

David Naimon Senate EEE Testimony on Senate Bill 1

Uploaded by: David Naimon

Position: FAV

My name is David Naimon and I'd like to thank you, Chair Brian Feldman and Vice Chair Cheryl Kagan, for the opportunity to submit written testimony today. As you know, I'm the President of the Montgomery County Board of Elections and have served on the Board since 2011, but I'm testifying today only on my own behalf as an individual. As you also know, our Board had countywide recounts for County Executive in both the 2018 and 2022 Democratic primary elections, as well as a recount in the District 16 House of Delegates race in 2018. I support SB 115 because I would welcome additional statutory clarification of the recount rules.

The bill codifies some important practices that we followed in our recounts. We looked at all duplicated ballots and the originals on which they were based when we did our recounts. While duplication errors have been extremely rare, it's important in any recount that all duplicated ballots be checked for errors. As you know, ballots are duplicated for a variety of reasons, including the voters' use of web-delivered print-at-home ballots that must be duplicated onto ballot paper or the Board's decision to interpret voter intent when the original ballot is not clear enough to be scanned but the voter's intent is clear to us. As you also know, we often find clear (and sometimes less clear) intent expressed by the voter that the scanner would merely record as an overvote (such as when a voter crosses out one choice and circles another). This is an important question in practical terms, and it's the major factor that changes votes from an original count to a recount. For example, the trailing candidate in the 2022 Montgomery County Executive primary gained votes in the recount almost exclusively as the result of voter intent decisions by the Board where the scanner would not have recorded a vote.

I'd also like to thank you and the Committee for amending last year's bill (and basing this year's bill on the amended version of last year's bill) to clarify that local Boards may and must count duplicated ballots after reviewing the voter's original ballot, revisiting any voter intent decisions it made during the original canvass, and, if the Board maintains its original decision, checking to make sure the duplication process correctly reflected those decisions. This strikes me as the best way to conduct the recount.

Thank you for the opportunity to submit my testimony to you, and I urge a favorable report on SB 115.

2024 Testimony Kagan SB115 Recount Revisions.pdf

Uploaded by: Sen. Cheryl Kagan

Position: FAV

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THE SENATE OF MARYLAND
ANNAPOLIS, MARYLAND 21401

SB115: Recount Law Revisions

Education, Energy, & the Environment Committee
January 30, 2024: 1:00 PM

[SB115](#) is an emergency bill to update and clarify Maryland's recount laws. In recent years, there have been a number of extraordinarily close elections that required recounts, including Baltimore County Executive (2018) and Montgomery County Executive (2018 and 2022).

This bill will modify our recount procedures by allowing petitioning candidates to select from the following:

- Using tabulating equipment approved by the State Board of Elections;
- Manually recounting the voter-verifiable paper records; or
- Utilizing any other recount method approved by the State Administrator.

This removes the current option for conducting a recount solely by a manual tabulation of **printed reports** from Early Voting, Election Day, and the mail-in and provisional ballot canvasses.

Additional changes are necessary to take into account the increasing number of voters who print their ballots at home and return them by mail. During the tallying, these home-printed ballots must be manually duplicated by bipartisan teams onto a traditional ballot in order to be counted using current machinery. There is no requirement for Local Boards of Elections to store original, home-printed ballots with the copies manually created by bipartisan teams during the tally. Nor is there a directive to examine both the original and duplicated ballot during a recount.

SB115 clarifies these issues by:

- Ensuring that original ballots are stored with duplicates; and
- Stipulating that both ballots must be examined in the case of a manual recount.

An amendment to this bill clarifies that:

- In the case of a manual recount, the voter-verifiable paper ballot, not the copy, shall be counted; and
- For automated recounts, both the copy and the original must be examined by the Local Board of Elections. If the copy and the original agree, the copy may be used in the automated recount. If the two disagree, then the LBE must manually count the original.

The changes made by this bill will increase trust in our recount system and avoid potential challenges or complaints.

This bill ([SB339](#)) passed the Senate unanimously in 2023.

I urge a favorable report on SB115 as amended.

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Uploaded by: John Michael Gudger

Position: INFO



Maryland Association of Election Officials

Representing the Local Election Boards of the State of Maryland

January 30, 2024

Senator Brian Feldman, Chair
Education, Energy, and the Environment Committee
2 West, Miller Senate Office Building
Annapolis, Maryland 21401

SB115 – Information

Chair Feldman, Vice Chair Kagan and Committee Members:

My name is John Michael Gudger, chair of the Maryland Association of Election Officials (MAEO) Legislative Committee. While we recognize the intentions of Senate Bill 115 to enhance the transparency and integrity of the election process, we must bring to your attention the practical implications this bill would have on the workload of Local Boards of Elections.

Increased Administrative Responsibilities:

The bill allows petitioners to choose from specified recount methods, including the use of alternative vote tabulating equipment if feasible. This choice necessitates additional administrative work to prepare for each type of recount, ensuring all equipment is ready and compliant. It also requires extensive training for staff to proficiently handle various recount scenarios.

Manual Handling of Voter-Verifiable Paper Records:

The bill's emphasis on the use of voter-verifiable paper records, particularly in manual recounts, will significantly increase the manual labor required. Local boards will need to allocate more staff and resources to handle, store, and count these paper records, especially in larger jurisdictions with a high volume of ballots.

Preservation and Storage of Duplicate Ballots:

Under the new bill, each duplicate ballot and its corresponding voter-verifiable paper record must be preserved and stored together. This requirement adds layers of complexity to our storage and archival processes, demanding additional time, space, and organizational resources. This is a significant burden and could be time-intensive enough that in the case of a recount, an LBE would not be able to comply with the timeframe.

Training and Staffing Needs:

To implement the changes effectively, extensive training for current staff and potentially hiring additional personnel will be necessary. This represents a significant investment in both time and financial resources for Local Boards of Elections across the state.

In conclusion, while the Maryland Association of Election Officials supports measures that enhance the integrity and transparency of our electoral process, it is important for this Committee to consider the practical implications of Senate Bill 115 on the operations of Local Boards of Elections. We are committed to working with the legislature to find a balanced approach that maintains election integrity while also considering the resource and workload challenges faced by election officials.

Thank you for considering our perspective on this important matter.

Sincerely,
John Michael Gudger
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Chair, MAEO Legislative Committee