1995 ASSEMBLY BILL 136

1   AN ACT *to repeal* 5.35 (6) (b), 5.81 (4), 5.91 (6), 7.50 (1) (d) and 8.50 (3) (c); *to*

2   *renumber* 5.35 (6) (a); and *to amend* 5.37 (4), 5.62 (1), (2) and (5), 5.84 (1), 5.91

3   (1) and (3), 6.80 (2) (f), 7.50 (2) (g), 8.16 (1), (6) and (7) and 10.02 (3) (b) 2. and

4   2m. of the statutes; **relating to:** authorization for electors to vote in the

5   primary of more than one political party.

Analysis by the Legislative Reference Bureau

Presently, a voter in a partisan primary election may cast a ballot or vote in the column of only one political party, regardless of the number of candidates who are running for office in that party, if any. Alternatively, a voter in the September primary may vote for any of the independent candidates for state office, but if the voter chooses this option, he or she may not vote for any party candidates for any office. (Candidates of minor parties appear on the ballot as independent candidates.)

This bill permits a voter in the September primary and other partisan primaries to "split tickets", designating the candidate of his or her choice for each office regardless of party affiliation (except that the voter's choice for governor and lieutenant governor must be from the same ticket). The bill also allows a voter to vote for independent candidates for state offices in the September primary, in addition to party candidates. Under the bill, a voter may still vote for only one candidate for each office. The general election voting procedure is unaffected by the bill.

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

6   **SECTION 1.** 5.35 (6) (a) of the statutes is renumbered 5.35 (6).

7   **SECTION 2.** 5.35 (6) (b) of the statutes is repealed.

1   **SECTION 3.** 5.37 (4) of the statutes is amended to read:

2   5.37 **(4)** Voting machines may be used at primary elections when they comply

3   with subs. (1) and (2) ~~and the following provisions: All candidates' names~~. Each

4   candidate's name entitled to appear on the ~~ballots~~ ballot at the primary and the party

5   that he or she represents shall appear on the machine~~; the elector cannot vote for~~

6   ~~candidates of more than one party, whenever the restriction applies, and an elector~~

7   ~~who votes for candidates of any party may not vote for independent candidates at the~~

8   ~~September primary; the elector may secretly select the party for which he or she~~

9   ~~wishes to vote, or the independent candidates in the case of the September primary;~~

10   ~~the~~. The elector may vote for as many candidates for each office as he or she is

11   lawfully entitled to vote for, but no more.

12   **SECTION 4.** 5.62 (1), (2) and (5) of the statutes are amended to read:

13   5.62 **(1)** (a) At September primaries, the following ballot shall be provided for

14   the nomination of candidates of recognized political parties for national, state and

15   county offices and independent candidates for state office in each ward, in the same

16   form as prescribed by the board under s. 7.08 (1) (a). The ballots shall be made up

17   of the several party tickets with each party entitled to participate in the primary

18   under par. (b) or sub. (2) having its own ~~ballot~~ column. The independent candidates

19   for state office other than district attorney shall have a separate ~~ballot~~ column for

20   all such candidates as under s. 5.64 (1) (e). ~~The ballots shall be secured together at~~

21   ~~the bottom.~~ The ~~party ballot~~ column of the party receiving the most votes for

22   president or governor at the last general election shall be ~~on top~~ first with the other

23   parties arranged in descending order based on their vote for president or governor

24   at the last general election. The ~~ballots~~ columns of parties qualifying under sub. (2)

25   shall be placed ~~after~~ to the right of the parties qualifying under par. (b), in the same

1   order in which the parties filed petitions with the board. The ~~ballot~~ column listing

2   the independent candidates shall be placed ~~at the bottom~~ last. At polling places

3   where voting machines are used, each party and the independent candidates shall

4   be represented in one or more separate columns or rows on the ballot. At polling

5   places where an electronic voting system is used other than an electronic voting

6   machine, each party and the independent candidates may be represented in separate

7   columns or rows on the ballot. Any elector at any September primary may vote for

8   any candidate for each office regardless of the political affiliation of the candidate;

9   except that an elector may not cast votes for candidates for governor and lieutenant

10   governor if the candidates are of more than one political affiliation.

11   (b) Every recognized political party listed on the official ballot at the last

12   gubernatorial election whose candidate for any statewide office received at least one

13   percent of the total votes cast for that office and, if the last general election was also

14   a presidential election, every recognized political party listed on the ballot at that

15   election whose candidate for president received at least one percent of the total vote

16   cast for that office shall have ~~a separate primary ballot or~~ one or more separate

17   columns or rows on the ~~primary ballot as prescribed in par. (a) and a separate column~~

18   ~~on the general election~~ ballot at the September primary and general election in every

19   ward and election district. An organization which was listed as "independent" at the

20   last general election and whose candidate meets the same qualification shall receive

21   the same ballot status upon petition of the chairperson and secretary of the

22   organization to the board requesting such status and specifying their party name,

23   which may not duplicate the name of an existing party. A petition under this

24   paragraph may be filed no later than 5 p.m. on June 1 in the year of each general

25   election. This paragraph applies to a party only if at least one candidate of the party

1 for a state office qualifies to have his or her name appear on the ballot under the name

2 of the party at the last gubernatorial election.

3 **(2)** Any political organization may be represented ~~on a separate primary ballot~~

4 ~~or~~ in one or more separate columns or rows on the September primary ballot as

5 prescribed in sub. (1) (a) and a separate column or row on the general election ballot

6 in every ward and election district if, not later than 5 p.m. on June 1 in the year of

7 a September primary, it files with the board a petition so requesting. To qualify for

8 a separate ~~ballot~~ column or row, the petition shall be signed by at least 10,000

9 electors, including at least 1,000 electors residing in each of at least 3 separate

10 congressional districts. The petition shall conform to the requirements of s. 8.40. No

11 signature obtained before January 1 in the year of filing is valid.   When the

12 candidates of a political organization filing a valid petition fulfill the requirements

13 prescribed by law, they shall appear ~~on a separate ballot or~~ in one or more separate

14 columns or rows on the ballot for the period ending with the following general

15 election.

16 **(5)** ~~At the September primary, an elector may vote for the candidates of only~~

17 ~~one party, or the elector may vote for any of the independent candidates for state~~

18 ~~office listed; but the elector may not vote for more than one candidate for a single~~

19 ~~office.~~ A space shall be provided on the ballot for an elector to write in the name of

20 his or her choice as a party candidate for any office, but no space shall be provided

21 to write in the names of independent candidates.

22 SECTION 5. 5.81 (4) of the statutes is repealed.

23 SECTION 6. 5.84 (1) of the statutes is amended to read:

24 5.84 **(1)** Where any municipality employs an electronic voting system which

25 utilizes automatic tabulating equipment, either at the polling place or at a central

1   counting location, the municipal clerk shall, on any day not more than 10 days prior

2   to the election day on which the equipment is to be utilized, have the equipment

3   tested to ascertain that it will correctly count the votes cast for all offices and on all

4   measures. Public notice of the time and place of the test shall be given by the clerk

5   at least 48 hours prior to the test by publication of a class 1 notice under ch. 985 in

6   one or more newspapers published within the municipality if a newspaper is

7   published therein, otherwise in a newspaper of general circulation therein. The test

8   shall be open to the public. The test shall be conducted by processing a preaudited

9   group of ballots so punched or marked as to record a predetermined number of valid

10   votes for each candidate and on each referendum. The test shall include for each

11   office one or more ballots which have votes in excess of the number allowed by law

12   ~~and, for a partisan primary election, one or more ballots which have votes cast for~~

13   ~~candidates of more than one recognized political party,~~ in order to test the ability of

14   the automatic tabulating equipment to reject such votes. If any error is detected, the

15   municipal clerk shall ascertain the cause and correct the error. The clerk shall make

16   an errorless count before the automatic tabulating equipment is approved by the

17   clerk for use in the election.

18   **SECTION 7.** 5.91 (1) and (3) of the statutes are amended to read:

19   5.91 **(1)** It enables an elector to vote in secrecy ~~and to select the party or the~~

20   ~~independent candidates for whom an elector will vote in secrecy at a partisan~~

21   ~~primary election.~~

22   **(3)** ~~Except in primary elections, it~~ It enables an elector to vote for a ticket

23   selected in part from the nominees of one party, and in part from the nominees of

24   other parties, and in part from independent candidates and, except in the case of

1 independent candidates at primary elections, in part of candidates whose names are

2 written in by the elector.

3 **SECTION 8.** 5.91 (6) of the statutes is repealed.

4 **SECTION 9.** 6.80 (2) (f) of the statutes is amended to read:

5 6.80 **(2)** (f) In the presidential preference primary and other partisan primary

6 elections at polling places where ballots are distributed to electors, unless the ballots

7 are utilized with an electronic voting system in which all candidates appear on the

8 same ballot, after the elector prepares his or her ballot the elector shall detach the

9 remaining ballots, fold the ballots to be discarded, fold the completed ballot unless

10 the ballot is intended for counting with automatic tabulating equipment, personally

11 deposit the ballots to be discarded in the separate ballot box marked "blank ballot

12 box", and deposit the completed ballot in the ballot box indicated by the inspectors.

13 The inspectors shall keep the blank ballot box locked until the canvass is completed

14 and shall dispose of the blank ballots as prescribed by the municipal clerk.

15 **SECTION 10.** 7.50 (1) (d) of the statutes is repealed.

16 **SECTION 11.** 7.50 (2) (g) of the statutes is amended to read:

17 7.50 **(2)** (g) In partisan primaries, if an elector writes in the name of an

18 individual on a ballot in a column or row other than the one on which that individual's

19 name is shown as a candidate, the write–in vote may not be counted.

20 **SECTION 12.** 8.16 (1), (6) and (7) of the statutes are amended to read:

21 8.16 **(1)** Except as provided in sub. (2), the person who receives the greatest

22 number of votes for an office on a party ballot at any partisan primary, regardless of

23 whether the person's name appears on the ballot, shall be the party's candidate for

24 the office, and the person's name shall so appear on the official ballot at the next

25 election. All independent candidates shall appear on the general election ballot

1   regardless of the number of votes received by such candidates at the September

2   primary.

3   **(6)** The persons who receive the greatest number of votes respectively for the

4   offices of governor and lieutenant governor ~~on~~ <u>for</u> any party ~~ballot~~ at a primary shall

5   be the party's joint candidates for the offices, and their names shall so appear on the

6   official ballot at the next election.

7   **(7)** Nominees chosen at a national convention and under s. 8.18 (2) by each

8   party entitled to <u>a separate column or row on</u> a September primary ballot shall be

9   the party's candidates for president, vice president and presidential electors. The

10   state or national chairperson of each such party shall certify the names of the party's

11   nominees for president and vice president to the board no later than 5 p.m. on the

12   first Tuesday in September preceding a presidential election. Each name shall be in

13   one of the formats authorized in s. 7.08 (2) (a).

14   **SECTION 13.** 8.50 (3) (c) of the statutes is repealed.

15   **SECTION 14.** 10.02 (3) (b) 2. and 2m. of the statutes are amended to read:

16   10.02 **(3)** (b) 2. At a special partisan primary, the elector shall select the ~~party~~

17   ~~ballot~~ <u>candidate</u> of his or her choice <u>for each office</u> and shall make a cross (✗) in the

18   square at the right of or depress the lever or button next to the candidate's name for

19   each office for whom the elector intends to vote, or shall insert or write in the name

20   of the elector's choice for a candidate.

21   2m.   At the September primary, the elector shall select the ~~party ballot~~

22   <u>candidate</u> of his or her choice ~~or the ballot containing the names of the independent~~

23   ~~candidates~~ for ~~state~~ <u>each</u> office, and make a cross (✗) in the square at the right of or

24   depress the lever or button next to the candidate's name for each office for whom the

25   elector intends to vote or insert or write in the name of the elector's choice for a party

1   candidate, if any.   In order to qualify for participation in the Wisconsin election

2   campaign fund, a candidate for state office at the September primary, other than a

3   candidate for district attorney, must receive at least 6% of all votes cast on all ballots

4   for the office for which he or she is a candidate, in addition to other requirements.

5   **(END)**