2003 ASSEMBLY BILL 911

February 26, 2004 – Introduced by Representatives GOTTLIEB, J. WOOD, POCAN, MILLER and BERCEAU, cosponsored by Senator REYNOLDS. Referred to Committee on Campaigns and Elections.

1　AN ACT *to amend* 5.01 (3) (a), 5.58 (3), 7.08 (1) (c), 7.50 (1) (c), 7.51 (4) (a), 7.51

2　(5) (a), 7.53 (1), 7.60 (4) (a), 7.60 (4) (c), 8.05 (3) (a), 8.05 (4) (a), 8.11 (1) (a) to (c),

3　8.11 (2), (2m) and (5), 8.50 (3) (b), 9.10 (3) (d) and 10.02 (3) (intro.); and *to create*

4　5.01 (3) (c), 5.01 (4) (e), 5.20, 5.40 (5s), 5.60 (6s), 6.80 (2) (g), 7.50 (2) (k), 7.52,

5　8.05 (1) (L), 8.11 (6) and 10.02 (4) of the statutes; **relating to:** use of preferential

6　voting to determine the results of elections for nonpartisan local offices and

7　granting rule–making authority.

Analysis by the Legislative Reference Bureau

Currently, a voter at a primary or other election for a county, municipal, or other local nonpartisan office may cast one vote for a candidate for each office or seat that appears on the ballot. If a primary is required, 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 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

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offices 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 municipality, except a town or village where a caucus is used, and certain other local governmental units, to adopt a preferential voting method (also called an "instant runoff" method) for the election of nonpartisan officers. Under the bill, a local governmental unit other than a municipality may use the preferential voting method for the election of its officers only if all of the municipalities having territory within the jurisdiction of the local governmental unit are using or agree to utilize an electronic voting system to conduct the election. 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 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 or no–choice votes cast for the office or seat, that candidate is elected. If no candidate receives a majority of the first–choice and no–choice 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 and reallocated second–choice votes cast, that candidate is elected. If not, the procedure is repeated until one candidate receives a majority of the combined first–choice and reallocated votes cast. If this voting method is used, no primary election is held. Once adopted, the preferential voting method must be used in all nonpartisan 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 nonpartisan 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 nonpartisan 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 which lies within the jurisdiction of a local governmental unit does not utilize an electronic voting system, the local governmental unit must obtain the

concurrence of that municipality to acquire the system before an election using the preferential voting method may be held.

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:

19   (a) "Local governmental unit" means a county, city, village, town, or special

20   purpose district.

1   (b) "Preferential voting" means a voting method in which the electors voting

2   in an election for an elective office are permitted to express and order their

3   preferences for all candidates whose names appear on the ballot for the same office

4   or seat.

5   **(2)**   Except as provided in ss. 5.40 (5s), 8.05 (1) (L) and 9.10 (3) (d), the

6   policy–making body of any local governmental unit that is served by elective officers

7   may adopt preferential voting as the method of voting and determination of the

8   results of all elections for nonpartisan offices to be filled in the local governmental

9   unit. If the preferential voting method is to be used in elections for the office of

10   municipal judge of a joint municipal court under s. 755.01 (4), the governing body of

11   each contracting municipality shall act under this subsection. A body may act under

12   this subsection by ordinance, or if the body does not enact ordinances, by resolution

13   adopted at a meeting of the body. A policy–making body that has adopted

14   preferential voting under this subsection may revoke that action in like manner.

15   **(3)**   Action of a body under sub. (2) is effective for all elections held for the

16   election of nonpartisan officers of a local governmental unit on and after the 120th

17   day beginning after the action is taken, except as provided in sub. (7).

18   **(4)**   In jurisdictions where preferential voting is used, an elector may cast as

19   many preferential votes for each office as there are candidates for the office whose

20   names appear on the ballot. If more than one seat on a policy–making body is to be

21   filled at large, an elector may cast one vote for each seat that is contested multiplied

22   by the number of candidates and, in addition, may cast as many preferential votes

23   for the seats to be filled as there are candidates for those seats whose names appear

24   on the ballot. If write–in votes are permitted, a voter may vote for a write–in

25   candidate in lieu of any candidate whose name appears on the ballot. To indicate a

1   preference, an elector shall mark his or her ballot with or cause the voting machine

2   to reflect the elector's first choice, second choice, third choice, and subsequent

3   choices, if any. An elector is not required to indicate a choice and is not required to

4   indicate as many choices as the elector is eligible to indicate.

5   **(5)** The preferential voting method may not be used for balloting or canvassing

6   within any ward or election district in which an election for an office is held unless

7   it is used for balloting and canvassing within all wards and election districts in which

8   that election is held. A preferential voting method may not be used in balloting or

9   canvassing of votes for any nonpartisan office of a governmental unit to be filled at

10   an election unless it is used in balloting and canvassing of votes for all of the

11   nonpartisan offices of the governmental unit to be filled at that election.

12   **(6)** In tallying votes in elections where preferential voting is used, the method

13   of canvassing specified in s. 7.52 shall be used.

14   **(7)** Whenever the policy–making body of a governmental unit adopts or

15   discontinues the preferential voting method to determine the election of the elective

16   nonpartisan officers of the governmental unit, the body shall promptly provide

17   written notice of its action to the municipal clerk of each municipality other than the

18   governmental unit that lies wholly or partially within the jurisdiction of the

19   governmental unit. The body shall provide the notice no later than the 120th day

20   preceding any election at which the preferential voting method is to be used.

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

22   5.40 **(5s)** Any municipality that elects under s. 5.20 to utilize the preferential

23   voting method to determine the results of its elections for nonpartisan officers of the

24   local governmental unit shall ensure that an electronic voting system is used for

25   those elections at every polling place in the municipality. A local governmental unit,

1   other than a municipality, that elects under s. 5.20 to utilize the preferential voting

2   method to determine the results of its elections for nonpartisan offices of the local

3   governmental unit may utilize the preferential voting method only if all the

4   municipalities having territory within the jurisdiction of the local governmental unit

5   are utilizing an electronic voting system on the date of that election or the local

6   governmental unit obtains a written agreement with every such municipality that

7   does not utilize an electronic voting system on that date, signed by the municipal

8   clerk on behalf of the municipality, that the municipality will acquire an electronic

9   voting system approved under s. 5.91 to be utilized in those elections.

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

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. 6.80 (2) (g) of the statutes is created to read:

8   6.80 **(2)** (g) In elections for offices at which the preferential voting method is

9   used, an elector may cast as many preferential votes for each office or seat as there

10   are candidates whose names appear on the ballot for that office or seat. If more than

11   one seat on a governmental body is to be filled at large, an elector may cast as many

12   preferential votes for that office or seat as there are candidates whose names appear

13   on the ballot for all of the seats to be filled. An elector who indicates preferences for

14   candidates for an office or seat must indicate a different preference for each

15   candidate for that office or seat. If an elector does not indicate a preference between

16   candidates for an office or seat, the elector has one vote for each office or seat to be

17   filled at the election.

18   SECTION 9. 7.08 (1) (c) of the statutes is amended to read:

19   7.08 **(1)** (c) Prescribe forms required by ss. 6.24 (3) and (4), 6.30 (4), 6.33 (1),

20   6.40 (1) (b), 6.47 (1) (a) 2. and (3), 6.55 (2) and (3), 6.79 (5) ~~and,~~ 6.86 (2) and (3)~~,~~ and

21   7.52 (1). All such forms shall contain a statement of the penalty applicable to false

22   or fraudulent registration or voting through use of the form. Forms are not required

23   to be furnished by the board.

24   SECTION 10. 7.50 (1) (c) of the statutes is amended to read:

1   7.50 **(1)** (c) If ~~If~~ <u>Except in elections at which the preferential voting method is</u>

2   <u>used, if</u> an elector casts more than one vote for the same candidate for the same office,

3   the first vote is valid and the remaining votes are invalid.

4   **SECTION 11.** 7.50 (2) (k) of the statutes is created to read:

5   7.50 **(2)** (k) In elections at which the preferential voting method is used, if an

6   elector casts no more than one vote for each office or seat for which the elector is

7   entitled to vote, but does not indicate a preference, the elector's votes shall be counted

8   as first choice votes for the candidates receiving the elector's votes. If an elector

9   indicates the same preference for more than one candidate for an office or seat in an

10   election where those expressed preferences exceed the number of offices or seats to

11   be filled, the elector's votes are invalid. If an elector indicates both a preference and

12   no preference for candidates for an office or seat in an election where the elector's

13   votes exceed the number of offices or seats to be filled, the elector's votes are invalid.

14   **SECTION 12.** 7.51 (4) (a) of the statutes is amended to read:

15   7.51 **(4)** (a) The tally sheets shall state the total number of votes cast for each

16   office and for each individual receiving votes for that office, whether or not the

17   individual's name appears on the ballot, and shall state the vote for and against each

18   proposition voted on. <u>In elections in which the preferential voting method is</u>

19   <u>employed, the tally sheets shall state the total number of first–choice votes received</u>

20   <u>by each candidate and the total number of lesser–choice votes received by each</u>

21   <u>candidate, indicating the total number of votes for each choice.</u> Upon completion of

22   the tally sheets, the inspectors shall immediately complete inspectors' statements in

23   duplicate. The inspectors shall state the excess by which the number of ballots

24   exceeds the number of electors voting as shown by the poll or registration list, if any,

25   and shall state the number of the last elector as shown by the registration or poll lists.

1   At least 3 inspectors, including the chief inspector and, unless election officials are

2   appointed under s. 7.30 (4) (c) without regard to party affiliation, at least one

3   inspector representing each political party, shall then certify to the correctness of the

4   statements and tally sheets and sign their names. All other election officials

5   assisting with the tally shall also certify to the correctness of the tally sheets. When

6   the tally is complete, the inspectors shall publicly announce the results from the

7   statements.

8   SECTION 13. 7.51 (5) (a) of the statutes is amended to read:

9   7.51 **(5)** (a) The inspectors shall make full and accurate return of the votes cast

10   for each candidate and proposition on tally sheet forms provided by the municipal

11   clerk for that purpose. Each tally sheet shall record the returns for each office or

12   referendum by ward, unless combined returns are authorized in accordance with s.

13   5.15 (6) (b) in which case the tally sheet shall record the returns for each group of

14   combined wards. After recording the votes, the inspectors shall seal in a carrier

15   envelope outside the ballot bag or container one inspectors' statement under sub. (4)

16   (a), one tally sheet, and one poll or registration list for delivery to the county clerk,

17   unless the election relates only to municipal or school district offices or referenda.

18   The inspectors shall also similarly seal one inspectors' statement, one tally sheet,

19   and one poll or registration list for delivery to the municipal clerk. For elections in

20   which the preferential voting method is used, the inspectors shall enclose the tally

21   sheet provided under s. 7.52 (1). For school district elections, except in 1st class

22   cities, the inspectors shall similarly seal one inspectors' statement, one tally sheet,

23   and one poll or registration list for delivery to the school district clerk. The inspectors

24   shall immediately deliver all ballots, statements, tally sheets, lists, and envelopes

25   to the municipal clerk.

1   SECTION 14. 7.52 of the statutes is created to read:

2   **7.52 Canvass procedure for preferential voting method.** In any election

3   in which the preferential voting method is used, the election shall be canvassed in

4   the following manner:

5   **(1)** The board shall prescribe a tally sheet form for canvassing of elections in

6   which the preferential voting method is used. The inspectors shall use the form in

7   preparing the returns and shall retain the form as a part of the official returns.

8   **(2)** If any candidate receives a majority of the first–choice votes cast for an office

9   or seat, the candidate shall be declared elected. If no candidate for an office or seat

10   receives a majority of the first–choice votes cast, the first–choice votes received by

11   the candidate having the least number of first–choice votes shall be excluded from

12   the tally and the 2nd–choice votes, if any, cast by the electors who voted for that

13   candidate shall be added to the first–choice votes received by the other candidates.

14   If more than one candidate receives the least number of first–choice votes the names

15   of the candidates receiving these votes shall be excluded from the tally and the

16   2nd–choice votes, if any, cast by electors who voted for those candidates shall be

17   added to the first–choice votes received by the other candidates. The 3rd–choice

18   votes, if any, cast for that candidate shall be added to the 2nd–choice votes received

19   by the other candidates. Additional choice votes, if any, shall be tallied in the same

20   manner. If at an election at which the preferential voting method is used an elector

21   in voting for an office or seat indicates a choice for a lesser preference without also

22   indicating a choice for all greater preferences available to the elector for that office

23   or seat, each lesser preference of the elector for that office or seat shall be counted

24   as a higher preference in the order that the elector's choices are indicated so that all

25   of the preferences of the elector are cast in consecutive order. If any candidate then

1   receives a majority of the first–choice votes cast for an office or seat, the candidate

2   shall be declared elected. If no candidate for an office or seat receives a majority of

3   the first–choice votes cast, the canvassers shall exclude from the tally the

4   first–choice votes received by that candidate and repeat the above procedure until

5   one candidate receives a majority of the first–choice votes cast for the office or seat.

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

7   7.53 **(1)** MUNICIPALITIES WITH ONE POLLING PLACE. Where the municipality

8   constitutes one ward or combines all wards to utilize a single polling place under s.

9   5.15 (6) (b), the canvass shall be conducted publicly under s. 7.51 and the inspectors

10 shall act as the municipal board of canvassers. Upon completion of the canvass and

11 ascertainment of the results by the inspectors, the clerk shall publicly read the

12 names of the persons voted for and the number of votes for each person for each

13 municipal office,; in elections in which the preferential voting method is used, the

14 number of first–choice votes and the number of lesser–choice votes for each person

15 for each office, indicating the numbers for each choice; the names of the persons

16 declared by the inspectors to have won nomination or election to each municipal

17 office; and the number of votes cast for and against each municipal referendum

18 question.

19   SECTION 16. 7.60 (4) (a) of the statutes is amended to read:

20   7.60 **(4)** (a) The board of canvassers shall make separate duplicate statements

21 showing the numbers of votes cast for the offices of president and vice president; state

22 officials; U.S. senators and representatives in congress; state legislators; justice;

23 court of appeals judge; circuit judges; district attorneys; and metropolitan sewerage

24 commissioners, if the commissioners are elected under s. 200.09 (11) (am). If a

25 municipal judge elected under s. 755.01 (4) serves a municipality that is located

1　　partially within the county and candidates for that judgeship file nomination papers

2　　in another county, the board of canvassers shall prepare a duplicate statement

3　　showing the numbers of votes cast for that judgeship in that county for transmittal

4　　to the other county.　For partisan candidates, the statements shall include the

5　　political party or principle designation, if any, next to the name of each candidate.

6　　The board of canvassers shall also prepare a statement showing the results of any

7　　county, technical college district or statewide referendum.　Each statement shall

8　　state the total number of votes cast in the county for each office; the names of all

9　　persons for whom the votes were cast, as returned; the number of votes cast for each

10　　person; after elections at which the preferential voting method is used, the number

11　　of first−choice votes and lesser−choice votes cast for each person, indicating the

12　　numbers for each choice; and the number of votes cast for and against any question

13　　submitted at a referendum.　The board of canvassers shall use one copy of each

14　　duplicate statement to report to the elections board, technical college district board

15　　or board of canvassers of any other county and shall file the other statement in the

16　　office of the county clerk or board of election commissioners.

17　　　　**SECTION 17.**　7.60 (4) (c) of the statutes is amended to read:

18　　　　7.60 **(4)** (c)　In preparing the statements and determinations, the board of

19　　canvassers shall carefully review the tally sheets and inspectors' statement.　The

20　　board of canvassers may omit the names of individuals whose names do not appear

21　　on the ballot and who receive a comparatively small number of votes.　The board of

22　　canvassers shall designate votes received by such individuals as scattering votes.

23　　The board of canvassers shall append to each statement and determination a

24　　tabulation of the votes cast at each election district, ward or combination of wards

25　　authorized under s. 5.15 (6) (b) in the county for each office and each individual,

1   whether the votes are canvassed or not, as well as the total canvassed votes cast for

2   each individual and each office, except where scattering votes are designated, and,

3   after elections at which the preferential voting method is used, the number of

4   first–choice votes and lesser–choice votes cast for each person for each office,

5   indicating the numbers for each choice. If any votes are rejected, the board of

6   canvassers shall specify the reasons therefor.

7   SECTION 18. 8.05 (1) (L) of the statutes is created to read:

8   8.05 **(1)** (L) Whenever a caucus is used to nominate candidates for town or

9   village offices, the preferential voting method shall not be used. If a town or village

10   institutes a nonpartisan primary, the preferential voting method may be substituted

11   as provided in s. 5.20.

12   SECTION 19. 8.05 (3) (a) of the statutes is amended to read:

13   8.05 **(3)** (a) In lieu of sub. (1) Except as provided in s. 8.11 (6), the electors either

14   by referendum or at the town meeting may, in lieu of holding a caucus under sub. (1),

15   provide for nomination of elective town office candidates at a nonpartisan primary

16   conducted as provided in sub. (5). The nomination papers shall be signed by not less

17   than 20 nor more than 100 electors of the town. The nomination papers shall be

18   circulated not sooner than December 1 preceding the election and shall be filed with

19   the town clerk not later than 5 p.m. the first Tuesday in January, or the next day if

20   Tuesday is a holiday.

21   SECTION 20. 8.05 (4) (a) of the statutes is amended to read:

22   8.05 **(4)** (a) A Except as provided in s. 8.11 (6), a majority of the governing body

23   of any village may provide under s. 8.11 (1) (a) and (b) that candidates for elective

24   village office shall be nominated by a nonpartisan primary, under sub. (5).

1   Determination of the governing body to provide for such primary under s. 8.11 (1) (a)

2   shall be made not later than December 1 preceding the election.

3   SECTION 21. 8.11 (1) (a) to (c) of the statutes are amended to read:

4   8.11 **(1)** (a) ~~A~~ Except as provided in sub. (6), a primary may be held in any city

5   for the nomination of candidates for city office. When a majority of all the members

6   of the governing body of a city decide upon a spring primary for any specific election,

7   they shall so provide not later than 3 days after the deadline for filing nomination

8   papers.

9   (b) ~~Any~~ Except as provided in sub. (6), any city may provide by charter

10   ordinance, under s. 66.0101, that whenever 3 or more candidates file nomination

11   papers for a city office, a primary to nominate candidates for the office shall be held.

12   (c) ~~Whenever~~ Except as provided in sub. (6), whenever electors, equal to at least

13   10% of the vote for governor in the city at the last general election, file a petition

14   conforming to the requirements of s. 8.40 with the city clerk requesting a primary

15   within 3 days after the deadline for filing nomination papers, there shall be a

16   primary for any specific election.

17   SECTION 22. 8.11 (2), (2m) and (5) of the statutes are amended to read:

18   8.11 **(2)** MILWAUKEE COUNTY. ~~A~~ Except as provided in sub. (6), a primary shall

19   be held in counties having a population of 500,000 or more whenever there are more

20   than twice the number of candidates to be elected to any judicial office within the

21   county or to the county board of supervisors from any one district.

22   **(2m)** FIRST CLASS CITY SCHOOL BOARD. ~~A~~ Except as provided in sub. (6), a

23   primary shall be held in 1st class cities whenever there are more than 2 candidates

24   for member of the board of school directors at–large or from any election district in

25   any year.

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1   **(5)** COUNTY SUPERVISORS. ~~A~~ Except as provided in sub. (6), a primary shall be

2   held in an election for county board supervisor whenever 3 or more candidates file

3   nomination papers.

4   SECTION 23. 8.11 (6) of the statutes is created to read:

5   8.11 **(6)** PREFERENTIAL VOTING; EXCEPTION. If a primary is authorized or required

6   in an election for a local office and the preferential voting method is adopted for use

7   in elections for that office under s. 5.20, no primary shall be held.

8   SECTION 24. 8.50 (3) (b) of the statutes is amended to read:

9   8.50 **(3)** (b) Except as otherwise provided in this section, the provisions for

10   September primaries under s. 8.15 are applicable to all partisan primaries held

11   under this section, and the provisions for spring primaries under s. 8.10 are

12   applicable to all nonpartisan primaries held under this section. In a special partisan

13   primary or election, the order of the parties on the ballot shall be the same as

14   provided under s. 5.62 (1) or 5.64 (1) (b). Independent candidates for state office at

15   a special partisan election shall not appear on the primary ballot. No primary is

16   required for a nonpartisan election in which not more than 2 candidates for an office

17   appear on the ballot or for a partisan election in which not more than one candidate

18   for an office appears on the ballot of each recognized political party. No primary shall

19   be held in a special election for any local office if the preferential voting method is

20   used in that election. In every special election except a special election for

21   nonpartisan state office where no candidate is certified to appear on the ballot, a

22   space for write–in votes shall be provided on the ballot, regardless of whether a

23   special primary is held.

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

1   9.10 **(3)** (d) If more than 2 persons compete for a nonpartisan office, a recall

2   primary shall be held. The names of the 2 persons receiving the highest number of

3   votes in the recall primary shall be certified to appear on the ballot in the recall

4   election, but if any person receives a majority of the total number of votes cast in the

5   recall primary, a recall election shall not be held. If the incumbent receives a majority

6   of the votes cast, the incumbent shall be retained in office for the remainder of the

7   term. If another candidate receives a majority of the votes cast, that candidate shall

8   be elected to serve for the residue of the unexpired term of the incumbent. Write−in

9   votes are permitted only at a recall primary or at a recall election in which no primary

10   is held. <u>The preferential voting method shall not be used in a recall election for</u>

11   <u>county office.</u>

12   **SECTION 26.** 10.02 (3) (intro.) of the statutes is amended to read:

13   10.02 **(3)** (intro.) The notice shall contain the following:

14   FACSIMILE BALLOT NOTICE

15   OF .... ELECTION

16   Office of .... [County] [Municipal] Clerk.

17   To the Electors of .... [County] [Municipality]:

18   Notice is hereby given of a .... election to be held in the several wards in the

19   [county] [municipality] of ...., on the .... day of ...., ... (year), at which the officers

20   named below shall be chosen. The names of the candidates for each office to be voted

21   for, whose nominations have been certified to or filed in this office, are given under

22   the title of the office and under the appropriate party or other designation, each in

23   its proper column, together with the questions submitted to a vote, in the sample

24   ballot below.

25   INFORMATION TO ELECTORS

1   Except <u>as provided in sub. (4) and except</u> where a different statement is

2   prescribed by the board for use in whole or in part by municipalities using electronic

3   voting systems under s. 5.95, the voting instructions shall be given substantially as

4   follows:

5   **SECTION 27.** 10.02 (4) of the statutes is created to read:

6   10.02 **(4)** The board shall prescribe by rule the content of type B notices to be

7   used at all elections at which the preferential voting method is used.

8   **(END)**