

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-4221/1dn
JTK:med:jm

March 9, 2012

Representative Roys:

1. Concerning your request to entitle third parties to be present and to record proceedings during a recount, s. 9.01 (1) (b) 11., stats. provides that all steps in a recount shall be performed publicly. In addition, because a board of canvassers is a governmental body under s. 19.82 (1), stats., and is subject to open meetings requirements under the open meetings law, it would need to conduct its meetings in open session under s. 19.83, stats. Under the open meetings law, a governmental body holding a meeting in open session must make a reasonable effort to accommodate any person desiring to record, film, or photograph the meeting.
2. You may wish to consider a delayed effective date for the revocation of statutory authorization to use voting machines. Although only a small number of municipalities are affected, the necessity of disposing of old voting equipment and purchasing new equipment could mean that these municipalities will need some time to make decisions and decide how best to carry out their decisions.
3. With your permission, I spoke to Kevin Kennedy at GAB regarding any administrative difficulties that might ensue from the proposed change to s. 7.23 (1) (h), stats., regarding retention of ballots after an election. GAB advises that the effect of this change will be disparate, resulting in a much longer retention period in odd-numbered years than in even-numbered years, and it will also increase storage costs for some municipalities. However, there does not seem to be any legal problem with making the change.
4. Section 301 (a) (3) (A) of the federal Help America Vote Act of 2002 requires this state to provide a voting system at every polling place in this state that is capable of being utilized by an individual with any conceivable disability to vote in privacy without assistance. Section 301 (a) (3) (B) of that act also requires this state to place at least one direct recording electronic voting system (voting machine) or another voting system equipped for individuals with disabilities at every polling place in this state. The voting system utilized must meet detailed federal requirements. It is possible that, if electronic voting machines are not used to satisfy these requirements (as contemplated by this draft), it may be difficult to achieve compliance. If you want to discuss this matter further, please let me know.

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