

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.