
By: **Senators Colburn and Miller**

Introduced and read first time: February 16, 2001

Assigned to: Rules

Re-referred to: Economic and Environmental Affairs, February 22, 2001

Committee Report: Favorable with amendments

Senate action: Adopted with floor amendments

Read second time: March 29, 2001

CHAPTER _____

1 AN ACT concerning

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

3 FOR the purpose of ~~extending the date after which mechanical lever voting machines~~
4 ~~will become uncertified; extending the time period during which certain local~~
5 ~~election boards must appoint voting machine custodians and deputy custodians;~~
6 ~~and generally relating to the expiration of mechanical lever voting machines~~
7 requiring the State Board of Elections, in consultation with the local boards of
8 elections, to select a certain voting system for certain purposes; requiring the
9 voting systems selected to be used in all jurisdictions; altering the requirement
10 for the State Board to adopt regulations relating to the selection of voting
11 systems; altering the requirements for certain voting systems; repealing certain
12 provisions of law relating to the certification and decertification of voting
13 systems; providing that certain provisions of law concerning the prohibition on
14 the use of mechanical lever voting machines on or after a certain date do not
15 apply unless a certain statewide voting system is developed and implemented;
16 requiring certain counties to make payments to pay their share of a certain
17 percentage of the State's cost to implement the statewide voting system;
18 providing that certain counties are not required to implement the statewide
19 voting system until a certain date and are not required to pay certain costs until
20 they implement the statewide voting system; requiring that any federal funds
21 received for improvements in voting systems and equipment be distributed in a
22 certain manner; and generally relating to voting systems in the State.

23 BY repealing

24 Article 33 - Election Code

25 Section 9-103 and 9-104

26 Annotated Code of Maryland

1 (1997 Replacement Volume and 2000 Supplement)

2 BY renumbering

3 Article 33 - Election Code

4 Section 9-106

5 to be Section 9-104

6 Annotated Code of Maryland

7 (1997 Replacement Volume and 2000 Supplement)

8 BY repealing and reenacting, with amendments,

9 Article 33 - Election Code

10 Section 9-102(f), 9-103(d), and 9-107

11 Section 9-101, 9-102, 9-105, and 9-107

12 Annotated Code of Maryland

13 (1997 Replacement Volume and 2000 Supplement)

14 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
 15 MARYLAND, That Section(s) 9-103 and 9-104 of Article 33 - Election Code of the
 16 Annotated Code of Maryland be repealed.

17 SECTION 2. AND BE IT FURTHER ENACTED, That Section(s) 9-106 of
 18 Article 33 - Election Code of the Annotated Code of Maryland be renumbered to be
 19 Section 9-104.

20 SECTION 4. ~~3.~~ BE IT ENACTED BY THE GENERAL ASSEMBLY OF
 21 MARYLAND AND BE IT FURTHER ENACTED, That the Laws of Maryland read as
 22 follows:

23 **Article 33 - Election Code**

24 9-101.

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

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

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

34 (2) Use a single voting system for absentee voting and a single different
 35 voting system for voting in polling places] THE VOTING SYSTEM SELECTED FOR
 36 VOTING IN POLLING PLACES AND THE VOTING SYSTEM SELECTED FOR ABSENTEE
 37 VOTING SHALL BE USED IN ALL JURISDICTIONS.

1 9-102.

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

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

6 [(c)] (B) The State Board may not [certify] SELECT a voting system unless
7 the State Board determines that:

8 (1) The voting system will:

9 (i) Protect the secrecy of the ballot;

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

11 (iii) Count and record all votes accurately;

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

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

14 (VI) BE CAPABLE OF CREATING A PAPER RECORD OF ALL VOTES
15 CAST IN ORDER THAT AN AUDIT TRAIL IS AVAILABLE IN THE EVENT OF A RECOUNT;

16 (2) The voting system has been:

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

19 (ii) Shown by the testing laboratory to meet the performance and
20 test standards for electronic voting systems established by the Federal Election
21 Commission; and

22 (3) The public interest will be served by the [certification] SELECTION of
23 the voting system.

24 [(d)] (C) In determining whether a voting system meets the required
25 standards, the State Board shall consider:

26 (1) The commercial availability of the system and its replacement parts
27 and components;

28 (2) The availability of continuing service for the system;

29 (3) The cost of implementing the system;

30 (4) The efficiency of the system;

31 (5) The likelihood of breakdown;

- 1 (6) The system's ease of understanding for the voter;
- 2 (7) The convenience of voting afforded by the system;
- 3 (8) The timeliness of the tabulation and reporting of election returns;
- 4 (9) The potential for an alternative means of verifying the tabulation;
- 5 ~~(10) Accessibility for disabled voters; and~~
- 6 (10) Accessibility for all voters with disabilities recognized by the
7 Americans with Disabilities Act; and
- 8 (11) Any other factor that the State Board considers relevant.
- 9 [(e)] (D) (1) The State Board shall adopt regulations relating to
10 requirements for [each certified] THE voting system[, including a voting system
11 deemed certified under subsection (f) of this section, governing its operation and use]
12 SELECTED.
- 13 (2) The regulations shall specify the procedures necessary to assure that
14 the standards of this title are maintained, including:
- 15 (i) A description of the voting system;
- 16 (ii) A public information program by the local board, at the time of
17 introduction of a new voting system, to be directed to all voters, candidates, campaign
18 groups, schools, and news media in the county;
- 19 (iii) Local election officials' responsibility for management of the
20 system;
- 21 (iv) The actions required to assure the security of the voting system;
- 22 (v) The supplies and equipment required;
- 23 (vi) The storage, delivery, and return of the supplies and equipment
24 necessary for the operation of the voting system;
- 25 (vii) Standards for training election officials in the operation and use
26 of the voting system;
- 27 (viii) Before each election and for all ballot styles to be used, testing
28 by the members of the local board to ensure the accuracy of tallying, tabulation, and
29 reporting of the vote, and observing of that testing by representatives of political
30 parties and of candidates who are not affiliated with political parties;
- 31 (ix) The number of voting stations or voting booths required in each
32 polling place, in relation to the number of registered voters assigned to the polling
33 place;

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

3 (xi) Assuring ballot accountability in systems using a document
4 ballot;

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

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

7 [(3) Certification of a voting system is not effective until the regulations
8 applicable to the voting system have been adopted.]

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

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

14 ~~9-103.~~

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

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

20 ~~[9-105.] 9-103.~~

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

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

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

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

28 (3) The local board shall pay to the governing body of the county, within
29 30 days of receipt, the proceeds of the lease.

30 ~~9-107.~~

31 (a) ~~On~~ EXCEPT AS PROVIDED IN SUBSECTION (D) OF THIS SECTION, ON or
32 after January 1, [2002] 2004, a county may not use mechanical lever voting machines
33 to conduct elections.

1 (b) Until January 1, {2002} 2004, if a county uses mechanical lever voting
2 machines 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 UNLESS A STATEWIDE
10 UNIFORM VOTING SYSTEM IS DEVELOPED AND IMPLEMENTED.

11 SECTION 4. AND BE IT FURTHER ENACTED, That, subject to Section 5 of
12 this Act, each county shall pay its share of one-half of the State's cost of acquiring and
13 operating the uniform statewide voting provided for under this Act, including the cost
14 of maintenance, storage, printing of ballots, technical support and programming,
15 related supplies and materials, and software licensing fees. A county's share of the
16 cost of acquiring and operating the uniform statewide voting system shall be based
17 upon the county's voting age population.

18 SECTION 5. AND BE IT FURTHER ENACTED, That a county that has
19 purchased a voting system within the last 10 years is not required to implement the
20 uniform statewide voting system provided for under this Act until July 1, 2006, and is
21 not required to pay a share of the cost of acquiring and operating the uniform
22 statewide voting system until the system is implemented in the county.

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

30 SECTION 2: 4. 7. AND BE IT FURTHER ENACTED, That this Act shall take
31 effect October 1, 2001.