

HOUSE BILL 369

G1
HB 392/20 – W&M

(PRE-FILED)

1lr0431

By: **Delegate Rosenberg**

Requested: July 10, 2020

Introduced and read first time: January 13, 2021

Assigned to: Ways and Means

Committee Report: Favorable

House action: Adopted

Read second time: February 11, 2021

CHAPTER _____

1 AN ACT concerning

2 **Election Law – Foreign Manufacture of Election Systems – Notification and**
3 **Termination of Contract**

4 FOR the purpose of prohibiting the State Board of Elections from approving a contract with
5 an election service provider unless the contract includes a clause requiring the
6 election service provider to report to the State Administrator of Elections if any stage
7 in the manufacturing of a component of the provider's election system occurred
8 outside the United States or if any material change to a component in any stage in
9 the manufacturing of an election system occurred outside the United States;
10 requiring the report to include certain information; requiring the State
11 Administrator to forward a copy of the report to certain persons within a certain time
12 period; authorizing the State Administrator to terminate, in whole or in part, a
13 contract with an election service provider under certain circumstances; requiring the
14 State Administrator to notify certain persons in writing of a certain contract
15 termination and the reasons for the termination within a certain time period;
16 defining certain terms; and generally relating to foreign manufacture of election
17 systems.

18 BY adding to
19 Article – Election Law
20 Section 2–110
21 Annotated Code of Maryland
22 (2017 Replacement Volume and 2020 Supplement)

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.



Preamble

WHEREAS, On June 27, 2019, the U.S. House of Representatives passed H.R. 2722, the “Securing America’s Federal Elections Act” or the “SAFE Act”; and

WHEREAS, The SAFE Act would mandate numerous improvements in election security; and

WHEREAS, The SAFE Act would require election service providers to disclose whether any component of an election system was manufactured outside the United States; now, therefore,

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

Article – Election Law**2–110.**

(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) “APPROPRIATE PERSONS” MEANS:

(I) THE STATE BOARD;

(II) THE GOVERNOR;

(III) THE PRESIDENT OF THE SENATE;

(IV) THE SPEAKER OF THE HOUSE;

(V) THE ATTORNEY GENERAL; AND

(VI) THE DEPARTMENT OF INFORMATION TECHNOLOGY.

(3) “COMPONENT” INCLUDES ANY HARDWARE OR SOFTWARE COMPONENT.

(4) “CONTRACT” MEANS AN AGREEMENT IN ANY FORM ENTERED INTO BY A GOVERNMENTAL ENTITY FOR A PROCUREMENT AS DEFINED IN § 11–101 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

1 **(5) “ELECTION SERVICE PROVIDER” MEANS ANY PERSON**
2 **PROVIDING, SUPPORTING, OR MAINTAINING AN ELECTION SYSTEM ON BEHALF OF**
3 **THE STATE BOARD OR A LOCAL BOARD, INCLUDING A CONTRACTOR OR VENDOR.**

4 **(6) “ELECTION SYSTEM” MEANS ANY INFORMATION SYSTEM USED**
5 **FOR THE MANAGEMENT, SUPPORT, OR ADMINISTRATION OF AN ELECTION,**
6 **INCLUDING:**

7 **(I) THE VOTING SYSTEM;**

8 **(II) THE ONLINE VOTER REGISTRATION SYSTEM;**

9 **(III) THE VOTER REGISTRATION DATABASE;**

10 **(IV) THE ONLINE BALLOT REQUEST, DELIVERY, OR MARKING**
11 **SYSTEMS;**

12 **(V) THE ELECTRONIC POLLBOOKS;**

13 **(VI) THE ELECTION MANAGEMENT SYSTEM; AND**

14 **(VII) THE SYSTEM FOR TABULATING OR REPORTING ELECTION**
15 **RESULTS.**

16 **(7) “FOREIGN NATIONAL” INCLUDES:**

17 **(I) AN INDIVIDUAL WHO IS A CITIZEN OF A FOREIGN COUNTRY;**
18 **AND**

19 **(II) AN INDIVIDUAL, A PARTNERSHIP, AN ASSOCIATION, A**
20 **CORPORATION, AN ORGANIZATION, OR ANY OTHER COMBINATION OF INDIVIDUALS**
21 **ORGANIZED UNDER THE LAWS OF OR HAVING ITS PRINCIPAL PLACE OF BUSINESS IN**
22 **A FOREIGN COUNTRY.**

23 **(B) THE STATE BOARD MAY NOT APPROVE A CONTRACT WITH AN ELECTION**
24 **SERVICE PROVIDER UNLESS THE CONTRACT INCLUDES A CLAUSE REQUIRING THE**
25 **ELECTION SERVICE PROVIDER TO REPORT TO THE STATE ADMINISTRATOR IF:**

26 **(1) ANY STAGE IN THE MANUFACTURING OF A COMPONENT OF THE**
27 **ELECTION SERVICE PROVIDER’S ELECTION SYSTEM OCCURRED OUTSIDE THE**
28 **UNITED STATES; OR**

29 **(2) ANY MATERIAL CHANGE TO A COMPONENT IN ANY STAGE IN THE**
30 **MANUFACTURING OF THE ELECTION SERVICE PROVIDER’S ELECTION SYSTEM**

1 OCCURRED OUTSIDE THE UNITED STATES AT ANY TIME FOR THE DURATION OF THE
2 CONTRACT.

3 (C) THE REPORT REQUIRED UNDER SUBSECTION (B) OF THIS SECTION
4 SHALL INCLUDE:

5 (1) THE SPECIFIC COMPONENTS OF THE ELECTION SYSTEM THAT
6 WERE MANUFACTURED OUTSIDE THE UNITED STATES;

7 (2) THE FOREIGN NATION IN WHICH THE COMPONENTS WERE
8 MANUFACTURED;

9 (3) A DESCRIPTION OF THE MANUFACTURING WORK PERFORMED
10 OUTSIDE THE UNITED STATES; AND

11 (4) THE MEASURES TAKEN BY THE ELECTION SERVICE PROVIDER TO
12 ENSURE THAT THE MANUFACTURING PROCESS IS SECURE.

13 (D) WITHIN 5 DAYS AFTER RECEIVING A REPORT UNDER SUBSECTION (B) OF
14 THIS SECTION, THE STATE ADMINISTRATOR SHALL FORWARD A COPY OF THE
15 REPORT TO THE APPROPRIATE PERSONS.

16 (E) ON A DETERMINATION BY THE STATE ADMINISTRATOR THAT A
17 FOREIGN NATIONAL HAS THE ABILITY TO CONTROL, INFLUENCE, OR DIRECT THE
18 MANUFACTURING OF AN ELECTION SYSTEM IN ANY MANNER THAT WOULD
19 COMPROMISE OR INFLUENCE, OR GIVE THE APPEARANCE OF COMPROMISING OR
20 INFLUENCING, THE INDEPENDENCE AND INTEGRITY OF AN ELECTION, THE STATE
21 ADMINISTRATOR MAY TERMINATE, IN WHOLE OR IN PART, THE CONTRACT WITH THE
22 ELECTION SERVICE PROVIDER.

23 (F) WITHIN 7 DAYS AFTER THE STATE ADMINISTRATOR EXERCISES THE
24 AUTHORITY TO TERMINATE, IN WHOLE OR IN PART, A CONTRACT WITH AN ELECTION
25 SERVICE PROVIDER UNDER SUBSECTION (E) OF THIS SECTION, THE STATE
26 ADMINISTRATOR SHALL NOTIFY THE APPROPRIATE PERSONS IN WRITING OF THE
27 TERMINATION OF THE CONTRACT AND THE STATE ADMINISTRATOR'S REASONS FOR
28 TERMINATING THE CONTRACT.

29 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June
30 1, 2021.