

BY: Education, Health, and Environmental Affairs Committee

AMENDMENTS TO SENATE BILL NO. 713
(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in line 3, strike “that certain voting systems produce” and substitute “the State Board of Elections to select, certify, and implement, on or after a certain date, a voting system that produces”; in line 4, strike “provide” and substitute “provides”; in the same line, after “inspect” insert “, verify, and correct”; in line 7, strike “be accessible to” and substitute “comply with certain laws governing”; in line 8, after “requiring” insert “the State Board to undertake”; strike beginning with “requiring” in line 9 down through “purposes” in line 13 and substitute “requiring each county to pay a certain portion of a certain voting system that produces or uses a voter-verified paper record based on certain criteria”; in line 13, strike “certain terms” and substitute “a certain term”; and strike in their entirety lines 21 through 26, inclusive, and substitute:

“BY repealing and reenacting, without amendments,

Article - Election Law

Section 9-101 through 9-103

Annotated Code of Maryland

(2003 Volume and 2005 Supplement)”.

AMENDMENT NO. 2

On page 2, strike in its entirety line 1 and substitute “Section 9-101.1”; and after line 3, insert:

“Preamble

WHEREAS, Concerns about voting equipment and procedures in some states across the country following the 2000 elections prompted the General Assembly to pass legislation, subsequently enacted as Chapter 564 of 2001, which required the State to abandon its practice of allowing a variety of voting systems in the local jurisdictions and instead implement a statewide

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uniform electronic voting system; and

WHEREAS, The implementation of the statewide uniform electronic voting system began in 2002 and is scheduled for implementation in all local jurisdictions beginning with the 2006 elections; and

WHEREAS, Although researchers suggest that the statewide uniform electronic voting system generally has been well-received by voters across the State and no evidence of a security breach of the voting system has been found, some technology experts and other individuals have postulated that the voting system may be vulnerable to tampering and other security attacks that might call in to question the accuracy of election results; and

WHEREAS, Although the Help America Vote Act of 2002 required that all states implement voting systems by January 1, 2006 that allow voters the opportunity to verify and correct their votes, be capable of producing a permanent paper record of voters' votes, and be accessible to individuals with disabilities, in the final push to meet the requirements of that Act, some states in recent months have experienced significant problems in gaining delivery of a sufficient number of electronic touch screen or optical scan voting machines and have also encountered a variety of machine malfunctions during testing and on election day; and

WHEREAS, To alter or abandon the State's current statewide uniform touch screen electronic voting system and acquire and implement a different voting system when statewide primary and general elections loom in six to eight months would pose significant challenges for State and local election officials and produce risks that could forestall an orderly election process; and

WHEREAS, Maintaining and ensuring citizen confidence in the integrity of the election process is imperative and is a fundamental goal of our democracy; and

WHEREAS, Voter confidence in an electronic voting system likely would be enhanced further if the voting system produced a voter-verified paper record of the voter's choices that then would allow the voter to inspect, verify, and correct the choices before casting a final ballot; now, therefore,."

AMENDMENT NO. 3

On page 2, strike beginning with "That" in line 5 down through "ENACTED," in line 8.

On pages 2 through 8, strike in their entirety the lines beginning with line 19 on page 2 through line 23 on page 8, inclusive, and substitute:

“9-101.

(a) The State Board, in consultation with the local boards, shall select and certify a voting system for voting in polling places and a voting system for absentee voting.

(b) The voting system selected and certified for voting in polling places and the voting system selected and certified for absentee voting shall be used in all counties.

(c) The State Board shall acquire:

(1) the voting system selected and certified for voting in polling places; and

(2) the voting system selected and certified for absentee voting.

9-101.1.

(A) THIS SECTION APPLIES TO ANY ELECTION THAT IS REQUIRED TO BE CONDUCTED IN ACCORDANCE WITH THIS ARTICLE ON OR AFTER JANUARY 1, 2008.

(B) THE STATE BOARD SHALL SELECT, CERTIFY, AND IMPLEMENT A VOTING SYSTEM FOR USE IN ALL ELECTIONS SUBJECT TO THIS ARTICLE THAT:

(1) PRODUCES OR REQUIRES THE USE OF A VOTER-VERIFIED PAPER RECORD OF THE VOTER’S VOTE; AND

(2) ENSURES THAT THE VOTER-VERIFIED PAPER RECORD IS MADE AVAILABLE FOR INSPECTION, VERIFICATION, AND CORRECTION BY THE VOTER BEFORE THE VOTER’S VOTE IS CAST.

(C) A VOTING SYSTEM SELECTED, CERTIFIED, AND IMPLEMENTED UNDER THIS SECTION SHALL:

(1) ALLOW A VOTER TO CAST, INSPECT, VERIFY, AND CORRECT THE SELECTIONS BY BOTH VISUAL AND NONVISUAL MEANS; AND

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(2) COMPLY FULLY WITH THE AMERICANS WITH DISABILITIES ACT, P.L. 101-336, AND THE HELP AMERICA VOTE ACT OF 2002, P.L. 107-252.

(D) EACH VOTER-VERIFIED PAPER RECORD PRODUCED BY THE VOTING SYSTEM SHALL:

(1) BE PRESERVED WITHIN THE POLLING PLACE IN THE MANNER THAT ALL OTHER DOCUMENT BALLOTS ARE PRESERVED WITHIN THE POLLING PLACE ON ELECTION DAY FOR LATER USE IN ANY MANUAL RECOUNT;

(2) BE AVAILABLE AS AN OFFICIAL RECORD; AND

(3) BE THE OFFICIAL RECORD USED FOR ANY RECOUNT CONDUCTED WITH RESPECT TO ANY ELECTION IN WHICH THE VOTING SYSTEM IS USED.

(E) FOLLOWING EACH ELECTION, THE STATE BOARD SHALL CONDUCT A RANDOM AUDIT OF AT LEAST 2% OF THE PRECINCTS IN EACH LEGISLATIVE DISTRICT IN THE STATE TO COMPARE THE VOTER-VERIFIED PAPER RECORDS PRODUCED BY THE VOTING SYSTEM AGAINST THE ELECTRONICALLY RECORDED RESULTS IN THE LEGISLATIVE DISTRICT TO VERIFY THAT THE ELECTRONICALLY RECORDED RESULTS EQUAL THE VOTER-VERIFIED PAPER RECORDS.

(F) THE STATE BOARD SHALL ADOPT REGULATIONS AND GUIDELINES TO IMPLEMENT THIS SECTION.

9-102.

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

(b) The State Board shall periodically review and evaluate alternative voting systems.

(c) The State Board may not certify a voting system unless the State Board determines that:

- (1) the voting system will:
 - (i) protect the secrecy of the ballot;
 - (ii) protect the security of the voting process;
 - (iii) count and record all votes accurately;
 - (iv) accommodate any ballot used under this article;
 - (v) protect all other rights of voters and candidates; and
 - (vi) 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;

- (2) the voting system has been:
 - (i) examined by an independent testing laboratory that is approved by the National Association of State Election Directors; and
 - (ii) shown by the testing laboratory to meet the performance and test standards for electronic voting systems established by the Federal Election Commission; and

- (3) the public interest will be served by the certification of the voting system.

- (d) In determining whether a voting system meets the required standards, the State Board shall consider:
 - (1) the commercial availability of the system and its replacement parts and components;
 - (2) the availability of continuing service for the system;

- (3) the cost of implementing the system;
- (4) the efficiency of the system;
- (5) the likelihood that the system will malfunction;
- (6) the system's ease of understanding for the voter;
- (7) the convenience of voting afforded by the system;
- (8) the timeliness of the tabulation and reporting of election returns;
- (9) the potential for an alternative means of verifying the tabulation;
- (10) accessibility for all voters with disabilities recognized by the Americans with Disabilities Act; and
- (11) any other factor that the State Board considers relevant.

(e) (1) The State Board shall adopt regulations relating to requirements for each voting system selected and certified under § 9-101 of this subtitle.

(2) The regulations shall specify the procedures necessary to assure that the standards of this title are maintained, including:

- (i) a description of the voting system;
- (ii) a public information program by the local board, at the time of introduction of a new voting system, to be directed to all voters, candidates, campaign groups, schools, and news media in the county;
- (iii) local election officials' responsibility for management of the system;
- (iv) the actions required to assure the security of the voting system;

- (v) the supplies and equipment required;
 - (vi) the storage, delivery, and return of the supplies and equipment necessary for the operation of the voting system;
 - (vii) standards for training election officials in the operation and use of the voting system;
 - (viii) before each election and for all ballot styles to be used, testing by the members of the local board to ensure the accuracy of tallying, tabulation, and reporting of the vote, and observing of that testing by representatives of political parties and of candidates who are not affiliated with political parties;
 - (ix) the number of voting stations or voting booths required in each polling place, in relation to the number of registered voters assigned to the polling place;
 - (x) the practices and procedures in each polling place appropriate to the operation of the voting system;
 - (xi) assuring ballot accountability in systems using a document ballot;
 - (xii) the actions required to tabulate votes; and
 - (xiii) postelection review and audit of the system's output.
- (3) Certification of a voting system is not effective until the regulations applicable to the voting system have been adopted.

9-103.

- (a) The State Board:
 - (1) may decertify a voting system previously certified if the State Board determines that the system no longer merits certification; and

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(2) shall decertify a previously certified voting system if the voting system no longer meets one or more of the standards in § 9-102(c)(1)(i) through (iii) of this subtitle.

(b) The State Board shall determine the effective date and conditions of the decertification.”.

AMENDMENT NO. 4

On page 8, in lines 24 and 31, strike “4.” and “5.”, respectively, and substitute “2.” and “3.”, respectively; and strike beginning with “the” in line 24 down through “Act” in line 30 and substitute “each county shall pay its share of one-half of the State’s cost of acquiring and operating a statewide voting system for voting in polling places and for absentee ballots that produces or uses a voter-verified paper record, as required under Section 1 of this Act, including the cost of maintenance, storage, printing of ballots, technical support and programming, related supplies and materials, and software licensing fees. A county’s share of the cost of acquiring and operating the uniform statewide voting system that produces or uses a voter-verified paper record shall be based upon the county’s voting age population”.