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## FISCAL IMPACT REPORT

ORIGINAL DATE 2-1-09

SPONSOR King LAST UPDATED 2-13-09 HB 387

SHORT TITLE County Voting Machine Lease Renegotiation SB \_\_\_\_\_

ANALYST Ortiz

### APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY09	FY10		
NFI	NFI		

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Attorney General's Office (AGO)

Secretary of State (SOS)

#### No Responses Received From

Department of Finance and Administration (DFA)

### SUMMARY

#### Synopsis of Bill

House Bill 387 provides that a lease-purchase contract for an electronic voting system (between the State Board of Finance and a county) can be renegotiated to provide that once the ownership transfers to the State Board of Finance, the contract will terminate and the Board may dispose of the old voting systems in a manner consistent with state interests.

### SIGNIFICANT ISSUES

Department of Finance and Administration notes that counties enter into lease purchase agreements with the Board of Finance to purchase voting machines and equipment. Long-term agreements are entered into when the county needs time to pay back BOF. Short-term agreements (30 days) are entered when the county has funds to pay for the machine right away. Per statute 1.10.21.9, BOF has to buy the machines for the county and enter into a lease purchase agreement. County clerks are responsible for care, custody, and maintenance of the machines and equipment. Upon receipt of full payment, BOF transfers title of machines and equipment to the county. Failure to pay timely or to assume care, custody and maintenance means a county is in

default. BOF will then take possession of machines and equipment and all costs borne are paid by the county.

There are 17 counties that still owe money to the State Board of Finance for voting machines that are no longer being used, as they were replaced with paper ballot machines as required by law enacted in 2006. If the bill does not pass, these counties will have this debt on their books for machines that they are no longer able to use.

### **OTHER SUBSTANTIVE ISSUES**

Electronic voting systems with the state's approval were purchased by the counties however the state later prohibited their use in favor of paper ballots. Paper ballots for the 2008 general cost the general fund \$5.2 million versus the cost of \$1.2 million when electronic ballot were used for a general election. The electronic machines sit in storage at the Las Lunas prison. The Secretary of State points out that this bill will hold counties harmless on the pending debt owed.

### **WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL?**

Counties will continue to owe the Board of Finance \$3.5 million for obsolete voting machines. The Board will either extend its moratorium on payments or begin collecting payments again. If the machines cannot be disposed of, the Board may be required to ask counties to remove machines from the GSD facility and transport them back to their own storage facilities.

### **AMENDMENTS**

DFA suggests amending the bill to allow BOF to pay for disposal of old machines from the electronic voting machine revolving fund in accordance with procurement code. This would be a one time non-recurring appropriation.

EO/mc