

# COUNTING VOTES AT THE MAY 8, 2012 RECALL PRIMARY

## Introduction

The May 8, 2012 Recall Primary is very different from other partisan primaries. There will be at least two offices on all ballots in the state – Governor and Lieutenant Governor. In some areas, there will be 3 offices – Governor, Lieutenant Governor and State Senator.

The recall primary and recall election are the result of sufficient recall petitions filed against particular officeholders. Therefore, each office up for recall is its own separate election event--just as if voting for each office was occurring on separate days. Since each office is an election event in and of itself, the voter has few constraints, as long as the voter votes only once in each contest.

Since there are two primaries being conducted in the office of Governor, most of the anomalies requiring the inspectors to decide voter intent will occur in the office of Governor, and will most likely involve write-in votes.

Although we can't predict every combination of votes that an elector may choose, we will address the majority of them in this manual.

## Voter Intent

When counting votes, voter intent is the controlling factor in determining if and how a vote should be counted. When there is a question of how a vote should be counted because the vote is not clearly marked as the instructions on the ballot dictates, the decision is made by a majority of the election inspectors. Even though tabulators may be used to assist in counting, the decision on how to treat a questionable ballot is made by the election inspectors.

Whenever a voter's-intent must be decided by the inspectors, and the decision is that the vote will not be counted, a record is made on the Inspectors' Statement (GAB-104) that the vote was not counted and the reason.

Whether the decision is to count or not count the vote, but the decision is not unanimous, the GAB-104 should reflect the decision but note that a minority of inspectors objected to the decision.

## Counting Write-In Votes

Determining the proper way to count write-in votes raises several questions. It is important to remember that if the voter's intent can be determined, the write-in vote must be counted to reflect that intent. Another important point is that, in *most* cases, a write-in vote will take precedence over a vote for a person whose name is printed on the ballot for the same office.

Where optical scan voting systems are used, care must be taken to assure that write-in votes are counted when the elector fails to make a mark or connect the arrow next to the write-in line. Because the optical scan equipment will not pick up a write-in vote where there is no mark or the arrow is not connected, inspectors must inspect **each** ballot, including ballots not deflected into the write-in bin, to determine if a write-in vote has been cast.

Following are several examples of when and when not to count write-in votes. Inspectors must also remember that all write-in votes cast for any person at the election must be listed on the tally sheet, regardless of whether or not the person is a registered write-in candidate.

**NOTE:** There is a registered Republican write-in candidate for the office of Governor. His name is:

**Patrick J. O'Brien.**

### **Count Write in Votes When:**

1. The name of a ballot candidate for Lieutenant Governor or State Senator, including any incumbent, is written in as a candidate for Governor. The write-in vote is counted as a vote for Governor in the party under which it was written.
2. The name of a candidate for Governor is written in as a candidate for Lieutenant Governor or State Senator. The write in vote is counted as a Democratic vote for Lieutenant Governor or State Senator.
3. The name of the registered gubernatorial write-in candidate, Republican Patrick J. O'Brien, is written in for the Office of Governor in the Democratic section. The write-in vote is counted for Patrick J. O'Brien as a Democrat.
4. The name of the registered gubernatorial write-in candidate, Republican Patrick J. O'Brien, is written in for the Office of Lt. Governor or State Senator. The write-in vote is counted as a Democratic vote for Patrick J. O'Brien for the office where his name is written.
5. The name of a ballot candidate for Governor is marked, and the same ballot candidate is written in as a candidate for Governor in the same party. One vote for the candidate is counted.
6. The name of a ballot candidate for Governor is marked, and a name is written in as a candidate for Governor in the same party. Only the write-in vote is counted.

### **Do Not Count Write-in Votes When:**

1. The name of a ballot candidate for Governor is written in as a candidate for Governor in a different party.
2. A ballot candidate for Governor is selected, and the voter also writes in a name for the office of Governor in a different party. No vote is counted for the office.
3. The voter writes in two names for the office of Governor, whether in the same party or two different parties. No vote is counted for the office.
4. The name of a ballot candidate for Governor is marked, and the same ballot candidate is written in as a candidate for Governor in a different party. No vote is counted for the office.
5. In any office, the name of more than one person has been written in and a vote has also been cast for a candidate whose name is printed on the ballot for the same office. No votes are counted for that office.
6. The name of the incumbent Republican candidate for Lt. Governor or State Senator is written in as a Democratic candidate for the same office from which they are being recalled. No vote is counted for that office.

This information was prepared by the staff of the Government Accountability Board, and represents the staff's view of the application of the law set out in §7.50(2), Wis. Stats., to the general situations described. Election inspectors and candidates should review the law or consult an attorney about any specific application of the law. Any questions should be directed to the Government Accountability Board Help Desk at 608-261-2028 or [gabhelpdesk@wi.gov](mailto:gabhelpdesk@wi.gov).