

State of Wisconsin



2009 Senate Bill 435

Date of enactment: **May 18, 2010**
Date of publication*: **June 1, 2010**

2009 WISCONSIN ACT 397

AN ACT *to repeal* 7.23 (1) (b); *to amend* 7.23 (1) (f), 7.23 (1) (g), 7.23 (1) (h) and 7.23 (2); and *to create* 5.02 (4s) of the statutes; **relating to:** the period for retention of certain election materials in state and local elections.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 5.02 (4s) of the statutes is created to read:
5.02 (4s) "Federal election" means any election at which a national office appears on the ballot.

SECTION 2. 7.23 (1) (b) of the statutes is repealed.

SECTION 3. 7.23 (1) (f) of the statutes is amended to read:

7.23 (1) (f) Except as authorized in pars. (b) and par. (g), ballots, applications for absentee ballots, registration forms, or other records and papers requisite to voting at any federal election, other than registration cards, may be destroyed after 22 months.

SECTION 4. 7.23 (1) (g) of the statutes is amended to read:

7.23 (1) (g) Detachable recording units and compartments for use with tabulating equipment for an electronic voting machines system may be cleared or erased 14 days after any primary and 21 days after any other election. Before clearing or erasing the units or compartments, a municipal clerk shall transfer the data contained in the units or compartments to a disk or other recording medium which may be erased or destroyed 22 months after the election to which the data relates. The requirement to transfer data does not apply to units or compartments for use with tabulating equipment for an electronic

voting system that was approved for use prior to January 1, 2009, and that is not used in a federal election.

SECTION 5. 7.23 (1) (h) of the statutes is amended to read:

7.23 (1) (h) Ballots ~~Except as provided in par. (f), ballots~~ may be destroyed 30 days after any election.

SECTION 6. 7.23 (2) of the statutes is amended to read:

7.23 (2) If a recount is pending or if the time allowed for filing a recount petition at any election or an appeal or petition for review of any recount determination or decision at an election has not expired, no materials may be destroyed until after the recount is completed and the applicable time period has expired. In addition, if there is a demand for a recount, notice of an election contest or any contest or litigation pending with respect to a recount at an election, materials may be destroyed and recorders, recording units or compartments may be cleared or erased only by order of the judge in whose court in which litigation is pending or if no litigation is pending, by order of any circuit judge for the affected jurisdiction. Upon petition of the attorney general or a district attorney or U.S. attorney for the affected jurisdiction, a circuit judge for the affected jurisdiction may order that specified materials not be destroyed or that specified recorders, units or compartments not be cleared or erased as otherwise authorized under this subsection

* Section 991.11, WISCONSIN STATUTES 2007-08 : Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication as designated" by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].

until the court so permits. The governor may by order permit the clearing of voting machine recorders on machines needed to conduct a special election prior to the time authorized under this subsection, unless there is a demand for recount, notice of an election contest or a

contest or litigation pending, or a court of record orders that the recorders not be cleared.

SECTION 7. Initial applicability.

(1) This act first applies with respect to elections held after the effective date of this subsection.
