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FISCAL IMPACT REPORT

SPONSOR Pettigrew ORIGINAL DATE 03/11/21
LAST UPDATED _____ HB 351

SHORT TITLE SOS Certifications Of Some Voting Machines SB _____

ANALYST Nichols

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY21	FY22	FY23	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total		\$14,600.0		\$14,600.0	Nonrecurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Secretary of State (SOS)

SUMMARY

Synopsis of Bill

House Bill 351 amends the Election Code to prohibit the Secretary of State (SOS) from certifying a voting system acquired from a company that is or has in the past been based outside the United States.

There is no effective date of this bill. It is assumed that the effective date is 90 days following adjournment of the Legislature.

FISCAL IMPLICATIONS

SOS estimates a one-time cost of approximately \$14.6 million to replace its current voting system, purchased from Dominion Voting Systems, with a new system. The current system was purchased largely with capital outlay appropriations of \$12 million in 2013 and 2014, after a competitive bid process. SOS also used \$2.6 million in federal grant money for voting system equipment.

SIGNIFICANT ISSUES

SOS notes that Dominion Voting Systems are currently certified for use in all elections conducted under the election code. Dominion was founded in 2003 in Toronto. The company is now also incorporated in the United States and has headquarters in Denver and Toronto. HB351 would appear to prohibit SOS from using the existing Dominion system due to the company’s Canadian origins.

SOS would have to replace the existing Dominion system, at a cost of approximately \$14.6 million, and would also have to integrate a new system with its reporting and canvassing systems.

In addition, if HB351 were to pass, SOS would likely have to continue using the existing system, which would no longer be certified, for an undetermined period, until funding and system replacement could occur. This could impact the upcoming special congressional election, the 2021 regular local election, and the 2022 municipal officer election.

According to SOS, all voting systems currently in use in New Mexico are tested and certified according to federal requirements and standards adopted by the U.S. Election Assistance Commission and in accordance with the requirements of the state Election Code. Article 9 of the Election Code outlines technical and operational requirements for voting systems used in New Mexico. It also requires that the systems undergo testing and evaluation and that they comply with the most recent voluntary voting system guidelines adopted by the U.S. Election Assistance Commission. Additionally, Article 9 requires that the voting system certification committee review written test reports and public comments and make recommendations regarding voting system certification and that SOS review and recertify voting systems after each presidential election. SOS notes that there is likely only one other election system provider in the country that would meet the state’s voting requirements.

PERFORMANCE IMPLICATIONS

Decertifying the state’s current voting system without having secured a new system could impair SOS’ ability to conduct elections.

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