



# WISCONSIN LEGISLATIVE REFERENCE BUREAU

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## MEMORANDUM

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**TO:** Majority Leader Devin LeMahieu  
**FROM:** Joseph Kreye, chief counsel  
**DATE:** February 13, 2024  
**SUBJECT:** Initial applicability provision under SSA1 to SB488.

You requested information on the initial applicability date in section 2 of SSA1 to SB488. That provision reads as follow:

- (1) This act first applies, with respect to regular elections, to offices filled at the 2024 general election.
- (2) This act first applies, with respect to special or recall elections, to offices filled or contested concurrently with the 2024 general election.

The LRB added the language, as it is our standard practice for addressing the initial applicability of a legislative redistricting plan. In fact, the LRB used the exact same language for redistricting plan adopted by 2011 Wisconsin Act 43. The Government Accountability Board had an opportunity to opine on this language on October 19, 2011:

It is the G.A.B. staff's position that the legislative districts created by 2011 Wisconsin Act 43 are not in effect for the purpose of "special or recall elections to offices filled or contested" prior to the General Election on November 6, 2012.

By the specific terms of 2011 Wisconsin Act 43, any recall election or special election to fill a vacancy conducted before November 6, 2012 shall be conducted in the legislative districts in effect prior to the enactment of 2011 Wisconsin Act 43. For

example, the special election to fill the vacancy in the 95th Assembly District was ordered by the Governor on September 2, 2011 to be conducted under the district lines in effect before the passage of 2011 Wisconsin Act 43. 2011 Executive Order 41.<sup>1</sup>

Please note that all legislative plans are “unconstitutional” following a recent census, if nothing else because of shifts in population. However, that does not require new plans to apply immediately upon adoption. Applying new plans immediately to recall and special elections occurring before the general election would create quite a bit of confusion regarding representation. For example, putting new maps in place before the next legislative election would result in overlap between the old districts and the new districts and raise the question as what legislator is representing what constituents. A situation involving new maps with a substantial number of incumbent pairings would make matters worse to the extent that it creates a short-term problem of a district being not represented or being represented by more than one legislator.

Finally, please note that it is not uncommon for there to be a gap from the adoption of a redistricting plan to when it first applies, This gap is often necessary to promote efficient and timely election administration. This is true even if a court renders the previous plan unconstitutional.

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<sup>1</sup> GAB memorandum, [Legislative Redistricting: Effective Date and Use of State Funds](#), October 19, 2011.

