

**2003 DRAFTING REQUEST**

**Bill**

Received: **09/20/2002**

Received By: **jkuesel**

Wanted: **As time permits**

Identical to LRB:

For: **Robert Ziegelbauer (608) 266-0315**

By/Representing: **Tom Kelly**

This file may be shown to any legislator: **NO**

Drafter: **jkuesel**

May Contact:

Addl. Drafters:

Subject: **Elections - miscellaneous**

Extra Copies:

Submit via email: **YES**

Requester's email: **Rep.Ziegelbauer@legis.state.wi.us**

Carbon copy (CC:) to:

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**Pre Topic:**

No specific pre topic given

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**Topic:**

Split ticket voting in primaries authorized

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**Instructions:**

Per 1999 SB-216.

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**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	jkuesel 09/21/2002	kgilfoy 10/14/2002		_____			
/1			jfrantze 10/15/2002	_____	lemery 10/15/2002	mbarman 02/03/2003	

FE Sent For:



*None  
Needed*

<END>

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per U-mail message from Tom Kelly

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FE Sent For:

*J* 10/15 *Jell* 10/15  
 <END>

JTK

# Bill Request Form

**Legislative Reference Bureau**  
100 N. Hamilton Street  
Legal Section 266-3561

*Use of this form is optional. It is often better to talk directly with the LRB attorney who will draft the bill. Use this form only for bill draft requests. Attach more pages if necessary.*

Date 9-20-02

Legislator, agency, or other person requesting this draft Rep. Ziegelbauer

Person submitting request (name and phone number) Tom Kelly (266-0315)

Persons to contact for questions about this draft (names and phone numbers) Bob Ziegelbauer (1-920-684-6783), Luanne Kostelic (266-0315), or Tom Kelly

Describe the problem, including any helpful examples. How do you want to solve the problem?

Rep. Ziegelbauer would like to reintroduce  
1999 SB 216 (1999 LRB 368/3)  
in the 2003-04 Legislative Session.

Please attach a copy of any correspondence or other material that may help us. If you know of any statute sections that might be affected, list them or provide a marked-up copy.

You may attach a marked-up copy of any LRB draft or provide its number (e.g., 1999 LRB-2345/1 or 1997 AB-67). 1999 SB 216

Requests are confidential unless stated otherwise. May we tell others that we are working on this for you? YES  NO

If yes: Anyone who asks? YES NO  
Any legislator? YES NO

Only the following persons \_\_\_\_\_

Do you wish to receive a copy of this draft via e-mail? YES  NO

Do you consider this request urgent? YES  NO  If yes, please indicate why \_\_\_\_\_

Should we give this request priority over any pending request of this legislator, agency, or person? YES  NO

NOTE

2003  
1999 - 2000 LEGISLATURE

- 01771

LRB-0368/S

JTK:km

King

Inq-21

### 1999 SENATE BILL 216

August 10, 1999 - Introduced by Senators ~~RISSE, RUDE and HUELSMAN~~, cosponsored by Representatives ZIEGELBAUER, KELSO, BERCEAU, GRONEMUS, SCHOFF, HASENOHRL, CARPENTER, PORTER, WASSERMAN, GUNDERSON, MUSSEY, RYBA and STASKUNAS. Referred to Committee on Economic Development, Housing and Government Operations.

LPS: *Proof amended stats. w/FOLIO.*  
*(regenerate)*

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

one or more

for state or county offices

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.

one or more

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

2004

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

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

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

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

5.15 (6) (b) No later than 60 days before each September primary and general election, and no later than 30 days before each other election the governing body of any municipality may by resolution combine 2 or more wards for voting purposes to facilitate using a common polling place. Whenever wards are so combined, the original ward numbers shall continue to be utilized for all official purposes. Except as otherwise authorized under this paragraph, every municipality having a

population of ~~50,000 or more~~ or 35,000 or more after June 1, ~~1996~~ shall maintain separate returns for each ward so combined. In municipalities having a population

of ~~less than 50,000~~ or less than 35,000 after June 1, ~~1996~~, the governing body may provide in the resolution that returns shall be maintained only for each group of

combined wards at any election. In municipalities having a population as shown in the 1990 federal decennial census of at least 87,000 but not more than 150,000, the governing body may provide in a resolution adopted prior to June 1, 1996 that groups 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 30,000  
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:

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SECTION 7

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), <sup>except as authorized in s.</sup> The ballots shall be made up <sup>s. 5.655</sup>  
 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 <sup>or row</sup> ballot column, <sup>except as authorized in s.</sup> The independent candidates <sup>s. 5.655</sup>  
 7 for state office other than district attorney shall have a separate ballot column <sup>or row</sup> for  
 8 all such candidates as under s. 5.64 (1) (e), <sup>except as authorized in s. 5.655</sup> The ballots shall be secured together at  
 9 the bottom. The party ballot column <sup>or row</sup> 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 <sup>or rows</sup> of parties qualifying under sub. (2)  
 13 shall be placed <sup>or below</sup> 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. <sup>Any ballot required under par. (b) 2. shall be placed next in order.</sup> The ballot column <sup>or row</sup> 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 1. <sup>Except as provided in subd. 2 and s. 5.64 (1) (e) 2., every</sup>  
 23 (b) ~~Every~~ recognized political party listed on the official ballot at the last  
 24 gubernatorial election whose candidate for any statewide office received at least <sup>1 1/8</sup> ~~one~~  
 25 percent of the total votes cast for that office and, if the last general election was also  
 a presidential election, every recognized political party listed on the ballot at that

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1 election whose candidate for president received at least ~~one percent~~ <sup>1%</sup> 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~~ <sup>subdivision</sup> 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 *FW S 5-13*  
 14 ~~(2)~~ <sup>Except as provided in par. (b) and s. 5.64 (1)(e)2,</sup> any  
 15 ~~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) <sup>in</sup> 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~~ <sup>under this paragraph</sup> shall be signed by at least 10,000 <sup>not later than 5</sup>  
 20 electors, including at least 1,000 electors residing in each of at least 3 separate <sup>on</sup> <sup>P.m.</sup>  
 21 congressional districts. The petition shall conform to the requirements of s. 8.40. No <sup>June 1</sup>  
 22 signature obtained before January 1 in the year of filing is valid. When the <sup>in the</sup>  
 23 candidates of a political organization filing a valid petition fulfill the requirements <sup>year of the</sup>  
 24 prescribed by law, they shall appear ~~on a separate ballot~~ or in one or more separate <sup>September</sup>  
<sup>primary,</sup>  
<sup>file with</sup>  
<sup>the board</sup>  
<sup>a petition</sup>  
<sup>requesting</sup>  
<sup>separate</sup>  
<sup>ballot status.</sup>  
<sup>The petition</sup>  
<sup>shall be</sup>

SENATE BILL 216

SECTION 7

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 ~~including a party candidate of a party whose name appears on the ballot,~~  
19 ~~his or her choice as a party candidate for any office, but no space shall be provided~~  
20 ~~to write in the names of independent candidates.~~

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

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

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

PWS  
6-23

PWS  
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column  
or  
row  
designated  
for  
independent  
candidates  
as provided in  
sub.  
(1)(b)  
or  
(2)(b)

## 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 ~~hand~~ 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.

JWS  
7-25

SENATE BILL 216

SECTION 13

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

6.80 (2) (f) In the presidential preference primary ~~and other partisan primary~~ elections at polling places where ballots are distributed to electors, unless the ballots are <sup>prepared under s. 5.655 or are</sup> utilized with an electronic voting system in which all candidates appear on the same ballot, after the elector prepares his or her ballot the elector shall detach the remaining ballots, fold the ballots to be discarded, <sup>and</sup> fold the completed ballot unless the ballot is intended for counting with automatic tabulating equipment, personally deposit the ballots to be discarded <sup>into</sup> the separate ballot box marked "blank ballot box", and deposit the completed ballot <sup>into</sup> the ballot box indicated by the inspectors. The inspectors shall keep the blank ballot box locked until the canvass is completed and shall dispose of the blank ballots as prescribed by the municipal clerk.

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

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

*inspector who shall deposit the ballots directly into the appropriate ballot boxes*

*INS 8-13*

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## 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 candidatc 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 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 as provided under sub. (5) (b) 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 *or, if a consolidated paper ballot under s. 5.655(2), an electronic voting system*  
12 ~~on the voting machine ballot~~ designated "Independent". If the candidate's  
13 name already appears under a recognized political party it may not be listed on the  
14 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~~ <sup>next to</sup> 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~~ <sup>next to</sup> 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.

JWS  
13-2  
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.

JWS  
13-15  
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.

SENATE BILL 216

2004

(1) This act first applies with respect to voting at the ~~2003~~ September primary election.

1  
2

FW 3  
14-2

(END)

ANS 5-13

~~Section #. 5.62 (1) (b) 2. of the statutes is amended to read:~~

~~5.62 (1) (b)~~ 2. Subdivision 1. applies to a party within any assembly district or county at any September primary election only if at least one candidate of the party for any national, state or county office qualifies to have his or her name appear on the ballot under the name of that party within that assembly district or county. The county clerk or county board of election commissioners shall provide ~~a combined separate ballot or~~ one or more separate columns or rows on the ballot that will permit an elector to cast a vote for a write-in candidate for the nomination of any such party for each national, state and county office whenever that party qualifies to be represented ~~on a separate primary ballot or~~ in one or more separate columns or rows under subd. 1. but does not qualify under this subdivision. The ballot shall include the name of each party qualifying for ~~a separate ballot or~~ one or more separate columns or rows on the ballot under each office, with the names of the candidates for each such party appearing in the same order in which the ~~ballots~~ <sup>columns or rows</sup> of the parties would appear under par. (a).

History: 1971 c. 304 ss. 12, 29 (2); 1971 c. 336; 1973 c. 334 s. 57; 1975 c. 93; 1977 c. 107, 427; 1979 c. 260, 311, 328; 1981 c. 377; 1983 a. 484; 1985 a. 304; 1987 a. 391; 1989 a. 31, 192; 1991 a. 316; 1993 a. 184; 1999 a. 182.

FWS 6-2

Section #. 5.62 (2) (b) of the statutes is amended to read:

5.62 (2) (b) Paragraph (a) applies to a party within any assembly district or county at any September primary election only if at least one candidate of the party for any national, state or county office qualifies to have his or her name appear on the ballot under the name of that party within that assembly district or county. The county clerk or county board of election commissioners shall provide ~~a combined separate ballot or~~ one or more separate columns or rows on the ballot that will permit an elector to cast a vote for a write-in candidate for the nomination of any such party for each national, state and county office whenever that party qualifies to be represented ~~on a separate primary ballot or~~ in one or more separate columns or rows under par. (a) but does not qualify under this paragraph. The ballot shall include the name of each party qualifying for ~~a separate ballot or~~ one or more separate columns or rows on the ballot under each office, with the names of the candidates for each such party appearing in the same order in which the ~~ballots~~ <sup>columns or rows</sup> of the parties would appear under sub. (1) (a).

History: 1971 c. 304 ss. 12, 29 (2); 1971 c. 336; 1973 c. 334 s. 57; 1975 c. 93; 1977 c. 107, 427; 1979 c. 260, 311, 328; 1981 c. 377; 1983 a. 484; 1985 a. 304; 1987 a. 391; 1989 a. 31, 192; 1991 a. 316; 1993 a. 184; 1999 a. 182.

(JWS 6-19)

Section #. 5.655 (1) of the statutes is amended to read:

5.655 (1) Whenever a separate ballot is required to be used, a municipality may use a single ballot to facilitate the use of voting machines or an electronic voting system or, if the municipality employs paper ballots, may use a consolidated paper ballot that is authorized under sub. (2). If a municipality uses a single ballot in lieu of separate ballots, the ballot shall include a separate column or row for any office, <sup>or</sup> referendum ~~or party~~ for which a separate ballot is required by law and the ballot shall be distributed only to electors who are eligible to vote for all of the offices and referenda appearing on the ballot.

~~History: 1999 a. 182.~~

IWS 7-25

Section #. 6.80 (2) (am) of the statutes is amended to read:

6.80 (2) (am) In partisan primaries, an elector may vote for a person as the candidate of the party of the elector's choice, if that person's name does not appear on the official ballot ~~of that party~~, by writing in the name of the person in the space provided on the ballot or the ballot provided for that purpose, or where voting machines are used, in the irregular ballot device, designating the party for which the elector desires such person to be the nominee.

History: 1977 c. 427 ss. 40, 41, 132; 1979 c. 311; 1981 c. 377, 391; 1983 a. 484 ss. 45m, 172 (3); 1985 a. 304; 1991 a. 316; 1999 a. 182.

FWS 8-13

Section #. 6.87 (4) of the statutes

6.87 (4) Except as otherwise provided in s. 6.875, the elector voting absentee shall make and subscribe to the certification before one witness. The absent elector, in the presence of the witness, shall mark the ballot in a manner that will not disclose how the elector's vote is cast. The elector shall then, still in the presence of the witness, fold the ballots if they are paper ballots so each is separate and so that the elector conceals the markings thereon and deposit them in the proper envelope. If a consolidated ballot under s. 5.655 is used, the elector shall fold the ballot if it is a paper ballot so that the elector conceals the markings thereon and deposit the ballot in the proper envelope. The elector may receive assistance under sub. (5). The return envelope shall then be sealed. The witness may not be a candidate. The envelope shall be mailed by the elector, postage prepaid, or delivered in person, to the municipal clerk issuing the ballot or ballots. ~~Failure to return an unused ballot in a primary does not invalidate the ballot on which the elector's votes are cast. Return of more than one marked ballot in a primary or return of a ballot prepared under s. 5.655 or a ballot used with an electronic voting system in a primary which is marked for candidates of more than one party invalidates all votes cast by the elector for candidates in the primary.~~

History: 1971 c. 242; 1971 c. 304 s. 29 (1), (2); 1975 c. 85; 1975 c. 93 s. 119 (2); 1975 c. 199; 1977 c. 394; 1979 c. 252, 260, 311, 355; 1983 a. 36, 484, 538; 1985 a. 304; 1991 a. 316; 1999 a. 49, 182; 2001 a. 16, 38, 109.

Section #. 11.06 (7m) (a) of the statutes, as affected by 2001 Wisconsin Act 109, is amended to read:

11.06 (7m) (a) If a committee which was registered under s. 11.05 as a political party committee or legislative campaign committee supporting candidates of a political party files an oath under sub. (7) affirming that it does not act in cooperation or consultation with any candidate who is nominated to appear on the party ballot of the party at a general or special election, that the committee does not act in concert with, or at the request or suggestion of, such a candidate, that the committee does not act in cooperation or consultation with such a candidate or agent or authorized committee of such a candidate who benefits from a disbursement made in opposition to another candidate, and that the committee does not act in concert with, or at the request or suggestion of, such a candidate or agent or authorized committee of such a candidate who benefits from a disbursement made in opposition to another candidate, the committee filing the oath may not make any contributions in support of any candidate of the party at the general or special election or in opposition to any such candidate's opponents exceeding the amounts specified in s. 11.26 (2), except as authorized in par. (c).

NOTE: Par. (a) is amended eff. 7-1-03 by 2001 Wis. Act 109 to read:

(a) If a committee which was registered under s. 11.05 as a political party committee supporting candidates of a political party files an oath under sub. (7) affirming that it does not act in cooperation or consultation with any candidate who is nominated to appear on the party ballot in the column or row of the party at a general or special election, that the committee does not act in concert with, or at the request or suggestion of, such a candidate, that the committee does not act in cooperation or consultation with such a candidate or agent or authorized committee of such a candidate who benefits from a disbursement made in opposition to another candidate, and that the committee does not act in concert with, or at the request or suggestion of, such a candidate or agent or authorized committee of such a candidate who benefits from a disbursement made in opposition to another candidate, the committee filing the oath may not make any contributions in support of any candidate of the party at the general or special election or in opposition to any such candidate's opponents exceeding the applicable amounts specified in s. 11.26 (2) and (2m), except as authorized in par. (c).

File Font

History: 1973 c. 334; 1975 c. 93 ss. 47 to 53, 119 (2); 1975 c. 199; 1979 c. 263, 328; 1985 a. 303; 1987 a. 370; 1989 a. 192; 1995 a. 16 s. 2; 2001 a. 109.

WS 13-15

2.  
Section #. 11.50 (1) (am) of the statutes is amended to read: as created by 2001 Wisconsin Act 109,

11.50 (1) (am) "~~Eligible political party~~" means any of the following.

1. A party qualifying under s. 5.62 (1) (b) for a separate ballot or one or more separate columns or rows on a ballot for the period beginning on the date of the preceding general election and ending on the day before the general election that follows that election.

2. A party qualifying under s. 5.62 (2) for a separate ballot or one or more separate columns or rows on a ballot for the period beginning on the preceding June 1, or if that June 1 is in an odd-numbered year, the period beginning on June 1 of the preceding even-numbered year, and ending on May 31 of the 2nd year following that June 1.

NOTE: Par. (am) is created eff. 7-1-03 by 2001 Wis. Act 109.

History: 1977 c. 107, 272; 1979 c. 328, 1983 a. 51, 1983 a. 484 s. 174; 1985 a. 303 ss. 73 to 79, 86; 1987 a. 370, 391, 403; 1989 a. 31, 1989 a. 192 s. 75; 2001 a. 109.

2003

*DNS 14-2*

**FFF**

LRB -            /    /     
*JTK* :            :           

Nonstat File Sequence:

**EFFECTIVE DATE**

1. In the component bar: For the action phrase, execute: ... **create** → **action:** → \*NS: → **effdate**  
For the text, execute: ..... **create** → **text:** → \*NS: → **effdateA**
2. Nonstatutory subunits are numbered automatically. Fill in the SECTION # or subsection # only if a "frozen" number is needed.

**SECTION #**        . **Effective date.**

( #1 ) (    ) ..... This act takes effect on .....

1. In the component bar: For the action phrase, execute: .. **create** → **action:** → \*NS: → **effdateE**  
For the text, execute: ..... **create** → **text:** → \*NS: → **effdate**
2. Nonstatutory subunits are numbered automatically. Fill in the SECTION # or subsection # only if a "frozen" number is needed.

**SECTION #**        . **Effective dates**

..... This act takes effect on the day after publication, except as follows:

( #1 ) (    ) ..... The treatment of sections *11.06(7m)(a) and 11.50(1)(am) 2.*

of the statutes takes effect on *July 1, 2003, or on the day after publication, whichever is later.*

1. In the component bar: For the budget action phrase, execute: .. **create** → **action:** → \*NS: → **94XX**  
For the text, execute: ..... **create** → **text:** → \*NS: → **effdate**
2. Nonstatutory subunits are numbered automatically. Fill in the SECTION # or subsection # only if a "frozen" number is needed. Below, for the budget, fill in the 9400 department code.

**SECTION 94**

**Effective dates;** .....

( #1 ) (    ) ..... The treatment of sections ..... of the statutes takes effect on .....

DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

0177/1 dm  
LRB-0170/1dm  
JTK.....

IS

In *California Democratic Party v. Jones*, 120 S. Ct. 2402, 2414 (2000), the U.S. Supreme Court held that a state may not constitutionally require a political party to accept the result of a "blanket primary" as proposed in this draft, to nominate the party's candidates for office because this burdens the party's First Amendment right to freedom of association by permitting nonadherents of the party to determine the party's candidates for office. If this proposal becomes law, it is possible that Wisconsin parties would nevertheless acquiesce in a "blanket primary" procedure, but there would be no legal remedy should they choose not to do so.

Jeffery T. Kuesel  
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Phone: (608) 266-6778

**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-0177/1dn  
JTK:kmg:jf

October 15, 2002

In *California Democratic Party v. Jones*, 120 S. Ct. 2402, 2414 (2000), the U.S. Supreme Court held that a state may not constitutionally require a political party to accept the result of a "blanket primary," as proposed in this draft, to nominate the party's candidates for office because this burdens the party's First Amendment right to freedom of association by permitting nonadherents of the party to determine the party's candidates for office. If this proposal becomes law, it is possible that Wisconsin parties would nevertheless acquiesce in a "blanket primary" procedure, but there would be no legal remedy should they choose not to do so.

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