



**Testimony for the
Subcommittee on Public Safety, Transportation, and Environment
of the
Senate Budget & Taxation Committee**

February 18, 2008

**Maryland State Board of Elections
Operating Budget Hearing**

**Funding for HB 18/SB 392, Chapter Laws 547
Election Law - Voting Systems - Voter-Verifiable Paper Records**

SUPPORT

The fiscal 2009 allowance for the State Board of Elections includes funding for the procurement of a new voting system to comply with legislation enacted by the General Assembly in the 2007 legislative session, SB 392/HB 18, Chaptered Laws 547. The ACLU of Maryland urges the committee to support this funding by including it in the final fiscal 2009 appropriation. A new voting system will restore the confidence of Maryland voters in the integrity of the voting system and permit meaningful and accurate audits and recounts. It will ultimately save the State money, as the current system is exceedingly expensive to maintain and operate; more expensive than any replacement system under the legislation. Approval of funding for the new system also ensures that Maryland is first in line for federal funding for compliance with imminent changes in federal law mandating voter-verifiable, auditable voting systems.

In enacting this legislation, the General Assembly was responding to the concerns about accuracy, security and auditability have plagued Maryland's DRE voting system since its acquisition. Valid and objective research documents flaws in the system's security software; flaws which are suspected to have caused the disappearance of tens of thousands of votes in Sarasota, Florida and which are now the source of protracted litigation. Even the technology's proponents assert that it is not acceptable without public review of the software, which continues to be held secret as proprietary information. Concerns about inaccuracies in the recording of individual votes and in the tally of votes cannot be investigated or addressed with the DRE's because there is no record independent of the software itself and thus, no way to conduct an audit that would reveal inaccuracies or discrepancies. During the last election, the ACLU as a member of

the Election Protection Coalition received numerous calls to its hotline from voters who found that the voting machine had switched their vote to candidates from the other party, would not record their vote for the candidates of their choice and would not allow them to ensure that their vote had been counted correctly as cast. We all know too well the late-hour panic that was generated by a lack of confidence in the voting system; polling places were overwhelmed by absentee ballots cast because voters wanted an auditable paper-record of their votes. In the recent election, parties gained and lost seats in the General Assembly on very small margins, demonstrating literally that every vote counts and so, must be counted.

This legislation was the first important step toward addressing these problems; funding is required as the essential second step. The bills manifest the will of Maryland voters for a voter verified paper record of their votes that is auditable. They are consistent with current federal law and will be compliant with likely changes to federal law which are expected to require states to adopt voting systems that provide auditable voter verified paper records.

Approval of the funding in the allowance also ensures cost-effective use of the State's fiscal resources. Comparison of the costs of maintaining and deploying the current DRE system, including storage, software licenses, and training costs with the costs of currently available systems which comply with these bills, like optical scan, show that over five years, the State begins saving money on optical scan systems. This is primarily because fewer machines need to be deployed; storage and maintenance is simpler and less expensive; the machines are easier to use and thus, training and staffing is less expensive. In addition, the State's current voting system is likely to not comply with imminent changes in federal law and will require replacement or very expensive revisions. Finally, federal funding will be appropriated to assist State's in procuring federally compliant voting systems.

The legislation also provides necessary protections for voters with disabilities, endorsed by numerous disability advocacy organizations and election integrity advocates. Voters with disabilities have legitimate concerns about a change in Maryland's voting system. They have been marginalized by inaccessible voting systems and polling places in the past and from the process by which voting system decisions are made. These bills address those concerns by setting straightforward standards for voting systems, consistent with federal law; by ensuring uniform training of election judges on the proper use of equipment and disability access in general; and by providing for representation of voters with disabilities in the public review and evaluation of prospective voting systems to ensure that disability access is part of any new voting system. Such provisions are important for voters with disabilities, regardless of the voting system the State employs. For instance, despite the availability of equipment for voters with disabilities, many of these voters were disenfranchised in the last election because election judges did not know how to assemble or operate the equipment.

That the bills adequately address these legitimate issues is demonstrated by the broad range of groups endorsing these provisions of the bills:

Maryland Disability Law Center	ACLU of Maryland
Maryland Disabilities Forum	Maryland Statewide Independent Living Council
Maryland Developmental Disabilities Council	Maryland ADAPT
The Arc of Maryland	Save Our Votes
The National Federation for the Blind	Making Choices for Independent Living
The Freedom Center	The Coordinating Center
People for the American Way	Maryland Election Integrity Coalition (includes Democracy for Maryland, Sierra Club, Common Cause & MaryPIRG)

The committee should approve the funding in the fiscal 2009 allowance for the State Board of Elections for the voting system.