

Department of Legislative Services
Maryland General Assembly
2005 Session

FISCAL AND POLICY NOTE

House Bill 80
Ways and Means

(Delegate Cardin, *et al.*)

Election Law - Voting Systems - Adequate Voter Verification Process

This bill requires a voting system that does not use a document ballot to incorporate an adequate voter verification process that will allow a voter to preserve within the polling place in a distinct manner, a record of the ballot choices cast. The Governor must allocate the 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 for each election occurring after July 1, 2006.

Fiscal Summary

State Effect: Expenditures could increase significantly to upgrade the current statewide voting system. For a paper record system, general fund expenditures could increase by \$28.6 million in FY 2006. The cost of other verification technologies cannot be reliably quantified because essential data regarding acquisition costs is unavailable.

Local Effect: None. Uncodified bill language requires the Governor to allocate the resources necessary to implement this bill.

Small Business Effect: None.

Analysis

Bill Summary: The bill requires the voter verifiable system to allow a voter to inspect, verify, and correct the voter's ballot choices before the ballot is cast. In the event that a manual recount is required, the local board must conduct the recount using the ballot choices of each voter as preserved under the voter verification process. 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 by comparing the recorded results of the voter verification process against the electronically recorded results to verify that the electronically recorded results equal the results of the voter verification process.

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.

Background: Chapter 564 of 2001 required 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. 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.

State Fiscal Effect: SBE was unable to provide an estimate of fiscal impact due to unspecified requirements in the bill. The Department of Legislative Services has determined that the provisions of the bill could require any of several variations of voter verification technology, each of which would result in significant general fund expenditures for upgrading the current statewide voting system, in part because the bill does not permit implementation using federal funds under HAVA, and because the State would bear the entire cost of implementing the bill's provisions since the bill requires the Governor to allocate the resources required. Under current law, the State currently is responsible for 50% of the cost of the current statewide voting system; local governments must pay their proportionate share of the remaining 50% according to voting age population.

The bill could require the use of technology that is currently in the development stage. While a voter verifiable paper record system of printers is one option to implement the bill, other voter verifiable technology could be used as well. If the printer option is used, general fund expenditures could increase by an estimated \$28.6 million in fiscal 2006, mostly to cover the cost of the printers and additional voting units which would be needed to accommodate the increased voting time per individual voter. Out-year expenditures could also increase by an average of \$1.4 million for warehousing and support costs.

The costs of using other voter verifiable technology cannot be reliably estimated due to the unavailability of pricing information from vendors and the developing nature of the technology involved. Indeed many of the products that could be used to satisfy the bill's provisions are still in the development stage and have not been acquired for any governmental election. One technology involves providing a voter with an encrypted receipt which does not indicate who they have voted for on its face, but can be used later to confirm the voter's actual selections using the Internet along with the codes on the receipt. Election officials are also able to verify electronic results with the encrypted results. Another technology works much like a VCR and is connected to a voting unit by a single cable. It captures and records the entire voting transaction on the screen of a voting unit, digitizes it, and creates a separate set of results from which election officials may verify the vote.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Allegany County, Montgomery County, Prince George's County, Talbot County, Wicomico County, Maryland State Board of Elections, Department of Legislative Services

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