



State of Wisconsin
2011 – 2012 LEGISLATURE



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**SENATE SUBSTITUTE AMENDMENT 1,
TO 2011 SENATE BILL 115**

June 7, 2011 – Offered by COMMITTEE ON TRANSPORTATION AND ELECTIONS.

1 **AN ACT** *to renumber* 5.58 (2r); *to amend* 5.02 (21), 5.02 (22), 5.58 (1a), 6.24 (5),
2 7.10 (2), 7.10 (3) (a), 7.15 (1) (cm), 8.12 (1) and (3), 10.06 (1) (e), 10.06 (2) (b),
3 10.06 (2) (d) and 10.06 (2) (g); and *to create* 7.08 (2) (d) of the statutes; **relating**
4 **to:** the date of the presidential preference primary and certain other election
5 occurrences.

Analysis by the Legislative Reference Bureau

The substitute amendment changes the date of the presidential preference primary from the 3rd Tuesday in February to the first Tuesday in April in those years in which the president and vice president are elected. The bill also changes the dates of related election events to accommodate the change in the date of the primary.

The substitute amendment also creates a special separate ballot for the presidential preference primary which must be available to electors at least 47 days before the primary. Currently, this ballot is distributed with other office and referendum ballots at least 21 days before the presidential preference primary.

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

1 **SECTION 1.** 5.02 (21) of the statutes is amended to read:

2 5.02 **(21)** “Spring election” means the election held on the first Tuesday in April
3 to elect judicial, educational and municipal officers, nonpartisan county officers and
4 sewerage commissioners and to express preferences for the person to be the
5 presidential candidate for each party in a year in which electors for president and
6 vice president are to be elected.

7 **SECTION 2.** 5.02 (22) of the statutes is amended to read:

8 5.02 **(22)** “Spring primary” means the nonpartisan primary held on the 3rd
9 Tuesday in February to nominate nonpartisan candidates to be voted for at the
10 spring election ~~and to express preferences for the person to be the presidential~~
11 ~~candidate for each party in a year in which electors for president and vice president~~
12 ~~are to be elected.~~

13 **SECTION 3.** 5.58 (1a) of the statutes is amended to read:

14 5.58 **(1a)** GENERALLY. At spring primary elections the ballots under subs. (1b)
15 to ~~(2r)~~ (2m), when necessary, shall be provided for each ward, except as authorized
16 in s. 5.655. ~~Except as provided under sub. (2r), only~~ Only nonpartisan candidates
17 nominated for office by nomination papers shall have their names placed on the
18 official spring primary ballot under the proper office designation, but the ballots
19 shall allow room for write-in candidates.

20 **SECTION 4.** 5.58 (2r) of the statutes is renumbered 5.60 (8).

21 **SECTION 5.** 6.24 (5) of the statutes is amended to read:

22 6.24 **(5)** BALLOTS. The board shall prescribe a special ballot for use under this
23 section whenever necessary. Official ballots prescribed for use in the presidential
24 preference primary may also be used. The ballot shall be designed to comply with

1 the requirements prescribed under ss. ~~5.58 (2r)~~ 5.60 (8), 5.62, and 5.64 (1) insofar as
2 applicable. All ballots shall be limited to national offices only.

3 **SECTION 6.** 7.08 (2) (d) of the statutes is created to read:

4 7.08 (2) (d) As soon as possible after the last Tuesday in January of each year
5 in which there is a presidential election, the board shall transmit to each county clerk
6 a certified list of candidates for president who have qualified to have their names
7 appear on the presidential preference primary ballot.

8 **SECTION 7.** 7.10 (2) of the statutes is amended to read:

9 7.10 (2) PREPARING BALLOTS. The county clerk shall prepare copy for the official
10 ballots immediately upon receipt of the certified list of candidates' names from the
11 board. Names certified by the board shall be arranged in the order certified. The
12 county clerk shall place the names of all candidates filed in the clerk's office or
13 certified to the clerk by the board on the proper ballot or ballots under the
14 appropriate office and party titles. The county clerk shall prepare a special ballot
15 under s. 5.60 (8) showing only the candidates in the presidential preference primary.

16 **SECTION 8.** 7.10 (3) (a) of the statutes is amended to read:

17 7.10 (3) (a) The county clerk shall distribute the ballots to the municipal clerks
18 no later than 31 days before each September primary and general election and no
19 later than 22 days before each other primary and election, except that the clerk shall
20 distribute the ballots under sub. (2) for the presidential preference primary no later
21 48 days before the presidential preference primary. Election forms prepared by the
22 board shall be distributed at the same time. If the board transmits an amended
23 certification under s. 7.08 (2) (a) or if the board or a court orders a ballot error to be
24 corrected under s. 5.06 (6) or 5.72 (3) after ballots have been distributed, the county
25 clerk shall distribute corrected ballots to the municipal clerks as soon as possible.

1 **SECTION 9.** 7.15 (1) (cm) of the statutes, as affected by 2011 Wisconsin Act 23,
2 is amended to read:

3 7.15 (1) (cm) Prepare official absentee ballots for delivery to electors requesting
4 them, and except as provided in this paragraph, send or transmit an official absentee
5 ballot to each elector who has requested a ballot by mail, electronic mail, or facsimile
6 transmission no later than the 30th day before each September primary and general
7 election and no later than the 21st day before each other primary and election if the
8 request is made before that day; otherwise, the municipal clerk shall send or
9 transmit an official absentee ballot within one day of the time the elector's request
10 for such a ballot is received. The clerk shall send or transmit an absentee ballot for
11 the presidential preference primary to each elector who has requested that ballot no
12 later than the 47th day before the presidential preference primary if the request is
13 made before that day, or, if the request is not made before that day, within one day
14 of the time the request is received.

15 **SECTION 10.** 8.12 (1) and (3) of the statutes are amended to read:

16 8.12 (1) SELECTION OF NAMES FOR BALLOT. (a) No later than 5 p.m. on the 3rd
17 2nd Tuesday in ~~November, or the next day if Tuesday is a holiday,~~ December of the
18 year before each year in which electors for president and vice president are to be
19 elected, the state chairperson of each recognized political party listed on the official
20 ballot at the last gubernatorial election whose candidate for governor received at
21 least 10% of the total votes cast for that office may certify to the board that the party
22 will participate in the presidential preference primary. For each party filing such a
23 certification, the voters of this state shall at the spring primary election be given an
24 opportunity to express their preference for the person to be the presidential
25 candidate of that party.

1 (b) On the ~~2nd~~ first Tuesday in ~~December of the~~ January of each year before
2 each year, or the next day if Tuesday is a holiday, in which electors for president and
3 vice president are to be elected, there shall be convened in the capitol a committee
4 consisting of, for each party filing a certification under this subsection, the state
5 chairperson of that state party organization or the chairperson's designee, one
6 national committeeman and one national committeewoman designated by the state
7 chairperson; the speaker and the minority leader of the assembly or their designees,
8 and the president and the minority leader of the senate or their designees. All
9 designations shall be made in writing to the board. This committee shall organize
10 by selecting an additional member who shall be the chairperson and shall determine,
11 and certify to the board, no later than on the Friday following the date on which the
12 committee convenes under this paragraph, the names of all candidates of the
13 political parties represented on the committee for the office of president of the United
14 States. The committee shall place the names of all candidates whose candidacy is
15 generally advocated or recognized in the national news media throughout the United
16 States on the ballot, and may, in addition, place the names of other candidates on the
17 ballot. The committee shall have sole discretion to determine that a candidacy is
18 generally advocated or recognized in the national news media throughout the United
19 States.

20 (c) No later than 5 p.m. on the ~~first~~ last Tuesday in January of each presidential
21 election year, any person seeking the nomination by the national convention of a
22 political party filing a certification under this subsection for the office of president
23 of the United States, or any committee organized in this state on behalf of and with
24 the consent of such person, may submit to the board a petition to have the person's
25 name appear on the presidential preference ballot. The petition may be circulated

1 no sooner than the ~~2nd~~ first Tuesday in ~~December~~ preceding January of such year,
2 or the next day if Tuesday is a holiday, and shall be signed by a number of qualified
3 electors equal in each congressional district to not less than 1,000 signatures nor
4 more than 1,500 signatures. The form of the petition shall conform to the
5 requirements of s. 8.40. All signers on each separate petition paper shall reside in
6 the same congressional district.

7 (d) The board shall forthwith contact each person whose name has been placed
8 in nomination under par. (b) and notify him or her that his or her name will appear
9 on the Wisconsin presidential preference ballot unless he or she files, no later than
10 5 p.m. on the ~~first~~ last Tuesday in January of such year, with the board, a disclaimer
11 stating without qualification that he or she is not and does not intend to become a
12 candidate for the office of president of the United States at the forthcoming
13 presidential election. The disclaimer may be filed with the board by certified mail,
14 telegram, or in person.

15 **(3) REPORTING OF RESULTS.** No later than the ~~2nd~~ Tuesday May 15 following the
16 presidential preference primary, the board shall notify each state party organization
17 chairperson under sub. (1) (b) of the results of the presidential preference primary
18 within the state and within each congressional district.

19 **SECTION 11.** 10.06 (1) (e) of the statutes is amended to read:

20 10.06 **(1)** (e) As soon as possible following the state canvass of the spring
21 primary vote, but no later than the first Tuesday in March, the board shall send a
22 type B notice certifying to each county clerk the list of candidates for the spring
23 election. When no state spring primary is held ~~or when the only primary held is the~~
24 ~~presidential preference primary~~, this notice shall be sent under par. (c). The board
25 shall also in any case send a certified list of candidates under s. 11.50 to the state

1 treasurer pursuant to s. 7.08 (2) (c). When there is a referendum, the board shall send
2 type A and C notices certifying each question to the county clerks as soon as possible,
3 but no later than the first Tuesday in March.

4 **SECTION 12.** 10.06 (2) (b) of the statutes is amended to read:

5 10.06 (2) (b) Upon receipt of the type B notice from the board preceding the
6 spring election each county clerk shall add any county offices, prepare the ballots,
7 and send notice to each municipal clerk of the spring primary. When there is no state
8 spring primary within the county ~~and there is no presidential preference primary~~
9 ~~scheduled for the date of the spring primary,~~ but there is to be a county spring
10 primary, the county clerk shall prepare the ballots and send notice to each municipal
11 clerk.

12 **SECTION 13.** 10.06 (2) (d) of the statutes is amended to read:

13 10.06 (2) (d) On the Monday preceding the spring primary, when held, the
14 county clerk shall publish a type B notice. ~~In a year in which a presidential~~
15 ~~preference primary is held, the county clerk shall also publish notice of the~~
16 ~~presidential preference primary.~~

17 **SECTION 14.** 10.06 (2) (g) of the statutes is amended to read:

18 10.06 (2) (g) On the Monday preceding the spring election, the county clerk
19 shall publish a type B notice containing the same information prescribed in par. (a).
20 In a year in which the presidential preference primary is held, the county clerk shall
21 also publish notice of the presidential preference primary. In addition, the county
22 clerk shall publish a type C notice on the Monday preceding the spring election for
23 all state and county referenda to be voted upon by electors of the county.

24 (END)