

# SENATE BILL 970

G1, B1, L6

9lr3234  
CF HB 1211

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By: **Senator Colburn**

Introduced and read first time: February 23, 2009

Assigned to: Rules

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## A BILL ENTITLED

1 AN ACT concerning

2 **Election Law - Delay in Replacement of Voting System**

3 FOR the purpose of altering the date for the replacement of the State's  
4 direct-recording electronic (DRE) touchscreen voting system with a certain  
5 voter-verified paper record voting system; requiring the State to continue to use  
6 the touchscreen voting system for certain elections until the later of the date  
7 when the State concludes payment for the touchscreen voting system or a  
8 certain other date; altering certain provisions relating to the certification of  
9 voting systems; providing for the application of certain provisions; repealing  
10 provisions of uncodified law relating to the application of a certain prior Act;  
11 and generally relating to the replacement of the State's direct-recording  
12 electronic (DRE) touchscreen voting system.

13 BY repealing and reenacting, with amendments,

14 Article - Election Law

15 Section 9-102

16 Annotated Code of Maryland

17 (2003 Volume and 2008 Supplement)

18 BY repealing

19 Chapter 547 of the Acts of the General Assembly of 2007

20 Section 2

21 BY repealing

22 Chapter 548 of the Acts of the General Assembly of 2007

23 Section 2

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

26 **Article - Election Law**

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 9–102.

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

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

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

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

8 (B) **AS TO PROVISIONS UNDER THIS SECTION RELATING TO A VOTING**  
9 **SYSTEM THAT INCLUDES A VOTER–VERIFIABLE PAPER RECORD THAT IS**  
10 **SELECTED, CERTIFIED, AND IMPLEMENTED BY THE STATE BOARD, THE**  
11 **PROVISIONS SHALL APPLY TO EACH STATEWIDE ELECTION THAT IS REQUIRED**  
12 **TO BE CONDUCTED IN ACCORDANCE WITH THIS ARTICLE OCCURRING ON OR**  
13 **AFTER THE LATER OF:**

14 (1) **THE DATE OF THE FINAL PAYMENT UNDER THE CAPITAL**  
15 **LEASE CONTRACT EXECUTED BY THE STATE IN JANUARY 2002 TO PURCHASE**  
16 **THE DIRECT–RECORDING ELECTRONIC (DRE) TOUCHSCREEN VOTING SYSTEM**  
17 **USED IN POLLING PLACES IN THE STATE; OR**

18 (2) **JANUARY 1, 2016.**

19 [(b)] (C) The State Board shall adopt regulations for the review,  
20 certification, and decertification of voting systems.

21 [(c)] (D) The State Board shall periodically review and evaluate alternative  
22 voting systems.

23 [(d)] (E) The State Board may not certify a voting system unless the State  
24 Board determines that:

25 (1) the voting system will:

26 (i) protect the secrecy of the ballot;

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

28 (iii) count and record all votes accurately;

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

- 1 (v) protect all other rights of voters and candidates;
- 2 (vi) be capable of creating a paper record of all votes cast in  
3 order that an audit trail is available in the event of a recount, including a manual  
4 recount; and
- 5 (vii) provide a voter-verifiable paper record that:
- 6 1. is an individual document that is physically  
7 separated from any other similar document and not part of a continuous roll;
- 8 2. is sufficiently durable to withstand repeated handling  
9 for the purposes of mandatory random audits and recounts; and
- 10 3. uses ink that does not fade, smear, or otherwise  
11 degrade and obscure or obliterate the paper record over time;
- 12 (2) the voting system has been:
- 13 (i) examined by an independent testing laboratory that is  
14 approved by the U.S. Election Assistance Commission; and
- 15 (ii) shown by the testing laboratory to meet the performance  
16 and test standards for electronic voting systems established by the Federal Election  
17 Commission or the U.S. Election Assistance Commission; and
- 18 (3) the public interest will be served by the certification of the voting  
19 system.
- 20 [(e)] (F) In determining whether a voting system meets the required  
21 standards, the State Board shall consider:
- 22 (1) the commercial availability of the system and its replacement parts  
23 and components;
- 24 (2) the availability of continuing service for the system;
- 25 (3) the cost of implementing the system;
- 26 (4) the efficiency of the system;
- 27 (5) the likelihood that the system will malfunction;
- 28 (6) the system's ease of understanding for the voter;
- 29 (7) the convenience of voting afforded by the system;
- 30 (8) the timeliness of the tabulation and reporting of election returns;

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

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

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

5 [(f)] (G) A voting system selected, certified, and implemented under this  
6 section shall:

7 (1) provide access to voters with disabilities that is equivalent to  
8 access afforded voters without disabilities without creating a segregated ballot for  
9 voters with disabilities;

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

14 (3) comply with both the Americans with Disabilities Act, P.L.  
15 101–336, and the Help America Vote Act, P.L. 107–252, including accessibility  
16 standards adopted as part of the Voluntary Voting System Guidelines pursuant to the  
17 Help America Vote Act.

18 [(g)] (H) (1) At least one voting system in each polling place on election  
19 day shall provide access for voters with disabilities in compliance with subsection [(f)]  
20 (G) of this section.

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

24 [(h)] (I) Before the selection of a voting system, the State Board shall:

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

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

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

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

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

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

6                                (i)    a description of the voting system;

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

10                                (iii) local election officials' responsibility for management of the  
11 system;

12                                (iv) the actions required to assure the security of the voting  
13 system;

14                                (v)    the supplies and equipment required;

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

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

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

23                                (ix) the number of voting stations or voting booths required in  
24 each polling place, in relation to the number of registered voters assigned to the  
25 polling place;

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

28                                (xi)   assuring ballot accountability in systems using a document  
29 ballot;

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

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

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

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**Chapter 547 of the Acts of 2007**

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[SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall apply to each election occurring on or after January 1, 2010, that is required to be conducted in accordance with the Election Law Article.]

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**Chapter 548 of the Acts of 2007**

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[SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall apply to each election occurring on or after January 1, 2010, that is required to be conducted in accordance with the Election Law Article.]

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SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2009.