

SENATE BILL 833

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2001 Regular Session
(11r2893)

ENROLLED BILL

-- Economic and Environmental Affairs/Commerce and Government Matters --

Introduced by **Senators Colburn and Miller**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this
____ day of _____ at _____ o'clock, ____ M.

President.

CHAPTER _____

1 AN ACT concerning

2 **Election Law - ~~Mechanical Lever Voting Machines~~ Uniform Statewide**
3 **Voting System Systems**

4 FOR the purpose of ~~extending the date after which mechanical lever voting machines~~
5 ~~will become uncertified; extending the time period during which certain local~~
6 ~~election boards must appoint voting machine custodians and deputy custodians;~~
7 ~~and generally relating to the expiration of mechanical lever voting machines~~
8 requiring the State Board of Elections, in consultation with the local boards of
9 elections, to select ~~a~~ and certify certain voting ~~system~~ systems for certain
10 purposes; requiring the voting systems selected and certified by the State Board
11 to be used in all jurisdictions ~~counties~~; ~~altering the requirement for the State~~
12 ~~Board to adopt regulations relating to the selection of voting systems; altering~~
13 ~~the requirements for ~~certain~~ and considerations by which the State Board~~
14 ~~certifies voting systems under certain circumstances; repealing certain~~
15 ~~provisions of law relating to the certification and decertification of voting~~
16 ~~systems; providing that certain provisions of law concerning the prohibition on~~
17 the use of mechanical lever voting machines on or after a certain date do not

1 ~~apply unless a certain statewide voting system is developed and implemented;~~
 2 ~~apply in a county until certain conditions are met; requiring certain counties to~~
 3 ~~make payments to pay their~~ a county to pay its share of a certain percentage of
 4 the State's cost to implement the ~~acquire and operate the uniform~~ statewide
 5 voting system ~~systems under certain circumstances; providing that certain~~
 6 ~~counties are~~ a county is not required to implement the statewide voting system
 7 until a certain date and ~~are is not required to pay certain costs until they~~
 8 ~~implement the~~ the county implements the uniform statewide voting system
 9 under certain circumstances; requiring that any federal funds received for
 10 improvements in voting systems and equipment be distributed in a certain
 11 manner; and generally relating to voting systems in the State.

12 BY repealing

13 Article 33 - Election Code
 14 Section ~~9-103~~ and 9-104
 15 Annotated Code of Maryland
 16 (1997 Replacement Volume and 2000 Supplement)

17 BY renumbering

18 Article 33 - Election Code
 19 Section 9-106
 20 to be Section 9-104
 21 Annotated Code of Maryland
 22 (1997 Replacement Volume and 2000 Supplement)

23 BY repealing and reenacting, with amendments,

24 Article 33 - Election Code
 25 Section ~~9-102(f), 9-103(d), and 9-107~~
 26 Section 9-101, 9-102, ~~9-103~~, 9-105, and 9-107
 27 Annotated Code of Maryland
 28 (1997 Replacement Volume and 2000 Supplement)

29 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF

30 MARYLAND, That Section(s) ~~9-103~~ and 9-104 of Article 33 - Election Code of the
 31 Annotated Code of Maryland be repealed.

32 SECTION 2. AND BE IT FURTHER ENACTED, That Section(s) 9-106 of

33 Article 33 - Election Code of the Annotated Code of Maryland be renumbered to be
 34 Section 9-104.

35 SECTION 1. ~~3. BE IT ENACTED BY THE GENERAL ASSEMBLY OF~~

36 MARYLAND AND BE IT FURTHER ENACTED, That the Laws of Maryland read as
 37 follows:

Article 33 - Election Code

2 9-101.

3 (a) [A local board may not use a voting system in an election conducted under
 4 this article unless the voting system has been certified in accordance with this
 5 subtitle] THE STATE BOARD, IN CONSULTATION WITH THE LOCAL BOARDS, SHALL
 6 SELECT AND CERTIFY A VOTING SYSTEM FOR VOTING IN POLLING PLACES AND A
 7 VOTING SYSTEM FOR ABSENTEE VOTING.

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

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

12 (2) Use a single voting system for absentee voting and a single different
 13 voting system for voting in polling places] THE VOTING SYSTEM SELECTED AND
 14 CERTIFIED FOR VOTING IN POLLING PLACES AND THE VOTING SYSTEM SELECTED
 15 AND CERTIFIED FOR ABSENTEE VOTING SHALL BE USED IN ALL JURISDICTIONS
 16 COUNTIES.

17 (C) THE STATE BOARD SHALL ACQUIRE:

18 (1) THE VOTING SYSTEM SELECTED AND CERTIFIED FOR VOTING IN
 19 POLLING PLACES; AND

20 (2) THE VOTING SYSTEM SELECTED AND CERTIFIED FOR ABSENTEE
 21 VOTING.

22 9-102.

23 (a) [The State Board shall adopt regulations for the review, certification, and
 24 decertification of voting systems.

25 (b) The State Board shall periodically review [certified voting systems] and
 26 evaluate alternative voting systems.

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

29 (1) The voting system will:

30 (i) Protect the secrecy of the ballot;

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

32 (iii) Count and record all votes accurately;

33 (iv) Accommodate any ballot used under this article; [and]

- 1 (v) Protect all other rights of voters and candidates; AND
- 2 (VI) BE CAPABLE OF CREATING A PAPER RECORD OF ALL VOTES
 3 CAST IN ORDER THAT AN AUDIT TRAIL IS AVAILABLE IN THE EVENT OF A RECOUNT;
- 4 (2) The voting system has been:
- 5 (i) Examined by an independent testing laboratory that is
 6 approved by the National Association of State Election Directors; and
- 7 (ii) Shown by the testing laboratory to meet the performance and
 8 test standards for electronic voting systems established by the Federal Election
 9 Commission; and
- 10 (3) The public interest will be served by the ~~certification~~ SELECTION of
 11 the voting system.
- 12 ~~(d)~~ ~~(C)~~ In determining whether a voting system meets the required
 13 standards, the State Board shall consider:
- 14 (1) The commercial availability of the system and its replacement parts
 15 and components;
- 16 (2) The availability of continuing service for the system;
- 17 (3) The cost of implementing the system;
- 18 (4) The efficiency of the system;
- 19 (5) The likelihood of breakdown;
- 20 (6) The system's ease of understanding for the voter;
- 21 (7) The convenience of voting afforded by the system;
- 22 (8) The timeliness of the tabulation and reporting of election returns;
- 23 (9) The potential for an alternative means of verifying the tabulation;
- 24 (10) Accessibility for disabled voters; and
- 25 (10) Accessibility for ~~all [disabled]~~ ALL voters ~~with disabilities recognized~~
 26 by the Americans with Disabilities Act WITH DISABILITIES RECOGNIZED BY THE
 27 AMERICANS WITH DISABILITIES ACT; and
- 28 (11) Any other factor that the State Board considers relevant.
- 29 ~~(e)~~ ~~(D)~~ (1) The State Board shall adopt regulations relating to
 30 requirements for ~~each~~ [certified] ~~THE~~ voting system[, including a voting system
 31 deemed certified under subsection (f) of this section, governing its operation and use]
 32 SELECTED AND CERTIFIED UNDER § 9-101 OF THIS SUBTITLE.

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

3 (i) A description of the voting system;

4 (ii) A public information program by the local board, at the time of
5 introduction of a new voting system, to be directed to all voters, candidates, campaign
6 groups, schools, and news media in the county;

7 (iii) Local election officials' responsibility for management of the
8 system;

9 (iv) The actions required to assure the security of the voting system;

10 (v) The supplies and equipment required;

11 (vi) The storage, delivery, and return of the supplies and equipment
12 necessary for the operation of the voting system;

13 (vii) Standards for training election officials in the operation and use
14 of the voting system;

15 (viii) Before each election and for all ballot styles to be used, testing
16 by the members of the local board to ensure the accuracy of tallying, tabulation, and
17 reporting of the vote, and observing of that testing by representatives of political
18 parties and of candidates who are not affiliated with political parties;

19 (ix) The number of voting stations or voting booths required in each
20 polling place, in relation to the number of registered voters assigned to the polling
21 place;

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

24 (xi) Assuring ballot accountability in systems using a document
25 ballot;

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

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

28 ~~{(3) Certification of a voting system is not effective until the regulations~~
29 ~~applicable to the voting system have been adopted.}~~

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

33 ~~(2) On or after January 1, [2002] 2004, a voting system that uses~~
34 ~~mechanical lever machines may not be deemed certified.~~

1 ~~9-103.~~

2 9-103.

3 (a) The State Board:

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

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

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

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

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

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

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

21 (2) ~~On January 1, [2002] 2004, the State Board shall decertify a~~
22 ~~mechanical lever voting machine.~~

23 ~~§ 9-105. § 9-103.~~

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

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

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

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

31 (3) The local board shall pay to the governing body of the county, within
32 30 days of receipt, the proceeds of the lease.

1 ~~9-107, 9-106.~~

2 (a) ~~On EXCEPT AS PROVIDED IN SUBSECTION (D) OF THIS SECTION, ON~~ or
3 after January 1, ~~{2002} 2004~~, a county may not use mechanical lever voting machines
4 to conduct elections.

5 (b) Until January 1, ~~{2002} 2004~~, if a county uses mechanical lever voting
6 machines to conduct elections, the members of the local board:

7 (1) Shall appoint a voting machine custodian and a deputy custodian;
8 and

9 (2) May employ additional deputy custodians.

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

13 ~~(D) THE PROVISIONS OF THIS SECTION DO NOT APPLY UNLESS A STATEWIDE~~
14 ~~UNIFORM VOTING SYSTEM IS DEVELOPED AND IMPLEMENTED IN A COUNTY UNTIL:~~

15 ~~(1) A UNIFORM STATEWIDE VOTING SYSTEM FOR VOTING IN POLLING~~
16 ~~PLACES IS SELECTED AND CERTIFIED BY THE STATE BOARD UNDER THE~~
17 ~~PROVISIONS OF § 9-101 OF THIS SUBTITLE; AND~~

18 ~~(2) THE VOTING SYSTEM IS AVAILABLE FOR USE BY THE VOTERS IN THE~~
19 ~~COUNTY.~~

20 SECTION 4. AND BE IT FURTHER ENACTED, That, subject to Section 5 of
21 this Act, each county shall pay its share of one-half of the State's cost of acquiring and
22 operating the uniform statewide voting systems for voting in polling places and for
23 absentee voting provided for under this Act, including the cost of maintenance,
24 storage, printing of ballots, technical support and programming, related supplies and
25 materials, and software licensing fees. A county's share of the cost of acquiring and
26 operating the uniform statewide voting system systems shall be based upon the
27 county's voting age population.

28 SECTION 5. AND BE IT FURTHER ENACTED, That ~~a~~;

29 (a) A county that has purchased a voting system for voting at polling
30 places within the last 10 years and before December 31, 2000 is not required to
31 implement the uniform statewide voting system for voting at polling places provided
32 for under this Act until July 1, 2006, and is not required to pay a share of the cost of
33 acquiring and operating the uniform statewide voting system for voting at polling
34 places until the system is implemented in the county; and

35 (b) A county that has purchased a voting system for absentee voting
36 within the last 10 years and before December 31, 2000 is not required to implement the
37 uniform statewide system for absentee voting provided for under this Act until July 1,
38 2006, and is not required to pay a share of the cost of acquiring and operating the

1 uniform statewide system for absentee voting until the system is implemented in the
2 county.

3 SECTION 6. AND BE IT FURTHER ENACTED, That fifty percent of any
4 federal funds received for improvements in voting systems and equipment shall be
5 distributed to the State and fifty percent of any federal funds received for
6 improvements in voting systems and equipment shall be distributed, on the basis of a
7 county's voting age population, to the counties that have implemented the uniform
8 statewide voting system provided for under this Act in the fiscal year in which the
9 funds are received.

10 SECTION ~~2. 4.~~ 7. AND BE IT FURTHER ENACTED, That this Act shall take
11 effect ~~October~~ June 1, 2001.