



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

HB1642

Introduced 2/22/2007, by Rep. Mike Boland

SYNOPSIS AS INTRODUCED:

See Index

Amends the Election Code. Requires that each election authority (i) conduct an election day audit of a random sample of 10% of votes cast and (ii) provide by contract or employment for the performance by one or more independent auditors of post-election parallel tabulations and audits. Provides for the scope of the audits and the resulting reports. Requires that optical scan technology and direct recording electronic voting systems meet certain federal and independent testing standards. With respect to early voting, requires that an election authority using only direct recording electronic voting systems have paper ballots available for voters wishing to use them.

LRB095 09125 JAM 29318 b

FISCAL NOTE ACT
MAY APPLY

1 AN ACT concerning elections.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Election Code is amended by changing
5 Sections 19A-75, 24B-2, 24B-16, 24C-2, 24C-9, and 24C-16 and by
6 adding the heading of Article 21B and Sections 21B-5, 21B-10,
7 21B-15, 21B-20, 21B-25, 21B-30, 21B-35, 21B-40, 21B-45,
8 21B-50, 21B-55, 21B-60, 21B-65, 21B-70, 21B-75, 21B-80,
9 21B-85, 21B-90, and 21B-95 as follows:

10 (10 ILCS 5/19A-75)

11 Sec. 19A-75. Early voting in jurisdictions using Direct
12 Recording Electronic Voting Systems under Article 24C.
13 Election authorities that have adopted for use Direct Recording
14 Electronic Voting Systems under Article 24C may (i) either use
15 those voting systems to conduct early voting, provided that
16 each early voting polling place shall have available sufficient
17 paper ballots for those voters who request them, consistent
18 with the limitations set forth in subsection (b) of Section
19 19A-10, or (ii), so long as at least one Direct Recording
20 Electronic Voting System device is available at each early
21 voting polling place, use whatever method the election
22 authority uses for absentee balloting conducted by mail;
23 provided that no early ballots are counted before the polls

1 close on election day.

2 (Source: P.A. 94-645, eff. 8-22-05.)

3 (10 ILCS 5/Art. 21B heading new)

4 ARTICLE 21B. AUDITS

5 (10 ILCS 5/21B-5 new)

6 Sec. 21B-5. Election day audit. There shall be conducted a
7 10% election day audit of all votes cast for each designated
8 race or proposition on election day.

9 (10 ILCS 5/21B-10 new)

10 Sec. 21B-10. Scope of the audit. The 10% audit shall be
11 conducted for all races or propositions that meet the following
12 criteria:

13 (1) All statewide offices and propositions;

14 (2) All countywide offices and propositions;

15 (3) All federal races; and

16 (4) Any municipal or other political sub-division or
17 taxing entity races where the number of registered voters
18 eligible to vote on that race or proposition exceeds 50,000
19 voters.

20 (10 ILCS 5/21B-15 new)

21 Sec. 21B-15. Time and place of the audit. The 10% audits
22 shall take place on election day as soon as practicable after

1 the close of the polls and shall take place at the location
2 where votes are originally counted (in-precinct for all votes
3 cast on election day and at the central counting location for
4 early voting, grace, and absentee ballots), provided that the
5 10% hand count shall be subordinate to and not interfere with
6 the reporting of election results.

7 (10 ILCS 5/21B-20 new)

8 Sec. 21B-20. Conduct. The election day audit shall be
9 conducted by election judges selected and appointed in the same
10 manner as set forth in Sections 13-1, 13-2, 14-1, 14-2, and
11 14-3 of this Code. Election authorities may implement the
12 appointment of part-time judges, job-sharing, split shifts, or
13 other methods of allocating election judge resources to ensure
14 that sufficient judges are available to conduct the election
15 day audits in a timely and efficient manner.

16 (10 ILCS 5/21B-25 new)

17 Sec. 21B-25. Random selection of ballots to be examined.

18 (a) The election authority shall provide to each polling
19 place, precinct, or central counting location as appropriate
20 one set of 10 plastic disks, each imprinted on one or both
21 sides with a number from 1 to 10. Each disk shall have one such
22 number imprinted, with the same number on each side, and no 2
23 disks shall have the same number. In addition, a suitable
24 opaque container shall be provided sufficient to contain the

1 set.

2 (b) After the close of the polls and prior to the
3 commencement of the election day audit, the election judges
4 present shall select one of their number to place the numbered
5 disk in the container and shake the container sufficiently so
6 that the disks shall be in random order. The judges shall
7 select another of their number to select one such disk from the
8 container in such a manner that the selecting judge has no
9 knowledge of which disk he or she is selecting. The disk drawn
10 from the container shall be examined and the number of the disk
11 chosen publicly announced. That result shall indicate which
12 ballots are to be examined, e.g. a result of 7 shall require
13 that the seventh and every tenth ballot thereafter be examined
14 (7, 17, 27, etc.). The result of the drawing shall be recorded
15 on the summary report section set forth in Section 21B-35.

16 (10 ILCS 5/21B-30 new)

17 Sec. 21B-30. Ballots or paper records to be examined.

18 (a) The election authority shall provide to each polling
19 place, precinct, or central counting location as appropriate
20 one self-inked consecutive numbering stamp capable of
21 numbering from 1 to 999,999.

22 (b) All paper ballots shall be placed in a single stack in
23 a random order as retrieved from the ballot boxes and each
24 ballot shall be stamped with a consecutive number, starting
25 with the number 1 until all ballots have been numbered.

1 (c) The starting number and tenth ballot thereafter shall
2 be examined in accordance with the selection number resulting
3 from the operation of Section 21B-25.

4 (d) For paper records printed by Direct Recording
5 Electronic (DRE) voting machines, the paper records shall be
6 examined in the order printed on the DRE produced paper records
7 selecting each starting and tenth paper record thereafter in
8 accordance with the selection number resulting from the
9 operation of Section 21B-25.

10 (e) For paper records printed by Direct Recording
11 Electronic (DRE) voting machines, only the human-readable
12 portion of the paper record shall be used in the election day
13 audit. The use of bar codes or other human unreadable records
14 of votes shall not be permitted.

15 (10 ILCS 5/21B-35 new)

16 Sec. 21B-35. Reports.

17 (a) Prior to election day, the appropriate election
18 authority shall cause to be created and printed an audit
19 summary form that shall state the races and propositions to be
20 audited in accordance with Section 21B-10 and shall have
21 pre-printed spaces, boxes, or both in which the results of the
22 election day audit shall be recorded. This form shall also
23 include a reconciliation of all ballots counted by category,
24 such as provisional, federal only, standard, etc., and shall be
25 provided in sufficient number to all auditing locations to

1 facilitate the required distribution.

2 (b) Upon completion of the audit, 6 copies of the election
3 day audit summary shall be signed by all the judges
4 participating in the election day audit and shall be
5 distributed as follows:

6 (1) One copy shall be posted in the polling or counting
7 location in a manner that the election day audit summary is
8 clearly visible and available for public inspection for a
9 period of not less than one hour.

10 (2) Two copies shall be placed in the ballot box or
11 designated envelope or envelopes and transported to the
12 election authority in the same manner as ballots.

13 (3) Three copies shall be made available on request to
14 pollwatchers or members of the public in that order of
15 preference.

16 (4) Pollwatchers and other observers in the polls may
17 take photographs of the posted copies without restriction.

18 (c) The audit reports from all in-precinct and central
19 counting locations shall be received by the election authority
20 and a consolidated report shall be prepared. The consolidated
21 reports shall be published by the election authority within 24
22 hours after the closing of the polls, and the authorities shall
23 certify the election day audit results and maintain both
24 consolidated and individual location reports in the same manner
25 and for the same period of time as ballots, except that copies
26 of consolidated and individual location reports shall be

1 available to the public upon request. If that election
2 authority maintains a public website, then the copies shall
3 also be made freely available to the public via the Internet
4 for a period of not less than 60 days.

5 (d) The certified Consolidated and individual location
6 reports shall be deemed admissible as evidence to the extent
7 permitted by law in any action for discovery or other recount.

8 (10 ILCS 5/21B-40 new)

9 Sec. 21B-40. Parallel, independent audits. There shall be
10 conducted an independent parallel tabulation and audit for each
11 race or proposition in every election.

12 (10 ILCS 5/21B-45 new)

13 Sec. 21B-45. Authority. Each election authority shall be
14 empowered on behalf of all voters in that jurisdiction to
15 contract for, employ, or both contract for and employ one or
16 more independent auditors to conduct a parallel count and
17 tabulation of the results of every election conducted by the
18 election authority for every race and proposition in the
19 election.

20 (10 ILCS 5/21B-50 new)

21 Sec. 21B-50. Independent election audit committee. Each
22 election authority shall cause to be constituted an independent
23 election audit committee (EAC) of not less than 5 members, that

1 shall have as its primary duties: (1) the preparation of a
2 request for proposal (RFP) for the parallel election tabulation
3 and audit (PETA) and (2) the selection of the independent
4 auditor or auditors to perform such audit.

5 (10 ILCS 5/21B-55 new)

6 Sec. 21B-55. Time of convening. The election audit
7 committee for each jurisdiction shall convene at least 120 days
8 prior to election day and meet thereafter as often as shall be
9 deemed necessary and proper by its membership.

10 (10 ILCS 5/21B-60 new)

11 Sec. 21B-60. Committee composition. The election audit
12 committee shall consist of the following members:

13 (1) One member appointed by each political party that
14 shall have had a candidate for jurisdiction-wide public
15 office in that jurisdiction on the ballot for the previous
16 general election, provided that the party shall have had at
17 least one candidate who received 10% of the ballots cast in
18 that election.

19 (2) Two members appointed by the election authority for
20 the jurisdiction.

21 (3) One election judge from each of the political
22 parties qualifying under paragraph (1) who has served as an
23 election judge in the most recent election conducted in
24 that jurisdiction and at least 2 previous elections. The

1 election judge members shall be selected by lot from among
2 the pool of available judges from the most recent election
3 conducted in that jurisdiction.

4 (10 ILCS 5/21B-65 new)

5 Sec. 21B-65. Request for proposal. Each election authority
6 shall issue a request for proposal (RFP) for a parallel
7 election tabulation and audit as prepared by the independent
8 election audit committee not less than 90 days before election
9 day. The proposals shall be examined and reviewed by the EAC,
10 and the election authority (or other governmental body with
11 appropriation and contracting authority for the jurisdiction)
12 shall award the contract for the audit not less than 45 days
13 before each election.

14 (10 ILCS 5/21B-70 new)

15 Sec. 21B-70. Funding. The public accounting firm
16 conducting the PETA shall be paid from public funds
17 appropriated by each election jurisdiction and designated for
18 that purposes.

19 (10 ILCS 5/21B-75 new)

20 Sec. 21B-75. Contractor qualifications. To qualify to
21 submit a proposal, a potential PETA contractor shall include in
22 its response to the RFP:

23 (1) Evidence that it is a public accounting firm

1 licensed by the State of Illinois to perform financial audits.

2 (2) Provide evidence that upon awarding of a contract
3 to conduct the parallel election tabulation, the firm can post
4 a performance bond equal to \$1 for every registered voter in
5 that jurisdiction.

6 (3) An agreement to submit a response to the RFP that
7 shall limit the aggregate amount to be paid the contractor to
8 not more than (i) \$75 per precinct audited, (ii) \$0.075 per
9 ballot or paper record counted and tallied at central counting
10 locations, or (iii) both (i) and (ii).

11 (4) A statement of performance secured by the
12 performance bond in item (2) that above the parallel election
13 tabulation and audit shall be completed and public reports
14 submitted within the time limitations set forth in Section
15 21B-85.

16 (10 ILCS 5/21B-80 new)

17 Sec. 21B-80. Award. The public accounting firm awarded the
18 contract shall be granted access to any and all records of the
19 election, including but not limited to paper ballots, portable
20 computer memory devices from DREs, scanning devices, central
21 count devices, paper records, ballot generating software,
22 counting and tabulation software, computer logs and error
23 reports of all voting machines and central tabulation devices,
24 servers, communications protocols, databases of all types
25 including registration databases, pollwatcher and election

1 judge logs and reports, and any other records deemed relevant
2 to the conduct of the election as the auditing entity shall
3 deem necessary and reasonable for the conduct of the parallel
4 election tabulation and audit.

5 (10 ILCS 5/21B-85 new)

6 Sec. 21B-85. Reports.

7 (a) The public accounting firm shall produce an initial
8 results report within 72 hours after the close of the polls
9 that shall examine and comment on at least, but not limited to,
10 the following:

11 (1) Whether proper procedures were used in the
12 compilation and tabulation of the 10% election day audit.

13 (2) Whether each voter's choices were accurately
14 summarized in the precinct or central count tallying.

15 (3) To the extent possible to determine from the
16 records available, that the central tabulation procedures,
17 equipment, and software functioned correctly and that the
18 totals reflected in the internal and public tabulation of
19 votes was consistent and accurate.

20 The auditing entity shall certify, with any exceptions
21 noted thereto, the tabulated results of each race or
22 proposition of the election as being accurate to the extent
23 that the winner of each race or the prevailing result for each
24 proposition is correct. For each and every race for which the
25 auditing entity is unable to certify, it shall state the

1 reasons therefore, citing specific circumstances as to why it
2 is unable to certify the outcome.

3 (b) The public accounting firm shall produce an operational
4 report within 21 days after the close of the polls that shall
5 examine and comment on at least, but not limited to, the
6 following:

7 (1) Pre-election preparation including the compiling
8 and production of registration and eligible voter lists,
9 including printed ballot applications and voter records in
10 electronic poll books, and candidate, voter, and
11 pollworker accessible records of eligibility.

12 (2) Proper compiling and production of ballots, both
13 paper and electronic, as to completeness and accuracy for
14 each ballot style produced.

15 (3) Adequacy and completeness of training manuals,
16 election judge's manuals, voter instruction materials, and
17 other internal and public documents related to the
18 election.

19 (4) The election process during the time the polls were
20 open, including reports of machine failures, election
21 problems of all varieties, pollworkers and pollwatchers,
22 reports in order to determine and express an opinion of the
23 efficacy of the election process and to determine to the
24 extent possible that:

25 (A) All eligible voters were given an opportunity
26 to vote.

1 (B) Each voter received a proper and complete
2 ballot.

3 (C) Each voter's choices were properly recorded by
4 the electronic or mechanical machines used in the
5 voting process.

6 (b-5) The auditors of the parallel election tabulation
7 shall examine the processes used after the polls closed to
8 determine, to the extent possible from the records
9 available, if:

10 (1) All election materials were properly secured
11 and that a complete and unbroken chain of custody
12 exists for all election materials.

13 (2) In the case where election authorities gather
14 election results through electronic transmission,
15 either through land lines or wireless networks, the
16 transmissions were secure, reliable, and accurate.

17 (c) The auditing entity shall produce a report that
18 adequately describes all problems associated with the election
19 process and to the extent possible the causes of those
20 problems.

21 (d) To the extent possible within the time constraints
22 imposed by the 21-day requirement, the auditing entity shall
23 include in its report recommendations for modifications to
24 procedures, equipment, or software that would eliminate
25 problems or improve the efficiency and accuracy of the process
26 in whatever stage examined or reported.

1 (10 ILCS 5/21B-90 new)

2 Sec. 21B-90. Availability and ownership of parallel
3 election tabulation and audit reports.

4 (a) The report of the auditing entity shall be public
5 property, in the public domain, and available to anyone upon
6 request and payment of a reasonable fee, subject to the
7 provisions of the Freedom of Information Act (5 ILCS 140/).

8 (b) If the election authority contracting for the parallel
9 election tabulation and audit report maintains a website, the
10 Report shall be posted on the publicly accessible portion of
11 the website in an appropriate format for downloading and
12 printing by the public.

13 (10 ILCS 5/21B-95 new)

14 Sec. 21B-95. Legal effect. The parallel election
15 tabulation and audit reports shall be deemed admissible as
16 evidence to the extent permitted by law in any action for
17 discovery or other recount.

18 (10 ILCS 5/24B-2)

19 Sec. 24B-2. Definitions. As used in this Article:

20 "Approved independent testing authority" means an
21 independent laboratory or authority certified by the federal
22 Election Assistance Commission (EAC).

23 "Computer", "automatic tabulating equipment" or

1 "equipment" includes apparatus necessary to automatically
2 examine and count votes as designated on ballots, and data
3 processing machines which can be used for counting ballots and
4 tabulating results.

5 "Ballot" means paper ballot sheets.

6 "Ballot configuration" means the particular combination of
7 political subdivision ballots including, for each political
8 subdivision, the particular combination of offices, candidate
9 names and questions as it appears for each group of voters who
10 may cast the same ballot.

11 "Ballot sheet" means a paper ballot printed on one or both
12 sides which is (1) designed and prepared so that the voter may
13 indicate his or her votes in designated areas, which must be
14 areas clearly printed or otherwise delineated for such purpose,
15 and (2) capable of having votes marked in the designated areas
16 automatically examined, counted, and tabulated by an
17 electronic scanning process.

18 "Central counting" means the counting of ballots in one or
19 more locations selected by the election authority for the
20 processing or counting, or both, of ballots. A location for
21 central counting shall be within the territorial jurisdiction
22 of the election authority unless there is no suitable
23 tabulating equipment available within his territorial
24 jurisdiction. However, in any event a counting location shall
25 be within this State.

26 "Computer operator" means any person or persons designated

1 by the election authority to operate the automatic tabulating
2 equipment during any portion of the vote tallying process in an
3 election, but shall not include judges of election operating
4 vote tabulating equipment in the precinct.

5 "Computer program" or "program" means the set of operating
6 instructions for the automatic tabulating equipment that
7 examines, counts, tabulates, canvasses and prints votes
8 recorded by a voter on a ballot.

9 "Edit listing" means a computer generated listing of the
10 names of each candidate and proposition as they appear in the
11 program for each precinct.

12 "Header sheet" means a data processing document which is
13 coded to indicate to the computer the precinct identity of the
14 ballots that will follow immediately and may indicate to the
15 computer how such ballots are to be tabulated.

16 "In-precinct counting" means the counting of ballots on
17 automatic tabulating equipment provided by the election
18 authority in the same precinct polling place in which those
19 ballots have been cast.

20 "Marking device" means a pen, computer, or other device
21 approved by the State Board of Elections for marking, or
22 causing to be marked, a paper ballot with ink or other
23 substance which will enable the ballot to be tabulated by
24 automatic tabulating equipment or by an electronic scanning
25 process.

26 "Precinct Tabulation Optical Scan Technology" means the

1 capability to examine a ballot through electronic means and
2 tabulate the votes at one or more counting places.

3 "Redundant count" means a verification of the original
4 computer count by another count using compatible equipment or
5 by hand as part of a discovery recount.

6 "Security designation" means a printed designation placed
7 on a ballot to identify to the computer program the offices and
8 propositions for which votes may be cast and to indicate the
9 manner in which votes cast should be tabulated while negating
10 any inadmissible votes.

11 "Separate ballot", with respect to ballot sheets, means a
12 separate portion of the ballot sheet which is clearly defined
13 by a border or borders or shading.

14 "Specimen ballot" means a representation of names of
15 offices and candidates and statements of measures to be voted
16 on which will appear on the official ballot or marking device
17 on election day. The specimen ballot also contains the party
18 and position number where applicable.

19 "Voting defect identification" means the capability to
20 detect overvoted ballots or ballots which cannot be read by the
21 automatic tabulating equipment.

22 "Voting defects" means an overvoted ballot, or a ballot
23 which cannot be read by the automatic tabulating equipment.

24 "Voting system" or "electronic voting system" means that
25 combination of equipment and programs used in the casting,
26 examination and tabulation of ballots and the cumulation and

1 reporting of results by electronic means.

2 (Source: P.A. 93-574, eff. 8-21-03.)

3 (10 ILCS 5/24B-16)

4 Sec. 24B-16. Approval of Precinct Tabulation Optical Scan
5 Technology Voting Systems; Requisites. The State Board of
6 Elections shall approve all Precinct Tabulation Optical Scan
7 Technology voting systems provided by this Article that fulfill
8 the voluntary provisions and mandatory requirements of the
9 federal voting system standards pertaining to Precinct
10 Tabulation Optical Scan Technology voting systems promulgated
11 by the Federal Election Commission or the Election Assistance
12 Commission and that fulfill the testing requirements of an
13 approved independent testing authority.

14 No Precinct Tabulation Optical Scan Technology voting
15 system shall be approved unless it has been certified by the
16 Federal Election Commission or the Election Assistance
17 Commission and fulfills the following requirements:

18 (a) It enables a voter to vote in absolute secrecy;

19 (b) (Blank);

20 (c) It enables a voter to vote a ticket selected in
21 part from the nominees of one party, and in part from the
22 nominees of any or all parties, and in part from
23 independent candidates, and in part of candidates whose
24 names are written in by the voter;

25 (d) It enables a voter to vote a written or printed

1 ticket of his or her own selection for any person for any
2 office for whom he or she may desire to vote;

3 (e) It will reject all votes for an office or upon a
4 proposition when the voter has cast more votes for the
5 office or upon the proposition than he or she is entitled
6 to cast; and

7 (f) It will accommodate all propositions to be
8 submitted to the voters in the form provided by law or,
9 where no form is provided, then in brief form, not to
10 exceed 75 words.

11 The State Board of Elections shall not approve any voting
12 equipment or system that includes an external Infrared Data
13 Association (IrDA) communications port.

14 The State Board of Elections is authorized to withdraw its
15 approval of a Precinct Tabulation Optical Scan Technology
16 voting system if the system fails to fulfill the above
17 requirements.

18 The vendor, person, or other private entity shall be solely
19 responsible for the production and cost of: all ballots;
20 additional temporary workers; and other equipment or
21 facilities needed and used in the testing of the vendor's,
22 person's, or other private entity's respective equipment and
23 software.

24 No vendor, person, or other entity may sell, lease, or
25 loan, or have a written contract, including a contract
26 contingent upon State Board approval of the voting system or

1 voting system component, to sell, lease, or loan, a voting
2 system or Precinct Tabulation Optical Scan Technology voting
3 system component to any election jurisdiction unless the voting
4 system or voting system component is first approved by the
5 State Board of Elections pursuant to this Section.

6 (Source: P.A. 94-1000, eff. 7-3-06.)

7 (10 ILCS 5/24C-2)

8 Sec. 24C-2. Definitions. As used in this Article:

9 "Approved independent testing authority" means an
10 independent laboratory or authority certified by the federal
11 Election Assistance Commission (EAC).

12 "Audit trail" or "audit capacity" means a continuous trail
13 of evidence linking individual transactions related to the
14 casting of a vote, the vote count and the summary record of
15 vote totals, but which shall not allow for the identification
16 of the voter. It shall permit verification of the accuracy of
17 the count and detection and correction of problems and shall
18 provide a record of each step taken in: defining and producing
19 ballots and generating related software for specific
20 elections; installing ballots and software; testing system
21 readiness; casting and tabulating ballots; and producing
22 images of votes cast and reports of vote totals. The record
23 shall incorporate system status and error messages generated
24 during election processing, including a log of machine
25 activities and routine and unusual intervention by authorized

1 and unauthorized individuals. Also part of an audit trail is
2 the documentation of such items as ballots delivered and
3 collected, administrative procedures for system security,
4 pre-election testing of voting systems, and maintenance
5 performed on voting equipment. All test plans, test results,
6 documentation, and other records used to plan, execute, and
7 record the results of the testing and verification, including
8 all material prepared or used by independent testing
9 authorities or other third parties, shall be made part of the
10 public record and shall be freely available via the Internet
11 and paper copy to anyone. "Audit trail" or "audit capacity"
12 also means that the voting system is capable of producing and
13 shall produce immediately after a ballot is cast a permanent
14 paper record of each ballot cast that shall be available as an
15 official record for any recount, redundant count, or
16 verification or retabulation of the vote count conducted with
17 respect to any election in which the voting system is used.

18 "Ballot" means an electronic audio or video display or any
19 other medium, including paper, used to record a voter's choices
20 for the candidates of their preference and for or against
21 public questions.

22 "Ballot configuration" means the particular combination of
23 political subdivision or district ballots including, for each
24 political subdivision or district, the particular combination
25 of offices, candidate names and public questions as it appears
26 for each group of voters who may cast the same ballot.

1 "Ballot image" means a corresponding representation in
2 electronic or paper form of the mark or vote position of a
3 ballot.

4 "Ballot label" or "ballot screen" means the display of
5 material containing the names of offices and candidates and
6 public questions to be voted on.

7 "Central counting" means the counting of ballots in one or
8 more locations selected by the election authority for the
9 processing or counting, or both, of ballots. A location for
10 central counting shall be within the territorial jurisdiction
11 of the election authority unless there is no suitable
12 tabulating equipment available within his territorial
13 jurisdiction. However, in any event a counting location shall
14 be within this State.

15 "Computer", "automatic tabulating equipment" or
16 "equipment" includes apparatus necessary to automatically
17 examine and count votes as designated on ballots, and data
18 processing machines which can be used for counting ballots and
19 tabulating results.

20 "Computer operator" means any person or persons designated
21 by the election authority to operate the automatic tabulating
22 equipment during any portion of the vote tallying process in an
23 election, but shall not include judges of election operating
24 vote tabulating equipment in the precinct.

25 "Computer program" or "program" means the set of operating
26 instructions for the automatic tabulating equipment that

1 examines, records, displays, counts, tabulates, canvasses, or
2 prints votes recorded by a voter on a ballot or that displays
3 any and all information, graphics, or other visual or audio
4 information or images used in presenting voting information,
5 instructions, or voter choices.

6 "Direct recording electronic voting system", "voting
7 system" or "system" means the total combination of mechanical,
8 electromechanical or electronic equipment, programs and
9 practices used to define ballots, cast and count votes, report
10 or display election results, maintain or produce any audit
11 trail information, identify all system components, test the
12 system during development, maintenance and operation, maintain
13 records of system errors and defects, determine specific system
14 changes to be made to a system after initial qualification, and
15 make available any materials to the voter such as notices,
16 instructions, forms or paper ballots.

17 "Edit listing" means a computer generated listing of the
18 names of each candidate and public question as they appear in
19 the program for each precinct.

20 "In-precinct counting" means the recording and counting of
21 ballots on automatic tabulating equipment provided by the
22 election authority in the same precinct polling place in which
23 those ballots have been cast.

24 "Marking device" means any device approved by the State
25 Board of Elections for marking a ballot so as to enable the
26 ballot to be recorded, counted and tabulated by automatic

1 tabulating equipment.

2 "Permanent paper record" means a paper record upon which
3 shall be printed in human readable form the votes cast for each
4 candidate and for or against each public question on each
5 ballot recorded in the voting system. Each permanent paper
6 record shall be printed by the voting device upon activation of
7 the marking device by the voter and shall contain a unique,
8 randomly assigned identifying number that shall correspond to
9 the number randomly assigned by the voting system to each
10 ballot as it is electronically recorded.

11 "Redundant count" means a verification of the original
12 computer count of ballots by another count using compatible
13 equipment or other means as part of a discovery recount,
14 including a count of the permanent paper record of each ballot
15 cast by using compatible equipment, different equipment
16 approved by the State Board of Elections for that purpose, or
17 by hand.

18 "Separate ballot" means a separate page or display screen
19 of the ballot that is clearly defined and distinguishable from
20 other portions of the ballot.

21 "Voting device" or "voting machine" means an apparatus that
22 contains the ballot label or ballot screen and allows the voter
23 to record his or her vote.

24 (Source: P.A. 93-574, eff. 8-21-03; 94-645, eff. 8-22-05.)

25 (10 ILCS 5/24C-9)

1 Sec. 24C-9. Testing of Direct Recording Electronic Voting
2 System Equipment and Programs; Custody of Programs, Test
3 Materials and Ballots. Prior to the public test, the election
4 authority shall conduct an errorless pre-test of the Direct
5 Recording Electronic Voting System equipment and programs to
6 determine that they will correctly detect voting defects and
7 count the votes cast for all offices and all public questions.
8 On any day not less than 5 days prior to use in an ~~the~~ election
9 ~~day~~, the election authority shall publicly test the Direct
10 Recording Electronic Voting System equipment and programs to
11 determine that they will correctly detect voting errors and
12 accurately count the votes legally cast for all offices and on
13 all public questions. Public notice of the time and place of
14 the test shall be given at least 48 hours before the test by
15 publishing the notice in one or more newspapers within the
16 election jurisdiction of the election authority, if a newspaper
17 is published in that jurisdiction. If a newspaper is not
18 published in that jurisdiction, notice shall be published in a
19 newspaper of general circulation in that jurisdiction. Timely
20 written notice stating the date, time, and location of the
21 public test shall also be provided to the State Board of
22 Elections. The test shall be open to representatives of the
23 political parties, the press, representatives of the State
24 Board of Elections, and the public. The test shall be conducted
25 by entering a pre-audited group of votes designed to record a
26 predetermined number of valid votes for each candidate and on

1 each public question, and shall include for each office one or
2 more ballots having votes exceeding the number allowed by law
3 to test the ability of the automatic tabulating equipment to
4 reject the votes. The test shall also include producing an edit
5 listing. In those election jurisdictions where in-precinct
6 counting equipment is used, a public test of both the equipment
7 and program shall be conducted as nearly as possible in the
8 manner prescribed above. The State Board of Elections may
9 select as many election jurisdictions as the Board deems
10 advisable in the interests of the election process of this
11 State, to order a special test of the automatic tabulating
12 equipment and program before any regular election. The Board
13 may order a special test in any election jurisdiction where,
14 during the preceding 12 months, computer programming errors or
15 other errors in the use of System resulted in vote tabulation
16 errors. Not less than 30 days before any election, the State
17 Board of Elections shall provide written notice to those
18 selected jurisdictions of their intent to conduct a test.
19 Within 5 days of receipt of the State Board of Elections'
20 written notice of intent to conduct a test, the selected
21 jurisdictions shall forward to the principal office of the
22 State Board of Elections a copy of all specimen ballots. The
23 State Board of Elections' tests shall be conducted and
24 completed not less than 2 days before the public test and under
25 the supervision of the Board. The vendor, person, or other
26 private entity shall be solely responsible for the production

1 and cost of: all ballots; additional temporary workers; and
2 other equipment or facilities needed and used in the testing of
3 the vendor's, person's, or other private entity's respective
4 equipment and software. After an errorless test, materials used
5 in the public test, including the program, if appropriate,
6 shall be sealed and remain sealed until the test is run again
7 on election day. If any error is detected, the cause of the
8 error shall be determined and corrected, and an errorless
9 public test shall be made before the automatic tabulating
10 equipment is approved. Each election authority shall file a
11 sealed copy of each tested program to be used within its
12 jurisdiction at an election with the State Board of Elections
13 before the election. The Board shall secure the program or
14 programs of each election jurisdiction so filed in its office
15 until the next election of the same type (general primary,
16 general election, consolidated primary, or consolidated
17 election) for which the program or programs were filed. At the
18 expiration of that time, if no election contest or appeal is
19 pending in an election jurisdiction, the Board shall destroy
20 the sealed program or programs. Except where in-precinct
21 counting equipment is used, the test shall be repeated
22 immediately before the start of the official counting of the
23 ballots, in the same manner as set forth above. After the
24 completion of the count, the test shall be re-run using the
25 same program. Immediately after the re-run, all material used
26 in testing the program and the programs shall be sealed and

1 retained under the custody of the election authority for a
2 period of 60 days. At the expiration of that time the election
3 authority shall destroy the voted ballots, together with all
4 unused ballots returned from the precincts. Provided, if any
5 contest of election is pending at the time in which the ballots
6 may be required as evidence and the election authority has
7 notice of the contest, the same shall not be destroyed until
8 after the contest is finally determined. If the use of back-up
9 equipment becomes necessary, the same testing required for the
10 original equipment shall be conducted.

11 (Source: P.A. 93-574, eff. 8-21-03; 94-1000, eff. 7-3-06.)

12 (10 ILCS 5/24C-16)

13 Sec. 24C-16. Approval of Direct Recording Electronic
14 Voting Systems; Requisites. The State Board of Elections shall
15 approve all Direct Recording Electronic Voting Systems that
16 fulfill the functional requirements provided by Section 24C-11
17 of this Code, the voluntary provisions and mandatory
18 requirements of the federal voting system standards pertaining
19 to Direct Recording Electronic Voting Systems promulgated by
20 the Federal Election Commission or the Election Assistance
21 Commission, the testing requirements of an approved
22 independent testing authority and the rules of the State Board
23 of Elections.

24 The State Board of Elections shall not approve any Direct
25 Recording Electronic Voting System that (i) has not been

1 certified by the Federal Election Commission or the Election
2 Assistance Commission or (ii) includes an external Infrared
3 Data Association (IrDA) communications port.

4 The State Board of Elections is authorized to withdraw its
5 approval of a Direct Recording Electronic Voting System if the
6 System, once approved, fails to fulfill the above requirements.

7 The vendor, person, or other private entity shall be solely
8 responsible for the production and cost of: all ballots;
9 additional temporary workers; and other equipment or
10 facilities needed and used in the testing of the vendor's,
11 person's, or other private entity's respective equipment and
12 software.

13 No vendor, person, or other entity may sell, lease, or
14 loan, or have a written contract, including a contract
15 contingent upon State Board approval of the voting system or
16 voting system component, to sell, lease, or loan, a Direct
17 Recording Electronic Voting System or system component to any
18 election jurisdiction unless the system or system component is
19 first approved by the State Board of Elections pursuant to this
20 Section.

21 (Source: P.A. 93-574, eff. 8-21-03; 94-1000, eff. 7-3-06.)

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8	10 ILCS 5/21B-15 new
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- 3 10 ILCS 5/24C-9
- 4 10 ILCS 5/24C-16