

Chapter 403

(Senate Bill 743)

AN ACT concerning

Election Law – Election Service Providers – Contract Clauses and Termination of Contract

FOR the purpose of prohibiting the State Board of Elections from approving a contract with an election service provider unless the contract includes a certain clause regarding notice of ownership of or investment in the election service provider or control of the election service provider by a foreign national; requiring that the notice include certain information; authorizing the State Administrator of Elections to terminate, in whole or in part, the contract with an election service provider on the making of a certain determination; requiring the State Administrator to notify certain persons in writing of the termination, in whole or in part, of a contract with an election service provider and the State Administrator's reasons for terminating the contract within a certain period of time; defining certain terms; and generally relating to election service provider contracts.

BY adding to

Article – Election Law

Section 2–109

Annotated Code of Maryland

(2017 Replacement Volume and 2018 Supplement)

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

Article – Election Law**2–109.**

(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 OF MARYLAND;**

(IV) **THE SPEAKER OF THE HOUSE OF DELEGATES;**

(V) THE ATTORNEY GENERAL; AND

(VI) THE DEPARTMENT OF INFORMATION TECHNOLOGY.

~~(2)~~ **(3)** “CONTRACT” MEANS AN AGREEMENT IN ANY FORM ENTERED INTO BY A GOVERNMENTAL ENTITY FOR A PROCUREMENT AS DEFINED IN § 11-101(M)(1) OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

~~(3)~~ **(4)** (I) “ELECTION SERVICE PROVIDER” MEANS ANY PERSON PROVIDING, SUPPORTING, OR MAINTAINING AN ELECTION SYSTEM ON BEHALF OF THE STATE BOARD.

(II) “ELECTION SERVICE PROVIDER” INCLUDES A CONTRACTOR AND VENDOR.

~~(4)~~ **(5)** “ELECTION SYSTEM” INCLUDES:

(I) A VOTING SYSTEM;

(II) AN ELECTION MANAGEMENT SYSTEM;

(III) A VOTER REGISTRATION WEBSITE OR DATABASE;

(IV) AN ELECTRONIC POLLBOOK;

(V) A SYSTEM FOR TABULATING OR REPORTING ELECTION RESULTS; AND

(VI) ANY OTHER INFORMATION SYSTEM THAT IS DETERMINED TO BE CENTRAL TO THE MANAGEMENT, SUPPORT, OR ADMINISTRATION OF AN ELECTION.

~~(5)~~ **(6)** “FOREIGN NATIONAL” INCLUDES:

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

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

(B) THE STATE BOARD MAY NOT APPROVE A CONTRACT WITH AN ELECTION SERVICE PROVIDER UNLESS THE CONTRACT INCLUDES A CLAUSE REQUIRING THE ELECTION SERVICE PROVIDER TO PROVIDE THE STATE BOARD NOTICE OF:

(1) ANY OWNERSHIP OF OR INVESTMENT IN THE ELECTION SERVICE PROVIDER OR CONTROL OF THE ELECTION SERVICE PROVIDER BY A FOREIGN NATIONAL AT THE TIME OF THE AWARD OF THE CONTRACT; AND

(2) ANY MATERIAL CHANGE IN ANY OWNERSHIP OF OR INVESTMENT IN THE ELECTION SERVICE PROVIDER OR CONTROL OF THE ELECTION SERVICE PROVIDER BY A FOREIGN NATIONAL AT ANY TIME FOR THE DURATION OF THE CONTRACT.

(C) THE NOTICE REQUIRED UNDER SUBSECTION (B) OF THIS SECTION SHALL INCLUDE:

(1) THE NAME AND NATIONALITY OF THE FOREIGN NATIONAL THAT HAS OWNERSHIP OF OR INVESTMENT IN OR CONTROL OF THE ELECTION SERVICE PROVIDER; AND

(2) THE NATURE AND EXTENT OF THE OWNERSHIP, INVESTMENT, OR CONTROL.

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

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

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2019.

Approved by the Governor, May 13, 2019.