

# State of Wisconsin \ Government Accountability Board

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**DATE:** June 9, 2010

**TO:** Wisconsin County Clerks  
Wisconsin Municipal Clerks  
City of Milwaukee Election Commission  
Milwaukee County Election Commission

**FROM:** Nathaniel E. Robinson  
Elections Division Administrator  
Government Accountability Board

**SUBJECT:** 2009 Wisconsin Act 397  
Revised Retention Policy -- Electronic Election Data  
Revised Destruction of Materials Chart

On May 18, 2010 Governor Doyle signed into law 2009 Wisconsin Act 397. This Act revises §7.23, Wis. Stats., and exempts municipalities from electronic data retention requirements for tabulating equipment for electronic voting systems approved by the Government Accountability Board for use prior to January 1, 2009, but only for state and local elections.

For any election at which a federal office appears on the ballot, municipalities remain obligated to retain all election materials, including electronic data, for 22 months following the election, longer for certain materials as specified in §7.23, Wis. Stats. In addition, for any state or local elections in municipalities using electronic voting systems approved by the Government Accountability Board for use after January 1, 2009, municipalities must retain electronic data from tabulating equipment for 22 months, longer for certain materials as specified in §7.23, Wis. Stats.

Memory devices or recording units may not otherwise be cleared or erased until 14 days after any primary and 21 days after any other election. Additionally, no device may be cleared or erased while a recount or appeal of a recount determination is pending, nor during the time when an appeal or petition for review may be filed, except by order of a court in which an appeal is pending.

The provisions of 2009 Wisconsin Act 397 are applicable to elections occurring on or after June 2, 2010.

## Background

There has been much concern expressed by our clerk partners regarding the cost of transferring election data from memory devices to an electronic medium. Also, the time period for retaining all other election materials for a state and local election did not correlate with 22 month statutory requirements for maintaining the electronic data.

The Government Accountability Board has taken this issue very seriously and has been determined to bring necessary revisions to balance the cost and the requirements of the State and Federal election material retention statutes. This Act maintains the lengthier retention period of 22 months for

electronic data from tabulating equipment from state and local elections, but only for systems approved after January 1, 2009, when technology reached a level that allows the transfer and retention to occur in a more cost effective manner.

Revised: Retention Policy -- Electronic Election Data and Destruction of Materials Chart

For 2009 Act 397, the revised G.A.B. Retention Policy -- Electronic Election Data, and revised G.A.B. Destruction of Materials Chart, please click on the links below:

- 2009 Act 397 can be found at: <http://www.legis.state.wi.us/2009/data/acts/09Act397.pdf>
- June 3, 2010 G.A.B. Retention Policy—Electronic Election Data: <http://gab.wi.gov/publications/policies/electronic-election-data>
- June 3, 2010 G.A.B. Destruction of Materials Chart: <http://gab.wi.gov/clerks/guidance/election-material-destruction>

If you have questions regarding 2009 Act 397 or Election Materials Retention, please contact Ross Hein, Elections Specialist- Voting Systems at (608) 267-3666, or at [Ross.Hein@wi.gov](mailto:Ross.Hein@wi.gov). Thank you.

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