

CHAPTER 548

(House Bill 18)

AN ACT concerning

Election Law – Voting Systems – ~~Voter-Verified~~ Voter-Verifiable Paper Records

FOR the purpose of ~~requiring that certain voting systems produce a paper record of a voter's ballot choices and provide the voter with an opportunity to inspect the paper record before casting a final vote; requiring that the paper records be preserved at the polling place in a certain manner and for certain purposes; requiring that certain voting systems be accessible to certain individuals with disabilities; requiring certain comparisons and audits of certain ballots following an election; requiring public notice and demonstrations regarding certain voting systems and procedures; requiring the State Board of Elections to maintain certain information, to document certain occurrences, and to make certain information publicly available; requiring the Governor to allocate certain resources for certain purposes; making this Act subject to a certain contingency; requiring the Department of Budget and Management to make a certain determination and provide a certain notification by a certain time; defining certain terms; requiring the State Board to adopt certain regulations and certain guidelines; and generally relating to voter-verified paper records for voting systems~~ prohibiting the State Board of Elections from certifying a voting system unless the State Board determines that the voting system provides voter-verifiable paper records; defining a certain term; requiring that certain voting systems be accessible to certain individuals with disabilities; requiring the State Board to provide certain training on the voting system to election judges; requiring the Attorney General to make a certain determination and to provide notice of the determination in writing to the Department of Legislative Services; making this Act subject to a certain contingency; requiring the Department of Budget and Management to make a certain determination and provide a certain notification by a certain time; providing for the application of this Act; and generally relating to voting systems and voter-verifiable paper records.

BY renumbering

~~Article – Election Law~~

~~Section 9-101 through 9-105, respectively~~

~~to be Section 9-102 through 9-106, respectively~~

~~Annotated Code of Maryland~~

~~(2003 Volume and 2006 Supplement)~~

~~BY repealing and reenacting, with amendments,
Article – Election Law
Section 1–101(xx)
Annotated Code of Maryland
(2003 Volume and 2006 Supplement)~~

~~BY adding to
Article – Election Law
Section 9–101 and 9–107 through 9–112
Annotated Code of Maryland
(2003 Volume and 2006 Supplement)~~

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

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

~~*BY repealing and reenacting, with amendments,
Article – Election Law
Section 9–102 and 10–206
Annotated Code of Maryland
(2003 Volume and 2006 Supplement)*~~

~~**Article – Election Law**~~

~~1–101.~~

~~(xx) (1) “Voting system” means a method of casting and tabulating ballots or votes.~~

~~(2) “VOTING SYSTEM” INCLUDES A COLLECTION OF DEVICES THAT:~~

~~(i) ALLOW A VOTER TO VIEW BALLOTS, SELECT CANDIDATES, AND CAST VOTES; AND~~

~~(H) AGGREGATE AND TABULATE ALL OF THE VOTES CAST IN AN ELECTION.~~

~~9-101.~~

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

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

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

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

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

~~(1) TOUCH-SCREEN OR OTHER ELECTRONIC VOTING MACHINES;~~

~~(2) PRECINCT-BASED OPTICAL SCANNING EQUIPMENT;~~

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

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

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

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

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

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

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

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

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

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

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

~~9-107.~~

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

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

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

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

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

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

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

~~(4) A PAPER BALLOT PREPARED BY A VOTER IN A POLLING PLACE AS A PROVISIONAL BALLOT; OR~~

~~(4)(5) A PAPER BALLOT CREATED THROUGH THE USE OF A BALLOT MARKING DEVICE.~~

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

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

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

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

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

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

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

~~(3) THE VOTER VERIFIED PAPER RECORD SHALL:~~

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

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

~~9-108.~~

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

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

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

~~(A) A VOTING SYSTEM SELECTED, CERTIFIED, AND IMPLEMENTED UNDER THIS SECTION SHALL:~~

~~(1) PROVIDE ACCESS TO VOTERS WITH DISABILITIES THAT IS EQUIVALENT TO ACCESS AFFORDED VOTERS WITHOUT DISABILITIES WITHOUT CREATING A SEGREGATED BALLOT FOR VOTERS WITH DISABILITIES;~~

~~(2) ENSURE THE INDEPENDENT, PRIVATE CASTING, INSPECTION, VERIFICATION, AND CORRECTION OF SECRET BALLOTS BY VOTERS WITH DISABILITIES IN AN ACCESSIBLE MEDIA BY BOTH VISUAL AND NONVISUAL~~

~~MEANS, INCLUDING SYNCHRONIZED AUDIO OUTPUT AND ENHANCED VISUAL DISPLAY; AND~~

~~(3) COMPLY WITH BOTH THE AMERICANS WITH DISABILITIES ACT, P.L. 101-336, AND THE HELP AMERICA VOTE ACT, P.L. 107-252, INCLUDING ACCESSIBILITY STANDARDS ADOPTED AS PART OF THE VOLUNTARY VOTING SYSTEM GUIDELINES PURSUANT TO THE HELP AMERICA VOTE ACT.~~

~~(B) (1) AT LEAST ONE VOTING SYSTEM IN EACH POLLING PLACE ON ELECTION DAY SHALL PROVIDE ACCESS FOR VOTERS WITH DISABILITIES IN COMPLIANCE WITH SUBSECTION (A) OF THIS SECTION.~~

~~(2) THE STATE BOARD SHALL ENSURE THAT ADEQUATE BACK UP EQUIPMENT IS AVAILABLE AND CONTINGENCY PLANS ARE ESTABLISHED TO ENSURE COMPLIANCE WITH PARAGRAPH (1) OF THIS SUBSECTION.~~

~~(C) PRIOR TO THE SELECTION OF A VOTING SYSTEM, THE STATE BOARD SHALL:~~

~~(1) ENSURE THAT AN ACCESSIBLE VOTING SYSTEM CONFORMS TO THE ACCESS REQUIREMENTS OF THE VOLUNTARY VOTING SYSTEM GUIDELINES DEVELOPED PURSUANT TO THE HELP AMERICA VOTE ACT IN EFFECT AT THE TIME OF SELECTION; 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~~

~~(H) AN EVALUATION BY INDIVIDUALS REPRESENTING A CROSS SECTION OF VOTERS WITH DISABILITIES.~~

~~(D) (1) THE STATE BOARD SHALL PROVIDE ELECTION JUDGES WITH UNIFORM STATEWIDE TRAINING ON THE VOTING SYSTEM, INCLUDING BUT NOT LIMITED TO:~~

~~(I) ALL FEATURES OF THE VOTING SYSTEM THAT PROVIDE ACCESS TO VOTERS WITH DISABILITIES; AND~~

~~(H) THE RIGHTS OF VOTERS WITH DISABILITIES, INCLUDING THOSE RIGHTS GUARANTEED BY STATE AND FEDERAL LAW.~~

~~9-109.~~

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

~~(B) IN AGGREGATING AND TABULATING ELECTION RESULTS, THE ACCURACY OF THE RESULTS SHALL TAKE PRIORITY OVER THE SPEED WITH WHICH THE RESULTS ARE POSTED.~~

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

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

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

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

~~9-110.~~

~~(A) (1) WITHIN 3 DAYS AFTER THE INITIAL TOTAL OF ALL VOTES CAST AT EACH POLLING PLACE IN EACH COUNTY AND STATEWIDE ELECTION HAVE BEEN PUBLICLY POSTED ON ITS PUBLICLY ACCESSIBLE INTERNET WEBSITE BY EACH LOCAL BOARD AND THE STATE BOARD PRIOR TO~~

~~CERTIFYING ITS ELECTION RESULTS, EACH LOCAL BOARD SHALL CONDUCT A MANDATORY RANDOM AUDIT HAND COUNT OF THE ELECTION RESULTS.~~

~~(2) (i) EACH AUDIT SHALL COMPARE THE RESULTS OF ALL OF THE ELECTRONIC RECORDS PRODUCED BY THE VOTING SYSTEM WITH THE VOTER-VERIFIED PAPER RECORDS PRODUCED BY THE VOTING SYSTEM.~~

~~(ii) IF THERE IS ANY INCONSISTENCY OR IRREGULARITY BETWEEN AN ELECTRONIC RECORD AND THE CORRESPONDING PAPER RECORD, THE PAPER RECORD SHALL BE THE OFFICIAL TRUE AND CORRECT RECORD OF THE VOTES CAST.~~

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

~~(i) COMPARE THE ELECTRONIC RECORDS IN RANDOMLY SELECTED POLLING PLACES WITH THE CORRESPONDING INDIVIDUAL VOTER-VERIFIED PAPER RECORDS;~~

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

~~(iii) INCLUDE ALL VOTES CAST IN NO LESS THAN 5% 2% OF ALL OF THE POLLING PLACES IN THE COUNTY, BUT NOT LESS THAN ONE POLLING PLACE IN THE COUNTY;~~

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

~~(v) INCLUDE A RANDOM DRAWING, THAT IS OPEN TO OBSERVATION BY THE PUBLIC AND THE PRESS, TO DETERMINE WHICH POLLING PLACES IN EACH COUNTY WILL BE SELECTED FOR THE AUDIT; AND~~

~~(vi) BEGIN IMMEDIATELY AFTER THE POLLING PLACES UNDER SUBPARAGRAPH (i) OF THIS PARAGRAPH ARE SELECTED.~~

~~(b) (1) IF A DISCREPANCY IS DISCOVERED BETWEEN THE VOTE TALLIES PRODUCED BY THE VOTING SYSTEM AND THE VOTE TALLIES OF~~

~~VOTER-VERIFIED PAPER RECORDS MEETS THE LEVEL OF DISCREPANCY ESTABLISHED UNDER REGULATIONS ADOPTED IN ACCORDANCE WITH PARAGRAPH (2) OF THIS SUBSECTION, THE STATE BOARD SHALL IMMEDIATELY CONDUCT AN EXPANDED AUDIT OF ADDITIONAL RANDOMLY SELECTED POLLING PLACES IN THE COUNTY IN ORDER TO:~~

~~(1) (I) DETERMINE THE EXTENT OF ANY INCONSISTENCIES OR IRREGULARITIES; AND~~

~~(2) (II) RESOLVE ANY CONCERNS AND ENSURE THE ACCURACY OF THE RESULTS.~~

~~(2) (I) THE STATE BOARD OF ELECTIONS SHALL ADOPT REGULATIONS GOVERNING THE ADMINISTRATION OF AN EXPANDED AUDIT.~~

~~(II) THE REGULATIONS SHALL INCLUDE THE LEVEL OF DISCREPANCY NEEDED IN ORDER FOR AN EXPANDED AUDIT TO BE REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION.~~

~~(C) (1) ONCE THE EXTENT OF ANY INCONSISTENCIES OR IRREGULARITIES IS DETERMINED, THE STATE BOARD SHALL CONDUCT A THOROUGH INVESTIGATION OF THE VOTING SYSTEM BEFORE THE RESULTS OF THE ELECTION ARE CERTIFIED IN ACCORDANCE WITH APPLICABLE STATE LAW.~~

~~(2) IN ORDER TO RESOLVE THE OUTCOME AND CERTIFY THE RESULTS OF AN ELECTION, THE STATE BOARD SHALL ORDER THAT A RECOUNT BE CONDUCTED IN THE EVENT THAT THE RESULTS OF THE AUDIT CALL INTO QUESTION THE OUTCOME OF THE ELECTION FOR ANY FEDERAL, STATE, OR LOCAL CANDIDATE OR QUESTION.~~

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

~~(2) A LOCAL BOARD MAY NOT CERTIFY THE RESULTS OF ANY ELECTION THAT IS SUBJECT TO AN AUDIT UNDER THIS SECTION BEFORE THE~~

~~COMPLETION OF THE AUDIT AND THE ANNOUNCEMENT AND PUBLICATION OF THE AUDIT RESULTS UNDER PARAGRAPH (1) OF THIS SUBSECTION.~~

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

~~9-111.~~

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

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

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

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

~~9-112.~~

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

~~(1) PREELECTION TESTING AND CERTIFICATION PROCEDURES;~~

~~(2) THE CONDUCT OF ELECTION ACTIVITIES;~~

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

~~(4) ANY OTHER TIME.~~

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

~~(1) EQUIPMENT BREAKDOWNS;~~

~~(2) POWER OUTAGES AND SURGES;~~

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

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

~~(C) THE STATE BOARD SHALL:~~

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

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

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

Article - Election Law

9-102.

(A) IN THIS SECTION, A “VOTER-VERIFIABLE PAPER RECORD” INCLUDES:

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

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

(3) A PAPER BALLOT CREATED THROUGH THE USE OF A BALLOT MARKING DEVICE.

[(a)] (B) The State Board shall adopt regulations for the review, certification, and decertification of voting systems.

[(b)] (C) The State Board shall periodically review and evaluate alternative voting systems.

[(c)] (D) The State Board may not certify a voting system unless the State Board determines that:

(1) the voting system will:

(i) protect the secrecy of the ballot;

(ii) protect the security of the voting process;

(iii) count and record all votes accurately;

(iv) accommodate any ballot used under this article;

(v) protect all other rights of voters and candidates; [and]

(vi) be capable of creating a paper record of all votes cast in order that an audit trail is available in the event of a recount, INCLUDING A MANUAL RECOUNT; AND

(VII) PROVIDE A VOTER-VERIFIABLE PAPER RECORD THAT:

1. IS AN INDIVIDUAL DOCUMENT THAT IS PHYSICALLY SEPARATED FROM ANY OTHER SIMILAR DOCUMENT AND NOT PART OF A CONTINUOUS ROLL;

2. IS SUFFICIENTLY DURABLE TO WITHSTAND REPEATED HANDLING FOR THE PURPOSES OF MANDATORY RANDOM AUDITS AND RECOUNTS; AND

3. USES INK THAT DOES NOT FADE, SMEAR, OR OTHERWISE DEGRADE AND OBSCURE OR OBLITERATE THE PAPER RECORD OVER TIME;

(2) the voting system has been:

(i) examined by an independent testing laboratory that is approved by the [National Association of State Election Directors] U.S. ELECTION ASSISTANCE COMMISSION; and

(ii) shown by the testing laboratory to meet the performance and test standards for electronic voting systems established by the Federal Election Commission OR THE U.S. ELECTION ASSISTANCE COMMISSION; and

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

[(d)] (E) In determining whether a voting system meets the required standards, the State Board shall consider:

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

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

(3) the cost of implementing the system;

(4) the efficiency of the system;

(5) the likelihood that the system will malfunction;

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

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

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

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

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

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

(F) A VOTING SYSTEM SELECTED, CERTIFIED, AND IMPLEMENTED UNDER THIS SECTION SHALL:

(1) PROVIDE ACCESS TO VOTERS WITH DISABILITIES THAT IS EQUIVALENT TO ACCESS AFFORDED VOTERS WITHOUT DISABILITIES WITHOUT CREATING A SEGREGATED BALLOT FOR VOTERS WITH DISABILITIES;

(2) ENSURE THE INDEPENDENT, PRIVATE CASTING, INSPECTION, VERIFICATION, AND CORRECTION OF SECRET BALLOTS BY VOTERS WITH DISABILITIES IN AN ACCESSIBLE MEDIA BY BOTH VISUAL AND NONVISUAL MEANS, INCLUDING SYNCHRONIZED AUDIO OUTPUT AND ENHANCED VISUAL DISPLAY; AND

(3) COMPLY WITH BOTH THE AMERICANS WITH DISABILITIES ACT, P.L. 101-336, AND THE HELP AMERICA VOTE ACT, P.L. 107-252, INCLUDING ACCESSIBILITY STANDARDS ADOPTED AS PART OF THE VOLUNTARY VOTING SYSTEM GUIDELINES PURSUANT TO THE HELP AMERICA VOTE ACT.

(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 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; 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.

[(e)] (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;

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

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

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

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

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

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

(xii) the actions required to tabulate votes; and

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

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

10-206.

(a) In consultation with the local boards, the State Board shall:

(1) develop a program of instruction of election judges; and

(2) oversee the implementation of the program of instruction.

(b) The training materials utilized by the program may include:

(1) an instruction manual and other written directives;

(2) curriculum for training sessions; and

(3) audiovisuals.

(c) The State Board shall develop a process for the evaluation of the training program and the performance of the polling place staff in each county.

(d) To the extent appropriate, the training program shall be specific to each of the voting systems used in polling places in the State.

(E) (1) THE STATE BOARD SHALL PROVIDE ELECTION JUDGES WITH UNIFORM STATEWIDE TRAINING ON THE VOTING SYSTEM, INCLUDING:

(I) ALL FEATURES OF THE VOTING SYSTEM THAT PROVIDE ACCESS TO VOTERS WITH DISABILITIES; AND

(II) THE RIGHTS OF VOTERS WITH DISABILITIES, INCLUDING THOSE RIGHTS GUARANTEED BY STATE AND FEDERAL LAW.

[(e)] (F) Each local board shall conduct election judge training based on the program developed by the State Board.

[(f)] (G) (1) Except as provided in paragraph (2) of this subsection, each election judge shall participate in the training program provided for in subsection (a) of this section.

(2) An election judge who is appointed under emergency circumstances is not required to attend the course of instruction.

SECTION ~~2~~ 2. AND BE IT FURTHER ENACTED, That this Act shall apply to each election occurring on or after ~~March~~ January 1, 2008 ~~2010~~, that is required to be conducted in accordance with the Election Law Article.

SECTION 3. AND BE IT FURTHER ENACTED, That, if the Attorney General determines on or after the effective date of this Act that any provision of this Act is in conflict with any law of the United States or a rule, regulation, or policy of the U.S. Election Assistance Commission, the conflicting provision of this Act shall be abrogated and of no force or effect. The Attorney General, within 5 days after determining the existence of a conflict, shall notify in writing the Department of Legislative Services, Legislative Services Building, 90 State Circle, Annapolis, MD 21401.

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

SECTION 4. AND BE IT FURTHER ENACTED, That this Act is contingent on the appropriation of sufficient general, special, or federal funds in the State budget no later than fiscal year 2009 for the State Board of Elections to perform the functions set forth in Section ~~2~~ 1 of this Act, and if sufficient funds are not appropriated in the State budget to the State Board of Elections by fiscal year 2009 to perform the functions set forth in Section ~~2~~ 1 of this Act, this Act shall be null and void without the necessity of further action by the General Assembly. Within 10 days after the fiscal year 2009 budget has been enacted by the General Assembly, the Department of Budget and Management shall determine and notify the Department of Legislative Services

whether sufficient general, special, or federal funds have been appropriated in the fiscal year 2009 budget for the State Board of Elections to perform the functions set forth in Section ~~2~~ 1 of this Act.

SECTION 5. AND BE IT FURTHER ENACTED, That, subject to ~~Section 4~~ Sections 2 through 4 of this Act, this Act shall take effect ~~July~~ October 1, 2007.

Approved by the Governor, May 17, 2007.