

Department of Legislative Services
Maryland General Assembly
2005 Session

FISCAL AND POLICY NOTE
Revised

House Bill 479

(Delegate Patterson, *et al.*)

Ways and Means

Education, Health, and Environmental Affairs

Election Law - Voting System - Study of Independent Verification Systems

This bill requires the State Administrator of Elections to study, review, and evaluate independent verification systems for the voting system currently used in the State during municipal elections in Anne Arundel, Montgomery, Prince George's, Wicomico, and any other county the administrator considers feasible. The study must include at least one system that includes a voter verifiable paper trail. The administrator may seek assistance in conducting the study from computer industry professionals, academic professionals, or community activists. The bill also establishes an advisory committee to assist and advise the State administrator in the review and evaluation of independent verification systems. The State Administrator is required to report the study's findings and recommendations to the General Assembly by December 1, 2005.

The bill is effective June 1, 2005 and terminates May 21, 2006.

Fiscal Summary

State Effect: The State Board of Elections (SBE) could conduct the study with existing budgeted resources. The advisory committee could be staffed with existing resources.

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary: The State Administrator must determine:

- the independent verification system that provides the best method of independent verification of the accuracy of the voting system;
- the independent verification system that provides the best audit trails;
- the costs of implementing independent verification systems;
- whether there is a need to develop or modify existing software on the voting system to accommodate an independent verification system;
- whether the independent verification systems are compatible to the voting system currently used in the State; and
- the usability of the independent verification systems by obtaining feedback from the public.

Bill Summary: The advisory committee consists of: (1) three members appointed by the Speaker of the House from the House Ways and Means Committee; (2) three members appointed by the President of the Senate from the Senate Education, Health, and Environmental Affairs Committee; and (3) three members who have broad technical competence and experience with voting systems, appointed jointly by the Speaker and President.

Current Law: The Help America Vote Act of 2002 (HAVA) requires all voting systems beginning January 1, 2006 to (1) permit voters to verify their selections on the ballot, notify them of over votes, 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.

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 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.

Diebold does not currently make a direct recording electronic (DRE) voting unit with paper record capability. The bill would require Diebold to develop this capacity as an

add-on to the current 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.

Additional Information

Prior Introductions: None.

Cross File: SB 849 (Senator Dyson, *et al.*) – Education, Health, Environmental Affairs.

Information Source(s): State Board of Elections, Department of Legislative Services

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