

Date of Hearing: May 10, 2023

ASSEMBLY COMMITTEE ON APPROPRIATIONS

Chris Holden, Chair

AB 1559 (Jackson) – As Amended April 26, 2023

Policy Committee:	Elections	Vote:	8 - 0
	Public Safety		8 - 0

Urgency: No            State Mandated Local Program: Yes            Reimbursable: Yes

**SUMMARY:**

This bill revises election record retention, preservation, and destruction procedures to provide clear guidance regarding electronic voting data, including clarifying that it is a felony to knowingly provide unauthorized access to, or break the chain of custody to, certified voting technology and finished or unfinished ballot cards.

Specifically, this bill:

- 1) Authorizes the Secretary of State (SOS) to impose additional conditions of approval for electronic poll books, ballot systems, and voting systems before the use of such items in an election. The SOS may also set processes for the items’ disposal.
- 2) Requires a county elections official to keep paper cast vote records and certain electronic data for the same minimum number of months for which other election materials must be kept.
- 3) Defines what it means to “interfere” or “attempt to interfere” with the secrecy of voting or ballot tally software program source codes, the act of which is already a felony under existing law.

**FISCAL EFFECT:**

- 1) Minor and absorbable costs to the SOS to update requirements for voting systems and materials.
- 2) By requiring county elections officials to maintain voting systems and materials in a specified manner, this bill creates a state-mandated local program. If the Commission on State Mandates determines the provisions of this bill create a new program or impose a higher level of service for which the state must reimburse local costs, counties could claim reimbursement from the state (General Fund (GF)). The magnitude of these costs is unknown, but potentially in excess of \$150,000 across all counties, depending on an individual county’s capacity to store additional records, including electronic data, for specified periods of time.
- 3) By clarifying the scope of an existing felony, this bill may make it easier to try and convict an individual for the specified felony, resulting in potential non-reimbursable costs in the tens of thousands of dollars annually for increased incarceration costs. The average annual cost to incarcerate a defendant in county jail is approximately \$29,000. California county jails are

increasingly overcrowded – particularly since the enactment of the Realignment Act in 2011. Jail overcrowding since 2011 has resulted in court-mandated population caps and increased rates of inmate violence and death. Overcrowding has also resulted in significant state funding for additional jail construction. Although new crimes are not considered reimbursable state mandates pursuant to Proposition 30 (2012), overcrowding in county jails creates cost pressure on the GF because the state has historically granted new funding to counties to offset overcrowding after the 2011 Realignment Act.

#### COMMENTS:

1) **Purpose.** According to the author:

California must act to ensure that voting systems and associated material is protected from those who would act irresponsibly in their privileged role that grants them access to this highly sensitive material. We must also send a strong message that these privileged individuals will suffer substantial consequences for attempting to undermine voters and one of the most basic principles of our democracy – fair and secure elections.

This bill is sponsored by SOS Shirley N. Weber and supported by the California Association of Clerks and Election Officials.

- 2) **Voting System Standards.** SB 360 (Padilla), Chapter 602, Statutes of 2013, made significant changes to procedures and criteria for the certification and approval of a voting system, required the SOS to adopt and publish voting system standards and regulations, and required those standards to meet or exceed federal voluntary voting system guidelines. All voting technology must be certified for use prior to being sold or used in any California election. This bill updates and expands these existing procedures and requirements to keep pace with the evolution of voting technologies.
- 3) **Related Legislation.** AB 1539 (Berman) makes it a misdemeanor for a person to vote or attempt to vote in both an election held in this state and an election held in another state on the same day. AB 1539 is pending on the Assembly Consent Calendar.

**Analysis Prepared by:** Irene Ho / APPR. / (916) 319-2081