



2005 ASSEMBLY BILL 196

March 10, 2005 - Introduced by Representatives FREESE, AINSWORTH, HAHN, HINES, KERKMAN, OTT, PETROWSKI, PRIDEMORE, STRACHOTA, TOWNSEND, VAN ROY and VOS, cosponsored by Senators REYNOLDS, GROTHMAN and OLSEN. Referred to Committee on Campaigns and Elections.

1 **AN ACT to amend** 7.15 (2) (a), 7.51 (2) (e), 7.51 (2) (g), 7.51 (4) (a), 7.53 (1), 7.53
2 (2) (d), 7.53 (3) (a), 7.60 (4) (a), 7.60 (4) (b), 7.60 (4) (c), 7.70 (3) (f), 7.70 (3) (g),
3 8.05 (5), 8.11 (1) (b) and (d), (2), (2m) and (5), 8.185 (2), 8.21, 117.22 (2) (d),
4 120.06 (6) (b) 2., 120.06 (6) (b) 3., 120.06 (7) (a) and 120.06 (7) (b); and **to create**
5 5.02 (26), 7.08 (9), 7.10 (5), 7.15 (1) (L) and 120.06 (8) (dm) of the statutes;
6 **relating to:** filing of declarations of candidacy and recording of votes received
7 by write-in candidates in certain elections.

Analysis by the Legislative Reference Bureau

Currently, the name of each person who receives a vote at an election is recorded on the returns for that election. When a county or state canvass of an election is performed, the names of write-in candidates who receive a comparatively small number of votes may be omitted and their votes designated on the returns as "scattering votes."

This bill permits any write-in candidate to file a declaration of candidacy with the appropriate filing officer or agency, in the same form as is currently provided for other candidates, no later than 5 p.m. on the 7th day before a primary or other election at which the candidate seeks office. The bill prohibits the name of any write-in candidate from being recorded on the returns for any election unless the candidate has filed a timely declaration of candidacy for the office for which the

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candidate receives votes. The procedure does not apply if a write-in candidate seeks an office for which there are no candidates whose names appear on the ballot or if there appears on the ballot the name of a deceased candidate for the office that the write-in candidate seeks.

Currently, the deadline for write-in candidates for the offices of president and vice president of the United States to file a declaration of candidacy and a list of presidential electors is the second Tuesday preceding the date of the general election. Current law permits the Elections Board to waive compliance with this deadline if it appears that a write-in candidate for the office of president of the United States has won sufficient votes to win this state's electoral votes. This bill permits the declaration and list of electors to be filed no later than 5 p.m. on the 7th day before the general election and deletes authorization to waive compliance with the filing deadline.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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

1 **SECTION 1.** 5.02 (26) of the statutes is created to read:

2 5.02 (26) "Write-in candidate" means a candidate who seeks or receives votes
3 at an election for an office without qualifying to have his or her name appear on the
4 ballot at that election for the office for which the candidate seeks or receives votes.

5 **SECTION 2.** 7.08 (9) of the statutes is created to read:

6 7.08 (9) NOTICE OF WRITE-IN CANDIDATES. Whenever a write-in candidate files
7 a timely declaration of candidacy with the board under s. 8.21, the board shall
8 immediately notify the county clerk or board of election commissioners of each
9 county where the write-in candidate seeks office of the name of the candidate and
10 the office that the candidate seeks. This subsection does not apply if the write-in
11 candidate seeks an office for which there are no candidates whose names appear on
12 the ballot or if there appears on the ballot the name of a deceased candidate for the
13 office that the write-in candidate seeks.

14 **SECTION 3.** 7.10 (5) of the statutes is created to read:

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1 7.10 (5) NOTICE OF WRITE-IN CANDIDATES. Whenever a write-in candidate files
2 a timely declaration of candidacy with the county clerk under s. 8.21, or the clerk
3 receives notice from the board under s. 7.08 (9) that a write-in candidate seeks office
4 in the county, the clerk shall immediately notify the municipal clerk or board of
5 election commissioners of each municipality in the county where the write-in
6 candidate seeks office of the name of the candidate and the office that the candidate
7 seeks. This subsection does not apply if the write-in candidate seeks an office for
8 which there are no candidates whose names appear on the ballot or if there appears
9 on the ballot the name of a deceased candidate for the office that the write-in
10 candidate seeks.

11 **SECTION 4.** 7.15 (1) (L) of the statutes is created to read:

12 7.15 (1) (L) Whenever a write-in candidate files a timely declaration of
13 candidacy with the municipal clerk under s. 8.21, or the clerk receives notice from
14 the county clerk under s. 7.10 (5) or a school district clerk under s. 120.06 (8) (dm)
15 that a write-in candidate seeks office in the municipality, notify the inspectors at
16 each polling place in the municipality where the write-in candidate seeks office of
17 the name of the candidate and the office that the candidate seeks no later than 8 p.m.
18 on election day. This paragraph does not apply if the write-in candidate seeks an
19 office for which there are no candidates whose names appear on the ballot or if there
20 appears on the ballot the name of a deceased candidate for the office that the write-in
21 candidate seeks.

22 **SECTION 5.** 7.15 (2) (a) of the statutes is amended to read:

23 7.15 (2) (a) In municipal elections, the municipal clerks shall perform the
24 duties prescribed for county clerks by under s. 7.10 (1) to (4) and (6).

25 **SECTION 6.** 7.51 (2) (e) of the statutes is amended to read:

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1 7.51 (2) (e) If, after any ballots have been laid aside, the number of ballots still
2 exceeds the total number of electors recorded on the poll list, the inspectors shall
3 separate the absentee ballots from the other ballots. If there is an excess number of
4 absentee ballots, the inspectors shall place the absentee ballots in the ballot box and
5 one of the inspectors shall publicly and without examination draw therefrom by
6 chance the number of ballots equal to the excess number of absentee ballots. If there
7 is an excess number of other ballots, the inspectors shall place those ballots in the
8 ballot box and one of the inspectors shall publicly and without examination draw
9 therefrom by chance the number of ballots equal to the excess number of those
10 ballots. All ballots so removed may not be counted but shall be specially marked as
11 having been removed by the inspectors on original canvass due to an excess number
12 of ballots, set aside and preserved. When the number of ballots and total shown on
13 the poll list agree, the inspectors shall return all ballots to be counted to the ballot
14 box and shall turn the ballot box in such manner as to thoroughly mix the ballots.
15 The inspectors shall then open, count and record the number of votes. In recording
16 the votes cast for an office, the inspectors may indicate votes cast for a write-in
17 candidate who did not file a timely declaration of candidacy under s. 8.21 for that
18 office as scattering votes, unless there are no candidates whose names appear on the
19 ballot for that office or unless there appears on the ballot the name of a deceased
20 candidate for that office. When the ballots are counted, the inspectors shall separate
21 them into piles for ballots similarly voted. Objections may be made to placement of
22 ballots in the piles at the time the separation is made.

23 **SECTION 7.** 7.51 (2) (g) of the statutes is amended to read:

24 7.51 (2) (g) Immediately after the polls close, where voting machines are used,
25 the inspectors shall open the registering or recording compartments or remove the

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1 record of the votes cast and shall canvass, record, announce and return on the tally
2 sheets and certificates furnished. In recording the votes cast for an office, the
3 inspectors may indicate votes cast for a write-in candidate who did not file a timely
4 declaration of candidacy under s. 8.21 for that office as scattering votes, unless there
5 are no candidates whose names appear on the ballot for that office or unless there
6 appears on the ballot the name of a deceased candidate for that office. In recording
7 the votes registered on any counter which, before the opening of the polls, did not
8 register 000, the inspectors shall upon the return sheets subtract the number
9 registered before the polls opened from the number registered when the polls closed.
10 The difference between the 2 numbers is the correct vote for the candidate whose
11 name was represented by the counter, except if the number registered on the counter
12 when the polls closed is smaller than the number registered thereon when the polls
13 opened, the number 1,000 shall be added to the number registered when the polls
14 closed, before the subtraction is made.

15 **SECTION 8.** 7.51 (4) (a) of the statutes is amended to read:

16 7.51 (4) (a) The tally sheets shall state the total number of votes cast for each
17 office and for each individual receiving votes for that office, ~~whether or not the~~
18 ~~individual's name appears on the ballot, and shall~~ but not including any individual
19 who receives only write-in votes for an office and who has not filed a timely
20 declaration of candidacy under s. 8.21 for that office, except that an individual who
21 receives only write-in votes for an office shall be included if there are no candidates
22 whose names appear on the ballot for that office or if there appears on the ballot the
23 name of a deceased candidate for that office. The tally sheets shall also state the vote
24 for and against each proposition voted on. Upon completion of the tally sheets, the
25 inspectors shall immediately complete inspectors' statements in duplicate. The

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1 inspectors shall state the excess, if any, by which the number of ballots exceeds the
2 number of electors voting as shown by the poll list and shall state the number of the
3 last elector as shown by the poll lists. At least 3 inspectors, including the chief
4 inspector and, unless election officials are appointed under s. 7.30 (4) (c) without
5 regard to party affiliation, at least one inspector representing each political party,
6 shall then certify to the correctness of the statements and tally sheets and sign their
7 names. All other election officials assisting with the tally shall also certify to the
8 correctness of the tally sheets. When the tally is complete, the inspectors shall
9 publicly announce the results from the statements.

10 **SECTION 9.** 7.53 (1) of the statutes is amended to read:

11 7.53 (1) MUNICIPALITIES WITH ONE POLLING PLACE. Where the municipality
12 constitutes one ward or combines all wards to utilize a single polling place under s.
13 5.15 (6) (b), the canvass shall be conducted publicly under s. 7.51 and the inspectors
14 shall act as the municipal board of canvassers. Upon completion of the canvass and
15 ascertainment of the results by the inspectors, the clerk shall publicly read the
16 names of the persons voted for and the number of votes for each person for each
17 municipal office, but not including any person who receives only write-in votes for
18 an office and who has not filed a timely declaration of candidacy under s. 8.21 for that
19 office, except that a person who receives only write-in votes for an office shall be
20 included if there are no candidates whose names appear on the ballot for that office
21 or if there appears on the ballot the name of a deceased candidate for that office. The
22 clerk shall also publicly read the names of the persons declared by the inspectors to
23 have won nomination or election to each municipal office and the number of votes
24 cast for and against each municipal referendum question.

25 **SECTION 10.** 7.53 (2) (d) of the statutes is amended to read:

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1 7.53 (2) (d) The municipal board of canvassers shall publicly canvass the
2 returns of every municipal election. The canvass shall begin within 24 hours after
3 the polls close. At the spring election, the board of canvassers shall publicly declare
4 the results on or before the 2nd Tuesday in April. The board of canvassers shall
5 prepare a statement showing the results of each election for any municipal office and
6 each municipal referendum. After each primary for municipal offices, the board of
7 canvassers shall prepare a statement certifying the names of those persons who have
8 won nomination to office. After each other election for a municipal office and each
9 municipal referendum, the board of canvassers shall prepare a determination
10 showing the names of the persons who are elected to each municipal office and the
11 results of each municipal referendum. The statement or determination shall include
12 the number of votes cast for each person for each municipal office, but not including
13 any person who receives only write-in votes for an office and who has not filed a
14 timely declaration of candidacy under s. 8.21 for that office, except that a person who
15 receives only write-in votes for an office shall be included if there are no candidates
16 whose names appear on the ballot for that office or if there appears on the ballot the
17 name of a deceased candidate for that office. The board of canvassers shall not certify
18 or determine that a write-in candidate has won nomination or election whenever
19 votes are not permitted to be recorded for that candidate. Each determination in a
20 question submitted by a municipality shall also include the number of votes cast for
21 and against the question. The board of canvassers shall file each statement and
22 determination in the office of the municipal clerk or board of election commissioners.

23 **SECTION 11.** 7.53 (3) (a) of the statutes is amended to read:

24 7.53 (3) (a) In a common, union high or unified school district, the school district
25 clerk shall appoint 2 qualified electors of the school district prior to the date of the

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1 election being canvassed who shall, with the school district clerk, constitute the
2 school district board of canvassers. If the school district clerk is a candidate at the
3 election being canvassed, the other 2 members of the board of canvassers shall
4 designate a 3rd member to serve in lieu of the clerk for that election. The school
5 district clerk shall appoint a member to fill any other temporary vacancy on the board
6 of canvassers. The canvass shall begin as soon as possible after receipt of the returns,
7 and shall continue, without adjournment, until completed. The board of canvassers
8 may return defective returns to the municipal board of canvassers in the manner
9 provided in s. 7.60 (3). The board of canvassers shall prepare a written statement
10 showing the numbers of votes cast for each person for each office and, but not
11 including any person who receives only write-in votes for an office and who has not
12 filed a timely declaration of candidacy under s. 8.21 for that office, except that a
13 person who receives only write-in votes for an office shall be included if there are no
14 candidates whose names appear on the ballot for that office or if there appears on the
15 ballot the name of a deceased candidate for that office. The board of canvassers shall
16 not certify or determine that a write-in candidate has won nomination or election
17 whenever votes are not permitted to be recorded for that candidate. The statement
18 shall also show the numbers of votes cast for and against each question and. The
19 board of canvassers shall also prepare a determination showing the names of the
20 persons who are elected to the school board and the results of any school district
21 referendum. Following each primary election, the board of canvassers shall prepare
22 a statement certifying the names of the persons who have won nomination to the
23 school board. Each statement and determination shall be attested by each of the
24 canvassers. The board of canvassers shall file each statement and determination in
25 the school district office. The school district clerk shall certify nominations after each

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1 primary and issue certificates of election to persons who are elected to the school
2 board after each election in the manner provided in sub. (4).

3 **SECTION 12.** 7.60 (4) (a) of the statutes is amended to read:

4 7.60 (4) (a) The board of canvassers shall make separate duplicate statements
5 showing the numbers of votes cast for the offices of president and vice president; state
6 officials; U.S. senators and representatives in congress; state legislators; justice;
7 court of appeals judge; circuit judges; district attorneys; and metropolitan sewerage
8 commissioners, if the commissioners are elected under s. 200.09 (11) (am). If a
9 municipal judge elected under s. 755.01 (4) serves a municipality that is located
10 partially within the county and candidates for that judgeship file nomination papers
11 in another county, the board of canvassers shall prepare a duplicate statement
12 showing the numbers of votes cast for that judgeship in that county for transmittal
13 to the other county. For partisan candidates, the statements shall include the
14 political party or principle designation, if any, next to the name of each candidate.
15 The board of canvassers shall also prepare a statement showing the results of any
16 county, technical college district or statewide referendum. Each statement shall
17 state show the total number of votes cast in the county for each office; the names of
18 all persons for whom the votes were cast, as returned; and the number of votes cast
19 for each person; and, but not including any person who receives only write-in votes
20 for an office and who has not filed a timely declaration of candidacy under s. 8.21 for
21 that office, except that a person who receives only write-in votes for an office shall
22 be included if there are no candidates whose names appear on the ballot for that office
23 or if there appears on the ballot the name of a deceased candidate for that office. The
24 statement shall also show the number of votes cast for and against any question
25 submitted at a referendum. The board of canvassers shall use one copy of each

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1 duplicate statement to report to the elections board, technical college district board
2 or board of canvassers of any other county and shall file the other statement in the
3 office of the county clerk or board of election commissioners.

4 **SECTION 13.** 7.60 (4) (b) of the statutes is amended to read:

5 7.60 (4) (b) The board of canvassers shall then prepare a written
6 determination, in duplicate where necessary, giving the names of the persons elected
7 to any county office and to any municipal judgeship if the judge is elected under s.
8 755.01 (4) and candidates for that judgeship file nomination papers in that county.
9 The board of canvassers shall likewise prepare a written determination showing the
10 results of any county referendum. Following any primary election, the board of
11 canvassers shall prepare a statement certifying the names of all persons who have
12 won nomination to any county office or any municipal judgeship, if the judge is
13 elected under s. 755.01 (4) and candidates for that judgeship file nomination papers
14 in that county. The board of canvassers shall not certify or determine that a write-in
15 candidate has won nomination or election whenever votes are not permitted to be
16 recorded for that candidate. The board of canvassers shall file all statements and
17 determinations in the office of the county clerk or board of election commissioners.

18 **SECTION 14.** 7.60 (4) (c) of the statutes is amended to read:

19 7.60 (4) (c) In preparing the statements and determinations, the board of
20 canvassers shall carefully review the tally sheets and inspectors' statement. The
21 board of canvassers ~~may shall~~ omit the names of individuals whose names do not
22 appear on the ballot and who receive a comparatively small number of votes. ~~The~~
23 ~~board of canvassers shall~~ name of any write-in candidate who has not filed a timely
24 declaration of candidacy under s. 8.21 for the office for which the candidate receives
25 votes, and designate votes received by ~~such individuals~~ the candidate as scattering

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1 votes, unless there are no candidates whose names appear on the ballot for that office
2 or unless there appears on the ballot for that office the name of a deceased candidate.

3 The board of canvassers shall append to each statement and determination a
4 tabulation of the votes cast at each election district, ward or combination of wards
5 authorized under s. 5.15 (6) (b) in the county for each office and each individual,
6 whether the votes are canvassed or not, as well as the total canvassed votes cast for
7 each individual and each office, except where scattering votes are designated. If any
8 votes are rejected, the board of canvassers shall specify the reasons therefor.

9 **SECTION 15.** 7.70 (3) (f) of the statutes is amended to read:

10 7.70 (3) (f) The statements shall show the persons' names receiving votes, and
11 any referenda questions; the whole number of votes given to each; and an individual
12 listing by the districts or counties in which they were given. ~~The names of persons~~
13 ~~not regularly nominated who received only a comparatively small number of votes~~
14 may name of any write-in candidate who has not filed a timely declaration of
15 candidacy under s. 8.21 for the office for which the candidate receives votes shall be
16 omitted and their the votes cast for that candidate designated as scattering votes,
17 unless there are no candidates whose names appear on the ballot for that office or
18 unless there appears on the ballot for that office the name of a deceased candidate.

19 **SECTION 16.** 7.70 (3) (g) of the statutes is amended to read:

20 7.70 (3) (g) Following each primary election, the chairperson of the board or the
21 chairperson's designee shall prepare a statement certifying the results of the
22 primary, which shall indicate the names of the persons who have won nomination to
23 any state or national office. Following each other election, the chairperson of the
24 board or the chairperson's designee shall prepare a statement certifying the results
25 of the election and shall attach to the statement a certificate of determination which

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1 shall indicate the names of persons who have been elected to any state or national
2 office. The chairperson of the board or the chairperson's designee shall likewise
3 prepare a statement and certificate for any statewide referendum. The chairperson
4 or chairperson's designee shall not certify or determine that a write-in candidate has
5 won nomination or election whenever votes are not permitted to be recorded for that
6 candidate. The chairperson of the board or the chairperson's designee shall deliver
7 each statement and determination to the board.

8 **SECTION 17.** 8.05 (5) of the statutes is amended to read:

9 8.05 (5) WHEN PRIMARY IS HELD. Towns and villages adopting the nonpartisan
10 primary to nominate candidates, under subs. (3) and (4), shall hold a primary only
11 when the number of candidates, other than write-in candidates, for an elective office
12 in the municipality exceeds twice the number to be elected to the office. A primary
13 for the office of municipal judge under s. 755.01 (4) shall be held whenever there are
14 more than 2 candidates, other than write-in candidates, for that office. Those offices
15 for which a primary has been held shall have only the names of candidates
16 nominated at the primary appear on the official spring election ballot. When the
17 number of candidates, other than write-in candidates, for an office does not exceed
18 twice the number to be elected, their names shall appear on the official ballot for the
19 election without a primary.

20 **SECTION 18.** 8.11 (1) (b) and (d), (2), (2m) and (5) of the statutes are amended
21 to read:

22 8.11 (1) (b) Any city may provide by charter ordinance, under s. 66.0101, that
23 whenever 3 or more candidates, other than write-in candidates, file nomination
24 papers for a city office, a primary to nominate candidates for the office shall be held.

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1 (d) When the number of candidates, other than write-in candidates, for any
2 city office does not exceed twice the number to be elected to the office, no primary may
3 be held for the office and the candidates' names shall appear on the ballot for the
4 ensuing election.

5 (2) MILWAUKEE COUNTY. A primary shall be held in counties having a population
6 of 500,000 or more whenever there are more than twice the number of candidates,
7 other than write-in candidates, to be elected to any judicial office within the county
8 or to the county board of supervisors from any one district.

9 (2m) FIRST CLASS CITY SCHOOL BOARD. A primary shall be held in 1st class cities
10 whenever there are more than 2 candidates, other than write-in candidates, for
11 member of the board of school directors at-large or from any election district in any
12 year.

13 (5) COUNTY SUPERVISORS. A primary shall be held in an election for county board
14 supervisor whenever 3 or more candidates, other than write-in candidates, file
15 nomination papers.

16 **SECTION 19.** 8.185 (2) of the statutes is amended to read:

17 8.185 (2) Any candidates for the office of president and vice president of the
18 United States as write-in candidates shall file ~~a list of presidential electors and with~~
19 the board a declaration of candidacy in the manner prescribed in s. 8.21 ~~with the~~
20 ~~board no later than 4:30 p.m. on the 2nd Tuesday preceding the day of the general~~
21 ~~election to choose the president and vice president of the United States and, together~~
22 with the declaration of candidacy, a list of presidential electors. The list shall contain
23 one presidential elector from each congressional district and 2 electors from the state
24 at large and the names of the candidates for president and vice president for whom
25 they intend to vote, if elected. ~~Compliance with this subsection may be waived by the~~

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1 board but only if the results of the general election indicate that a write-in candidate
2 for the office of president is eligible to receive the electoral votes of this state except
3 for noncompliance with this subsection. In such event, the write-in candidate shall
4 have until 4:30 p.m. on the Friday following the general election to comply with the
5 filing requirements of this subsection.

6 **SECTION 20.** 8.21 of the statutes is amended to read:

7 **8.21 Declaration of candidacy.** Each candidate, except a write-in candidate
8 or a candidate for presidential elector under s. 8.20 (2) (d), shall file a declaration of
9 candidacy, no later than the latest time provided for filing nomination papers under
10 s. 8.10 (2) (a), 8.15 (1), 8.20 (8) (a) or 8.50 (3) (a), or the time provided under s. 8.16
11 (2) or 8.35 (2) (c). A write-in candidate may file a declaration of candidacy no later
12 than 5 p.m. on the 7th day before the primary or other election at which the candidate
13 seeks office. A candidate shall file the declaration with the officer or agency with
14 which nomination papers are filed for the office which the candidate seeks, or if
15 nomination papers are not required, with the clerk or board of election
16 commissioners of the jurisdiction in which the candidate seeks office. The
17 declaration shall be sworn to before any officer authorized to administer oaths. The
18 declaration shall contain the name of the candidate in the form specified under s.
19 8.10 (2) (b) for candidates for nonpartisan office or s. 8.15 (5) (a) or 8.20 (2) (a) for
20 candidates for partisan office, and shall state that the signer is a candidate for a
21 named office, that he or she meets or will at the time he or she assumes office meet
22 applicable age, citizenship, residency or voting qualification requirements, if any,
23 prescribed by the constitutions and laws of the United States and of this state, and
24 that he or she will otherwise qualify for office if nominated and elected. The Except
25 in the case of a write-in candidate, the declaration shall include the candidate's

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1 name in the form in which it will appear on the ballot. Each candidate for state and
2 local office shall include in the declaration a statement that he or she has not been
3 convicted of any misdemeanor designated under state or federal law as a violation
4 of the public trust or any felony for which he or she has not been pardoned. In
5 addition, each candidate for state or local office shall include in the declaration a
6 statement that discloses his or her municipality of residence for voting purposes, and
7 the street and number, if any, on which the candidate resides. The declaration is
8 valid with or without the seal of the officer who administers the oath. A candidate
9 for state or local office shall file an amended declaration under oath with the same
10 officer or agency if any information contained in the declaration changes at any time
11 after the original declaration is filed and before the candidate assumes office or is
12 defeated for election or nomination.

13 **SECTION 21.** 117.22 (2) (d) of the statutes is amended to read:

14 117.22 (2) (d) At least 12 weeks prior to the date of the election, the school
15 district clerk shall publish a type A notice of the school board election, under s. 10.01
16 (2) (a). No later than 5 p.m. on the date 10 weeks prior to the election, any qualified
17 elector of the school district created by the reorganization, other than a write-in
18 candidate as defined in s. 5.02 (26), may file with the school district clerk a sworn
19 declaration of candidacy for the school board and, if required, nomination papers, as
20 provided under s. 120.06 (6) (b). A write-in candidate may file a declaration of
21 candidacy no later than 5 p.m. on the 7th day before the primary or other election at
22 which the candidate seeks office. For purposes of this paragraph, a candidate who
23 resides in the territory of the school district created pursuant to a reorganization
24 under s. 117.105 and is otherwise a qualified elector shall be considered a qualified
25 elector for a school board election under par. (bm). A candidate shall file an amended

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1 declaration with the school district clerk as provided in s. 120.06 (6) (b) 5. Within 8
2 days after the first election in the newly created school district, the school district
3 clerk shall notify the successful candidates of their election. On the 2nd Tuesday
4 following the election, the clerk shall administer or receive the official oath and the
5 newly elected members shall take office.

6 **SECTION 22.** 120.06 (6) (b) 2. of the statutes is amended to read:

7 120.06 (6) (b) 2. Except as authorized in this paragraph, no later than 5 p.m.
8 on the first Tuesday in January prior to the spring election, or on the next day if
9 Tuesday is a holiday, any qualified elector of the school district, other than a write-in
10 candidate as defined in s. 5.02 (26), may file a sworn declaration of candidacy with
11 the school district clerk in the form provided in s. 8.21 at the place specified in the
12 notice. A write-in candidate may file a declaration of candidacy no later than 5 p.m.
13 on the 7th day before the primary or other election at which the candidate seeks
14 office. If the school district contains territory lying within a 2nd class city, or if the
15 school board or annual meeting requires nomination papers under par. (a), any
16 qualified elector of the school district who desires to be a candidate, other than a
17 write-in candidate, shall in addition file nomination papers in the form prescribed
18 under s. 8.10 (2) and (3) with the school district clerk at the place specified in the
19 notice.

20 **SECTION 23.** 120.06 (6) (b) 3. of the statutes is amended to read:

21 120.06 (6) (b) 3. If an incumbent fails to file a declaration of candidacy, and
22 nomination papers, where required, within the time prescribed by this paragraph,
23 all candidates for the office held by the incumbent, other than the incumbent and any
24 write-in candidate as defined in s. 5.02 (26), may file a declaration of candidacy and
25 nomination papers, where required, no later than 72 hours after the latest time

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1 prescribed in this paragraph. No extension of the time for filing a declaration of
2 candidacy or nomination papers applies if the incumbent files written notification
3 with the school district clerk, no later than 5 p.m. on the 2nd Friday preceding the
4 latest time prescribed in this paragraph for filing declarations of candidacy, that the
5 incumbent is not a candidate for reelection to his or her office, and the incumbent
6 does not file a declaration of candidacy for that office within the time prescribed in
7 this paragraph.

8 **SECTION 24.** 120.06 (7) (a) of the statutes is amended to read:

9 120.06 (7) (a) No later than 5 p.m. on the 2nd Tuesday in January, the school
10 district clerk shall verify the declarations of candidacy and certify the names of
11 candidates who have filed valid nomination papers, where required, and who qualify
12 for office. In making verifications or certifications, the school district clerk shall
13 designate the form of each candidate's name to appear on the ballot in the manner
14 prescribed in s. 7.08 (2) (a). Once filed, a declaration of candidacy or nomination
15 papers may not be withdrawn. This paragraph does not apply to write-in candidates
16 as defined in s. 5.02 (26).

17 **SECTION 25.** 120.06 (7) (b) of the statutes is amended to read:

18 120.06 (7) (b) The school board shall require a primary election if there are
19 more than 2 candidates, other than write-in candidates as defined in s. 5.02 (26), for
20 any seat on a 3-member board or more than twice as many candidates, other than
21 write-in candidates, as there are members to be elected to an unnumbered school
22 board of more than 3 members. In school districts in which a plan of apportionment
23 of school board members under s. 120.02 (2) or a plan for election of school board
24 members to numbered seats has been adopted, the school board shall require a
25 primary election for particular apportioned areas for which there are more than

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1 twice as many candidates, other than write-in candidates, as there are members to
2 be elected and for any numbered seat for which there are more than 2 candidates,
3 other than write-in candidates. When there is a primary election it shall be held in
4 conjunction with the spring primary.

5 **SECTION 26.** 120.06 (8) (dm) of the statutes is created to read:

6 120.06 (8) (dm) Whenever a write-in candidate, as defined in s. 5.02 (26), files
7 a timely declaration of candidacy with the clerk, immediately notify the municipal
8 clerk or board of election commissioners of each municipality in the school district
9 of the name of the candidate and the office that the candidate seeks, unless there are
10 no candidates whose names appear on the ballot for that office or unless there
11 appears on the ballot the name of a deceased candidate for that office.

12 **SECTION 27. Initial applicability.**

13 (1) This act first applies with respect to the 2006 spring primary election.

14 (END)