

SENATE BILL 415

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EMERGENCY BILL

9lr2275

By: **Senators Dyson and Conway**

Introduced and read first time: February 2, 2009

Assigned to: Education, Health, and Environmental Affairs

A BILL ENTITLED

1 AN ACT concerning

2 **Election Law – Voting Systems – Requirements**

3 FOR the purpose of specifying that a voting system selected and certified by the State
4 Board of Elections shall meet certain federal performance and test standards;
5 specifying an alternative entity that may serve as the certification agent for
6 testing laboratories for voting systems used in the State; altering and clarifying
7 provisions relating to accessibility standards governing voting systems selected,
8 certified, and implemented in the State; making this Act an emergency
9 measure; and generally relating to voting system selection and certification.

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

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

17 **Article – Election Law**

18 9–102.

19 (a) In this section, a “voter–verifiable paper record” includes:

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

22 (2) a paper ballot prepared by the voter to be mailed to the applicable
23 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 voting
5 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 separated
19 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

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

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

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

5 (1) the commercial availability of the system and its replacement parts
6 and components;

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

8 (3) the cost of implementing the system;

9 (4) the efficiency of the system;

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

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

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

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

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

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

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

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

20 (1) provide access to voters with disabilities that is equivalent to
21 access afforded voters without disabilities without creating a segregated ballot for
22 voters with disabilities;

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

27 (3) comply with [both] the Americans with Disabilities Act, P.L.
28 101-336, and [the Help America Vote Act, P.L. 107-252, including] **BE SHOWN BY AN**
29 **INDEPENDENT TESTING LABORATORY TO MEET THE** accessibility standards
30 [adopted as part of the Voluntary Voting System Guidelines pursuant to the Help

America Vote Act] **FOR VOTING SYSTEMS ESTABLISHED BY THE FEDERAL ELECTION COMMISSION OR THE U.S. ELECTION ASSISTANCE COMMISSION.**

(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] **VERIFY THAT AN INDEPENDENT TESTING LABORATORY HAS SHOWN THAT THE** 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] **FOR VOTING SYSTEMS ESTABLISHED BY THE FEDERAL ELECTION COMMISSION OR THE U.S. ELECTION ASSISTANCE COMMISSION; 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.

(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;

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

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

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

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

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

14 (xi) assuring ballot accountability in systems using a document
15 ballot;

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

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

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

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