

2008 Bill Summary SB 292 for Verifiable Elections in Virginia

The Verifiable Voting Coalition of Virginia supports SB 292. This legislation requires audits of a random sample of optical scan tabulators during canvasses & recounts. It also strengthens the recount procedures for optical scan ballots to ensure all votes are accurately counted. With this legislation, Virginians can have confidence in the integrity of our elections.

Bill Status: SB 292 is currently before the Senate P&E Committee.

2007 History: In the 2007 session, the Senate passed a very similar bill, SB 840, by a 36-4 vote, but the audit and recount provisions were removed by the House P&E subcommittee. The remaining provisions of the 2007 bill were passed into law.

Why we need this bill: In 2007, the General Assembly voted to prohibit future purchase of Direct Record Electronic (DRE) voting machines since they do not provide a voter-verified paper trail that can be used to independently verify the accuracy of the election results. However, the current electoral code has not caught up with this change. Currently, even when there is a paper ballot, the current code makes it almost impossible to examine it during a recount. There is no provision at all to examine ballots during post-election canvasses, even when there is evidence of machine failure. A paper trail is only an effective safeguard if the law provides appropriate mechanism to examine the paper trail for audits and recounts.

Bill Provisions

Improved recount procedures for optical scan tabulators Virginia's current recount procedures prohibit examining optical ballots except under court order in most cases. Courts have been reluctant to order examination without evidence of error. It's impossible to tell if there are errors without examining the ballot. This catch-22 robs Virginia citizens of the safeguard that a properly conducted recount provides.

SB 292 would require that a random sample of the tabulators be audited by comparing a hand count with the electronic tally. After the audit, the recount officials determine whether the audits have shown the machines to be reliable. Based on that determination, they may hand-count any unreliable machines. For machines deemed reliable, uncounted paper ballots are counted by hand only if there are enough uncounted ballots to potentially change the outcome.

Post-election audits for optical scan tabulators Audits are a critical step in ensuring the integrity of elections. The bill requires post-election audits of a random sample of tabulators during the election canvas under State Board of Elections guidelines. Machines are audited by comparing a hand count of the paper ballots with the machine totals to check machine accuracy. If machine failures are detected, the electoral boards have authority to expand the audits as necessary to guarantee an accurate count.

Under current law, ballots cannot be examined outside of a recount even when faced with obvious machine failures. In 2002, examining paper ballots detected a software error in Wayne County, NC that changed the result of the election. Should that error have happened in Virginia, voters would likely still be using the erroneous machine. In addition to North Carolina, audits are required in West Virginia, New Jersey, Minnesota, California, Nevada, and several other states.

The Verifiable Voting Coalition of VA includes:

Virginia Libertarian Party	Virginia Verified Voting
New Electoral Reform Alliance for VA	Virginia League of Women Voters
Southern Coalition for Secured Voting	Common Cause
	Virginia Organizing Project

2008 Bill Summary SB 536 for Verifiable Elections in Virginia

The Verifiable Voting Coalition of Virginia supports SB 536. This legislation extends the requirements for certification of voting systems, and allows the State Board of Election to decertify voting systems based on reports of problems with the system in Virginia or other states.

Bill Status: SB 536 is currently before the Senate P&E Committee.

2007 History: This bill is new for 2008.

Why we need this bill: Over the course of 2005 and 2006, several states have performed comprehensive studies of voting systems (most notably California, Florida, and Ohio), and have found numerous security and handicapped accessibility problems with those systems. At present, the State Board of Elections cannot take such findings into account as part of certification, nor can they force vendors to update and recertify equipment to ensure that Virginia is up to date with improvements in other states.

Bill Provisions

Improved Requirements for Certification Virginia's current certification requirements are vague, and do not require any examination by experts in either security or handicapped accessibility. SB 536 requires that such experts be consulted as part of any certification.

SB 536 also requires that the State Board of Elections consider reports from other state governments on security and handicapped accessibility as part of the certification process.

Requirements for Continued Certification Under current Virginia law, the State Board of Elections cannot decertify a voting system even if the vendor does not submit required reports on security of the voting system. Additionally, if other states identify security or handicapped accessibility problems with the system after it has been certified, the Board cannot decertify the equipment.

SB 536 gives the State Board of Election the discretion to decertify a voting system if the vendor does not provide the required annual security update, or if reports from other states come to light.

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