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HOUSE BILL 698

49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009

INTRODUCED BY

Rhonda S. King

AN ACT

RELATING TO ELECTIONS; PROVIDING FOR THE MAINTENANCE, SUPPORT
AND STORAGE OF VOTING SYSTEMS; MAKING AN APPROPRIATION.

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

Section 1. 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. Except as provided in Section 1-9-20 NMSA 1978
for voting systems purchased in calendar year 2006, the county
clerk shall have custody and care of all voting systems, shall
keep them in good repair and shall be responsible for their
transportation to and from polling places.

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1 B. Except as provided in Section 1-9-20 NMSA 1978
2 for voting systems purchased in calendar year 2006, the county
3 clerk shall have care and custody of and be responsible for the
4 keys and seals for the voting systems and shall be responsible
5 for the programming of the systems. All keys for the voting
6 systems shall be kept in a secure place in the county clerk's
7 office until such time as supplies are available to program or
8 maintain the voting systems. When voting systems are being
9 programmed for any election or maintained after an election,
10 the county clerk or the county clerk's assigned deputy who is
11 knowledgeable in the procedure of programming voting systems
12 shall have custody of the keys and shall assure the security of
13 the keys at all times during the period the voting systems are
14 being programmed or maintained. In any event, all keys shall
15 be returned to the office of the county clerk at the end of
16 each day for safekeeping; ~~providing~~ provided that if the
17 deputy is programming the voting systems outside of the county
18 seat and it is impractical for the deputy to return the keys at
19 the end of the day, the county clerk may give written
20 authorization in advance to the deputy to retain the keys for
21 as long as is needed to program the voting systems outside of
22 the county seat, and a copy of the authorization with the
23 deputy named therein shall be kept on file in the county
24 clerk's office subject to public inspection. The county clerk
25 shall submit an affidavit to the secretary of state describing

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1 the method to be used in keeping the voting system keys secure.
2 This affidavit shall be submitted to the secretary of state in
3 January of each even-numbered year for the secretary of state's
4 approval or disapproval. The security method approved by the
5 secretary of state shall be the only method of safekeeping the
6 voting system keys until a new affidavit is submitted and
7 approved. Failure of the county clerk to assure the security
8 of voting system keys in [~~his~~] the county clerk's custody shall
9 constitute a neglect to discharge the duties of [~~his~~] the
10 clerk's office.

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

15 Section 2. A new section of the Election Code, Section
16 1-9-20 NMSA 1978, is enacted to read:

17 "1-9-20. [NEW MATERIAL] VOTING SYSTEMS PURCHASED IN
18 2006--MAINTENANCE AND CUSTODY.--For voting systems purchased
19 with state or federal funds in calendar year 2006:

20 A. the systems shall be owned by the state and the
21 state shall be responsible for all hardware, software,
22 firmware, maintenance and support; and

23 B. each system shall be held in the custody and
24 care of the county using the voting system and be safely stored
25 by the county pursuant to guidelines issued by the secretary of

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1 state. The counties shall be responsible for the costs of
2 properly storing the voting systems."

3 Section 3. APPROPRIATION.--Six hundred sixty-five
4 thousand dollars (\$665,000) is appropriated from the general
5 fund to the secretary of state for expenditure in fiscal year
6 2010 to maintain, update and support the voting systems owned
7 by the state pursuant to Section 1-9-20 NMSA 1978. Any
8 unexpended or unencumbered balance remaining at the end of
9 fiscal year 2010 shall revert to the general fund.

10 Section 4. EFFECTIVE DATE.--The effective date of the
11 provisions of this act is July 1, 2009.

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