

112<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 5814

To amend the Help America Vote Act of 2002 to establish standards for the publication of the poll tapes used in elections for Federal office, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

MAY 17, 2012

Mr. HOLT introduced the following bill; which was referred to the Committee on House Administration

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## A BILL

To amend the Help America Vote Act of 2002 to establish standards for the publication of the poll tapes used in elections for Federal office, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Poll Tape Trans-  
5 parency Act of 2012”.

1 **SEC. 2. REQUIRING STATES TO MEET STANDARDS FOR**  
2 **PUBLICATION OF POLL TAPES.**

3 (a) IN GENERAL.—Section 301(a) of the Help Amer-  
4 ica Vote Act of 2002 (42 U.S.C. 15481(a)) is amended  
5 by adding at the end the following new paragraph:

6 “(7) REQUIREMENTS FOR PUBLICATION OF  
7 POLL TAPES.—

8 “(A) REQUIREMENTS.—Each State shall  
9 meet the following requirements:

10 “(i) Upon the closing of the polls at  
11 each polling place, the appropriate election  
12 official, under the observation of the cer-  
13 tified tabulation observers admitted to the  
14 polling place under subparagraph (E) (if  
15 any), shall announce the vote orally, post a  
16 copy of the poll tape reflecting the totals  
17 from each voting machine upon which  
18 votes were cast in the election at the poll-  
19 ing place, and prepare and post a state-  
20 ment of the total number of individuals  
21 who appeared at the polling place to cast  
22 ballots, determined by reference to the  
23 number of signatures in a sign-in book or  
24 other similar independent count. Such offi-  
25 cials shall ensure that each of the certified  
26 tabulation observers admitted to the poll-

1           ing place has full access to observe the  
2           process by which the poll tapes and state-  
3           ment are produced and a reasonable period  
4           of time to review the poll tapes and state-  
5           ment before the polling place is closed, and  
6           (if feasible) shall provide such observers  
7           with identical duplicate copies of the poll  
8           tapes and statement.

9           “(ii) As soon as practicable, but in no  
10          event later than noon of the day following  
11          the date of the election, the appropriate  
12          election official shall display (at a promi-  
13          nent location accessible to the public dur-  
14          ing regular business hours and in or within  
15          reasonable proximity to the polling place) a  
16          copy of each poll tape and statement pre-  
17          pared under clause (i), and the information  
18          shall be displayed on the official public  
19          websites of the applicable local election of-  
20          ficial and chief State election official, to-  
21          gether with the name of the designated  
22          voting official who entered the information  
23          and the date and time the information was  
24          entered.

1           “(iii) Each website on which informa-  
2           tion is posted under clause (ii) shall in-  
3           clude information on the procedures by  
4           which discrepancies shall be reported to  
5           election officials. If any discrepancy exists  
6           between the posted information and the  
7           relevant poll tape or statement, the appro-  
8           priate election official shall display infor-  
9           mation on the discrepancy on the website  
10          on which the information is posted under  
11          clause (ii) not later than 24 hours after  
12          the official is made aware of the discrep-  
13          ancy, and shall maintain the information  
14          on the discrepancy and its resolution (if  
15          applicable) on such website during the en-  
16          tire period for which results of the election  
17          are typically maintained on such website.

18          “(iv) The appropriate election official  
19          shall preserve archived copies of the poll  
20          tapes and statements prepared under  
21          clause (i) and reports of discrepancies filed  
22          by certified tabulation observers for the pe-  
23          riod of time during which records and pa-  
24          pers are required to be retained and pre-  
25          served pursuant to title III of the Civil

1 Rights Act of 1960 (42 U.S.C. 1974 et  
2 seq.) or for the same duration for which  
3 archived copies of other records of the elec-  
4 tion are required to be preserved under ap-  
5 plicable State law, whichever is longer.

6 “(B) TREATMENT OF BALLOTS CAST AT  
7 EARLY VOTING SITES.—

8 “(i) APPLICATION.—The requirements  
9 of this subparagraph shall apply with re-  
10 spect to poll tapes and statements of the  
11 number of voters who voted in person at  
12 designated sites prior to the date of the  
13 election.

14 “(ii) DAILY COUNT OF VOTERS.—At  
15 the close of business on each day on which  
16 ballots described in clause (i) may be cast  
17 prior to the date of the election, the appro-  
18 priate election official at each such site  
19 shall—

20 “(I) under the observation of cer-  
21 tified tabulation observers admitted to  
22 the site under subparagraph (E) (if  
23 any), prepare and post a statement of  
24 the total number of individuals who  
25 appeared at the site to cast ballots,

1           determined by reference to the num-  
2           ber of signatures in a sign-in book or  
3           other similar independent count, and  
4           the total number of ballots cast (ex-  
5           cluding information on the votes re-  
6           ceived by individual candidates), and  
7           shall ensure that each of the certified  
8           tabulation observers admitted to the  
9           site has full access to observe the  
10          process by which the statement is pro-  
11          duced and a reasonable period of time  
12          to review the statement before the site  
13          is closed; and

14                   “(II) display at the site during  
15                   regular business hours for the dura-  
16                   tion of the early voting period a paper  
17                   copy of the statement prepared under  
18                   subclause (I).

19                   “(iii) APPLICATION OF GENERAL RE-  
20                   QUIREMENTS FOR POLL TAPES AND  
21                   STATEMENTS.—Upon the closing of the  
22                   polls on the date of the election, the appro-  
23                   priate election official at each designated  
24                   site described in this subparagraph shall  
25                   meet the requirements of subparagraph

1 (A) (including requirements relating to the  
2 role of certified tabulation observers) in  
3 the same manner as an election official at  
4 a polling place.

5 “(C) TREATMENT OF ABSENTEE BAL-  
6 LOTS.—

7 “(i) DAILY COUNT OF BALLOTS  
8 MAILED AND RECEIVED.—At the close of  
9 each business day on which a State mails  
10 or accepts absentee ballots cast in an elec-  
11 tion for Federal office prior to the date of  
12 the election, the appropriate election offi-  
13 cial shall—

14 “(I) under the observation of cer-  
15 tified tabulation observers admitted  
16 under subparagraph (E) to the site at  
17 which the ballots are mailed and re-  
18 ceived (if any), prepare and post a  
19 statement of the total number of ab-  
20 sentee ballots mailed and received by  
21 the official during that day and a sep-  
22 arate count of the number of absentee  
23 ballots received but rejected (sepa-  
24 rated into categories of the reasons  
25 for rejection), and ensure that each of

1 the certified tabulation observers ad-  
2 mitted to the site has full access to  
3 observe the process by which the  
4 statement is produced and a reason-  
5 able period of time to review the  
6 statement before the site is closed;  
7 and

8 “(II) display at the site during  
9 regular business hours for the dura-  
10 tion of the period during which absen-  
11 tee ballots are processed a paper copy  
12 of the statement prepared under sub-  
13 clause (I).

14 “(ii) APPLICATION OF GENERAL RE-  
15 QUIREMENTS FOR POLL TAPES AND  
16 STATEMENTS.—At the close of business on  
17 the last day on which absentee ballots are  
18 counted prior to the certification of the  
19 election, the appropriate election official at  
20 the site at which absentee ballots are re-  
21 ceived and counted shall meet the require-  
22 ments of subparagraph (A) (including re-  
23 quirements relating to the role of certified  
24 tabulation observers) in the same manner  
25 as an election official at a polling place.



1           “(D) DAILY COUNT OF PROVISIONAL BAL-  
2           LOTS.—At the close of business on the day on  
3           which the appropriate election official deter-  
4           mines whether or not provisional ballots cast in  
5           an election for Federal office will be counted as  
6           votes in the election (as described in section  
7           302(a)(4)), the official shall—

8                   “(i) under the observation of certified  
9                   tabulation observers admitted under sub-  
10                  paragraph (E) to the site at which the de-  
11                  termination is made (if any), prepare and  
12                  post a statement of the number of such  
13                  ballots for which a determination was  
14                  made, the number of ballots counted, and  
15                  the number of ballots rejected (separated  
16                  into categories of the reason for the rejec-  
17                  tion), and ensure that each of the certified  
18                  tabulation observers admitted to the site  
19                  has full access to observe the process by  
20                  which the statement is produced and a rea-  
21                  sonable period of time to review the state-  
22                  ment before the site is closed; and

23                   “(ii) display at the site during regular  
24                  business hours for the duration of the pe-  
25                  riod during which provisional ballots are

1 processed a paper copy of the statement  
2 prepared under clause (i).

3 “(E) ADMISSION OF CERTIFIED TABULA-  
4 TION OBSERVERS.—

5 “(i) CERTIFIED TABULATION OB-  
6 SERVER DEFINED.—In this paragraph, a  
7 ‘certified tabulation observer’ is an indi-  
8 vidual who is certified by an appropriate  
9 election official as authorized to carry out  
10 the responsibilities of a certified tabulation  
11 observer under this paragraph.

12 “(ii) SELECTION.—In determining  
13 which individuals to certify as tabulation  
14 observers and admit to a polling place or  
15 other location to serve as certified tabula-  
16 tion observers with respect to an election  
17 for Federal office, the election official shall  
18 give preference to individuals who are af-  
19 filiated with a candidate in the election, ex-  
20 cept that—

21 “(I) the number of individuals  
22 admitted who are affiliated with the  
23 same candidate for Federal office may  
24 not exceed one; and

1           “(II) the maximum number of in-  
2           dividuals who may be admitted shall  
3           equal the number of candidates in the  
4           election plus 3, or such greater num-  
5           ber as may be authorized under State  
6           law.

7           “(iii) NO EFFECT ON ADMISSION OF  
8           OTHER OBSERVERS.—Nothing in this sub-  
9           paragraph may be construed to limit or  
10          otherwise affect the authority of other indi-  
11          viduals to enter and observe polling place  
12          operations under any other law, including  
13          international observers authorized under  
14          any treaty or observers of the Federal Gov-  
15          ernment authorized under the Voting  
16          Rights Act of 1965.

17          “(F) NO EFFECT ON OTHER TABULATION  
18          REQUIREMENTS.—Nothing in this Act may be  
19          construed to supersede any requirement that an  
20          election official at a polling place report vote to-  
21          tals to a central tabulation facility and address  
22          discrepancies the official finds in the aggrega-  
23          tion of those totals with other vote totals.”.

24          (b) EFFECTIVE DATE.—Section 301(d) of such Act  
25          (42 U.S.C. 15481(d)) is amended by striking “January

1 1, 2006” and inserting “January 1, 2006 (or, in the case  
2 of the requirements of subsection (a)(7), shall meet such  
3 requirements with respect to the first election for Federal  
4 office held after the date of the enactment of the Poll Tape  
5 Transparency Act of 2012 and each subsequent election  
6 for Federal office)”.

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