



Sen. Don Harmon

Filed: 4/8/2005

09400SB1683sam002

LRB094 11121 JAM 44615 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

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

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

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

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

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

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

33 (3) After the person executes the portion of the written
 34 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

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

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

10 (i) an affidavit stating the following:

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

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

28 ~~In order to expedite the verification of your voter~~
 29 ~~registration status, the (insert name of county~~
 30 ~~clerk of board of election commissioners here)~~
 31 ~~requests that you include your phone number and both~~
 32 ~~the last four digits of your social security number and~~
 33 ~~your driver's license number or State Identification~~
 34 ~~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

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

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

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

18 (10 ILCS 5/18A-15)

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

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

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

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

1 the provisional voter. Votes on a provisional ballot cast
2 in the incorrect precinct that meets the other requirements
3 of this subsection shall be valid and counted for all
4 offices that are voted on in the resident precinct of the
5 voter that are present on the ballot, and the provisional
6 voter's affidavit shall serve as a change of address
7 request by that voter for registration purposes if it bears
8 an address different from that in the records of the
9 election authority;

10 (2) The affidavit executed by the provisional voter
11 pursuant to subsection (b) (2) of Section 18A-5 contains, at
12 a minimum, the provisional voter's first and last name,
13 house number and street name, and signature or mark ~~18A-10~~
14 ~~is properly executed;~~ and

15 (3) the provisional voter is a registered voter based
16 on information available to the county clerk or board of
17 election commissioners provided by or obtained from any of
18 the following:

19 i. the provisional voter;

20 ii. an election judge;

21 iii. the statewide voter registration database
22 maintained by the State Board of Elections;

23 iv. the records of the county clerk or board of
24 election commissioners' database; or

25 v. the records of the Secretary of State.

26 (c) With respect to subsection (b) (3) of this Section, the
27 county clerk or board of election commissioners shall
28 investigate whether each of the 5 types of information is
29 available and record whether this information is or is not
30 available. If one or more types of information is available,
31 then the county clerk or board of election commissioners shall
32 obtain all relevant information from all sources identified in
33 subsection (b) (3) or until satisfied that the provisional voter
34 is registered and entitled to vote. The county clerk or board

1 of election commissioners shall use any information it obtains
2 as the basis for determining the voter registration status of
3 the provisional voter. If a conflict exists among the
4 information available to the county clerk or board of election
5 commissioners as to the registration status of the provisional
6 voter, then the county clerk or board of election commissioners
7 shall make a determination based on the totality of the
8 circumstances. In a case where the above information equally
9 supports or opposes the registration status of the voter, the
10 county clerk or board of election commissioners shall decide in
11 favor of the provisional voter as being duly registered to
12 vote. If the statewide voter registration database maintained
13 by the State Board of Elections indicates that the provisional
14 voter is registered to vote, but the county clerk's or board of
15 election commissioners' voter registration database indicates
16 that the provisional voter is not registered to vote, then the
17 information found in the statewide voter registration database
18 shall control the matter and the provisional voter shall be
19 deemed to be registered to vote. If the records of the county
20 clerk or board of election commissioners indicates that the
21 provisional voter is registered to vote, but the statewide
22 voter registration database maintained by the State Board of
23 Elections indicates that the provisional voter is not
24 registered to vote, then the information found in the records
25 of the county clerk or board of election commissioners shall
26 control the matter and the provisional voter shall be deemed to
27 be registered to vote. If the provisional voter's signature on
28 his or her provisional ballot request varies from the signature
29 on an otherwise valid registration application solely because
30 of the substitution of initials for the first or middle name,
31 the election authority may not reject the provisional ballot.

32 (d) In validating the registration status of a person
33 casting a provisional ballot, the county clerk or board of
34 election commissioners shall not require a provisional voter to

1 complete any form other than the affidavit executed by the
2 provisional voter under subsection (b) (2) of Section 18A-5. In
3 addition, the county clerk or board of election commissioners
4 shall not require all provisional voters or any particular
5 class or group of provisional voters to appear personally
6 before the county clerk or board of election commissioners or
7 as a matter of policy require provisional voters to submit
8 additional information to verify or otherwise support the
9 information already submitted by the provisional voter. The
10 provisional voter may, within 2 calendar days after the
11 election, submit additional information to the county clerk or
12 board of election commissioners. This information must be
13 received by the county clerk or board of election commissioners
14 within the 2-calendar-day period.

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

23 (f) If the county clerk or board of election commissioners
24 determines that a provisional ballot is valid under this
25 Section, then the provisional ballot envelope shall be opened.
26 The outside of each provisional ballot envelope shall also be
27 marked to identify the precinct and the date of the election.

28 (g) The provisional ballots determined to be valid shall be
29 added to the vote totals for the precincts from which they were
30 cast in the order in which the ballots were opened. The county
31 clerk or board of election commissioners may, in the
32 alternative, create a separate provisional-voter precinct for
33 the purpose of counting and recording provisional ballots and
34 adding the recorded votes to its official canvass. The

1 validation and counting of provisional ballots shall be subject
2 to the provisions of this Code that apply to pollwatchers. If
3 the provisional ballots are a ballot of a punch card voting
4 system, then the provisional ballot shall be counted in a
5 manner consistent with Article 24A. If the provisional ballots
6 are a ballot of optical scan or other type of approved
7 electronic voting system, then the provisional ballots shall be
8 counted in a manner consistent with Article 24B.

9 (h) As soon as the ballots have been counted, the election
10 judges or election officials shall, in the presence of the
11 county clerk or board of election commissioners, place each of
12 the following items in a separate envelope or bag: (1) all
13 provisional ballots, voted or spoiled; (2) all provisional
14 ballot envelopes of provisional ballots voted or spoiled; and
15 (3) all executed affidavits of the provisional ballots voted or
16 spoiled. All provisional ballot envelopes for provisional
17 voters who have been determined not to be registered to vote
18 shall remain sealed. The county clerk or board of election
19 commissioners shall treat the provisional ballot envelope
20 containing the written affidavit as a voter registration
21 application for that person for the next election and process
22 that application. The election judges or election officials
23 shall then securely seal each envelope or bag, initial the
24 envelope or bag, and plainly mark on the outside of the
25 envelope or bag in ink the precinct in which the provisional
26 ballots were cast. The election judges or election officials
27 shall then place each sealed envelope or bag into a box, secure
28 and seal it in the same manner as described in item (6) of
29 subsection (b) of Section 18A-5. Each election judge or
30 election official shall take and subscribe an oath before the
31 county clerk or board of election commissioners that the
32 election judge or election official securely kept the ballots
33 and papers in the box, did not permit any person to open the
34 box or otherwise touch or tamper with the ballots and papers in

1 the box, and has no knowledge of any other person opening the
2 box. For purposes of this Section, the term "election official"
3 means the county clerk, a member of the board of election
4 commissioners, as the case may be, and their respective
5 employees.

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

7 (10 ILCS 5/23-15.1)

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

1 ~~The State Board of Elections shall determine which software~~
2 ~~components of a voting system it deems necessary to enable the~~
3 ~~review and verification of the computer. The State Board of~~
4 ~~Elections shall secure and maintain all proprietary computer~~
5 ~~codes in strict confidence and shall make a computer code~~
6 ~~available to authorized persons in connection with an election~~
7 ~~contest or pursuant to any State or federal court order.~~

8 ~~In an election contest, each party to the contest may~~
9 ~~designate one or more persons who are authorized to receive the~~
10 ~~computer code of the relevant voting systems. The person or~~
11 ~~persons authorized to receive the relevant computer code shall~~
12 ~~enter into a confidentiality agreement with the State Board of~~
13 ~~Elections and must exercise the highest degree of reasonable~~
14 ~~care to maintain the confidentiality of all proprietary~~
15 ~~information.~~

16 The State Board of Elections shall promulgate rules to
17 provide for the security, review, and verification of computer
18 codes. Verification includes, but is not limited to,
19 determining that the computer code corresponds to computer
20 instructions actually in use to count ballots. The State Board
21 of Elections shall hire, contract with, or otherwise provide
22 sufficiently qualified resources, both human and capital, to
23 conduct the reviews with the greatest possible expectation of
24 thoroughness, completeness, and effectiveness. The resources
25 shall be independent of and have no business, personal,
26 professional, or other affiliation with any of the system
27 vendors currently or prospectively supplying voting systems to
28 any county in the State of Illinois. Nothing in this Section
29 shall impair the obligation of any contract between a
30 voting-systems vendor and an election authority that provides
31 access to computer code that is equal to or greater than that
32 provided by this Section.

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

1 (10 ILCS 5/24C-2)

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

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

34 "Ballot" means an electronic audio or video display or any

1 other medium, including paper, used to record a voter's choices
2 for the candidates of their preference and for or against
3 public questions.

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

9 "Ballot image" means a corresponding representation in
10 electronic or paper form of the mark or vote position of a
11 ballot.

12 "Ballot label" or "ballot screen" means the display of
13 material containing the names of offices and candidates and
14 public questions to be voted on.

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

23 "Computer", "automatic tabulating equipment" or
24 "equipment" includes apparatus necessary to automatically
25 examine and count votes as designated on ballots, and data
26 processing machines which can be used for counting ballots and
27 tabulating results.

28 "Computer operator" means any person or persons designated
29 by the election authority to operate the automatic tabulating
30 equipment during any portion of the vote tallying process in an
31 election, but shall not include judges of election operating
32 vote tabulating equipment in the precinct.

33 "Computer program" or "program" means the set of operating
34 instructions for the automatic tabulating equipment that

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

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

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

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

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

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

1 the number randomly assigned by the voting system to each
2 ballot as it is electronically recorded.

3 "Redundant count" means a verification of the original
4 computer count of ballots by another count using compatible
5 equipment or other means as part of a discovery recount,
6 including a count of the permanent paper record of each ballot
7 cast by using compatible equipment, different equipment
8 approved by the State Board of Elections for that purpose, or
9 by hand.

10 "Separate ballot" means a separate page or display screen
11 of the ballot that is clearly defined and distinguishable from
12 other portions of the ballot.

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

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

17 (10 ILCS 5/24C-2.5 new)

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

19 (a) All voting systems submitted for approval under this
20 Article must produce a voter verifiable paper ballot that is
21 then counted by a machine not connected either physically or
22 electronically to the machine that produces the paper ballot.
23 The ballot as counted by this separate machine shall constitute
24 the actual vote of the voter.

25 (b) An election authority using a voting system subject to
26 this Article must conduct a random audit of the system
27 consisting of the recount of votes cast in 5% of the precincts
28 using the system.

29 (10 ILCS 5/24C-12)

30 Sec. 24C-12. Procedures for Counting and Tallying of
31 Ballots.

32 In an election jurisdiction where a Direct Recording

1 Electronic Voting System is used, the following procedures for
2 counting and tallying the ballots shall apply:

3 Before the opening of the polls, the judges of elections
4 shall assemble the voting equipment and devices and turn the
5 equipment on. The judges shall, if necessary, take steps to
6 activate the voting devices and counting equipment by inserting
7 into the equipment and voting devices appropriate data cards
8 containing passwords and data codes that will select the proper
9 ballot formats selected for that polling place and that will
10 prevent inadvertent or unauthorized activation of the
11 poll-opening function. Before voting begins and before ballots
12 are entered into the voting devices, the judges of election
13 shall cause to be printed a record of the following: the
14 election's identification data, the device's unit
15 identification, the ballot's format identification, the
16 contents of each active candidate register by office and of
17 each active public question register showing that they contain
18 all zero votes, all ballot fields that can be used to invoke
19 special voting options, and other information needed to ensure
20 the readiness of the equipment and to accommodate
21 administrative reporting requirements. The judges must also
22 check to be sure that the totals are all zeros in the counting
23 columns and in the public counter affixed to the voting
24 devices.

25 After the judges have determined that a person is qualified
26 to vote, a voting device with the proper ballot to which the
27 voter is entitled shall be enabled to be used by the voter. The
28 ballot may then be cast by the voter by marking by appropriate
29 means the designated area of the ballot for the casting of a
30 vote for any candidate or for or against any public question.
31 The voter shall be able to vote for any and all candidates and
32 public measures appearing on the ballot in any legal number and
33 combination and the voter shall be able to delete, change or
34 correct his or her selections before the ballot is cast. The

1 voter shall be able to select candidates whose names do not
2 appear upon the ballot for any office by entering
3 electronically as many names of candidates as the voter is
4 entitled to select for each office.

5 Upon completing his or her selection of candidates or
6 public questions, the voter shall signify that voting has been
7 completed by activating the appropriate button, switch or
8 active area of the ballot screen associated with end of voting.
9 Upon activation, the voting system shall record an image of the
10 completed ballot, increment the proper ballot position
11 registers, and shall signify to the voter that the ballot has
12 been cast. Upon activation, the voting system shall also print
13 a permanent paper record of each ballot cast as defined in
14 Section 24C-2 of this Code. This permanent paper record ~~shall~~
15 ~~either be self contained within the voting device or~~ shall be
16 printed in a clear, readily readable format that can be easily
17 reviewed by the voter for completeness and accuracy and then
18 deposited by the voter into a secure ballot box. No permanent
19 paper record shall be removed from the polling place except by
20 election officials as authorized by this Article. All permanent
21 paper records shall be preserved and secured by election
22 officials in the same manner as paper ballots and shall be
23 available as an official record for any recount, redundant
24 count, or verification or retabulation of the vote count
25 conducted with respect to any election in which the voting
26 system is used. The voter shall exit the voting station and the
27 voting system shall prevent any further attempt to vote until
28 it has been properly re-activated. If a voting device has been
29 enabled for voting but the voter leaves the polling place
30 without casting a ballot, 2 judges of election, one from each
31 of the 2 major political parties, shall spoil the ballot.

32 Throughout the election day and before the closing of the
33 polls, no person may check any vote totals for any candidate or
34 public question on the voting or counting equipment. Such

1 equipment shall be programmed so that no person may reset the
2 equipment for reentry of ballots unless provided the proper
3 code from an authorized representative of the election
4 authority.

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

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

28 If instructed by the election authority, the judges of
29 election shall cause the tabulated returns to be transmitted
30 electronically to the offices of the election authority via
31 modem or other electronic medium.

32 The precinct judges of election shall select a bi-partisan
33 team of 2 judges, who shall immediately return the ballots in a
34 sealed container, along with all other election materials and

1 equipment as instructed by the election authority; provided,
2 however, that such container must first be sealed by the
3 election judges with filament tape or other approved sealing
4 devices provided for the purpose in a manner that the ballots
5 cannot be removed from the container without breaking the seal
6 or filament tape and disturbing any signatures affixed by the
7 election judges to the container. The election authority shall
8 keep the office of the election authority, or any receiving
9 stations designated by the authority, open for at least 12
10 consecutive hours after the polls close or until the ballots
11 and election material and equipment from all precincts within
12 the jurisdiction of the election authority have been returned
13 to the election authority. Ballots and election materials and
14 equipment returned to the office of the election authority
15 which are not signed and sealed as required by law shall not be
16 accepted by the election authority until the judges returning
17 the ballots make and sign the necessary corrections. Upon
18 acceptance of the ballots and election materials and equipment
19 by the election authority, the judges returning the ballots
20 shall take a receipt signed by the election authority and
21 stamped with the time and date of the return. The election
22 judges whose duty it is to return any ballots and election
23 materials and equipment as provided shall, in the event the
24 ballots, materials or equipment cannot be found when needed, on
25 proper request, produce the receipt which they are to take as
26 above provided.

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

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

1 Public Act.

2 Section 99. Effective date. This Act takes effect upon
3 becoming law.".