

HB369 - Foreign Manufacture of Election Systems -

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Joint Committee on Administrative,
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Testimony of Delegate Samuel I. Rosenberg
Before the Senate Education, Health, and Environmental Affairs Committee
In Support Of
House Bill 369
Election Law – Foreign Manufacture of Election Systems –
Notification and Termination of Contract

Mister Chair and Members of the Committee:

The danger of allowing reasonable doubt as to our ability to conduct a free and fair election has been reinforced by the revelation of Russian hacking of government and commercial computer systems.

Today, against the backdrop of election security concerns and strategically motivated cybercrime by other nations, the urgency of maintaining our system is as potent as ever.

"Election security should not be a partisan issue."

Congressman John Sarbanes, the lead sponsor of H.R. 1, the For the People Act of 2021 (originally introduced in 2019), wrote that in his attached letter in support of House Bill 392 of the 2020 session.

House Bill 369 is modeled upon H.R. 1. It is identical to HB 392, as favorably reported by the Ways and Means Committee and enacted by the House of Delegates, 134-0.

Congressman Sarbanes further wrote, "All Americans deserve and expect their votes to count, unencumbered by foreign or domestic interference. While partisanship has, for the time being, delayed comprehensive federal reform efforts, Maryland has an opportunity to once again lead the nation by adopting common-sense reforms to ensure the integrity of the vote and our elections."

As policymakers, we must take into consideration the unique threat of election technology produced in foreign countries, which have no duty to protect our democracy. HB 369 would help secure the supply chain of our election infrastructure and require that our election system comply with the guidelines issued by the United States Election Assistance Commission.

Currently, the State Board of Elections (SBE) may not certify a voting system unless it accurately counts and records the vote, protects the secrecy and security of the ballot, and protects all other rights of voters and candidates. The existing law requires disclosure only of foreign ownership of an election system, but not of the foreign manufacture of or material change to any of its components.

House Bill 369 would enhance election security by requiring SBE to deny contracts to election service providers if the contract does not include a clause mandating disclosure of the foreign manufacture of any component of or any material change to the voting system. The service provider must also disclose all measures taken to ensure that the manufacturing process is secure. Furthermore, the election system provider must have hardware and software developed to optimize security and minimize the risk of malfunction.

HB 369 is a logical next step after the enactment in 2019 of Senate Bill 743, Election Law - Election Service Providers - Contract Clauses and Termination of Contract, which prohibited the SBE from approving a contract with an election service provider unless the contract includes a clause regarding notice of ownership of, investment in, or control of the election service provider by a foreign national.

As our law currently stands, SBE could be stuck in a contract with an election system service provider that changes its manufacture process or makes a material change to it after being awarded the contract. HB 369 requires that if a previously approved election service make changes its manufacture process in a way that would compromise any aspect of its security or make it more vulnerable to foreign interference, the provider must disclose the material changes to any components, new manufacturing process, and any new measures taken to ensure security.

Failure to disclose such changes or failure to adequately protect the security of the election system may result in a voided contract. HB 369 amends the current law to authorize the State Administrator to terminate, in whole or in part, a contract with any election service provider if the Administrator determines foreign manufacturing of an election system or its components could compromise the integrity of conducting a legitimate election.

As recent events have shown, our democracy is fragile and ought not to be taken for granted. To ensure the continued vitality of our free, honest, and fair elections for all Marylanders,

I urge a favorable vote on House Bill 369.

March 25, 2021

Rep. Sarbanes Letter_2020.pdf

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February 4, 2020

Delegate Samuel I. Rosenberg
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Dear Delegate Rosenberg:

I write to commend your efforts to ensure the integrity of Maryland election systems. It is critical that officials at every level of government take seriously the threat of election interference and work to ensure free and fair elections.

During the 2016 election cycle, the United States experienced unprecedented attacks on our nation's election infrastructure. State and local election systems across the country were breached by hostile foreign actors.¹ While there is no evidence that any vote tallies were ultimately altered, the experience was a stark reminder that election officials and policymakers must remain vigilant.² Given the decentralized nature of our nation's election systems, state and local policymakers have a special responsibility to ensure that our elections remain secure and that best security practices are adopted.

House Bill 392 embraces that responsibility, requiring the Maryland State Board of Elections to certify that the State's election systems comply with the guidelines issued by the United States Election Assistance Commission (EAC), pursuant to the Help America Vote Act. HB392 also takes important steps to secure the supply chain of our election infrastructure, while simplifying election system software oversight.

In Congress, we have vigorously pursued complementary reforms to ensure the integrity of our elections. I have been proud to help lead this work as Chair of the Democracy Reform Task Force in the House of Representatives. This past December, we were successful in securing \$425 million in election security funding for states to upgrade and secure existing election

¹ See "REPORT OF THE SELECT COMMITTEE ON INTELLIGENCE UNITED STATES SENATE ON RUSSIAN ACTIVE MEASURES CAMPAIGNS AND INTERFERENCE IN THE 2016 U.S. ELECTION, United States Senate Committee on Intelligence (July 2019).

https://www.intelligence.senate.gov/sites/default/files/documents/Report_Volume1.pdf

² *Ibid.*

systems. This critical support builds on the previously appropriated \$380 million to the EAC for allocation to states to improve election security in 2018, of which the State of Maryland received approximately \$7 million. Still, we must do more to increase the oversight and security of our election system. For example, I strongly support the creation of a national certification program to provide routine monitoring of election infrastructure vendors in an effort to inspire greater confidence in the companies that help execute our elections. At the same time, we must work as a nation to close loopholes that allow foreign disinformation and illicit foreign campaign activity.³ Such legislative reforms were included in the For the People Act (H.R. 1), the SAFE Act (H.R. 2722) and the SHIELD Act (H.R. 4617). I was proud to help author and pass these critical measures in the House of Representatives. Unfortunately, these reforms – and others like them – have been opposed by the Republican-controlled Senate.

Election security should not be a partisan issue. All Americans deserve and expect their votes to count, unencumbered by foreign or domestic interference. While partisanship has, for the time being, delayed comprehensive federal reform efforts, Maryland has an opportunity to once again lead the nation by adopting additional common-sense reforms to ensure the integrity of the vote and our elections.

I applaud your efforts.

Sincerely,



John P. Sarbanes (MD-03)
Member of Congress

³ The Senate has refused to take up either piece of legislation, nor have they considered for a vote any alternative election security reform proposals.