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By: **Delegates Arnick and Kittleman (Special Committee on Voting Systems and Election Procedures in Maryland) and Delegates Eckardt, McIntosh, Bobo, and Dypski**

Rules suspended  
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Rules suspended  
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Committee Report: Favorable with amendments  
House action: Adopted  
Read second time: March 24, 2001

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CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Election Law - Uniform Statewide Voting Systems**

3 FOR the purpose of requiring the State Board of Elections, in consultation with the  
4 local boards, to select and certify a uniform statewide voting system for voting in  
5 polling places and a uniform statewide voting system for absentee voting;  
6 ~~repealing a certain requirement that the State Board adopt regulations for the~~  
7 ~~review, certification, and decertification of voting systems used by local boards~~  
8 requiring the State Board to acquire the voting system selected and certified for  
9 voting in polling places in consultation with the local boards; requiring the State  
10 Board to provide for the operation and maintenance costs, storage, and staff  
11 training associated with the voting system acquired by the State Board under  
12 certain circumstances; defining certain terms; authorizing the State Board to  
13 request payment from each county for certain fiscal years for the voting system  
14 acquired by the State Board in accordance with certain provisions; requiring  
15 each county to pay a certain cost component of the voting system acquired by the  
16 State Board under certain circumstances; altering the factors that the State  
17 Board shall consider in determining whether a voting system meets certain  
18 standards; requiring the State Board to adopt regulations relating to  
19 requirements for uniform statewide voting systems; repealing certain provisions  
20 relating to the certification and decertification of certain voting systems;  
21 repealing a certain provision relating to the requirement of the State Board to  
22 notify local boards with respect to the certification of the voting systems used by  
23 the local boards; clarifying the authority of a county to borrow money for the  
24 acquisition of a voting system under certain circumstances; making the

1 inapplicability of certain provisions concerning mechanical lever voting  
2 machines subject to a certain contingency; and generally relating to uniform  
3 statewide voting systems.

4 BY repealing and reenacting, with amendments,  
5 Article 33 - Election Code  
6 Section 9-102, ~~9-103~~, and 9-105 through 9-107  
7 Annotated Code of Maryland  
8 (1997 Replacement Volume and 2000 Supplement)

9 BY repealing  
10 Article 33 - Election Code  
11 Section 9-101, ~~9-103~~, and 9-104  
12 Annotated Code of Maryland  
13 (1997 Replacement Volume and 2000 Supplement)

14 BY adding to  
15 Article 33 - Election Code  
16 Section 9-101  
17 Annotated Code of Maryland  
18 (1997 Replacement Volume and 2000 Supplement)

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

21 **Article 33 - Election Code**

22 [9-101.

23 (a) A local board may not use a voting system in an election conducted under  
24 this article unless the voting system has been certified in accordance with this  
25 subtitle.

26 (b) Except as otherwise provided by law or authorized in writing by the State  
27 Board, a local board shall either:

28 (1) Use a single voting system for both absentee voting and voting in  
29 polling places; or

30 (2) Use a single voting system for absentee voting and a single different  
31 voting system for voting in polling places.]

32 9-101.

33 (A) THE STATE BOARD, IN CONSULTATION WITH THE LOCAL BOARDS, SHALL  
34 SELECT AND CERTIFY A VOTING SYSTEM FOR VOTING IN POLLING PLACES AND A  
35 VOTING SYSTEM FOR ABSENTEE VOTING.

1 (B) THE VOTING SYSTEM SELECTED AND CERTIFIED FOR VOTING IN POLLING  
2 PLACES AND THE VOTING SYSTEM SELECTED AND CERTIFIED FOR ABSENTEE  
3 VOTING SHALL BE USED IN ALL JURISDICTIONS COUNTIES.

4 (C) (1) (I) THE STATE BOARD SHALL ACQUIRE THE VOTING SYSTEM  
5 SELECTED AND CERTIFIED FOR VOTING IN POLLING PLACES.

6 (II) IN ACQUIRING THE EQUIPMENT AND SYSTEM UNDER THIS  
7 PARAGRAPH, THE STATE BOARD SHALL CONSULT WITH LOCAL BOARDS OF  
8 ELECTIONS AND COUNTY GOVERNMENTS TO ENSURE THAT LEVELS OF VOTER  
9 SERVICE ARE NOT DIMINISHED.

10 (III) UNLESS THE STATE BOARD AND THE ELECTION BOARD OF A  
11 COUNTY AGREE OTHERWISE, EACH COUNTY WILL BE PROVIDED SUFFICIENT  
12 EQUIPMENT TO PROVIDE THE SAME NUMBER OF VOTER STATIONS PER PRECINCT AS  
13 WERE IN PLACE PRIOR TO THE STATE BOARD'S ACQUISITION OF A STATEWIDE  
14 VOTING SYSTEM.

15 (2) THE STATE BOARD SHALL, EITHER WITHIN A LEASE CONTRACT USED  
16 TO ACQUIRE THE SYSTEM UNDER PARAGRAPH (1) OF THIS SUBSECTION OR BY A  
17 SEPARATE CONTRACT, PROVIDE FOR THE OPERATION AND MAINTENANCE COSTS OF  
18 THE SYSTEM ACQUIRED.

19 (3) THE STATE BOARD SHALL PROVIDE FOR STORAGE OF THE  
20 EQUIPMENT AND SYSTEM ACQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION,  
21 OR SHALL PROVIDE FUNDING FOR LOCAL BOARDS OF ELECTION FOR EQUIPMENT  
22 STORAGE.

23 (4) THE STATE BOARD SHALL PROVIDE ANY STAFF TRAINING OR  
24 EDUCATION NECESSARY TO PROPERLY IMPLEMENT AND ADMINISTER THE  
25 EQUIPMENT AND SYSTEM ACQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION.

26 (D) (1) (I) IN THIS SUBSECTION, THE FOLLOWING WORDS HAVE THE  
27 MEANINGS INDICATED.

28 (II) "PRIOR LEASE COSTS" MEANS:

29 1. FOR A COUNTY LEASING A VOTING SYSTEM AS OF FISCAL  
30 YEAR 2001, THE ANNUAL LEASE AMOUNT FOR FISCAL YEAR 2001; OR

31 2. FOR A COUNTY OWNING A VOTING SYSTEM AS OF FISCAL  
32 YEAR 2001, THE PRODUCT OF:

33 A. THE FISCAL YEAR 2001 AVERAGE AMOUNT PER VOTING  
34 AGE RESIDENT SPENT IN THOSE COUNTIES EMPLOYING THE MOST COMMONLY USED  
35 LEASED VOTING SYSTEM IN FISCAL YEAR 2001; AND

36 B. THE NUMBER OF VOTING AGE RESIDENTS IN THE  
37 COUNTY.

1                   (III)    "TOTAL SHARED COSTS" MEANS:

2                                1.       IF THE STATE BOARD ACQUIRES ELECTION SYSTEMS BY  
3 LEASE OR OTHER ONGOING PAYMENT MECHANISM, THE ANNUAL COST TO THE  
4 STATE, NET OF ANY FEDERAL CONTRIBUTIONS, FOR ACQUISITION, OPERATION, AND  
5 MAINTENANCE OF ELECTION SYSTEMS UNDER SUBSECTION (C)(1) AND (2) OF THIS  
6 SECTION; OR

7                                2.       IF THE STATE BOARD ACQUIRES ELECTION SYSTEMS BY  
8 PURCHASE OR OTHER ONE TIME PAYMENT MECHANISM;

9                                A.       FOR ANY OF THE FIRST SIX YEARS OF A SYSTEM'S USE  
10 FOLLOWING THE PURCHASE, ONE-SIXTH OF THE STATE BOARD'S TOTAL PURCHASE  
11 COST, NET OF ANY FEDERAL CONTRIBUTIONS, UNDER SUBSECTION (C)(1) OF THIS  
12 SECTION; AND

13                               B.       THE ANNUAL COST TO THE STATE, NET OF ANY FEDERAL  
14 CONTRIBUTIONS, FOR ONGOING OPERATION AND MAINTENANCE UNDER  
15 SUBSECTION (C)(2) OF THIS SECTION.

16                   (2)    FOR FISCAL YEAR 2003 AND EACH FISCAL YEAR THEREAFTER, THE  
17 STATE BOARD MAY REQUEST PAYMENT FROM EACH COUNTY IN ACCORDANCE WITH  
18 THE PROVISIONS OF THIS SUBSECTION.

19                   (3)    (I)    UPON REQUEST BY THE STATE BOARD, EACH COUNTY SHALL  
20 PAY ITS SHARED COST COMPONENT AS DETERMINED UNDER THIS PARAGRAPH.

21                               (II)   FOR EACH COUNTY RECEIVING VOTING SYSTEMS FROM THE  
22 STATE BOARD, THE COUNTY SHARED COST COMPONENT IS THE LESSER OF:

23                                1.       ONE HALF OF THE PRODUCT OF:

24                                A.       THE STATE'S TOTAL SHARED COSTS PER VOTING  
25 MACHINE; AND

26                                B.       THE NUMBER OF VOTING MACHINES ACQUIRED BY THE  
27 STATE BOARD FOR USE IN THE COUNTY; AND

28                                2.       THE COUNTY'S PRIOR LEASE COSTS.

29                               (III)   NOTWITHSTANDING SUBPARAGRAPH (I) OF THIS PARAGRAPH,  
30 THE STATE BOARD MAY NOT REQUEST PAYMENT FROM A COUNTY IF THAT COUNTY,  
31 WITHIN THE PRECEDING 10 YEARS, PURCHASED VOTING SYSTEMS THAT WERE  
32 CERTIFIED BY THE STATE BOARD.

33                   (4)    (I)    IN THE ABSENCE OF AN AGREEMENT BETWEEN THE STATE  
34 BOARD AND THE GOVERNING BODY OF A COUNTY, THE STATE BOARD SHALL  
35 PROVIDE FUNDING ASSISTANCE TO A COUNTY AS SPECIFIED IN THIS PARAGRAPH.

1                   (II)     FOR A COUNTY WHICH PURCHASED A VOTING SYSTEM THAT  
 2 MEETS THE SPECIFICATIONS OF THE ADOPTED STATEWIDE VOTING SYSTEM, THE  
 3 STATE BOARD SHALL PROVIDE FUNDING IN AN AMOUNT EQUIVALENT TO ONE-HALF  
 4 THE ANNUAL PAYMENT AMOUNT BORNE BY THAT COUNTY FOR ITS VOTING SYSTEM  
 5 PURCHASE.

6                   (III)    THE FUNDING UNDER THIS PARAGRAPH SHALL REMAIN FOR AS  
 7 MANY YEARS AS THE JURISDICTION'S ORIGINAL PAYMENTS FOR ITS VOTING SYSTEM  
 8 PURCHASE.

9 9-102.

10       (a)     {The State Board shall adopt regulations for the review, certification, and  
 11 decertification of voting systems.

12       (b)}     The State Board shall periodically review [certified voting systems] and  
 13 evaluate alternative voting systems.

14       {(c)}    ~~(B)~~    The State Board may not {certify} ~~SELECT~~ a voting system unless  
 15 the State Board determines that:

16               (1)     The voting system will:

17                   (i)     Protect the secrecy of the ballot;

18                   (ii)    Protect the security of the voting process;

19                   (iii)   Count and record all votes accurately;

20                   (iv)   Accommodate any ballot used under this article; and

21                   (v)    Protect all other rights of voters and candidates;

22               (2)     The voting system has been:

23                   (i)     Examined by an independent testing laboratory that is  
 24 approved by the National Association of State Election Directors; and

25                   (ii)    Shown by the testing laboratory to meet the performance and  
 26 test standards for electronic voting systems established by the Federal Election  
 27 Commission; and

28               (3)     The public interest will be served by the {certification} ~~SELECTION~~ of  
 29 the voting system.

30       {(d)}    ~~(C)~~    In determining whether a voting system meets the required  
 31 standards, the State Board shall consider:

32               (1)     The commercial availability of the system and its replacement parts  
 33 and components;

- 1 (2) The availability of continuing service for the system;
- 2 (3) The cost of implementing the system;
- 3 (4) The efficiency of the system;
- 4 (5) The likelihood of breakdown;
- 5 (6) The system's ease of understanding for the voter;
- 6 (7) The convenience of voting afforded by the system;
- 7 (8) The timeliness of the tabulation and reporting of election returns;
- 8 (9) The potential for an alternative means of verifying the tabulation;
- 9 (10) Accessibility for ALL disabled voters AS PROVIDED UNDER THE  
10 AMERICANS WITH DISABILITIES ACT; and
- 11 (11) Any other factor that the State Board considers relevant.

12 ~~{e)}~~ ~~(D)~~ (1) The State Board shall adopt regulations relating to  
13 requirements for ~~each~~ [certified] ~~THE~~ voting system[, including a voting system  
14 deemed certified under subsection (f) of this section, governing its operation and use]  
15 SELECTED AND CERTIFIED UNDER § 9-101 OF THIS SUBTITLE.

16 (2) The regulations shall specify the procedures necessary to assure that  
17 the standards of this title are maintained, including:

- 18 (i) A description of the voting system;
- 19 (ii) A public information program by the local board, at the time of  
20 introduction of a new voting system, to be directed to all voters, candidates, campaign  
21 groups, schools, and news media in the county;
- 22 (iii) Local election officials' responsibility for management of the  
23 system;
- 24 (iv) The actions required to assure the security of the voting system;
- 25 (v) The supplies and equipment required;
- 26 (vi) The storage, delivery, and return of the supplies and equipment  
27 necessary for the operation of the voting system;
- 28 (vii) Standards for training election officials in the operation and use  
29 of the voting system;
- 30 (viii) Before each election and for all ballot styles to be used, testing  
31 by the members of the local board to ensure the accuracy of tallying, tabulation, and

1 reporting of the vote, and observing of that testing by representatives of political  
2 parties and of candidates who are not affiliated with political parties;

3 (ix) The number of voting stations or voting booths required in each  
4 polling place, in relation to the number of registered voters assigned to the polling  
5 place;

6 (x) The practices and procedures in each polling place appropriate  
7 to the operation of the voting system;

8 (xi) Assuring ballot accountability in systems using a document  
9 ballot;

10 (xii) The actions required to tabulate votes; and

11 (xiii) Postelection review and audit of the system's output.

12 (3) Certification of a voting system is not effective until the regulations  
13 applicable to the voting system have been adopted.

14 [(f) (1) Except as provided in paragraph (2) of this subsection, a voting  
15 system authorized by law before July 1, 1978, including the use of paper ballots, shall  
16 be deemed certified.

17 (2) On or after January 1, 2002, a voting system that uses mechanical  
18 lever machines may not be deemed certified.]

19 §9-103.

20 (a) The State Board:

21 (1) May decertify a voting system previously certified if the State Board  
22 determines that the system no longer merits certification; and

23 (2) Shall decertify a previously certified voting system if the voting  
24 system no longer meets one or more of the standards in § 9-102(c)(1)(i) through (iii) of  
25 this subtitle.

26 (b) The State Board shall determine the effective date and conditions of the  
27 decertification.

28 [(c) Decertification under this section does not apply to a county if its local  
29 board has acted in reliance upon the certification of the system involved and the  
30 decertification would have a significant and adverse impact, unless:

31 (1) The local board and the governing body of the county consent to the  
32 decertification; or

33 (2) The State Board determines that the system no longer meets the  
34 standards set forth in § 9-102(c)(1)(i) through (iii) of this subtitle.

1 (d) (1) Except as provided in paragraph (2) of this subsection, a voting  
 2 system that is deemed certified under § 9-102(f) of this subtitle may not be  
 3 decertified by the State Board.

4 (2) On January 1, 2002, the State Board shall decertify a mechanical  
 5 lever voting machine.]

6 [9-104.

7 The State Board shall notify the local boards of each system that is:

8 (1) Under review for possible certification;

9 (2) Under review for possible decertification;

10 (3) Certified; or

11 (4) Decertified.]

12 [9-105.] ~~9-103.~~ 9-104.

13 (a) [(1) Members of a local board, in consultation with the election director,  
 14 may select a voting system.

15 (2)] Acquisition of a voting system shall be by purchase, lease, or rental  
 16 and shall be exempt from State, county, or municipal taxation.

17 (b) (1) A local board may lease a voting system to any governmental or  
 18 nongovernmental entity within the county.

19 (2) The local board shall determine the terms and conditions of the lease.

20 (3) The local board shall pay to the governing body of the county, within  
 21 30 days of receipt, the proceeds of the lease.

22 [9-106.] ~~9-104.~~ 9-105.

23 (a) The governing body of a county may borrow money to fund the ~~purchase~~  
 24 ACQUISITION of a voting system through the issuance of individual notes, bonds, or  
 25 evidences of indebtedness.

26 (b) (1) When a county governing body issues general obligation bonds to  
 27 ~~purchase~~ ACQUIRE a voting system, the bonds may be issued without regard to any  
 28 limitations on the borrowing power of the county.

29 (2) The bonds of each issue shall be dated, shall bear interest at such  
 30 rate or rates, and shall mature at the time or times, as determined by the governing  
 31 body of the county. They may be made redeemable before maturity at the option of the  
 32 governing body at the price or prices and under the terms and conditions fixed by the  
 33 governing body prior to the issuance of the bonds. The governing body shall determine  
 34 the form of the bonds, including any interest coupons to be attached to them, and



1 shall fix the denomination or denominations of the bonds and the place or places of  
2 payment of principal and interest, which may be at any bank or trust company in or  
3 outside the State. The bonds shall be signed by the officer or officers of the county  
4 issuing them, the seal of the county shall be affixed to them and attested in the  
5 manner, and any coupons attached to them shall bear the facsimile signature of the  
6 officer as the governing body determines. In case any officer whose signature or a  
7 facsimile of whose signature appears on any bonds or coupons shall cease to hold the  
8 office before the delivery of the bonds, the signature or facsimile shall nevertheless be  
9 valid and sufficient for all purposes the same as if he had remained in office until  
10 delivery. All bonds issued under the provisions of this section shall have and are  
11 hereby declared to have all the qualities and incidents of negotiable instruments  
12 under the Maryland Uniform Commercial Code. The bonds may be issued in coupon  
13 or in registered form, or both, as the governing body determines, and provision may  
14 be made for the registration of any coupon bonds as to principal alone and also as to  
15 both principal and interest, and for the reconversion into coupon bonds of any bonds  
16 registered as to both principal and interest. The governing body may sell the bonds in  
17 the manner, either at public or private sale, for the price it may determine to be for  
18 the best interest of the county. The provisions of Article 31, §§ 9 through 11 of the  
19 Code do not apply to bonds issued under the provisions of this section.

20 (3) The entire proceeds from the sale of bonds issued under the  
21 provisions of this section, after payment of all costs and expenses incurred in  
22 connection with the preparation, sale, and delivery of the bonds, shall be used solely  
23 for the payment of the cost of the voting system for the ~~purchase~~ ACQUISITION of  
24 which the bonds are issued. Any balance remaining after the ~~purchase~~ ACQUISITION  
25 of the voting system shall be used to pay the interest on or to redeem any of the bonds.

26 (4) In order to pay the principal of and interest on the bonds when and as  
27 they become due and payable, the governing body is authorized and directed to levy,  
28 in each year in which any of the bonds are outstanding, upon the taxable basis of said  
29 county a tax sufficient in rate and amount (i) if the bonds are issued in series  
30 maturing at stated periods and a portion of the principal is made payable annually, to  
31 pay the interest and the portion of the principal payable in that year; or (ii) if the  
32 bonds are not issued in series, but are payable or redeemable in whole at a fixed rate  
33 of maturity, to pay the interest on the bonds in that year and to produce a sum  
34 sufficient to accumulate a sinking fund for the redemption and payment of the bonds  
35 at maturity. The proceeds of the levy when collected and paid shall be used only for  
36 the purposes for which the levy was made; however, if the interest on the bonds  
37 matures before the levy, or before a sufficient amount of taxes levied for the purpose  
38 of paying the interest is collected, the governing body may pay the interest out of the  
39 proceeds of the sale of the bonds.

40 (c) The bonds issued, their transfer, and the income from them shall be  
41 exempt from the State, county, or municipal taxation.

42 [9-107.] ~~9-105.~~ 9-106.

43 (a) On or after January 1, 2002, a county may not use mechanical lever voting  
44 machines to conduct elections.

1 (b) Until January 1, 2002, if a county uses mechanical lever voting machines  
2 to conduct elections, the members of the local board:

3 (1) Shall appoint a voting machine custodian and a deputy custodian;  
4 and

5 (2) May employ additional deputy custodians.

6 (c) The voting machine custodian and deputy custodians shall have the duties,  
7 and complete any training program, specified in regulations adopted by the State  
8 Board.

9 (D) THE PROVISIONS OF THIS SECTION DO NOT APPLY IN A COUNTY ~~UNTIL A~~  
10 UNTIL:

11 (1) A STATEWIDE UNIFORM VOTING SYSTEM IS SELECTED AND  
12 CERTIFIED BY THE STATE BOARD UNDER THE PROVISIONS OF §§ 9-101 AND 9-102 OF  
13 THIS SUBTITLE AND SUBTITLE; AND

14 (2) ~~THE LOCAL BOARD IN THE COUNTY HAS ACQUIRED THE VOTING~~  
15 SYSTEM IS AVAILABLE FOR USE BY THE VOTERS IN THE COUNTY.

16 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
17 June 1, 2001.