



**ASSEMBLY SUBSTITUTE AMENDMENT 1,  
TO 1995 ASSEMBLY BILL 613**

November 15, 1995 - Offered by Representatives HANSON and SKINDRUD.

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

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

7 **SECTION 1.** 5.02 (26) of the statutes is created to read:  
8 5.02 (26) "Write-in candidate" means a candidate who seeks or receives votes  
9 at an election for an office without qualifying to have his or her name appear on the  
10 ballot at that election for the office for which the candidate seeks or receives votes.  
11 **SECTION 2.** 7.08 (5) of the statutes is created to read:  
12 7.08 (5) NOTICE OF WRITE-IN CANDIDATES. Whenever a write-in candidate files  
13 a timely declaration of candidacy with the board, the board shall immediately notify  
14 the county clerk or board of election commissioners of each county where the write-in

1 candidate seeks office of the name of the candidate and the office which the candidate  
2 seeks. This subsection does not apply if the write-in candidate seeks an office for  
3 which there are no candidates whose names appear on the ballot or if there appears  
4 on the ballot the name of a deceased candidate for the office which the write-in  
5 candidate seeks.

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

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

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

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

1 the ballot or if there appears on the ballot the name of a deceased candidate for the  
2 office which the write-in candidate seeks.

3 **SECTION 5.** 7.51 (2) (e) of the statutes is amended to read:

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

1 similarly voted. Objections may be made to placement of ballots in the piles at the  
2 time the separation is made.

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

4 7.51 (2) (g) Immediately after the polls close, where voting machines are used,  
5 the inspectors shall open the registering or recording compartments or remove the  
6 record of the votes cast and shall canvass, record, announce and return on the tally  
7 sheets and certificates furnished. In recording the votes cast for an office, the  
8 inspectors may indicate votes cast for a write-in candidate who does not file a timely  
9 declaration of candidacy for the office for which the candidate receives votes as  
10 scattering votes, unless there are no candidates whose names appear on the ballot  
11 for that office or unless there appears on the ballot the name of a deceased candidate.

12 In recording the votes registered on any counter which, before the opening of the  
13 polls, did not register 000, the inspectors shall upon the return sheets subtract the  
14 number registered before the polls opened from the number registered when the  
15 polls closed. The difference between the 2 numbers is the correct vote for the  
16 candidate whose name was represented by the counter, except if the number  
17 registered on the counter when the polls closed is smaller than the number registered  
18 thereon when the polls opened, the number 1,000 shall be added to the number  
19 registered when the polls closed, before the subtraction is made.

20 **SECTION 7.** 7.51 (4) (a) of the statutes is amended to read:

21 7.51 (4) (a) The tally sheets shall state the total number of votes cast for each  
22 office and for each individual receiving votes for that office, ~~whether or not the~~  
23 ~~individual's name appears on the ballot and shall~~ except a write-in candidate who  
24 has not filed a timely declaration of candidacy for the office for which the candidate  
25 receives a vote, unless there are no candidates whose names appear on the ballot for

1 that office or unless there appears on the ballot the name of a deceased candidate for  
2 that office. The tally sheets shall also state the vote for and against each proposition  
3 voted on. Upon completion of the tally sheets, the inspectors shall immediately  
4 complete inspectors' statements in duplicate. The inspectors shall state the excess  
5 by which the number of ballots exceeds the number of electors voting as shown by  
6 the poll or registration list, if any, and shall state the number of the last elector as  
7 shown by the registration or poll lists. At least 3 inspectors, including the chief  
8 inspector and at least one inspector representing each political party, shall then  
9 certify to the correctness of the statements and tally sheets and sign their names.  
10 All other election officials assisting with the tally shall also certify to the correctness  
11 of the tally sheets. When the tally is complete, the inspectors shall publicly announce  
12 the results from the statements.

13 **SECTION 8.** 7.53 (1) of the statutes is amended to read:

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

1 nomination or election to each municipal office and the number of votes cast for and  
2 against each municipal referendum question.

3 **SECTION 9.** 7.53 (2) (d) of the statutes is amended to read:

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

23 **SECTION 10.** 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

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 canvass  
5 shall begin as soon as possible after receipt of the returns, and shall continue,  
6 without adjournment, until completed. The board of canvassers may return  
7 defective returns to the municipal board of canvassers in the manner provided in s.  
8 7.60 (3). The board of canvassers shall prepare a written statement showing the  
9 numbers of votes cast for each person for each office and, except a write-in candidate  
10 who has not filed a timely declaration of candidacy for the office for which the  
11 candidate receives a vote, unless there are no candidates whose names appear on the  
12 ballot for that office or unless there appears on the ballot for that office the name of  
13 a deceased candidate. The statement shall also show the numbers of votes cast for  
14 and against each question and. The board of canvassers shall also prepare a  
15 determination showing the names of the persons who are elected to the school board  
16 and the results of any school district referendum. Following each primary election,  
17 the board of canvassers shall prepare a statement certifying the names of the persons  
18 who have won nomination to the school board. Each statement and determination  
19 shall be attested by each of the canvassers. The board of canvassers shall file each  
20 statement and determination in the school district office. The school district clerk  
21 shall certify nominations after each primary and issue certificates of election to  
22 persons who are elected to the school board after each election in the manner  
23 provided in sub. (4).

24 **SECTION 11.** 7.60 (4) (a) of the statutes is amended to read:

1           7.60 (4) (a) The board of canvassers shall make separate duplicate statements  
2 showing the numbers of votes cast for the offices of president and vice president; state  
3 officials; U.S. senators and representatives in congress; state legislators; justice;  
4 court of appeals judge; circuit judges; district attorneys; municipal judges, if they are  
5 elected under s. 755.01 (4); and metropolitan sewerage commissioners, if the  
6 commissioners are elected under s. 66.23 (11) (am). For partisan candidates, the  
7 statements shall include the political party or principle designation, if any, next to  
8 the name of each candidate. The board of canvassers shall also prepare a statement  
9 showing the results of any county, technical college district or statewide referendum.  
10 Each statement shall ~~state~~ show the total number of votes cast in the county for each  
11 office; the names of all persons for whom the votes were cast, as returned; and the  
12 number of votes cast for each person; and, except a write-in candidate who has not  
13 filed a timely declaration of candidacy for the office for which the candidate receives  
14 a vote, unless there are no candidates whose names appear on the ballot for that  
15 office or unless there appears on the ballot for that office the name of a deceased  
16 candidate. The statement shall also show the number of votes cast for and against  
17 any question submitted at a referendum. The board of canvassers shall use one copy  
18 of the statement to report to the elections board or technical college district board and  
19 shall file the other statement in the office of the county clerk or board of election  
20 commissioners.

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

22           7.60 (4) (c) In preparing the statements and determinations, the board of  
23 canvassers shall carefully review the tally sheets and inspectors' statement. The  
24 board of canvassers may omit the ~~names of individuals whose names do not appear~~  
25 ~~on the ballot and who receive a comparatively small number of votes.~~ The board of



1 ~~canvassers shall~~ name of any write-in candidate who has not filed a timely  
2 declaration of candidacy for the office for which the candidate receives votes, and  
3 designate votes received by ~~such individuals~~ the candidate as scattering votes,  
4 unless there are no candidates whose names appear on the ballot for that office or  
5 unless there appears on the ballot for that office the name of a deceased candidate.

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

12 **SECTION 13.** 7.70 (3) (f) of the statutes is amended to read:

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

22 **SECTION 14.** 8.11 (1) (b) and (d), (2), (2m) and (5) of the statutes are amended  
23 to read:

1           8.11 (1) (b) Any city may provide by charter ordinance, under s. 66.01, that  
2 whenever 3 or more candidates, other than write-in candidates, file nomination  
3 papers for a city office, a primary to nominate candidates for the office shall be held.

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

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

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

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

19           **SECTION 15.** 8.21 of the statutes is amended to read:

20           **8.21 Declaration of candidacy.** Each candidate, except a write-in candidate  
21 or a candidate for presidential elector under s. 8.20 (2) (d), shall file a declaration of  
22 candidacy, no later than the latest time provided for filing nomination papers under  
23 s. 8.10 (2) (a), 8.15 (1), 8.17 (2), 8.20 (8) (a) or 8.50 (3) (a), or the time provided under  
24 s. 8.16 (2) or 8.35 (2) (c). A write-in candidate may file a declaration of candidacy no  
25 later than 5 p.m. before the day of the primary or other election at which the

1 candidate seeks office. A candidate shall file the declaration with the officer or  
2 agency with which nomination papers are filed for the office which the candidate  
3 seeks, or if nomination papers are not required, with the clerk or board of election  
4 commissioners of the jurisdiction in which the candidate seeks office. The  
5 declaration shall be sworn to before any officer authorized to administer oaths. The  
6 declaration shall contain the name of the candidate in the form specified under s.  
7 8.10 (2) (b) for candidates for nonpartisan office or s. 8.15 (5) (a) or 8.20 (2) (a) for  
8 candidates for partisan office, and shall state that the signer is a candidate for a  
9 named office, that he or she meets or will at the time he or she assumes office meet  
10 applicable age, citizenship, residency or voting qualification requirements, if any,  
11 prescribed by the constitutions and laws of the United States and of this state, and  
12 that he or she will otherwise qualify for office if nominated and elected. The Except  
13 in the case of a write-in candidate, the declaration shall include the candidate's  
14 name in the form in which it will appear on the ballot. Each candidate for state and  
15 local office shall include in the declaration a statement that he or she has not been  
16 convicted of any infamous crime for which he or she has not been pardoned and a list  
17 of all felony convictions for which he or she has not been pardoned. In addition, each  
18 candidate for state or local office shall include in the declaration a statement that  
19 discloses his or her municipality of residence for voting purposes, and the street and  
20 number, if any, on which the candidate resides. The declaration is valid with or  
21 without the seal of the officer who administers the oath. A candidate for state or local  
22 office shall file an amended declaration under oath with the same officer or agency  
23 if any information contained in the declaration changes at any time after the original  
24 declaration is filed and before the candidate assumes office or is defeated for election  
25 or nomination.

1           **SECTION 16.** 120.06 (6) (b) of the statutes is amended to read:

2           120.06 (6) (b) No later than the first Tuesday in December prior to the spring  
3 election, the school district clerk shall publish a type A notice of the school district  
4 election under s. 10.01 (2) (a). Except as authorized in this paragraph, no later than  
5 5 p.m. on the first Tuesday in January prior to the spring election, or on the next day  
6 if Tuesday is a holiday, any qualified elector of the school district, other than a  
7 write-in candidate as defined in s. 5.02 (26), may file a sworn declaration of  
8 candidacy with the school district clerk in the form provided in s. 8.21 at the place  
9 specified in the notice. A write-in candidate may file a declaration of candidacy no  
10 later than 5 p.m. before the day of the primary or other election at which the  
11 candidate seeks office. If the school district contains territory lying within a 2nd  
12 class city, or if the school board or annual meeting requires nomination papers under  
13 par. (a), any qualified elector of the school district who desires to be a candidate, other  
14 than a write-in candidate, shall in addition file nomination papers in the form  
15 prescribed under s. 8.10 (2) and (3) with the school district clerk at the place specified  
16 in the notice. If an incumbent fails to file a declaration of candidacy, and nomination  
17 papers, where required, within the time prescribed by this paragraph, all candidates  
18 for the office held by the incumbent, other than the incumbent, may file a declaration  
19 of candidacy and nomination papers, where required, no later than 72 hours after the  
20 latest time prescribed in this paragraph. No extension of the time for filing a  
21 declaration of candidacy or nomination papers applies if the incumbent files written  
22 notification with the school district clerk, no later than 5 p.m. on the 2nd Friday  
23 preceding the latest time prescribed in this paragraph for filing declarations of  
24 candidacy, that the incumbent is not a candidate for reelection to his or her office, and  
25 the incumbent does not file a declaration of candidacy for that office within the time

1 prescribed in this paragraph. In the case of a 3-member school board, the qualified  
2 elector shall state in his or her declaration of candidacy and on the face of his or her  
3 nomination papers, if any, the office for which the elector is a candidate. In the case  
4 of an apportioned or numbered school board, the qualified elector shall state in his  
5 or her declaration of candidacy and on the face of his or her nomination papers, if any,  
6 the apportioned area or numbered seat for which the elector is a candidate. If a  
7 candidate has not filed a registration statement under s. 11.05 by the time he or she  
8 files a declaration of candidacy, the candidate shall file the statement with the  
9 declaration. A candidate shall file an amended declaration under oath with the  
10 school district clerk in the event of a change in any information provided in the  
11 declaration as provided in s. 8.21.

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

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

21 **SECTION 18.** 120.06 (7) (b) of the statutes is amended to read:

22 120.06 (7) (b) The school board shall require a primary election if there are  
23 more than 2 candidates, other than write-in candidates, as defined in s. 5.02 (26),  
24 for any seat on a 3-member board or more than twice as many candidates as there  
25 are members to be elected to an unnumbered school board of more than 3 members.

1 In school districts in which a plan of apportionment of school board members under  
2 s. 120.02 (2) or a plan for election of school board members to numbered seats has  
3 been adopted, the school board shall require a primary election for particular  
4 apportioned areas for which there are more than twice as many candidates, other  
5 than write-in candidates, as there are members to be elected and for any numbered  
6 seat for which there are more than 2 candidates. When there is a primary election  
7 it shall be held in conjunction with the spring primary.

8 **SECTION 19.** 120.06 (8) (dm) of the statutes is created to read:

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

15 (END)