

Department of Legislative Services  
Maryland General Assembly  
2004 Session

FISCAL AND POLICY NOTE  
Revised

House Bill 53

(Delegate Montgomery, *et al.*)

Ways and Means

Education, Health, and Environmental Affairs

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Election Law - Voting Systems - Voter-Verified Paper Records

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This bill requires a voting system that does not use a document ballot to produce a paper record of each vote cast that is made available for inspection and verification by the voter, if specified conditions are met. The bill also creates a Task Force to Study Voting System Verification to study, in general, the feasibility of implementing a voter-verified paper record trail (VVPT). The bill requires the Governor to allocate resources required to implement the voter system verification provisions, except that federal funds received pursuant to the Help America Vote Act 2002 (HAVA) may not be used. The voting system requirements are effective October 1, 2005 only if the task force determines it is feasible to implement the requirements by January 1, 2006. The task force must submit its findings by December 31, 2004, and the task force terminates June 30, 2005.

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**Fiscal Summary**

**State Effect:** Potential significant increase in general fund expenditures in FY 2006 to develop, certify, and validate printer add-ons for over 16,000 voting units if the task force determines it is feasible to do so. Under one estimate, general fund expenditures could increase by \$8 to \$16 million in FY 2006.

**Local Effect:** Local expenditures would increase in FY 2006 and 2007 and subsequent election years as a result of the cost of purchasing the printer add-ons and additional election judge training. **This bill imposes a mandate on a unit of local government.**

**Small Business Effect:** None.

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## **Analysis**

**Bill Summary:** The bill allows a voter to correct any error made by the voting system before the paper record is preserved at the polling place. VVPT is the official record of the election and will be used in the event of a recount. The bill also requires the State Board of Elections (SBE) to conduct a random sampling of 2% of the total number of voting precincts in each legislative district that produces a VVPT to compare the paper record against the electronically recorded results.

The task force must study: (1) the verification methods currently used with the direct recording electronic (DRE) voting systems used by the State; (2) the different methods and types of verification that can be used with DRE voting systems; (3) the best method to ensure the secrecy of the ballot for disabled and visually impaired voters; (4) the ability of the verification system to accommodate multiple languages; and (5) possible cost effective alternatives for implementing the verification methods.

**Current Law:** HAVA requires all voting systems beginning January 1, 2006 to: (1) permit voters to verify their selections on the ballot, notify them of overvotes, and permit them to change their vote and correct any errors before casting the ballot; and (2) be capable of producing a permanent paper record for the voting system that can be manually audited and is available as an official record for recounts. However, HAVA does not require that a paper record be produced for each voter at the polling place.

State law provides that SBE may not certify a voting system unless it determines that the voting system will: (1) protect the secrecy of the ballot; (2) protect the security of the voting process; (3) count and record all votes accurately; (4) accommodate any ballot used in the State; (5) protect all other rights of voters and candidates; and (6) be capable of creating a paper record of all votes cast in order that an audit trail is available in the event of a recount.

A county is required to pay its share of one-half of the State's cost of acquiring and operating the uniform statewide voting systems for voting in polling places and for absentee voting. A county's share of the cost of acquiring and operating the uniform statewide voting systems is based upon the county's voting age population.

Fifty percent of any federal funds received for improvements in voting systems and equipment is distributed to the State and 50% of any federal funds received for improvements in voting systems and equipment is distributed, on the basis of a county's voting age population, to the counties that have implemented the uniform statewide voting system provided for under this Act in the fiscal year in which the funds are received.

**Background:** In 2001, Chapter 564 was enacted requiring SBE to select a uniform statewide voting system for voting at polling places. SBE entered into a \$55 million contract to purchase over 16,000 electronic touchscreen voting units and services from Diebold Election Systems in January 2002. All local jurisdictions with the exception of Baltimore City implemented this voting system for the March 2004 presidential primary election.

### *Other States*

At least 18 states have considered some sort of VVPT legislation. Fifteen states have bills introduced in the legislature, one state (Oregon) has already enacted a law requiring VVPTs. Election administrators in California and Nevada have received directives from their Secretary of State to use VVPTs. In California, by July 1, 2005, all new purchases of DRE voting equipment must have a VVPT. By July 1, 2006, all existing DREs must have a VVPT. The only state currently requiring VVPT for the 2004 general election is Nevada.

Diebold advises that it is currently developing a printer add-on to its current DRE system. This upgrade would be subject to the federal voluntary voting system standards to which Maryland is a signatory. However, these standards do not currently include guidelines for paper record printers on DRE voting units. The Federal Election Commission advises that standards are in the process of being developed in conjunction with the National Institute of Standards and Technology and the Election Assistance Commission, which is the agency responsible for enforcing HAVA.

Any upgrade to the current voting system must also undergo a state certification test as well as independent testing and validation at the local level to verify the functionality of the entire voting system. Official election results are currently stored on removable memory cards inside of each DRE machine. These cards are transported to local boards of election after polling places close on election night. The cards are capable of producing a permanent paper record of all ballots cast.

**State Fiscal Effect:** The precise cost for modifying the system cannot be reliably estimated due to the unavailability of any specific information from SBE's vendor. Other states and jurisdictions have received rough estimates from vendors. Georgia recently issued a revised estimate of \$500 to \$1,000 per voting unit for an add-on printer. Under this scenario, the total statewide cost for Maryland would be between \$8 and \$16 million in fiscal 2006.

**Local Fiscal Effect:** Local expenditures may increase in fiscal 2006 to pay the local share of the total cost of printer add-ons required by the bill. Ongoing costs for each

election could result in substantial expenditure increases in fiscal 2007 and 2009 due to additional training and storage costs. Depending on the design of a printer, local boards of election may also require technicians to be on-site to maintain printer add-ons for each election. For example, Montgomery County estimates that expenditures could increase by \$168,000 per election.

**Additional Comments:** San Diego County, California contracted with Diebold to provide a VVPT as part of its agreement to purchase DREs. The total cost of the voting units and software (exclusive of services) was approximately \$29 million, or \$14 per voting age individual according to the 2000 Census. In comparison, Maryland's total cost for the DRE voting units and software (exclusive of any services) was \$44 million, or \$11 per voting age individual in the State according to the 2000 Census.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** SB 393 (Senators Harris and Greenip) – Education, Health, and Environmental Affairs.

**Information Source(s):** Washington County, Montgomery County, Prince George's County, Kent County, Worcester County, Maryland State Board of Elections, Baltimore City, Department of Legislative Services

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