

ACCG will be at today's hearing (update and article with information follows statement) to stand with our SOE and state for the record,

"Intimidation and control of local officials does not solve accuracy problems in elections. The appropriate response is transparency in our elections process. All Florida citizens should be able to 1) trust their SOE to do the job they were elected to do, and 2) be confident that their vote counts. This proposed rule by the State promotes neither, and therefore, should not be adopted."

Misty Penton, Advocacy Consortium for the Common Good (ACCG)

Dear Friends and Voters ALL: Once again our Secretary of State is moving to protect corporate interests over your vote. Following a series of flaws being uncovered by tests conducted by our local Supervisor of Elections, Ion Sancho, the State's response is to pass a rule to limit tests by ALL local elections officials. Instead of a problem-solving response, the result of legitimate concerns raised over election accuracy is getting 'hushed' by the state by a suggested rule to control all local Supervisors' power to test their election equipment.

We look forward to seeing you there. If you can't come, pick up the phone 606-8601 or send an email to Ion at vote@leoncountyfl.gov letting him know you support him. Don't forget to copy the Democrat bcotterell@tallahassee.com and the Governor at jeb@jeb.org with your input. Thanks, Misty

Misty Penton, Advocacy Consortium for the Common Good (ACCG)

501 (c) (4)

317 E. Park Avenue Studio C,

Tallahassee, FL 32301

850 222-0092/ cell 559-9661

Article published Jun 11, 2006

Sancho says he will fight rule changes

Leon County Elections Supervisor Ion Sancho doesn't mind letting the state know when he's testing voting machines, but he doesn't think the Secretary of State's office should tell him how - or whether - he can do it.

Sancho said he will attend a public hearing in the **R.A. Gray Building at 1:30 p.m. Monday** to discuss a pending rule change. He said the new rule would require a representative of the Department of State to be present whenever a county runs a test on voting machines.

"I don't, for the life of me, understand why they want to do something like this," Sancho said Saturday. "I have no problem with notifying them, but I don't think I need their approval."

Sancho has had long-running disputes with big national companies that make elections equipment. He contends that county elections offices should be allowed to test their balloting machinery anytime they think there might be bugs.

Sancho said the hearing Monday is only the first step in the rule-making process, but he intends to fight it all the way.

- *Bill Cotterell*

Matthews, Maria I.

From: dill@chicory.Stanford.EDU on behalf of David L. Dill [dill@cs.stanford.edu]
Sent: Monday, June 12, 2006 11:19 AM
To: Matthews, Maria I.
Cc: dill@chicory.Stanford.EDU
Subject: Comments proposed rules 1S-2.004 and 1S-2.015

These are comments on two rules recently proposed by the Florida Department Of State, Division of Elections: 1S-2.004, "Procurement, Use and Assessment of Voting Systems," and 1S-2.015, "Minimum Security Procedures for Voting Systems."

Although there are many desirable aspects of the proposed rules, I am deeply trouble by several provisions that, in my opinion, will greatly reduce the quality and transparency of voting system evaluations in Florida

Section 6(a) of rule 1S-2.015 restricts access by Supervisors of Elections to voting system source code. This rule would seem to apply even if the source code were available to others, leading to the absurd outcome that everyone EXCEPT election officials would have access to the source code. This could happen in several ways. Many people have advocated that source code for voting systems be disclosed to the general public, and there are several Federal bills now pending that would require public source code disclosure. Some groups are developing open-source voting systems, and some vendors of voting equipment are considering voluntarily disclosing their source code. Source code for Diebold touch-screen machines has been available for several years on the web, and has been reviewed by several independent parties who have reported serious security holes, which were addressed in future releases and in procedures (indeed, the procedures recommended in this rule were most likely informed by information gleaned from inspections of that Diebold source code).

A second requirement of section 6 is that any source code that is reviewed be verified to be identical to the certified release. So far as I can understand, this provision would only apply in a scenario such as the Diebold one, where one version of the software source code is available for review, but newer versions are not. But, in truth, reviewing the available source code has exposed many serious security flaws, many of which have been demonstrated to exist in the current certified versions (in spite of false claims by Diebold to the contrary).

Section 6 of rule 1S-2.004 has several troubling provisions, which would only prevent local election officials from protecting the voting public. It is important to note that security reviews performed by local election officials Ion Sancho of Leon County, Florida and Bruce Funk of Emery County, Utah detected security flaws that were either overlooked or ignored by reviews at the Federal and state level. Publicizing these problems has resulted in nationwide improvements in voting system security. It is likely that neither of these reviews could have been performed under this new rule.

The rule requires that an independent evaluator be certified by the American Software Testing Qualifications Board (ASTQB), the American Society for Quality (ASQ) or the EC-Council. These qualifications are inappropriate because they would exclude the most competent evaluators, such as those who have found most of the reported security holes in existing voting systems. I have checked with several computer security experts, who not only do not have these qualifications, but, like me, have never heard of them. A little research on the web reveals these certifications to be of dubious relevance to voting system evaluation. The ASTQB and ASQ certifications may be relevant to vendor testing and manufacturing of the machines, but they don't seem to be relevant for voting system evaluation in general, and they have little to do with system security. While EC-Council has several certificates related to computer security, advertisements on the web suggest that a 5-day training course is sufficient to obtain them. The people we need to evaluate voting systems will have years of experience at the highest levels -- and they will not have these certifications.

The rule imposes onerous requirements to submit plans for how the vendor's intellectual

property and other rights will be protected.

This is problematic because intellectual property rights are often unclear, especially when balanced against fair use and the public interest, and it is easy to imagine a vendor being able to delay or prevent an evaluation by raising spurious complaints about the plan.

The plan also requires that vendors and others be present for security reviews be conducted in public, and that vendors and others be present. Such requirements are unrealistic for source-code reviews, which may be conducted at the reviewer's workplace over a period of several days. It is also unclear how having the vendor present serves anyone's interests except the vendors.

The requirement that the supervisor security procedures to mitigate adverse effects of any problems seems misplaced. The person who discovers a problem (or sponsors a study) is not necessarily the best person to develop mitigation procedures.

In summary, these provisions will reduce the quantity, quality, and transparency of voting system evaluations. They are not in the public interest.

Respectfully,
David L. Dill
Professor of Computer Science
Stanford University

Matthews, Maria I.

From: McIntosh, Vicki
Sent: Tuesday, June 13, 2006 8:36 AM
To: Matthews, Maria I.
Subject: FW: User Comment From FLRules.com [bcc]

The following e-rulemaking comment was posted on the new www.flrules.com website and is being forwarded to you.

Vicki McIntosh, AAI
Administrative Code/Weekly
(850)245-6273
Fax: (850)245-6282

-----Original Message-----

From: eRuleSupport@commer.net [mailto:eRuleSupport@commer.net]
Sent: Monday, June 12, 2006 10:19 AM
To: eRuleComment@commer.net
Subject: User Comment From FLRules.com [bcc]

Name: Barbara Brandon
Email: bbrandon@law.miami.edu
Title: Chain of Custody
Comment: June 5, 2006

Maria Matthews
Division of Elections
Office of General Counsel
R.A. Gray Building
500 S. Bronough Street
Tallahassee, Florida 32399

Re: Draft Rule 1S-2.015 Minimum Security Procedures for Voting Systems

Dear Ms. Matthews:

I write on behalf of myself however I also am a member of the Miami-Dade Election Reform Coalition (MDERC) and I wish to endorse the positions taken by MDERC on the draft rule that are being submitted today.

Comment on Chain of Custody Breaches in 1S-2.015(5)(k)(5)

We think the concept behind this provision is excellent but we find it rather undeveloped. We have questions in two areas where we think this section should be fleshed out.

First, the Division appears to assume that the only type of chain of custody problem is inadvertent damage. There also could be signs of deliberate damage as well. These are not similar issues.

Second, MDERC thinks that recovery plans should address chain of custody breaches in early voting and on election day differently. Early voting is a highly insecure process and therefore it presents particular challenges. Therefore the recovery plan issues would be different for Election Day and early voting.

Comment on Security during Early Voting

Several provisions in the draft rule require county election supervisors to describe how they will provide security for electronic "voting devices" during Early Voting. We think this is a highly laudable goal but we are unclear about what the Division sees as an appropriate policy.

During early voting DREs are stored overnight at locales that are not very secure. Your draft grapples with this issue as follows:

No election media is left unattended or in an unsecured location once it has been coded for an election. At least two persons must be in attendance.

But this does not specify how PEBs are to be handled overnight. We would like greater detail or a discussion on minimum PEB security measures during early voting and over night. We recognize that some type of sealing is implied but we do not understand the over night storage issue. Nor do we understand how a two person rule would operate under these circumstances.

The minimum security procedures should ensure that the public and poll workers can keep track of how early votes are counted and whether votes from all machines are counted properly. This would mean that either the voting equipment is left in place at the sites under guard, and then count them a couple of days later on election day or it means taking them carefully and storing them carefully at the Elections Department with great precaution and then holding a public event to run those results tapes.

Barbara H. Brandon

OrgNo: 1S

RECEIVED

2006 JUN 12 P 3:02

Attention:

Maria Matthews Fax 850-215-6520

OFFICE OF THE
GENERAL COUNSEL

Submitted by Ellen H. Brodsky
ehbrod@cyber.com
954-973-2819

1) General Testing Protocol
needed to replicate errors found in
the PB County Sequoia Voting Machines.

Please present as evidence
to the Committee Today.

Sincerely -

Ellen H. Brodsky

Exec. Director

Broward Election Reform Coalition

Palm Beach Coalition for Election Reform

Vote Trust USA

**General Testing Requirements / Protocols for System Level Errors /
Failures
For
DRE and Optical Scan voting systems**

This is a basic frame work for independent testing and verification of the system level errors voting systems the purposes of protocol is to include but is not limited to demonstrate benign conditions.

Proposed Testing Protocol

System Identification

There is no point in performing a test if the system under test can not be identified with precision. To this end the following actions shall be performed.

1. The Vendor shall provide the serial numbers of all machines currently in use by County Supervisor of Elections (County SOE).
2. The Vendor shall provide version numbers of each software component used each elections system of owned by or leased to County SOE . Software components include but are not limited to: Firmware, Vendor-created software, Commercial off the shelf (COTS) software employed by the election, machine executable images (including buy not limited to EXE file, DLL files, active X controls, COM components, real-time operating system (RTOS) kernels).
3. The Vendor shall provide cryptographic hashes of each software component used in each election system owned by or leased to County Supervisor of Elections (County SOE) as to confirm the software delivered to the COUNTY SOE is indeed approved by the State of Florida. Any of the following is an acceptable cryptographic hash: MD5, SHA-1, SHA-224, SHA-256, SHA-384, or SHA-512. See: http://en.wikipedia.org/wiki/Cryptographic_hash_function for more details on cryptographic hashes.
4. The vendor shall sign a sworn affidavit the enumerations above are true, correct and complete.

System Documentation

There is no point in performing a test if there is no understanding of how the system is expected to behave. In order to define the expected behavior of the election systems used by (County SOE) Supervisor of Elections:

1. The Vendor shall provide copies of all technical and users manuals to COUNTY SOE if the vendor has not already done so. A list of such manuals is kept by the Secretary of State pursuant to Title IX section 101.5607 (1)(a).

2. If the current set of manuals and system documentation are insufficient to describe any and all error codes generated by an election system used County SOE, the Vendor shall provide any and all documentation required in order to describe and document all error codes encountered and also the conditions under which such error codes are generated and/or recorded.
3. Documentation of the proper working of an election system is not considered a trade secret under 119.071(1)(f) as correct system behavior is never a secret. Protections of copyright still extend to any documentation provided by the vendor.

Testing Scope

There is no point in performing tests if there is no understanding of the limits and scope of the testing effort. The testing effort will include the following steps.

1. The vendor or COUNTY SOE shall provide an enumeration of all distinct events found in any event log of any election system owned by or leased to (County SOE) Supervisor of Elections where the record of the event was generated any time between the initiation of L&A testing and the official certification of election results by the The County SOE Supervisor of Elections Election Technology Advisory Committee (County SOE ETAC).
2. The events will be cataloged by name, number of distinct machines and number of events.
3. A list of event types designated as of interest to the COUNTY SOE ETAC shall include but not be limited to the 15 events which occurred most frequently and the 15 events which occurred on the largest number of machines.
4. For each of the events on the COUNTY SOE ETAC list of events of interest, the vendor will demonstrate any and all system conditions which generate the event.
5. For each of the events on the COUNTY SOE ETAC list of events of interest, the vendor shall sign a sworn affidavit stating every system condition which induces event in question has been demonstrated to the COUNTY SOE ETAC.
6. For each of the events on the COUNTY SOE ETAC list of events of interest, the vendor shall sign a sworn affidavit stating, all system conditions demonstrated to the COUNTY SOE ETAC is benign system condition. A benign system condition is defined as a system state such that it is not possible a vote was mis-recorded, a vote was not mis-tallied, or a clear indication of voter intent was mis-interpreted.
7. Once the vendor has the above demonstrations, the COUNTY SOE shall then engage test professionals and or computer scientists to confirm the results provided by the vendor.
8. All demonstrations and testing whether performed by the vendor or others will be well recorded on both video and audio. There is no expectation of privacy nor are any such recordings to be construed as anything but public records of COUNTY SOE not covered by copyright.

9. The aforementioned Sequoia Touch-Screen AVC Edge voting machines must be include but is not limited to in testing: #21262, #6665, #6497

Recommendations for the test professionals and or computer scientists, organizations to carry out independent testing protocols and verification:

- 1) John Washburn
- 2) Harri Hursti
- 3) Brennan Center for Justice
- 4) Hugh Thompson of Security Innovation
- 5) Bruce Schneier of Counterpane Inc.
- 6) Ron Rivest of MIT (the R of RSA)
- 7) Matt Blaze of Bell Labs Murray Hill
- 8) Jim March of Black Box Voting
- 9) Professor Doug Jones of the university of Iowa
- 10) Paul Kocher of Cryptography Research http://en.wikipedia.org/wiki/Paul_Kocher
- 11) Dr. David Dill of Verified Voting.
- 12) Dr. AVI Rubin of ACCURATE

The chosen election specialist's T&E is to be paid by the County Supervisor of Elections of Elections. Further details for the scientific testing protocols and verification are to follow from the chosen election specialist that does the testing.

**Major problems with Sequoia touch screen machines
Palm Beach Coalition for Election Reform Statement
By Bruce Serell, ETAC Representative**

Palm Beach Coalition for Election Reform concerned about major problems with touch screen machines as revealed in a comprehensive audit of the '04 election in Palm Beach County. A review of the SOE office operating budget since 2000 reveals massive increases in tax payer spending since using faulty touch screen machines. Our group wants a more cost efficient, re-countable, and voter verifiable optical scan system which can be manually audited.

The PBCER is encouraging the public to become more aware of and participate in the proceedings of the Executive Technical Advisory Committee (ETAC) convened by Dr. Arthur Anderson, Palm Beach County's Supervisor of Elections.

Even though the committee's final recommendations are non-binding, its' purpose is to evaluate all possible election technologies.

We are asking, along with the Palm Beach County Green Party and other election reform advocates, that Dr. Anderson keep his promise of implementing a voter verifiable paper ballot trail. We are also asking the SOE paid consultant and former campaign manager of "Patriot Games" to fulfill its contractual obligations, one of which included its agreement to "assist the Supervisor of Elections with his ongoing efforts to secure a verifiable paper ballot trail"^[1].

An audit of the 2004 Election in Palm Beach County conducted by Black Box Voting revealed upwards of 70,000 error messages which were contained in the audit logs of the Sequoia touch screen machines.

These error messages were varied consisting of EPROM memory failures, 10s of thousands of card stuck errors, and over 1,400 recalibrations of over 4,300 voting machines.^[2] When committee member Bruce Serell asked SOE I.T. personnel and Sequoia representatives about the plethora of errors, they were unable to provide an explanation. When attempts were made to introduce this information to the ETAC committee by PBCER member Bruce Serell after several members requested it, the dissemination of the information was thwarted by Chair Linda Mainard and Patriot Games Consultant Richard Giorgio.^[3]

A review of the Supervisor of Election Operating Expenses from 2000 through 2004 reveal that the operating overhead increased by over 170% (election year 2000 cost \$2,822,403.20 compared with 2004 which cost \$7,675,756.68. This does not include the \$14,390,300 cost of the touch screen equipment).^[4] PBCER co-chair Susan Van Houten has stated that "the public is being cheated both in the misuse of their tax dollars as well as being forced to vote on machines that are plagued with errors and an inability to produce a voter verifiable and re-countable paper ballot." The PBCER is endorsing the idea of introducing optical scan voting systems which are much more cost efficient, re-countable and have the ability to produce a voter verifiable paper ballot.^[5]

Here are the links to Bev Harris' *PBSOE Nov. 2, 2004 General Election - Audit Records sample*.

<http://www.bbvforums.org/forums/messages/2197/6620.html>

Contact: Susan Van Houten, Co-Chair 561-301-7485, svanhout@bellsouth.net

^[1] Contract between Patriot Games and Supervisor of Elections

^[2] Black Box Voting.org "Palm Beach County Fails Audit"

^[3] Minutes of Executive Technical Advisory Committee Meeting

^[4] Palm Beach County Supervisor of Elections operating expenses from 2000 to 2004

^[5] Voter's Unite.org

^[1] Contract between Patriot Games and Supervisor of Elections

^[2] Black Box Voting.org "Palm Beach County Fails Audit"

^[3] Minutes of Executive Technical Advisory Committee Meeting

^[4] Palm Beach County Supervisor of Elections operating expenses from 2000 to 2004

^[5] Voter's Unite.org

Dear Maria Matthews,

It is with deep regret that members of the Broward Election Reform Coalition and Palm Beach Coalition for Election Reform are not able to attend today. However, as promised we are submitting our Public Comment to the Rules being proposed today.

Please submit our comments for the record and please discuss them at the meeting today.

Thank you,

Ellen H. Brodsky, Exec. Director

Broward Election Reform Coalition, PBCER, VoteTrustUSA

chbrod@yahoo.com, 954-973-2819

Attention Ms Matthews, The Broward Election Reform Coalition and the Palm Beach Coalition for Election Reform have read the proposed changes to the:

Notice of Development of Proposed Rules and Negotiated Rulemaking

DEPARTMENT OF STATE

Division of Elections

RULE TITLE: RULE NO.:

Procurement, Use and Assessment of Voting Systems 1S-2.004

It is the position of the Broward Election Reform Coalition and the Palm Beach Coalition for Election Reform that the following rule pertaining to an assessment of a voting system would make it a hardship on any Governing Body or Supervisor of Elections to conduct a security test and assessment of the system being tested. The Governing Body or Supervisor of Elections should have the right and authority to conduct any and all tests on the systems being utilized for

testing without the prior approval of the Division of Elections. The State wants to "approve test plans" but states no grounds for giving or withholding approval. The State has selected Assessment Testing Corporations as a means of determining the qualifications of the individuals chosen by the counties to do the testing excluding potentially far more qualified computer scientists and assessment teams.

These three major issues that are the most egregious.

1) Abrogation of ownership. If Broward or Palm Beach buys a voting system we should own every part of it. Why should we need permission from the vendor to test a system that we own or approval from the DOE to test the system? Why should there be elements such as proprietary software that we cannot publicly test??? Such a system that can not be tested in the public domain must not be allowed in FL.

2. The limited 3 choices of DOE Testing Assessment Corporations excludes the majority of the best known computer scientists in the industry today. The likes of David Dill, Doug Jones and Avi Rubin never got their testing certification from the required DOE Assessment Companies.

3. The core issue is the state of FL is clearly in violation of FL Statute 101.015, which states in subsection (7), the Division of Elections shall review the voting systems certification standards and ensure that new technologies are available for selection by boards or county commissioners which meet the requirement for voting systems and meet user standards. The Division of Elections shall continuously review the voting certification

standards to ensure that new technologies are appropriately certified for all elections in a timely manner. The Division shall also develop methods to determine the will of the public with respect to voting systems. Clearly the Division of Elections has been in violation of this statute by what it has not done. The statute specifically says that they are supposed to be doing these things on an ongoing basis. The Public and governing bodies are clearly dissatisfied because of lack of choice especially in certifying voter verified paper ballot systems for all voters including those with the widest range of disabilities. The Division of Elections has not paid attention to this subsection of the statute. Because it is not making that distinction, especially to governing bodies in counties who want voting systems that will satisfy the will of the public.

Notice of Development of Proposed Rules and Negotiated Rulemaking

DEPARTMENT OF STATE

Division of Elections

RULE TITLE:

RULE NO.:

Procurement, Use and Assessment of Voting Systems

1S-2.004

PURPOSE AND EFFECT: The purpose of the proposed rule amendments is to update the provisions governing the local procurement of certified voting systems and equipment in the state. The proposed amendments also provide uniform procedures for supervisors of elections and governing bodies to follow in the use and assessment of certified voting systems and equipment throughout the state.

Amend the Purpose of the Rule to include the provisions of FL Statute 101.015.

The core issue is the State of FL. Division of Elections is clearly in violation of FL Statute 101.015, which states in subsection (7), the Division of Elections shall review the voting systems certification standards and ensure that new technologies are available for selection by boards or county commissioners which meet the requirement for voting systems and meet user standards. The Division of Elections shall continuously review the voting certification standards to ensure that new technologies are appropriately certified for all elections in a timely manner. The Division shall also develop methods to determine the will of the public with respect to voting systems. Clearly the Division of Elections has been in violation of this statute by what it has not done. The statute specifically says that they are supposed to be doing these things on an ongoing basis. The Public and governing bodies are clearly dissatisfied because of lack of choice especially in certifying voter verified paper ballot systems for all voters including those with the widest range of disabilities.. The Division of Elections has not paid attention to this subsection of the statute. Because it is not making that distinction, especially to governing bodies in counties who want voting systems that will satisfy the will of the public.

Testing of voting systems is an important part of ensuring fair and accurate elections and test procedures are essential to maintaining the integrity of certified voting systems used in any election in Florida. The proposed amendments establish procedures for proper use of certified voting systems and a protocol for assessing a voting system during a routine test or system audit as well as opportunities to identify potential or actual

problems that require immediate resolution and to assess potential vulnerabilities to the integrity of voting systems. The amendments also ensure transparency to the testing of these systems, including public notice, and a report of the results.

By limiting testing of the Voting systems to individuals who have gotten their certification from the following corporations:

American Software Testing Qualifications Board (ASTQB)
 American Society for Quality (ASQ)
 EC Council

You are prohibiting Supervisors of Elections and Governing bodies from using their discretion to independently test and assess their voting systems with the most qualified assessment team. There is no criteria other than the use of the States' chosen companies for the qualifications of the individuals selected to do the testing other than they attended these corporations to further their careers. Thereby excluding most of the top computer scientists in the country from participating in the testing who may be far more qualified than the candidates from the preferred corporations you require.

Ellen H. Brodsky, Exec. Director Broward Election Reform Coalition

ehbrod@yahoo.com

The following paragraph from the Wikipedia article on software testing is accurate. Note particularly the final sentences!

http://en.wikipedia.org/wiki/Software_testing

Certification

Many certification programs exist to support the professional aspirations of software testers. These include the "CSQE" program offered by the "American Society for Quality", the "CSTE/CSQA" program offered by QAI, Quality Assurance Institute, and the "ISTQB certifications" offered by ISTQB, International Software Testing Qualification Board. No certification currently offered actually requires the applicant to demonstrate the ability to test software. No certification is based on a widely accepted body of knowledge. This has led some to declare that the testing field is not ready for certification.

You're a lawyer. You're used to professional certification having significant value. That is not the case in the field of computing. In general, certification in computing, any branch of computing at all, is considered suspect. People who advertise their certification as qualification to do a job are generally less qualified than those who don't advertise certification but are known in the field.

The certification sales companies, of course, talk up the value of certification as a way to raise the value of their product.

My guess is that, in this case, the whole point of demanding certification is to limit the likelihood that any testing will be performed.

Doug Jones
jones@cs.uiowa.edu

We call for the end of Proprietary testing practices which are not open to the public such as pre-logic and accuracy testing of each voting machine and the results made available to the public. We call for the expansion of Logic and Accuracy testing to simulate real election day volume testing of all Ballot Positions to be used on election day in a statistically significant number. The current statewide L&A testing minimum requirements are woefully inadequate and cannot possibly detect the probability of programming, ballot definition, calibration, tabulation errors, ADA audio visual ballot error, or that all the devices associated with these devices are even working properly. The ADA systems currently certified by the State of Florida are a Violation of HAVA in that they don't afford accessibility to handicapped voters with the widest range of disabilities and do not allow for the verification of a voter verified paper record independent of the voting system used. Logic and Accuracy testing should include participants from the Public to vote on the testing systems being used. Each participant from the public should be able to create up to 10 test ballots to be added to the test deck or test script.

In Palm Beach County, in the November 2004 it was discovered in an audit done by an Independent Organization Black Box Voting not the Palm Beach County Supervisor of Elections which did not perform any audit that over 100,000 error codes were found in the Event Log. Each one represented a vote that was certified as the official election result. Black Box Voting paid Palm Beach County over \$7,000 to get the audit data. Without a Voter Verified Paper Ballot

there was no method of auditing the system to determine the voter intent. The only method available to determine machine or software error would be to replicate the error conditions through a detailed testing plan. The plan submitted by Bruce Serell and John Washburn to the Palm Beach County Elections Technical Advisory Committee is attached for the record. The Black Box Voting sample is also attached.

It is evident that testing voting systems and doing audits have become the realm of Citizen Election Integrity groups, instead of the State or Local Supervisor of Elections. Without a Voter Verified Paper Ballot there is no method of auditing the system independent of the voting system to determine the voter intent. Here again the State of Florida is in violation of Florida Statute 101.015. The only method available to determine machine or software error would be to replicate the error conditions through a detailed testing plan. The plan submitted by Bruce Serell and John Washburn to the Palm Beach County Elections Technical Advisory Committee is attached for the record. The Black Box Voting sample is also attached.

We strongly urge the committee that is meeting on June 12, 2006 to strike out the following:

!!!

(b) The following procedures apply to an assessment of a voting system under this subsection:

1. The supervisor of elections shall provide written notice to the Division of Elections of its intent to conduct an assessment. A test plan must be submitted to the Division of Elections for approval before an assessment is conducted. The test plan must include at a minimum, provisions for protecting the vendor(s)' intellectual property and confidential and

exempt information, whether the voting equipment or voting system will be altered or an attempt made to alter such equipment or system during the assessment, ensuring that all terms of the license and maintenance agreements will be maintained during such scheduled assessment.

2. Upon approval, the supervisor of elections may not schedule the assessment of the voting system any earlier than 21 days from the date the Division approves the test plan.

3. The supervisor of elections shall provide notice of the scheduled assessment and opportunity to attend to the following persons or entities: the Division, the vendor(s) of the certified voting system or equipment components affected by the test or assessment, other supervisor of elections who have similar voting systems in operation in their county, and the governing body. Notice to the public shall also be posted continuously at least 2 weeks in advance of the assessment on the respective supervisor of elections webpage and published for two consecutive weeks in a newspaper of general circulation in advance of a scheduled assessment.

4. The Division of Elections has the right to be present or to have access, pursuant to Section 101.58, to all premises, records, and equipment and staff of the supervisor of elections during the assessment.

The following is our comments written between the items of the rule. The final version will be available shortly. This submission is to meet the deadline of 1:30 PM today June 12.

Sincerely,

Ellen H. Brodsky

Exec. Director

Broward Election Reform Coalition, PBCER, VoteTrustUSA

ehbrod@yahoo.com, 954-973-2819

SUBJECT AREA TO BE ADDRESSED: Use and Assessment of Voting Systems

SPECIFIC AUTHORITY: 20.10(3), 97.012(1) 101.293, 101.294, Florida Statutes.

LAW IMPLEMENTED: 101.292, 101.2923, 101.294, 101.295, 101.5604..

A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE TIMES, DATES AND PLACES SHOWN BELOW:

TIME AND DATE: 1:30 pm, June 12, 2006

PLACE: Florida Heritage Hall, R.A. Gray Building, 500 S. Bronough Street, Tallahassee, Florida.

NOTICE UNDER THE AMERICANS WITH DISABILITIES ACT: Any person needing special accommodations to participate in this proposed rule development workshop should contact the Department of State at 1-850-245-6536 no later than three business days before the workshop. Any person who is hearing or speech impaired may contact the Department by using the Florida Relay Service with the following toll free numbers: 1-800-955-8770 (voice) or 1-800-955-8771.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, WHICH IS