

---

By: **Senators Hollinger, Astle, Britt, Brochin, Conway, Dyson, Forehand,  
Frosh, Garagiola, Gladden, Green, Greenip, Grosfeld, Haines, Harris,  
Jacobs, Kelley, Kittleman, Mooney, Pinsky, Ruben, Stone, and  
Teitelbaum**

Introduced and read first time: February 3, 2006

Assigned to: Budget and Taxation

---

A BILL ENTITLED

1 AN ACT concerning

2 **Election Law - Voting Systems - Voter-Verified Paper Records**

3 FOR the purpose of requiring that certain voting systems produce a paper record of a  
4 voter's ballot choices and provide the voter with an opportunity to inspect the  
5 paper record before casting a final vote; requiring that the paper records be  
6 preserved at the polling place in a certain manner and for certain purposes;  
7 requiring that certain voting systems be accessible to certain individuals with  
8 disabilities; requiring certain comparisons and audits of certain ballots following  
9 an election; requiring public notice and demonstrations regarding certain voting  
10 systems and procedures; requiring the State Board of Elections to maintain  
11 certain information, to document certain occurrences, and to make certain  
12 information publicly available; requiring the Governor to allocate certain  
13 resources for certain purposes; defining certain terms; requiring the State Board  
14 to adopt certain regulations and certain guidelines; and generally relating to  
15 voter-verified paper records for voting systems.

16 BY repealing and reenacting, with amendments,  
17 Article - Election Law  
18 Section 1-101(xx)  
19 Annotated Code of Maryland  
20 (2003 Volume and 2005 Supplement)

21 BY renumbering  
22 Article - Election Law  
23 Section 9-101 through 9-105, respectively  
24 to be Section 9-102 through 9-106, respectively  
25 Annotated Code of Maryland  
26 (2003 Volume and 2005 Supplement)

27 BY adding to  
28 Article - Election Law

1 Section 9-101 and 9-107 through 9-112  
2 Annotated Code of Maryland  
3 (2003 Volume and 2005 Supplement)

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

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

10 **Article - Election Law**

11 1-101.

12 (xx) (1) "Voting system" means a method of casting and tabulating ballots or  
13 votes.

14 (2) "VOTING SYSTEM" INCLUDES A COLLECTION OF DEVICES THAT:

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

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

19 9-101.

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

22 (B) "HAND COUNT" MEANS A COUNTING OF THE VOTES IN WHICH:

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

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

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

31 (1) TOUCH-SCREEN OR ELECTRONIC VOTING MACHINES;

32 (2) PRECINCT-BASED OPTICAL SCANNING EQUIPMENT;

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

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

5 (D) "NONVISUAL" MEANS AUDIO-SYNTHESIZED SPEECH.

6 (E) "VOTER-VERIFIED PAPER RECORD" MEANS AN AUDITABLE PAPER RECORD  
7 THAT:

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

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

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

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

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

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

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

24 9-107.

25 (A) THE VOTING SYSTEM SELECTED AND CERTIFIED SHALL:

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

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

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

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

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

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

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

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

10 (C) EACH VOTER-VERIFIED PAPER RECORD SHALL:

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

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

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

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

22 (E) (1) EACH VOTER-VERIFIED PAPER RECORD PRODUCED SHALL BE  
23 SUITABLE FOR A MANDATORY RANDOM AUDIT HAND COUNT IN ACCORDANCE WITH §  
24 9-110 OF THIS SUBTITLE.

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

29 (3) THE VOTER-VERIFIED PAPER RECORD SHALL:

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

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

1 9-108.

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

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

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

14 9-109.

15 (A) THE VOTING SYSTEM AGGREGATION AND TABULATION EQUIPMENT  
16 EMPLOYED BY THE STATE TO STORE, AGGREGATE, AND TOTAL THE VOTES CAST BY  
17 VOTERS SHALL ONLY RECEIVE DATA AND TRANSFER DATA BY DISK AND TAPE OR  
18 OTHER PHYSICAL MEANS.

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

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

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

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

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

1 9-110.

2 (A) (1) AFTER THE INITIAL TOTAL OF ALL VOTES CAST AT EACH POLLING  
3 PLACE IN EACH COUNTY AND STATEWIDE ELECTION HAVE BEEN PUBLICLY POSTED  
4 ON ITS PUBLICLY ACCESSIBLE INTERNET WEBSITE BY EACH LOCAL BOARD AND THE  
5 STATE BOARD, EACH LOCAL BOARD SHALL CONDUCT A MANDATORY RANDOM AUDIT  
6 HAND COUNT OF THE ELECTION RESULTS.

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

13 (3) THE MANDATORY RANDOM AUDIT HAND COUNT SHALL:

14 (I) COMPARE A SELECT PERCENTAGE OF THE ELECTRONIC  
15 RECORDS OF EACH VOTE CAST IN RANDOMLY SELECTED POLLING PLACES WITH THE  
16 CORRESPONDING INDIVIDUAL VOTER-VERIFIED PAPER RECORDS FOR A RANDOMLY  
17 SELECTED NUMBER OF BALLOTS;

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

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

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

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

30 (B) IF A DISCREPANCY IS DISCOVERED BETWEEN THE VOTE TALLIES  
31 PRODUCED BY THE VOTING SYSTEM AND THE VOTE TALLIES OF VOTER-VERIFIED  
32 PAPER RECORDS, THE STATE BOARD SHALL IMMEDIATELY CONDUCT AN EXPANDED  
33 AUDIT OF THOSE POLLING PLACES OR, AT THE STATE BOARD'S DISCRETION, OF AN  
34 ENTIRE COUNTY IN ORDER TO:

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

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

1 (C) (1) ONCE THE EXTENT OF ANY INCONSISTENCIES OR IRREGULARITIES  
2 IS DETERMINED, THE STATE BOARD SHALL CONDUCT A FURTHER INVESTIGATION OF  
3 THE VOTING SYSTEM AS IT DEEMS NECESSARY TO CERTIFY THE RESULTS OF THE  
4 ELECTION IN ACCORDANCE WITH APPLICABLE STATE LAW.

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

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

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

19 (3) AS TO ANY INCONSISTENCIES OR IRREGULARITIES DISCOVERED  
20 UNDER THIS SECTION, THE VOTER-VERIFIED PAPER RECORDS SHALL BE THE  
21 OFFICIAL TRUE AND CORRECT RECORD OF THE VOTES CAST.

22 9-111.

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

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

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

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

36 9-112.

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

- 1 (1) PREELECTION TESTING AND CERTIFICATION PROCEDURES;  
2 (2) THE CONDUCT OF ELECTION ACTIVITIES;  
3 (3) POSTELECTION AUDITS, RECOUNT PROCESSES, OR ELECTION  
4 RESULTS CERTIFICATION PROCEDURES; OR  
5 (4) AT ANY OTHER TIME.

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

- 8 (1) EQUIPMENT BREAKDOWNS;  
9 (2) POWER OUTAGES AND SURGES;  
10 (3) UNUSUAL OR MALFUNCTIONING COMPUTER HARDWARE AND  
11 SOFTWARE PROBLEMS; AND  
12 (4) DISCREPANCIES IN VOTING SYSTEM AUDITING AND CERTIFICATION  
13 PROCEDURES.

14 (C) THE STATE BOARD SHALL:

- 15 (1) MAINTAIN A PERMANENT RECORD OF THE INFORMATION THAT IT  
16 ACCUMULATES UNDER THIS SECTION; AND  
17 (2) MAKE THE INFORMATION AVAILABLE TO THE PUBLIC ON ITS  
18 WEBSITE WITHIN 48 HOURS AFTER IT IS DISCOVERED, WHETHER BY THE STATE  
19 BOARD OR ANOTHER PERSON CHARGED WITH CERTIFYING OR DECERTIFYING  
20 ELECTION RESULTS OR AN ELECTION VOTING SYSTEM.

21 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall apply to  
22 each election occurring on or after the effective date of this Act that is required to be  
23 conducted in accordance with the Election Law Article.

24 SECTION 4. AND BE IT FURTHER ENACTED, That the Governor shall  
25 allocate the resources required to implement the requirements of this Act, including  
26 any gift received by the State for the purposes of this Act under § 2-201 of the State  
27 Finance and Procurement Article, and, except for federal funds received by the State  
28 to implement the requirements of the Help America Vote Act 2002, any federal or  
29 other special funds or grant received by the State in accordance with federal and  
30 State law for the purposes of this Act.

31 SECTION 5. AND BE IT FURTHER ENACTED, That this Act shall take effect  
32 June 1, 2006.