

BY: Senator Schrader

AMENDMENTS TO SENATE BILL NO. 712
(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in line 9, after “Elections” insert “; requiring that certain voting systems produce a paper record of a voter’s ballot choices and provide the voter with an opportunity to inspect the paper record before casting a final vote; requiring that the paper records be preserved at the polling place in a certain manner and for certain purposes; requiring that certain voting systems be accessible to certain individuals with disabilities; requiring certain comparisons and audits of certain ballots following an election; requiring public notice and demonstrations regarding certain voting systems and procedures; requiring the State Board of Elections to maintain certain information, to document certain occurrences, and to make certain information publicly available; prohibiting the State Board from using a certain voting system for certain elections; requiring the State Board to select and certify a certain voting system for certain elections; requiring the State Board to ensure that each polling place has at least one voting system to accommodate the needs of certain voters; requiring the State Board to enter a lease agreement for a certain voting system for not more than a certain length of time; defining certain terms; requiring the State Board to adopt certain regulations and certain guidelines”; in line 16, after “Section” insert “1-101(xx).”; after line 13, insert:

“BY renumbering

Article - Election Law

Section 9-101 through 9-105, respectively
to be Section 9-102 through 9-106, respectively

Annotated Code of Maryland
(2003 Volume and 2005 Supplement)”;

after line 18, insert:

“BY adding to

Article - Election Law

(Over)

Section 9-101 and 9-107 through 9-112
Annotated Code of Maryland
(2003 Volume and 2005 Supplement)”;

after line 24, insert:

“SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That
Section(s) 9-101 through 9-105, respectively, of Article - Election Law of the Annotated Code of
Maryland be renumbered to be Section(s) 9-102 through 9-106, respectively.”;

and strike in their entirety lines 25 and 26 and substitute:

“SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as
follows:”.

AMENDMENT NO. 2

On page 2, before line 35, insert:

“SECTION 3. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as
follows:

Article - Election Law

1-101.

(xx) (1) “Voting system” means a method of casting and tabulating ballots or votes.

(2) “VOTING SYSTEM” INCLUDES A COLLECTION OF DEVICES THAT:

(I) ALLOWS A VOTER TO VIEW BALLOTS, SELECT
CANDIDATES, AND CAST VOTES; AND

(II) AGGREGATES AND TABULATES ALL OF THE VOTES CAST
IN AN ELECTION.

9-101.

(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
INDICATED.

(B) “HAND COUNT” MEANS A COUNTING OF THE VOTES IN WHICH:

(1) THE HANDLING OF THE DOCUMENT BALLOT IS DONE BY HUMAN HAND; AND

(2) THE IDENTIFICATION OF EACH VOTE IS DETERMINED BY VISUAL INSPECTION OF THE DOCUMENT BALLOT BY A HUMAN BEING.

(C) “MANDATORY RANDOM AUDIT” MEANS A HAND-COUNTED AUDIT CONDUCTED ON A ROUTINE BASIS FOLLOWING EACH ELECTION FOR THE PURPOSE OF COMPARING A PERCENTAGE OF VOTER-VERIFIED PAPER RECORDS WITH THE VOTE TALLIES RECORDED BY EACH OF THE FOLLOWING VOTING SYSTEMS:

(1) TOUCH-SCREEN OR ELECTRONIC VOTING MACHINES;

(2) PRECINCT-BASED OPTICAL SCANNING EQUIPMENT;

(3) ABSENTEE BALLOTS AND OTHER DOMESTIC AND OVERSEAS BALLOTS MAILED TO THE LOCAL BOARDS OF ELECTIONS; AND

(4) BALLOTS CREATED THROUGH THE USE OF AN ELECTRONIC MARKING DEVICE.

(D) “NONVISUAL” MEANS AUDIO-SYNTHESIZED SPEECH.

(E) “VOTER-VERIFIED PAPER RECORD” MEANS AN AUDITABLE PAPER RECORD THAT:

(1) IS AVAILABLE TO EACH VOTER TO INSPECT AND VERIFY BEFORE THE VOTER’S VOTE IS CAST;

(2) IS PRODUCED CONTEMPORANEOUSLY WITH OR EMPLOYED BY ANY VOTING SYSTEM;

(Over)

(3) (I) LISTS THE DESIGNATION OF EACH OFFICE OR QUESTION, AND THE VOTER'S CHOICE IN EACH OFFICE OR QUESTION; OR

(II) IF THE VOTER MAKES NO SELECTION IN CONNECTION WITH ANY OFFICE OR QUESTION, NOTES THAT FACT ON THE RECORD THAT IS PRODUCED;

(4) IS SUITABLE FOR THE PURPOSES OF MANDATORY RANDOM AUDITS AND RECOUNTS; AND

(5) IS MAINTAINED AS THE OFFICIAL TRUE AND CORRECT RECORD OF THE VOTES CAST.

(F) "VOTING SYSTEM AGGREGATION AND TABULATION" MEANS THE PROCESS AND THE HARDWARE AND SOFTWARE BY WHICH VOTES RECORDED BY THE VOTING SYSTEM ARE AGGREGATED, TOTALED, AND TABULATED TO DETERMINE THE OUTCOME OF AN ELECTION.

9-107.

(A) THE VOTING SYSTEM SELECTED AND CERTIFIED SHALL:

(1) PRODUCE OR REQUIRE THE USE OF AN INDIVIDUAL VOTER-VERIFIED PAPER RECORD OF THE VOTER'S VOTE; AND

(2) ENSURE THAT THE VOTER-VERIFIED PAPER RECORD IS MADE AVAILABLE FOR INSPECTION AND VERIFICATION BY THE VOTER BEFORE THE VOTER'S VOTE IS CAST.

(B) A VOTER-VERIFIED PAPER RECORD MAY INCLUDE ANY OF THE FOLLOWING:

(1) A PAPER PRINTOUT OF THE VOTER'S VOTE PRODUCED BY A TOUCH-SCREEN OR OTHER ELECTRONIC VOTING MACHINE IF, IN EACH CASE, THE

RECORD PERMITS THE VOTER TO VERIFY THE RECORD IN ACCORDANCE WITH THIS SECTION;

(2) A PAPER BALLOT PREPARED BY THE VOTER FOR THE PURPOSE OF BEING READ BY A PRECINCT-BASED OPTICAL SCANNER;

(3) A PAPER BALLOT PREPARED BY THE VOTER TO BE MAILED TO THE APPLICABLE LOCAL BOARD, WHETHER MAILED FROM A DOMESTIC OR AN OVERSEAS LOCATION; OR

(4) A PAPER BALLOT CREATED THROUGH THE USE OF A BALLOT MARKING DEVICE.

(C) EACH VOTER-VERIFIED PAPER RECORD SHALL:

(1) BE AN INDIVIDUAL DOCUMENT THAT IS PHYSICALLY SEPARATED FROM ANY OTHER SIMILAR DOCUMENT AND NOT PART OF A CONTINUOUS ROLL;

(2) BE SUFFICIENTLY DURABLE TO WITHSTAND REPEATED HANDLING FOR PURPOSES OF MANDATORY RANDOM AUDITS AND RECOUNTS; AND

(3) USE INK THAT DOES NOT FADE, SMEAR, OR OTHERWISE DEGRADE AND OBSCURE OR OBLITERATE THE PAPER RECORD OVER TIME.

(D) BEFORE THE VOTER-VERIFIED PAPER RECORD IS PRESERVED IN ACCORDANCE WITH THIS SECTION, A VOTER SHALL BE PROVIDED AN OPPORTUNITY TO CORRECT ANY ERROR MADE BY THE VOTING SYSTEM AND PRESENTED WITH THE ABILITY TO CORRECT ANY ERROR ON THE VOTER-VERIFIED PAPER RECORD.

(E) (1) EACH VOTER-VERIFIED PAPER RECORD PRODUCED SHALL BE SUITABLE FOR A MANDATORY RANDOM AUDIT HAND COUNT IN ACCORDANCE WITH § 9-110 OF THIS SUBTITLE.

(Over)

(2) IN THE EVENT OF ANY INCONSISTENCY OR IRREGULARITY BETWEEN AN ELECTRONIC RECORD AND THE VOTER-VERIFIED PAPER RECORD, THE VOTER-VERIFIED PAPER RECORD SHALL BE THE OFFICIAL TRUE AND CORRECT RECORD OF THE VOTES CAST.

(3) THE VOTER-VERIFIED PAPER RECORD SHALL:

(I) BE PRESERVED AND RETAINED IN A MANNER THAT MAKES IT IMPOSSIBLE TO ASSOCIATE A VOTER WITH THE RECORD OF THE VOTER'S VOTE; AND

(II) BE STORED BY A LOCAL BOARD IN A PLACE AND MANNER THAT IS SECURE FOR AT LEAST 1 YEAR AFTER THE ELECTION.

9-108.

(A) A VOTING SYSTEM APPROVED BY THE STATE BOARD UNDER THIS ARTICLE SHALL HAVE THE ABILITY FOR A VOTER TO CAST AND VERIFY THE VOTER'S SELECTIONS BY BOTH VISUAL AND NONVISUAL MEANS.

(B) AT LEAST ONE VOTING SYSTEM IN EACH POLLING PLACE ON ELECTION DAY SHALL PROVIDE ACCESS FOR INDIVIDUALS WITH DISABILITIES AND AFFORD THE VOTER THE OPPORTUNITY FOR PRIVATE AND INDEPENDENT REVIEW, ACCEPTANCE, OR REJECTION OF THE BALLOT AS THE VOTER INTENDS TO CAST IT.

(C) THE STATE BOARD SHALL ADOPT REGULATIONS GOVERNING ANY VOTING SYSTEM USED FOR AN ELECTION GOVERNED BY THIS ARTICLE TO ENSURE THAT THE VOTING SYSTEM PROVIDES EQUIVALENT ACCESS FOR INDIVIDUALS WHO ARE BLIND OR PARTIALLY SIGHTED OR WHO HAVE OTHER DISABILITIES AS THE ACCESS THAT IS AFFORDED INDIVIDUALS WITHOUT DISABILITIES.

9-109.

(A) THE VOTING SYSTEM AGGREGATION AND TABULATION EQUIPMENT EMPLOYED BY THE STATE TO STORE, AGGREGATE, AND TOTAL THE VOTES CAST BY

VOTERS SHALL ONLY RECEIVE DATA AND TRANSFER DATA BY DISK AND TAPE OR OTHER PHYSICAL MEANS.

(B) IN AGGREGATING AND TABULATING ELECTION RESULTS, THE ACCURACY OF THE RESULTS SHALL TAKE PRIORITY OVER THE SPEED WITH WHICH THE RESULTS ARE POSTED.

(C) THE SOFTWARE AND HARDWARE USED IN THE VOTING SYSTEM AGGREGATION AND TABULATION PROCESS SHALL BE CERTIFIED AT LEAST 30 DAYS PRIOR TO ITS DEPLOYMENT IN EACH ELECTION.

(D) PROMPTLY AFTER THE CLOSE OF THE POLLS FOLLOWING EACH ELECTION, THE ELECTION JUDGES SHALL POST IN AN AREA ACCESSIBLE TO THE PUBLIC A PAPER RECORD OF THE TOTAL OF ALL THE VOTES CAST AT THAT POLLING PLACE.

(E) PRIOR TO THE COMMENCEMENT OF THE MANDATORY RANDOM AUDIT PROCESS, INCLUDING THE AUDIT DRAWING PRESCRIBED UNDER § 9-110 OF THIS SUBTITLE, EACH LOCAL BOARD AND THE STATE BOARD SHALL MAKE THE INITIAL ELECTION RESULTS OF ALL OF THE VOTES CAST AT EACH POLLING PLACE AVAILABLE ON A PUBLICLY ACCESSIBLE INTERNET WEBSITE.

(F) THE PAPER RECORDS OF THE INITIAL VOTE TOTALS POSTED AT EACH POLLING PLACE SHALL BE RETAINED IN A SECURE LOCATION AND MADE AVAILABLE FOR PUBLIC REVIEW UNDER SECURE CONDITIONS FOR A PERIOD OF 1 YEAR AFTER THE DATE OF EACH ELECTION.

9-110.

(A) (1) WITHIN 3 DAYS AFTER THE INITIAL TOTAL OF ALL VOTES CAST AT EACH POLLING PLACE IN EACH COUNTY AND STATEWIDE ELECTION HAVE BEEN PUBLICLY POSTED ON ITS PUBLICLY ACCESSIBLE INTERNET WEBSITE BY EACH LOCAL BOARD AND THE STATE BOARD, EACH LOCAL BOARD SHALL CONDUCT A

(Over)

MANDATORY RANDOM AUDIT HAND COUNT OF THE ELECTION RESULTS.

(2) EACH AUDIT SHALL COMPARE THE RESULTS OF ALL OF THE ELECTRONIC RECORDS PRODUCED BY THE VOTING SYSTEM WITH THE VOTER-VERIFIED PAPER RECORDS PRODUCED BY THE VOTING SYSTEM. IN THE EVENT OF ANY INCONSISTENCY OR IRREGULARITY BETWEEN AN ELECTRONIC RECORD AND THE CORRESPONDING PAPER RECORD, THE PAPER RECORD SHALL BE THE OFFICIAL TRUE AND CORRECT RECORD OF THE VOTES CAST.

(3) THE MANDATORY RANDOM AUDIT HAND COUNT SHALL:

(I) COMPARE THE ELECTRONIC RECORDS IN RANDOMLY SELECTED POLLING PLACES WITH THE CORRESPONDING INDIVIDUAL VOTER-VERIFIED PAPER RECORDS;

(II) BE CONSTRUCTED ON AN ENTIRELY RANDOM BASIS USING A UNIFORM DISTRIBUTION IN WHICH ALL POLLING PLACES IN THE COUNTY HAVE AN EQUAL CHANCE OF BEING SELECTED;

(III) INCLUDE ALL VOTES CAST IN NO LESS THAN 5% OF ALL OF THE POLLING PLACES IN THE COUNTY;

(IV) BE OPEN TO THE GENERAL PUBLIC AND THE PRESS FOR OBSERVATION, AND INCLUDE AN INVITATION AND AFFORD ACCESS TO AT LEAST ONE REPRESENTATIVE FROM EACH OFFICIALLY REGISTERED POLITICAL PARTY IN THE STATE TO PARTICIPATE IN THE AUDIT PROCESS;

(V) INCLUDE A RANDOM DRAWING, THAT IS OPEN TO OBSERVATION BY THE PUBLIC AND THE PRESS, TO DETERMINE WHICH POLLING PLACES IN EACH COUNTY WILL BE SELECTED FOR THE AUDIT; AND

(VI) BEGIN IMMEDIATELY AFTER THE POLLING PLACES UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH ARE SELECTED.

(B) IF A DISCREPANCY IS DISCOVERED BETWEEN THE VOTE TALLIES PRODUCED BY THE VOTING SYSTEM AND THE VOTE TALLIES OF VOTER-VERIFIED

PAPER RECORDS, THE STATE BOARD SHALL IMMEDIATELY CONDUCT AN EXPANDED AUDIT OF ADDITIONAL RANDOMLY SELECTED POLLING PLACES IN THE COUNTY IN ORDER TO:

(1) DETERMINE THE EXTENT OF ANY INCONSISTENCIES OR IRREGULARITIES; AND

(2) RESOLVE ANY CONCERNS AND ENSURE THE ACCURACY OF THE RESULTS.

(C) (1) ONCE THE EXTENT OF ANY INCONSISTENCIES OR IRREGULARITIES IS DETERMINED, THE STATE BOARD SHALL CONDUCT A THOROUGH INVESTIGATION OF THE VOTING SYSTEM BEFORE THE RESULTS OF THE ELECTION ARE CERTIFIED IN ACCORDANCE WITH APPLICABLE STATE LAW.

(2) IN ORDER TO RESOLVE THE OUTCOME AND CERTIFY THE RESULTS OF AN ELECTION, THE STATE BOARD SHALL ORDER THAT A RECOUNT BE CONDUCTED IN THE EVENT THAT THE RESULTS OF THE AUDIT CALL INTO QUESTION THE OUTCOME OF THE ELECTION FOR ANY FEDERAL, STATE, OR LOCAL CANDIDATE OR QUESTION.

(D) (1) ANY INCONSISTENCIES OR IRREGULARITIES IDENTIFIED BETWEEN THE CORRESPONDING AUDIT RESULTS AND THE INITIAL VOTE COUNTS SHALL BE POSTED PUBLICLY ON THE INTERNET WEBSITE OF THE STATE BOARD, ALONG WITH A DESCRIPTION OF THE ACTIONS TAKEN BY THE STATE BOARD TO RESOLVE THE DISCREPANCIES AND ANY OTHER RELATED CONCERNS.

(2) A LOCAL BOARD MAY NOT CERTIFY THE RESULTS OF ANY ELECTION THAT IS SUBJECT TO AN AUDIT UNDER THIS SECTION PRIOR TO THE COMPLETION OF THE AUDIT AND THE ANNOUNCEMENT AND PUBLICATION OF THE AUDIT RESULTS UNDER PARAGRAPH (1) OF THIS SUBSECTION.

(3) AS TO ANY INCONSISTENCIES OR IRREGULARITIES DISCOVERED UNDER THIS SECTION, THE VOTER-VERIFIED PAPER RECORDS SHALL BE THE

(Over)

OFFICIAL TRUE AND CORRECT RECORD OF THE VOTES CAST.

9-111.

(A) TO ENSURE PROPER FUNCTIONING AND MAINTAIN PUBLIC CONFIDENCE IN THE VOTING SYSTEM, SUBSEQUENT TO CERTIFICATION AND BEFORE ITS USE IN EACH ELECTION, A LOCAL BOARD SHALL CONDUCT A PUBLIC DEMONSTRATION OF THE VOTING SYSTEM IN THE COUNTY, INCLUDING THE VOTE AGGREGATION AND TABULATION EQUIPMENT TO BE USED IN THE ELECTION.

(B) (1) THE PUBLIC DEMONSTRATION SHALL BE OPEN TO THE PRESS AND THE PUBLIC FOR FULL INSPECTION.

(2) THE DATE, TIME, AND LOCATION OF EACH DEMONSTRATION SHALL BE ANNOUNCED PUBLICLY AND POSTED CONSPICUOUSLY ON THE INTERNET WEBSITE OF THE STATE BOARD NO LATER THAN 7 BUSINESS DAYS BEFORE THE DATE THE DEMONSTRATION IS SCHEDULED TO TAKE PLACE.

(3) THE DEMONSTRATION SHALL TAKE PLACE NO SOONER THAN 30 DAYS NOR LESS THAN 10 DAYS BEFORE EACH ELECTION.

9-112.

(A) THE STATE BOARD SHALL AT ALL TIMES MAINTAIN INFORMATION REGARDING THE OCCURRENCE OF VOTING SYSTEM FAILURES THAT IT IDENTIFIES, WHETHER DURING:

(1) PREELECTION TESTING AND CERTIFICATION PROCEDURES;

(2) THE CONDUCT OF ELECTION ACTIVITIES;

(3) POSTELECTION AUDITS, RECOUNT PROCESSES, OR ELECTION RESULTS CERTIFICATION PROCEDURES; OR

(4) AT ANY OTHER TIME.

(B) THE VOTING SYSTEM FAILURES DOCUMENTED SHALL INCLUDE INFORMATION REGARDING:

(1) EQUIPMENT BREAKDOWNS;

(2) POWER OUTAGES AND SURGES;

(3) UNUSUAL OR MALFUNCTIONING COMPUTER HARDWARE AND SOFTWARE PROBLEMS; AND

(4) DISCREPANCIES IN VOTING SYSTEM AUDITING AND CERTIFICATION PROCEDURES.

(C) THE STATE BOARD SHALL:

(1) MAINTAIN A PERMANENT RECORD OF THE INFORMATION THAT IT ACCUMULATES UNDER THIS SECTION; AND

(2) MAKE THE INFORMATION AVAILABLE TO THE PUBLIC ON ITS WEBSITE WITHIN 48 HOURS AFTER IT IS DISCOVERED, WHETHER BY THE STATE BOARD OR ANOTHER PERSON CHARGED WITH CERTIFYING OR DECERTIFYING ELECTION RESULTS OR AN ELECTION VOTING SYSTEM.

SECTION 4. AND BE IT FURTHER ENACTED, That Section 3 of this Act shall apply to each election occurring on or after March 1, 2008 that is required to be conducted in accordance with the Election Law Article.

SECTION 5. AND BE IT FURTHER ENACTED, That:

(a) For the 2006 primary and general elections only, the State Board of Elections may not use the Diebold AccuVote TS System in any polling place in the State.

(b) Notwithstanding the provisions of Sections 1 through 3 of this Act, the State Board of Elections shall:

(Over)

(1) select and certify an optical scan voting system to be used in each polling place for the 2006 primary and general elections; and

(2) ensure that each polling place has at least one voting system to accommodate the needs of voters with disabilities to protect the voter's right to cast a private ballot in the 2006 primary and general elections.

(c) The State Board of Elections shall enter a lease agreement for the optical scan voting system selected in accordance with subsection (b) of this section for not more than 1 year.

(d) The Governor shall allocate funding to carry out the provisions of this section.”;

and in line 35, strike “2.” and substitute “6.”.

AMENDMENT NO. 3

On page 3, in line 18, strike “3.” and substitute “7.”; and in line 25, strike “4.” and substitute “8.”.