

Department of Planning and Budget

2019 Fiscal Impact Statement

1. Bill Number: HB2588

House of Origin	<input checked="" type="checkbox"/>	Introduced	<input type="checkbox"/>	Substitute	<input type="checkbox"/>	Engrossed
Second House	<input type="checkbox"/>	In Committee	<input type="checkbox"/>	Substitute	<input type="checkbox"/>	Enrolled

2. Patron: Rush

3. Committee: Privileges and Elections

4. Title: Military-overseas ballots; electronic return of voted ballots, pilot program.

5. Summary: Directs the Commissioner of Elections to establish and supervise a pilot program by which an active duty member of a uniformed service who has been deployed overseas and is a registered voter of a county or city participating in such pilot program may return his voted military-overseas ballot by electronic means. The Commissioner is required to promulgate standards and develop procedures for the secure transmission and return, storage, and processing of voted military-overseas ballots, including security measures, methods for verifying and authenticating a voter's identity, and encryption methods for the voted ballots. To the fullest extent practicable, these standards and procedures are required to incorporate the use of blockchain technology, defined in the bill as technology using distributed databases and ledgers protected against revision by publicly verifiable open source cryptographic algorithms and protected from data loss by distributed records sharing. The bill requires counties and cities participating in the pilot program to participate in a security review after each election. In each year of the pilot program, the bill requires the Commissioner to conduct a security assessment and update the security measures for the pilot program. The bill also requires that voters eligible to return their military-overseas ballots by electronic means through the pilot program be permitted to sign the statement of voter and any other documents related to absentee voting using the digital signature associated with their respective Common Access Cards issued by the U.S. Department of Defense. The pilot program is in effect for elections held on and after January 1, 2020. The bill requires the Commissioner to submit a report on or before December 1, 2024, on the outcomes of the pilot program and to include a recommendation as to whether to implement the electronic return of voted military-overseas ballots on a permanent, statewide basis. The bill has an expiration date of December 31, 2024.

6. Budget Amendment Necessary: See Item 8.

7. Fiscal Impact Estimates: Preliminary; see Item 8.

8. Fiscal Implications: The proposed legislation would require the Department of Elections (ELECT) to establish and supervise a pilot program for the secure return of voted military overseas ballots by electronic means for active duty members of a uniformed service who have been called to duty for deployment overseas. The costs would begin in fiscal year 2020, and include costs for solution licensing, customization, state development costs, and other

related support expenditures. Several of these costs are currently unknown. The table below summarizes the types of expenses related to implementing the pilot program and indicates whether an estimated cost is currently known or unknown.

Licensing (Annually): Unknown

VITA ECOS (1200-One-time/900 monthly): \$11,100

Staffing (Annually): Unknown

Customization (One-time): Unknown

Integration with state systems (One-time): Unknown

Security review following each election and annual security assessment: Unknown

The estimated licensing costs are indeterminate, as the bill allows localities to opt in to the pilot program and it is unknown how many localities would choose to do so. Based on an estimate provided to ELECT from a vendor that provides the type of software that would fulfill the goal of this legislation, licensing costs have two components: a statewide fee for an election and a per locality license. The licensing cost is based on two major elections (a primary and a general election) a year. Each election will require the agency to purchase an election set up at \$36,000 each. Licenses will also need to be purchased for each participating locality in the Commonwealth (up to 133) for each election. These licenses are charged annually and per election, and cost \$1,000 for the first election each year and \$500 for each election after the first. ELECT currently averages approximately ten elections per year when May general elections and other special elections are factored in. ELECT notes that vendors only provide service that will allow the delivery of ballots or the delivery and return of ballots. Services are not available that would only allow the return of ballots.

If the solution chosen is cloud-based, the pilot program will be subject to oversight by the Virginia Information Technologies Agency (VITA) Enterprise Cloud Oversight Service (ECOS). Agencies pay a one-time cost of \$1,200 and a \$900 per month fee for ECOS. The solution would also require security audit and vulnerability testing. ELECT is a member of VITA's shared security center, which provides security audits for sensitive systems once every three years and application vulnerability scanning quarterly pursuant to state information technology security standards. It is unknown at this time if the security review required by the bill to follow every election and the security assessment in each year of the pilot program would be in-scope of this service or if the review would require additional expenditures.

In addition to licensing costs, ELECT may also incur one-time costs to customize the vendor software to meet Commonwealth security and data standards. ELECT also indicates that development costs may be needed in order to integrate the agency's existing systems with the successful vendor's system. These costs are indeterminate, and could potentially require the need for contractors or additional staff, and would be dependent on the vendor solution chosen after a competitive procurement.

According to ELECT, West Virginia is one of the only states to have developed a blockchain-based ballot delivery system, which cost roughly \$300,000 to design and

implement its pilot program. Since the application built for this pilot was still in its early stages of development, cost estimates were not available regarding annual licensing fees.

9. Specific Agency or Political Subdivisions Affected: Virginia Department of Elections and localities.

10. Technical Amendment Necessary: No.

11. Other Comments: None.

Date: 1/23/2019