



2005 ASSEMBLY BILL 689

September 26, 2005 - Introduced by Representatives POCAN, BERCEAU, WOOD and ZEPNICK, cosponsored by Senators MILLER and HANSEN. Referred to Committee on Campaigns and Elections.

1 **AN ACT to amend** 5.01 (3) (a), 5.58 (3), 5.62 (5), 5.64 (1) (g), 6.80 (2) (am), 7.08
2 (1) (c), 7.50 (1) (c), 7.51 (4) (a), 7.51 (5) (a), 7.53 (1), 7.60 (4) (a), 7.60 (4) (c), 8.05
3 (3) (a), 8.05 (4) (a), 8.11 (1) (a) to (c), 8.11 (2), (2m) and (5), 8.50 (3) (b), 9.10 (3)
4 (d) and 10.02 (3) (intro.); and **to create** 5.01 (3) (c), 5.01 (4) (e), 5.20, 5.40 (5s),
5 5.60 (6s), 5.62 (4) (c), 5.64 (1) (h), 6.80 (2) (g), 7.50 (2) (k), 7.52, 8.05 (1) (L), 8.11
6 (6) and 10.02 (4) of the statutes; **relating to:** use of preferential voting to
7 determine the results of elections for local offices and granting rule-making
8 authority.

Analysis by the Legislative Reference Bureau

Currently, a voter at a primary or other election for a county, municipal, or other local office may cast one vote for a candidate for each office or seat that appears on the ballot. If a primary is required for a partisan office, a voter may select the party of his or her choice and may vote for one candidate for each office within that party. If a primary is required for a nonpartisan office, a voter may select the candidate of his or her choice for each office or seat that appears on the ballot, and the names of the two candidates for that office or seat who receive the greatest numbers of votes then appear on the ballot at the ensuing election. Generally, a primary election is required to be held whenever there are more than two candidates who qualify to have

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their names appear on the ballot for a nonpartisan office or seat or, whenever more than one seat is to be filled on a governmental body at the same election, if there are more than twice as many candidates for seats as there are seats to be filled from a given jurisdiction or district. A primary is not held in elections for town or village officers in a town or village where a caucus is used to nominate candidates for town or village offices.

This bill permits the governing body of each county, municipality, or other local governmental unit that is served by elective officers, except a town or village where a caucus is used, to adopt a preferential voting method (also called an “instant runoff” method) for the election of those officers. Under the preferential voting method, whenever there are three or more candidates for an office or seat to be filled at an election, each voter may cast as many votes for each office or seat as there are candidates whose names appear on the ballot for that office or seat. If the voter votes for more than one candidate for an office or seat, the voter must indicate a preference between the candidates by designating one as “first choice,” another as “second choice,” and subsequent choices in sequential preference. A voter may also vote for one or more write-in candidates for any office or seat. A voter who casts one vote for a candidate for an office or seat but who does not indicate a preference is considered to have cast a “first-choice” vote for that candidate. If any candidate receives a majority of the first-choice votes cast and votes cast without indicating a preference for the office or seat, that candidate is elected. If no candidate receives a majority of the first-choice and no-preference votes cast for an office or seat, the name of the candidate receiving the least number of first-choice votes is dropped and the second-choice votes of the voters who voted for that candidate, if any, are then added to the first-choice votes received by the other candidates. In addition, the third-choice votes of the voters who voted for that candidate, if any, are then added to the second-choice votes received by the other candidates. Additional choices of those voters are allocated to the other candidates in a similar manner. If any candidate for the office or seat then has a majority of the combined first-choice, reallocated second-choice and no-preference votes cast, that candidate is elected. If not, the procedure is repeated until one candidate receives a majority of the combined first-choice, reallocated second-choice, and no-preference votes cast. If this voting method is used at an election for a nonpartisan office, no primary election is held. Once adopted, the preferential voting method must be used in all elections of the local governmental unit, but the local governmental unit may discontinue use of the system upon 90 days’ notice to affected municipalities. The procedure does not apply at recall elections for county offices.

Currently, municipalities having a population of 7,500 or more must use voting machines or an electronic voting system at every election. This bill requires any local governmental unit that elects to use the preferential voting method for the election of its officers to ensure that an electronic voting system is used in every municipality that lies wholly or partially within the jurisdiction of the local governmental unit at every election where this method of voting is used. If a municipality that lies within the jurisdiction does not utilize an electronic voting system, the local governmental unit must provide notice to the municipality that an electronic voting system will be

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required at least nine months before the initial election at which the voting method is to be used. The affected municipality must then acquire the necessary voting system at municipal expense in time for the system to be used at the election.

For further information see the *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.** 5.01 (3) (a) of the statutes is amended to read:

2 5.01 (3) (a) Except as provided in ~~par.~~ pars. (b) and (c), in every election to
3 choose any officer, each elector has one vote for each office unless clearly indicated
4 otherwise. The person receiving the greatest number of legal votes for the office shall
5 be declared elected, and the canvassers shall so determine and certify.

6 **SECTION 2.** 5.01 (3) (c) of the statutes is created to read:

7 5.01 (3) (c) In every election for a local office in which the preferential voting
8 method is used, any person who receives a majority of the first-choice votes shall be
9 declared elected, and if no person receives a majority of first-choice votes, the
10 election shall be determined in accordance with s. 7.52.

11 **SECTION 3.** 5.01 (4) (e) of the statutes is created to read:

12 5.01 (4) (e) This subsection applies to elections at which the preferential voting
13 method is used to break ties between candidates for an office or seat who receive the
14 same number of votes of specified choice, but does not apply at such elections if more
15 than one candidate for an office or seat receives the same number of lowest-choice
16 votes.

17 **SECTION 4.** 5.20 of the statutes is created to read:

18 **5.20 Preferential voting method. (1)** In this section:

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1 (a) “Local governmental unit” means a county, city, village, town, or special
2 purpose district.

3 (b) “Preferential voting” means a voting method in which the electors voting
4 in an election for an elective office are permitted to express and order their
5 preferences for all candidates whose names appear on the ballot for the same office
6 or seat, or in a partisan primary election, for all candidates whose names appear on
7 the ballot of the party selected by the elector for the same office or seat.

8 **(2)** Except as provided in ss. 8.05 (1) (L) and 9.10 (3) (d), the policy-making body
9 of any local governmental unit that is served by elective officers may adopt
10 preferential voting as the method of voting and determination of the results of all
11 elections for offices to be filled in the local governmental unit. If the preferential
12 voting method is to be used in elections for the office of municipal judge of a joint
13 municipal court under s. 755.01 (4), the governing body of each contracting
14 municipality shall act under this subsection. A body may act under this subsection
15 by ordinance or, if the body does not enact ordinances, by resolution adopted at a
16 meeting of the body. A policy-making body that has adopted preferential voting
17 under this subsection may revoke that action in like manner.

18 **(3)** Action of a body under sub. (2) is effective for all elections held for the
19 election of officers of a local governmental unit on and after the 120th day beginning
20 after the action is taken, except as provided in sub. (7).

21 **(4)** In jurisdictions where preferential voting is used, an elector may cast as
22 many preferential votes for each office as there are candidates for the office whose
23 names appear on the ballot. If more than one seat on a policy-making body is to be
24 filled at large, an elector may cast one vote for each seat that is contested, multiplied
25 by the number of candidates, and may cast as many preferential votes for the seats

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1 to be filled as there are candidates for those seats whose names appear on the ballot.
2 If write-in votes are permitted, a voter may vote for a write-in candidate in lieu of
3 any candidate whose name appears on the ballot. To indicate a preference, an elector
4 shall mark his or her ballot with or cause the voting machine to reflect the elector's
5 first choice, 2nd choice, 3rd choice, and subsequent choices, if any. An elector is not
6 required to indicate a choice and is not required to indicate as many choices as the
7 elector is eligible to indicate.

8 (5) The preferential voting method may not be used for balloting or canvassing
9 within any ward or election district in which an election for an office is held unless
10 it is used for balloting and canvassing within all wards and election districts in which
11 that election is held. A preferential voting method may not be used in balloting or
12 canvassing of votes for any office of a local governmental unit to be filled at an
13 election unless it is used in balloting and canvassing of votes for all of the offices of
14 the local governmental unit to be filled at that election.

15 (6) In tallying votes in elections where preferential voting is used, the method
16 of canvassing specified in s. 7.52 shall be used.

17 (7) Whenever the policy-making body of a local governmental unit adopts or
18 discontinues the preferential voting method to determine the election of the elective
19 officers of the local governmental unit, the body shall promptly provide written
20 notice of its action to the municipal clerk of each municipality other than the local
21 governmental unit that lies wholly or partially within the jurisdiction of the local
22 governmental unit. The body shall provide the notice no later than the 120th day
23 preceding any election at which the preferential voting method is to be used, except
24 that, if any municipality that lies wholly or partially within that jurisdiction does not
25 employ an electronic voting system on the date of the body's determination to use the

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1 preferential voting method, the body shall provide the notice no later than 9 months
2 preceding any election at which the preferential voting method is to be used.

3 **SECTION 5.** 5.40 (5s) of the statutes is created to read:

4 5.40 (5s) If a local governmental unit elects under s. 5.20 to utilize the
5 preferential voting method to determine the results of elections for elective offices of
6 that local governmental unit, each municipality having territory within the
7 jurisdiction of that local governmental unit shall require the use of an electronic
8 voting system at every polling place in the municipality at every election for those
9 elective offices.

10 **SECTION 6.** 5.58 (3) of the statutes is amended to read:

11 5.58 (3) NAMES ON SPRING BALLOT. Only Except in elections at which the
12 preferential voting method is used, only 2 candidates for state superintendent, for
13 any judicial office, for any elected seat on a metropolitan sewerage commission or
14 town sanitary district commission, in counties having a population of 500,000 or
15 more only 2 candidates for member of the board of supervisors within each district,
16 in counties having a population of less than 500,000 only 2 candidates for each
17 member of the county board of supervisors from each district or numbered seat or
18 only 4 candidates for each 2 members of the county board of supervisors from each
19 district whenever 2 supervisors are elected to unnumbered seats from the same
20 district, in 1st class cities only 2 candidates for any at-large seat and only 2
21 candidates from any election district to be elected to the board of school directors, in
22 school districts electing school board members to numbered seats, or pursuant to an
23 apportionment plan or district representation plan, only 2 school board candidates
24 for each numbered seat or within each district, and twice as many candidates as are
25 to be elected members of other school boards or other elective officers receiving the

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1 highest number of votes at the primary shall be nominees for the office at the spring
2 election. Only their names shall appear on the official spring ballot.

3 **SECTION 7.** 5.60 (6s) of the statutes is created to read:

4 5.60 (6s) PREFERENTIAL VOTING METHOD. If the preferential voting method is
5 used in an election for local office, the form of the ballot shall conform to the
6 requirements of s. 5.20 (4).

7 **SECTION 8.** 5.62 (4) (c) of the statutes is created to read:

8 5.62 (4) (c) No primary shall be held for county offices if the preferential voting
9 method is used.

10 **SECTION 9.** 5.62 (5) of the statutes is amended to read:

11 5.62 (5) At the September primary, except in elections for county offices at
12 which the preferential voting method is used, an elector may vote for the candidates
13 of only one party, or the elector may vote for any of the independent candidates for
14 state office listed; but the elector may not vote for more than one candidate for a
15 single office. ~~A~~ Except in elections at which the preferential voting method is used,
16 a space shall be provided on the ballot for an elector to write in the name of his or her
17 choice as a party candidate for any office, including a party candidate of a party
18 whose name appears on the ballot, column or row designated for independent
19 candidates, as provided in sub. (1) (b) or (2) (b), but no space shall be provided to write
20 in the names of independent candidates.

21 **SECTION 10.** 5.64 (1) (g) of the statutes is amended to read:

22 5.64 (1) (g) Following under the independent candidates for each office, a space
23 shall be provided for the elector to write in the name of a candidate of his or her choice
24 for that office. In elections at which the preferential voting method is used, the ballot
25 shall conform to the requirements of s. 5.20 (4).

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1 **SECTION 11.** 5.64 (1) (h) of the statutes is created to read:

2 5.64 (1) (h) If the preferential voting method is used at an election for county
3 offices, the form of the ballot shall conform to the requirements of s. 5.20 (4).

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

5 6.80 (2) (am) In partisan primaries, except in elections at which the
6 preferential voting method is used, an elector may vote for a person as the candidate
7 of the party of the elector's choice, if that person's name does not appear on the official
8 ballot of that party, by writing in the name of the person in the space provided on the
9 ballot or the ballot provided for that purpose, or where voting machines are used, in
10 the irregular ballot device, designating the party for which the elector desires such
11 person to be the nominee.

12 **SECTION 13.** 6.80 (2) (g) of the statutes is created to read:

13 6.80 (2) (g) In elections for offices at which the preferential voting method is
14 used, an elector may cast as many preferential votes for each office or seat as there
15 are candidates whose names appear on the ballot for that office or seat. If more than
16 one seat on a governmental body is to be filled at large, an elector may cast as many
17 preferential votes for that office or seat as there are candidates whose names appear
18 on the ballot for all of the seats to be filled. An elector who indicates preferences for
19 candidates for an office or seat must indicate a different preference for each
20 candidate for that office or seat. If an elector does not indicate a preference between
21 candidates for an office or seat, the elector has one vote for each office or seat to be
22 filled at the election.

23 **SECTION 14.** 7.08 (1) (c) of the statutes, as affected by 2003 Wisconsin Act 265,
24 is amended to read:

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1 7.08 (1) (c) Prescribe forms required by ss. 6.24 (3) and (4), 6.30 (4), 6.33 (1),
2 6.40 (1) (a), 6.47 (1) (a) 2. and (3), 6.55 (2) and (3), and 6.86 (2) and (3), and 7.52 (1).
3 All such forms shall contain a statement of the penalty applicable to false or
4 fraudulent registration or voting through use of the form. Forms are not required
5 to be furnished by the board.

6 **SECTION 15.** 7.50 (1) (c) of the statutes is amended to read:

7 7.50 (1) (c) If Except in elections at which the preferential voting method is
8 used, if an elector casts more than one vote for the same candidate for the same office,
9 the first vote is valid and the remaining votes are invalid.

10 **SECTION 16.** 7.50 (2) (k) of the statutes is created to read:

11 7.50 (2) (k) In elections at which the preferential voting method is used, if an
12 elector casts no more than one vote for each office or seat for which the elector is
13 entitled to vote, but does not indicate a preference, the elector's votes shall be counted
14 as first-choice votes for the candidates receiving the elector's votes. If an elector
15 indicates the same preference for more than one candidate for an office or seat in an
16 election where those expressed preferences exceed the number of offices or seats to
17 be filled, the elector's votes are invalid. If an elector indicates both a preference and
18 no preference for candidates for an office or seat in an election where the elector's
19 votes exceed the number of offices or seats to be filled, the elector's votes are invalid.

20 **SECTION 17.** 7.51 (4) (a) of the statutes, as affected by 2003 Wisconsin Act 265,
21 is amended to read:

22 7.51 (4) (a) The tally sheets shall state the total number of votes cast for each
23 office and for each individual receiving votes for that office, whether or not the
24 individual's name appears on the ballot, and shall state the vote for and against each
25 proposition voted on. In elections in which the preferential voting method is

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1 employed, the tally sheets shall state the total number of first-choice votes received
2 by each candidate and the total number of lesser-choice votes received by each
3 candidate, indicating the total number of votes for each choice. Upon completion of
4 the tally sheets, the inspectors shall immediately complete inspectors' statements in
5 duplicate. The inspectors shall state the excess, if any, by which the number of
6 ballots exceeds the number of electors voting as shown by the poll list and shall state
7 the number of the last elector as shown by the poll lists. At least 3 inspectors,
8 including the chief inspector and, unless election officials are appointed under s. 7.30
9 (4) (c) without regard to party affiliation, at least one inspector representing each
10 political party, shall then certify to the correctness of the statements and tally sheets
11 and sign their names. All other election officials assisting with the tally shall also
12 certify to the correctness of the tally sheets. When the tally is complete, the
13 inspectors shall publicly announce the results from the statements.

14 **SECTION 18.** 7.51 (5) (a) of the statutes, as affected by 2003 Wisconsin Act 265,
15 is amended to read:

16 7.51 (5) (a) The inspectors shall make full and accurate return of the votes cast
17 for each candidate and proposition on tally sheet forms provided by the municipal
18 clerk for that purpose. Each tally sheet shall record the returns for each office or
19 referendum by ward, unless combined returns are authorized in accordance with s.
20 5.15 (6) (b) in which case the tally sheet shall record the returns for each group of
21 combined wards. After recording the votes, the inspectors shall seal in a carrier
22 envelope outside the ballot bag or container one inspectors' statement under sub. (4)
23 (a), one tally sheet, and one poll list for delivery to the county clerk, unless the
24 election relates only to municipal or school district offices or referenda. The
25 inspectors shall also similarly seal one inspectors' statement, one tally sheet, and one

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1 poll list for delivery to the municipal clerk. For elections in which the preferential
2 voting method is used, the inspectors shall enclose the tally sheet provided under s.
3 7.52 (1). For school district elections, except in 1st class cities, the inspectors shall
4 similarly seal one inspectors' statement, one tally sheet, and one poll list for delivery
5 to the school district clerk. The inspectors shall immediately deliver all ballots,
6 statements, tally sheets, lists, and envelopes to the municipal clerk.

7 **SECTION 19.** 7.52 of the statutes is created to read:

8 **7.52 Canvass procedure for preferential voting method.** In any election
9 in which the preferential voting method is used, the election shall be canvassed in
10 the following manner:

11 (1) The board shall prescribe a tally sheet form for canvassing of elections in
12 which the preferential voting method is used. The inspectors shall use the form in
13 preparing the returns and shall retain the form as a part of the official returns.

14 (2) If any candidate receives a majority of the first-choice votes cast for an office
15 or seat, the candidate shall be declared elected. If no candidate for an office or seat
16 receives a majority of the first-choice votes cast, the first-choice votes received by
17 the candidate who receives the least number of first-choice votes shall be excluded
18 from the tally and the 2nd-choice votes, if any, cast by the electors who voted for that
19 candidate shall be added to the first-choice votes received by the other candidates.
20 If more than one candidate receives the least number of first-choice votes, the names
21 of the candidates receiving these votes shall be excluded from the tally and the
22 2nd-choice votes, if any, cast by electors who voted for those candidates shall be
23 added to the first-choice votes received by the other candidates. The 3rd-choice
24 votes, if any, cast for that candidate shall be added to the 2nd-choice votes received
25 by the other candidates. Additional choice votes, if any, shall be tallied in the same

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1 manner. If at an election at which the preferential voting method is used an elector
2 in voting for an office or seat indicates a choice for a lesser preference without also
3 indicating a choice for all greater preferences available to the elector for that office
4 or seat, each lesser preference of the elector for that office or seat shall be counted
5 as a higher preference in the order that the elector's choices are indicated so that all
6 of the preferences of the elector are cast in consecutive order. If any candidate then
7 receives a majority of the first-choice votes cast and votes cast without indicating a
8 preference for an office or seat, the candidate shall be declared elected. If no
9 candidate for an office or seat receives a majority of the first-choice votes cast and
10 votes cast without indicating a preference, the canvassers shall exclude from the
11 tally the first-choice votes received by the candidate who receives the least number
12 of first-choice votes and repeat the above procedure until one candidate receives a
13 majority of the first-choice votes cast and votes cast without indicating a preference
14 for the office or seat.

15 **SECTION 20.** 7.53 (1) of the statutes is amended to read:

16 7.53 (1) MUNICIPALITIES WITH ONE POLLING PLACE. Where the municipality
17 constitutes one ward or combines all wards to utilize a single polling place under s.
18 5.15 (6) (b), the canvass shall be conducted publicly under s. 7.51 and the inspectors
19 shall act as the municipal board of canvassers. Upon completion of the canvass and
20 ascertainment of the results by the inspectors, the clerk shall publicly read the
21 names of the persons voted for and the number of votes for each person for each
22 municipal office; in elections in which the preferential voting method is used, the
23 number of first-choice votes and the number of lesser-choice votes for each person
24 for each office, indicating the numbers for each choice; the names of the persons
25 declared by the inspectors to have won nomination or election to each municipal

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1 office; and the number of votes cast for and against each municipal referendum
2 question.

3 **SECTION 21.** 7.60 (4) (a) of the statutes is amended to read:

4 7.60 (4) (a) The board of canvassers shall make separate duplicate statements
5 showing the numbers of votes cast for the offices of president and vice president; state
6 officials; U.S. senators and representatives in congress; state legislators; justice;
7 court of appeals judge; circuit judges; district attorneys; and metropolitan sewerage
8 commissioners, if the commissioners are elected under s. 200.09 (11) (am). If a
9 municipal judge elected under s. 755.01 (4) serves a municipality that is located
10 partially within the county and candidates for that judgeship file nomination papers
11 in another county, the board of canvassers shall prepare a duplicate statement
12 showing the numbers of votes cast for that judgeship in that county for transmittal
13 to the other county. For partisan candidates, the statements shall include the
14 political party or principle designation, if any, next to the name of each candidate.
15 The board of canvassers shall also prepare a statement showing the results of any
16 county, technical college district or statewide referendum. Each statement shall
17 state the total number of votes cast in the county for each office; the names of all
18 persons for whom the votes were cast, as returned; the number of votes cast for each
19 person; after elections at which the preferential voting method is used, the number
20 of first-choice votes and lesser-choice votes cast for each person, indicating the
21 numbers for each choice; and the number of votes cast for and against any question
22 submitted at a referendum. The board of canvassers shall use one copy of each
23 duplicate statement to report to the elections board, technical college district board
24 or board of canvassers of any other county and shall file the other statement in the
25 office of the county clerk or board of election commissioners.

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1 **SECTION 22.** 7.60 (4) (c) of the statutes is amended to read:

2 7.60 (4) (c) In preparing the statements and determinations, the board of
3 canvassers shall carefully review the tally sheets and inspectors' statement. The
4 board of canvassers may omit the names of individuals whose names do not appear
5 on the ballot and who receive a comparatively small number of votes. The board of
6 canvassers shall designate votes received by such individuals as scattering votes.
7 The board of canvassers shall append to each statement and determination a
8 tabulation of the votes cast at each election district, ward or combination of wards
9 authorized under s. 5.15 (6) (b) in the county for each office and each individual,
10 whether the votes are canvassed or not, as well as the total canvassed votes cast for
11 each individual and each office, except where scattering votes are designated, and,
12 after elections at which the preferential voting method is used, the number of
13 first-choice votes and lesser-choice votes cast for each person for each office,
14 indicating the numbers for each choice. If any votes are rejected, the board of
15 canvassers shall specify the reasons therefor.

16 **SECTION 23.** 8.05 (1) (L) of the statutes is created to read:

17 8.05 (1) (L) Whenever a caucus is used to nominate candidates for town or
18 village offices, the preferential voting method shall not be used. If a town or village
19 institutes a nonpartisan primary, the preferential voting method may be substituted
20 as provided in s. 5.20.

21 **SECTION 24.** 8.05 (3) (a) of the statutes is amended to read:

22 8.05 (3) (a) ~~In lieu of sub. (1)~~ Except as provided in s. 8.11 (6), the electors either
23 by referendum or at the town meeting may, in lieu of holding a caucus under sub. (1),
24 provide for nomination of elective town office candidates at a nonpartisan primary
25 conducted as provided in sub. (5). The nomination papers shall be signed by not less

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1 than 20 nor more than 100 electors of the town. The nomination papers shall be
2 circulated not sooner than December 1 preceding the election and shall be filed with
3 the town clerk not later than 5 p.m. the first Tuesday in January, or the next day if
4 Tuesday is a holiday.

5 **SECTION 25.** 8.05 (4) (a) of the statutes is amended to read:

6 8.05 (4) (a) ~~A~~ Except as provided in s. 8.11 (6), a majority of the governing body
7 of any village may provide under s. 8.11 (1) (a) and (b) that candidates for elective
8 village office shall be nominated by a nonpartisan primary, under sub. (5).
9 Determination of the governing body to provide for such primary under s. 8.11 (1) (a)
10 shall be made not later than December 1 preceding the election.

11 **SECTION 26.** 8.11 (1) (a) to (c) of the statutes are amended to read:

12 8.11 (1) (a) ~~A~~ Except as provided in sub. (6), a primary may be held in any city
13 for the nomination of candidates for city office. When a majority of all the members
14 of the governing body of a city decide upon a spring primary for any specific election,
15 they shall so provide not later than 3 days after the deadline for filing nomination
16 papers.

17 (b) ~~Any~~ Except as provided in sub. (6), any city may provide by charter
18 ordinance, under s. 66.0101, that whenever 3 or more candidates file nomination
19 papers for a city office, a primary to nominate candidates for the office shall be held.

20 (c) ~~Whenever~~ Except as provided in sub. (6), whenever electors, equal to at least
21 10% of the vote for governor in the city at the last general election, file a petition
22 conforming to the requirements of s. 8.40 with the city clerk requesting a primary
23 within 3 days after the deadline for filing nomination papers, there shall be a
24 primary for any specific election.

25 **SECTION 27.** 8.11 (2), (2m) and (5) of the statutes are amended to read:

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1 8.11 (2) MILWAUKEE COUNTY. ~~A~~ Except as provided in sub. (6), a primary shall
2 be held in counties having a population of 500,000 or more whenever there are more
3 than twice the number of candidates to be elected to any judicial office within the
4 county or to the county board of supervisors from any one district.

5 (2m) FIRST CLASS CITY SCHOOL BOARD. ~~A~~ Except as provided in sub. (6), a
6 primary shall be held in 1st class cities whenever there are more than 2 candidates
7 for member of the board of school directors at-large or from any election district in
8 any year.

9 (5) COUNTY SUPERVISORS. ~~A~~ Except as provided in sub. (6), a primary shall be
10 held in an election for county board supervisor whenever 3 or more candidates file
11 nomination papers.

12 **SECTION 28.** 8.11 (6) of the statutes is created to read:

13 8.11 (6) PREFERENTIAL VOTING; EXCEPTION. If a primary is authorized or required
14 in an election for a local office and the preferential voting method is adopted for use
15 in elections for that office under s. 5.20, no primary shall be held.

16 **SECTION 29.** 8.50 (3) (b) of the statutes is amended to read:

17 8.50 (3) (b) Except as otherwise provided in this section, the provisions for
18 September primaries under s. 8.15 are applicable to all partisan primaries held
19 under this section, and the provisions for spring primaries under s. 8.10 are
20 applicable to all nonpartisan primaries held under this section. In a special partisan
21 primary or election, the order of the parties on the ballot shall be the same as
22 provided under s. 5.62 (1) or 5.64 (1) (b). Independent candidates for state office at
23 a special partisan election shall not appear on the primary ballot. No primary is
24 required for a nonpartisan election in which not more than 2 candidates for an office
25 appear on the ballot or for a partisan election in which not more than one candidate

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1 for an office appears on the ballot of each recognized political party. No primary shall
2 be held in a special election for any local office if the preferential voting method is
3 used in that election. In every special election except a special election for
4 nonpartisan state office where no candidate is certified to appear on the ballot, a
5 space for write-in votes shall be provided on the ballot, regardless of whether a
6 special primary is held.

7 **SECTION 30.** 9.10 (3) (d) of the statutes is amended to read:

8 9.10 (3) (d) If more than 2 persons compete for a nonpartisan office, a recall
9 primary shall be held. The names of the 2 persons receiving the highest number of
10 votes in the recall primary shall be certified to appear on the ballot in the recall
11 election, but if any person receives a majority of the total number of votes cast in the
12 recall primary, a recall election shall not be held. If the incumbent receives a majority
13 of the votes cast, the incumbent shall be retained in office for the remainder of the
14 term. If another candidate receives a majority of the votes cast, that candidate shall
15 be elected to serve for the residue of the unexpired term of the incumbent. Write-in
16 votes are permitted only at a recall primary or at a recall election in which no primary
17 is held. The preferential voting method shall not be used in a recall election for
18 county office.

19 **SECTION 31.** 10.02 (3) (intro.) of the statutes is amended to read:

20 10.02 (3) (intro.) The notice shall contain the following:

21 FACSIMILE BALLOT NOTICE

22 OF ... ELECTION

23 Office of [County] [Municipal] Clerk.

24 To the Electors of [County] [Municipality]:

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1 Notice is hereby given of a election to be held in the several wards in the
2 [county] [municipality] of, on the day of, (year), at which the officers
3 named below shall be chosen. The names of the candidates for each office to be voted
4 for, whose nominations have been certified to or filed in this office, are given under
5 the title of the office and under the appropriate party or other designation, each in
6 its proper column, together with the questions submitted to a vote, in the sample
7 ballot below.

8 **INFORMATION TO ELECTORS**

9 Except as provided in sub. (4) and except where a different statement is
10 prescribed by the board for use in whole or in part by municipalities using electronic
11 voting systems under s. 5.95, the voting instructions shall be given substantially as
12 follows:

13 **SECTION 32.** 10.02 (4) of the statutes is created to read:

14 10.02 (4) The board shall prescribe by rule the content of type B notices to be
15 used at all elections at which the preferential voting method is used.

16 **SECTION 33. Initial applicability.**

17 (1) The treatment of sections 7.08 (1) (c) and 7.51 (4) (a) and (5) (a) of the
18 statutes first applies with respect to the 2006 spring primary election.

19 **SECTION 34. Effective date.**

20 (1) This act takes effect on January 1, 2006, or the day after publication,
21 whichever is later.

22 (END)