



## 2021 SENATE BILL 1006

February 17, 2022 - Introduced by Senators CARPENTER, AGARD and BEWLEY, cosponsored by Representatives SPREITZER, ANDRACA, CABRERA, CONLEY, CONSIDINE, HEBL, HONG, OHNSTAD, ORTIZ-VELEZ, SHELTON, STUBBS and VRUWINK. Referred to Committee on Elections, Election Process Reform and Ethics.

1     **AN ACT to repeal** 5.35 (6) (b), 5.51 (7), 5.81 (4), 5.91 (6), 7.50 (1) (d) and 8.50 (3)  
2           (c); **to renumber and amend** 5.37 (4); and **to amend** 5.02 (16m), 5.62 (1), 5.62  
3           (2), 5.62 (3), 5.655 (1), 5.84 (1), 5.91 (1) and (3), 6.80 (2) (am), 6.80 (2) (f), 6.87  
4           (4) (b) 1., 7.08 (2) (b), 7.50 (2) (g), 8.16 (1), (6) and (7), 8.17 (1) (a), 8.20 (9), 8.50  
5           (3) (b), 9.10 (3) (e), 10.02 (3) (b) 2., 15.61 (1) (a) 6. and 15.62 (1) (a) 6. of the  
6           statutes; **relating to:** authorizing electors to vote in the primary of more than  
7           one political party.

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### ***Analysis by the Legislative Reference Bureau***

Under current law, a voter in a partisan primary election may cast a ballot or vote in the column of only one major political party, regardless of the number of candidates who are running for office in that party, if any. Similarly, a voter in a partisan 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 a partisan primary to “split tickets,” designating the candidate of his or her choice for each office, including the offices of governor and lieutenant governor, regardless of party affiliation. The bill also allows a voter to vote for independent candidates for one or more state offices in a partisan primary, in

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addition to party candidates for one or more state or county offices. Under the bill, a voter may still vote for only one candidate for each office. The voting procedure at the general election and other partisan elections is unaffected by the bill.

The bill initially applies to voting at the 2022 partisan primary election.

For further information see the state fiscal estimate, which will be printed as an appendix to this bill.

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

1           **SECTION 1.** 5.02 (16m) of the statutes is amended to read:

2           5.02 (**16m**) "Recognized political party" means a political party ~~which~~ that  
3           qualifies for a separate ~~ballot or column~~ or row on partisan primary and election  
4           ballots under s. 5.62 (1) (b) or (2).

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

6           **SECTION 3.** 5.37 (4) of the statutes is renumbered 5.37 (4) (intro.) and amended  
7           to read:

8           5.37 (**4**) (intro.) Voting machines may be used at primary elections when they  
9           comply with subs. (1) and (2) and the following provisions: ~~All candidates' names~~

10           (a) Each candidate's name entitled to appear on the ~~ballots~~ ballot at the  
11           primary and the party that he or she represents shall appear on the machine; the  
12           elector ~~cannot vote for candidates of more than one party, whenever the restriction~~  
13           applies; the elector may secretly select the party for which he or she wishes to vote;  
14           the,

15           (b) The elector may vote for as many candidates for each office as he or she is  
16           lawfully entitled to vote for, but no more.

17           **SECTION 4.** 5.51 (7) of the statutes is repealed.

18           **SECTION 5.** 5.62 (1) of the statutes is amended to read:

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1           5.62 (1) (a) At the partisan primary, the following ballot shall be provided for  
2 the nomination of candidates of recognized political parties for national, state, and  
3 county offices and independent candidates for state office in each ward, in the same  
4 form as prescribed by the commission under s. 7.08 (1) (a), except as authorized in  
5 s. 5.655. The ballots ballot shall be made up of the several party tickets with each  
6 party entitled to participate in the primary under par. (b) or sub. (2) having its own  
7 ballot column or row, except as authorized in s. 5.655. ~~The ballots shall be secured~~  
8 ~~together at the bottom.~~ The party ballot column or row of the party receiving the most  
9 votes for president or governor at the last general election shall be ~~on top~~ first with  
10 the other parties arranged in descending order based on their vote for president or  
11 governor at the last general election. The ballots columns or rows of parties  
12 qualifying under sub. (2) shall be placed ~~after~~ to the right of or below the parties  
13 qualifying under par. (b), in the same order in which the parties filed petitions with  
14 the commission. Any ballot required under par. (b) 2. shall be placed next in order.  
15 At polling places where voting machines are used, each party shall be represented  
16 in one or more separate columns or rows on the ballot. At polling places where an  
17 electronic voting system is used other than an electronic voting machine, each party  
18 may be represented in separate columns or rows on the ballot. An elector at the  
19 partisan primary may vote for any candidate for each office regardless of the political  
20 affiliation of the candidate.

21           (b) 1. Except as provided in subd. 2. and s. 5.64 (1) (e) 2., every recognized  
22 political party listed on the official ballot at the last gubernatorial election whose  
23 candidate for any statewide office received at least 1 percent of the total votes cast  
24 for that office and, if the last general election was also a presidential election, every  
25 recognized political party listed on the ballot at that election whose candidate for

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1 president received at least 1 percent of the total ~~vote~~ votes cast for that office shall  
2 have ~~a separate primary ballot or one or more separate columns or rows on the~~  
3 ~~primary ballot as prescribed in par. (a) and a separate column on the general election~~  
4 ~~ballot~~ at the partisan primary and general election in every ward and election  
5 district. An organization which ~~which~~ that was listed as “independent” at the last general  
6 election and whose candidate meets the same qualification shall receive the same  
7 ballot status upon petition ~~of~~ to the commission by the chairperson and secretary of  
8 the organization ~~to the commission~~ requesting such status and specifying their party  
9 name, which may not duplicate the name of an existing party. A petition under this  
10 subdivision may be filed no later than 5 p.m. on April 1 in the year of each general  
11 election.

12 2. Subdivision 1. applies to a party within any assembly district or county at  
13 any partisan primary election only if at least one candidate of the party for any  
14 national, state, or county office qualifies to have his or her name appear on the ballot  
15 under the name of that party within that assembly district or county. The county  
16 clerk or county board of election commissioners shall provide ~~a combined separate~~  
17 ~~ballot or one or more separate columns or rows on the ballot that will permit an~~  
18 elector to cast a vote for a write-in candidate for the nomination of any such party  
19 for each national, state, and county office whenever that party qualifies to be  
20 represented ~~on a separate primary ballot or in one or more separate columns or rows~~  
21 under subd. 1. but does not qualify under this subdivision. The ballot shall include  
22 the name of each party qualifying for ~~a separate ballot or one or more separate~~  
23 columns or rows on the ballot under each office, with the names of the candidates for  
24 each such party appearing in the same order in which the ~~ballots~~ columns or rows  
25 of the parties would appear under par. (a).

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1           **SECTION 6.** 5.62 (2) of the statutes is amended to read:

2           5.62 (2) (a) Except as provided in par. (b) and s. 5.64 (1) (e) 2., any political  
3 organization may be represented ~~on a separate primary ballot or~~ in one or more  
4 separate columns or rows on the partisan primary ballot as prescribed in sub. (1) (a)  
5 and in a separate column or row on the general election ballot in every ward and  
6 election district. To qualify for a separate ~~ballot~~ column or row under this paragraph,  
7 the political organization shall, not later than 5 p.m. on April 1 in the year of the  
8 partisan primary, file with the commission a petition requesting a separate ballot  
9 status column or row on the partisan primary ballot. The petition shall be signed by  
10 at least 10,000 electors, including at least 1,000 electors residing in each of at least  
11 3 separate congressional districts. The petition shall conform to the requirements  
12 of s. 8.40. No signature obtained before January 1 in the year of filing is valid. When  
13 the candidates of a political organization filing a valid petition fulfill the  
14 requirements prescribed by law, they shall appear ~~on a separate ballot or~~ in one or  
15 more separate columns or rows on the ballot for the period ending with the following  
16 general election.

17           (b) Paragraph (a) applies to a party within any assembly district or county at  
18 any partisan primary election only if at least one candidate of the party for any  
19 national, state, or county office qualifies to have his or her name appear on the ballot  
20 under the name of that party within that assembly district or county. The county  
21 clerk or county board of election commissioners shall provide ~~a combined separate~~  
22 ~~ballot or~~ one or more separate columns or rows on the ballot that will permit an  
23 elector to cast a vote for a write-in candidate for the nomination of any such party  
24 for each national, state, and county office whenever that party qualifies to be  
25 represented ~~on a separate primary ballot or~~ in one or more separate columns or rows

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1 under par. (a) but does not qualify under this paragraph. The ballot shall include the  
2 name of each party qualifying for ~~a separate ballot or~~ one or more separate columns  
3 or rows on the ballot under each office, with the names of the candidates for each such  
4 party appearing in the same order in which the ~~ballots~~ columns or rows of the parties  
5 would appear under sub. (1) (a).

6 **SECTION 7.** 5.62 (3) of the statutes is amended to read:

7 5.62 (3) The commission shall designate the official primary ballot  
8 arrangement for statewide offices and district attorney within each prosecutorial  
9 district by using the same procedure as provided in s. 5.60 (1) (b). On each ~~ballot and~~  
10 ~~on each~~ separate column or row on the ballot, the candidates for office shall be listed  
11 together with the offices ~~which~~ that they seek in the following order whenever these  
12 offices appear on the partisan primary ballot: governor, lieutenant governor,  
13 attorney general, secretary of state, state treasurer, U.S. senator, U.S.  
14 representative in congress, state senator, representative to the assembly, district  
15 attorney, and the county offices.

16 **SECTION 8.** 5.655 (1) of the statutes is amended to read:

17 5.655 (1) Whenever a separate ballot is required to be used, a municipality may  
18 use a single ballot to facilitate the use of voting machines or an electronic voting  
19 system or, if the municipality employs paper ballots, may use a consolidated paper  
20 ballot that is authorized under sub. (2). If a municipality uses a single ballot in lieu  
21 of separate ballots, the ballot shall include a separate column or row for any office,  
22 or referendum or party for which a separate ballot is required by law and the ballot  
23 shall be distributed only to electors who are eligible to vote for all of the offices and  
24 referenda appearing on the ballot.

25 **SECTION 9.** 5.81 (4) of the statutes is repealed.

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1           **SECTION 10.** 5.84 (1) of the statutes is amended to read:

2           5.84 (1) Where any municipality employs an electronic voting system which  
3           that utilizes automatic tabulating equipment, either at the polling place or at a  
4           central counting location, the municipal clerk shall, on any day not more than 10  
5           days prior to the election day on which the equipment is to be utilized, have the  
6           equipment tested to ascertain that it will correctly count the votes cast for all offices  
7           and on all measures. Public notice of the time and place of the test shall be given by  
8           the clerk at least 48 hours prior to the test by publication of a class 1 notice under  
9           ch. 985 in one or more newspapers published within the municipality if a newspaper  
10          is published therein, otherwise in a newspaper of general circulation therein. The  
11          test shall be open to the public. The test shall be conducted by processing a  
12          preaudited group of ballots so marked as to record a predetermined number of valid  
13          votes for each candidate and on each referendum. The test shall include for each  
14          office one or more ballots ~~which~~ that have votes in excess of the number allowed by  
15          law and, for a partisan primary election, one or more ballots which have votes cast  
16          for candidates of more than one recognized political party, in order to test the ability  
17          of the automatic tabulating equipment to reject such votes. If any error is detected,  
18          the municipal clerk shall ascertain the cause and correct the error. The clerk shall  
19          make an errorless count before the automatic tabulating equipment is approved by  
20          the clerk for use in the election.

21          **SECTION 11.** 5.91 (1) and (3) of the statutes are amended to read:

22          5.91 (1) It enables an elector to vote in secrecy ~~and to select the party for which~~  
23          ~~an elector will vote in secrecy at a partisan primary election.~~

24          (3) ~~Except in primary elections, it~~ It enables an elector to vote for a ticket  
25          selected in part from the nominees of one party, and in part from the nominees of

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1 other parties, and in part from independent candidates and, except in the case of  
2 independent candidates at primary elections, in part of from candidates whose  
3 names are written in by the elector.

4 **SECTION 12.** 5.91 (6) of the statutes is repealed.

5 **SECTION 13.** 6.80 (2) (am) of the statutes is amended to read:

6 6.80 (2) (am) In partisan primaries, an elector may vote for a person as the  
7 candidate of the party of the elector's choice, if that person's name does not appear  
8 on the official ballot of that party, by writing in the name of the person in the space  
9 provided on the ballot or the ballot provided for that purpose, or where voting  
10 machines are used, in the irregular ballot device, designating the party for which the  
11 elector desires such person to be the nominee.

12 **SECTION 14.** 6.80 (2) (f) of the statutes is amended to read:

13 6.80 (2) (f) In the presidential preference primary ~~and other partisan primary~~  
14 ~~elections~~ at polling places where ballots are distributed to electors, unless the ballots  
15 are prepared under s. 5.655 or are utilized with an electronic voting system in which  
16 all candidates appear on the same ballot, after the elector prepares his or her ballot  
17 the elector shall detach the remaining ballots, fold the ballots to be discarded and fold  
18 the completed ballot unless the ballot is intended for counting with automatic  
19 tabulating equipment. The elector shall then either personally deposit the ballots  
20 to be discarded into the separate ballot box marked "blank ballot box," and deposit  
21 the completed ballot into the ballot box indicated by the inspectors, or give the ballots  
22 to an inspector who shall deposit the ballots directly into the appropriate ballot  
23 boxes. The inspectors shall keep the blank ballot box locked until the canvass is  
24 completed and shall dispose of the blank ballots as prescribed by the municipal clerk.

25 **SECTION 15.** 6.87 (4) (b) 1. of the statutes is amended to read:



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1           6.87 (4) (b) 1. Except as otherwise provided in s. 6.875, an elector voting  
2 absentee, other than a military elector or an overseas elector, shall make and  
3 subscribe to the certification before one witness who is an adult U.S. citizen. A  
4 military elector or an overseas elector voting absentee, regardless of whether the  
5 elector qualifies as a resident of this state under s. 6.10, shall make and subscribe  
6 to the certification before one witness who is an adult but who need not be a U.S.  
7 citizen. The absent elector, in the presence of the witness, shall mark the ballot in  
8 a manner that will not disclose how the elector's vote is cast. The elector shall then,  
9 still in the presence of the witness, fold the ballots so each is separate and so that the  
10 elector conceals the markings thereon and deposit them in the proper envelope. If  
11 a consolidated ballot under s. 5.655 is used, the elector shall fold the ballot so that  
12 the elector conceals the markings thereon and deposit the ballot in the proper  
13 envelope. If proof of residence under s. 6.34 is required and the document enclosed  
14 by the elector under this subdivision does not constitute proof of residence under s.  
15 6.34, the elector shall also enclose proof of residence under s. 6.34 in the envelope.  
16 Except as provided in s. 6.34 (2m), proof of residence is required if the elector is not  
17 a military elector or an overseas elector and the elector registered by mail or by  
18 electronic application and has not voted in an election in this state. If the elector  
19 requested a ballot by means of facsimile transmission or electronic mail under s. 6.86  
20 (1) (ac), the elector shall enclose in the envelope a copy of the request which bears an  
21 original signature of the elector. The elector may receive assistance under sub. (5).  
22 The return envelope shall then be sealed. The witness may not be a candidate. The  
23 envelope shall be mailed by the elector, or delivered in person, to the municipal clerk  
24 issuing the ballot or ballots. If the envelope is mailed from a location outside the  
25 United States, the elector shall affix sufficient postage unless the ballot qualifies for

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1 delivery free of postage under federal law. ~~Failure to return an unused ballot in a~~  
2 ~~primary does not invalidate the ballot on which the elector's votes are cast. Return~~  
3 ~~of more than one marked ballot in a primary or return of a ballot prepared under s.~~  
4 ~~5.655 or a ballot used with an electronic voting system in a primary which is marked~~  
5 ~~for candidates of more than one party invalidates all votes cast by the elector for~~  
6 ~~candidates in the primary.~~

7 **SECTION 16.** 7.08 (2) (b) of the statutes is amended to read:

8 7.08 (2) (b) The certified list of candidates for president and vice president who  
9 have been nominated at a national convention by a party entitled to a separate  
10 column or row on the partisan primary ballot or for whom electors have been  
11 nominated under s. 8.20 shall be sent as soon as possible after the closing date for  
12 filing nomination papers, but no later than the deadlines established in s. 10.06.

13 **SECTION 17.** 7.50 (1) (d) of the statutes is repealed.

14 **SECTION 18.** 7.50 (2) (g) of the statutes is amended to read:

15 7.50 (2) (g) In partisan primaries, if an elector writes in the name of an  
16 individual ~~on a ballot~~ in a column or row other than the one on which that individual's  
17 name is shown as a candidate, the write-in vote may not be counted.

18 **SECTION 19.** 8.16 (1), (6) and (7) of the statutes are amended to read:

19 8.16 (1) Except as provided in sub. (2), the person who receives the greatest  
20 number of votes for an office ~~on a party ballot~~ at any partisan primary, regardless of  
21 whether the person's name appears on the ballot, shall be the party's candidate for  
22 the office, and the person's name shall so appear on the official ballot at the next  
23 election.

24 (6) The persons who receive the greatest number of votes respectively for the  
25 offices of governor and lieutenant governor ~~on for any party ballot~~ at a primary shall

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1 be the party's joint candidates for the offices, and their names shall so appear on the  
2 official ballot at the next election.

3 (7) Nominees chosen at a national convention and under s. 8.18 (2) by each  
4 party entitled to a separate column or row on a partisan primary ballot shall be the  
5 party's candidates for president, vice president, and presidential electors. The state  
6 or national chairperson of each such party shall certify the names of the party's  
7 nominees for president and vice president to the commission no later than 5 p.m. on  
8 the first Tuesday in September preceding a presidential election. Each name shall  
9 be in one of the formats authorized in s. 7.08 (2) (a).

10 **SECTION 20.** 8.17 (1) (a) of the statutes is amended to read:

11 8.17 (1) (a) Political parties qualifying for a separate column or row on the  
12 partisan primary ballot under s. 5.62 (1) (b) or (2) shall elect their party  
13 committeemen and committeewomen as provided under sub. (5) (b). The function of  
14 committeemen and committeewomen is to represent their neighborhoods in the  
15 structure of a political party. Committeemen and committeewomen shall act as  
16 liaison representatives between their parties and the residents of the election  
17 districts in which they serve. Activities of committeemen and committeewomen  
18 shall include, but not be limited to, identifying voters; assistance in voter  
19 registration drives; increasing voter participation in political parties; polling and  
20 other methods of passing information from residents to political parties and elected  
21 public officials; and dissemination of information from public officials to residents.  
22 For assistance in those and other activities of interest to a political party, each  
23 committeeman and committeewoman may appoint a captain to engage in these  
24 activities in each ward, if the election district served by the committeeman or  
25 committeewoman includes more than one ward. In an election district ~~which~~ that

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1 includes more than one ward, the committeeman or committeewoman shall  
2 coordinate the activities of the ward captains in promoting the interests of his or her  
3 party.

4 **SECTION 21.** 8.20 (9) of the statutes is amended to read:

5 8.20 (9) Persons nominated by nomination papers without a recognized  
6 political party designation shall be placed on the official ballot at the general election  
7 and at any partisan election to the right or below the recognized political party  
8 candidates in their own column or row designated "Independent",. If the candidate's  
9 name already appears under a recognized political party it may not be listed on the  
10 independent ~~ballot~~, column or row.

11 **SECTION 22.** 8.50 (3) (b) of the statutes is amended to read:

12 8.50 (3) (b) Except as otherwise provided in this section, the provisions for the  
13 partisan primary under s. 8.15 are applicable to all partisan primaries held under  
14 this section, and the provisions for spring primaries under s. 8.10 are applicable to  
15 all nonpartisan primaries held under this section. In a special partisan primary or  
16 election, the order of the parties on the ballot shall be the same as provided under  
17 s. 5.62 (1) or 5.64 (1) (b). No primary is required for a nonpartisan election in which  
18 not more than 2 candidates for an office appear on the ballot or for a partisan election  
19 in which not more than one candidate for an office appears ~~on~~ in the ballot column  
20 or row of each recognized political party on the ballot. In every special election except  
21 a special election for nonpartisan state office where no candidate is certified to  
22 appear on the ballot, a space for write-in votes shall be provided on the ballot,  
23 regardless of whether a special primary is held.

24 **SECTION 23.** 8.50 (3) (c) of the statutes is repealed.

25 **SECTION 24.** 9.10 (3) (e) of the statutes is amended to read:

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1           9.10 (3) (e) For any partisan office, a recall primary shall be held for each  
2 political party ~~which~~ that is entitled to a separate column or row on the partisan  
3 primary ballot under s. 5.62 (1) (b) or (2) and from which more than one candidate  
4 competes for the party's nomination in the recall election. The primary ballot shall  
5 be prepared in accordance with s. 5.62, insofar as applicable. The person receiving  
6 the highest number of votes in the recall primary for each political party shall be that  
7 party's candidate in the recall election. Independent candidates shall be shown on  
8 the ballot for the recall election only.

9           **SECTION 25.** 10.02 (3) (b) 2. of the statutes is amended to read:

10           10.02 (3) (b) 2. At a partisan primary, the elector shall select the ~~party ballot~~  
11 candidate of his or her choice for each office and shall make a cross (X) next to or  
12 depress the lever or button next to the candidate's name for each office for whom the  
13 elector intends to vote, or shall insert or write in the name of the elector's choice for  
14 a candidate.

15           **SECTION 26.** 15.61 (1) (a) 6. of the statutes is amended to read:

16           15.61 (1) (a) 6. For each political party, other than the 2 major political parties,  
17 qualifying for a separate ~~ballot~~ column or row under s. 5.62 (1) (b) or (2) whose  
18 candidate for governor received at least 10 percent of the vote in the most recent  
19 gubernatorial election, one member, nominated by the governor from a list of 3  
20 individuals selected by the chief officer of that political party, and with the advice and  
21 consent of a majority of the members of the senate confirmed.

22           **SECTION 27.** 15.62 (1) (a) 6. of the statutes is amended to read:

23           15.62 (1) (a) 6. For each political party, other than the 2 major political parties,  
24 qualifying for a separate ~~ballot~~ column or row under s. 5.62 (1) (b) or (2) whose  
25 candidate for governor received at least 10 percent of the vote in the most recent

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1 gubernatorial election, one member, nominated by the governor from a list of 3  
2 individuals selected by the chief officer of that political party, and with the advice and  
3 consent of a majority of the members of the senate confirmed.

4 **SECTION 28. Initial applicability.**

5 (1) This act first applies with respect to voting at the 2022 partisan primary  
6 election.

7 (END)