

# HOUSE BILL 18

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HB 244/06 – W&M

71r0385

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By: **Delegate Hixson**

Introduced and read first time: January 12, 2007

Assigned to: Ways and Means

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## 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  
9 following an election; requiring public notice and demonstrations regarding  
10 certain voting systems and procedures; requiring the State Board of Elections to  
11 maintain certain information, to document certain occurrences, and to make  
12 certain information publicly available; requiring the Governor to allocate  
13 certain resources for certain purposes; defining certain terms; requiring the  
14 State Board to adopt certain regulations and certain guidelines; and generally  
15 relating to voter-verified paper records for voting systems.

16 BY renumbering

17 Article – Election Law  
18 Section 9–101 through 9–105, respectively  
19 to be Section 9–102 through 9–106, respectively  
20 Annotated Code of Maryland  
21 (2003 Volume and 2006 Supplement)

22 BY repealing and reenacting, with amendments,

23 Article – Election Law  
24 Section 1–101(xx)

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Annotated Code of Maryland  
2 (2003 Volume and 2006 Supplement)

3 BY adding to  
4 Article – Election Law  
5 Section 9–101 and 9–107 through 9–112  
6 Annotated Code of Maryland  
7 (2003 Volume and 2006 Supplement)

8 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
9 MARYLAND, That Section(s) 9–101 through 9–105, respectively, of Article – Election  
10 Law of the Annotated Code of Maryland be renumbered to be Section(s) 9–102 through  
11 9–106, respectively.

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

14 **Article – Election Law**

15 1–101.

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

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

20 (I) **ALLOW A VOTER TO VIEW BALLOTS, SELECT**  
21 **CANDIDATES, AND CAST VOTES; AND**

22 (II) **AGGREGATE AND TABULATE ALL OF THE VOTES CAST IN**  
23 **AN ELECTION.**

24 **9–101.**

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

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

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

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

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

10           (1) TOUCH-SCREEN OR OTHER ELECTRONIC VOTING MACHINES;

11           (2) PRECINCT-BASED OPTICAL SCANNING EQUIPMENT;

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

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

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

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

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

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

23           (3) (I) LISTS THE DESIGNATION OF EACH OFFICE OR QUESTION  
24 AND THE VOTER’S CHOICE IN EACH OFFICE OR QUESTION; OR

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

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

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

5           **(F) “VOTING SYSTEM AGGREGATION AND TABULATION” MEANS THE**  
6 **PROCESS AND THE HARDWARE AND SOFTWARE BY WHICH VOTES RECORDED BY**  
7 **THE VOTING SYSTEM ARE AGGREGATED, TOTALED, AND TABULATED TO**  
8 **DETERMINE THE OUTCOME OF AN ELECTION.**

9 **9-107.**

10           **(A) THE VOTING SYSTEM SELECTED AND CERTIFIED SHALL:**

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

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

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

18           **(1) A PAPER PRINTOUT OF THE VOTER’S VOTE PRODUCED BY A**  
19 **TOUCH-SCREEN OR OTHER ELECTRONIC VOTING MACHINE IF, IN EACH CASE,**  
20 **THE RECORD PERMITS THE VOTER TO VERIFY THE RECORD IN ACCORDANCE**  
21 **WITH THIS SECTION;**

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

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

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

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

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

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

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

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

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

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

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

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

28           (II) BE STORED BY A LOCAL BOARD IN A PLACE AND  
29 MANNER THAT 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  
3 ARTICLE SHALL HAVE THE ABILITY FOR A VOTER TO CAST AND VERIFY THE  
4 VOTER'S SELECTIONS BY BOTH VISUAL AND NONVISUAL MEANS.

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

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

16 **9-109.**

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

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

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

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

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

6           **(F) THE PAPER RECORDS OF THE INITIAL VOTE TOTALS POSTED AT**  
7 **EACH POLLING PLACE SHALL BE RETAINED IN A SECURE LOCATION AND MADE**  
8 **AVAILABLE FOR PUBLIC REVIEW UNDER SECURE CONDITIONS FOR A PERIOD OF**  
9 **1 YEAR AFTER THE DATE OF EACH ELECTION.**

10 **9-110.**

11           **(A) (1) WITHIN 3 DAYS AFTER THE INITIAL TOTAL OF ALL VOTES**  
12 **CAST AT EACH POLLING PLACE IN EACH COUNTY AND STATEWIDE ELECTION**  
13 **HAVE BEEN PUBLICLY POSTED ON ITS PUBLICLY ACCESSIBLE INTERNET**  
14 **WEBSITE BY EACH LOCAL BOARD AND THE STATE BOARD, EACH LOCAL BOARD**  
15 **SHALL CONDUCT A MANDATORY RANDOM AUDIT HAND COUNT OF THE ELECTION**  
16 **RESULTS.**

17                   **(2) (I) EACH AUDIT SHALL COMPARE THE RESULTS OF ALL OF**  
18 **THE ELECTRONIC RECORDS PRODUCED BY THE VOTING SYSTEM WITH THE**  
19 **VOTER-VERIFIED PAPER RECORDS PRODUCED BY THE VOTING SYSTEM.**

20                           **(II) IF THERE IS ANY INCONSISTENCY OR IRREGULARITY**  
21 **BETWEEN AN ELECTRONIC RECORD AND THE CORRESPONDING PAPER RECORD,**  
22 **THE PAPER RECORD SHALL BE THE OFFICIAL TRUE AND CORRECT RECORD OF**  
23 **THE VOTES CAST.**

24           **(3) THE MANDATORY RANDOM AUDIT HAND COUNT SHALL:**

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

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

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

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

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

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

12                  (B) IF A DISCREPANCY IS DISCOVERED BETWEEN THE VOTE TALLIES  
13 PRODUCED BY THE VOTING SYSTEM AND THE VOTE TALLIES OF  
14 VOTER-VERIFIED PAPER RECORDS, THE STATE BOARD SHALL IMMEDIATELY  
15 CONDUCT AN EXPANDED AUDIT OF ADDITIONAL RANDOMLY SELECTED POLLING  
16 PLACES IN THE COUNTY IN ORDER TO:

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

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

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

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



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

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

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

14 **9-111.**

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

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

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

27           (3) THE DEMONSTRATION SHALL TAKE PLACE NO SOONER THAN  
28 30 DAYS NOR LESS THAN 10 DAYS BEFORE EACH ELECTION.

29 **9-112.**

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

4                   **(1) PREELECTION TESTING AND CERTIFICATION PROCEDURES;**

5                   **(2) THE CONDUCT OF ELECTION ACTIVITIES;**

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

8                   **(4) ANY OTHER TIME.**

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

11                   **(1) EQUIPMENT BREAKDOWNS;**

12                   **(2) POWER OUTAGES AND SURGES;**

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

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

17           **(C) THE STATE BOARD SHALL:**

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

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

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

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

8           SECTION 5. AND BE IT FURTHER ENACTED, That this Act shall take effect  
9 July 1, 2007.