

(PRE-FILED)

By: **Delegate Montgomery**
Requested: October 18, 2005
Introduced and read first time: January 11, 2006
Assigned to: Ways and Means

A BILL ENTITLED

1 AN ACT concerning

2 **Election Law - Optical Scan Voting System Required**

3 FOR the purpose of requiring that the voting system selected and certified by the
4 State Board of Elections for voting in polling places and for absentee voting for
5 elections in the State be chosen from among certain optical scan voting systems;
6 and generally relating to optical scan voting systems for voting in elections in
7 the State.

8 BY repealing and reenacting, with amendments,
9 Article - Election Law
10 Section 9-101
11 Annotated Code of Maryland
12 (2003 Volume and 2005 Supplement)

13 BY repealing and reenacting, without amendments,
14 Article - Election Law
15 Section 9-102
16 Annotated Code of Maryland
17 (2003 Volume and 2005 Supplement)

18 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
19 MARYLAND, That the Laws of Maryland read as follows:

20 **Article - Election Law**

21 9-101.

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

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

1 (C) THE VOTING SYSTEM SELECTED AND CERTIFIED BY THE STATE BOARD
2 FOR VOTING IN POLLING PLACES AND FOR ABSENTEE VOTING SHALL BE AN OPTICAL
3 SCAN VOTING SYSTEM CHOSEN FROM AMONG:

4 (1) THE OPTECH II OPTICAL SCAN AUTOMATICALLY TABULATED
5 MARKSENSE BALLOT VOTING SYSTEM;

6 (2) THE OPTECH III-P EAGLE OPTICAL SCAN AUTOMATICALLY
7 TABULATED MARKSENSE BALLOT VOTING SYSTEM;

8 (3) A MODEL OR VERSION OF THE OPTECH IV-C OPTICAL SCAN
9 AUTOMATICALLY TABULATED MARKSENSE BALLOT VOTING SYSTEM;

10 (4) THE MODEL-315 OPTICAL MARK READER (OMR) AUTOMATICALLY
11 TABULATED MARKSENSE BALLOT VOTING SYSTEM; OR

12 (5) AN OPTICAL SCAN VOTING SYSTEM COMPARABLE IN QUALITY AND
13 PERFORMANCE TO THE VOTING SYSTEMS SPECIFIED IN ITEMS (1) THROUGH (4) OF
14 THIS SUBSECTION, AS THE STATE BOARD DETERMINES.

15 [(c)] (D) The State Board shall acquire:

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

17 and

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

19 9-102.

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

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

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

26 (1) the voting system will:

27 (i) protect the secrecy of the ballot;

28 (ii) protect the security of the voting process;

29 (iii) count and record all votes accurately;

30 (iv) accommodate any ballot used under this article;

31 (v) protect all other rights of voters and candidates; and

1 (vi) be capable of creating a paper record of all votes cast in order
2 that an audit trail is available in the event of a recount;

3 (2) the voting system has been:

4 (i) examined by an independent testing laboratory that is approved
5 by the National Association of State Election Directors; and

6 (ii) shown by the testing laboratory to meet the performance and
7 test standards for electronic voting systems established by the Federal Election
8 Commission; and

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

11 (d) In determining whether a voting system meets the required standards, the
12 State Board shall consider:

13 (1) the commercial availability of the system and its replacement parts
14 and components;

15 (2) the availability of continuing service for the system;

16 (3) the cost of implementing the system;

17 (4) the efficiency of the system;

18 (5) the likelihood that the system will malfunction;

19 (6) the system's ease of understanding for the voter;

20 (7) the convenience of voting afforded by the system;

21 (8) the timeliness of the tabulation and reporting of election returns;

22 (9) the potential for an alternative means of verifying the tabulation;

23 (10) accessibility for all voters with disabilities recognized by the
24 Americans with Disabilities Act; and

25 (11) any other factor that the State Board considers relevant.

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

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

30 (i) a description of the voting system;

1 (ii) a public information program by the local board, at the time of
2 introduction of a new voting system, to be directed to all voters, candidates, campaign
3 groups, schools, and news media in the county;

4 (iii) local election officials' responsibility for management of the
5 system;

6 (iv) the actions required to assure the security of the voting system;

7 (v) the supplies and equipment required;

8 (vi) the storage, delivery, and return of the supplies and equipment
9 necessary for the operation of the voting system;

10 (vii) standards for training election officials in the operation and use
11 of the voting system;

12 (viii) before each election and for all ballot styles to be used, testing
13 by the members of the local board to ensure the accuracy of tallying, tabulation, and
14 reporting of the vote, and observing of that testing by representatives of political
15 parties and of candidates who are not affiliated with political parties;

16 (ix) the number of voting stations or voting booths required in each
17 polling place, in relation to the number of registered voters assigned to the polling
18 place;

19 (x) the practices and procedures in each polling place appropriate
20 to the operation of the voting system;

21 (xi) assuring ballot accountability in systems using a document
22 ballot;

23 (xii) the actions required to tabulate votes; and

24 (xiii) postelection review and audit of the system's output.

25 (3) Certification of a voting system is not effective until the regulations
26 applicable to the voting system have been adopted.

27 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
28 June 1, 2006.