Fiscal Note

Legislative Council Staff

Nonpartisan Services for Colorado's Legislature

HB 25-1143: OPEN-SOURCE SOFTWARE IN VOTING SYSTEMS

Prime Sponsors:
Rep. Brooks

Fiscal Analyst:
Hamza Syed, 303-866-4976
hamza.syed@coleg.gov

Published for: House State Affairs
Drafting number: LLS 25-0711

Version: Initial Fiscal Note
Date: February 6, 2025

Fiscal note status: The fiscal note reflects the introduced bill.

Summary Information

Overview. The bill requires the use of open-source software in any election voting system.

Types of impacts. The bill is projected to affect the following areas beginning FY 2026-27:

- State Expenditures
- State Revenue

- Local Government

Appropriations. No appropriation is required.

Table 1
State Fiscal Impacts

Type of Impact[1]	Budget Year FY 2025-26	Out Year FY 2026-27	Out Year FY 2027-28
State Revenue	$0	$0	$0
State Expenditures[2]	$0	$66,174	$119,007
Transferred Funds	$0	$0	$0
Change in TABOR Refunds	$0	$0	$0
Change in State FTE	0.0 FTE	0.5 FTE	1.0 FTE

[1] Fund sources for these impacts are shown in the table below.

[2] State expenditures may increase beyond the estimate in Table 1, depending on the availability of, and implementation timeline for, new voting systems compliant with the bill, as well as reimbursement rules for county election costs. Specifically, costs may increase by around $1.6 million per election starting in FY 2027-28 if compliant voting systems are not available for use in covered elections. In addition, one-time costs of up to $14 million may occur in FY 2028-29 should state reimbursement to counties for the purchase new election equipment be required. These costs are discussed in the "Other Potential Costs" portion of the State Expenditures section.

Table 1A
State Expenditures

Fund Source	Budget Year FY 2025-26	Out Year FY 2026-27	Out Year FY 2027-28
General Fund	$0	$0	$0
Cash Funds	$0	$55,482	$97,624
Federal Funds	$0	$0	$0
Centrally Appropriated	$0	$10,692	$21,383
Total Expenditures	**$0**	**$66,174**	**$119,007**
Total FTE	**0.0 FTE**	**0.5 FTE**	**1.0 FTE**

Summary of Legislation

The bill requires that any voting system used after January 2027 have open-source software where the source code of the software is publically accessible for review. The Department of State (DOS) must adopt standards for certification and oversight of open-source voting systems, and counties must ensure that open source-software is incorporated into its voting systems. Beginning January 2028, the DOS must include information on implementation of open-source software in its annual SMART Act Hearing presentations.

Background

Currently, the state's voting systems use a propriety software that is not open-source. It is unknown if those vendors are willing to make their software open-source to comply with the requirements of this bill, if enacted. The DOS has identified VotingWorks, a nonprofit, open-source voting system currently going through testing and certification at the federal Election Assistance Commission, as a possible voting system that would be compliant with this bill. VotingWorks, or a similar system, will need to be certified to the federal elections standard before the certification process can begin in Colorado. Once begun, the full certification process can take up to 2.5 years to finalize.

State Revenue

Fee Impact on Businesses and Professions

Colorado law requires legislative service agency review of measures which create or increase any fee collected by a state agency. Under current law, the DOS is authorized to adjust fees so that the revenue generated approximates its direct and indirect costs. The DOS is primarily funded through business filing fees. To cover the costs described in the State Expenditures section

below, fees may need to be raised to cover all or some of the costs of this bill. The fees affected and the actual amount of fee charges will be set administratively by the DOS based on cash fund balance, total program costs, and the estimated number of professional activities subject to fees. This revenue is subject to TABOR.

State Expenditures

At a minimum, the bill increases state expenditures in the Department of State by about $66,000 in FY 2026-27, and about $119,000 in FY 2027-28. These costs, paid from the Department of State Cash Funds are summarized in Table 2. Depending on various other factors, the bill may also increase costs for around $1.6 million per year starting in FY 2027-28 if manual election counting is required due to the lack of compliant election equipment. In addition, costs may increase by up to $14 million in FY 2028-29 if state reimbursement is required for counties' purchase of new election equipment. These impacts are discussed in more detail below.

Table 2
State Expenditures
Department of State

Cost Component	Budget Year FY 2025-26	Out Year FY 2026-27	Out Year FY 2027-28
Personal Services	$0	$48,172	$96,344
Operating Expenses	$0	$640	$1,280
Capital Outlay Costs	$0	$6,670	$0
Centrally Appropriated Costs	$0	$10,692	$21,383
Total Costs	**$0**	**$66,174**	**$119,007**
Total FTE	**0.0 FTE**	**0.5 FTE**	**1.0 FTE**

Staff

DOS will require 1.0 FTE for a Cybersecurity Specialist to support the Elections Division in the development of voting system standards. This FTE will also review open-source requirements, certification standards, and equipment and system functionality for compliance with the bill. Personal Services in FY 2026-27 represent a one-half year impact, prorated for a January 2027 start date, and include standard operating and capital outlay.

Centrally Appropriated Costs

Pursuant to a Joint Budget Committee policy, certain costs associated with this bill are addressed through the annual budget process and centrally appropriated in the Long Bill or supplemental appropriations bills, rather than in this bill. These costs, which may include employee insurance, supplemental employee retirement payments, leased space, and indirect cost assessments, are shown in the expenditure table(s) above.

Other Potential Costs

Depending on the availability of, and implementation timeline for, new voting systems compliant with the bill, as well as reimbursement rules for county election costs, state expenditures may increase to conduct a hand count of elections or to reimburse counties for the purchase of new election equipment. These potential impacts are discussed below.

Hand Counting of Votes

The state has two years from the passage of the measure for an open-source voting system to be certified, for the DOS to create rules and approve a system, and for all 64 counties to approve and purchase new voting systems. As there is not a current voting system that can be used in Colorado under this measure, several or all counties may not have the proper voting systems in place for the coordinated election in 2027.

If a voting system is not in place in a county, all ballots will need to be hand counted. Hand counted ballots will require significantly more staff, and resources from counties. In addition, DOS will require election observers to be present in each county. Fees for observers are paid using personal services appropriations to the DOS, and are projected to cost about $25,000 per observer for each county. If all 64 counties require a hand count, costs paid from the DOS Cash Fund will increase by an additional $1.6 million.

County Reimbursement

In addition, under state law DOS is required to reimburse 45 percent of a county's election costs. Counties may need to purchase new voting machines and negotiate new voting system contracts for compliance with this measure. The county clerks estimate this cost to be about $31.0 million, assuming all 64 counties are required to purchase new voting systems software and hardware. Assuming all of these costs are reimbursable elections expenses, state expenditures will by up to $14 million to provide reimbursement to counties. This expense would not be incurred until at least FY 2028-29, to reimburse election expenses from FY 2027-28. The exact reimbursement amount will depend on actual costs for any new equipment, as well as the exact rules governing reimbursement established by the Secretary of State. County reimbursement may be paid from the General Fund or the DOS Cash Fund.

Local Government

This bill may significantly increase the cost for counties, with a portion of costs assumed to be reimbursed by the state. Counties may need to replace all voting systems to comply with the measure, as well as adopt DOS certification requirements. By county size, these equipment costs are estimated to be $155,000 for a small county, $361,000 for a medium county, and around $1 million for a large county. Statewide, the cost to purchase compliant election systems may total up to $31 million. Exact costs will depend on contract terms to purchase compliant equipment.

In addition, if a compliant voting system is not ready by the 2027 coordinated election, costs will increase for counties to conduct a hand count of election results. As discussed previously, counties will need additional staff and resources to hand count ballots. A portion of this cost is reimbursable by the state.

Effective Date

The bill takes effect 90 days following adjournment of the General Assembly sine die, assuming no referendum petition is filed.

State and Local Government Contacts

Information Technology

County Clerks

Department of State