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HOUSE BILL 838

**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 PURCHASED AFTER CALENDAR YEAR  
2006.

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

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

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

14 Section 2. A new section of the Election Code is enacted  
15 to read:

16 "[NEW MATERIAL] VOTING SYSTEMS PURCHASED AFTER 2006--  
17 MAINTENANCE AND CUSTODY.--For voting systems purchased with  
18 state or federal funds after calendar year 2006:

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

22 B. each system shall be held in the custody and  
23 care of the county using the voting system and be safely stored  
24 by the county pursuant to guidelines issued by the secretary of  
25 state. The counties shall be responsible for the costs of

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1 properly storing the voting systems."

2 Section 3. EFFECTIVE DATE.--The effective date of the  
3 provisions of this act is July 1, 2009.

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