1995 ASSEMBLY BILL 409

May 30, 1995 – Introduced by Representatives HANDRICK, WASSERMAN, HOVEN and GOETSCH. Referred to Committee on Elections and Constitutional Law.

1   AN ACT *to amend* 5.01 (3) (a), 5.62 (5), 5.64 (1) (a) and (g), 5.91 (7), 7.51 (4) (a),

2   7.60 (4) (a) and (c), 7.70 (3) (d), 7.70 (3) (f), 8.50 (3) (b) and 10.02 (3) (b) 1., 2. and

3   2m.; and *to create* 5.45, 5.53 (3) and 7.50 (2) (k) of the statutes; **relating to:**

4   authorization for electors to cast a vote for "none of the names shown" for

5   certain offices on a ballot at an election.

Analysis by the Legislative Reference Bureau

This bill permits voters at all primaries and other elections for certain national or state offices to cast their votes for "none of the names shown" in lieu of voting for a candidate. Affected offices are the offices of U.S. senator, U.S. representative in congress, governor, lieutenant governor, attorney general, secretary of state, state treasurer, state senator and representative to the assembly. The option is to appear on the ballot together with the choices that appear under current law. Votes for "none of the names shown" are to be tallied and reported, but they have no legal effect upon the outcome of a primary or other election.

Currently, a vote for "none of the names shown" is not authorized on any ballot except that voters at the presidential preference primary may vote for an uninstructed delegation from this state to the presidential nominating convention of their party.

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

6   SECTION 1. 5.01 (3) (a) of the statutes is amended to read:

1   5.01 **(3)** (a) Except as provided in par. (b), in every election to choose any officer,

2   each elector has one vote for each office unless clearly indicated otherwise.   The

3   person receiving the greatest number of legal votes for the office shall be declared

4   elected, and the canvassers shall so determine and certify. <u>Votes cast for "none of the</u>

5   <u>names shown" on a ballot for any office shall not be counted for purposes of</u>

6   <u>determining the result of an election.</u>

7   **SECTION 2.** 5.45 of the statutes is created to read:

8   **5.45 Voting for none of names shown. (1)** In every primary or other election

9   for one of the following state or national offices, the ballot shall be prepared in such

10   a manner as to permit and elector to vote for "none of the names shown" in lieu of any

11   other choice:

12   (a) U.S. senator.

13   (b) U.S. representative in congress.

14   (c) Governor.

15   (d) Lieutenant governor.

16   (e) Attorney general.

17   (f) Secretary of state.

18   (g) State treasurer.

19   (h) State senator.

20   (i) Representative to the assembly.

21   **(2)** An elector who casts a vote for "none of the names shown" for any office may

22   not cast a vote for any other candidate or write in the name of any candidate for the

23   same office.

24   **SECTION 3.** 5.53 (3) of the statutes is created to read:

1995 – 1996 Legislature   – 3 –   LRB–2380/2
JTK:skg:jlb
SECTION 3

1   5.53 **(3)** On every voting machine ballot at an election for an office specified in

2   s. 5.45 (1), a space shall be provided under each office for electors to vote for "none

3   of the names shown".

4   **SECTION 4.** 5.62 (5) of the statutes is amended to read:

5   5.62 **(5)** At the September primary, an elector may vote for the candidates of

6   only one party, or the elector may vote for any of the independent candidates for state

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

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

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

10   to write in the names of independent candidates. Electors who vote for "none of the

11   names shown" for an office specified in s. 5.45 (1) may do so only on the ballot of one

12   party or on the ballot containing the names of independent candidates for state office.

13   **SECTION 5.** 5.64 (1) (a) and (g) of the statutes are amended to read:

14   5.64 **(1)** (a) The ballot shall be labeled "Official Ballot" in lettering at least

15   three–eighths inch high. Directly underneath in plain, legible type, shall be the

16   following voting instructions: "If you desire to vote a straight party ticket for all

17   statewide, congressional, legislative and county offices, make a cross (✗) in the circle

18   under the party designation at the top of the party column. If you desire to vote for

19   individual candidates or for none of the candidates for an office where that choice

20   appears on the ballot, make a cross (✗) in the square at the RIGHT of the name of

21   each candidate for whom you desire to vote, or in the square at the RIGHT of "none

22   of the names shown". To vote for a person whose name does not appear on the ballot,

23   write the name in the blank space provided for the purpose. When voting for

24   governor and lieutenant governor, you may vote only for the candidates on one ticket

25   jointly or write in the names of persons in both spaces.". Under the party designation

1   at the top of each party column shall appear the following words in boldface type:

2   "Make a cross (✗) in this circle to vote a straight party ticket.".

3   (g) Following under the independent candidates for each office, a space shall

4   be provided for the elector to write in the name of a candidate of his or her choice for

5   that office <u>or to vote for "none of the names shown" for an office specified in s. 5.45</u>

6   <u>(1)</u>.

7   **SECTION 6.** 5.91 (7) of the statutes is amended to read:

8   5.91 **(7)** It permits an elector to vote at an election for all persons and offices

9   for whom and for which the elector is lawfully entitled to vote; to vote for as many

10   persons for an office as the elector is entitled to vote for; <u>to vote for "none of the names</u>

11   <u>shown" on the ballot for an office specified in s. 5.45 (1);</u> to vote for or against any

12   question upon which the elector is entitled to vote; and it rejects all choices recorded

13   on a ballot for an office or a measure if the number of choices exceeds the number

14   which an elector is entitled to vote for on such office or on such measure, except where

15   an elector casts excess write–in votes upon a ballot that is distributed to the elector.

16   **SECTION 7.** 7.50 (2) (k) of the statutes is created to read:

17   7.50 **(2)** (k) If an elector votes for a candidate for whom he or she is entitled to

18   vote and also votes for "none of the names shown" for the same office, the votes for

19   the candidate shall be counted and the vote for "none of the names shown" shall not

20   be counted.

21   **SECTION 8.** 7.51 (4) (a) of the statutes 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, <u>the number of votes cast for "none of the</u>

25   <u>names shown" for each office specified in s. 5.45 (1)</u> and ~~shall state~~ the vote for and

1   against each proposition voted on.   Upon completion of the tally sheets, the

2   inspectors shall immediately complete inspectors' statements in duplicate.   The

3   inspectors shall state the excess by which the number of ballots exceeds the number

4   of electors voting as shown by the poll or registration list, if any, and shall state the

5   number of the last elector as shown by the registration or poll lists. At least 3

6   inspectors, including the chief inspector and at least one inspector representing each

7   political party, shall then certify to the correctness of the statements and tally sheets

8   and sign their names. All other election officials assisting with the tally shall also

9   certify to the correctness of the tally sheets.   When the tally is complete, the

10   inspectors shall publicly announce the results from the statements.

11   **SECTION 9.** 7.60 (4) (a) and (c) of the statutes are amended to read:

12   7.60 **(4)** (a) The board of canvassers shall make separate duplicate statements

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

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

15   court of appeals judge; circuit judges; district attorneys; municipal judges, if they are

16   elected under s. 755.01 (4); and metropolitan sewerage commissioners, if the

17   commissioners are elected under s. 66.23 (11) (am). For partisan candidates, the

18   statements shall include the political party or principle designation, if any, next to

19   the name of each candidate. The board of canvassers shall also prepare a statement

20   showing the results of any county, technical college district or statewide referendum.

21   Each statement shall state the total number of votes cast in the county for each office;

22   the names of all persons for whom the votes were cast, as returned; the number of

23   votes cast for each person; the number of votes cast for "none of the names shown"

24   for each office specified in s. 5.45 (1); and the number of votes cast for and against

25   any question submitted at a referendum. The board of canvassers shall use one copy

1   of the statement to report to the elections board or technical college district board and

2   shall file the other statement in the office of the county clerk or board of election

3   commissioners.

4   (c) In preparing the statements and determinations, the board of canvassers

5   shall carefully review the tally sheets and inspectors' statement. The board of

6   canvassers may omit the names of individuals whose names do not appear on the

7   ballot and who receive a comparatively small number of votes. The board of

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

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

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

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

12   the number of votes cast for "none of the names shown" for each office specified in s.

13   5.45 (1), whether the votes are canvassed or not, as well as the total canvassed votes

14   cast for each individual and each office, except where scattering votes are designated,

15   and the total canvassed votes cast for "none of the names shown" for each office

16   specified in s. 5.45 (1). If any votes are rejected, the board of canvassers shall specify

17   the reasons therefor.

18   **SECTION 10.** 7.70 (3) (d) of the statutes is amended to read:

19   7.70 **(3)** (d) When the certified statements and returns are received, the board

20   of state canvassers shall proceed to examine and make a statement of the total

21   number of votes cast at any election for the offices involved in the election for

22   president and vice president; a statement for each of the offices of governor,

23   lieutenant governor, if a primary, and a joint statement for the offices of governor and

24   lieutenant governor, if a general election; a statement for each of the offices of

25   secretary of state, state treasurer, attorney general, and state superintendent; for

1   U.S. senator; representative in congress for each congressional district; the state

2   legislature; justice; court of appeals judge; circuit judge; district attorney; municipal

3   judge, if he or she is elected under s. 755.01 (4); metropolitan sewerage commission,

4   if the commissioners are elected under s. 66.23 (11) (am); <u>a statement of the number</u>

5   <u>of votes cast for "none of the names shown" for each office specified in s. 5.45 (1);</u> and

6   <u>a statement</u> for any referenda questions submitted by the legislature.

7   SECTION 11. 7.70 (3) (f) of the statutes is amended to read:

8   7.70 **(3)** (f) The statements shall show the persons' names receiving votes, and

9   any referenda questions; the ~~whole~~ number of votes ~~given to~~ <u>cast for</u> each <u>person; the</u>

10   <u>number of votes cast for "none of the names shown" for each office specified in s. 5.45</u>

11   <u>(1); the number of votes cast for and against each proposition</u>; and an individual

12   listing by the districts or counties in which ~~they~~ <u>the votes</u> were ~~given~~ <u>cast</u>. The names

13   of persons not regularly nominated who received only a comparatively small number

14   of votes may be omitted and their votes designated as scattering votes.

15   SECTION 12. 8.50 (3) (b) of the statutes is amended to read:

16   8.50 **(3)** (b) Except as otherwise provided in this section, the provisions for

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

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

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

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

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

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

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

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

25   for an office appears on the ballot of each recognized political party. In every special

1   election except a special election for nonpartisan state office where no candidate is

2   certified to appear on the ballot, a space for write–in votes shall be provided on the

3   ballot, regardless of whether a special primary is held <u>and if the special election is</u>

4   <u>for an office specified in s. 5.45 (1), a space for electors to vote for "none of the names</u>

5   <u>shown"</u>.

6   **SECTION 13.** 10.02 (3) (b) 1., 2. and 2m. of the statutes are amended to read:

7   10.02 **(3)** (b) 1. If an elector wishes to vote for all candidates nominated by any

8   party, the elector shall make a cross (✗) in the circle or depress the lever or button

9   under the party designation printed at the top of the ballot. Unless a name has been

10   erased or crossed out, another name written in, a cross made to the right of a

11   candidate for the same office in another column or a sticker applied, a cross in the

12   circle at the top of the column is a vote for all the party's candidates listed in the

13   column. If an elector does not wish to vote for all the candidates nominated by one

14   party, the elector shall make a cross (✗) in the square at the right of or separately

15   depress the levers or buttons next to each candidate's name for whom he or she

16   intends to vote, <u>or next to the indication "none of the names shown" for an office</u>

17   <u>where that choice appears on the ballot,</u> or <u>the elector</u> shall insert or write in the

18   name of a candidate.

19   2. At a special partisan primary, the elector shall select the party ballot of his

20   or her choice and shall make a cross (✗) in the square at the right of or depress the

21   lever or button next to the candidate's name for each office for whom the elector

22   intends to vote, <u>or next to the indication "none of the names shown" for an office</u>

23   <u>where that choice appears on the ballot,</u> or <u>the elector</u> shall insert or write in the

24   name of the elector's choice for a candidate.

1   2m. At the September primary, the elector shall select the party ballot of his

2   or her choice or the ballot containing the names of the independent candidates for

3   state office, and make a cross (✗) in the square at the right of or depress the lever

4   or button next to the candidate's name for each office for whom the elector intends

5   to vote or next to the indication "none of the names shown" for an office where that

6   choice appears on the ballot, or the elector shall insert or write in the name of the

7   elector's choice for a party candidate, if any. In order to qualify for participation in

8   the Wisconsin election campaign fund, a candidate for state office at the September

9   primary, other than a candidate for district attorney, must receive at least 6% of all

10   votes cast on all ballots for the office for which he or she is a candidate, in addition

11   to other requirements.

12   **SECTION 14. Effective date.**

13   (1) This act takes effect on July 1, 1996.

14   **(END)**