



2013 SENATE BILL 158

April 25, 2013 - Introduced by Senators CARPENTER, HARRIS and RISSER, cosponsored by Representatives KAHL, POPE, RINGHAND, OHNSTAD and WRIGHT. Referred to Elections and Urban Affairs.

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 and amend* 5.37 (4); and *to amend* 5.02 (16m), 5.15 (6) (b),
3 5.62 (1), 5.62 (2), 5.62 (3), 5.655 (1), 5.84 (1), 5.91 (1) and (3), 6.80 (2) (am), 6.80
4 (2) (f), 6.87 (4) (b) 1., 7.08 (2) (b), 7.50 (2) (g), 8.16 (1), (6) and (7), 8.17 (1) (a), 8.20
5 (9), 8.50 (3) (b), 9.10 (3) (e), 10.02 (3) (b) 2. and 11.06 (7m) (a) of the statutes;
6 **relating to:** authorization for electors to vote in the primary of more than one
7 political 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 major political party, regardless of the number of candidates who are running for office in that party, if any. Similarly, a voter in a partisan 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 a partisan primary to “split tickets,” designating the candidate of his or her choice for each office, including the offices of governor and lieutenant governor, regardless of party affiliation. The bill also allows a voter to vote for independent candidates for one or more state offices in a partisan primary, in addition to party candidates for one or more state or county offices. Under the bill,

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a voter may still vote for only one candidate for each office. The voting procedure at the general election and other partisan elections is unaffected by the bill.

The bill initially applies to voting at the 2014 partisan primary election.

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

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

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

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

6 5.15 (**6**) (b) No later than 30 days before each election, the governing body of
7 any municipality may by resolution combine 2 or more wards for voting purposes to
8 facilitate using a common polling place. Whenever wards are so combined, the
9 original ward numbers shall continue to be utilized for all official purposes. Except
10 as otherwise authorized under this paragraph, every municipality having a
11 population of 35,000 or more shall maintain separate returns for each ward so
12 combined. In municipalities having a population of less than 35,000, the governing
13 body may provide in the resolution that returns shall be maintained only for each
14 group of combined wards at any election. Whenever a governing body provides for
15 common ballot boxes and ballots or voting machines, separate returns shall be
16 maintained for each separate ballot required under ~~ss. 5.62 and s. 5.64~~ at the
17 partisan primary and general election. The municipal clerk shall transmit a copy of
18 the resolution to the county clerk of each county in which the municipality is
19 contained. In municipalities having a population of less than 35,000, the resolution

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1 shall remain in effect for each election until modified or rescinded, or until a new
2 division is made under this section.

3 **SECTION 3.** 5.35 (6) (b) of the statutes is repealed.

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

6 5.37 (4) Voting machines may be used at primary elections when they comply
7 with subs. (1) and (2) and the following provisions: ~~All candidates' names~~

8 (a) Each candidate's name entitled to appear on the ballots ballot at the
9 primary and the party that he or she represents shall appear on the machine; ~~the~~
10 ~~elector cannot vote for candidates of more than one party, whenever the restriction~~
11 ~~applies; the elector may secretly select the party for which he or she wishes to vote;~~
12 ~~the.~~

13 (b) The elector may vote for as many candidates for each office as he or she is
14 lawfully entitled to vote for, but no more.

15 **SECTION 5.** 5.51 (7) of the statutes is repealed.

16 **SECTION 6.** 5.62 (1) of the statutes is amended to read:

17 5.62 (1) (a) At the partisan primary, the following ballot shall be provided for
18 the nomination of candidates of recognized political parties for national, state and
19 county offices and independent candidates for state office in each ward, in the same
20 form as prescribed by the board under s. 7.08 (1) (a), except as authorized in s. 5.655.
21 The ~~ballots~~ ballot shall be made up of the several party tickets with each party
22 entitled to participate in the primary under par. (b) or sub. (2) having its own ~~ballot~~
23 column or row, except as authorized in s. 5.655. ~~The ballots shall be secured together~~
24 ~~at the bottom.~~ The party ballot column or row of the party receiving the most votes
25 for president or governor at the last general election shall be ~~on top~~ first with the

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1 other parties arranged in descending order based on their vote for president or
2 governor at the last general election. The ballots columns or rows of parties
3 qualifying under sub. (2) shall be placed ~~after~~ to the right of or below the parties
4 qualifying under par. (b), in the same order in which the parties filed petitions with
5 the board. Any ballot required under par. (b) 2. shall be placed next in order. At
6 polling places where voting machines are used, each party shall be represented in
7 one or more separate columns or rows on the ballot. At polling places where an
8 electronic voting system is used other than an electronic voting machine, each party
9 may be represented in separate columns or rows on the ballot. An elector at the
10 partisan primary may vote for any candidate for each office regardless of the political
11 affiliation of the candidate.

12 (b) 1. Except as provided in subd. 2. and s. 5.64 (1) (e) 2., every recognized
13 political party listed on the official ballot at the last gubernatorial election whose
14 candidate for any statewide office received at least ~~1%~~ 1 percent of the total votes cast
15 for that office and, if the last general election was also a presidential election, every
16 recognized political party listed on the ballot at that election whose candidate for
17 president received at least ~~1%~~ 1 percent of the total ~~vote~~ votes cast for that office shall
18 ~~have a separate primary ballot or one or more separate columns or rows on the~~
19 ~~primary ballot as prescribed in par. (a) and a separate column on the general election~~
20 ~~ballot~~ at the partisan primary and general election in every ward and election
21 district. An organization which ~~that~~ was listed as “independent” at the last general
22 election and whose candidate meets the same qualification shall receive the same
23 ballot status upon petition ~~of~~ to the board by the chairperson and secretary of the
24 organization ~~to the board~~ requesting such status and specifying their party name,
25 which may not duplicate the name of an existing party. A petition under this

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1 subdivision may be filed no later than 5 p.m. on April 1 in the year of each general
2 election.

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

17 **SECTION 7.** 5.62 (2) of the statutes is amended to read:

18 5.62 (2) (a) Except as provided in par. (b) and s. 5.64 (1) (e) 2., any political
19 organization may be represented ~~on a separate primary ballot or~~ in one or more
20 separate columns or rows on the partisan primary ballot as prescribed in sub. (1) (a)
21 and in a separate column or row on the general election ballot in every ward and
22 election district. To qualify for a separate ~~ballot~~ column or row under this paragraph,
23 the political organization shall, not later than 5 p.m. on April 1 in the year of the
24 partisan primary, file with the board a petition requesting separate ballot status.
25 The petition shall be signed by at least 10,000 electors, including at least 1,000

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1 electors residing in each of at least 3 separate congressional districts. The petition
2 shall conform to the requirements of s. 8.40. No signature obtained before January
3 1 in the year of filing is valid. When the candidates of a political organization filing
4 a valid petition fulfill the requirements prescribed by law, they shall appear ~~on a~~
5 ~~separate ballot or~~ in one or more separate columns or rows on the ballot for the
6 period ending with the following general election.

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

21 **SECTION 8.** 5.62 (3) of the statutes is amended to read:

22 5.62 (3) The board shall designate the official primary ballot arrangement for
23 statewide offices and district attorney within each prosecutorial district by using the
24 same procedure as provided in s. 5.60 (1) (b). On each ~~ballot and on each~~ separate
25 column or row on the ballot, the candidates for office shall be listed together with the

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1 offices ~~which~~ that they seek in the following order whenever these offices appear on
2 the partisan primary ballot: governor, lieutenant governor, attorney general,
3 secretary of state, state treasurer, U.S. senator, U.S. representative in congress,
4 state senator, representative to the assembly, district attorney, and the county
5 offices.

6 **SECTION 9.** 5.655 (1) of the statutes is amended to read:

7 5.655 (1) Whenever a separate ballot is required to be used, a municipality may
8 use a single ballot to facilitate the use of voting machines or an electronic voting
9 system or, if the municipality employs paper ballots, may use a consolidated paper
10 ballot that is authorized under sub. (2). If a municipality uses a single ballot in lieu
11 of separate ballots, the ballot shall include a separate column or row for any office,
12 or referendum ~~or party~~ for which a separate ballot is required by law and the ballot
13 shall be distributed only to electors who are eligible to vote for all of the offices and
14 referenda appearing on the ballot.

15 **SECTION 10.** 5.81 (4) of the statutes is repealed.

16 **SECTION 11.** 5.84 (1) of the statutes is amended to read:

17 5.84 (1) Where any municipality employs an electronic voting system ~~which~~
18 that utilizes automatic tabulating equipment, either at the polling place or at a
19 central counting location, the municipal clerk shall, on any day not more than 10
20 days prior to the election day on which the equipment is to be utilized, have the
21 equipment tested to ascertain that it will correctly count the votes cast for all offices
22 and on all measures. Public notice of the time and place of the test shall be given by
23 the clerk at least 48 hours prior to the test by publication of a class 1 notice under
24 ch. 985 in one or more newspapers published within the municipality if a newspaper
25 is published therein, otherwise in a newspaper of general circulation therein. The

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1 test shall be open to the public. The test shall be conducted by processing a
2 preaudited group of ballots so marked as to record a predetermined number of valid
3 votes for each candidate and on each referendum. The test shall include for each
4 office one or more ballots ~~which~~ that have votes in excess of the number allowed by
5 law ~~and, for a partisan primary election, one or more ballots which have votes cast~~
6 ~~for candidates of more than one recognized political party, in order to test the ability~~
7 of the automatic tabulating equipment to reject such votes. If any error is detected,
8 the municipal clerk shall ascertain the cause and correct the error. The clerk shall
9 make an errorless count before the automatic tabulating equipment is approved by
10 the clerk for use in the election.

11 **SECTION 12.** 5.91 (1) and (3) of the statutes are amended to read:

12 5.91 (1) It enables an elector to vote in secrecy ~~and to select the party for which~~
13 ~~an elector will vote in secrecy at a partisan primary election.~~

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

19 **SECTION 13.** 5.91 (6) of the statutes is repealed.

20 **SECTION 14.** 6.80 (2) (am) of the statutes is amended to read:

21 6.80 (2) (am) In partisan primaries, an elector may vote for a person as the
22 candidate of the party of the elector's choice, if that person's name does not appear
23 on the official ballot ~~of that party~~, by writing in the name of the person in the space
24 provided on the ballot or the ballot provided for that purpose, or where voting

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1 machines are used, in the irregular ballot device, designating the party for which the
2 elector desires such person to be the nominee.

3 **SECTION 15.** 6.80 (2) (f) of the statutes is amended to read:

4 6.80 (2) (f) In the presidential preference primary ~~and other partisan primary~~
5 ~~elections~~ at polling places where ballots are distributed to electors, unless the ballots
6 are prepared under s. 5.655 or are utilized with an electronic voting system in which
7 all candidates appear on the same ballot, after the elector prepares his or her ballot
8 the elector shall detach the remaining ballots, fold the ballots to be discarded and fold
9 the completed ballot unless the ballot is intended for counting with automatic
10 tabulating equipment. The elector shall then either personally deposit the ballots
11 to be discarded into the separate ballot box marked "blank ballot box," and deposit
12 the completed ballot into the ballot box indicated by the inspectors, or give the ballots
13 to an inspector who shall deposit the ballots directly into the appropriate ballot
14 boxes. The inspectors shall keep the blank ballot box locked until the canvass is
15 completed and shall dispose of the blank ballots as prescribed by the municipal clerk.

16 **SECTION 16.** 6.87 (4) (b) 1. of the statutes is amended to read:

17 6.87 (4) (b) 1. Except as otherwise provided in s. 6.875, the elector voting
18 absentee shall make and subscribe to the certification before one witness who is an
19 adult U.S. citizen. The absent elector, in the presence of the witness, shall mark the
20 ballot in a manner that will not disclose how the elector's vote is cast. The elector
21 shall then, still in the presence of the witness, fold the ballots so each is separate and
22 so that the elector conceals the markings thereon and deposit them in the proper
23 envelope. If a consolidated ballot under s. 5.655 is used, the elector shall fold the
24 ballot so that the elector conceals the markings thereon and deposit the ballot in the
25 proper envelope. If proof of residence under s. 6.34 is required and the document

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1 enclosed by the elector under this subdivision does not constitute proof of residence
2 under s. 6.34, the elector shall also enclose proof of residence under s. 6.34 in the
3 envelope. Proof of residence is required if the elector is not a military elector or an
4 overseas elector and the elector registered by mail and has not voted in an election
5 in this state. If the elector requested a ballot by means of facsimile transmission or
6 electronic mail under s. 6.86 (1) (ac), the elector shall enclose in the envelope a copy
7 of the request ~~which~~ that bears an original signature of the elector. The elector may
8 receive assistance under sub. (5). The return envelope shall then be sealed. The
9 witness may not be a candidate. The envelope shall be mailed by the elector, or
10 delivered in person, to the municipal clerk issuing the ballot or ballots. If the
11 envelope is mailed from a location outside the United States, the elector shall affix
12 sufficient postage unless the ballot qualifies for delivery free of postage under federal
13 law. ~~Failure to return an unused ballot in a primary does not invalidate the ballot~~
14 ~~on which the elector's votes are cast. Return of more than one marked ballot in a~~
15 ~~primary or return of a ballot prepared under s. 5.655 or a ballot used with an~~
16 ~~electronic voting system in a primary which is marked for candidates of more than~~
17 ~~one party invalidates all votes cast by the elector for candidates in the primary.~~

18 **SECTION 17.** 7.08 (2) (b) of the statutes is amended to read:

19 7.08 (2) (b) The certified list of candidates for president and vice president who
20 have been nominated at a national convention by a party entitled to a separate
21 column or row on the partisan primary ballot or for whom electors have been
22 nominated under s. 8.20 shall be sent as soon as possible after the closing date for
23 filing nomination papers, but no later than the deadlines established in s. 10.06.

24 **SECTION 18.** 7.50 (1) (d) of the statutes is repealed.

25 **SECTION 19.** 7.50 (2) (g) of the statutes is amended to read:

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1 7.50 (2) (g) In partisan primaries, if an elector writes in the name of an
2 individual ~~on a ballot~~ in a column or row other than the one on which that individual's
3 name is shown as a candidate, the write-in vote may not be counted.

4 **SECTION 20.** 8.16 (1), (6) and (7) of the statutes are amended to read:

5 8.16 (1) Except as provided in sub. (2), the person who receives the greatest
6 number of votes for an office ~~on a party ballot~~ at any partisan primary, regardless of
7 whether the person's name appears on the ballot, shall be the party's candidate for
8 the office, and the person's name shall so appear on the official ballot at the next
9 election.

10 (6) The persons who receive the greatest number of votes respectively for the
11 offices of governor and lieutenant governor ~~on~~ for any party ~~ballot~~ at a primary shall
12 be the party's joint candidates for the offices, and their names shall so appear on the
13 official ballot at the next election.

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

21 **SECTION 21.** 8.17 (1) (a) of the statutes is amended to read:

22 8.17 (1) (a) Political parties qualifying for a separate column or row on the
23 partisan primary ballot under s. 5.62 (1) (b) or (2) shall elect their party
24 committeemen and committeewomen as provided under sub. (5) (b). The function of
25 committeemen and committeewomen is to represent their neighborhoods in the

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1 structure of a political party. Committeemen and committeewomen shall act as
2 liaison representatives between their parties and the residents of the election
3 districts in which they serve. Activities of committeemen and committeewomen
4 shall include, but not be limited to, identifying voters; assistance in voter
5 registration drives; increasing voter participation in political parties; polling and
6 other methods of passing information from residents to political parties and elected
7 public officials; and dissemination of information from public officials to residents.
8 For assistance in those and other activities of interest to a political party, each
9 committeeman and committeewoman may appoint a captain to engage in these
10 activities in each ward, if the election district served by the committeeman or
11 committeewoman includes more than one ward. In an election district ~~which~~ that
12 includes more than one ward, the committeeman or committeewoman shall
13 coordinate the activities of the ward captains in promoting the interests of his or her
14 party.

15 **SECTION 22.** 8.20 (9) of the statutes is amended to read:

16 8.20 (9) Persons nominated by nomination papers without a recognized
17 political party designation shall be placed on the official ballot at the general election
18 and at any partisan election to the right or below the recognized political party
19 candidates in their own column or row designated "Independent".." If the candidate's
20 name already appears under a recognized political party it may not be listed on the
21 independent ballot, column or row.

22 **SECTION 23.** 8.50 (3) (b) of the statutes is amended to read:

23 8.50 (3) (b) Except as otherwise provided in this section, the provisions for the
24 partisan primary under s. 8.15 are applicable to all partisan primaries held under
25 this section, and the provisions for spring primaries under s. 8.10 are applicable to

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1 all nonpartisan primaries held under this section. In a special partisan primary or
2 election, the order of the parties on the ballot shall be the same as provided under
3 s. 5.62 (1) or 5.64 (1) (b). No primary is required for a nonpartisan election in which
4 not more than 2 candidates for an office appear on the ballot or for a partisan election
5 in which not more than one candidate for an office appears ~~on~~ in the ballot column
6 or row of each recognized political party on the ballot. In every special election except
7 a special election for nonpartisan state office where no candidate is certified to
8 appear on the ballot, a space for write-in votes shall be provided on the ballot,
9 regardless of whether a special primary is held.

10 **SECTION 24.** 8.50 (3) (c) of the statutes is repealed.

11 **SECTION 25.** 9.10 (3) (e) of the statutes is amended to read:

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

20 **SECTION 26.** 10.02 (3) (b) 2. of the statutes is amended to read:

21 10.02 (3) (b) 2. At a partisan primary, the elector shall select the ~~party ballot~~
22 candidate of his or her choice for each office and shall make a cross (X) next to or
23 depress the lever or button next to the candidate's name for each office for whom the
24 elector intends to vote, or shall insert or write in the name of the elector's choice for
25 a candidate.

