
By: **Delegates Hixson, Patterson, Barve, Bobo, Montgomery, Bozman,
Bronrott, Cardin, C. Davis, Franchot, Healey, Heller, Mandel, Morhaim,
Ramirez, and Ross**

Introduced and read first time: January 23, 2006

Assigned to: Ways and Means

A BILL ENTITLED

1 AN ACT concerning

2 **Election Law - Voting Systems - Voter-Verified Paper Records**

3 FOR the purpose of requiring that certain voting systems produce a paper record of a
4 voter's ballot choices and provide the voter with an opportunity to inspect the
5 paper record before casting a final vote; requiring that the paper records be
6 preserved at the polling place in a certain manner and for certain purposes;
7 requiring that certain voting systems be accessible to certain individuals with
8 disabilities; requiring certain comparisons and audits of certain ballots following
9 an election; requiring public notice and demonstrations regarding certain voting
10 systems and procedures; requiring the State Board of Elections to maintain
11 certain information, to document certain occurrences, and to make certain
12 information publicly available; requiring the Governor to allocate certain
13 resources for certain purposes; defining certain terms; requiring the State Board
14 to adopt certain regulations and certain guidelines; and generally relating to
15 voter-verified paper records for voting systems.

16 BY repealing and reenacting, with amendments,
17 Article - Election Law
18 Section 1-101(xx)
19 Annotated Code of Maryland
20 (2003 Volume and 2005 Supplement)

21 BY renumbering
22 Article - Election Law
23 Section 9-101 through 9-105, respectively
24 to be Section 9-102 through 9-106, respectively
25 Annotated Code of Maryland
26 (2003 Volume and 2005 Supplement)

27 BY adding to
28 Article - Election Law
29 Section 9-101 and 9-107 through 9-112

1 Annotated Code of Maryland
2 (2003 Volume and 2005 Supplement)

3 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
4 MARYLAND, That Section(s) 9-101 through 9-105, respectively, of Article - Election
5 Law of the Annotated Code of Maryland be renumbered to be Section(s) 9-102
6 through 9-106, respectively.

7 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland
8 read as follows:

9 **Article - Election Law**

10 1-101.

11 (xx) (1) "Voting system" means a method of casting and tabulating ballots or
12 votes.

13 (2) "VOTING SYSTEM" INCLUDES A COLLECTION OF DEVICES THAT:

14 (I) ALLOWS A VOTER TO VIEW BALLOTS, SELECT CANDIDATES,
15 AND CAST VOTES; AND

16 (II) AGGREGATES AND TABULATES ALL OF THE VOTES CAST IN AN
17 ELECTION.

18 9-101.

19 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
20 INDICATED.

21 (B) "HAND COUNT" MEANS A COUNTING OF THE VOTES IN WHICH:

22 (1) THE HANDLING OF THE DOCUMENT BALLOT IS DONE BY HUMAN
23 HAND; AND

24 (2) THE IDENTIFICATION OF EACH VOTE IS DETERMINED BY VISUAL
25 INSPECTION OF THE DOCUMENT BALLOT BY A HUMAN BEING.

26 (C) "MANDATORY RANDOM AUDIT" MEANS A HAND-COUNTED AUDIT
27 CONDUCTED ON A ROUTINE BASIS FOLLOWING EACH ELECTION FOR THE PURPOSE
28 OF COMPARING A PERCENTAGE OF VOTER-VERIFIED PAPER RECORDS WITH THE
29 VOTE TALLIES RECORDED BY EACH OF THE FOLLOWING VOTING SYSTEMS:

30 (1) TOUCH-SCREEN OR ELECTRONIC VOTING MACHINES;

31 (2) PRECINCT-BASED OPTICAL SCANNING EQUIPMENT;

32 (3) ABSENTEE BALLOTS AND OTHER DOMESTIC AND OVERSEAS
33 BALLOTS MAILED TO THE LOCAL BOARDS OF ELECTIONS; AND

1 (4) BALLOTS CREATED THROUGH THE USE OF AN ELECTRONIC
2 MARKING DEVICE.

3 (D) "NONVISUAL" MEANS AUDIO-SYNTHESIZED SPEECH.

4 (E) "VOTER-VERIFIED PAPER RECORD" MEANS AN AUDITABLE PAPER RECORD
5 THAT:

6 (1) IS AVAILABLE TO EACH VOTER TO INSPECT AND VERIFY BEFORE THE
7 VOTER'S VOTE IS CAST;

8 (2) IS PRODUCED CONTEMPORANEOUSLY WITH OR EMPLOYED BY ANY
9 VOTING SYSTEM;

10 (3) (I) LISTS THE DESIGNATION OF EACH OFFICE OR QUESTION, AND
11 THE VOTER'S CHOICE IN EACH OFFICE OR QUESTION; OR

12 (II) IF THE VOTER MAKES NO SELECTION IN CONNECTION WITH
13 ANY OFFICE OR QUESTION, NOTES THAT FACT ON THE RECORD THAT IS PRODUCED;

14 (4) IS SUITABLE FOR THE PURPOSES OF MANDATORY RANDOM AUDITS
15 AND RECOUNTS; AND

16 (5) IS MAINTAINED AS THE OFFICIAL TRUE AND CORRECT RECORD OF
17 THE VOTES CAST.

18 (F) "VOTING SYSTEM AGGREGATION AND TABULATION" MEANS THE PROCESS
19 AND THE HARDWARE AND SOFTWARE BY WHICH VOTES RECORDED BY THE VOTING
20 SYSTEM ARE AGGREGATED, TOTALED, AND TABULATED TO DETERMINE THE
21 OUTCOME OF AN ELECTION.

22 9-107.

23 (A) THE VOTING SYSTEM SELECTED AND CERTIFIED SHALL:

24 (1) PRODUCE OR REQUIRE THE USE OF AN INDIVIDUAL
25 VOTER-VERIFIED PAPER RECORD OF THE VOTER'S VOTE; AND

26 (2) ENSURE THAT THE VOTER-VERIFIED PAPER RECORD IS MADE
27 AVAILABLE FOR INSPECTION AND VERIFICATION BY THE VOTER BEFORE THE
28 VOTER'S VOTE IS CAST.

29 (B) A VOTER-VERIFIED PAPER RECORD MAY INCLUDE ANY OF THE
30 FOLLOWING:

31 (1) A PAPER PRINTOUT OF THE VOTER'S VOTE PRODUCED BY A
32 TOUCH-SCREEN OR OTHER ELECTRONIC VOTING MACHINE IF, IN EACH CASE, THE
33 RECORD PERMITS THE VOTER TO VERIFY THE RECORD IN ACCORDANCE WITH THIS
34 SECTION;

1 (2) A PAPER BALLOT PREPARED BY THE VOTER FOR THE PURPOSE OF
2 BEING READ BY A PRECINCT-BASED OPTICAL SCANNER;

3 (3) A PAPER BALLOT PREPARED BY THE VOTER TO BE MAILED TO THE
4 APPLICABLE LOCAL BOARD, WHETHER MAILED FROM A DOMESTIC OR AN OVERSEAS
5 LOCATION; OR

6 (4) A PAPER BALLOT CREATED THROUGH THE USE OF A BALLOT
7 MARKING DEVICE.

8 (C) EACH VOTER-VERIFIED PAPER RECORD SHALL:

9 (1) BE AN INDIVIDUAL DOCUMENT THAT IS PHYSICALLY SEPARATED
10 FROM ANY OTHER SIMILAR DOCUMENT AND NOT A CONTINUOUS ROLL;

11 (2) BE SUFFICIENTLY DURABLE TO WITHSTAND REPEATED HANDLING
12 FOR PURPOSES OF MANDATORY RANDOM AUDITS AND RECOUNTS; AND

13 (3) USE INK THAT DOES NOT FADE, SMEAR, OR OTHERWISE DEGRADE
14 AND OBSCURE OR OBLITERATE THE PAPER RECORD OVER TIME.

15 (D) BEFORE THE PERMANENT VOTER-VERIFIED PAPER RECORD IS
16 PRESERVED IN ACCORDANCE WITH THIS SECTION, A VOTER SHALL BE PROVIDED AN
17 OPPORTUNITY TO CORRECT ANY ERROR MADE BY THE VOTING SYSTEM AND
18 PRESENTED WITH THE ABILITY TO CORRECT ANY ERROR ON THE VOTER-VERIFIED
19 PAPER RECORD.

20 (E) (1) EACH VOTER-VERIFIED PAPER RECORD PRODUCED SHALL BE
21 SUITABLE FOR A MANDATORY RANDOM AUDIT HAND COUNT IN ACCORDANCE WITH §
22 9-110 OF THIS SUBTITLE.

23 (2) IN THE EVENT OF ANY INCONSISTENCY OR IRREGULARITY BETWEEN
24 AN ELECTRONIC RECORD AND THE INDIVIDUAL VOTER-VERIFIED PAPER RECORD,
25 THE INDIVIDUAL VOTER-VERIFIED PAPER RECORD SHALL BE THE OFFICIAL TRUE
26 AND CORRECT RECORD OF THE VOTES CAST.

27 (3) THE VOTER-VERIFIED PAPER RECORD SHALL:

28 (I) BE PRESERVED AND RETAINED IN A MANNER THAT MAKES IT
29 IMPOSSIBLE TO ASSOCIATE A VOTER WITH THE RECORD OF THE VOTER'S VOTE; AND

30 (II) BE STORED BY A LOCAL BOARD IN A PLACE AND MANNER THAT
31 IS SECURE FOR AT LEAST 1 YEAR AFTER THE ELECTION.

32 9-108.

33 (A) A VOTING SYSTEM APPROVED BY THE STATE BOARD UNDER THIS ARTICLE
34 SHALL HAVE THE ABILITY FOR A VOTER TO CAST AND VERIFY THE VOTER'S
35 SELECTIONS BY BOTH VISUAL AND NONVISUAL MEANS.

1 (B) AT LEAST ONE VOTING SYSTEM IN EACH POLLING PLACE ON ELECTION
2 DAY SHALL PROVIDE ACCESS FOR INDIVIDUALS WITH DISABILITIES AND AFFORD
3 THE VOTER THE OPPORTUNITY FOR PRIVATE AND INDEPENDENT REVIEW,
4 ACCEPTANCE, OR REJECTION OF THE BALLOT AS THE VOTER INTENDS TO CAST IT.

5 (C) THE STATE BOARD SHALL ADOPT REGULATIONS GOVERNING ANY VOTING
6 SYSTEM USED FOR AN ELECTION GOVERNED BY THIS ARTICLE TO ENSURE THAT THE
7 VOTING SYSTEM PROVIDES EQUIVALENT ACCESS FOR INDIVIDUALS WHO ARE BLIND
8 OR PARTIALLY SIGHTED OR WHO HAVE OTHER DISABILITIES AS THE ACCESS THAT IS
9 AFFORDED INDIVIDUALS WITHOUT DISABILITIES.

10 9-109.

11 (A) THE VOTING SYSTEM AGGREGATION AND TABULATION EQUIPMENT
12 EMPLOYED BY THE STATE TO STORE, AGGREGATE, AND TOTAL THE VOTES CAST BY
13 VOTERS SHALL ONLY RECEIVE DATA AND TRANSFER DATA BY DISK AND TAPE OR
14 OTHER PHYSICAL MEANS.

15 (B) IN AGGREGATING AND TABULATING ELECTION RESULTS, THE ACCURACY
16 OF THE RESULTS SHALL TAKE PRECEDENCE OVER THE SPEED WITH WHICH THE
17 RESULTS ARE POSTED.

18 (C) THE SOFTWARE AND HARDWARE USED IN THE VOTING SYSTEM
19 AGGREGATION AND TABULATION PROCESS SHALL BE CERTIFIED AT LEAST 30 DAYS
20 PRIOR TO ITS DEPLOYMENT IN EACH ELECTION.

21 (D) PROMPTLY AFTER THE CLOSE OF THE POLLS FOLLOWING EACH
22 ELECTION, THE ELECTION JUDGES SHALL POST IN AN AREA ACCESSIBLE TO THE
23 PUBLIC A PAPER RECORD OF THE TOTAL OF ALL THE VOTES CAST AT THAT POLLING
24 PLACE.

25 (E) PRIOR TO THE COMMENCEMENT OF THE MANDATORY RANDOM AUDIT
26 PROCESS, INCLUDING THE AUDIT DRAWING PRESCRIBED UNDER § 9-110 OF THIS
27 SUBTITLE, EACH LOCAL BOARD AND THE STATE BOARD SHALL MAKE THE INITIAL
28 ELECTION RESULTS OF ALL OF THE VOTES CAST AT EACH POLLING PLACE
29 AVAILABLE ON A PUBLICLY ACCESSIBLE INTERNET WEBSITE.

30 (F) THE PAPER RECORDS OF THE INITIAL VOTE TOTALS POSTED AT EACH
31 POLLING PLACE SHALL BE RETAINED IN A SECURE LOCATION AND MADE AVAILABLE
32 FOR PUBLIC REVIEW UNDER SECURE CONDITIONS FOR A PERIOD OF 1 YEAR AFTER
33 THE DATE OF EACH ELECTION.

34 9-110.

35 (A) (1) AFTER THE INITIAL TOTAL OF ALL VOTES CAST AT EACH POLLING
36 PLACE IN EACH COUNTY AND STATEWIDE ELECTION HAVE BEEN PUBLICLY POSTED
37 ON ITS PUBLICLY ACCESSIBLE INTERNET WEBSITE BY EACH LOCAL BOARD AND THE
38 STATE BOARD, EACH LOCAL BOARD SHALL CONDUCT A MANDATORY RANDOM AUDIT
39 HAND COUNT OF THE ELECTION RESULTS.

1 (2) EACH AUDIT SHALL COMPARE THE RESULTS OF ALL OF THE
2 ELECTRONIC RECORDS PRODUCED BY THE VOTING SYSTEM WITH THE
3 VOTER-VERIFIED PAPER RECORDS PRODUCED BY THE VOTING SYSTEM. IN THE
4 EVENT OF ANY INCONSISTENCY OR IRREGULARITY BETWEEN AN ELECTRONIC
5 RECORD AND THE CORRESPONDING PAPER RECORD, THE PAPER RECORD SHALL BE
6 THE OFFICIAL TRUE AND CORRECT RECORD OF THE VOTES CAST.

7 (3) THE MANDATORY RANDOM AUDIT HAND COUNT SHALL:

8 (I) COMPARE A SELECT PERCENTAGE OF THE ELECTRONIC
9 RECORDS OF EACH VOTE CAST IN RANDOMLY SELECTED POLLING PLACES WITH THE
10 CORRESPONDING INDIVIDUAL VOTER-VERIFIED PAPER RECORDS FOR A RANDOMLY
11 SELECTED NUMBER OF BALLOTS;

12 (II) BE CONSTRUCTED ON AN ENTIRELY RANDOM BASIS USING A
13 UNIFORM DISTRIBUTION IN WHICH ALL POLLING PLACES IN THE COUNTY HAVE AN
14 EQUAL CHANCE OF BEING SELECTED;

15 (III) INCLUDE ALL VOTES CAST IN NO LESS THAN 5% OF ALL OF THE
16 POLLING PLACES IN THE COUNTY;

17 (IV) BE OPEN TO THE GENERAL PUBLIC AND THE PRESS FOR
18 OBSERVATION, AND INCLUDE AN INVITATION AND AFFORD ACCESS TO AT LEAST
19 ONE REPRESENTATIVE FROM EACH OFFICIALLY REGISTERED POLITICAL PARTY IN
20 THE STATE TO PARTICIPATE IN THE AUDIT PROCESS; AND

21 (V) INCLUDE A RANDOM DRAWING, THAT IS OPEN TO
22 OBSERVATION BY THE PUBLIC AND THE PRESS, TO DETERMINE WHICH POLLING
23 PLACES IN EACH COUNTY WILL BE SELECTED FOR THE AUDIT.

24 (B) IF A DISCREPANCY IS DISCOVERED BETWEEN THE VOTE TALLIES
25 PRODUCED BY THE VOTING SYSTEM AND THE VOTE TALLIES OF VOTER-VERIFIED
26 PAPER RECORDS, THE STATE BOARD SHALL IMMEDIATELY CONDUCT AN EXPANDED
27 AUDIT OF THOSE POLLING PLACES OR, AT THE STATE BOARD'S DISCRETION, OF AN
28 ENTIRE COUNTY IN ORDER TO:

29 (1) DETERMINE THE EXTENT OF ANY INCONSISTENCIES OR
30 IRREGULARITIES; AND

31 (2) RESOLVE ANY CONCERNS AND ENSURE THE ACCURACY OF THE
32 RESULTS.

33 (C) (1) ONCE THE EXTENT OF ANY INCONSISTENCIES OR IRREGULARITIES
34 IS DETERMINED, THE STATE BOARD SHALL CONDUCT A FURTHER INVESTIGATION OF
35 THE VOTING SYSTEM AS IT DEEMS NECESSARY TO CERTIFY THE RESULTS OF THE
36 ELECTION IN ACCORDANCE WITH APPLICABLE STATE LAW.

37 (2) IN ORDER TO RESOLVE THE OUTCOME AND CERTIFY THE RESULTS
38 OF AN ELECTION, THE STATE BOARD SHALL ORDER THAT A PARTIAL OR COMPLETE
39 RECOUNT BE CONDUCTED IN THE EVENT THAT THE RESULTS OF THE AUDIT CALL

1 INTO QUESTION THE OUTCOME OF THE ELECTION FOR ANY FEDERAL, STATE, OR
2 LOCAL CANDIDATE OR QUESTION.

3 (D) (1) ANY INCONSISTENCIES OR IRREGULARITIES IDENTIFIED BETWEEN
4 THE CORRESPONDING AUDIT RESULTS AND THE INITIAL VOTE COUNTS SHALL BE
5 POSTED PUBLICLY ON THE INTERNET WEBSITE OF THE STATE BOARD, ALONG WITH
6 A DESCRIPTION OF THE ACTIONS TAKEN BY THE STATE BOARD TO RESOLVE THE
7 DISCREPANCIES AND ANY OTHER RELATED CONCERNS.

8 (2) A LOCAL BOARD MAY NOT CERTIFY THE RESULTS OF ANY ELECTION
9 THAT IS SUBJECT TO AN AUDIT UNDER THIS SECTION PRIOR TO THE COMPLETION OF
10 THE AUDIT AND THE ANNOUNCEMENT AND PUBLICATION OF THE AUDIT RESULTS
11 UNDER PARAGRAPH (1) OF THIS SUBSECTION.

12 (3) AS TO ANY INCONSISTENCIES OR IRREGULARITIES DISCOVERED
13 UNDER THIS SECTION, THE VOTER-VERIFIED PAPER RECORDS SHALL BE THE
14 OFFICIAL TRUE AND CORRECT RECORD OF THE VOTES CAST.

15 9-111.

16 (A) TO ENSURE PROPER FUNCTIONING AND MAINTAIN PUBLIC CONFIDENCE
17 IN THE VOTING SYSTEM, SUBSEQUENT TO CERTIFICATION AND BEFORE ITS USE IN
18 EACH ELECTION, A LOCAL BOARD SHALL CONDUCT A PUBLIC DEMONSTRATION OF
19 THE VOTING SYSTEM IN THE COUNTY, INCLUDING THE VOTE AGGREGATION AND
20 TABULATION EQUIPMENT TO BE USED IN THE ELECTION.

21 (B) (1) THE PUBLIC DEMONSTRATION SHALL BE OPEN TO THE PRESS AND
22 THE PUBLIC FOR FULL INSPECTION.

23 (2) THE DATE, TIME, AND LOCATION OF EACH DEMONSTRATION SHALL
24 BE ANNOUNCED PUBLICLY AND POSTED CONSPICUOUSLY ON THE INTERNET
25 WEBSITE OF THE STATE BOARD NO LATER THAN 7 BUSINESS DAYS BEFORE THE
26 DATE THE DEMONSTRATION IS SCHEDULED TO TAKE PLACE.

27 (3) THE DEMONSTRATION SHALL TAKE PLACE NO SOONER THAN 30
28 DAYS NOR LESS THAN 10 DAYS BEFORE EACH ELECTION.

29 9-112.

30 (A) THE STATE BOARD SHALL AT ALL TIMES MAINTAIN INFORMATION
31 REGARDING THE OCCURRENCE OF VOTING SYSTEM FAILURES THAT IT IDENTIFIES,
32 WHETHER DURING:

33 (1) PREELECTION TESTING AND CERTIFICATION PROCEDURES;

34 (2) THE CONDUCT OF ELECTION ACTIVITIES;

35 (3) POSTELECTION AUDITS, RECOUNT PROCESSES, OR ELECTION
36 RESULTS CERTIFICATION PROCEDURES; OR

1 (4) AT ANY OTHER TIME.

2 (B) THE VOTING SYSTEM FAILURES DOCUMENTED SHALL INCLUDE
3 INFORMATION REGARDING:

4 (1) EQUIPMENT BREAKDOWNS;

5 (2) POWER OUTAGES AND SURGES;

6 (3) UNUSUAL OR MALFUNCTIONING COMPUTER HARDWARE AND
7 SOFTWARE PROBLEMS; AND

8 (4) DISCREPANCIES IN VOTING SYSTEM AUDITING AND CERTIFICATION
9 PROCEDURES.

10 (C) THE STATE BOARD SHALL:

11 (1) MAINTAIN A PERMANENT RECORD OF THE INFORMATION THAT IT
12 ACCUMULATES UNDER THIS SECTION; AND

13 (2) MAKE THE INFORMATION AVAILABLE TO THE PUBLIC ON ITS
14 WEBSITE WITHIN 48 HOURS AFTER IT IS DISCOVERED, WHETHER BY THE STATE
15 BOARD OR ANOTHER PERSON CHARGED WITH CERTIFYING OR DECERTIFYING
16 ELECTION RESULTS OR AN ELECTION VOTING SYSTEM.

17 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall apply to
18 each election occurring on or after the effective date of this Act that is required to be
19 conducted in accordance with the Election Law Article.

20 SECTION 4. AND BE IT FURTHER ENACTED, That the Governor shall
21 allocate the resources required to implement the requirements of this Act, including
22 any gift received by the State for the purposes of this Act under § 2-201 of the State
23 Finance and Procurement Article, and, except for federal funds received by the State
24 to implement the requirements of the Help America Vote Act 2002, any federal or
25 other special funds or grant received by the State in accordance with federal and
26 State law for the purposes of this Act.

27 SECTION 5. AND BE IT FURTHER ENACTED, That this Act shall take effect
28 June 1, 2006.