

1999 SENATE BILL 216

August 10, 1999 – Introduced by Senators RISSER, RUDE and HUELSMAN, cosponsored by Representatives ZIEGELBAUER, KELSO, BERCEAU, GRONEMUS, SCHOOFF, HASENOHRL, CARPENTER, PORTER, WASSERMAN, GUNDERSON, MUSSER, RYBA and STASKUNAS. Referred to Committee on Economic Development, Housing and Government Operations.

1 **AN ACT** *to repeal* 5.35 (6) (b), 5.51 (7), 5.81 (4), 5.91 (6), 7.50 (1) (d) and 8.50 (3)
 2 (c); *to renumber* 5.35 (6) (a); and *to amend* 5.02 (16m), 5.15 (6) (b), 5.37 (4),
 3 5.62 (1) and (2), 5.62 (3) and (5), 5.84 (1), 5.91 (1) and (3), 6.80 (2) (f), 6.87 (4),
 4 7.08 (2) (b), 7.50 (2) (g), 8.16 (1), (6) and (7), 8.17 (1) (a), 8.20 (9), 8.50 (3) (b), 9.10
 5 (3) (e), 10.02 (3) (b) 2. and 2m., 11.31 (3m) and 15.61 of the statutes; **relating**
 6 **to:** authorization for electors to vote in the primary of more than one political
 7 party.

Analysis by the Legislative Reference Bureau

Presently, a voter in a partisan primary election may cast a ballot or vote in the column of only one political party, regardless of the number of candidates who are running for office in that party, if any. Alternatively, a voter in the September primary may vote for any of the independent candidates for state office, but if the voter chooses this option, he or she may not vote for any party candidates for any office. (Candidates of minor parties appear on the ballot as independent candidates.)

This bill permits a voter in the September primary and other partisan primaries to “split tickets”, designating the candidate of his or her choice for each

SENATE BILL 216

office regardless of party affiliation, including the offices of governor and lieutenant governor. The bill also allows a voter to vote for independent candidates for state offices in the September primary, in addition to party candidates. Under the bill, a voter may still vote for only one candidate for each office. The voting procedure at the general election and other partisan elections is unaffected by the bill.

The bill initially applies to voting at the 2000 September primary election.

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

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

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

5 **SECTION 2.** 5.15 (6) (b) of the statutes is amended to read:

6 5.15 **(6)** (b) No later than 60 days before each September primary and general
7 election, and no later than 30 days before each other election the governing body of
8 any municipality may by resolution combine 2 or more wards for voting purposes to
9 facilitate using a common polling place. Whenever wards are so combined, the
10 original ward numbers shall continue to be utilized for all official purposes. Except
11 as otherwise authorized under this paragraph, every municipality having a
12 population of 50,000 or more, or 35,000 or more after June 1, 1996, shall maintain
13 separate returns for each ward so combined. In municipalities having a population
14 of less than 50,000, or less than 35,000 after June 1, 1996, the governing body may
15 provide in the resolution that returns shall be maintained only for each group of
16 combined wards at any election. In municipalities having a population as shown in
17 the 1990 federal decennial census of at least 87,000 but not more than 150,000, the
18 governing body may provide in a resolution adopted prior to June 1, 1996 that groups
19 of not more than 2 wards shall use common ballot boxes and ballots or voting

SENATE BILL 216

1 machines and that returns shall be maintained only for each group of combined
2 wards at any election held prior to June 1, 1996. Whenever a governing body
3 provides for common ballot boxes and ballots or voting machines, separate returns
4 shall be maintained for each separate ballot required under ~~ss. 5.62 and s.~~ 5.64 at
5 the ~~September primary and~~ general election. The municipal clerk shall transmit a
6 copy of the resolution to the county clerk of each county in which the municipality
7 is contained. In municipalities having a population of less than 50,000, or less than
8 35,000 after June 1, 1996, the resolution shall remain in effect for each election until
9 modified or rescinded, or until a new division is made under this section.

10 **SECTION 3.** 5.35 (6) (a) of the statutes is renumbered 5.35 (6).

11 **SECTION 4.** 5.35 (6) (b) of the statutes is repealed.

12 **SECTION 5.** 5.37 (4) of the statutes is amended to read:

13 5.37 (4) Voting machines may be used at primary elections when they comply
14 with subs. (1) and (2) ~~and the following provisions: All candidates' names. Each~~
15 candidate's name entitled to appear on the ~~ballots~~ ballot at the primary ~~and the party~~
16 that he or she represents shall appear on the machine; ~~the elector cannot vote for~~
17 ~~candidates of more than one party, whenever the restriction applies, and an elector~~
18 ~~who votes for candidates of any party may not vote for independent candidates at the~~
19 ~~September primary; the elector may secretly select the party for which he or she~~
20 ~~wishes to vote, or the independent candidates in the case of the September primary;~~
21 ~~the.~~ The elector may vote for as many candidates for each office as he or she is
22 lawfully entitled to vote for, but no more.

23 **SECTION 6.** 5.51 (7) of the statutes is repealed.

24 **SECTION 7.** 5.62 (1) and (2) of the statutes are amended to read:

SENATE BILL 216

1 5.62 (1) (a) At September primaries, the following ballot shall be provided for
2 the nomination of candidates of recognized political parties for national, state and
3 county offices and independent candidates for state office in each ward, in the same
4 form as prescribed by the board under s. 7.08 (1) (a). The ballots shall be made up
5 of the several party tickets with each party entitled to participate in the primary
6 under par. (b) or sub. (2) having its own ballot column. The independent candidates
7 for state office other than district attorney shall have a separate ballot column for
8 all such candidates as under s. 5.64 (1) (e). ~~The ballots shall be secured together at~~
9 ~~the bottom.~~ The party ballot column of the party receiving the most votes for
10 president or governor at the last general election shall be ~~on top~~ first with the other
11 parties arranged in descending order based on their vote for president or governor
12 at the last general election. The ballots columns of parties qualifying under sub. (2)
13 shall be placed ~~after~~ to the right of the parties qualifying under par. (b), in the same
14 order in which the parties filed petitions with the board. The ballot column listing
15 the independent candidates shall be placed ~~at the bottom~~ last. At polling places
16 where voting machines are used, each party and the independent candidates shall
17 be represented in one or more separate columns or rows on the ballot. At polling
18 places where an electronic voting system is used other than an electronic voting
19 machine, each party and the independent candidates may be represented in separate
20 columns or rows on the ballot. Any elector at any September primary may vote for
21 any candidate for each office regardless of the political affiliation of the candidate.

22 (b) Every recognized political party listed on the official ballot at the last
23 gubernatorial election whose candidate for any statewide office received at least one
24 percent of the total votes cast for that office and, if the last general election was also
25 a presidential election, every recognized political party listed on the ballot at that

SENATE BILL 216

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

14 **(2)** Any political organization may be represented ~~on a separate primary ballot~~
15 ~~or~~ in one or more separate columns or rows on the September primary ballot as
16 prescribed in sub. (1) (a) and a separate column or row on the general election ballot
17 in every ward and election district if, not later than 5 p.m. on June 1 in the year of
18 a September primary, it files with the board a petition so requesting. To qualify for
19 a separate ~~ballot~~ column or row, the petition shall be signed by at least 10,000
20 electors, including at least 1,000 electors residing in each of at least 3 separate
21 congressional districts. The petition shall conform to the requirements of s. 8.40. No
22 signature obtained before January 1 in the year of filing is valid. When the
23 candidates of a political organization filing a valid petition fulfill the requirements
24 prescribed by law, they shall appear ~~on a separate ballot or~~ in one or more separate

SENATE BILL 216

1 columns or rows on the ballot for the period ending with the following general
2 election.

3 **SECTION 8.** 5.62 (3) and (5) of the statutes are amended to read:

4 5.62 (3) The board shall designate the official primary ballot arrangement for
5 statewide offices and district attorney within each prosecutorial district by using the
6 same procedure as provided in s. 5.60 (1) (b). On each ballot and on each separate
7 column or row on the ballot, the candidates for office shall be listed together with the
8 offices which they seek in the following order whenever these offices appear on the
9 September primary ballot: governor, lieutenant governor, attorney general,
10 secretary of state, state treasurer, U.S. senator, U.S. representative in congress,
11 state senator, representative to the assembly, district attorney and the county offices.
12 Below the names of the independent candidates shall appear the party or principle
13 of the candidates, if any, in 5 words or less, as shown on their nomination papers.

14 ~~(5) At the September primary, an elector may vote for the candidates of only~~
15 ~~one party, or the elector may vote for any of the independent candidates for state~~
16 ~~office listed; but the elector may not vote for more than one candidate for a single~~
17 ~~office.~~ A space shall be provided on the ballot for an elector to write in the name of
18 his or her choice as a party candidate for any office, but no space shall be provided
19 to write in the names of independent candidates.

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

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

22 5.84 (1) Where any municipality employs an electronic voting system which
23 utilizes automatic tabulating equipment, either at the polling place or at a central
24 counting location, the municipal clerk shall, on any day not more than 10 days prior
25 to the election day on which the equipment is to be utilized, have the equipment

SENATE BILL 216

1 tested to ascertain that it will correctly count the votes cast for all offices and on all
2 measures. Public notice of the time and place of the test shall be given by the clerk
3 at least 48 hours prior to the test by publication of a class 1 notice under ch. 985 in
4 one or more newspapers published within the municipality if a newspaper is
5 published therein, otherwise in a newspaper of general circulation therein. The test
6 shall be open to the public. The test shall be conducted by processing a preaudited
7 group of ballots so punched or marked as to record a predetermined number of valid
8 votes for each candidate and on each referendum. The test shall include for each
9 office one or more ballots which have votes in excess of the number allowed by law
10 and, ~~for a partisan primary election, one or more ballots which have votes cast for~~
11 ~~candidates of more than one recognized political party,~~ in order to test the ability of
12 the automatic tabulating equipment to reject such votes. If any error is detected, the
13 municipal clerk shall ascertain the cause and correct the error. The clerk shall make
14 an errorless count before the automatic tabulating equipment is approved by the
15 clerk for use in the election.

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

17 5.91 (1) It enables an elector to vote in secrecy ~~and to select the party or the~~
18 ~~independent candidates for whom an elector will vote in secrecy at a partisan~~
19 ~~primary election.~~

20 (3) ~~Except in primary elections, it~~ It enables an elector to vote for a ticket
21 selected in part from the nominees of one party, and in part from the nominees of
22 other parties, and in part from independent candidates and, except in the case of
23 independent candidates at primary elections, in part of candidates whose names are
24 written in by the elector.

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

SENATE BILL 216**SECTION 13**

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

2 **6.80 (2) (f)** In the presidential preference primary ~~and other partisan primary~~
3 ~~elections~~ at polling places where ballots are distributed to electors, unless the ballots
4 are utilized with an electronic voting system in which all candidates appear on the
5 same ballot, after the elector prepares his or her ballot the elector shall detach the
6 remaining ballots, fold the ballots to be discarded, fold the completed ballot unless
7 the ballot is intended for counting with automatic tabulating equipment, personally
8 deposit the ballots to be discarded in the separate ballot box marked “blank ballot
9 box”, and deposit the completed ballot in the ballot box indicated by the inspectors.
10 The inspectors shall keep the blank ballot box locked until the canvass is completed
11 and shall dispose of the blank ballots as prescribed by the municipal clerk.

12 **SECTION 14.** 6.87 (4) of the statutes is amended to read:

13 **6.87 (4)** Except as otherwise provided in s. 6.875, the elector voting absentee
14 shall either make and subscribe to the affidavit before a person authorized to
15 administer oaths or make and subscribe to the certification before 2 witnesses. The
16 absent elector, in the presence of the administrator of the oath or witnesses, shall
17 mark or punch the ballot in a manner that will not disclose how the elector’s vote is
18 cast. The elector shall then, still in the presence of the administrator of the oath or
19 the 2 witnesses, fold the ballots if they are paper ballots so each is separate and
20 conceals the markings or punches thereon and deposit them in the proper envelope,
21 but may receive assistance under sub. (5). The return envelope shall then be sealed.
22 The witnesses or the official oath administrator may not be a candidate. The
23 envelope shall be mailed by the elector, postage prepaid, or delivered in person, to the
24 municipal clerk issuing the ballot. ~~Failure to return an unused ballot in a primary~~
25 ~~does not invalidate the ballot on which the elector’s votes are cast. Return of more~~

SENATE BILL 216

1 ~~than one marked or punched ballot in a primary or return of a ballot used with an~~
2 ~~electronic voting system in a primary which is marked or punched for candidates of~~
3 ~~more than one party invalidates all votes cast by the elector for candidates in the~~
4 ~~primary.~~

5 **SECTION 15.** 7.08 (2) (b) of the statutes is amended to read:

6 7.08 (2) (b) The certified list of candidates for president and vice president who
7 have been nominated at a national convention by a party entitled to a separate
8 column or row on the September primary ballot or for whom electors have been
9 nominated under s. 8.20 shall be sent as soon as possible after the closing date for
10 filing nomination papers, but no later than the deadlines established in s. 10.06.

11 **SECTION 16.** 7.50 (1) (d) of the statutes is repealed.

12 **SECTION 17.** 7.50 (2) (g) of the statutes is amended to read:

13 7.50 (2) (g) In partisan primaries, if an elector writes in the name of an
14 individual ~~on a ballot~~ in a column or row other than the one on which that individual's
15 name is shown as a candidate, the write-in vote may not be counted.

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

17 8.16 (1) Except as provided in sub. (2), the person who receives the greatest
18 number of votes for an office ~~on a party ballot~~ at any partisan primary, regardless of
19 whether the person's name appears on the ballot, shall be the party's candidate for
20 the office, and the person's name shall so appear on the official ballot at the next
21 election. All independent candidates shall appear on the general election ballot
22 regardless of the number of votes received by such candidates at the September
23 primary.

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

SENATE BILL 216**SECTION 18**

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

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

10 **SECTION 19.** 8.17 (1) (a) of the statutes is amended to read:

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

SENATE BILL 216

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

4 **SECTION 20.** 8.20 (9) of the statutes is amended to read:

5 8.20 **(9)** Persons nominated by nomination papers without a recognized
6 political party designation shall be placed on the official ballot at the general election
7 and at any partisan election to the right or below the recognized political party
8 candidates in their own column or row designated “Independent”. At the September
9 primary, persons nominated for state office by nomination papers without a
10 recognized political party designation shall be placed on a separate ~~ballot~~ column or
11 or row on the ~~voting machine~~ ballot designated “Independent”. If the candidate’s
12 name already appears under a recognized political party it may not be listed on the
13 independent ~~ballot~~, column or row.

14 **SECTION 21.** 8.50 (3) (b) of the statutes is amended to read:

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

SENATE BILL 216**SECTION 21**

1 office where no candidate is certified to appear on the ballot, a space for write-in
2 votes shall be provided on the ballot, regardless of whether a special primary is held.

3 **SECTION 22.** 8.50 (3) (c) of the statutes is repealed.

4 **SECTION 23.** 9.10 (3) (e) of the statutes is amended to read:

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

13 **SECTION 24.** 10.02 (3) (b) 2. and 2m. of the statutes are amended to read:

14 10.02 (3) (b) 2. At a special partisan primary, the elector shall select the party
15 ballot candidate of his or her choice for each office and shall make a cross (X) in the
16 square at the right of or depress the lever or button next to the candidate's name for
17 each office for whom the elector intends to vote, or shall insert or write in the name
18 of the elector's choice for a candidate.

19 2m. At the September primary, the elector shall select the ~~party ballot~~
20 candidate of his or her choice ~~or the ballot containing the names of the independent~~
21 ~~candidates for state~~ each office, and make a cross (X) in the square at the right of or
22 depress the lever or button next to the candidate's name for each office for whom the
23 elector intends to vote or insert or write in the name of the elector's choice for a party
24 candidate, if any. In order to qualify for participation in the Wisconsin election
25 campaign fund, a candidate for state office at the September primary, other than a

SENATE BILL 216

1 candidate for district attorney, must receive at least 6% of all votes cast on all ballots
2 for the office for which he or she is a candidate, in addition to other requirements.

3 **SECTION 25.** 11.31 (3m) of the statutes is amended to read:

4 11.31 (3m) UNOPPOSED CANDIDATES; EXCEPTION. Notwithstanding subs. (1) and
5 (2), if all candidates for state senator or representative to the assembly in a
6 legislative district who are certified under s. 7.08 (2) (a) to appear in the columns or
7 rows on the September primary ballot of all parties recognized under s. 5.62 (1) (b)
8 or (2) have no opponent who is certified to appear on the same primary ballot, or if
9 no primary is required for all candidates of parties recognized under s. 5.62 (1) (b)
10 or (2) for state senator or representative to the assembly in a legislative district who
11 are certified under s. 8.50 (1) (d) to appear on a special partisan election ballot, then
12 the separate limitation specified in sub. (1) for disbursements during the primary
13 and election period does not apply to candidates for that office in that primary and
14 election, and the candidates are bound only by the total limitations specified for the
15 primary and election.

16 **SECTION 26.** 15.61 of the statutes is amended to read:

17 **15.61 Elections board; creation.** There is created an elections board
18 consisting of persons who shall be appointed by the governor for 2-year terms as
19 follows: one member selected by the governor; one member each designated by the
20 chief justice of the supreme court, the speaker of the assembly, the senate majority
21 leader, the minority leader in each house of the legislature, and the chief officer of
22 each political party qualifying for a separate column or row on the September
23 primary ballot under s. 5.62 (1) (b) or (2) whose candidate for governor received at
24 least 10% of the vote in the most recent gubernatorial election.

25 **SECTION 27. Initial applicability.**

