

State of Wisconsin



2011 Senate Bill 115

Date of enactment: **September 30, 2011**

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2011 WISCONSIN ACT 45

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

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

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

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

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

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

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

5.58 (1a) **GENERALLY.** At spring primary elections the ballots under subs. (1b) to ~~(2r)~~ (2m), when necessary, shall be provided for each ward, except as authorized in s. 5.655. ~~Except as provided under sub. (2r), only~~ Only

nonpartisan candidates nominated for office by nomination papers shall have their names placed on the official spring primary ballot under the proper office designation, but the ballots shall allow room for write-in candidates.

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

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

6.24 (5) **BALLOTS.** The board shall prescribe a special ballot for use under this section whenever necessary. Official ballots prescribed for use in the presidential preference primary may also be used. The ballot shall be designed to comply with the requirements prescribed under ss. ~~5.58 (2r)~~ 5.60 (8), 5.62, and 5.64 (1) insofar as applicable. All ballots shall be limited to national offices only.

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

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

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

* Section 991.11, WISCONSIN STATUTES 2009-10 : Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication as designated" by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].

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

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

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

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

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

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

8.12 (1) SELECTION OF NAMES FOR BALLOT. (a) No later than 5 p.m. on the ~~3rd~~ 2nd Tuesday in ~~November,~~ December of the year before each year in which electors for president and vice president are to be elected, the state chairperson of each recognized political party listed on the official ballot at the last gubernatorial election whose candidate for governor received at least 10% of the total votes cast for that

office may certify to the board that the party will participate in the presidential preference primary. For each party filing such a certification, the voters of this state shall at the spring primary election be given an opportunity to express their preference for the person to be the presidential candidate of that party.

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

(c) No later than 5 p.m. on the ~~first~~ last Tuesday in January of each presidential election year, any person seeking the nomination by the national convention of a political party filing a certification under this subsection for the office of president of the United States, or any committee organized in this state on behalf of and with the consent of such person, may submit to the board a petition to have the person's name appear on the presidential preference ballot. The petition may be circulated no sooner than the ~~2nd first~~ 2nd Tuesday in ~~December preceding~~ January of such year, or the next day if Tuesday is a holiday, and shall be signed by a number of qualified electors equal in each congressional district to not less than 1,000 signatures nor more than 1,500 signatures. The form of the petition shall conform to the requirements of s. 8.40. All signers on each separate petition paper shall reside in the same congressional district.

(d) The board shall forthwith contact each person whose name has been placed in nomination under par. (b) and notify him or her that his or her name will appear on the Wisconsin presidential preference ballot unless he or she files, no later than 5 p.m. on the ~~first~~ last Tuesday in January of such year, with the board, a disclaimer stating

without qualification that he or she is not and does not intend to become a candidate for the office of president of the United States at the forthcoming presidential election. The disclaimer may be filed with the board by certified mail, telegram, or in person.

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

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

10.06 (1) (e) As soon as possible following the state canvass of the spring primary vote, but no later than the first Tuesday in March, the board shall send a type B notice certifying to each county clerk the list of candidates for the spring election. When no state spring primary is held ~~or when the only primary held is the presidential preference primary~~, this notice shall be sent under par. (c). The board shall also in any case send a certified list of candidates under s. 11.50 to the state treasurer pursuant to s. 7.08 (2) (c). When there is a referendum, the board shall send type A and C notices certifying each question to the county clerks as soon as possible, but no later than the first Tuesday in March.

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

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

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

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

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

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