

AN ACT

RELATING TO ELECTIONS; PROVIDING THAT A CONTRACT BETWEEN THE STATE BOARD OF FINANCE AND A COUNTY FOR THE LEASE-PURCHASE OF ELECTRONIC VOTING SYSTEMS MAY BE RENEGOTIATED TO INCLUDE CERTAIN CONTRACT TERMINATION PROVISIONS; PROVIDING FOR THE MAINTENANCE AND STORAGE OF VOTING SYSTEMS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 1-9-17 NMSA 1978 (being Laws 1985, Chapter 207, Section 16, as amended) is amended to read:

"1-9-17. ELECTRONIC VOTING SYSTEMS--STATE BOARD OF FINANCE--LEASE-PURCHASE CONTRACT--TERMS.--

A. The state board of finance shall execute a lease-purchase contract with the county for purchase of electronic voting systems and the necessary support equipment upon receipt of the application of the board of county commissioners.

B. The lease-purchase contract shall include, but not be limited to, the following terms:

(1) the county agrees to purchase from the state board of finance the specified number of electronic voting systems and the necessary support equipment;

(2) the county will pay for the cost of the systems and support equipment, including reimbursement for costs of transportation;

(3) the term of the lease-purchase contract shall not exceed twenty years;

(4) the care and custody of the systems and support equipment is the responsibility of the county clerk; and

(5) upon good cause shown, the terms of the lease-purchase contract may, at any time, be renegotiated.

C. The lease-purchase contract, after a renegotiation pursuant to Paragraph (5) of Subsection B of this section, may include provisions providing that, upon the transfer of the ownership in the electronic voting systems to the state board of finance, the contract shall be terminated and no additional payments from the county shall be due. The state board of finance may dispose of electronic voting systems acquired pursuant to law."

Section 2. A new section of Chapter 1, Article 9 NMSA 1978 is enacted to read:

"VOTING SYSTEMS--STATE MAINTENANCE.--

A. The state shall pay all costs for the maintenance of hardware and software of all voting systems used for state elections, whether state- or county-owned.

B. Voting systems, whether state- or county-owned, shall be held in the custody of the county using the voting system. All voting systems shall be safely stored pursuant to guidelines issued by the secretary of state, and the counties

are responsible for the costs of properly storing the voting systems."

Section 3. Section 1-9-12 NMSA 1978 (being Laws 1975, Chapter 255, Section 120, as amended) is amended to read:

"1-9-12. CARE AND CUSTODY OF SYSTEMS--CARE AND CUSTODY OF KEYS AND SEALS--RESPONSIBILITY FOR TRANSPORTATION--REPAIR AND PROGRAMMING--CHARGE FOR SUCH USE, TRANSPORTATION OR PROGRAMMING.--

A. The county clerk shall have custody of all voting systems, shall keep all voting systems properly stored when not in use and shall be responsible for transporting all voting systems to and from polling places.

B. The county clerk shall have care and custody of and be responsible for the keys and seals for all voting systems in the custody of the county and shall be responsible for the programming of the systems. All keys for the voting systems shall be kept in a secure place in the county clerk's office until such time as supplies are available to program or maintain the voting systems. When voting systems are being programmed for any election or maintained after an election, the county clerk or the county clerk's assigned deputy who is knowledgeable in the procedure of programming voting systems shall have custody of the keys and shall assure the security of the keys at all times during the period the voting systems are being programmed or maintained. In any event, all keys

shall be returned to the office of the county clerk at the end of each day for safekeeping; provided that if the deputy is programming the voting systems outside of the county seat and it is impractical for the deputy to return the keys at the end of the day, the county clerk may give written authorization in advance to the deputy to retain the keys for as long as is needed to program the voting systems outside of the county seat, and a copy of the authorization with the deputy named therein shall be kept on file in the county clerk's office subject to public inspection. The county clerk shall submit an affidavit to the secretary of state describing the method to be used in keeping the voting system keys secure. This affidavit shall be submitted to the secretary of state in January of each even-numbered year for the secretary of state's approval or disapproval. The security method approved by the secretary of state shall be the only method of safekeeping the voting system keys until a new affidavit is submitted and approved. Failure of the county clerk to assure the security of voting system keys in the county clerk's custody shall constitute a neglect to discharge the duties of the clerk's office.

C. A reasonable fee may be charged by the county for the use, transportation and programming of the voting systems, but in no case shall such fee exceed the actual cost to the county."

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