

**Department of Legislative Services**  
Maryland General Assembly  
2009 Session

**FISCAL AND POLICY NOTE**

Senate Bill 415 (Senators Dyson and Conway)  
Education, Health, and Environmental Affairs

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**Election Law - Voting Systems - Requirements**

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This emergency bill allows for certification, by the State Board of Elections (SBE), of a voting system that has been examined by an independent testing laboratory approved by the National Association of State Election Directors (NASD) and shown by the laboratory to meet specified federal performance and test standards for electronic voting systems. The bill also alters specified standards for accessibility for voters with disabilities that a voting system must meet, allowing for a voting system to meet accessibility standards established by either the Federal Election Commission (FEC) or the U.S. Election Assistance Commission (EAC).

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**Fiscal Summary**

**State Effect:** None. The bill's provisions allow for a paper-based voting system that will meet the requirements of Chapter 547 and 548 of 2007. The proposed FY 2010 State budget includes \$5.8 million for a new voting system. The total cost of the system is expected to be paid for through FY 2015.

**Local Effect:** None.

**Small Business Effect:** None.

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**Analysis**

**Current Law:** In order for a voting system to be certified by SBE, the board must determine that the voting system has been examined by an independent testing laboratory approved by EAC and shown to meet the performance and test standards for electronic voting systems established by FEC or EAC.

A voting system selected, certified, and implemented must meet specified requirements relating to the accessibility of the system to voters with disabilities, including that the system must comply with accessibility standards adopted as part of the Voluntary Voting System Guidelines (VVSG) pursuant to the federal Help America Vote Act of 2002 (HAVA). Before the selection of a voting system, SBE must ensure that the system conforms to the access requirements of the VVSG.

**Background:** Chapters 547 and 548 of 2007, enacted following continued scrutiny in Maryland and nationwide of the security and accuracy of direct-recording electronic (DRE) touchscreen voting machines, provide in part that the State Board of Elections (SBE) may not certify a voting system unless it determines the voting system will provide a “voter-verifiable paper record.” Chapters 547 and 548 included the above-mentioned requirement that a voting system must comply with accessibility standards adopted as part of VVSG pursuant to HAVA. The law is applicable to each election occurring on or after January 1, 2010.

EAC, created under HAVA, adopted VVSG in 2005, which became effective December 2007, and administers a voting system testing and certification program in which independent laboratories are accredited by EAC to test voting systems to determine compliance with VVSG. To date, only one voting system has been certified by EAC to VVSG. That voting system, however, does not provide a voter-verifiable paper record as required under the voting system certification requirements of Chapters 547 and 548. It is unclear if, or when, a voting system that will meet the requirements of Chapters 547 and 548 may be certified by EAC to VVSG.

Prior to HAVA, and the adoption of VVSG, voting systems were assessed and qualified by NASED (a nonpartisan association consisting of election directors nationwide) against 1990 and 2002 voting system standards developed by FEC, utilizing independent testing laboratories. SBE indicates that, with the exception of the one voting system certified under VVSG, currently all of the completed examinations of voting systems were conducted by laboratories that were approved by NASED.

**State and Local Fiscal Effect:** The bill is expected to allow for a paper-based voting system, that will meet the requirements of Chapters 547 and 548 of 2007 (as amended by the bill), to be procured prior to, and implemented for, the 2010 elections. The proposed fiscal 2010 State budget includes approximately \$5.8 million for one capital lease payment and contractual services for a new voting system. This amount represents \$2.9 million in State general funds and \$2.9 million in special funds from local election reform payments.

Chapter 564 of 2001, which required SBE to select, certify, and acquire a uniform statewide voting system for both polling places and absentee voting, provides, in uncodified language, that each county must pay its share, based on its voting age population, of one-half of the State's cost of acquiring and operating the uniform statewide voting systems for polling places and absentee voting. Operating costs include the cost of maintenance, storage, printing of ballots, technical support and programming, related supplies and materials, and software licensing fees.

The estimated total cost of the voting system is just under \$39 million, expected to extend from fiscal 2009 through 2015, accounting for capital lease payments and contractual services.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** State Board of Elections, Department of Legislative Services

**Fiscal Note History:** First Reader - February 25, 2009  
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