Sen. Don Harmon

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09400SB1683sam001   LRB094 11121 JAM 44288 a

1   AMENDMENT TO SENATE BILL 1683

2   AMENDMENT NO. _____. Amend Senate Bill 1683 by replacing

3   everything after the enacting clause with the following:

4   "Section 5. The Election Code is amended by changing

5   Sections 18A-5, 18A-15, 23-15.1, 24C-2, and 24C-12 and by

6   adding Section 24C-2.5 as follows:

7   (10 ILCS 5/18A-5)

8   (Text of Section before amendment by P.A. 93-1071)

9   Sec. 18A-5. Provisional voting; general provisions.

10   (a) A person who claims to be a registered voter is

11   entitled to cast a provisional ballot under the following

12   circumstances:

13   (1) The person's name does not appear on the official

14   list of eligible voters, whether a list of active or

15   inactive voters, for the precinct in which the person seeks

16   to vote;

17   (2) The person's voting status has been challenged by

18   an election judge, a pollwatcher, or any legal voter and

19   that challenge has been sustained by a majority of the

20   election judges; ~~or~~

21   (3) A federal or State court order extends the time for

22   closing the polls beyond the time period established by

23   State law and the person votes during the extended time

24   period; or~~.~~

1   (4) The voter registered to vote by mail and is
2   required by law to present identification when voting
3   either in person or by absentee ballot, but fails to do so.
4   (b) The procedure for obtaining and casting a provisional
5 ballot at the polling place shall be as follows:
6   (1) After first verifying through an examination of the
7   precinct register that the person's address is within the
8   precinct boundaries, an ~~An~~ election judge at the polling
9   place shall notify a person who is entitled to cast a
10   provisional ballot pursuant to subsection (a) that he or
11   she may cast a provisional ballot in that election. An
12   election judge must accept any information provided by a
13   person who casts a provisional ballot that the person
14   believes supports his or her claim that he or she is a duly
15   registered voter and qualified to vote in the election.
16   However, if the person's residence address is outside the
17   precinct boundaries, the election judge shall inform the
18   person of that fact, give the person the appropriate
19   telephone number of the election authority in order to
20   locate the polling place assigned to serve that address,
21   and instruct the person to go to the proper polling place
22   to vote.
23   (2) The person shall execute a written form provided by
24   the election judge that shall state or contain all of the
25   following that is available:
26   (i) an affidavit stating the following:
27   State of Illinois, County of ....,
28   Township ...., Precinct ...., Ward
29   ...., I, ..., do solemnly
30   swear (or affirm) that: I am a citizen of the United
31   States; I am 18 years of age or older; I have resided
32   in this State and in this precinct for 30 days
33   preceding this election; I have not voted in this
34   election; I am a duly registered voter in every

respect; and I am eligible to vote in this election.
Signature ...... Printed Name of Voter .... Printed
Residence Address of Voter ...... City ...... State
.... Zip Code ..... Telephone Number ...... Date of
Birth .... and Driver's License Number .... or
Last 4 digits of Social Security Number ...... or State
Identification Card Number issued to you by the
Illinois Secretary of State........

~~(ii) Written instruction stating the following:~~

~~In order to expedite the verification of your voter
registration status, the .... (insert name of county
clerk of board of election commissioners here)
requests that you include your phone number and both
the last four digits of your social security number and
your driver's license number or State Identification
Card Number issued to you by the Secretary of State. At
minimum, you are required to include either (A) your
driver's license number or State Identification Card
Number issued to you by the Secretary of State or (B)
the last 4 digits of your social security number.~~

(ii) ~~(iii)~~ A box for the election judge to check one of
the 4 ~~3~~ reasons why the person was given a provisional
ballot under subsection (a) of Section 18A-5.

(iii) ~~(iv)~~ An area for the election judge to affix his
or her signature and to set forth any facts that support or
oppose the allegation that the person is not qualified to
vote in the precinct in which the person is seeking to
vote.

The written affidavit form described in this subsection
(b)(2) must be printed on a multi-part form prescribed by the
county clerk or board of election commissioners, as the case
may be.

(3) After the person executes the portion of the written
affidavit described in subsection (b)(2)(i) of this Section,

1   the election judge shall complete the portion of the written
2   affidavit described in subsection (b)(2)(iii) and (b)(2)(iv).

3   (4) The election judge shall give a copy of the completed
4   written affidavit to the person. The election judge shall place
5   the original written affidavit in a self-adhesive clear plastic
6   packing list envelope that must be attached to a separate
7   envelope marked as a "provisional ballot envelope". The
8   election judge shall also place any information provided by the
9   person who casts a provisional ballot in the clear plastic
10   packing list envelope. Each county clerk or board of election
11   commissioners, as the case may be, must design, obtain or
12   procure self-adhesive clear plastic packing list envelopes and
13   provisional ballot envelopes that are suitable for
14   implementing this subsection (b)(4) of this Section.

15   (5) The election judge shall provide the person with a
16   provisional ballot, written instructions for casting a
17   provisional ballot, and the provisional ballot envelope with
18   the clear plastic packing list envelope affixed to it, which
19   contains the person's original written affidavit and, if any,
20   information provided by the provisional voter to support his or
21   her claim that he or she is a duly registered voter. An
22   election judge must also give the person written information
23   that states that any person who casts a provisional ballot
24   shall be able to ascertain, pursuant to guidelines established
25   by the State Board of Elections, whether the provisional vote
26   was counted in the official canvass of votes for that election
27   and, if the provisional vote was not counted, the reason that
28   the vote was not counted.

29   (6) After the person has completed marking his or her
30   provisional ballot, he or she shall place the marked ballot
31   inside of the provisional ballot envelope, close and seal the
32   envelope, and return the envelope to an election judge, who
33   shall then deposit the sealed provisional ballot envelope into
34   a securable container separately identified and utilized for

1   containing sealed provisional ballot envelopes. Ballots that
2   are provisional because they are cast after 7:00 p.m. by court
3   order shall be kept separate from other provisional ballots.
4   Upon the closing of the polls, the securable container shall be
5   sealed with filament tape provided for that purpose, which
6   shall be wrapped around the box lengthwise and crosswise, at
7   least twice each way, and each of the election judges shall
8   sign the seal.

9   (c) Instead of the affidavit form described in subsection
10   (b), the county clerk or board of election commissioners, as
11   the case may be, may design and use a multi-part affidavit form
12   that is imprinted upon or attached to the provisional ballot
13   envelope described in subsection (b). If a county clerk or
14   board of election commissioners elects to design and use its
15   own multi-part affidavit form, then the county clerk or board
16   of election commissioners shall establish a mechanism for
17   accepting any information the provisional voter has supplied to
18   the election judge to support his or her claim that he or she
19   is a duly registered voter. In all other respects, a county
20   clerk or board of election commissioners shall establish
21   procedures consistent with subsection (b).

22   (d) The county clerk or board of election commissioners, as
23   the case may be, shall use the completed affidavit form
24   described in subsection (b) to update the person's voter
25   registration information in the State voter registration
26   database and voter registration database of the county clerk or
27   board of election commissioners, as the case may be. If a
28   person is later determined not to be a registered voter based
29   on Section 18A-15 of this Code, then the affidavit shall be
30   processed by the county clerk or board of election
31   commissioners, as the case may be, as a voter registration
32   application.
33   (Source: P.A. 93-574, eff. 8-21-03.)

1   (Text of Section after amendment by P.A. 93-1071)

2   Sec. 18A-5. Provisional voting; general provisions.

3   (a) A person who claims to be a registered voter is

4 entitled to cast a provisional ballot under the following

5 circumstances:

6   (1) The person's name does not appear on the official

7   list of eligible voters for the precinct in which the

8   person seeks to vote. The official list is the centralized

9   statewide voter registration list established and

10   maintained in accordance with Section 1A-25;

11   (2) The person's voting status has been challenged by

12   an election judge, a pollwatcher, or any legal voter and

13   that challenge has been sustained by a majority of the

14   election judges; or

15   (3) A federal or State court order extends the time for

16   closing the polls beyond the time period established by

17   State law and the person votes during the extended time

18   period; or.

19   (4) The voter registered to vote by mail and is

20   required by law to present identification when voting

21   either in person or by absentee ballot, but fails to do so.

22   (b) The procedure for obtaining and casting a provisional

23 ballot at the polling place shall be as follows:

24   (1) After first verifying through an examination of the

25   precinct register that the person's address is within the

26   precinct boundaries, an An election judge at the polling

27   place shall notify a person who is entitled to cast a

28   provisional ballot pursuant to subsection (a) that he or

29   she may cast a provisional ballot in that election. An

30   election judge must accept any information provided by a

31   person who casts a provisional ballot that the person

32   believes supports his or her claim that he or she is a duly

33   registered voter and qualified to vote in the election.

34   However, if the person's residence address is outside the

precinct boundaries, the election judge shall inform the
person of that fact, give the person the appropriate
telephone number of the election authority in order to
locate the polling place assigned to serve that address,
and instruct the person to go to the proper polling place
to vote.

(2) The person shall execute a written form provided by
the election judge that shall state or contain all of the
following that is available:

(i) an affidavit stating the following:

State of Illinois, County of ....,
Township ...., Precinct ...., Ward
........, I, ..., do solemnly
swear (or affirm) that: I am a citizen of the United
States; I am 18 years of age or older; I have resided
in this State and in this precinct for 30 days
preceding this election; I have not voted in this
election; I am a duly registered voter in every
respect; and I am eligible to vote in this election.
Signature ...... Printed Name of Voter .... Printed
Residence Address of Voter ...... City ...... State
.... Zip Code ..... Telephone Number ...... Date of
Birth .... and Driver's License Number .... or
Last 4 digits of Social Security Number ...... or State
Identification Card Number issued to you by the
Illinois Secretary of State........

(ii) Written instruction stating the following:

In order to expedite the verification of your voter
registration status, the .... (insert name of county
clerk of board of election commissioners here)
requests that you include your phone number and both
the last four digits of your social security number and
your driver's license number or State Identification
Card Number issued to you by the Secretary of State. At

1   ~~minimum, you are required to include either (A) your~~

2   ~~driver's license number or State Identification Card~~

3   ~~Number issued to you by the Secretary of State or (B)~~

4   ~~the last 4 digits of your social security number.~~

5   (ii) ~~(iii)~~ A box for the election judge to check one of

6   the 4 ~~3~~ reasons why the person was given a provisional

7   ballot under subsection (a) of Section 18A-5.

8   (iii) ~~(iv)~~ An area for the election judge to affix his

9   or her signature and to set forth any facts that support or

10   oppose the allegation that the person is not qualified to

11   vote in the precinct in which the person is seeking to

12   vote.

13   The written affidavit form described in this subsection

14   (b)(2) must be printed on a multi-part form prescribed by the

15   county clerk or board of election commissioners, as the case

16   may be.

17   (3) After the person executes the portion of the written

18   affidavit described in subsection (b)(2)(i) of this Section,

19   the election judge shall complete the portion of the written

20   affidavit described in subsection (b)(2)(iii) and (b)(2)(iv).

21   (4) The election judge shall give a copy of the completed

22   written affidavit to the person. The election judge shall place

23   the original written affidavit in a self-adhesive clear plastic

24   packing list envelope that must be attached to a separate

25   envelope marked as a "provisional ballot envelope". The

26   election judge shall also place any information provided by the

27   person who casts a provisional ballot in the clear plastic

28   packing list envelope. Each county clerk or board of election

29   commissioners, as the case may be, must design, obtain or

30   procure self-adhesive clear plastic packing list envelopes and

31   provisional ballot envelopes that are suitable for

32   implementing this subsection (b)(4) of this Section.

33   (5) The election judge shall provide the person with a

34   provisional ballot, written instructions for casting a

1   provisional ballot, and the provisional ballot envelope with
2   the clear plastic packing list envelope affixed to it, which
3   contains the person's original written affidavit and, if any,
4   information provided by the provisional voter to support his or
5   her claim that he or she is a duly registered voter. An
6   election judge must also give the person written information
7   that states that any person who casts a provisional ballot
8   shall be able to ascertain, pursuant to guidelines established
9   by the State Board of Elections, whether the provisional vote
10   was counted in the official canvass of votes for that election
11   and, if the provisional vote was not counted, the reason that
12   the vote was not counted.

13   (6) After the person has completed marking his or her
14   provisional ballot, he or she shall place the marked ballot
15   inside of the provisional ballot envelope, close and seal the
16   envelope, and return the envelope to an election judge, who
17   shall then deposit the sealed provisional ballot envelope into
18   a securable container separately identified and utilized for
19   containing sealed provisional ballot envelopes. Ballots that
20   are provisional because they are cast after 7:00 p.m. by court
21   order shall be kept separate from other provisional ballots.
22   Upon the closing of the polls, the securable container shall be
23   sealed with filament tape provided for that purpose, which
24   shall be wrapped around the box lengthwise and crosswise, at
25   least twice each way, and each of the election judges shall
26   sign the seal.

27   (c) Instead of the affidavit form described in subsection
28   (b), the county clerk or board of election commissioners, as
29   the case may be, may design and use a multi-part affidavit form
30   that is imprinted upon or attached to the provisional ballot
31   envelope described in subsection (b). If a county clerk or
32   board of election commissioners elects to design and use its
33   own multi-part affidavit form, then the county clerk or board
34   of election commissioners shall establish a mechanism for

accepting any information the provisional voter has supplied to the election judge to support his or her claim that he or she is a duly registered voter. In all other respects, a county clerk or board of election commissioners shall establish procedures consistent with subsection (b).

(d) The county clerk or board of election commissioners, as the case may be, shall use the completed affidavit form described in subsection (b) to update the person's voter registration information in the State voter registration database and voter registration database of the county clerk or board of election commissioners, as the case may be. If a person is later determined not to be a registered voter based on Section 18A-15 of this Code, then the affidavit shall be processed by the county clerk or board of election commissioners, as the case may be, as a voter registration application.

(Source: P.A. 93-574, eff. 8-21-03; 93-1071, eff. 6-1-05.)

(10 ILCS 5/18A-15)

Sec. 18A-15. Validating and counting provisional ballots.

(a) The county clerk or board of election commissioners shall complete the validation and counting of provisional ballots within 14 calendar days of the day of the election. The county clerk or board of election commissioners shall have 7 calendar days from the completion of the validation and counting of provisional ballots to conduct its final canvass. The State Board of Elections shall complete within 31 calendar days of the election or sooner if all the returns are received, its final canvass of the vote for all public offices.

(b) If a county clerk or board of election commissioners determines that all of the following apply, then a provisional ballot is valid and shall be counted as a vote:

(1) The provisional voter cast the provisional ballot in the correct precinct based on the address provided by

1   the provisional voter. The provisional voter's affidavit

2   shall serve as a change of address request by that voter

3   for registration purposes if it bears an address different

4   from that in the records of the election authority;

5   (2) The affidavit executed by the provisional voter

6   pursuant to subsection (b)(2) of Section 18A-5 contains, at

7   a minimum, the provisional voter's first and last name,

8   house number and street name, and signature or mark 18A-10

9   is properly executed; and

10   (3) the provisional voter is a registered voter based

11   on information available to the county clerk or board of

12   election commissioners provided by or obtained from any of

13   the following:

14   i. the provisional voter;

15   ii. an election judge;

16   iii. the statewide voter registration database

17   maintained by the State Board of Elections;

18   iv. the records of the county clerk or board of

19   election commissioners' database; or

20   v. the records of the Secretary of State.

21   (c) With respect to subsection (b)(3) of this Section, the

22   county clerk or board of election commissioners shall

23   investigate whether each of the 5 types of information is

24   available and record whether this information is or is not

25   available. If one or more types of information is available,

26   then the county clerk or board of election commissioners shall

27   obtain all relevant information from all sources identified in

28   subsection (b)(3) or until satisfied that the provisional voter

29   is registered and entitled to vote. The county clerk or board

30   of election commissioners shall use any information it obtains

31   as the basis for determining the voter registration status of

32   the provisional voter. If a conflict exists among the

33   information available to the county clerk or board of election

34   commissioners as to the registration status of the provisional

1   voter, then the county clerk or board of election commissioners
2   shall make a determination based on the totality of the
3   circumstances. In a case where the above information equally
4   supports or opposes the registration status of the voter, the
5   county clerk or board of election commissioners shall decide in
6   favor of the provisional voter as being duly registered to
7   vote. If the statewide voter registration database maintained
8   by the State Board of Elections indicates that the provisional
9   voter is registered to vote, but the county clerk's or board of
10 election commissioners' voter registration database indicates
11 that the provisional voter is not registered to vote, then the
12 information found in the statewide voter registration database
13 shall control the matter and the provisional voter shall be
14 deemed to be registered to vote. If the records of the county
15 clerk or board of election commissioners indicates that the
16 provisional voter is registered to vote, but the statewide
17 voter registration database maintained by the State Board of
18 Elections indicates that the provisional voter is not
19 registered to vote, then the information found in the records
20 of the county clerk or board of election commissioners shall
21 control the matter and the provisional voter shall be deemed to
22 be registered to vote. If the provisional voter's signature on
23 his or her provisional ballot request varies from the signature
24 on an otherwise valid registration application solely because
25 of the substitution of initials for the first or middle name,
26 the election authority may not reject the provisional ballot.
27   (d) In validating the registration status of a person
28 casting a provisional ballot, the county clerk or board of
29 election commissioners shall not require a provisional voter to
30 complete any form other than the affidavit executed by the
31 provisional voter under subsection (b)(2) of Section 18A-5. In
32 addition, the county clerk or board of election commissioners
33 shall not require all provisional voters or any particular
34 class or group of provisional voters to appear personally

1   before the county clerk or board of election commissioners or
2   as a matter of policy require provisional voters to submit
3   additional information to verify or otherwise support the
4   information already submitted by the provisional voter. The
5   provisional voter may, within 2 calendar days after the
6   election, submit additional information to the county clerk or
7   board of election commissioners. This information must be
8   received by the county clerk or board of election commissioners
9   within the 2-calendar-day period.

10   (e) If the county clerk or board of election commissioners
11   determines that subsection (b)(1), (b)(2), or (b)(3) does not
12   apply, then the provisional ballot is not valid and may not be
13   counted. The provisional ballot envelope containing the ballot
14   cast by the provisional voter may not be opened. The county
15   clerk or board of election commissioners shall write on the
16   provisional ballot envelope the following: "Provisional ballot
17   determined invalid.".

18   (f) If the county clerk or board of election commissioners
19   determines that a provisional ballot is valid under this
20   Section, then the provisional ballot envelope shall be opened.
21   The outside of each provisional ballot envelope shall also be
22   marked to identify the precinct and the date of the election.

23   (g) The provisional ballots determined to be valid shall be
24   added to the vote totals for the precincts from which they were
25   cast in the order in which the ballots were opened. The county
26   clerk or board of election commissioners may, in the
27   alternative, create a separate provisional-voter precinct for
28   the purpose of counting and recording provisional ballots and
29   adding the recorded votes to its official canvass. The
30   validation and counting of provisional ballots shall be subject
31   to the provisions of this Code that apply to pollwatchers. If
32   the provisional ballots are a ballot of a punch card voting
33   system, then the provisional ballot shall be counted in a
34   manner consistent with Article 24A. If the provisional ballots

1   are a ballot of optical scan or other type of approved
2   electronic voting system, then the provisional ballots shall be
3   counted in a manner consistent with Article 24B.

4   (h) As soon as the ballots have been counted, the election
5   judges or election officials shall, in the presence of the
6   county clerk or board of election commissioners, place each of
7   the following items in a separate envelope or bag: (1) all
8   provisional ballots, voted or spoiled; (2) all provisional
9   ballot envelopes of provisional ballots voted or spoiled; and
10   (3) all executed affidavits of the provisional ballots voted or
11   spoiled. All provisional ballot envelopes for provisional
12   voters who have been determined not to be registered to vote
13   shall remain sealed. The county clerk or board of election
14   commissioners shall treat the provisional ballot envelope
15   containing the written affidavit as a voter registration
16   application for that person for the next election and process
17   that application. The election judges or election officials
18   shall then securely seal each envelope or bag, initial the
19   envelope or bag, and plainly mark on the outside of the
20   envelope or bag in ink the precinct in which the provisional
21   ballots were cast. The election judges or election officials
22   shall then place each sealed envelope or bag into a box, secure
23   and seal it in the same manner as described in item (6) of
24   subsection (b) of Section 18A-5. Each election judge or
25   election official shall take and subscribe an oath before the
26   county clerk or board of election commissioners that the
27   election judge or election official securely kept the ballots
28   and papers in the box, did not permit any person to open the
29   box or otherwise touch or tamper with the ballots and papers in
30   the box, and has no knowledge of any other person opening the
31   box. For purposes of this Section, the term "election official"
32   means the county clerk, a member of the board of election
33   commissioners, as the case may be, and their respective
34   employees.

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

2   (10 ILCS 5/23-15.1)

3   Sec. 23-15.1. Production of ballot counting code ~~and~~
4   ~~attendance of witnesses~~. All voting-system vendors shall,
5   within 90 days after the adoption of rules or upon application
6   for voting-system approval, place in escrow all computer code
7   for its voting system, including the code for any Commercial
8   Off the Shelf (COTS) software used in the system including
9   operating system software, with the State Board of Elections.
10   All computer codes placed in escrow with the State Board of
11   Elections shall be public records available for inspection at
12   the principal office of the State Board of Elections and
13   electronically via the Internet. This requirement in no way
14   prohibits vendors from charging any fees for the initial
15   distribution or ongoing maintenance of their software.
16   Notwithstanding any other provision of law to the contrary, no
17   action required under this Code shall invalidate the copyright
18   protections otherwise enjoyed by the owners or authors of those
19   codes. The State Board of Elections shall promulgate rules to
20   implement this Section. For purposes of this Section, the term
21   "computer code" includes, but is not limited to, ballot
22   counting source code, table structures, modules, program
23   narratives, and other human readable computer instructions
24   (whether compiled or not) used to count ballots. ~~Any computer~~
25   ~~code submitted by vendors to the State Board of Elections shall~~
26   ~~be considered strictly confidential and the intellectual~~
27   ~~property of the vendors and shall not be subject to public~~
28   ~~disclosure under the Freedom of Information Act.~~

29   ~~The State Board of Elections shall determine which software~~
30   ~~components of a voting system it deems necessary to enable the~~
31   ~~review and verification of the computer. The State Board of~~
32   ~~Elections shall secure and maintain all proprietary computer~~
33   ~~codes in strict confidence and shall make a computer code~~

1   ~~available to authorized persons in connection with an election~~
2   ~~contest or pursuant to any State or federal court order.~~
3   ~~In an election contest, each party to the contest may~~
4   ~~designate one or more persons who are authorized to receive the~~
5   ~~computer code of the relevant voting systems. The person or~~
6   ~~persons authorized to receive the relevant computer code shall~~
7   ~~enter into a confidentiality agreement with the State Board of~~
8   ~~Elections and must exercise the highest degree of reasonable~~
9   ~~care to maintain the confidentiality of all proprietary~~
10   ~~information.~~
11   The State Board of Elections shall promulgate rules to
12   provide for the security, review, and verification of computer
13   codes. Verification includes, but is not limited to,
14   determining that the computer code corresponds to computer
15   instructions actually in use to count ballots. The State Board
16   of Elections shall hire, contract with, or otherwise provide
17   sufficiently qualified resources, both human and capital, to
18   conduct the reviews with the greatest possible expectation of
19   thoroughness, completeness, and effectiveness. The resources
20   shall be independent of and have no business, personal,
21   professional, or other affiliation with any of the system
22   vendors currently or prospectively supplying voting systems to
23   any county in the State of Illinois. Nothing in this Section
24   shall impair the obligation of any contract between a
25   voting-systems vendor and an election authority that provides
26   access to computer code that is equal to or greater than that
27   provided by this Section.
28   (Source: P.A. 93-574, eff. 8-21-03.)

29   (10 ILCS 5/24C-2)
30   Sec. 24C-2. Definitions. As used in this Article:
31   "Audit trail" or "audit capacity" means a continuous trail
32   of evidence linking individual transactions related to the
33   casting of a vote, the vote count and the summary record of

1   vote totals, but which shall not allow for the identification
2   of the voter. It shall permit verification of the accuracy of
3   the count and detection and correction of problems and shall
4   provide a record of each step taken in: defining and producing
5   ballots and generating related software for specific
6   elections; installing ballots and software; testing system
7   readiness; casting and tabulating ballots; and producing
8   images of votes cast and reports of vote totals. The record
9   shall incorporate system status and error messages generated
10   during election processing, including a log of machine
11   activities and routine and unusual intervention by authorized
12   and unauthorized individuals. Also part of an audit trail is
13   the documentation of such items as ballots delivered and
14   collected, administrative procedures for system security,
15   pre-election testing of voting systems, and maintenance
16   performed on voting equipment. All test plans, test results,
17   documentation, and other records used to plan, execute, and
18   record the results of the testing and verification, including
19   all material prepared or used by Independent Testing
20   Authorities or other third parties, shall be made part of the
21   public record and shall be freely available via the Internet
22   and paper copy to anyone. "Audit trail" or "audit capacity" It
23   also means that the voting system is capable of producing and
24   shall produce immediately after a ballot is cast a permanent
25   paper record of each ballot cast that shall be available as an
26   official record for any recount, redundant count, or
27   verification or retabulation of the vote count conducted with
28   respect to any election in which the voting system is used.
29   "Ballot" means an electronic audio or video display or any
30   other medium, including paper, used to record a voter's choices
31   for the candidates of their preference and for or against
32   public questions.
33   "Ballot configuration" means the particular combination of
34   political subdivision or district ballots including, for each

1   political subdivision or district, the particular combination
2   of offices, candidate names and public questions as it appears
3   for each group of voters who may cast the same ballot.

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

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

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

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

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

28   "Computer program" or "program" means the set of operating
29   instructions for the automatic tabulating equipment that
30   examines, records, displays, counts, tabulates, canvasses and
31   prints votes recorded by a voter on a ballot and that displays
32   any and all information, graphics, or other visual or audio
33   information or images used in presenting voting information,
34   instructions, or voter choices.

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

12   "Edit listing" means a computer generated listing of the
13 names of each candidate and public question as they appear in
14 the program for each precinct.

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

19   "Marking device" means any device approved by the State
20 Board of Elections for marking a ballot so as to enable the
21 ballot to be recorded, counted and tabulated by automatic
22 tabulating equipment.

23   "Permanent paper record" means a paper record upon which
24 shall be printed in human readable form the votes cast for each
25 candidate and for or against each public question on each
26 ballot recorded in the voting system. Each permanent paper
27 record shall be printed by the voting device upon activation of
28 the marking device by the voter and shall contain a unique,
29 randomly assigned identifying number that shall correspond to
30 the number randomly assigned by the voting system to each
31 ballot as it is electronically recorded.

32   "Redundant count" means a verification of the original
33 computer count of ballots by another count using compatible
34 equipment or other means as part of a discovery recount,

1   including a count of the permanent paper record of each ballot

2   cast by using compatible equipment, different equipment

3   approved by the State Board of Elections for that purpose, or

4   by hand.

5   "Separate ballot" means a separate page or display screen

6   of the ballot that is clearly defined and distinguishable from

7   other portions of the ballot.

8   "Voting device" or "voting machine" means an apparatus that

9   contains the ballot label or ballot screen and allows the voter

10   to record his or her vote.

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

12   (10 ILCS 5/24C-2.5 new)

13   Sec. 24C-2.5. Official paper vote; random audit.

14   (a) All voting systems submitted for approval under this

15   Article must produce a voter verifiable paper ballot that is

16   then counted by a machine not connected either physically or

17   electronically to the machine that produces the paper ballot.

18   The ballot as counted by this separate machine shall constitute

19   the actual vote of the voter.

20   (b) An election authority using a voting system subject to

21   this Article must conduct a random audit of the system

22   consisting of the recount of votes cast in 5% of the precincts

23   using the system.

24   (10 ILCS 5/24C-12)

25   Sec. 24C-12. Procedures for Counting and Tallying of

26   Ballots.

27   In an election jurisdiction where a Direct Recording

28   Electronic Voting System is used, the following procedures for

29   counting and tallying the ballots shall apply:

30   Before the opening of the polls, the judges of elections

31   shall assemble the voting equipment and devices and turn the

32   equipment on. The judges shall, if necessary, take steps to

1   activate the voting devices and counting equipment by inserting

2   into the equipment and voting devices appropriate data cards

3   containing passwords and data codes that will select the proper

4   ballot formats selected for that polling place and that will

5   prevent inadvertent or unauthorized activation of the

6   poll-opening function. Before voting begins and before ballots

7   are entered into the voting devices, the judges of election

8   shall cause to be printed a record of the following: the

9   election's   identification   data,   the   device's   unit

10   identification, the ballot's format identification, the

11   contents of each active candidate register by office and of

12   each active public question register showing that they contain

13   all zero votes, all ballot fields that can be used to invoke

14   special voting options, and other information needed to ensure

15   the   readiness   of   the   equipment   and   to   accommodate

16   administrative reporting requirements. The judges must also

17   check to be sure that the totals are all zeros in the counting

18   columns and in the public counter affixed to the voting

19   devices.

20   After the judges have determined that a person is qualified

21   to vote, a voting device with the proper ballot to which the

22   voter is entitled shall be enabled to be used by the voter. The

23   ballot may then be cast by the voter by marking by appropriate

24   means the designated area of the ballot for the casting of a

25   vote for any candidate or for or against any public question.

26   The voter shall be able to vote for any and all candidates and

27   public measures appearing on the ballot in any legal number and

28   combination and the voter shall be able to delete, change or

29   correct his or her selections before the ballot is cast. The

30   voter shall be able to select candidates whose names do not

31   appear upon the ballot for any office by entering

32   electronically as many names of candidates as the voter is

33   entitled to select for each office.

34   Upon completing his or her selection of candidates or

1   public questions, the voter shall signify that voting has been
2   completed by activating the appropriate button, switch or
3   active area of the ballot screen associated with end of voting.
4   Upon activation, the voting system shall record an image of the
5   completed ballot, increment the proper ballot position
6   registers, and shall signify to the voter that the ballot has
7   been cast. Upon activation, the voting system shall also print
8   a permanent paper record of each ballot cast as defined in
9   Section 24C-2 of this Code. This permanent paper record ~~shall~~
10 ~~either be self-contained within the voting device or~~ shall be
11 <u>printed in a clear, readily readable format that can be easily</u>
12 <u>reviewed by the voter for completeness and accuracy and then</u>
13 deposited by the voter into a secure ballot box. No permanent
14 paper record shall be removed from the polling place except by
15 election officials as authorized by this Article. All permanent
16 paper records shall be preserved and secured by election
17 officials in the same manner as paper ballots and shall be
18 available as an official record for any recount, redundant
19 count, or verification or retabulation of the vote count
20 conducted with respect to any election in which the voting
21 system is used. The voter shall exit the voting station and the
22 voting system shall prevent any further attempt to vote until
23 it has been properly re-activated. If a voting device has been
24 enabled for voting but the voter leaves the polling place
25 without casting a ballot, 2 judges of election, one from each
26 of the 2 major political parties, shall spoil the ballot.
27   Throughout the election day and before the closing of the
28 polls, no person may check any vote totals for any candidate or
29 public question on the voting or counting equipment. Such
30 equipment shall be programmed so that no person may reset the
31 equipment for reentry of ballots unless provided the proper
32 code from an authorized representative of the election
33 authority.
34   The precinct judges of election shall check the public

1   register to determine whether the number of ballots counted by
2   the voting equipment agrees with the number of voters voting as
3   shown by the applications for ballot. If the same do not agree,
4   the judges of election shall immediately contact the offices of
5   the election authority in charge of the election for further
6   instructions. If the number of ballots counted by the voting
7   equipment agrees with the number of voters voting as shown by
8   the application for ballot, the number shall be listed on the
9   "Statement of Ballots" form provided by the election authority.

10   The totals for all candidates and propositions shall be
11   tabulated; and 4 copies of a "Certificate of Results" shall be
12   printed by the automatic tabulating equipment; one copy shall
13   be posted in a conspicuous place inside the polling place; and
14   every effort shall be made by the judges of election to provide
15   a copy for each authorized pollwatcher or other official
16   authorized to be present in the polling place to observe the
17   counting of ballots; but in no case shall the number of copies
18   to be made available to pollwatchers be fewer than 4, chosen by
19   lot by the judges of election. In addition, sufficient time
20   shall be provided by the judges of election to the pollwatchers
21   to allow them to copy information from the copy which has been
22   posted.

23   If instructed by the election authority, the judges of
24   election shall cause the tabulated returns to be transmitted
25   electronically to the offices of the election authority via
26   modem or other electronic medium.

27   The precinct judges of election shall select a bi-partisan
28   team of 2 judges, who shall immediately return the ballots in a
29   sealed container, along with all other election materials and
30   equipment as instructed by the election authority; provided,
31   however, that such container must first be sealed by the
32   election judges with filament tape or other approved sealing
33   devices provided for the purpose in a manner that the ballots
34   cannot be removed from the container without breaking the seal

1   or filament tape and disturbing any signatures affixed by the
2   election judges to the container. The election authority shall
3   keep the office of the election authority, or any receiving
4   stations designated by the authority, open for at least 12
5   consecutive hours after the polls close or until the ballots
6   and election material and equipment from all precincts within
7   the jurisdiction of the election authority have been returned
8   to the election authority. Ballots and election materials and
9   equipment returned to the office of the election authority
10   which are not signed and sealed as required by law shall not be
11   accepted by the election authority until the judges returning
12   the ballots make and sign the necessary corrections. Upon
13   acceptance of the ballots and election materials and equipment
14   by the election authority, the judges returning the ballots
15   shall take a receipt signed by the election authority and
16   stamped with the time and date of the return. The election
17   judges whose duty it is to return any ballots and election
18   materials and equipment as provided shall, in the event the
19   ballots, materials or equipment cannot be found when needed, on
20   proper request, produce the receipt which they are to take as
21   above provided.
22   (Source: P.A. 93-574, eff. 8-21-03.)

23   Section 95. No acceleration or delay. Where this Act makes
24   changes in a statute that is represented in this Act by text
25   that is not yet or no longer in effect (for example, a Section
26   represented by multiple versions), the use of that text does
27   not accelerate or delay the taking effect of (i) the changes
28   made by this Act or (ii) provisions derived from any other
29   Public Act.

30   Section 99. Effective date. This Act takes effect upon
31   becoming law.".