

HOUSE BILL 893

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EMERGENCY BILL

9lr2294

By: **Delegates Hixson, Cardin, Olszewski, Rice, and Ross**

Introduced and read first time: February 12, 2009

Assigned to: Ways and Means

A BILL ENTITLED

1 AN ACT concerning

2 **Election Law - Voting Systems - Requirements**

3 FOR the purpose of authorizing the State Board of Elections to certify a voting system
4 that has been examined by an independent testing laboratory approved by the
5 National Association of State Election Directors; requiring the State Board to
6 select and certify the voting system that best satisfies certain requirements if at
7 the time of procurement of a voting system there are no voting systems
8 commercially available that entirely satisfy certain requirements; making this
9 Act an emergency measure; and generally relating to the selection and
10 certification of voting systems.

11 BY repealing and reenacting, with amendments,
12 Article - Election Law
13 Section 9-102
14 Annotated Code of Maryland
15 (2003 Volume and 2008 Supplement)

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

18 **Article - Election Law**

19 9-102.

20 (a) In this section, a “voter-verifiable paper record” includes:

21 (1) a paper ballot prepared by the voter for the purpose of being read
22 by a precinct-based optical scanner;

23 (2) a paper ballot prepared by the voter to be mailed to the applicable
24 local board, whether mailed from a domestic or an overseas location; and

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (3) a paper ballot created through the use of a ballot marking device.

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

4 (c) The State Board shall periodically review and evaluate alternative
5 voting systems.

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

8 (1) the voting system will:

9 (i) protect the secrecy of the ballot;

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

11 (iii) count and record all votes accurately;

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

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

14 (vi) be capable of creating a paper record of all votes cast in
15 order that an audit trail is available in the event of a recount, including a manual
16 recount; and

17 (vii) provide a voter-verifiable paper record that:

18 1. is an individual document that is physically
19 separated from any other similar document and not part of a continuous roll;

20 2. is sufficiently durable to withstand repeated handling
21 for the purposes of mandatory random audits and recounts; and

22 3. uses ink that does not fade, smear, or otherwise
23 degrade and obscure or obliterate the paper record over time;

24 (2) the voting system has been:

25 (i) examined by an independent testing laboratory that is
26 approved by the U.S. Election Assistance Commission **OR THE NATIONAL**
27 **ASSOCIATION OF STATE ELECTION DIRECTORS**; and

1 (ii) shown by the testing laboratory to meet the performance
2 and test standards for electronic voting systems established by the Federal Election
3 Commission or the U.S. Election Assistance Commission; and

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

6 (e) In determining whether a voting system meets the required standards,
7 the State Board shall consider:

8 (1) the commercial availability of the system and its replacement parts
9 and components;

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

11 (3) the cost of implementing the system;

12 (4) the efficiency of the system;

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

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

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

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

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

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

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

21 (f) A voting system selected, certified, and implemented under this section
22 shall:

23 (1) provide access to voters with disabilities that is equivalent to
24 access afforded voters without disabilities without creating a segregated ballot for
25 voters with disabilities;

26 (2) ensure the independent, private casting, inspection, verification,
27 and correction of secret ballots by voters with disabilities in an accessible media by
28 both visual and nonvisual means, including synchronized audio output and enhanced
29 visual display; and

30 (3) comply with both the Americans with Disabilities Act, P.L.
31 101-336, and the Help America Vote Act, P.L. 107-252, including accessibility

1 standards adopted as part of the Voluntary Voting System Guidelines pursuant to the
2 Help America Vote Act.

3 (g) (1) At least one voting system in each polling place on election day
4 shall provide access for voters with disabilities in compliance with subsection (f) of this
5 section.

6 (2) The State Board shall ensure that adequate backup equipment is
7 available and contingency plans are established to ensure compliance with paragraph
8 (1) of this subsection.

9 (h) Before the selection of a voting system, the State Board shall:

10 (1) ensure that an accessible voting system conforms to the access
11 requirements of the Voluntary Voting System Guidelines developed in accordance with
12 the Help America Vote Act in effect at the time of selection; and

13 (2) conduct an accessibility and usability evaluation of the voting
14 system to assess its accessibility and usability by voters with disabilities, including:

15 (i) a public demonstration of the system; and

16 (ii) an evaluation by individuals representing a cross-section of
17 voters with disabilities.

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

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

22 (i) a description of the voting system;

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

26 (iii) local election officials' responsibility for management of the
27 system;

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

30 (v) the supplies and equipment required;

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

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

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

7 (ix) the number of voting stations or voting booths required in
8 each polling place, in relation to the number of registered voters assigned to the
9 polling place;

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

12 (xi) assuring ballot accountability in systems using a document
13 ballot;

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

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

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

18 **(J) NOTWITHSTANDING THE REQUIREMENTS OF SUBSECTIONS (F)(3)**
19 **AND (H)(1) OF THIS SECTION, IF AT THE TIME OF PROCUREMENT OF A VOTING**
20 **SYSTEM THERE ARE NO VOTING SYSTEMS COMMERCIALY AVAILABLE THAT**
21 **SATISFY THE REQUIREMENTS OF SUBSECTIONS (F)(3) AND (H)(1) OF THIS**
22 **SECTION, THE STATE BOARD SHALL SELECT AND CERTIFY THE VOTING SYSTEM**
23 **THAT BEST SATISFIES THE REQUIREMENTS OF SUBSECTIONS (F)(3) AND (H)(1)**
24 **OF THIS SECTION.**

25 SECTION 2. AND BE IT FURTHER ENACTED, That this Act is an emergency
26 measure, is necessary for the immediate preservation of the public health or safety,
27 has been passed by a yea and nay vote supported by three-fifths of all the members
28 elected to each of the two Houses of the General Assembly, and shall take effect from
29 the date it is enacted.