



1999 ASSEMBLY BILL 893

March 20, 2000 – Introduced by Representative WALKER. Referred to Committee on Campaigns and Elections.

1 **AN ACT** *to renumber* 5.60 (8); *to amend* 5.02 (21), 5.02 (22), 5.58 (intro.), 6.24
2 (5), 8.12, 10.06 (1) (e), 10.06 (2) (b), 10.06 (2) (d) and 10.06 (2) (g); and *to create*
3 7.08 (5) and 8.12 (4) of the statutes; **relating to:** the date of the presidential
4 preference primary, authorizing the state elections board to change the date of
5 the presidential preference primary, providing an exemption from emergency
6 rule procedures and granting rule-making authority.

Analysis by the Legislative Reference Bureau

Under current law, the presidential preference primary (presidential primary) is held in this state on the first Tuesday in April, which is the date of the spring election. This bill changes the date of the presidential primary to the third Tuesday in February, which is the date of the spring primary. With limited exceptions, the bill also moves the deadlines applicable to the presidential primary, including the deadline for certifying to the elections board whose names will appear on the presidential primary ballot, to a date that is approximately six weeks earlier than the date provided under current law.

The bill also creates a procedure for holding the presidential primary concurrently with other Midwestern states. The bill requires the elections board (board) to determine, no later than the December 1 preceding the presidential primary, whether all states bordering on this state, or all states bordering on this state other than Iowa, will hold their presidential primaries concurrently. If the

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board determines that all states bordering on this state other than Iowa will hold concurrent presidential primaries, the board must promulgate rules accordingly to change the date of the presidential primary in this state to coincide with the date of the presidential primary in these states. These rules remain in effect until the board determines that all states bordering on this state other than Iowa will no longer hold concurrent presidential primaries or will no longer hold a presidential primary on the same date provided for under the rules.

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

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

1 **SECTION 1.** 5.02 (21) of the statutes is amended to read:

2 5.02 (21) “Spring election” means the election held on the first Tuesday in April
3 to elect judicial, educational and municipal officers, nonpartisan county officers, and
4 sewerage commissioners ~~and to express preferences for the person to be the~~
5 ~~presidential candidate for each party.~~

6 **SECTION 2.** 5.02 (22) of the statutes is amended to read:

7 5.02 (22) “Spring primary” means the ~~nonpartisan~~ primary held on the 3rd
8 Tuesday in February to nominate nonpartisan candidates to be voted for at the
9 spring election and, except as provided in s. 7.08 (5), to express preferences for the
10 person to be the presidential candidate for each party in a year in which electors for
11 president and vice president are to be elected.

12 **SECTION 3.** 5.58 (intro.) of the statutes is amended to read:

13 **5.58 Spring primary ballots.** (intro.) At spring primary elections the
14 following ballots, when necessary, shall be provided for each ward. Only Except as
15 provided under sub. (2r), only nonpartisan candidates nominated for office by
16 nomination papers shall have their names placed on the official spring primary

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1 ballot under the proper office designation, but the ballots shall allow room for
2 write-in candidates.

3 **SECTION 4.** 5.60 (8) of the statutes is renumbered 5.58 (2r).

4 **SECTION 5.** 6.24 (5) of the statutes is amended to read:

5 6.24 (5) BALLOTS. The board shall prescribe a special ballot for use under this
6 section whenever necessary. Official ballots under ss. ~~5.60 (8)~~ and 5.58 (2r), 5.64 (3)
7 and 7.08 (5) (b) may also be used. The ballot shall be designed to comply with the
8 requirements of ss. ~~5.60 (8)~~ 5.58 (2r), 5.62 and, 5.64 and 7.08 (5) (b) insofar as
9 applicable. All ballots shall be limited to national offices only.

10 **SECTION 6.** 7.08 (5) of the statutes is created to read:

11 7.08 (5) DATE OF PRESIDENTIAL PREFERENCE PRIMARY. No later than the December
12 1 preceding each presidential preference primary, determine whether all states
13 bordering on this state, or all states bordering on this state other than Iowa, will hold
14 a presidential primary on the same date. If the board determines that all states
15 bordering on this state other than Iowa will not hold a presidential primary on the
16 same date, the date on which the presidential preference primary is held in this state
17 is the date required under s. 5.58. If the board determines that all states bordering
18 on this state, or all states bordering on this state other than Iowa, will hold a
19 presidential primary on the same date, all of the following apply:

20 (a) *Modified dates.* The board shall change the date of the presidential
21 preference primary to be the same as the date on which a presidential primary will
22 be held in these states. The board shall also reasonably adjust the dates relating to
23 the state canvass of the presidential preference primary under s. 7.70 (3), the
24 selection of names for the presidential preference primary ballot under s. 8.12 (1) (a)
25 and (b), the nomination of candidates by petition under s. 8.12 (1) (c), the declination

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1 of intent to become a candidate under s. 8.12 (1) (d) and the reporting of presidential
2 preference primary results under s. 8.12 (3), in order to compensate for the modified
3 date of the presidential preference primary.

4 (b) *Ballot requirements.* The board shall require the use of a ballot for the
5 presidential preference primary that is substantially the same as that described in
6 s. 5.58 (2r). Notwithstanding s. 5.58 (2r), the ballot required under that section shall
7 not be provided in the spring primary in any year that the presidential preference
8 primary is held on a date other than the date of the spring primary.

9 (c) *Notice requirements.* The board shall require the same number and types
10 of notices for the presidential preference primary as are required under s. 10.06 for
11 a presidential preference primary that is held on the same date as the spring
12 primary. The board shall establish the timing of each notice required under this
13 paragraph to provide substantially the same amount of notice as is otherwise
14 required under s. 10.06. Section 10.07 applies to a notice required under this
15 paragraph to the same extent as if the notice were required under ch. 10.

16 (d) *Rules.* The board shall promulgate rules to satisfy the requirements under
17 pars. (a) to (c). The rules shall remain in effect until the board determines that all
18 states bordering on this state other than Iowa will not hold a presidential primary
19 on the same date or will not hold a presidential primary on the same date provided
20 for under the rules. If the board determines that there is not sufficient time before
21 the presidential preference primary to promulgate permanent rules, the board shall
22 satisfy the requirements under pars. (a) to (c) by promulgating emergency rules,
23 using the procedure under s. 227.24. Notwithstanding s. 227.24 (1) (c) and (2), the
24 emergency rules shall remain in effect until the 30th day after the date of the
25 presidential preference primary established under par. (a), or the date on which

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1 permanent rules take effect, whichever is sooner. Notwithstanding s. 227.24 (1) (a)
2 and (3), the board need not provide evidence that promulgating an emergency rule
3 under this paragraph is necessary for the preservation of the public peace, health,
4 safety or welfare and is not required to provide a finding of emergency for an
5 emergency rule promulgated under this paragraph.

6 **SECTION 7.** 8.12 of the statutes is amended to read:

7 **8.12 Presidential preference vote. (1) SELECTION OF NAMES FOR BALLOT.** (a)
8 ~~No~~ Except as provided in sub. (4), no later than 5 p.m. on the first 3rd Tuesday in
9 January ~~November~~, or the next day if Tuesday is a holiday, ~~in~~ of the year before each
10 year in which electors for president and vice president are to be elected, the state
11 chairperson of each recognized political party listed on the official ballot at the last
12 gubernatorial election whose candidate for governor received at least 10% of the total
13 votes cast for that office may certify to the board that the party will participate in the
14 presidential preference primary. For each party filing such a certification, the voters
15 of this state shall at the spring election primary be given an opportunity to express
16 their preference for the person to be the presidential candidate of that party.

17 (b) ~~On~~ Except as provided in sub. (4), on the last 2nd Tuesday in ~~January in~~
18 December of the year before each year in which electors for president and vice
19 president are to be elected, there shall be convened in the capitol a committee
20 consisting of, for each party filing a certification under this subsection, the state
21 chairperson of that state party organization or the chairperson's designee, one
22 national committeeman and one national committeewoman designated by the state
23 chairperson; the speaker and the minority leader of the assembly or their designees,
24 and the president and the minority leader of the senate or their designees. All
25 designations shall be made in writing to the board. This committee shall organize

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1 by selecting an additional member who shall be the chairperson and shall determine,
2 and, except as provided in sub. (4), certify to the board, no later than on the Friday
3 following the last ~~Tuesday in January~~ date on which the committee convenes under
4 this paragraph, the names of all candidates of the political parties represented on the
5 committee for the office of president of the United States. The committee shall place
6 the names of all candidates whose candidacy is generally advocated or recognized in
7 the national news media throughout the United States on the ballot, and may, in
8 addition, place the names of other candidates on the ballot. The committee shall
9 have sole discretion to determine that a candidacy is generally advocated or
10 recognized in the national news media throughout the United States.

11 (c) ~~No~~ Except as provided in sub. (4), no later than 5 p.m. on the ~~3rd~~ first
12 ~~Tuesday in February~~ January of each presidential election year, any person seeking
13 the nomination by the national convention of a political party filing a certification
14 under this subsection for the office of president of the United States, or any
15 committee organized in this state on behalf of and with the consent of such person,
16 may submit to the board a petition to have the person's name appear on the
17 presidential preference ballot. ~~The~~ Except as provided in sub. (4), the petition may
18 be circulated no sooner than the last 2nd ~~Tuesday in January~~ of December preceding
19 such year and shall be signed by a number of qualified electors equal in each
20 congressional district to not less than 1,000 signatures nor more than 1,500
21 signatures. The form of the petition shall conform to the requirements of s. 8.40. All
22 signers on each separate petition paper shall reside in the same congressional
23 district.

24 (d) The board shall forthwith contact each person whose name has been placed
25 in nomination under par. (b) and, except as provided in sub. (4), notify him or her that

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1 his or her name will appear on the Wisconsin presidential preference ballot unless
2 he or she files, no later than 5 p.m. on the ~~3rd~~ first Tuesday in ~~February~~ January of
3 such year, with the board, a disclaimer stating without qualification that he or she
4 is not and does not intend to become a candidate for the office of president of the
5 United States at the forthcoming presidential election. The disclaimer may be filed
6 with the board by certified mail, telegram or in person.

7 (2) **BALLOTS.** The form of the official ballots shall be prescribed by the board
8 under s. ~~5.60~~ (8) s. 5.58 (2r).

9 (3) **REPORTING OF RESULTS.** ~~No~~ Except as provided in sub. (4), no later than ~~May~~
10 ~~15~~ the 2nd Tuesday following the presidential preference vote primary, the board
11 shall notify each state party organization chairperson under sub. (1) (b) of the results
12 of the presidential preference vote ~~cast~~ primary within the state and within each
13 congressional district.

14 **SECTION 8.** 8.12 (4) of the statutes is created to read:

15 8.12 (4) **ADJUSTED DATES.** The dates specified under this section do not apply
16 if, under s. 7.08 (5), the board changes the date of the presidential preference primary
17 and adjusts the dates for the events under this section.

18 **SECTION 9.** 10.06 (1) (e) of the statutes is amended to read:

19 10.06 (1) (e) As soon as possible following the state canvass of the spring
20 primary vote, but no later than the first Tuesday in March, the board shall send a
21 type B notice certifying to each county clerk the list of candidates for the spring
22 election. When no state spring primary is held or when the only primary held is the
23 presidential preference primary, this notice shall be sent under par. (c). The board
24 shall also in any case send a certified list of candidates under s. 11.50 to the state
25 treasurer pursuant to s. 7.08 (2) (c). When there is a referendum, the board shall send

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1 type A and C notices certifying each question to the county clerks as soon as possible,
2 but no later than the first Tuesday in March.

3 **SECTION 10.** 10.06 (2) (b) of the statutes is amended to read:

4 10.06 (2) (b) Upon receipt of the type B notice from the board preceding the
5 spring election each county clerk shall add any county offices, prepare the ballots and
6 send notice to each municipal clerk of the ~~coming~~ spring primary. When there is no
7 state spring primary within the county and no presidential preference primary
8 scheduled for the date of the spring primary, but there is to be a county spring
9 primary, the county clerk shall prepare the ballots and send notice to each municipal
10 clerk.

11 **SECTION 11.** 10.06 (2) (d) of the statutes is amended to read:

12 10.06 (2) (d) On the Monday preceding the spring primary, when held, the
13 county clerk shall publish a type B notice. In a year in which a presidential
14 preference primary is held, the county clerk shall also publish notice of the
15 presidential preference primary.

16 **SECTION 12.** 10.06 (2) (g) of the statutes is amended to read:

17 10.06 (2) (g) On the Monday preceding the spring election, the county clerk
18 shall publish a type B notice containing the same information prescribed in par. (a).
19 ~~In those years in which a presidential preference primary is held, the county clerk~~
20 ~~shall also publish notice of the primary.~~ In addition, the county clerk shall publish
21 a type C notice on the Monday preceding the spring election for all state and county
22 referenda to be voted upon by electors of the county.

23 **SECTION 13. Effective date.**

24 (1) This act takes effect on June 1, 2000.

25

(END)