



2013 Cyber Security Advisory Committee Report

Legislative Members: Delegate Tom Rust (chair), Senator Steve Martin,
Senator Toddy Puller

- ◆ In addition to the legislative members, the Advisory Committee was comprised of 26 individuals appointed by JCOTS, representing state and local government cyber security and IT professionals, academia, private sector cyber security experts, and other interested parties.
 - ◆ The Advisory Committee's primary task during the 2013 Interim was the review and study of SB 830 (Puller), referred to JCOTS by the 2013 Session of the General Assembly.
 - SB 830 would allow active-duty, overseas members of the military (and their spouses and dependents) to return absentee ballots electronically.
 - SB 830 was referred to JCOTS largely because of security concerns regarding the electronic return of ballots.
 - ◆ The Advisory Committee received substantial public comment, both in favor and in opposition to the bill, and received several briefings from the State Board of Elections regarding how such a program would operate.
 - ◆ After much discussion over the course of three meetings, the Advisory Committee recommended an amended version of SB 830 to JCOTS for consideration. The key changes to SB 830 are as follows:
 - Language is narrowed so that the overseas ballots may be returned by "electronic mail or fax" (and of course, paper ballots may still be returned via U.S. Mail at the voter's discretion). The original bill would have allowed return by "electronic format," which might have possibly allowed for return via the Internet. The Advisory Committee felt that given
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the public concerns about electronic return of ballots, it was best to limit the program initially to just e-mail and fax.

- Language is narrowed so that only overseas active-duty military may return ballots electronically. The original bill would have also allowed spouses and dependents of the service members to also return ballots electronically. While the Advisory Committee agreed that they would ultimately like to see the program expanded to include spouses and dependents, they thought it best to keep the program very narrow initially. Once the program is established and is successful, this is an issue that can be revisited. Additionally, the active-duty members that are most likely to be disenfranchised by the return of paper ballots via mail are those in combat zones, on submarines, etc. -- places where spouses and dependents are not likely to be. The narrow approach would address these pressing areas.
 - Language is added to clarify that the State Board of Elections shall provide the "services" necessary to facilitate the return of ballots via e-mail and fax. The State Board indicated several times that it intends to absorb the costs associated with the program, and that it will not be an unfunded mandate on local electoral boards. This language is an attempt, at the State Board's suggestion, to codify this assumption of cost.
 - Language is added requiring the State Board to develop, and annually update, security measures related to the program, and requiring the approval of the security measures by the Chief Information Officer of the Commonwealth. In addition, the development of the measures must be done in consultation with local voting officials. Furthermore, an enactment clause directs the State Board to establish a working group for the initial development of the security measures. The bill as introduced stated that the State Board "may" specify additional security measures regarding the electronic return of ballots. The Advisory Committee felt that the development of these measures should be mandatory.
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- Adds an enactment that requires the State Board to work with the Department of Defense to use active-duty military "common access cards" as a means of authentication when returning ballots electronically.

