

SENATE BILL 494

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EMERGENCY BILL

4lr2524
CF HB 471

By: **Senator Kagan**

Introduced and read first time: January 24, 2024

Assigned to: Education, Energy, and the Environment

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: February 23, 2024

CHAPTER _____

1 AN ACT concerning

2 **Election Law – Postelection Procedures**

3 FOR the purpose of altering the records and documents that a board of canvassers is
4 required to investigate under certain circumstances; altering the responsibilities of
5 the State Administrator, the State Board of Elections, and the Board of State
6 Canvassers regarding the certification of election results; authorizing the members
7 of the Board of State Canvassers to appoint certain designees to serve on the Board
8 of State Canvassers; altering the responsibilities of the Governor regarding election
9 results; and generally relating to postelection procedures.

10 BY repealing and reenacting, with amendments,
11 Article – Election Law
12 Section 11–307, 11–308, 11–501, 11–502, 11–503, and 11–601
13 Annotated Code of Maryland
14 (2022 Replacement Volume and 2023 Supplement)

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

17 **Article – Election Law**

18 11–307.

19 (a) If a board of canvassers determines **FOLLOWING AN ELECTION** that there
20 appears to be an error in the documents or records produced [at the polling place following

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.



an election] **DURING THE ELECTION**, then it immediately shall, **IN CONSULTATION WITH THE STATE ADMINISTRATOR**, investigate the matter to ascertain whether the records or documents are correct.

(b) The board of canvassers may correct a document or record only in accordance with the regulations of the State Board.

11-308.

(a) Within 10 days after any election, and before certifying the results of the election, each board of canvassers shall verify the vote count in accordance with the regulations prescribed by the State Board for the voting system used in that election.

(b) Upon completion of the verification process, the members of the board of canvassers shall:

(1) certify in writing that the election results are accurate and that the vote has been verified; and

(2) provide copies of the election results to the persons specified under § 11-401 of this title.

(c) (1) If a member of a board of canvassers dissents from a determination of an election result or reasonably believes that the conduct of a local board member or local board proceeding was not in compliance with applicable law or regulation or was otherwise illegal or irregular, the member shall prepare and file with the local board a distinct written statement of the reasons for the dissent or concern.

(2) THE STATE ADMINISTRATOR SHALL REVIEW THE DISSENT AND SUBMIT IT TO THE BOARD OF STATE CANVASSERS FOR A FINAL DETERMINATION.

[(2)] (3) The State Board shall maintain a file of the [written statements submitted under this subsection by members of the local boards] FINAL DETERMINATION.

11-501.

(a) Following each [gubernatorial primary or] special primary election to fill a vacancy in the office of Representative in Congress, the State Board shall:

(1) convene within 2 days after the certified official election results are received from the local boards;

(2) if a majority of the members of the State Board is not present, adjourn for not more than 1 day;

(3) **WITHIN 1 DAY AFTER CONVENING, REVIEW THE CERTIFIED COPIES OF THE STATEMENTS MADE BY THE BOARDS OF CANVASSERS AND** determine which candidates, by the greatest number of votes, have been nominated to each office and which questions have received a sufficient number of votes to be adopted or approved; [and]

(4) **IF THE STATE BOARD DETERMINES, BASED ON CLEAR AND CONVINCING EVIDENCE, THAT A STATEMENT BY A BOARD OF CANVASSERS IS INACCURATE, REJECT THE STATEMENT AND ASCERTAIN THE ACCURATE ELECTION RESULTS; AND**

[(4)] (5) prepare and certify statewide election results [based on the certified copies of the statements made by the boards of canvassers].

(b) (1) **IF THE STATE BOARD DETERMINES THAT A STATEMENT BY A BOARD OF CANVASSERS IS INACCURATE AND MUST BE REJECTED UNDER SUBSECTION (A)(4) OF THIS SECTION, THE STATE BOARD SHALL PREPARE AND FILE A DISTINCT WRITTEN STATEMENT OF THE REASONS FOR THE DETERMINATION, INCLUDING THE EVIDENCE ON WHICH THE DETERMINATION WAS BASED, WITH THE STATE BOARD.**

(2) If a member of the State Board dissents from a determination of an election result or reasonably believes that the conduct of a **STATE** Board member or **STATE** Board proceeding was not in compliance with applicable law or regulation or was otherwise illegal or irregular, the member shall prepare and file with the **STATE** Board a distinct written statement of the reasons for the dissent or concern.

[(2)] (3) The State Board shall maintain a file of the written statements submitted under this subsection by members of the **STATE** Board.

11-502.

(a) The Board of State Canvassers consists of the following members:

(1) the Secretary of State;

(2) the Comptroller;

(3) the State Treasurer;

(4) the Clerk of the Supreme Court of Maryland; and

(5) the Attorney General.

(b) Three members of the Board of State Canvassers constitute a quorum.

(c) The State Administrator [of the State Board of Elections] serves as secretary to the Board of State Canvassers.

(d) **THE MEMBERS OF THE BOARD OF STATE CANVASSERS MAY APPOINT DESIGNEES TO SERVE ON THE BOARD OF STATE CANVASSERS AS FOLLOWS:**

(1) THE SECRETARY OF STATE MAY APPOINT A DEPUTY SECRETARY OF STATE;

(2) THE COMPTROLLER MAY APPOINT THE CHIEF DEPUTY COMPTROLLER;

(3) [The] THE State Treasurer may appoint[, as the Treasurer's designee, a] THE deputy treasurer [to serve on the Board of State Canvassers];

(4) THE CLERK OF THE SUPREME COURT OF MARYLAND MAY APPOINT THE CHIEF DEPUTY; AND

(5) THE ATTORNEY GENERAL MAY APPOINT THE DEPUTY ATTORNEY GENERAL.

(E) A MEMBER OF THE BOARD OF STATE CANVASSERS SHALL SUBMIT A DESIGNATION UNDER SUBSECTION (D) OF THIS SECTION TO THE STATE ADMINISTRATOR AT LEAST 7 DAYS BEFORE THE BOARD OF STATE CANVASSERS CONVENES.

11-503.

(a) The Board of State Canvassers shall:

(1) (i) convene [only] **WITHIN 30 DAYS** after [a presidential primary] **EACH** election, [a State general election, or a general or] **UNLESS THE ELECTION WAS A** special [general] **PRIMARY** election that [includes] **INCLUDED** a candidate for member of the Congress of the United States; **AND**

(ii) [convene within 35 days of that election; and

(iii)] if a majority of members of the Board of State Canvassers is not present, adjourn for not more than 1 day;

(2) WITHIN 1 DAY AFTER CONVENING, REVIEW THE CERTIFIED COPIES OF THE STATEMENTS MADE BY THE BOARDS OF CANVASSERS AND determine which candidates, by the greatest number of votes, have been elected to each office and which questions have received a sufficient number of votes to be adopted or approved;

(3) IF THE BOARD OF STATE CANVASSERS DETERMINES, BASED ON CLEAR AND CONVINCING EVIDENCE, THAT A STATEMENT BY A BOARD OF CANVASSERS IS INACCURATE, REJECT THAT STATEMENT AND ASCERTAIN THE ACCURATE ELECTION RESULTS;

(4) prepare statewide election results for each candidate and question[, based on the certified copies of the statements made by the boards of canvassers]; and

[(4)] (5) prepare and transmit a certified statement of the election results to the State Board [of Elections].

(b) (1) IF THE BOARD OF STATE CANVASSERS DETERMINES THAT A STATEMENT BY A BOARD OF CANVASSERS IS INACCURATE AND MUST BE REJECTED UNDER SUBSECTION (A)(3) OF THIS SECTION, THE BOARD OF STATE CANVASSERS SHALL PREPARE AND TRANSMIT A DISTINCT WRITTEN STATEMENT OF THE REASONS FOR THE DETERMINATION, INCLUDING THE EVIDENCE ON WHICH THE DETERMINATION WAS BASED, TO THE STATE BOARD.

(2) If a member of the Board of State Canvassers dissents from a determination of an election result or reasonably believes that the conduct of a MEMBER OF THE Board [member] OF STATE CANVASSERS or A PROCEEDING OF THE Board [proceeding] OF STATE CANVASSERS was not in compliance with applicable law or regulation or was otherwise illegal or irregular, the member shall prepare and transmit a distinct written statement of the reasons for the dissent or concern to the State Board [of Elections].

[(2)] (3) The State Board [of Elections] shall maintain a file of the written statements submitted under this subsection by members of the Board of State Canvassers.

(C) THE STATE ADMINISTRATOR SHALL TRANSMIT THE CERTIFIED ELECTION RESULTS TO THE GOVERNOR WITHIN ~~30~~ 3 DAYS AFTER RECEIPT.

(D) THE STATE BOARD MAY ADOPT REGULATIONS CONSISTENT WITH THIS ARTICLE GOVERNING THE CERTIFICATION OF ELECTION RESULTS.

11-601.

(a) On receipt, in accordance with this subtitle, of the returns of an election for electors to choose a President and Vice President of the United States or of an election to choose a member of Congress, the Governor shall, CONSISTENT WITH THE RETURNS OF THE ELECTION RECEIVED BY THE GOVERNOR IN ACCORDANCE WITH THIS SUBTITLE:

(1) ascertain and enumerate the number of votes cast for each candidate for President and Vice President of the United States and declare elected the presidential electors of the candidates who receive the highest number of votes; and

(2) in each contest, ascertain and enumerate the number of votes cast for each candidate voted for as a member of Congress and declare elected the candidate who receives the highest number of votes.

(b) After ascertaining and enumerating the number of votes for candidates as required by subsection (a) of this section, the Governor shall:

(1) **ISSUE AND TRANSMIT A CERTIFICATE OF ELECTORS UNDER 3 U.S.C. § 5;**

(2) sign and issue a proclamation declaring the name of each candidate who is elected; and

[(2)] (3) cause the proclamation to be [published in newspapers] POSTED ON THE STATE BOARD'S WEBSITE.

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

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.