

HB0018/343726/1

BY: Senator Dyson

AMENDMENTS TO HOUSE BILL 18
(Third Reading File Bill)

AMENDMENT NO. 1

On page 1, in line 2, strike “Voter–Verified” and substitute “Voter–Verifiable”.

On pages 1 and 2, strike beginning with “requiring” in line 3 on page 1 down through “systems” in line 2 on page 2 and substitute “prohibiting the State Board of Elections from certifying a voting system unless the State Board determines that the voting system provides voter–verifiable paper records; defining a certain term; requiring that certain voting systems be accessible to certain individuals with disabilities; requiring the State Board to provide certain training on the voting system to election judges; requiring the Attorney General to make a certain determination and to provide notice of the determination in writing to the Department of Legislative Services; making this Act subject to a certain contingency; requiring the Department of Budget and Management to make a certain determination and provide a certain notification by a certain time; providing for the application of this Act; and generally relating to voting systems and voter–verifiable paper records”.

On page 2, strike in their entirety lines 3 through 24, inclusive, and substitute:

“BY repealing and reenacting, with amendments,

Article – Election Law

Section 9–102 and 10-206

Annotated Code of Maryland

(2003 Volume and 2006 Supplement)”.

AMENDMENT NO. 2

On pages 2 through 12, strike in their entirety the lines beginning with line 25 on page 2 through line 18 on page 12, inclusive, and substitute:

(Over)

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

Article – Election Law

9–102.

(A) IN THIS SECTION, A “VOTER-VERIFIABLE PAPER RECORD” INCLUDES:

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

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

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

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

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

[(c)] (D) 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, INCLUDING A MANUAL RECOUNT; AND

(VII) PROVIDE A VOTER-VERIFIABLE PAPER RECORD THAT:

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

2. IS SUFFICIENTLY DURABLE TO WITHSTAND REPEATED HANDLING FOR THE PURPOSES OF MANDATORY RANDOM AUDITS AND RECOUNTS; AND

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

- (2) the voting system has been:

(Over)

(i) examined by an independent testing laboratory that is approved by the [National Association of State Election Directors] U.S. ELECTION ASSISTANCE COMMISSION; and

(ii) shown by the testing laboratory to meet the performance and test standards for electronic voting systems established by the Federal Election Commission OR THE U.S. ELECTION ASSISTANCE COMMISSION; and

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

~~[(d)]~~ (E) 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.

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

(1) PROVIDE ACCESS TO VOTERS WITH DISABILITIES THAT IS EQUIVALENT TO ACCESS AFFORDED VOTERS WITHOUT DISABILITIES WITHOUT CREATING A SEGREGATED BALLOT FOR VOTERS WITH DISABILITIES;

(2) ENSURE THE INDEPENDENT, PRIVATE CASTING, INSPECTION, VERIFICATION, AND CORRECTION OF SECRET BALLOTS BY VOTERS WITH DISABILITIES IN AN ACCESSIBLE MEDIA BY BOTH VISUAL AND NONVISUAL MEANS, INCLUDING SYNCHRONIZED AUDIO OUTPUT AND ENHANCED VISUAL DISPLAY; AND

(3) COMPLY WITH BOTH THE AMERICANS WITH DISABILITIES ACT, P.L. 101-336, AND THE HELP AMERICA VOTE ACT, P.L. 107-252, INCLUDING ACCESSIBILITY STANDARDS ADOPTED AS PART OF THE VOLUNTARY VOTING SYSTEM GUIDELINES PURSUANT TO THE HELP AMERICA VOTE ACT.

(G) (1) AT LEAST ONE VOTING SYSTEM IN EACH POLLING PLACE ON ELECTION DAY SHALL PROVIDE ACCESS FOR VOTERS WITH DISABILITIES IN COMPLIANCE WITH SUBSECTION (F) OF THIS SECTION.

(2) THE STATE BOARD SHALL ENSURE THAT ADEQUATE BACKUP EQUIPMENT IS AVAILABLE AND CONTINGENCY PLANS ARE ESTABLISHED TO ENSURE COMPLIANCE WITH PARAGRAPH (1) OF THIS SUBSECTION.

(H) BEFORE THE SELECTION OF A VOTING SYSTEM, THE STATE BOARD SHALL:

(1) ENSURE THAT AN ACCESSIBLE VOTING SYSTEM CONFORMS TO THE ACCESS REQUIREMENTS OF THE VOLUNTARY VOTING SYSTEM GUIDELINES DEVELOPED IN ACCORDANCE WITH THE HELP AMERICA VOTE ACT IN EFFECT AT THE TIME OF SELECTION; AND

(2) CONDUCT AN ACCESSIBILITY AND USABILITY EVALUATION OF THE VOTING SYSTEM TO ASSESS ITS ACCESSIBILITY AND USABILITY BY VOTERS WITH DISABILITIES, INCLUDING:

(I) A PUBLIC DEMONSTRATION OF THE SYSTEM; AND

(II) AN EVALUATION BY INDIVIDUALS REPRESENTING A CROSS-SECTION OF VOTERS WITH DISABILITIES.

[(e)] (I) (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.

10-206.

(a) In consultation with the local boards, the State Board shall:

(1) develop a program of instruction of election judges; and

(2) oversee the implementation of the program of instruction.

(b) The training materials utilized by the program may include:

(1) an instruction manual and other written directives;

(2) curriculum for training sessions; and

(3) audiovisuals.

(c) The State Board shall develop a process for the evaluation of the training program and the performance of the polling place staff in each county.

(d) To the extent appropriate, the training program shall be specific to each of the voting systems used in polling places in the State.

(E) (1) THE STATE BOARD SHALL PROVIDE ELECTION JUDGES WITH UNIFORM STATEWIDE TRAINING ON THE VOTING SYSTEM, INCLUDING:

(I) ALL FEATURES OF THE VOTING SYSTEM THAT PROVIDE ACCESS TO VOTERS WITH DISABILITIES; AND

(II) THE RIGHTS OF VOTERS WITH DISABILITIES, INCLUDING THOSE RIGHTS GUARANTEED BY STATE AND FEDERAL LAW.

[(e)] (F) Each local board shall conduct election judge training based on the program developed by the State Board.

[(f)] (G) (1) Except as provided in paragraph (2) of this subsection, each election judge shall participate in the training program provided for in subsection (a) of this section.

(2) An election judge who is appointed under emergency circumstances is not required to attend the course of instruction.”.

AMENDMENT NO. 3

On page 12, in line 19, strike “3.” and substitute “2.”; and in line 20, strike “March” and substitute “January”.

AMENDMENT NO. 4

On page 12, after line 21, insert:

“SECTION 3. AND BE IT FURTHER ENACTED, That, if the Attorney General determines on or after the effective date of this Act that any provision of this Act is in conflict with any law of the United States or a rule, regulation, or policy of the U.S. Election Assistance Commission, the conflicting provision of this Act shall be abrogated and of no force or effect. The Attorney General, within 5 days after determining the existence of a conflict, shall notify in writing the Department of Legislative Services, Legislative Services Building, 90 State Circle, Annapolis, MD 21401.”.

(Over)

On page 13, in lines 4, 6, and 12, in each instance, strike “2” and substitute “1”; in line 13, strike “Section 4” and substitute “Sections 2 through 4”; and in line 14, strike “July” and substitute “October”.