SENATE BILL 936

G1   0lr2578

By: **Senators Hayes, Ellis, and Kagan**
Introduced and read first time: February 3, 2020
Assigned to: Education, Health, and Environmental Affairs

A BILL ENTITLED

1   AN ACT concerning

2   **Election Administration – Duties of State Administrator, Local Boards of**
3   **Elections, and Election Directors and Cybersecurity Requirements**

4   FOR the purpose of requiring the State Administrator of Elections to exercise disciplinary
5   authority over the local election directors for noncompliance with State rules,
6   regulations, and policies; requiring a local board of elections to notify the State
7   Administrator in writing within a certain period of time after becoming aware of a
8   certain security violation or a certain significant attempted security violation
9   involving an election system; requiring that a local board of elections appointment of
10   an election director be made in consultation with the State Administrator; altering
11   the supplies and equipment that a local board of elections is required to provide to
12   include supplies and equipment necessary for cybersecurity measures required by
13   the State Administrator; requiring that the performance of certain tasks by a local
14   election director be subject to the policies and guidance of the State Administrator;
15   requiring, rather than authorizing, a local election director to take certain actions;
16   requiring the local election director to ensure that a certain notice is given in
17   accordance with a certain provision of this Act and that certain equipment meets
18   certain cybersecurity requirements; requiring the State Administrator to instruct
19   the local boards on the cybersecurity measures and clearance required to have access
20   to the voter statewide registration list; making a stylistic change; and generally
21   relating to election administration.

22   BY repealing and reenacting, with amendments,
23   Article – Election Law
24   Section 2–103, 2–108, 2–202, 2–206, and 3–101
25   Annotated Code of Maryland
26   (2017 Replacement Volume and 2019 Supplement)

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

1   **Article – Election Law**

2   2–103.

3   (a)   There is a State Administrator of Elections.

4   (b)   The State Administrator shall:

5   (1)   be appointed by the State Board, with the advice and consent of the
6   Senate of Maryland, and serve at the pleasure of the State Board;

7   (2)   receive a salary as provided in the State budget;

8   (3)   as provided in the State budget, employ and supervise:

9   (i)   a deputy administrator, who shall serve as State Administrator
10   in the event the State Administrator resigns, becomes disabled, or dies, pending the
11   appointment of a successor State Administrator; and

12   (ii)   pursuant to the State Personnel and Pensions Article, other staff
13   of the State Board;

14   (4)   supervise the operations of the local boards;

15   **(5)   EXERCISE DISCIPLINARY AUTHORITY OVER THE LOCAL ELECTION**
16   **DIRECTORS FOR NONCOMPLIANCE WITH STATE RULES, REGULATIONS, AND**
17   **POLICIES;**

18   **[**(5)**] (6)**   perform all duties and exercise all powers that are assigned by
19   law to the State Administrator or delegated by the State Board;

20   **[**(6)**] (7)**   implement, in a uniform and nondiscriminatory manner, a
21   single, uniform, official, centralized, interactive computerized statewide voter registration
22   list;

23   **[**(7)**] (8)**   provided the State Board is fully constituted with five duly
24   confirmed members, be subject to removal by the affirmative vote of four duly confirmed
25   members of the State Board for incompetence, misconduct, or other good cause except that:

26   (i)   prior to removal, the State Board shall set forth written charges
27   stating the grounds for dismissal and afford the State Administrator notice and an ample
28   opportunity to be heard; and

29   (ii)   subsequent to a valid vote for removal by at least four duly
30   confirmed members of the State Board, the State Administrator is authorized to continue
31   to serve until a successor is appointed and confirmed by the Senate of Maryland; and

1   **[**(8)**] (9)**   be the chief State election official.

2   (c)   Before taking office, the appointee to the office of State Administrator shall
3   take the oath required by Article I, § 9 of the Maryland Constitution.

4   2–108.

5   (a)   (1)   In this section the following words have the meanings indicated.

6   (2)   "Appropriate persons" means:

7   (i)   the State Board;

8   (ii)   the Governor;

9   (iii)   the President of the Senate of Maryland;

10   (iv)   the Speaker of the House of Delegates; and

11   (v)   the Attorney General.

12   (3)   "Election service provider" means any person providing, supporting, or
13   maintaining an election system on behalf of the State Board or a local board, including a
14   contractor or vendor.

15   (4)   "Election system" means any information system used for the
16   management, support, or administration of an election, including:

17   (i)   the voting system;

18   (ii)   the online voter registration system;

19   (iii)   the voter registration database;

20   (iv)   the online ballot request, delivery, or marking systems;

21   (v)   the electronic pollbooks;

22   (vi)   the system for tabulating or reporting election results; and

23   (vii)   the State Board or local board e–mail system.

24   (5)   "Security violation" means the incident categories defined by the
25   Department of Information Technology in the State information security policy.

26   (6)   "Significant attempted security violation" means an attempt to commit
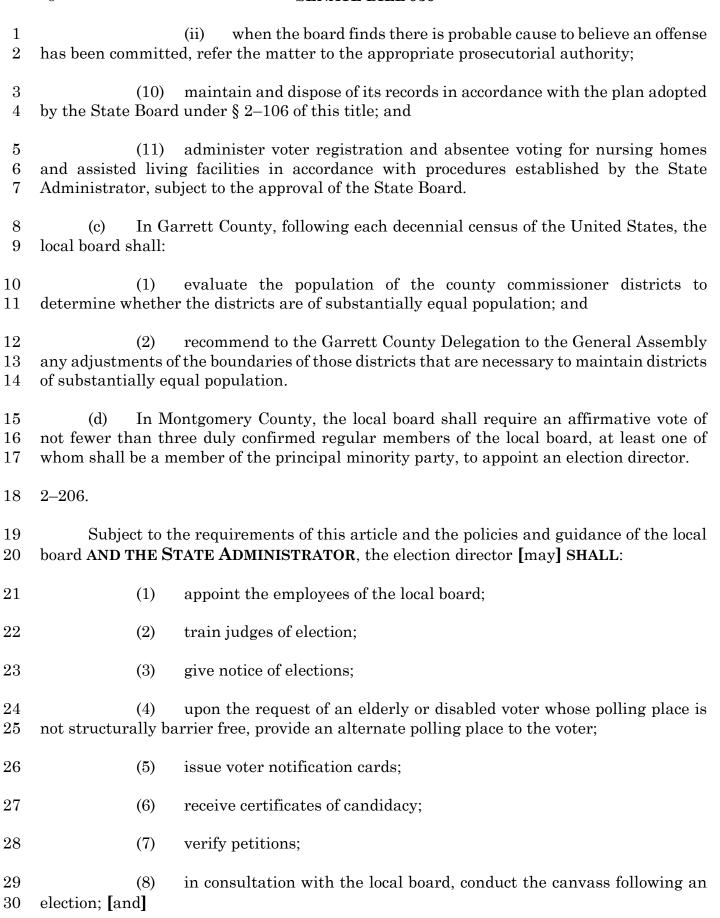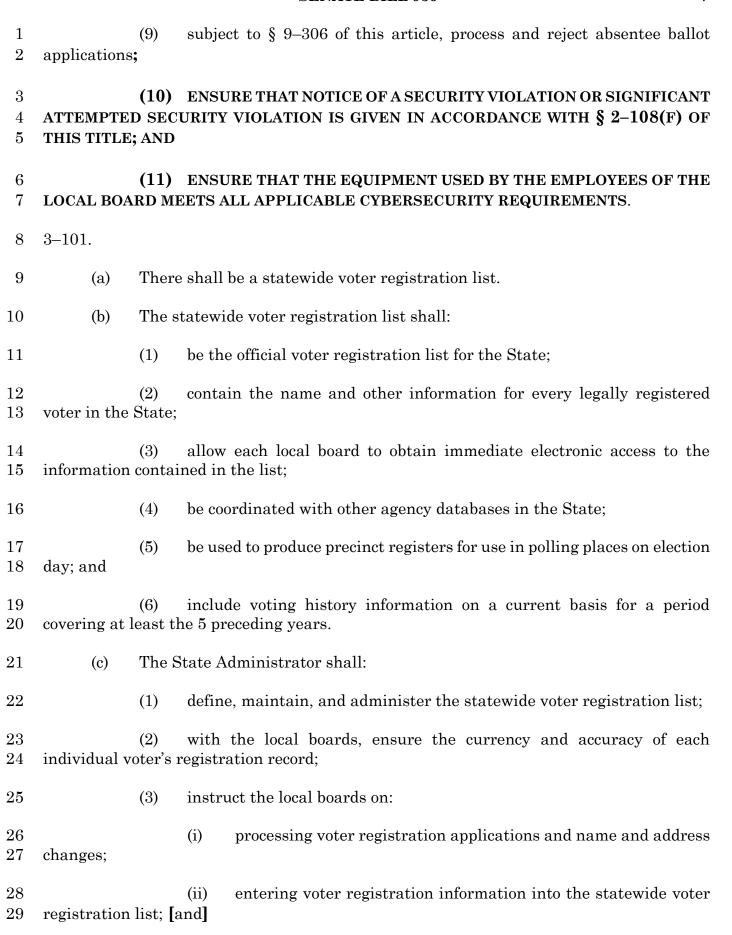
1   a security violation that:

2   (i)   is known to have been committed by a foreign government or
3   agents of a foreign government; or

4   (ii)   the State Administrator considers to be of particular significance
5   or concern.

6   (b)   Within 7 days after becoming aware of a security violation or significant
7   attempted security violation, the State Administrator shall submit to the Department of
8   Information Technology and the appropriate persons a report on each security violation
9   and significant attempted security violation involving an election system:

10   (1)   owned, operated, or maintained by the State Board or a local board of
11   elections; or

12   (2)   provided, supported, or maintained by an election service provider.

13   (c)   Within 7 days after receiving the State Board's report submitted under
14   subsection (b) of this section, the Department of Information Technology shall forward any
15   additional relevant information to the appropriate persons and the State Administrator.

16   (d)   Notwithstanding any other law, the Secretary of Information Technology may
17   require that the information contained in a report submitted under subsection (b) of this
18   section be withheld from the general public if the Secretary determines that the public
19   interest is served by withholding the information.

20   (e)   If an election service provider knows that a security violation or significant
21   attempted security violation has occurred involving an election system provided, supported,
22   or maintained by the election service provider, the election service provider shall:

23   (1)   notify the State Administrator in writing as soon as practicable but not
24   later than 4 days after becoming aware of the security violation or significant attempted
25   security violation; and

26   (2)   cooperate with the State Administrator in submitting the report
27   required under subsection (b) of this section.

28   **(F)   IF A LOCAL BOARD KNOWS THAT A SECURITY VIOLATION OR
29   SIGNIFICANT ATTEMPTED SECURITY VIOLATION HAS OCCURRED INVOLVING AN
30   ELECTION SYSTEM OWNED, OPERATED, OR MAINTAINED BY THE LOCAL BOARD, THE
31   LOCAL BOARD SHALL NOTIFY THE STATE ADMINISTRATOR IN WRITING WITHIN 24
32   HOURS AFTER BECOMING AWARE OF THE SECURITY VIOLATION OR SIGNIFICANT
33   ATTEMPTED SECURITY VIOLATION.**

34   2–202.

1   (a)   Except for the City of Baltimore, the provisions of this section do not apply to
2 a municipal corporation in the State in which the municipal or charter elections are
3 regulated by the public local laws of the State or the charter of the municipal corporation.

4   (b)   Each local board, in accordance with the provisions of this article and
5 regulations adopted by the State Board, shall:

6   (1)   oversee the conduct of all elections held in its county and ensure that
7 the elections process is conducted in an open, convenient, and impartial manner;

8   (2)   **[**pursuant to**]** **IN ACCORDANCE WITH** the State Personnel and
9 Pensions Article, or its county merit system, whichever is applicable, **AND IN**
10 **CONSULTATION WITH THE STATE ADMINISTRATOR,** appoint an election director to
11 manage the operations and supervise the staff of the local board;

12   (3)   maintain an office and be open for business as provided in this article,
13 and provide the supplies and equipment necessary for the proper and efficient conduct of
14 voter registration and election, including:

15   (i)   supplies and equipment required by the State Board; **[**and**]**

16   (ii)   office and polling place equipment expenses**; AND**

17   **(III)   CYBERSECURITY MEASURES REQUIRED BY THE STATE**
18 **ADMINISTRATOR**;

19   (4)   adopt any regulation it considers necessary to perform its duties under
20 this article, which regulation shall become effective when it is filed with and approved by
21 the State Board;

22   (5)   serve as the local board of canvassers and certify the results of each
23 election conducted by the local board;

24   (6)   establish and alter the boundaries and number of precincts in
25 accordance with § 2–303 of this title, and provide a suitable polling place for each precinct,
26 and assign voters to precincts;

27   (7)   provide to the general public timely information and notice, by
28 publication or mail, concerning voter registration and elections;

29   (8)   make determinations and hear and decide challenges and appeals as
30 provided by law;

31   (9)   (i)   aid in the prosecution of an offense under this article; and

1   (ii)   when the board finds there is probable cause to believe an offense
2   has been committed, refer the matter to the appropriate prosecutorial authority;

3   (10)   maintain and dispose of its records in accordance with the plan adopted
4   by the State Board under § 2–106 of this title; and

5   (11)   administer voter registration and absentee voting for nursing homes
6   and assisted living facilities in accordance with procedures established by the State
7   Administrator, subject to the approval of the State Board.

8   (c)   In Garrett County, following each decennial census of the United States, the
9   local board shall:

10   (1)   evaluate the population of the county commissioner districts to
11 determine whether the districts are of substantially equal population; and

12   (2)   recommend to the Garrett County Delegation to the General Assembly
13 any adjustments of the boundaries of those districts that are necessary to maintain districts
14 of substantially equal population.

15   (d)   In Montgomery County, the local board shall require an affirmative vote of
16 not fewer than three duly confirmed regular members of the local board, at least one of
17 whom shall be a member of the principal minority party, to appoint an election director.

18 2–206.

19   Subject to the requirements of this article and the policies and guidance of the local
20 board **AND THE STATE ADMINISTRATOR**, the election director **[**may**] SHALL**:

21   (1)   appoint the employees of the local board;

22   (2)   train judges of election;

23   (3)   give notice of elections;

24   (4)   upon the request of an elderly or disabled voter whose polling place is
25 not structurally barrier free, provide an alternate polling place to the voter;

26   (5)   issue voter notification cards;

27   (6)   receive certificates of candidacy;

28   (7)   verify petitions;

29   (8)   in consultation with the local board, conduct the canvass following an
30 election; **[**and**]**

1   (9)   subject to § 9–306 of this article, process and reject absentee ballot
2 applications**;**

3   **(10)   ENSURE THAT NOTICE OF A SECURITY VIOLATION OR SIGNIFICANT**
4 **ATTEMPTED SECURITY VIOLATION IS GIVEN IN ACCORDANCE WITH § 2–108(F) OF**
5 **THIS TITLE; AND**

6   **(11)   ENSURE THAT THE EQUIPMENT USED BY THE EMPLOYEES OF THE**
7 **LOCAL BOARD MEETS ALL APPLICABLE CYBERSECURITY REQUIREMENTS.**

8 3–101.

9   (a)   There shall be a statewide voter registration list.

10   (b)   The statewide voter registration list shall:

11   (1)   be the official voter registration list for the State;

12   (2)   contain the name and other information for every legally registered
13 voter in the State;

14   (3)   allow each local board to obtain immediate electronic access to the
15 information contained in the list;

16   (4)   be coordinated with other agency databases in the State;

17   (5)   be used to produce precinct registers for use in polling places on election
18 day; and

19   (6)   include voting history information on a current basis for a period
20 covering at least the 5 preceding years.

21   (c)   The State Administrator shall:

22   (1)   define, maintain, and administer the statewide voter registration list;

23   (2)   with the local boards, ensure the currency and accuracy of each
24 individual voter's registration record;

25   (3)   instruct the local boards on:

26   (i)   processing voter registration applications and name and address
27 changes;

28   (ii)   entering voter registration information into the statewide voter
29 registration list; **[**and**]**

1   (iii)   removing from the statewide voter registration list information
2   about voters who are no longer eligible to be registered voters; and

3   **(IV)   THE   CYBERSECURITY   MEASURES   AND   CLEARANCE**
4   **REQUIRED TO HAVE ACCESS TO THE STATEWIDE VOTER REGISTRATION LIST; AND**

5   (4)   subject to relevant federal law and to regulations adopted by the State
6   Board, establish and conduct a program to identify voters who have changed their
7   addresses.

8   (d)   Registration shall be conducted continuously under the supervision of the
9   State Administrator and in accordance with the provisions of this title, applicable federal
10   law, and regulations adopted by the State Board.

11   (e)   (1)   A State agency shall provide any data to the State Board that the State
12   Administrator determines is necessary to maintain an accurate statewide voter
13   registration list.

14   (2)   Subject to paragraph (3) of this subsection, the State Board may not
15   disclose data provided under paragraph (1) of this subsection except as provided in Title 4
16   of the General Provisions Article.

17   (3)   (i)   The State Board may enter into agreements with other states to
18   exchange any data that the State Administrator determines is relevant to maintaining
19   accurate voter registration lists.

20   (ii)   The State Board may exchange data that is not subject to public
21   disclosure under Title 4 of the General Provisions Article with other persons as the State
22   Administrator determines is necessary for the sole purpose of maintaining accurate voter
23   registration lists.

24   (iii)   A person who receives data that is not subject to public disclosure
25   under Title 4 of the General Provisions Article under this paragraph may not use or
26   redisclose that data except for the purpose of maintaining accurate voter registration lists.

27   (f)   A registered voter:

28   (1)   shall remain registered when the voter moves to another county in the
29   State; and

30   (2)   may not be required to register again unless the voter's registration is
31   canceled in accordance with Subtitle 5 of this title.

32   SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
33   October 1, 2020.