

## Counting Write-In Votes in Multiple-Seat Offices

### Review of 2013 Act 178

2013 Wisconsin Act 178 limits when votes cast for unregistered write-in candidates may be counted, but considers only “**vote for 1**” offices. The fundamentals of Act 178 are:

- If there is at least **one** ballot candidate for a given office—
  - Only tally votes for registered write-in candidates
- If there are no ballot candidates (i.e., less than **one**) for a given office—
  - Tally all write-in votes
- If there are **any** ballot candidates for a given office, and **one** or more pass away—
  - Tally all write-in votes

### Applying 2013 Act 178 to Multiple-Seat Offices

The application of Act 178 to multiple-seat offices follows the same principles while considering the number of seats to be filled within the office. Here are the fundamentals of Act 178 using a “**vote for 2**” office as an example:

- If there are at least **two** ballot candidates for a given office—
  - Only tally votes for registered write-in candidates
- If there are less than **two** ballot candidates for a given office—
  - Tally all write-in votes
- If there are **any** ballot candidates for a given office, and **one** or more pass away—
  - Tally all write-in votes

### Process for Determination of Viability of Write-in Votes

There are four questions inspectors should ask themselves when determining write-in vote viability and in what situations votes for ballot candidates may be considered. The four questions are:

- 1) *Can all write-in votes be counted or just those for registered write-in candidates?*
- 2) *Is (or are) the write-in candidate(s) registered?*
- 3) *Regardless of whether the write-in vote(s) can or can't be counted, are there enough write-in votes to fill the seats up for election?*
- 4) *How many votes is the elector entitled to?*

Taking time to ask these questions should help to sort out the confusion write-in votes can cause.

On the following pages are examples that implement the application of Act 178 and the four questions used to determine viability of write-in votes and when votes for ballot candidates may be considered. The examples use “Vote for not more than 2” and “Vote for not more than 3” offices.

<p><b>Example 1</b></p> <p><b>Village Trustee</b> Vote for not more than 2</p> <ul style="list-style-type: none"> <li>● Mark Mywerds</li> <li>● Shirley Ugest</li> <li>● <u>Rusty Pipe</u></li> <li>○ _____</li> </ul> <p>2 ballot candidates in a 2-seat office. Rusty is a registered write-in candidate.</p>	<p><b>The voter has cast votes for the two ballot candidates and has also written in a name.</b></p> <p>1) <i>Can all write-in votes be counted or just those for registered write-in candidates?</i></p> <p>There are two ballot candidates in this “vote for 2” office, so only votes for registered write-in candidates may be counted.</p> <p>2) <i>Is the write-in candidate registered?</i></p> <p>Yes. Rusty Pipe is a registered write-in candidate, so a vote is tallied for Rusty.</p> <p>3) <i>Regardless of whether the write-in vote can or can’t be counted, are there enough write-in votes to fill the seats up for election?</i></p> <p>No. There is only one write-in vote for this two-seat office, so ballot candidates <i>may</i> be considered.</p> <p>4) <i>How many votes is the elector entitled to?</i></p> <p>Two. One vote has been tallied for the write-in candidate, so the voter is entitled to one more vote, but which ballot candidate the voter intended to vote for cannot be determined, so no vote is counted for either ballot candidate.</p> <p><b>Result:</b> Only one vote is counted—write-in Rusty’s.</p>
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<p><b>Example 2</b></p> <p><b>Town Board Supervisor</b> Vote for not more than 3</p> <ul style="list-style-type: none"> <li>● Dewey Wanna</li> <li>● Anita Proof</li> <li>● <u>Izzy Serton</u></li> <li>● <u>Margi Navera</u></li> <li>○ _____</li> </ul> <p>2 ballot candidates in a 3 seat office. Margi is registered, Izzy is not registered.</p>	<p><b>The voter has cast votes for the two ballot candidates and has also written in two names.</b></p> <p>1) <i>Can all write-in votes be counted or just those for registered write-in candidates?</i></p> <p>There are two ballot candidates in this “vote for 3” office, so all write-in votes may be counted.</p> <p>2) <i>Are the write-in candidates registered?</i></p> <p>One is, one isn’t, but all write-in votes may be counted. Votes are counted for both write-in candidates.</p> <p>3) <i>Regardless of whether the write-in vote can or can’t be counted, are there enough write-in votes to fill the seats up for election?</i></p> <p>No. There are only two write-ins for this three-seat office, so ballot candidates <i>may</i> be considered.</p> <p>4) <i>How many votes is the elector entitled to?</i></p> <p>Three. Two votes have been tallied for the write-in candidates, so the voter is entitled to one more vote, but which ballot candidate the voter intended to vote for cannot be determined, so no vote is counted for either ballot candidate.</p> <p><b>Result:</b> Only the two write-in votes are counted.</p>
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<p><b>Example 3</b></p> <p><b>Village Trustee</b> Vote for not more than 2</p> <ul style="list-style-type: none"> <li><input checked="" type="radio"/> Ida Thotso</li> <li><input type="radio"/> <u>Izzy Serton</u></li> <li><input type="radio"/> <u>Margi Navera</u></li> </ul> <p><i>1 ballot candidate in a 2-seat office. Izzy is a registered write-in candidate, Margi is not.</i></p>	<p><b>The voter has cast a vote for the ballot candidate and has also written in two names.</b></p> <p>1) <i>Can all write-in votes be counted or just those for registered write-in candidates?</i></p> <p>There is one ballot candidate in this “vote for 2” office, so all write-in votes may be counted.</p> <p>2) <i>Are the write-in candidates registered?</i></p> <p>One is, one isn’t, but all write-in votes may be counted. Votes are counted for both write-in candidates.</p> <p>3) <i>Regardless of whether the write-in vote can or can’t be counted, are there enough write-in votes to fill the seats up for election?</i></p> <p>Yes. There are two write-ins for this two-seat office, so ballot candidates may not be considered.</p> <p>4) <i>How many votes is the elector entitled to?</i></p> <p>Two. Two votes have been tallied for the write-in candidates, so the voter is not entitled to any more votes; the vote for the ballot candidate does not count.</p> <p><b>Result:</b> Only the two write-in votes are counted.</p> <p><b>Note:</b> The voting equipment has recorded a vote for the ballot candidate. The inspectors must subtract a vote for Ida Thotso on the tape.</p>
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<p><b>Example 4</b></p> <p><b>School Board Member</b> Vote for not more than 3</p> <ul style="list-style-type: none"> <li><input type="radio"/> Mark Urballot</li> <li><input checked="" type="radio"/> R. U. Smart</li> <li><input type="radio"/> Letta Meein</li> <li><input type="radio"/> Charlie Horse</li> <li><input type="radio"/> Peter Piper</li> <li><input type="radio"/> Andy Lost</li> <li><input type="radio"/> <u>Dudley Doright</u></li> <li><input type="radio"/> <u>Tom Terrific</u></li> <li><input type="radio"/> _____</li> </ul> <p><i>6 ballot candidates in a 3-seat office. Dudley is registered, Tom is not.</i></p>	<p><b>The voter has cast a vote for a ballot candidate and has also written in two names.</b></p> <p>1) <i>Can all write-in votes be counted or just those for registered write-in candidates?</i></p> <p>There are six ballot candidate in this “vote for 3” office, so only votes for registered write-in candidates may be counted.</p> <p>2) <i>Are the write-in candidates registered?</i></p> <p>Dudley is, but Tom is not. A vote is counted for Dudley.</p> <p>3) <i>Regardless of whether the write-in votes can or can’t be counted, are there enough write-in votes to fill the seats up for election?</i></p> <p>There are only 2 write-in votes for this three-seat office, so ballot candidates may be considered.</p> <p>4) <i>How many votes is the elector entitled to?</i></p> <p>Three. One vote has been counted for a write-in candidates, so the voter is entitled to two more votes. The vote marked for the ballot candidate is counted.</p> <p><b>Result:</b> One ballot candidate vote and one write-in vote are counted.</p>
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### Example 5

#### Town Board Supervisor

Vote for not more than 3

- Andy Warhol
- Gloria Steinem
- Walter Winchell
- Izzy Serton
- Margi Navera
- Ima Fended

3 ballot candidates in a 3-seat office. Margi and Ima are registered, Izzy is not.

The voter has cast a vote for the ballot candidate and has also written in three names.

1) *Can all write-in votes be counted or just those for registered write-in candidates?*

There are three ballot candidate in this “vote for 3” office, so only votes for registered write-in candidates may be counted.

2) *Are the write-in candidates registered?*

Margi and Ima are registered, Izzy is not. Votes are counted for Margi and Ima.

3) *Regardless of whether the write-in vote can or can't be counted, are there enough write-in votes to fill the seats up for election?*

Yes. There are three write-ins for this three-seat office, so ballot candidates *may not* be considered.

4) *How many votes is the elector entitled to?*

Three. Two votes have been tallied for write-in candidates, so the voter is entitled to one more vote, but ballot candidates may not be considered (See 3 above). The vote for Gloria does not count.

**Result:** Only the two write-in votes are counted.

**Note:** The voting equipment has recorded a vote for the ballot candidate. The inspectors must subtract a vote for Gloria Steinem on the tape.

### Example 6

#### Town Board Supervisor

Vote for not more than 3

- Andy Warhol
- Walter Winchell
- Chet Huntley
- Izzy Serton
- Ima Fended
- \_\_\_\_\_

3 ballot candidates in a 3-seat office. Ima is registered, Izzy is not. Chet is deceased.

The voter has cast a vote for a ballot candidate and has also written in two names.

1) *Can all write-in votes be counted or just those for registered write-in candidates?*

Chet is deceased. All write-in votes may be counted.

2) *Are the write-in candidates registered?*

Ima is registered, Izzy is not, but all write-ins may be counted. A vote is counted for both Ima and Izzy.

3) *Regardless of whether the write-in votes can or can't be counted, are there enough write-in votes to fill the seats up for election?*

No. There are two write-in votes for this three-seat office, so ballot candidates may be considered.

4) *How many votes is the elector entitled to?*

Three. Two write-in votes have been counted. The voter is entitled to one more vote, and ballot candidates may be considered. (See 3 above.) The vote for Chet is counted.

**Result:** The votes for Chet and both write-ins are counted.

<p><b>Example 7</b></p> <p><b>School Board Member</b> Vote for not more than 3</p> <ul style="list-style-type: none"> <li><input type="radio"/> Mark Urballot</li> <li><input checked="" type="radio"/> R. U. Smart</li> <li><input type="radio"/> Letta Meein</li> <li><input type="radio"/> Charlie Horse</li> <li><input checked="" type="radio"/> Peter Piper</li> <li><input type="radio"/> Andy Lost</li> <li><input type="radio"/> <u>Dudley Dought</u></li> <li><input type="radio"/> <u>Tom Terrific</u></li> <li><input type="radio"/> <u>Huckleberry Hound</u></li> </ul> <p>6 ballot candidates in a 3-seat office. Dudley, Tom and Huckleberry are all registered.</p>	<p>The voter has cast a vote for two ballot candidates and has also written in three names.</p> <p>1) <i>Can all write-in votes be counted or just those for registered write-in candidates?</i></p> <p>There are six ballot candidate in this “vote for 3” office, so only votes for registered write-in candidates may be counted.</p> <p>2) <i>Are the write-in candidates registered?</i></p> <p>All write-in candidates are registered. A vote is counted for each write-in.</p> <p>3) <i>Regardless of whether the write-in votes can or can’t be counted, are there enough write-in votes to fill the seats up for election?</i></p> <p>Yes. There are three write-in votes for this three-seat office, so ballot candidates may not be considered.</p> <p>4) <i>How many votes is the elector entitled to?</i></p> <p>Three. One vote has been counted for each of the three write-in candidates, so the voter is not entitled to another vote. The vote marked for the ballot candidate is not counted.</p> <p><b>Result:</b> The three write-in votes are counted.</p> <p><b>Note:</b> The voting equipment has recorded votes for two ballot candidates. The inspectors must subtract one vote each from R. U. Smart and Peter Piper on the tape.</p>
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<p><b>Example 8</b></p> <p><b>Town Board Supervisor</b> Vote for not more than 3</p> <ul style="list-style-type: none"> <li><input type="radio"/> Andy Warhol</li> <li><input checked="" type="radio"/> Gloria Steinem</li> <li><input type="radio"/> Walter Winchell</li> <li><input checked="" type="radio"/> Chet Huntley</li> <li><input checked="" type="radio"/> <u>Izzy Serton</u></li> <li><input checked="" type="radio"/> <u>Margi Navera</u></li> <li><input type="radio"/> _____</li> </ul> <p>4 ballot candidates in a 3-seat office. Neither Izzy nor Margi are registered. Chet Huntley is deceased.</p>	<p>The voter has cast a vote for two ballot candidates and has also written in two names.</p> <p>1) <i>Can all write-in votes be counted or just those for registered write-in candidates?</i></p> <p>Chet is deceased. All write-in votes may be counted.</p> <p>2) <i>Are the write-in candidates registered?</i></p> <p>Neither write-in candidate is registered, but as there is a deceased ballot candidate, it does not matter in this case.</p> <p>3) <i>Regardless of whether the write-in votes can or can’t be counted, are there enough write-in votes to fill the seats up for election?</i></p> <p>No. There are only two write in votes for this three-seat office, so ballot candidates may be considered.</p> <p>4) <i>How many votes is the elector entitled to?</i></p> <p>Three. The votes for the two write-in candidates are counted first, so the voter is entitled to one more vote, but which ballot candidate the voter intended to vote for cannot be determined, so no vote is counted for either ballot candidate.</p> <p><b>Result:</b> The two votes for the write-in candidates are counted.</p>
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