ARIZONA STATE SENATE
Fifty-Sixth Legislature, First Regular Session

VETOED
FACT SHEET FOR S.B. 1565

ballot processing; electronic adjudication; limitation

Purpose

Prohibits the use of machines, devices, firmware or software that contain artificial intelligence or learning hardware, firmware or software for an election in Arizona.

Background

The Secretary of State (SOS) must appoint a three-member committee to investigate and test various types of vote recording and tabulating machines or devices that may be used for elections. The committee must submit recommendations to the SOS, who makes final adoption of the types, makes and models of elections machines and devices to be certified for use in Arizona. After consultation with the committee, the SOS must adopt standards for the loss of certification for elections machines and devices. The SOS may revoke the certification of any voting system or device if the person or firm: 1) installs, uses or allows the use of a voting system or device that is not certified for use or approved for experimental use in Arizona; or 2) uses or includes hardware, firmware or software in a version that is not certified for use or approved for experimental use in a certified voting system or device. Elections machines and devices may only be used if it has been tested and approved by a laboratory that is accredited pursuant to the Help America Vote Act of 2002. The SOS or a governing body may provide for the experimental use of a voting system or device without a final adoption of the system or device and its use would be as valid as if the machines had been permanently adopted (A.R.S. § 16- 442).

If any ballot is damaged or defective and cannot be properly counted by automatic tabulating equipment, a duplicate copy must be made of, and substituted for, the damaged or defective ballot in the presence of witnesses. If the counting center automatic tabulating equipment includes a certified electronic vote adjudication feature, the county board of supervisors or officer in charge of elections must appoint an electronic vote adjudication board (adjudication board). The adjudication board must: 1) adjudicate and submit for tabulation a ballot that is read by the tabulation machine as blank to determine if voter intent is clear; or 2) tally write-in choices. The electronic vote adjudication process used by the adjudication board must provide for: 1) a method to track and account for the original ballot and the digital duplicate of the ballot created by the electronic vote adjudication feature that includes a serial number on the digital image; 2) logs of all digital duplication and adjudication actions performed by an adjudication board; and 3) the retention of the original ballot and the digital duplicate of the ballot (A.R.S. § 16-621).

There is no anticipated fiscal impact to the state General Fund associated with this legislation.

Provisions

1. Prohibits the use of machines, devices, firmware or software that contain artificial intelligence or learning hardware, firmware or software for an election in Arizona.

2. Prohibits the use of artificial intelligence or learning software or firmware for:
   a) the processing of early ballots;
   b) verifying the voter's affidavit;
   c) checking the voter's affidavit; and
   d) electronic vote adjudication.

3. Removes the authorization of the SOS or the governing body of a city or town to provide for the experimental use of a voting system or device without a final adoption of the voting system.

4. Makes technical changes.

5. Becomes effective on the general effective date.

Governor's Veto Message

The Governor indicates in her veto message that there are opportunities to work together on challenges facing elections in Arizona and that S.B. 1565, instead attempts to solve challenges that currently do not face Arizona.

Senate Action				House Action			
ELEC	2/13/23	DP	5-3-0	MOE	3/15/23	DP	6-4-0-1
3rd Read	2/28/23		16-13-1	3rd Read	4/10/23		31-26-3

Vetoed by the Governor on 4/18/23

Prepared by Senate Research
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AN/CS/slp