATION WITH THE LOCAL BOARDS, MAY CONDUCT AN AUTOMATED SOFTWARE AUDIT AFTER A STATEWIDE ELECTION.

(D) A LOCAL BOARD MAY CONDUCT A RISK-LIMITING AUDIT OF A LOCAL CONTEST AT THE DISCRETION OF THE LOCAL BOARD.

[f] ~~(D)~~ (E) (1) The State Board shall adopt regulations to carry out this section.

(2) THE REGULATIONS ADOPTED UNDER PARAGRAPH (1) OF THIS SUBSECTION TO CARRY OUT RISK-LIMITING AUDITS IN ACCORDANCE WITH SUBSECTION (B) OF THIS SECTION SHALL INCLUDE:

**(I) CRITERIA FOR DETERMINING THE CONTESTS TO BE
AUDITED;**

(II) THE RISK LIMIT; AND

(III) THE AUDIT METHOD.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2025.

Approved by the Governor, May 6, 2025.