HB 23-1055

Legislative Council Staff

Nonpartisan Services for Colorado's Legislature

Fiscal Note

Drafting Number:	LLS 23-0298	**Date:**	January 27, 2023
Prime Sponsors:	Rep. Bockenfeld	**Bill Status:**	House State Affairs
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Bill Topic: **PROHIBIT WIRELESS NETWORKING VOTING SYSTEMS**

Summary of Fiscal Impact:

☒ State Revenue
☒ State Expenditure
☐ State Transfer
☐ TABOR Refund
☒ Local Government
☐ Statutory Public Entity

The bill prohibits the use of voting systems that are capable of establishing a wireless connection, starting January 1, 2024. The bill results in a one-time increase in state and local government expenditures, and may increase state revenue.

Appropriation Summary: For FY 2023-24, the bill requires an appropriation of $125,434 to the Department of State.

Fiscal Note Status: The fiscal note reflects the introduced bill.

Table 1
State Fiscal Impacts Under HB 23-1055

		Budget Year FY 2023-24	Out Year FY 2024-25
Revenue		-	-
Expenditures	Cash Funds	$125,434	-
	Centrally Appropriated	$32,270	-
	Total Expenditures	**$157,704**	**-**
	Total FTE	**2.0 FTE**	**-**
Transfers		-	-
Other Budget Impacts		-	-

Summary of Legislation

The bill prohibits the use of voting systems that are capable of establishing a wireless connection, starting January 1, 2024.

Background

There are two certified voting systems providers and voting systems currently in use in Colorado— Clear Ballot Group's ClearVote® 2.1.5 and Dominion Voting System's Democracy Suite® 5.13-A. Both providers use hardware components in their voting systems that are equipped with Wi-Fi or Bluetooth functionality. The Department of State's Voting Systems team disables wireless connectivity on all components when they install the certified version of the voting system software at individual counties in a process known as "trusted build."

Assumptions

It is assumed that the bill prohibits the use of systems with hardware that have the capacity to establish a wireless connection via WiFi or Bluetooth, even if that capability has been disabled.

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 Department of State (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

The bill increases expenditure in the Department of State by $157,636 and 2.0 FTE in FY 2023-24 only, paid from the Sectary of State Cash Fund. Expenditures are shown in Table 2 and detailed below.

Table 2
Expenditures Under HB 23-1055

		FY 2023-24	FY 2024-25
Department of State			
Personal Services		$109,394	-
Operating Expenses		$2,700	-
Capital Outlay Costs		$13,340	-
Legal Services		-	-
Centrally Appropriated Costs[1]		$32,270	-
	Total Cost	**$157,704**	**-**
	Total FTE	**2.0 FTE**	**-**

[1] *Centrally appropriated costs are not included in the bill's appropriation.*

Temporary staff. Two election specialists are required to work with the voting system vendors to find hardware that is incapable of connecting to the internet and develop a new "trusted build" process for the new equipment. This staff would also need to rework current changes to voting systems that are in the process of being implemented, specifically for House Bill 21-1071, which required changes to voting systems regarding instant runoff voting system. See the Technical Note section regarding the timing of work under the bill.

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 include employee insurance and supplemental employee retirement payments, are shown in Table 2.

Local Government

County clerks will have one-time costs of around $8 million to identify and purchase new voting systems equipment, as well as to test, roll out, and train staff on the new equipment. It is estimated that 47 counties will need to purchase new equipment. Seventeen counties will not be effected by the bill, either because their systems are scheduled to be replaced this year or because they are already compliant. The counties that must purchase new systems will need to aquire various types of equipment that range between $2,000 and $28,000 per unit. In total, more than 1,200 units of equipment must be replaced under the bill, resulting in a statewide cost of $8 million dollars to counties.

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Technical Note

Timing. Certifying a vendor to meet the new requirements will take approximately four months if such a vendor is available. Once a new vendor is contracted, it will take approximately three months to complete the trust build process. Under these limitations, the bill cannot be implemented by January 1, 2024, as required.

Product availability. Most commercial off-the-shelf hardware components have internet connectivity capabilities. Additionally, the bill's timeline and economic supply chain issues may make it impossible to find a vendor who can meet the bill's requirements.

Effective Date

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

State Appropriations

For FY 2023-24, the bill requires an appropriation from the Department of State Cash Fund of $125,434 to the Department of State, and 2.0 FTE.

State and Local Government Contacts

Counties	County Clerks	Municipalities
Secretary of State		