



## 99TH GENERAL ASSEMBLY

### State of Illinois

2015 and 2016

HB2666

by Rep. Linda Chapa LaVia

#### SYNOPSIS AS INTRODUCED:

10 ILCS 5/19A-75  
10 ILCS 5/Art. 21B heading new  
10 ILCS 5/21B-5 new  
10 ILCS 5/21B-10 new  
10 ILCS 5/21B-15 new  
10 ILCS 5/21B-20 new  
10 ILCS 5/21B-25 new  
10 ILCS 5/21B-30 new  
10 ILCS 5/21B-35 new  
10 ILCS 5/21B-40 new  
10 ILCS 5/21B-45 new  
10 ILCS 5/21B-50 new  
10 ILCS 5/21B-55 new  
10 ILCS 5/21B-60 new  
10 ILCS 5/21B-65 new  
10 ILCS 5/21B-70 new  
10 ILCS 5/21B-75 new  
10 ILCS 5/21B-80 new  
10 ILCS 5/21B-85 new  
10 ILCS 5/21B-90 new  
10 ILCS 5/21B-95 new  
10 ILCS 5/24B-2  
10 ILCS 5/24B-16  
10 ILCS 5/24C-2  
10 ILCS 5/24C-9  
10 ILCS 5/24C-16

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.

LRB099 08841 MGM 29013 b

A BILL FOR

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 Article 21B as follows:

7 (10 ILCS 5/19A-75)

8 (Text of Section before amendment by P.A. 98-1171)

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

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

1 (Text of Section after amendment by P.A. 98-1171)

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

16 (Source: P.A. 98-1171, eff. 6-1-15.)

17 (10 ILCS 5/Art. 21B heading new)

18 ARTICLE 21B. AUDITS

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

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

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

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

5 (1) all statewide offices and propositions;

6 (2) all countywide offices and propositions;

7 (3) all federal races; and

8 (4) any municipal or other political sub-division or  
9 taxing entity races where the number of registered voters  
10 eligible to vote on that race or proposition exceeds 50,000  
11 voters.

12 (10 ILCS 5/21B-15 new)

13 Sec. 21B-15. Time and place of the audit. The 10% audits  
14 shall take place on election day as soon as practicable after  
15 the close of the polls and shall take place at the location  
16 where votes are originally counted (in-precinct for all votes  
17 cast on election day and at the central counting location for  
18 early voting, grace, and absentee ballots), provided that the  
19 10% hand count shall be subordinate to and not interfere with  
20 the reporting of election results.

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

22 Sec. 21B-20. Conduct. The election day audit shall be  
23 conducted by election judges selected and appointed in the same  
24 manner as set forth in Sections 13-1, 13-2, 14-1, 14-2, and

1 14-3 of this Code. Election authorities may implement the  
2 appointment of part-time judges, job-sharing, split shifts, or  
3 other methods of allocating election judge resources to ensure  
4 that sufficient judges are available to conduct the election  
5 day audits in a timely and efficient manner.

6 (10 ILCS 5/21B-25 new)

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

8 (a) The election authority shall provide to each polling  
9 place, precinct, or central counting location as appropriate  
10 one set of 10 plastic disks, each imprinted on one or both  
11 sides with a number from 1 to 10. Each disk shall have one such  
12 number imprinted, with the same number on each side, and no 2  
13 disks shall have the same number. In addition, a suitable  
14 opaque container shall be provided sufficient to contain the  
15 set.

16 (b) After the close of the polls and prior to the  
17 commencement of the election day audit, the election judges  
18 present shall select one of their number to place the numbered  
19 disk in the container and shake the container sufficiently so  
20 that the disks shall be in random order. The judges shall  
21 select another of their number to select one such disk from the  
22 container in such a manner that the selecting judge has no  
23 knowledge of which disk he or she is selecting. The disk drawn  
24 from the container shall be examined and the number of the disk  
25 chosen publicly announced. That result shall indicate which

1 ballots are to be examined, e.g. a result of 7 shall require  
2 that the seventh and every tenth ballot thereafter be examined  
3 (7, 17, 27, etc.). The result of the drawing shall be recorded  
4 on the summary report section set forth in Section 21B-35.

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

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

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

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

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

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

24 (e) For paper records printed by Direct Recording  
25 Electronic (DRE) voting machines, only the human-readable

1 portion of the paper record shall be used in the election day  
2 audit. The use of bar codes or other human unreadable records  
3 of votes shall not be permitted.

4 (10 ILCS 5/21B-35 new)

5 Sec. 21B-35. Reports.

6 (a) Prior to election day, the appropriate election  
7 authority shall cause to be created and printed an audit  
8 summary form that shall state the races and propositions to be  
9 audited in accordance with Section 21B-10 and shall have  
10 pre-printed spaces, boxes, or both in which the results of the  
11 election day audit shall be recorded. This form shall also  
12 include a reconciliation of all ballots counted by category,  
13 such as provisional, federal only, standard, etc., and shall be  
14 provided in sufficient number to all auditing locations to  
15 facilitate the required distribution.

16 (b) Upon completion of the audit, 6 copies of the election  
17 day audit summary shall be signed by all the judges  
18 participating in the election day audit and shall be  
19 distributed as follows:

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

24 (2) Two copies shall be placed in the ballot box or  
25 designated envelope or envelopes and transported to the

1 election authority in the same manner as ballots.

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

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

7 (c) The audit reports from all in-precinct and central  
8 counting locations shall be received by the election authority  
9 and a consolidated report shall be prepared. The consolidated  
10 reports shall be published by the election authority within 24  
11 hours after the closing of the polls, and the authorities shall  
12 certify the election day audit results and maintain both  
13 consolidated and individual location reports in the same manner  
14 and for the same period of time as ballots, except that copies  
15 of consolidated and individual location reports shall be  
16 available to the public upon request. If that election  
17 authority maintains a public website, then the copies shall  
18 also be made freely available to the public via the Internet  
19 for a period of not less than 60 days.

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

23 (10 ILCS 5/21B-40 new)

24 Sec. 21B-40. Parallel, independent audits. There shall be  
25 conducted an independent parallel tabulation and audit for each



1 race or proposition in every election.

2 (10 ILCS 5/21B-45 new)

3 Sec. 21B-45. Authority. Each election authority shall be  
4 empowered on behalf of all voters in that jurisdiction to  
5 contract for, employ, or both contract for and employ one or  
6 more independent auditors to conduct a parallel count and  
7 tabulation of the results of every election conducted by the  
8 election authority for every race and proposition in the  
9 election.

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

11 Sec. 21B-50. Independent election audit committee. Each  
12 election authority shall cause to be constituted an independent  
13 election audit committee (EAC) of not less than 5 members, that  
14 shall have as its primary duties: (1) the preparation of a  
15 request for proposal (RFP) for the parallel election tabulation  
16 and audit (PETA) and (2) the selection of the independent  
17 auditor or auditors to perform such audit.

18 (10 ILCS 5/21B-55 new)

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

1 (10 ILCS 5/21B-60 new)

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

4 (1) One member appointed by each political party that  
5 shall have had a candidate for jurisdiction-wide public  
6 office in that jurisdiction on the ballot for the previous  
7 general election, provided that the party shall have had at  
8 least one candidate who received 10% of the ballots cast in  
9 that election.

10 (2) Two members appointed by the election authority for  
11 the jurisdiction.

12 (3) One election judge from each of the political  
13 parties qualifying under paragraph (1) who has served as an  
14 election judge in the most recent election conducted in  
15 that jurisdiction and at least 2 previous elections. The  
16 election judge members shall be selected by lot from among  
17 the pool of available judges from the most recent election  
18 conducted in that jurisdiction.

19 (10 ILCS 5/21B-65 new)

20 Sec. 21B-65. Request for proposal. Each election authority  
21 shall issue a request for proposal (RFP) for a parallel  
22 election tabulation and audit as prepared by the independent  
23 election audit committee not less than 90 days before election  
24 day. The proposals shall be examined and reviewed by the EAC,  
25 and the election authority (or other governmental body with

1 appropriation and contracting authority for the jurisdiction)  
2 shall award the contract for the audit not less than 45 days  
3 before each election.

4 (10 ILCS 5/21B-70 new)

5 Sec. 21B-70. Funding. The public accounting firm  
6 conducting the PETA shall be paid from public funds  
7 appropriated by each election jurisdiction and designated for  
8 that purposes.

9 (10 ILCS 5/21B-75 new)

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

13 (1) Evidence that it is a public accounting firm  
14 licensed by the State of Illinois to perform financial audits.

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

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

24 (4) A statement of performance secured by the

1 performance bond in item (2) that above the parallel election  
2 tabulation and audit shall be completed and public reports  
3 submitted within the time limitations set forth in Section  
4 21B-85.

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

6 Sec. 21B-80. Award. The public accounting firm awarded the  
7 contract shall be granted access to any and all records of the  
8 election, including but not limited to paper ballots, portable  
9 computer memory devices from DREs, scanning devices, central  
10 count devices, paper records, ballot generating software,  
11 counting and tabulation software, computer logs and error  
12 reports of all voting machines and central tabulation devices,  
13 servers, communications protocols, databases of all types  
14 including registration databases, pollwatcher and election  
15 judge logs and reports, and any other records deemed relevant  
16 to the conduct of the election as the auditing entity shall  
17 deem necessary and reasonable for the conduct of the parallel  
18 election tabulation and audit.

19 (10 ILCS 5/21B-85 new)

20 Sec. 21B-85. Reports.

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

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

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

5           (3) To the extent possible to determine from the  
6           records available, that the central tabulation procedures,  
7           equipment, and software functioned correctly and that the  
8           totals reflected in the internal and public tabulation of  
9           votes was consistent and accurate.

10          The auditing entity shall certify, with any exceptions  
11          noted thereto, the tabulated results of each race or  
12          proposition of the election as being accurate to the extent  
13          that the winner of each race or the prevailing result for each  
14          proposition is correct. For each and every race for which the  
15          auditing entity is unable to certify, it shall state the  
16          reasons therefore, citing specific circumstances as to why it  
17          is unable to certify the outcome.

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

22               (1) Pre-election preparation including the compiling  
23               and production of registration and eligible voter lists,  
24               including printed ballot applications and voter records in  
25               electronic poll books, and candidate, voter, and  
26               pollworker accessible records of eligibility.

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

4           (3) Adequacy and completeness of training manuals,  
5           election judge's manuals, voter instruction materials, and  
6           other internal and public documents related to the  
7           election.

8           (4) The election process during the time the polls were  
9           open, including reports of machine failures, election  
10           problems of all varieties, pollworkers and pollwatchers,  
11           reports in order to determine and express an opinion of the  
12           efficacy of the election process and to determine to the  
13           extent possible that:

14                   (A) All eligible voters were given an opportunity  
15                   to vote.

16                   (B) Each voter received a proper and complete  
17                   ballot.

18                   (C) Each voter's choices were properly recorded by  
19                   the electronic or mechanical machines used in the  
20                   voting process.

21           (b-5) The auditors of the parallel election tabulation  
22           shall examine the processes used after the polls closed to  
23           determine, to the extent possible from the records available,  
24           if:

25                   (1) All election materials were properly secured and  
26                   that a complete and unbroken chain of custody exists for

1 all election materials.

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

6 (c) The auditing entity shall produce a report that  
7 adequately describes all problems associated with the election  
8 process and to the extent possible the causes of those  
9 problems.

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

16 (10 ILCS 5/21B-90 new)

17 Sec. 21B-90. Availability and ownership of parallel  
18 election tabulation and audit reports.

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

23 (b) If the election authority contracting for the parallel  
24 election tabulation and audit report maintains a website, the  
25 Report shall be posted on the publicly accessible portion of

1 the website in an appropriate format for downloading and  
2 printing by the public.

3 (10 ILCS 5/21B-95 new)

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

8 (10 ILCS 5/24B-2)

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

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

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

18 "Ballot" means paper ballot sheets.

19 "Ballot configuration" means the particular combination of  
20 political subdivision ballots including, for each political  
21 subdivision, the particular combination of offices, candidate  
22 names and questions as it appears for each group of voters who  
23 may cast the same ballot.

24 "Ballot sheet" means a paper ballot printed on one or both



1 sides which is (1) designed and prepared so that the voter may  
2 indicate his or her votes in designated areas, which must be  
3 areas clearly printed or otherwise delineated for such purpose,  
4 and (2) capable of having votes marked in the designated areas  
5 automatically examined, counted, and tabulated by an  
6 electronic scanning process.

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 operator" means any person or persons designated  
16 by the election authority to operate the automatic tabulating  
17 equipment during any portion of the vote tallying process in an  
18 election, but shall not include judges of election operating  
19 vote tabulating equipment in the precinct.

20 "Computer program" or "program" means the set of operating  
21 instructions for the automatic tabulating equipment that  
22 examines, counts, tabulates, canvasses and prints votes  
23 recorded by a voter on a ballot.

24 "Edit listing" means a computer generated listing of the  
25 names of each candidate and proposition as they appear in the  
26 program for each precinct.

1 "Header sheet" means a data processing document which is  
2 coded to indicate to the computer the precinct identity of the  
3 ballots that will follow immediately and may indicate to the  
4 computer how such ballots are to be tabulated.

5 "In-precinct counting" means the counting of ballots on  
6 automatic tabulating equipment provided by the election  
7 authority in the same precinct polling place in which those  
8 ballots have been cast.

9 "Marking device" means a pen, computer, or other device  
10 approved by the State Board of Elections for marking, or  
11 causing to be marked, a paper ballot with ink or other  
12 substance which will enable the ballot to be tabulated by  
13 automatic tabulating equipment or by an electronic scanning  
14 process.

15 "Precinct Tabulation Optical Scan Technology" means the  
16 capability to examine a ballot through electronic means and  
17 tabulate the votes at one or more counting places.

18 "Redundant count" means a verification of the original  
19 computer count by another count using compatible equipment or  
20 by hand as part of a discovery recount.

21 "Security designation" means a printed designation placed  
22 on a ballot to identify to the computer program the offices and  
23 propositions for which votes may be cast and to indicate the  
24 manner in which votes cast should be tabulated while negating  
25 any inadmissible votes.

26 "Separate ballot", with respect to ballot sheets, means a

1 separate portion of the ballot sheet which is clearly defined  
2 by a border or borders or shading.

3 "Specimen ballot" means a representation of names of  
4 offices and candidates and statements of measures to be voted  
5 on which will appear on the official ballot or marking device  
6 on election day. The specimen ballot also contains the party  
7 and position number where applicable.

8 "Voting defect identification" means the capability to  
9 detect overvoted ballots or ballots which cannot be read by the  
10 automatic tabulating equipment.

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

13 "Voting system" or "electronic voting system" means that  
14 combination of equipment and programs used in the casting,  
15 examination and tabulation of ballots and the cumulation and  
16 reporting of results by electronic means.

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

18 (10 ILCS 5/24B-16)

19 Sec. 24B-16. Approval of Precinct Tabulation Optical Scan  
20 Technology Voting Systems; Requisites. The State Board of  
21 Elections shall approve all Precinct Tabulation Optical Scan  
22 Technology voting systems provided by this Article that fulfill  
23 the voluntary provisions and mandatory requirements of the  
24 federal voting system standards pertaining to Precinct  
25 Tabulation Optical Scan Technology voting systems promulgated

1 by the Federal Election Commission or the Election Assistance  
2 Commission and that fulfill the testing requirements of an  
3 approved independent testing authority.

4 No Precinct Tabulation Optical Scan Technology voting  
5 system shall be approved unless it has been certified by the  
6 Federal Election Commission or the Election Assistance  
7 Commission and fulfills the following requirements:

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

9 (b) (Blank);

10 (c) It enables a voter to vote a ticket selected in  
11 part from the nominees of one party, and in part from the  
12 nominees of any or all parties, and in part from  
13 independent candidates, and in part of candidates whose  
14 names are written in by the voter;

15 (d) It enables a voter to vote a written or printed  
16 ticket of his or her own selection for any person for any  
17 office for whom he or she may desire to vote;

18 (e) It will reject all votes for an office or upon a  
19 proposition when the voter has cast more votes for the  
20 office or upon the proposition than he or she is entitled  
21 to cast;

22 (e-5) It will identify when a voter has not voted for  
23 all statewide constitutional offices; and

24 (f) It will accommodate all propositions to be  
25 submitted to the voters in the form provided by law or,  
26 where no form is provided, then in brief form, not to

1           exceed 75 words.

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

5           The State Board of Elections is authorized to withdraw its  
6 approval of a Precinct Tabulation Optical Scan Technology  
7 voting system if the system fails to fulfill the above  
8 requirements.

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

15           Any voting system vendor, person, or other private entity  
16 seeking the State Board of Elections' approval of a voting  
17 system shall, as part of the approval application, submit to  
18 the State Board a non-refundable fee. The State Board of  
19 Elections by rule shall establish an appropriate fee structure,  
20 taking into account the type of voting system approval that is  
21 requested (such as approval of a new system, a modification of  
22 an existing system, the size of the modification, etc.). No  
23 voting system or modification of a voting system shall be  
24 approved unless the fee is paid.

25           No vendor, person, or other entity may sell, lease, or  
26 loan, or have a written contract, including a contract

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

7 (Source: P.A. 94-1000, eff. 7-3-06; 95-699, eff. 11-9-07.)

8 (10 ILCS 5/24C-2)

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

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

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

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

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

23 "Ballot configuration" means the particular combination of  
24 political subdivision or district ballots including, for each  
25 political subdivision or district, the particular combination  
26 of offices, candidate names and public questions as it appears

1 for each group of voters who may cast the same ballot.

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

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

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

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

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

26 "Computer program" or "program" means the set of operating



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

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

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

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

25 "Marking device" means any device approved by the State  
26 Board of Elections for marking a ballot so as to enable the

1 ballot to be recorded, counted and tabulated by automatic  
2 tabulating equipment.

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

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

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

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

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

1 (10 ILCS 5/24C-9)

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

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

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

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

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

13 (10 ILCS 5/24C-16)

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

25 The State Board of Elections shall not approve any Direct

1 Recording Electronic Voting System that (i) has not been  
2 certified by the Federal Election Commission or the Election  
3 Assistance Commission or (ii) includes an external Infrared  
4 Data Association (IrDA) communications port.

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

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

14 Any voting system vendor, person, or other private entity  
15 seeking the State Board of Elections' approval of a voting  
16 system shall, as part of the approval application, submit to  
17 the State Board a non-refundable fee. The State Board of  
18 Elections by rule shall establish an appropriate fee structure,  
19 taking into account the type of voting system approval that is  
20 requested (such as approval of a new system, a modification of  
21 an existing system, the size of the modification, etc.). No  
22 voting system or modification of a voting system shall be  
23 approved unless the fee is paid.

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 Direct  
2 Recording Electronic Voting System or system component to any  
3 election jurisdiction unless the system or system component is  
4 first approved by the State Board of Elections pursuant to this  
5 Section.

6 (Source: P.A. 94-1000, eff. 7-3-06; 95-699, eff. 11-9-07.)

7 Section 95. No acceleration or delay. Where this Act makes  
8 changes in a statute that is represented in this Act by text  
9 that is not yet or no longer in effect (for example, a Section  
10 represented by multiple versions), the use of that text does  
11 not accelerate or delay the taking effect of (i) the changes  
12 made by this Act or (ii) provisions derived from any other  
13 Public Act.