

SENATE BILL 392

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~~EMERGENCY BILL~~

71r2055

By: **Senators Kasemeyer, Astle, Brinkley, Brochin, Colburn, Conway, Currie, DeGrange, Della, Edwards, Exum, Forehand, Frosh, Garagiola, Gladden, Haines, Hogan, Hooper, Jones, Kelley, Kittleman, Klausmeier, Lenett, Madaleno, McFadden, Mooney, Munson, Muse, Peters, Pinsky, Pugh, Raskin, Robey, Rosapepe, Simonaire, Stoltzfus, Stone, ~~and Zirkin~~ Zirkin, Dyson, Britt, Harris, and Greenip**

Introduced and read first time: February 2, 2007

Assigned to: Education, Health, and Environmental Affairs

Committee Report: Favorable with amendments

Senate action: Recommitted to Education, Health, and Environmental Affairs, March 24, 2007

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: April 1, 2007

CHAPTER _____

1 AN ACT concerning

2 **Election Law - Voting Systems - ~~Voter-Verified~~ Voter-Verifiable Paper**
3 **Records**

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



~~certain resources for certain purposes; defining certain terms; requiring the State Board to adopt certain regulations and certain guidelines; providing for the application of this Act; making this Act an emergency measure; 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; clarifying the standard to be considered by the State Board when evaluating whether a voting system is accessible to voters with disabilities; 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)~~ 9-102

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:~~

~~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~~

~~(ii) 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~~

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

3 ~~(D) "NONVISUAL" MEANS:~~

4 ~~(1) AN AURAL METHOD OF PRESENTATION, INCLUDING~~
5 ~~RECORDED, DIGITIZED, OR AUDIO SYNTHESIZED SPEECH;~~

6 ~~(2) A TACTILE METHOD OF PRESENTATION, INCLUDING BRAILLE~~
7 ~~AND OTHER METHODS OF IDENTIFICATION THAT RELY ON TOUCH; OR~~

8 ~~(3) A COMBINATION OF AN AURAL AND TACTILE METHOD OF~~
9 ~~PRESENTATION.~~

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

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

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

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

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

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

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

25 ~~(F) "VOTING SYSTEM AGGREGATION AND TABULATION" MEANS THE~~
26 ~~PROCESS AND THE HARDWARE AND SOFTWARE BY WHICH VOTES RECORDED BY~~

1 ~~THE VOTING SYSTEM ARE AGGREGATED, TOTALED, AND TABULATED TO~~
2 ~~DETERMINE THE OUTCOME OF AN ELECTION.~~

3 ~~9-107.~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

24 ~~9-108.~~

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

27 ~~(1) PROVIDE ACCESS TO VOTERS WITH DISABILITIES THAT:~~

28 ~~(I) IS EQUIVALENT TO THE ACCESS AFFORDED TO VOTERS~~
29 ~~WITHOUT DISABILITIES;~~

1 ~~(H) FACILITATES THE CASTING OF SECRET BALLOTS BY~~
2 ~~VOTERS WITH DISABILITIES; AND~~

3 ~~(HH) FULLY COMPLIES WITH THE AMERICANS WITH~~
4 ~~DISABILITIES ACT, P.L. 101-336, AND THE HELP AMERICA VOTE ACT, P.L.~~
5 ~~107-252; AND~~

6 ~~(2) ALLOW A VOTER TO CAST, INSPECT, VERIFY, AND CORRECT~~
7 ~~THE SELECTIONS BY BOTH VISUAL AND NONVISUAL MEANS.~~

8 ~~(B) AT LEAST ONE VOTING SYSTEM IN EACH POLLING PLACE SHALL~~
9 ~~PROVIDE ACCESS FOR VOTERS WITH DISABILITIES AND AFFORD THEM THE~~
10 ~~OPPORTUNITY FOR PRIVATE AND INDEPENDENT INSPECTION, VERIFICATION,~~
11 ~~AND CORRECTION OF THEIR BALLOTS.~~

12 ~~(C) (1) EACH VOTER VERIFIED PAPER RECORD PRODUCED BY THE~~
13 ~~VOTING SYSTEM ON ELECTION DAY SHALL BE PRESERVED IN THE SAME MANNER~~
14 ~~THAT ALL OTHER DOCUMENT BALLOTS ARE PRESERVED WITHIN THE POLLING~~
15 ~~PLACE ON ELECTION DAY.~~

16 ~~(2) (I) PARAGRAPH (1) OF THIS SUBSECTION DOES NOT APPLY~~
17 ~~TO VOTING EQUIPMENT USED PRIMARILY BY DISABLED VOTERS ON ELECTION~~
18 ~~DAY AT THE POLLING PLACE.~~

19 ~~(H) THE VOTER VERIFIED PAPER RECORD PRODUCED BY~~
20 ~~VOTING EQUIPMENT USED PRIMARILY BY DISABLED VOTERS ON ELECTION DAY~~
21 ~~MAY BE PRESERVED AT ANY LOCATION PRESCRIBED BY THE STATE BOARD.~~

22 ~~9-109.~~

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

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

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

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

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

13 ~~(F) THE PAPER RECORDS OF THE INITIAL VOTE TOTALS POSTED AT~~
14 ~~EACH POLLING PLACE SHALL BE RETAINED IN A SECURE LOCATION AND MADE~~
15 ~~AVAILABLE FOR PUBLIC REVIEW UNDER SECURE CONDITIONS FOR A PERIOD OF~~
16 ~~1 YEAR AFTER THE DATE OF EACH ELECTION.~~

17 ~~9-110.~~

18 ~~(A) (1) WITHIN 3 DAYS AFTER THE INITIAL TOTAL OF ALL VOTES~~
19 ~~CAST AT EACH POLLING PLACE IN EACH COUNTY AND STATEWIDE ELECTION~~
20 ~~HAS BEEN PUBLICLY POSTED ON ITS PUBLICLY ACCESSIBLE INTERNET WEBSITE~~
21 ~~BY EACH LOCAL BOARD AND THE STATE BOARD, EACH LOCAL BOARD SHALL~~
22 ~~CONDUCT A MANDATORY RANDOM AUDIT HAND COUNT OF THE ELECTION~~
23 ~~RESULTS.~~

24 ~~(2) (I) EACH AUDIT SHALL COMPARE THE RESULTS OF ALL OF~~
25 ~~THE ELECTRONIC RECORDS PRODUCED BY THE VOTING SYSTEM WITH THE~~
26 ~~VOTER VERIFIED PAPER RECORDS PRODUCED BY THE VOTING SYSTEM.~~

27 ~~(H) IF THERE IS ANY INCONSISTENCY OR IRREGULARITY~~
28 ~~BETWEEN AN ELECTRONIC RECORD AND THE CORRESPONDING~~
29 ~~VOTER VERIFIED PAPER RECORD, THE VOTER VERIFIED PAPER RECORD SHALL~~
30 ~~BE THE OFFICIAL TRUE AND CORRECT RECORD OF THE VOTES CAST.~~

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

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

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

7 ~~(III) INCLUDE ALL VOTES CAST IN NO LESS THAN 5% OF ALL~~
8 ~~OF THE POLLING PLACES IN THE COUNTY;~~

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

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

16 ~~(VI) BEGIN IMMEDIATELY AFTER THE POLLING PLACES~~
17 ~~UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH ARE SELECTED.~~

18 ~~(B) IF A DISCREPANCY IS DISCOVERED BETWEEN THE VOTE TALLIES~~
19 ~~PRODUCED BY THE VOTING SYSTEM AND THE VOTE TALLIES OF~~
20 ~~VOTER-VERIFIED PAPER RECORDS, THE STATE BOARD SHALL IMMEDIATELY~~
21 ~~CONDUCT AN EXPANDED AUDIT OF ADDITIONAL RANDOMLY SELECTED POLLING~~
22 ~~PLACES IN THE COUNTY IN ORDER TO:~~

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

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

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

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

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

12 ~~(2) A LOCAL BOARD MAY NOT CERTIFY THE RESULTS OF ANY~~
13 ~~ELECTION THAT IS SUBJECT TO AN AUDIT UNDER THIS SECTION BEFORE THE~~
14 ~~COMPLETION OF THE AUDIT AND THE ANNOUNCEMENT AND PUBLICATION OF~~
15 ~~THE AUDIT RESULTS UNDER PARAGRAPH (1) OF THIS SUBSECTION.~~

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

19 ~~9-111.~~

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

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

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

1 ~~(3) THE DEMONSTRATION SHALL TAKE PLACE NO SOONER THAN~~
2 ~~30 DAYS NOR LESS THAN 10 DAYS BEFORE EACH ELECTION.~~

3 ~~9-112.~~

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

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

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

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

11 ~~(4) ANY OTHER TIME.~~

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

14 ~~(1) EQUIPMENT BREAKDOWNS;~~

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

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

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

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

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

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

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

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

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

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

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

14 (2) the voting system has been:

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

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

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

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

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

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

28 (3) the cost of implementing the system;

1 (4) the efficiency of the system;

2 (5) the likelihood that the system will malfunction;

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

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

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

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

7 (10) accessibility for all voters with disabilities recognized by the
8 Americans with Disabilities Act, INCLUDING FEATURES WHICH:

9 **(I) ENSURE THAT ACCESSIBILITY FOR VOTERS WITH**
10 **DISABILITIES IS EQUIVALENT TO THAT AFFORDED TO VOTERS WITHOUT**
11 **DISABILITIES;**

12 **(II) DO NOT REQUIRE THE CREATION OF A SEGREGATED**
13 **BALLOT FOR VOTERS WITH DISABILITIES; AND**

14 **(III) ALLOW FOR THE INDEPENDENT AND PRIVATE CASTING,**
15 **INSPECTION, VERIFICATION, AND CORRECTION OF THE BALLOT BY VOTERS**
16 **WITH DISABILITIES; and**

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

18 **[(e)] (F) (1) The State Board shall adopt regulations relating to**
19 **requirements for each voting system selected and certified under § 9-101 of this**
20 **subtitle.**

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

23 **(i) a description of the voting system;**

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

- 1 (iii) local election officials' responsibility for management of the
 2 system;
- 3 (iv) the actions required to assure the security of the voting
 4 system;
- 5 (v) the supplies and equipment required;
- 6 (vi) the storage, delivery, and return of the supplies and
 7 equipment necessary for the operation of the voting system;
- 8 (vii) standards for training election officials in the operation and
 9 use of the voting system;
- 10 (viii) before each election and for all ballot styles to be used,
 11 testing by the members of the local board to ensure the accuracy of tallying,
 12 tabulation, and reporting of the vote, and observing of that testing by representatives
 13 of political parties and of candidates who are not affiliated with political parties;
- 14 (ix) the number of voting stations or voting booths required in
 15 each polling place, in relation to the number of registered voters assigned to the
 16 polling place;
- 17 (x) the practices and procedures in each polling place
 18 appropriate to the operation of the voting system;
- 19 (xi) assuring ballot accountability in systems using a document
 20 ballot;
- 21 (xii) the actions required to tabulate votes; and
- 22 (xiii) postelection review and audit of the system's output.

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

25 SECTION ~~3~~ 2. AND BE IT FURTHER ENACTED, That this Act shall apply to
 26 each election occurring on or after January 1, ~~2008~~ 2010, that is required to be
 27 conducted in accordance with the Election Law Article.

28 ~~SECTION 4. AND BE IT FURTHER ENACTED, That the Governor shall~~
 29 ~~allocate the resources required to implement the requirements of this Act, including~~
 30 ~~any gift received by the State for the purposes of this Act under § 2-201 of the State~~

1 ~~Finance and Procurement Article, and, except for federal funds received by the State~~
2 ~~to implement the requirements of the Help America Vote Act 2002, any federal or~~
3 ~~other special funds or grant received by the State in accordance with federal and State~~
4 ~~law for the purposes of this Act.~~

5 ~~SECTION 5. AND BE IT FURTHER ENACTED, That this Act is an emergency~~
6 ~~measure, is necessary for the immediate preservation of the public health or safety,~~
7 ~~has been passed by a yea and nay vote supported by three fifths of all the members~~
8 ~~elected to each of the two Houses of the General Assembly, and shall take effect from~~
9 ~~the date it is enacted.~~

10 SECTION 3. AND BE IT FURTHER ENACTED, That, if the Attorney General
11 determines on or after the effective date of this Act that any provision of this Act is in
12 conflict with any law of the United States or a rule, regulation, or policy of the U.S.
13 Election Assistance Commission, the conflicting provision of this Act shall be
14 abrogated and of no force or effect. The Attorney General, within 5 days after
15 determining the existence of a conflict, shall notify in writing the Department of
16 Legislative Services, Legislative Services Building, 90 State Circle, Annapolis, MD
17 21401.

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

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