

# State of Wisconsin



2023 Senate Bill 736

Date of enactment:  
Date of publication\*:

## 2023 WISCONSIN ACT

AN ACT to renumber 5.07; to amend 7.60 (5); and to create 5.07 (2), 7.08 (13) and 13.94 (11) of the statutes; relating to: postelection audits by the Legislative Audit Bureau and providing a penalty.

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

**SECTION 1.** 5.07 of the statutes is renumbered 5.07 (1).

**SECTION 2.** 5.07 (2) of the statutes is created to read:

5.07 (2) Notwithstanding s. 5.06 (2), any person may commence an action in circuit court to compel an election official or the commission to comply with s. 7.08 (13). If a court finds that an election official or the commission is not complying with s. 7.08 (13), the official or commission is subject to a forfeiture of \$500 for each day of non-compliance.

**SECTION 3.** 7.08 (13) of the statutes is created to read:

7.08 (13) LEGISLATIVE AUDIT BUREAU; POSTELECTION AUDIT. (a) Following each general election, assist the counties and municipalities with the audit performed by the legislative audit bureau, as authorized under s. 13.94 (11). Immediately after its certification of the election results under s. 7.70, the commission shall randomly select 4 counties and one city and one village from each of those counties, except that one of the counties shall be one of the 10 most populous counties in the state. The legislative audit bureau shall conduct its audit in the municipalities selected by the commission.

(b) The municipal clerks of the municipalities selected under par. (a) shall allow the legislative audit bureau to physically handle and examine all original

election materials, including ballots and absentee ballot certificates, at the bureau's discretion, at a secure site established by the municipal clerk and the commission. All election materials examined by the bureau shall remain in the custody of the municipal clerk. The commission shall ensure that the legislative audit bureau is able to conduct and complete its audit and that the municipal clerks maintain management authority over the retention and security of election records.

(c) All steps of the audit conducted under par. (a) shall be performed publicly, and the municipal clerk shall establish observation areas at the site where the audit is conducted that are not less than 3 feet from nor more than 8 feet from any area where the legislative audit bureau is examining election materials.

(d) The legislative audit bureau shall report any incident of noncompliance with this subsection to the speaker of the assembly, the president of the senate, and to the appropriate standing committees of the legislature with jurisdiction over elections, as provided under s. 13.172 (3).

**SECTION 4.** 7.60 (5) of the statutes is amended to read:

7.60 (5) REPORTING. (a) Immediately following the canvass, the county clerk shall deliver or transmit to the elections commission and the legislative audit bureau a certified copy of each statement of the county board of

\* Section 991.11, WISCONSIN STATUTES: 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."

canvassers for president and vice president, state officials, senators and representatives in congress, state legislators, justice, court of appeals judge, circuit judge, district attorney, and metropolitan sewerage commissioners, if the commissioners are elected under s. 200.09 (11) (am). The statement shall record the returns for each office or referendum by ward, unless combined returns are authorized under s. 5.15 (6) (b) in which case the statement shall record the returns for each group of combined wards. Following primaries the county clerk shall enclose on forms prescribed by the elections commission the names, party or principle designation, if any, and number of votes received by each candidate recorded in the same manner. The county clerk shall deliver or transmit the certified statement to the elections commission no later than 9 days after each primary except the partisan primary, no later than 10 days after the partisan primary and any other election except the general election, and no later than 14 days after the general election. The county clerk shall deliver or transmit the certified statement regarding the general election to the legislative audit bureau no later than 14 days after the general election. The board of canvassers shall deliver or transmit a certified copy of each statement for any technical college district referendum to the secretary of the technical college district board.

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(b) If the board of canvassers becomes aware of a material mistake in the canvass of an election for state or national office or a statewide or technical college district referendum prior to the close of business on the day the elections commission receives returns from the last county board of canvassers with respect to that canvass, the board of canvassers may petition the elections commission to reopen and correct the canvass. The elections commission shall direct the canvass to be reopened and corrected if it determines that the public interest so requires. If the elections commission directs the canvass to be reopened, the board of canvassers shall reconvene and transmit a certified corrected copy of the canvass statement to the elections commission and the legislative audit bureau or to the secretary of the technical college district board.

**SECTION 5.** 13.94 (11) of the statutes is created to read:

13.94 (11) POSTELECTION AUDIT. Following each general election, the state auditor shall conduct a performance audit of the election processes as provided under s. 7.08 (13). The legislative audit bureau shall submit a report of its findings and recommendations to the legislature, as provided under s. 13.172 (2), no later than June 30 of the odd-numbered year following the election.