

2007 ASSEMBLY BILL 888

February 26, 2008 – Introduced by Representatives POCAN, BERCEAU, BOYLE, SHERIDAN, WOOD and ZEPNICK, cosponsored by Senators MILLER and HANSEN. Referred to Committee on Elections and Constitutional Law.

1 **AN ACT to amend** 5.01 (3) (a), 5.58 (3), 5.62 (5), 5.64 (1) (g), 6.80 (2) (am), 7.08
2 (1) (c), 7.50 (1) (c), 7.51 (4) (a), 7.51 (5) (a) 3., 7.53 (1), 7.60 (4) (a), 7.60 (4) (c), 8.05
3 (3) (a), 8.05 (5), 8.11 (1) (a) to (c), 8.11 (1m) (a) to (c), 8.11 (2), (2m) and (5), 8.50
4 (3) (b), 9.10 (3) (d) and 10.02 (3) (intro.); and **to create** 5.01 (3) (c), 5.01 (4) (e),
5 5.20, 5.40 (5s), 5.60 (6s), 5.62 (4) (c), 5.64 (1) (h), 6.80 (2) (g), 7.50 (2) (k), 7.515,
6 8.05 (1) (L), 8.11 (6) and 10.02 (4) of the statutes; **relating to:** use of preferential
7 voting to determine the results of elections for local offices and granting
8 rule-making authority.

Analysis by the Legislative Reference Bureau

Currently, a voter at a primary or other election for a county, municipal, or other local office may cast one vote for a candidate for each office or seat that appears on the ballot. If a primary is required for a partisan office, a voter may select the party of his or her choice and may vote for one candidate for each office within that party. If a primary is required for a nonpartisan office, a voter may select the candidate of his or her choice for each office or seat that appears on the ballot, and the names of the two candidates for that office or seat who receive the greatest numbers of votes then appear on the ballot at the ensuing election. Generally, a primary election is required to be held whenever there are more than two candidates who qualify to have

ASSEMBLY BILL 888

their names appear on the ballot for a nonpartisan office or seat or, whenever more than one seat is to be filled on a governmental body at the same election, if there are more than twice as many candidates for seats as there are seats to be filled from a given jurisdiction or district. In a village, the board of trustees may require nomination of candidates for village officers by nomination papers for a specific election and may then require a primary within three days after the deadline for filing of nomination papers for that election unless the electors of the village, by petition require, or the village by charter ordinance requires, that a primary be held. A primary is not held in elections for town or village officers in a town or village where a caucus is used to nominate candidates for town or village offices.

This bill permits the governing body of each county, municipality, or other local governmental unit that is served by elective officers, except a town or village where a caucus is used, to adopt a preferential voting method (also called an “instant runoff” method) for the election of those officers. Under the preferential voting method, whenever there are three or more candidates for an office or seat to be filled at an election, each voter may cast as many votes for each office or seat as there are candidates whose names appear on the ballot for that office or seat. If the voter votes for more than one candidate for an office or seat, the voter must indicate a preference between the candidates by designating one as “first choice,” another as “second choice,” and subsequent choices in sequential preference. A voter may also vote for one or more write-in candidates for any office or seat. A voter who casts one vote for a candidate for an office or seat but who does not indicate a preference is considered to have cast a “first-choice” vote for that candidate. If any candidate receives a majority of the first-choice votes cast and votes cast without indicating a preference for the office or seat, that candidate is elected. If no candidate receives a majority of the first-choice and no-preference votes cast for an office or seat, the name of the candidate receiving the least number of first-choice votes is dropped and the second-choice votes of the voters who voted for that candidate, if any, are then added to the first-choice votes received by the other candidates. In addition, the third-choice votes of the voters who voted for that candidate, if any, are then added to the second-choice votes received by the other candidates. Additional choices of those voters are allocated to the other candidates in a similar manner. If any candidate for the office or seat then has a majority of the combined first-choice, reallocated second-choice and no-preference votes cast, that candidate is elected. If not, the procedure is repeated until one candidate receives a majority of the combined first-choice, reallocated second-choice, and no-preference votes cast. If this voting method is used at an election for a nonpartisan office, no primary election is held. Once adopted, the preferential voting method must be used in all elections of the local governmental unit, but the local governmental unit may discontinue use of the system upon 90 days’ notice to affected municipalities. The procedure does not apply at recall elections for county offices. Under the bill, if a village board of trustees adopts a preferential voting method for the nomination of candidates for village offices, the electors of the village may not require a primary by petition and the village may not require a primary by charter ordinance.

ASSEMBLY BILL 888

Currently, municipalities having a population of 7,500 or more must use voting machines or an electronic voting system at every election. This bill requires any local governmental unit that elects to use the preferential voting method for the election of its officers to ensure that an electronic voting system is used in every municipality that lies wholly or partially within the jurisdiction of the local governmental unit at every election where this method of voting is used. If a municipality that lies within the jurisdiction does not utilize an electronic voting system, the local governmental unit must provide notice to the municipality that an electronic voting system will be required at least nine months before the initial election at which the voting method is to be used. The affected municipality must then acquire the necessary voting system at municipal expense in time for the system to be used at the election.

For further information see the *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.** 5.01 (3) (a) of the statutes is amended to read:

2 5.01 (3) (a) Except as provided in ~~par.~~ pars. (b) and (c), in every election to
3 choose any officer, each elector has one vote for each office unless clearly indicated
4 otherwise. The person receiving the greatest number of legal votes for the office shall
5 be declared elected, and the canvassers shall so determine and certify.

6 **SECTION 2.** 5.01 (3) (c) of the statutes is created to read:

7 5.01 (3) (c) In every election for a local office in which the preferential voting
8 method is used, any person who receives a majority of the first-choice votes shall be
9 declared elected, and if no person receives a majority of first-choice votes, the
10 election shall be determined in accordance with s. 7.515.

11 **SECTION 3.** 5.01 (4) (e) of the statutes is created to read:

12 5.01 (4) (e) This subsection applies to elections at which the preferential voting
13 method is used to break ties between candidates for an office or seat who receive the
14 same number of votes of specified choice, but does not apply at such elections if more

ASSEMBLY BILL 888**SECTION 3**

1 than one candidate for an office or seat receives the same number of lowest-choice
2 votes.

3 **SECTION 4.** 5.20 of the statutes is created to read:

4 **5.20 Preferential voting method. (1)** In this section:

5 (a) “Local governmental unit” means a county, city, village, town, or special
6 purpose district.

7 (b) “Preferential voting” means a voting method in which the electors voting
8 in an election for an elective office are permitted to express and order their
9 preferences for all candidates whose names appear on the ballot for the same office
10 or seat, or in a partisan primary election, for all candidates whose names appear on
11 the ballot of the party selected by the elector for the same office or seat.

12 **(2)** Except as provided in ss. 8.05 (1) (L) and 9.10 (3) (d), the policy-making body
13 of any local governmental unit that is served by elective officers may adopt
14 preferential voting as the method of voting and determination of the results of all
15 elections for offices to be filled in the local governmental unit. If the preferential
16 voting method is to be used in elections for the office of municipal judge of a joint
17 municipal court under s. 755.01 (4), the governing body of each contracting
18 municipality shall act under this subsection. A body may act under this subsection
19 by ordinance or, if the body does not enact ordinances, by resolution adopted at a
20 meeting of the body. A policy-making body that has adopted preferential voting
21 under this subsection may revoke that action in like manner.

22 **(3)** Action of a body under sub. (2) is effective for all elections held for the
23 election of officers of a local governmental unit on and after the 120th day beginning
24 after the action is taken, except as provided in sub. (7).

ASSEMBLY BILL 888

1 **(4)** In jurisdictions where preferential voting is used, an elector may cast as
2 many preferential votes for each office as there are candidates for the office whose
3 names appear on the ballot. If more than one seat on a policy-making body is to be
4 filled at large, an elector may cast one vote for each seat that is contested, multiplied
5 by the number of candidates, and may cast as many preferential votes for the seats
6 to be filled as there are candidates for those seats whose names appear on the ballot.
7 If write-in votes are permitted, a voter may vote for a write-in candidate in lieu of
8 any candidate whose name appears on the ballot. To indicate a preference, an elector
9 shall mark his or her ballot with or cause the voting machine to reflect the elector's
10 first choice, 2nd choice, 3rd choice, and subsequent choices, if any. An elector is not
11 required to indicate a choice and is not required to indicate as many choices as the
12 elector is eligible to indicate.

13 **(5)** The preferential voting method may not be used for balloting or canvassing
14 within any ward or election district in which an election for an office is held unless
15 it is used for balloting and canvassing within all wards and election districts in which
16 that election is held. A preferential voting method may not be used in balloting or
17 canvassing of votes for any office of a local governmental unit to be filled at an
18 election unless it is used in balloting and canvassing of votes for all of the offices of
19 the local governmental unit to be filled at that election.

20 **(6)** In tallying votes in elections where preferential voting is used, the method
21 of canvassing specified in s. 7.515 shall be used.

22 **(7)** Whenever the policy-making body of a local governmental unit adopts or
23 discontinues the preferential voting method to determine the election of the elective
24 officers of the local governmental unit, the body shall promptly provide written
25 notice of its action to the municipal clerk of each municipality other than the local

ASSEMBLY BILL 888**SECTION 4**

1 governmental unit that lies wholly or partially within the jurisdiction of the local
2 governmental unit. The body shall provide the notice no later than the 120th day
3 preceding any election at which the preferential voting method is to be used, except
4 that, if any municipality that lies wholly or partially within that jurisdiction does not
5 employ an electronic voting system on the date of the body's determination to use the
6 preferential voting method, the body shall provide the notice no later than 9 months
7 preceding any election at which the preferential voting method is to be used.

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

9 5.40 (5s) If a local governmental unit elects under s. 5.20 to utilize the
10 preferential voting method to determine the results of elections for elective offices of
11 that local governmental unit, each municipality having territory within the
12 jurisdiction of that local governmental unit shall require the use of an electronic
13 voting system at every polling place in the municipality at every election for those
14 elective offices.

15 **SECTION 6.** 5.58 (3) of the statutes is amended to read:

16 5.58 (3) NAMES ON SPRING BALLOT. Only Except in elections at which the
17 preferential voting method is used, only 2 candidates for state superintendent, for
18 any judicial office, for any elected seat on a metropolitan sewerage commission or
19 town sanitary district commission, in counties having a population of 500,000 or
20 more only 2 candidates for member of the board of supervisors within each district,
21 in counties having a population of less than 500,000 only 2 candidates for each
22 member of the county board of supervisors from each district or numbered seat or
23 only 4 candidates for each 2 members of the county board of supervisors from each
24 district whenever 2 supervisors are elected to unnumbered seats from the same
25 district, in 1st class cities only 2 candidates for any at-large seat and only 2

ASSEMBLY BILL 888

1 candidates from any election district to be elected to the board of school directors, in
2 school districts electing school board members to numbered seats, or pursuant to an
3 apportionment plan or district representation plan, only 2 school board candidates
4 for each numbered seat or within each district, and twice as many candidates as are
5 to be elected members of other school boards or other elective officers receiving the
6 highest number of votes at the primary shall be nominees for the office at the spring
7 election. Only their names shall appear on the official spring ballot.

8 **SECTION 7.** 5.60 (6s) of the statutes is created to read:

9 5.60 **(6s)** PREFERENTIAL VOTING METHOD. If the preferential voting method is
10 used in an election for local office, the form of the ballot shall conform to the
11 requirements of s. 5.20 (4).

12 **SECTION 8.** 5.62 (4) (c) of the statutes is created to read:

13 5.62 **(4)** (c) No primary shall be held for county offices if the preferential voting
14 method is used.

15 **SECTION 9.** 5.62 (5) of the statutes is amended to read:

16 5.62 **(5)** At the September primary, except in elections for county offices at
17 which the preferential voting method is used, an elector may vote for the candidates
18 of only one party, or the elector may vote for any of the independent candidates for
19 state office listed; but the elector may not vote for more than one candidate for a
20 single office. ~~A Except in elections at which the preferential voting method is used,~~
21 a space shall be provided on the ballot for an elector to write in the name of his or her
22 choice as a party candidate for any office, including a party candidate of a party
23 whose name appears on the ballot, column or row designated for independent
24 candidates, as provided in sub. (1) (b) or (2) (b), but no space shall be provided to write
25 in the names of independent candidates.

ASSEMBLY BILL 888**SECTION 10**

1 **SECTION 10.** 5.64 (1) (g) of the statutes is amended to read:

2 5.64 (1) (g) Following under the independent candidates for each office, a space
3 shall be provided for the elector to write in the name of a candidate of his or her choice
4 for that office. In elections at which the preferential voting method is used, the ballot
5 shall conform to the requirements of s. 5.20 (4).

6 **SECTION 11.** 5.64 (1) (h) of the statutes is created to read:

7 5.64 (1) (h) If the preferential voting method is used at an election for county
8 offices, the form of the ballot shall conform to the requirements of s. 5.20 (4).

9 **SECTION 12.** 6.80 (2) (am) of the statutes is amended to read:

10 6.80 (2) (am) In partisan primaries, except in elections at which the
11 preferential voting method is used, an elector may vote for a person as the candidate
12 of the party of the elector's choice, if that person's name does not appear on the official
13 ballot of that party, by writing in the name of the person in the space provided on the
14 ballot or the ballot provided for that purpose, or where voting machines are used, in
15 the irregular ballot device, designating the party for which the elector desires such
16 person to be the nominee.

17 **SECTION 13.** 6.80 (2) (g) of the statutes is created to read:

18 6.80 (2) (g) In elections for offices at which the preferential voting method is
19 used, an elector may cast as many preferential votes for each office or seat as there
20 are candidates whose names appear on the ballot for that office or seat. If more than
21 one seat on a governmental body is to be filled at large, an elector may cast as many
22 preferential votes for that office or seat as there are candidates whose names appear
23 on the ballot for all of the seats to be filled. An elector who indicates preferences for
24 candidates for an office or seat must indicate a different preference for each
25 candidate for that office or seat. If an elector does not indicate a preference between

ASSEMBLY BILL 888

1 candidates for an office or seat, the elector has one vote for each office or seat to be
2 filled at the election.

3 **SECTION 14.** 7.08 (1) (c) of the statutes is amended to read:

4 7.08 (1) (c) Prescribe forms required by ss. 6.24 (3) and (4), 6.30 (4), 6.33 (1),
5 6.40 (1) (a), 6.47 (1) (am) 2. and (3), 6.55 (2), ~~and 6.86 (2) to (3), and 7.515 (1).~~ All such
6 forms shall contain a statement of the penalty applicable to false or fraudulent
7 registration or voting through use of the form. Forms are not required to be furnished
8 by the board.

9 **SECTION 15.** 7.50 (1) (c) of the statutes is amended to read:

10 7.50 (1) (c) If Except in elections at which the preferential voting method is
11 used, if an elector casts more than one vote for the same candidate for the same office,
12 the first vote is valid and the remaining votes are invalid.

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

14 7.50 (2) (k) In elections at which the preferential voting method is used, if an
15 elector casts no more than one vote for each office or seat for which the elector is
16 entitled to vote, but does not indicate a preference, the elector's votes shall be counted
17 as first-choice votes for the candidates receiving the elector's votes. If an elector
18 indicates the same preference for more than one candidate for an office or seat in an
19 election where those expressed preferences exceed the number of offices or seats to
20 be filled, the elector's votes are invalid. If an elector indicates both a preference and
21 no preference for candidates for an office or seat in an election where the elector's
22 votes exceed the number of offices or seats to be filled, the elector's votes are invalid.

23 **SECTION 17.** 7.51 (4) (a) of the statutes is amended to read:

24 7.51 (4) (a) The tally sheets shall state the total number of votes cast for each
25 office and for each individual receiving votes for that office, whether or not the

ASSEMBLY BILL 888**SECTION 17**

1 individual's name appears on the ballot, and shall state the vote for and against each
2 proposition voted on. In elections in which the preferential voting method is
3 employed, the tally sheets shall state the total number of first-choice votes received
4 by each candidate and the total number of lesser-choice votes received by each
5 candidate, indicating the total number of votes for each choice. Upon completion of
6 the tally sheets, the inspectors shall immediately complete the inspectors'
7 statement. The inspectors shall state the excess, if any, by which the number of
8 ballots exceeds the number of electors voting as shown by the poll list and shall state
9 the number of the last elector as shown by the poll lists. At least 3 inspectors,
10 including the chief inspector and, unless election officials are appointed under s. 7.30
11 (4) (c) without regard to party affiliation, at least one inspector representing each
12 political party, but not including any inspector appointed under s. 7.30 (1) (b), shall
13 then certify to the correctness of the statement and tally sheets and sign their names.
14 All other election officials assisting with the tally shall also certify to the correctness
15 of the tally sheets. When the tally is complete, the inspectors shall publicly announce
16 the results from the statement.

17 **SECTION 18.** 7.51 (5) (a) 3. of the statutes is amended to read:

18 7.51 (5) (a) 3. The inspectors shall also seal the inspectors' statement, inside
19 a separate carrier envelope, and shall similarly seal in a separate carrier envelope
20 one tally sheet and one poll list for delivery to the municipal clerk. For elections in
21 which the preferential voting method is used, the inspectors shall enclose the tally
22 sheet provided under s. 7.515 (1). For school district elections, except in 1st class
23 cities, the inspectors shall seal one tally sheet and one poll list for delivery to the
24 school district clerk.

25 **SECTION 19.** 7.515 of the statutes is created to read:

ASSEMBLY BILL 888

1 **7.515 Canvass procedure for preferential voting method.** In any election
2 in which the preferential voting method is used, the election shall be canvassed in
3 the following manner:

4 **(1)** The board shall prescribe a tally sheet form for canvassing of elections in
5 which the preferential voting method is used. The inspectors or board of absentee
6 ballot canvassers shall use the form in preparing the returns and shall retain the
7 form as a part of the official returns.

8 **(2)** If any candidate receives a majority of the first-choice votes cast for an office
9 or seat, the candidate shall be declared elected. If no candidate for an office or seat
10 receives a majority of the first-choice votes cast, the first-choice votes received by
11 the candidate who receives the least number of first-choice votes shall be excluded
12 from the tally and the 2nd-choice votes, if any, cast by the electors who voted for that
13 candidate shall be added to the first-choice votes received by the other candidates.
14 If more than one candidate receives the least number of first-choice votes, the names
15 of the candidates receiving these votes shall be excluded from the tally and the
16 2nd-choice votes, if any, cast by electors who voted for those candidates shall be
17 added to the first-choice votes received by the other candidates. The 3rd-choice
18 votes, if any, cast for that candidate shall be added to the 2nd-choice votes received
19 by the other candidates. Additional choice votes, if any, shall be tallied in the same
20 manner. If at an election at which the preferential voting method is used an elector
21 in voting for an office or seat indicates a choice for a lesser preference without also
22 indicating a choice for all greater preferences available to the elector for that office
23 or seat, each lesser preference of the elector for that office or seat shall be counted
24 as a higher preference in the order that the elector's choices are indicated so that all
25 of the preferences of the elector are cast in consecutive order. If any candidate then

ASSEMBLY BILL 888**SECTION 19**

1 receives a majority of the first-choice votes cast and votes cast without indicating a
2 preference for an office or seat, the candidate shall be declared elected. If no
3 candidate for an office or seat receives a majority of the first-choice votes cast and
4 votes cast without indicating a preference, the canvassers shall exclude from the
5 tally the first-choice votes received by the candidate who receives the least number
6 of first-choice votes and repeat the above procedure until one candidate receives a
7 majority of the first-choice votes cast and votes cast without indicating a preference
8 for the office or seat.

9 **SECTION 20.** 7.53 (1) of the statutes is amended to read:

10 **7.53 (1) MUNICIPALITIES WITH ONE POLLING PLACE.** Where the municipality
11 constitutes one ward or combines all wards to utilize a single polling place under s.
12 5.15 (6) (b), the canvass of the votes cast at the polling place shall be conducted
13 publicly under s. 7.51 and the inspectors, other than any inspector appointed under
14 s. 7.30 (1) (b), shall act as the municipal board of canvassers. In municipalities where
15 absentee ballots are canvassed under s. 7.52, after the canvass of the absentee ballots
16 is completed under s. 7.52, the board of absentee ballot canvassers shall reconcile the
17 poll list of the electors who vote by absentee ballot with the corresponding poll list
18 of the electors who vote in person to ensure that no elector is allowed to cast more
19 than one ballot. If an elector who votes in person has submitted an absentee ballot,
20 the absentee ballot is void. Upon completion of the canvass under this subsection and
21 any canvass that is conducted under s. 7.52 and ascertainment of the results by the
22 inspectors or, in municipalities where absentee ballots are canvassed under s. 7.52,
23 by the inspectors and the board of absentee ballot canvassers, the municipal clerk
24 shall publicly read to the inspectors or the board of absentee ballot canvassers the
25 names of the persons voted for and the number of votes for each person for each

ASSEMBLY BILL 888

1 municipal office; in elections in which the preferential voting method is used, the
2 number of first-choice votes and the number of lesser-choice votes for each person
3 for each office, indicating the numbers for each choice; the names of the persons
4 declared by the inspectors or board of absentee ballot canvassers to have won
5 nomination or election to each municipal office; and the number of votes cast for and
6 against each municipal referendum question.

7 **SECTION 21.** 7.60 (4) (a) of the statutes, as affected by 2007 Wisconsin Act 1, is
8 amended to read:

9 7.60 (4) (a) The board of canvassers shall make separate duplicate statements
10 showing the numbers of votes cast for the offices of president and vice president; state
11 officials; U.S. senators and representatives in congress; state legislators; justice;
12 court of appeals judge; circuit judges; district attorneys; and metropolitan sewerage
13 commissioners, if the commissioners are elected under s. 200.09 (11) (am). If a
14 municipal judge elected under s. 755.01 (4) serves a municipality that is located
15 partially within the county and candidates for that judgeship file nomination papers
16 in another county, the board of canvassers shall prepare a duplicate statement
17 showing the numbers of votes cast for that judgeship in that county for transmittal
18 to the other county. For partisan candidates, the statements shall include the
19 political party or principle designation, if any, next to the name of each candidate.
20 The board of canvassers shall also prepare a statement showing the results of any
21 county, technical college district, or statewide referendum. Each statement shall
22 state the total number of votes cast in the county for each office; the names of all
23 persons for whom the votes were cast, as returned; the number of votes cast for each
24 person; after elections at which the preferential voting method is used, the number
25 of first-choice votes and lesser-choice votes cast for each person, indicating the

ASSEMBLY BILL 888**SECTION 21**

1 numbers for each choice; and the number of votes cast for and against any question
2 submitted at a referendum. The board of canvassers shall use one copy of each
3 duplicate statement to report to the government accountability board, technical
4 college district board, or board of canvassers of any other county and shall file the
5 other statement in the office of the county clerk or board of election commissioners.

6 **SECTION 22.** 7.60 (4) (c) of the statutes is amended to read:

7 7.60 (4) (c) In preparing the statements and determinations, the board of
8 canvassers shall carefully review the tally sheets and inspectors' statement. The
9 board of canvassers may omit the names of individuals whose names do not appear
10 on the ballot and who receive a comparatively small number of votes. The board of
11 canvassers shall designate votes received by such individuals as scattering votes.
12 The board of canvassers shall append to each statement and determination a
13 tabulation of the votes cast at each election district, ward or combination of wards
14 authorized under s. 5.15 (6) (b) in the county for each office and each individual,
15 whether the votes are canvassed or not, as well as the total canvassed votes cast for
16 each individual and each office, except where scattering votes are designated, and
17 after elections at which the preferential voting method is used, the number of
18 first-choice votes and lesser-choice votes cast for each person for each office,
19 indicating the numbers for each choice. If any votes are rejected, the board of
20 canvassers shall specify the reasons therefor.

21 **SECTION 23.** 8.05 (1) (L) of the statutes is created to read:

22 8.05 (1) (L) Whenever a caucus is used to nominate candidates for town or
23 village offices, the preferential voting method shall not be used. If a town or village
24 adopts a nonpartisan primary for the nomination of candidates for town or village
25 offices, the preferential voting method may be substituted as provided in s. 5.20.

ASSEMBLY BILL 888

1 **SECTION 24.** 8.05 (3) (a) of the statutes is amended to read:

2 8.05 (3) (a) ~~In lieu of sub. (1) Except as provided in s. 8.11 (6)~~, the electors either
3 by referendum or at the town meeting may, in lieu of holding a caucus under sub. (1),
4 provide for nomination of elective town office candidates at a nonpartisan primary
5 conducted as provided in sub. (5). The nomination papers shall be signed by not less
6 than 20 nor more than 100 electors of the town. The nomination papers shall be
7 circulated not sooner than December 1 preceding the election and shall be filed with
8 the town clerk not later than 5 p.m. the first Tuesday in January, or the next day if
9 Tuesday is a holiday.

10 **SECTION 25.** 8.05 (5) of the statutes, as affected by 2007 Wisconsin Act
11 (Assembly Bill 152), is amended to read:

12 8.05 (5) **WHEN PRIMARY IS HELD.** Towns and villages adopting the nonpartisan
13 primary to nominate candidates shall hold a primary only when the number of
14 candidates for an elective office in the municipality exceeds twice the number to be
15 elected to the office. ~~A- Unless preferential voting for the office of municipal judge~~
16 is adopted under s. 5.20 (2), a primary for the office of municipal judge under s. 755.01
17 (4) shall be held whenever there are more than 2 candidates for that office. Those
18 offices for which a primary has been held shall have only the names of candidates
19 nominated at the primary appear on the official spring election ballot. When the
20 number of candidates for an office does not exceed twice the number to be elected,
21 their names shall appear on the official ballot for the election without a primary.

22 **SECTION 26.** 8.11 (1) (a) to (c) of the statutes are amended to read:

23 8.11 (1) (a) ~~A- Except as provided in sub. (6)~~, a primary may be held in any city
24 for the nomination of candidates for city office. When a majority of all the members
25 of the governing body of a city decide upon a spring primary for any specific election,

ASSEMBLY BILL 888**SECTION 26**

1 they shall so provide not later than 3 days after the deadline for filing nomination
2 papers.

3 (b) ~~Any~~ Except as provided in sub. (6), any city may provide by charter
4 ordinance, under s. 66.0101, that whenever 3 or more candidates file nomination
5 papers for a city office, a primary to nominate candidates for the office shall be held.

6 (c) ~~Whenever~~ Except as provided in sub. (6), whenever electors, equal to at least
7 10% of the vote for governor in the city at the last general election, file a petition
8 conforming to the requirements of s. 8.40 with the city clerk requesting a primary
9 within 3 days after the deadline for filing nomination papers, there shall be a
10 primary for any specific election.

11 **SECTION 27.** 8.11 (1m) (a) to (c) of the statutes, as created by 2007 Wisconsin
12 Act (Assembly Bill 152), are amended to read:

13 **8.11 (1m) VILLAGE.** (a) If a village has provided under s. 8.05 (4) (a) for the filing
14 of nomination papers by candidates for village offices for a specific election, and the
15 village has not provided for election of village officers by preferential voting under
16 s. 5.20 (2) the governing body of the village may, no later than 3 days after the
17 deadline for filing nomination papers, provide for nomination of candidates for
18 village offices at the spring primary.

19 (b) Any village that has not provided for election of village officers by
20 preferential voting under s. 5.20 (2) may provide by charter ordinance, under s.
21 66.0101, that whenever 3 or more candidates file nomination papers for a village
22 office, a primary to nominate candidates for the office shall be held.

23 (c) ~~Whenever~~ Unless a village has provided for election of village officers by
24 preferential voting under s. 5.20 (2), whenever the electors of a village, equal to at
25 least 10 percent of the vote for governor in a village at the last general election, file

ASSEMBLY BILL 888

1 a petition conforming to the requirements of s. 8.40 with the village clerk requesting
2 a primary no later than December 1 preceding the spring election, there shall be a
3 primary for any specific election.

4 **SECTION 28.** 8.11 (2), (2m) and (5) of the statutes are amended to read:

5 8.11 (2) MILWAUKEE COUNTY. ~~A- Except as provided in sub. (6), a primary shall~~
6 be held in counties having a population of 500,000 or more whenever there are more
7 than twice the number of candidates to be elected to any judicial office within the
8 county or to the county board of supervisors from any one district.

9 (2m) FIRST CLASS CITY SCHOOL BOARD. ~~A- Except as provided in sub. (6), a~~
10 primary shall be held in 1st class cities whenever there are more than 2 candidates
11 for member of the board of school directors at-large or from any election district in
12 any year.

13 (5) COUNTY SUPERVISORS. ~~A- Except as provided in sub. (6), a primary shall be~~
14 held in an election for county board supervisor whenever 3 or more candidates file
15 nomination papers.

16 **SECTION 29.** 8.11 (6) of the statutes is created to read:

17 8.11 (6) PREFERENTIAL VOTING; EXCEPTION. If a primary is authorized or required
18 in an election for a local office and the preferential voting method is adopted for use
19 in elections for that office under s. 5.20, no primary shall be held.

20 **SECTION 30.** 8.50 (3) (b) of the statutes is amended to read:

21 8.50 (3) (b) Except as otherwise provided in this section, the provisions for
22 September primaries under s. 8.15 are applicable to all partisan primaries held
23 under this section, and the provisions for spring primaries under s. 8.10 are
24 applicable to all nonpartisan primaries held under this section. In a special partisan
25 primary or election, the order of the parties on the ballot shall be the same as

ASSEMBLY BILL 888**SECTION 30**

1 provided under s. 5.62 (1) or 5.64 (1) (b). Independent candidates for state office at
2 a special partisan election shall not appear on the primary ballot. No primary is
3 required for a nonpartisan election in which not more than 2 candidates for an office
4 appear on the ballot or for a partisan election in which not more than one candidate
5 for an office appears on the ballot of each recognized political party. No primary shall
6 be held in a special election for any local office if the preferential voting method is
7 used in that election. In every special election except a special election for
8 nonpartisan state office where no candidate is certified to appear on the ballot, a
9 space for write-in votes shall be provided on the ballot, regardless of whether a
10 special primary is held.

11 **SECTION 31.** 9.10 (3) (d) of the statutes is amended to read:

12 9.10 (3) (d) If more than 2 persons compete for a nonpartisan office, a recall
13 primary shall be held. The names of the 2 persons receiving the highest number of
14 votes in the recall primary shall be certified to appear on the ballot in the recall
15 election, but if any person receives a majority of the total number of votes cast in the
16 recall primary, a recall election shall not be held. If the incumbent receives a majority
17 of the votes cast, the incumbent shall be retained in office for the remainder of the
18 term. If another candidate receives a majority of the votes cast, that candidate shall
19 be elected to serve for the residue of the unexpired term of the incumbent. Write-in
20 votes are permitted only at a recall primary or at a recall election in which no primary
21 is held. The preferential voting method shall not be used in a recall election for
22 county office.

23 **SECTION 32.** 10.02 (3) (intro.) of the statutes is amended to read:

24 10.02 (3) (intro.) The notice shall contain the following:

25 FACSIMILE BALLOT NOTICE

ASSEMBLY BILL 888

1 OF ... ELECTION

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

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

4 Notice is hereby given of a ... election to be held in the several wards in the
5 [county] [municipality] of ..., on the ... day of ..., ... (year), at which the officers
6 named below shall be chosen. The names of the candidates for each office to be voted
7 for, whose nominations have been certified to or filed in this office, are given under
8 the title of the office and under the appropriate party or other designation, each in
9 its proper column, together with the questions submitted to a vote, in the sample
10 ballot below.

11 INFORMATION TO ELECTORS

12 Except as provided in sub. (4) and except where a different statement is
13 prescribed by the board for use in whole or in part by municipalities using electronic
14 voting systems under s. 5.95, the voting instructions shall be given substantially as
15 follows:

16 **SECTION 33.** 10.02 (4) of the statutes is created to read:

17 10.02 (4) The board shall prescribe by rule the content of type B notices to be
18 used at all elections at which the preferential voting method is used.

19 **SECTION 34. Initial applicability.**

20 (1) This act first applies with respect to nomination of candidates at the 2009
21 spring primary election.

22 (END)