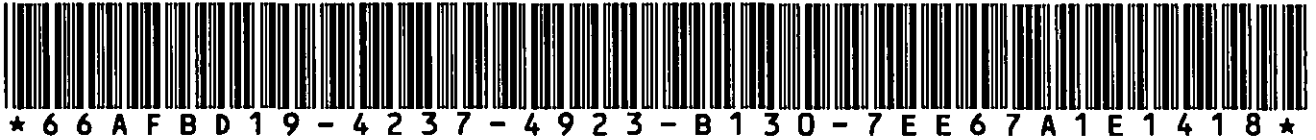


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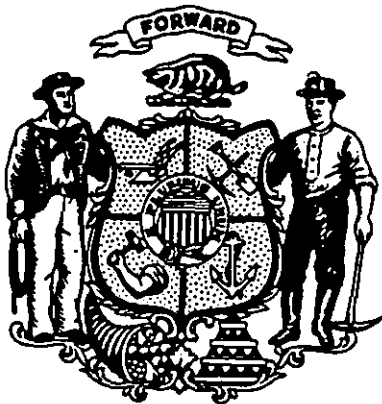
**CAMPAIGN**

**LAWS**

**Chapters 5 - 12**

**Wisconsin Statutes**

**OCTOBER, 1992**



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## CHAPTER 5

### ELECTIONS — GENERAL PROVISIONS; BALLOTS AND VOTING SYSTEMS

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#### SUBCHAPTER I

##### GENERAL PROVISIONS

**5.01 Scope.** (1) CONSTRUCTION OF CHS. 5 TO 12. Except as otherwise provided, chs. 5 to 12 shall be construed to give effect to the will of the electors, if that can be ascertained from the proceedings, notwithstanding informality or failure to fully comply with some of their provisions.

(2) GENERAL PROVISIONS OF ELECTION LAWS APPLY. The general provisions of chs. 5 to 12 apply to all elections.

(3) PLURALITY SHALL ELECT. (a) Except as provided in par. (b), in every election to choose any officer, each elector has one vote for each office unless clearly indicated otherwise. The person receiving the greatest number of legal votes for the office shall be declared elected, and the canvassers shall so determine and certify.

(b) In an election to fill a nonpartisan state office, if no names are certified to appear on the ballot, no person may be declared elected.

(4) TIE VOTE. (a) If 2 or more candidates for the same office receive the greatest, but equal number of votes, the winner shall be chosen by lot in the presence of the board of canvassers charged with the responsibility to determine the election, except as provided in s. 8.17 (4) (b).

(b) If, in a primary, 2 or more candidates receive an equal but not the greatest number of votes so that only one of those candidates with equal votes may advance to the final election, the choice shall similarly be made by drawing lots.

(c) The candidates may, if all those tied for the same office are present, draw for themselves. Upon refusal or absence of any of the candidates, the board of canvassers shall appoint a competent person to draw, and upon the results declare and certify the winner.

(d) If a question is submitted to the electors and an equal number of votes are cast for and against adoption, the question fails adoption.

(5) ELECTION OF GOVERNOR AND LIEUTENANT GOVERNOR. (a) In every general election to choose the governor and the lieutenant governor, each elector shall have a single vote applicable to both offices. The persons receiving the greatest number of legal votes cast jointly for them for governor and lieutenant governor shall be declared elected, and the canvassers shall so determine and certify.

(b) In case 2 or more slates have an equal and the highest number of votes for governor and lieutenant governor, the 2 houses of the legislature shall at the next annual session choose by joint ballot one of the slates so having an equal and the highest number of votes for governor and lieutenant governor.

**History:** 1979 c. 89; 1983 a. 484; 1985 a. 304.

Where there is substantial compliance with, but a deviation from a provision in an election statute, thereby giving rise to the question of whether the requirement is directory or mandatory, the supreme court in a long line of cases has consistently construed the provision as directory in keeping with (1), which requires that the election laws shall be so construed as to give effect to the will of the electors. *Lanser v. Koconis*, 62 W (2d) 86, 214 NW (2d) 425.

Where 40% of registered voters were denied ballots in election to remove county seat, election was set aside even though outcome probably was not affected. *McNally v. Tollerander*, 100 W (2d) 490, 302 NW (2d) 440 (1981).

**5.02 Definitions.** In chs. 5 to 12, unless the context requires otherwise:

(1) "Automatic tabulating equipment" means apparatus which automatically examines and counts votes recorded on ballots or voting machines and tabulates the results.

(1e) "Ballot" means a tabulating card, ballot label, sheet of paper or envelope on which votes are recorded. The term also includes a sheet or card, filmstrip or other device listing or containing information relative to offices, candidates and

referenda which is placed, projected or composed on the board or screen inside a voting machine.

(1m) "Ballot label" means the page, card or material containing the names of offices and candidates or referenda to be voted on, which is placed on a voting device. The term does not include a sticker applied to ballots to fill a vacancy in a nomination.

(1q) "Block" means an area which is the smallest geographic area used by the U.S. bureau of the census for data collection and tabulation.

(1s) "Board" means the elections board.

(2) "County clerk" includes the executive director of the county board of election commissioners and their authorized representatives.

(3) "Educational officer" means the state superintendent and school board members.

(3m) "Elected official" means an individual who is elected to a national, state or local office.

(4) "Election" means every public primary and election.

(4c) "Election district" means a municipality that is not divided into wards, except as otherwise provided in s. 8.17 (1) (b).

(4e) "Election official" means an individual who is charged with any duties relating to the conduct of an election.

(4m) "Electronic voting system" means a system in which votes are recorded on ballots, and the votes are subsequently counted and tabulated by automatic tabulating equipment. The term also includes a voting machine on which votes are recorded and tabulated by electronic means.

(5) "General election" means the election held in even-numbered years on the Tuesday after the first Monday in November to elect United States senators, representatives in congress, presidential electors, state senators, representatives to the assembly, district attorneys, state officers other than the state superintendent and judicial officers, and county officers other than supervisors and county executives.

(6) "Governing body" means the common council of a city, board of supervisors of a town or board of trustees of a village.

(7) "Judge" means a court of appeals judge or a judge of a circuit court.

(8) "Justice" means a justice of the supreme court.

(8m) "Labor organization" means any employe organization in which employes participate and which exists primarily for the purpose of engaging in collective bargaining with any employer concerning grievances, labor disputes, wages, hours or conditions of employment, or the promotion and advancement of the professional or occupational standards and the welfare of its members and families and any organization established for the same purposes composed of individuals or affiliates of any such employe organization.

(9) "Local office" means any elective office other than a state or national office.

(10) "Municipal clerk" means the city clerk, town clerk, village clerk and the executive director of the city election commission and their authorized representatives. Where applicable, "municipal clerk" also includes the clerk of a school district.

(11) "Municipality" means city, town or village.

(12) "National office" means the offices of president and vice president of the United States, U.S. senator and U.S. congressman.

(13) "Political party" or "party" means a state committee registered under s. 11.05 organized exclusively for political purposes under whose name candidates appear on a ballot at any election, and all county, congressional, legislative, local

and other affiliated committees authorized to operate under the same name. For purposes of ch. 11, the term does not include a legislative campaign committee or a committee filing an oath under s. 11.06 (7).

(14) "Poll list" means the list which is compiled by election officials on election day showing the names and addresses of electors who actually cast votes in an election.

(15) "Polling place" means the actual location wherein the elector's vote is cast.

(16) "Primary" means a primary election.

(16m) "Recognized political party" means a political party which qualifies for a separate ballot or column under s. 5.62 (1) (b) or (2).

(16a) "Referendum" means an election at which an advisory, validating or ratifying question is submitted to the electorate.

(17) "Registration list" means the list of electors who are properly registered to vote in municipalities in which registration is required.

(18) "September primary" means the primary held the 2nd Tuesday in September to nominate candidates to be voted for at the general election, and to determine which candidates for state offices other than district attorney may participate in the Wisconsin election campaign fund.

(19) "Special election" means any election, other than those described in subs. (5), (18), (21) and (22), to fill vacancies or to conduct a referendum.

(20) "Special primary" means the primary held 4 weeks before the special election except when the special election is held on the same day as the general election the special primary shall be held on the same day as the general primary or if the special election is held concurrently with the spring election, the primary shall be held concurrently with the spring primary.

(20g) "Special purpose district" means any local governmental unit other than a county or municipality.

(20r) "Special referendum" means any referendum held at a special election which is not held concurrently with the elections described in sub. (5), (18), (21) or (22).

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

(22) "Spring primary" means the nonpartisan primary held the 3rd Tuesday in February to nominate candidates to be voted for at the spring election.

(23) "State office" means the offices of governor, lieutenant governor, secretary of state, state treasurer, attorney general, state superintendent of public instruction, justice of the supreme court, court of appeals judge, circuit court judge, state senator, state representative to the assembly and district attorney.

(24) "State superintendent" means the state superintendent of public instruction.

(24g) "Voting device" means an apparatus other than a voting machine which the elector uses to record his or her votes on a ballot.

(24r) "Voting machine" means a machine which serves in lieu of a voting booth and which mechanically or electronically records the votes cast by electors, who depress levers or buttons located next to the choices listed on a ballot to cast their votes.

(25) "Ward" means a town, village or city subdivision created for the convenience of the electors therein and to facilitate the division of such municipalities into election

districts of substantially equal population numbers along common boundaries observing the community of interest of existing neighborhoods and other settlements.

*History:* 1971 c. 211; 1971 c. 304 ss. 2, 29 (2); 1973 c. 280, 334; 1975 c. 93; 1977 c. 107, 187, 394; 1977 c. 427 ss. 3 to 14; 1977 c. 449; 1979 c. 32, 89, 221; 1979 c. 260 ss. 1m, 73 to 75; 1979 c. 311, 328; 1981 c. 4, 391; 1983 a. 484 ss. 5, 5c, 124m, 128; 1985 a. 303; 1985 a. 304 ss. 1m, 2, 155; 1987 a. 391 ss. 1 to 1r, 66w; 1989 a. 31; 1991 a. 5.

**5.05 Elections board; powers and duties. (1) GENERAL AUTHORITY.** The elections board shall have the responsibility for the administration of chs. 5 to 12 and other laws relating to elections and election campaigns. Pursuant to such responsibility, the board may:

(a) Employ an executive director outside the classified service and employ legal counsel. The executive director shall serve as the chief election officer for this state.

(b) In the discharge of its duties and upon notice to the party or parties being investigated, subpoena and bring before it any person in the state and require the production of any papers, books or other records relevant to an investigation. A circuit court may by order permit the inspection and copying of the accounts and the depositor's and loan records at any financial institution as defined in s. 705.01 (3) doing business in the state to obtain evidence of any violation of ch. 11 upon showing by the board of probable cause to believe there is a violation and that such accounts and records may have a substantial relation to the violation. In the discharge of its duties, the board may cause the deposition of witnesses to be taken in the manner prescribed for taking depositions in civil actions in circuit court.

(c) Bring civil actions to require forfeitures for any violation of ch. 11 under s. 11.60. Forfeiture actions brought by the board may concern only violations with respect to reports or statements required by law to be filed with it, and other violations arising under elections for state office or statewide referenda. The board may compromise and settle any civil action or potential action brought or authorized to be brought by it under ch. 11 which, in the opinion of the board, constitutes a minor violation, a violation caused by excusable neglect, or which for other good cause shown, should not in the public interest be prosecuted under such chapter. Notwithstanding s. 778.06, an action or proposed action authorized under this paragraph may be settled for such sum as may be agreed between the parties. Any settlement made by the board shall be in such amount as to deprive the alleged violator of any benefit of his or her wrongdoing and may contain a penal component to serve as a deterrent to future violations. In settling actions or proposed actions, the board shall treat comparable situations in a comparable manner and shall assure that any settlement bears a reasonable relationship to the severity of the offense or alleged offense. Forfeiture actions brought by the board shall be brought in the circuit court for the county wherein the violation is alleged to occur.

(d) Sue for injunctive relief, a writ of mandamus or prohibition, or other such legal or equitable relief as may be appropriate to enforce any law regulating the conduct of elections or election campaigns or ensure its proper administration. No bond is required in such actions. Actions shall be brought in circuit court for the county where a violation occurs or may occur.

(e) Delegate to its executive director the authority to issue a subpoena under par. (b), apply for a search warrant under par. (b), commence an action under par. (d), intervene in an action or proceeding under sub. (9), issue an order under s. 5.06, exempt a polling place from accessibility requirements under s. 5.25 (4) (a), exempt a municipality from the requirement to use voting machines or an electronic voting system

under s. 5.40 (5m) or authorize nonappointment of an individual who is nominated to serve as an election official under s. 7.30 (4) (e), subject to such limitations as the board deems appropriate.

(f) Promulgate rules under ch. 227 applicable to all jurisdictions for the purpose of interpreting or implementing the laws regulating the conduct of elections or election campaigns or ensuring their proper administration.

(2) **AUDITING.** In addition to the facial examination of reports and statements required under s. 11.21 (13), the board shall conduct an audit of reports and statements which are required to be filed with it to determine whether violations of ch. 11 have occurred. The board may examine records relating to matters required to be treated in such reports and statements. The board shall make official note in the file of a candidate, committee, group or individual under ch. 11 of any error or other discrepancy which the board discovers and shall inform the person submitting the report or statement.

(3) **INVESTIGATIONS.** (a) The board shall upon complaint by any person or on its own motion investigate violations of the elections laws and shall notify the district attorney of the proper county, the attorney general or the governor where appropriate under s. 11.60 (4) or 11.61 (2) of any facts within its knowledge or evidence in its possession which may be grounds for civil action or criminal prosecution.

(b) In any case in which the board refers information relating to an apparent violation of this section, the district attorney, attorney general, or any special counsel appointed under s. 14.11 (2) shall respond by report to the board with respect to any action taken regarding such apparent violation. The report shall be transmitted no later than 40 days after the date of the referral. If the matter is not disposed of during such period, the board shall receive a further report at the close of every 30-day period until the time of final disposition.

(c) No investigation is required of any petition or complaint which is not verified. The board may summarily dismiss any complaint which it finds to be without merit.

(4) **EMPLOYES.** All employees of the board shall be nonpartisan.

(5) **BIENNIAL REPORT.** Notwithstanding s. 15.04 (1) (d), the board shall file its biennial report required by that paragraph on or before June 30 of each odd-numbered year, covering the biennium ending on the previous December 31. The board may include any information compiled under s. 11.21 (7) in such report.

(6) **FORMAL OPINIONS.** Any interested person may make written request to the board to issue a formal opinion with respect to the person's authority or responsibilities under chs. 5 to 12. The board shall within 15 days advise the person requesting an opinion whether or not a formal opinion will be issued. If a formal opinion will be issued, it shall be issued within 30 days of the request. No person acting in good faith upon a formal opinion issued to the person by the board shall be subject to civil or criminal prosecution for so acting, if the material facts are as stated in the opinion request. Nothing in this subsection requires the issuance of an opinion by the board, nor precludes it from issuing an opinion or ruling in any other manner.

(7) **ADMINISTRATIVE MEETINGS AND CONFERENCES.** The board shall conduct regular information and training meetings at various locations in the state for county and municipal clerks and other election officials. Administrative meetings shall be designed to explain the election laws and the forms and rules of the board, to promote uniform procedures and to assure that clerks and other officials are made aware of the integrity and importance of the vote of each citizen. The

board may conduct conferences relating to election laws, practice and procedure. The board may charge persons attending the administrative meetings and conferences for its costs incurred in conducting the meetings and conferences at a rate not exceeding the per capita cost incurred by the board.

(8) **STANDING.** The board has standing to commence or intervene in an action or proceeding for the purpose of enforcing the laws regulating the conduct of elections or election campaigns or ensuring their proper administration. If the board delegates authority to the executive director under sub. (1) (e) to act in its stead, the executive director has standing to commence or intervene in such an action or proceeding.

**History:** 1973 c. 334; 1975 c. 85, 93, 199; 1977 c. 29; 1977 c. 196 s. 131; 1977 c. 418, 427, 447; 1979 c. 32 s. 92 (8); 1979 c. 89, 154, 328; 1983 a. 27, 484, 524, 538; 1985 a. 303; 1985 a. 304 ss. 3, 155; 1989 a. 31, 192.

Notification to district attorney, attorney general or governor is not prerequisite to civil forfeiture under (1) (c); notification pursuant to (3) is required only as specified by 11.60 (4) or 11.61 (2). *State Elections Board v. Hales*, 149 W (2d) 306, 440 NW (2d) 579 (Cl. App. 1989).

**5.06 Compliance review; appeal.** (1) Whenever any elector of a jurisdiction or district served by an election official believes that a decision or action of the official or the failure of the official to act with respect to any matter concerning nominations, qualifications of candidates, voting qualifications, including residence, ward division and numbering, recall, ballot preparation, election administration or conduct of elections is contrary to law, or the official has abused the discretion vested in him or her by law with respect to any such matter, the elector may file a written sworn complaint with the board requesting that the official be required to conform his or her conduct to the law, be restrained from taking any action inconsistent with the law or be required to correct any action or decision inconsistent with the law or any abuse of the discretion vested in him or her by law. The complaint shall set forth such facts as are within the knowledge of the complainant to show probable cause to believe that a violation of law or abuse of discretion has occurred or will occur. The complaint may be accompanied by relevant supporting documents. The board may conduct a hearing on the matter in the manner prescribed for treatment of contested cases under ch. 227 if it believes such action to be appropriate.

(2) No person who is authorized to file a complaint under sub. (1), other than the attorney general or a district attorney, may commence an action or proceeding to test the validity of any decision, action or failure to act on the part of any election official with respect to any matter specified in sub. (1) without first filing a complaint under sub. (1), nor prior to disposition of the complaint by the board. A complaint is deemed disposed of if the board fails to transmit an acknowledgment of receipt of the complaint within 5 business days from the date of its receipt or if the board concludes its investigation without a formal decision.

(3) A complaint under this section shall be filed promptly so as not to prejudice the rights of any other party. In no case may a complaint relating to nominations, qualifications of candidates or ballot preparation be filed later than 10 days after the complainant knew or should have known that a violation of law or abuse of discretion occurred or was proposed to occur.

(4) The board may, on its own motion, investigate and determine whether any election official, with respect to any matter concerning nominations, qualifications of candidates, voting qualifications, including residence, ward division and numbering, recall, ballot preparation, election administration or conduct of elections, has failed to comply with the law or abused the discretion vested in him or her by law or proposes to do so.

(5) Upon receipt of a complaint under sub. (1), or upon its own motion, the board may order any election official to immediately transfer to its possession any original documents in the custody of the official which the board finds to be necessary and relevant to permit review of compliance with the laws concerning nominations, qualifications of candidates, ward division and numbering, recall or ballot preparation or the proper administration of such laws.

(6) The board may, after such investigation as it deems appropriate, summarily decide the matter before it and, by order, require any election official to conform his or her conduct to the law, restrain an official from taking any action inconsistent with the law or require an official to correct any action or decision inconsistent with the law. The board shall immediately transmit a copy of the order to the official. An order issued under this subsection is effective immediately or at such later time as may be specified in the order.

(7) The board may withdraw, modify or correct an order issued under sub. (6) within a timely period if it finds such action to be appropriate.

(8) Any election official or complainant who is aggrieved by an order issued under sub. (6) may appeal the decision of the board to circuit court for the county where the official conducts business or the complainant resides no later than 30 days after issuance of the order. Pendency of an appeal does not stay the effect of an order unless the court so orders.

(9) The court may not conduct a de novo proceeding with respect to any findings of fact or factual matters upon which the board has made a determination, or could have made a determination if the parties had properly presented the disputed matters to the board for its consideration. The court shall summarily hear and determine all contested issues of law and shall affirm, reverse or modify the determination of the board, according due weight to the experience, technical competence and specialized knowledge of the board, pursuant to the applicable standards for review of agency decisions under s. 227.57.

(10) This section does not apply to matters arising in connection with a recount under s. 9.01.

**History:** 1983 a. 484; 1985 a. 182 s. 57; 1985 a. 304; 1989 a. 192.

**5.07 Action to compel compliance.** Whenever a violation of the laws regulating the conduct of elections or election campaigns occurs or is proposed to occur, the attorney general or the district attorney of the county where the violation occurs or is proposed to occur may sue for injunctive relief, a writ of mandamus or prohibition, or other such legal or equitable relief as may be appropriate to compel compliance with the law. No bond is required in such actions.

**History:** 1973 c. 334; 1983 a. 484 s. 136m; Stats. 1983 s. 5.07; 1985 a. 304.

**5.08 Petition for enforcement.** Any elector may file a verified petition alleging such facts as are within his or her knowledge to indicate that an election official has failed or is failing to comply with any law regulating the conduct of elections or election campaigns or proposes to act in a manner inconsistent with such a law, and requesting that an action be commenced for injunctive relief, a writ of mandamus or prohibition or other such legal or equitable relief as may be appropriate to compel compliance with the law. The petition shall be filed with the district attorney of the county where the violation or proposed action inconsistent with this chapter occurs or is proposed to occur. The district attorney may then commence the action or dismiss the petition. If the district attorney declines to act upon the petition or if the district attorney fails to act upon the petition within 15 days of the date of filing, the petitioner may file the same petition



with the attorney general, who may then commence the action.

History: 1983 a. 484.

**5.081 Petition for enforcement of voting rights.** The attorney general shall accept a verified petition from any person alleging failure to comply with section 2 of the federal voting rights act, 42 USC 1973 (a) and (b). The attorney general may commence an action or proceeding in any court of competent jurisdiction on behalf of any elector of this state whose rights under 42 USC 1973 (a) and (b) are violated.

History: 1985 a. 312.

NOTE: This section, created by 1985 Wis. Act 312, and s. 1 of that act, entitled "Legislative findings and intent", first apply to alteration of district boundaries made to reflect population changes identified in the 1990 federal decennial census.

**5.085 Elections advisory council.** (1) The elections advisory council shall promote communication and cooperation between local election officials and the board and shall attempt to assure uniform, equitable and efficient procedures in the administration of the law, consistent with legislative purpose.

(2) The council shall recommend material to be covered in administrative meetings conducted by the board under s. 5.05 (7) and make suggestions for improvements in such meetings.

(3) Before directing the printing, publication or major revision of any form, manual or other publication, the board shall refer the matter to the council for comments and suggestions.

(4) The council shall recommend technical revisions and procedural improvements in the law and its administration for the consideration of the board. Any recommendations which require legislative action shall, upon approval by the board, be forwarded to the legislature for consideration.

History: 1975 c. 85; 1977 c. 427; 1983 a. 484 s. 7; Stats. 1983 s. 5.085; 1985 a. 304.

**5.09 Certification of documents.** Whenever the board is authorized or required to make a certification of any document in the custody of the board, and the authority to make the certification is lawfully delegated to the executive director, the executive director may, personally or through an employe authorized by the director, affix his or her signature by means of a stamp, machine impression, reproduction print or similar process. This section does not apply to certificates of election.

History: 1977 c. 427; 1985 a. 304.

**5.10 Presidential electors.** Although the names of the electors do not appear on the ballot and no reference is made to them, a vote for the president and vice president named on the ballot is a vote for the electors of the candidates for whom an elector's vote is cast. Under chs. 5 to 12, all references to the presidential election, the casting of votes and the canvassing of votes for president, or for president and vice president, mean votes for them through their pledged presidential electors.

History: 1973 c. 334 s. 2; Stats. 1973 s. 5.10; 1977 c. 26; 1979 c. 89, 311.

**5.15 Division of municipalities into wards.** (1) (a) Every city, village and town in this state shall by its common council or village or town board, respectively, be divided into wards as provided in this section, except as authorized in sub. (2). The boundaries of the wards established under this section, and the number assigned to each ward, are intended to be as permanent as possible, and to this end each ward shall when created contain a population at a convenient point within the applicable population range under sub. (2) (b), with due consideration for the known trends of population increase or

decrease within that part of the municipality in which the ward is located. Once established, the boundaries of each ward shall remain unchanged until a further decennial federal census of population indicates that the population of a ward is then above or below the applicable population range or until the ward boundaries are required to be changed to permit creation of supervisory or aldermanic districts of substantially equal population or to enhance the participation of members of a racial or language minority group in the political process and their ability to elect representatives of their choice. If the population of a ward has increased above the maximum of its population range or if the population of a ward must be decreased for a reason specified in this paragraph, the ward shall be divided into 2 or more wards in compliance with sub. (2) (b). If the population of a ward has decreased below the minimum of its population range or if the population of a ward must be increased for a reason specified in this paragraph, the ward shall, if possible, be combined with an adjoining ward, or the underpopulated ward and one adjoining ward shall be combined and together subdivided into 2 or more wards in compliance with sub. (2).

(b) Except as authorized in sub. (2) (a), within 60 days after the receipt of a tentative supervisory district plan and written statement, if any, from the county board of each county in which a municipality is located, the governing body of the municipality shall adjust its wards according to the schedule shown in sub. (2). All territory contained within the municipality, and only the territory so contained, on August 1 following the year of the federal decennial census shall be contained within a ward. Except as authorized in sub. (2), each ward shall consist of whole blocks. To suit the convenience of the voters residing therein each ward shall, as far as practicable, be kept compact and observe the community of interest of existing neighborhoods and other settlements. All territory within a ward shall be contiguous, except for island territory as defined in sub. (2) (f) 3. Enactment or adoption of a division ordinance or resolution requires the affirmative vote of a majority of the members of the governing body.

(c) The wards established by municipal governing bodies under this section on the basis of the published results of each federal decennial census of population shall govern the adjustment of supervisory districts under s. 59.03 (2) (a) and (3) (b) and of aldermanic districts under s. 62.08 (1) for the purpose of local elections beginning on January 1 of the 2nd year commencing after the year of the census until revised under this section on the basis of the results of the next decennial census of population unless adjusted under sub. (2) (f) 4, (6) (a) or (7), or unless adjusted, as a matter of statewide concern, in the enactment of legislative districts under article IV, section 3, of the constitution on the basis of the most recent decennial census of population.

(d) Every ward shall be wholly contained within a single county.

(2) (a) Except as required by par. (d), no city electing its common council at large in which the total population is less than 1,000, and no village or town in which the total population is less than 1,000 is required to be divided into wards under this section, but any such city, village or town may divide itself into wards if the creation of wards facilitates the administration of elections. No village or town located in a county having only one town is required to be divided into wards under this section.

(b) 1. In any city in which the population is at least 150,000, each ward shall contain not less than 1,000 nor more than 4,000 inhabitants.

2. In any city in which the population is at least 39,000 but less than 150,000, each ward shall contain not less than 800 nor more than 3,200 inhabitants.

3. In any city, village or town in which the population is at least 10,000 but less than 39,000, each ward shall contain not less than 600 nor more than 2,100 inhabitants.

4. In any city, village or town in which the population is less than 10,000, each ward shall contain not less than 300 nor more than 1,000 inhabitants.

(bm) Every city electing the members of its common council from aldermanic districts shall assemble the blocks wholly or partially contained within the city into wards that will enable the creation of aldermanic districts that are substantially equal in population.

(c) If the population of a block exceeds the maximum population for a ward otherwise specified in this subsection, such block shall be constituted a ward by itself, except that if the population of a block substantially exceeds the population of proposed aldermanic districts in a city so that, if the block were to constitute an aldermanic district, the populations of the aldermanic districts in the city would not be substantially equal, the city shall divide the block to permit assembly into wards that will enable creation of aldermanic districts that are substantially equal in population.

(cm) Any division of blocks under this section shall be based on the best evidence available. In this paragraph, "best evidence" includes, but is not limited to, the population of the block and other information received from the U.S. bureau of the census and such data as number of housing units, utility connections and vehicle registrations or a special census conducted locally. For each ward so established, the population estimate shall be correlated with the results of the most recent federal decennial census, so that the total population reported for all wards in the municipality agrees with the census results.

(d) Every municipality shall make a good faith effort to accommodate the tentative plan submitted by the county or counties in which it is located under s. 59.03 (2) (a) or (3) (b) 1, and shall divide itself into wards in such a manner that will permit the creation of county supervisory districts in accordance with the population requirements for the plan specified in s. 59.03 (2) (a) or (3) (b) 1.

(e) Notwithstanding par. (b), if territory is detached from a city, village or town after adoption of a decennial ward plan, and the remaining portion of the ward to which it was attached falls below the prescribed minimum population for the applicable range, the remaining portion of the population may be constituted a ward by itself.

(f) Notwithstanding par. (b), any city, village or town may establish a ward below the prescribed minimum population for the applicable range whenever the proposed ward is established under par. (a), (d) or (e) or whenever the proposed ward contains solely:

1. That part of a city or village situated in a county other than the county in which the major part of the municipality is located.

2. That part of a city, village or town belonging to a school district other than the school district to which the major part of the municipality belongs.

3. Island territory containing a resident population. In this subdivision, "island territory" means territory surrounded by water, or noncontiguous territory which is separated by the territory of another municipality or by water, or both, from the major part of the municipality to which it belongs.

4. New territory which becomes a part of a city, village or town after the adoption of a decennial ward plan.

(g) If a block is affected by an annexation or detachment which establishes a municipal boundary that subdivides the block, the municipalities in which the block is contained shall incorporate only the portion of the block contained within their boundaries in their ward plans.

(4) (a) The division ordinance or resolution shall number all wards in the municipality in whole numbers in consecutive order, beginning with the number one, shall designate the polling place for each ward, and shall describe the boundaries of each ward consistent with the conventions set forth in s. 4.003. The ordinance or resolution shall be accompanied by a list of the block numbers used by the U.S. bureau of the census that are wholly or partly contained within each ward, with any block numbers partly contained within a ward identified, and a map of the municipality which illustrates the revised ward boundaries.

(b) Within 5 days after adoption or enactment of an ordinance or resolution under this section, the municipal clerk shall transmit one copy of the ordinance or resolution to the county clerk of each county in which the municipality is contained, accompanied by the list and map specified in par. (a).

(a) If the population of the municipality exceeds 10,000, the municipal clerk shall furnish one copy to the legislative reference bureau at the same time. Each copy shall identify the name of the municipality and the county or counties in which it is located.

(5) When a town is divided into wards, the annual town meeting and special town elections shall be held at the first ward.

(6) (a) Following any municipality-wide special federal census of population, the governing body of the municipality in which the special census was held may, by ordinance or resolution, adjust the ward boundaries, but no ward line adjustment may cross the boundary of an assembly district. The municipal clerk shall transmit copies of the ordinance or resolution in compliance with sub. (4) (b).

(b) No later than 60 days before each September primary and general election, and no later than 30 days before each other election the governing body of any municipality may by resolution combine 2 or more wards for voting purposes to facilitate using a common polling place. Whenever wards are so combined, the original ward numbers shall continue to be utilized for all official purposes. Except as otherwise authorized under this paragraph, every municipality having a population of 50,000 or more, or 35,000 or more after June 1, 1996, shall maintain separate returns for each ward so combined. In municipalities having a population of less than 50,000, or less than 35,000 after June 1, 1996, the governing body may provide in the resolution that returns shall be maintained only for each group of combined wards at any election. In municipalities having a population as shown in the 1990 federal decennial census of at least 87,000 but not more than 150,000, the governing body may provide in a resolution adopted prior to June 1, 1996 that groups of not more than 2 wards shall use common ballot boxes and ballots or voting machines and that returns shall be maintained only for each group of combined wards at any election held prior to June 1, 1996. Whenever a governing body provides for common ballot boxes and ballots or voting machines, separate returns shall be maintained for each separate ballot required under ss. 5.62 and 5.64 at the September primary and general election. A copy of the resolution shall be filed in the same manner as provided in sub. (4) (b). In municipalities having a population of less than 50,000, or less than 35,000 after June 1, 1996, the resolution shall remain in effect for each election until modified or rescinded, or until a new division is made under this section.

(7) If a new town is created or if part of a town is annexed to a city or village during a decennial period after the period for ward adjustments under sub. (1) (b), the town board of any town to which territory is attached or from which territory is detached, without regard to the time provisions of sub. (1) (b), may, by ordinance or resolution, adjust the wards in that town, but no ward line adjustment may cross the boundary of an assembly district. The town clerk shall transmit copies of the ordinance or resolution making the adjustment in compliance with sub. (4) (b).

(8) Until divided, all elections are held in the established wards.

*History:* 1971 c. 304 ss. 3 to 5, 29 (2); 1977 c. 26, 418, 427, 449; 1979 c. 260; 1981 c. 4 ss. 2 to 10, 18; 1981 c. 314; 1983 a. 29, 192, 442; 1983 a. 484 ss. 8e, 174; 1983 a. 538; 1985 a. 304 ss. 8 to 10, 12; 1987 a. 391; 1991 a. 5, 143, 315.

City and county apportionment discussed. *City of Janesville v. Rock County*, 107 W (2d) 187, 319 NW (2d) 891 (Ct. App. 1982).

Court properly voided city's plan and adopted county's plan, even though county did not adopt plan within 60 days of receiving census data. *County of La Crosse v. City of La Crosse*, 108 W (2d) 560, 322 NW (2d) 531 (Ct. App. 1982).

**5.18 Enforcement of division requirement.** If any municipality fails to comply with s. 5.15, the county in which the municipality is located or any elector of the municipality may submit to the circuit court for any county in which the municipality is located within 14 days from the expiration of the 60-day period under s. 5.15 (1) (b) a proposed plan for the division of the municipality into wards in compliance with this section. If the circuit court finds that the existing division of the municipality into wards fails to comply with s. 5.15, it shall review the plan submitted by the petitioner and after reasonable notice to the municipality may promulgate the plan, or any other plan in compliance with s. 5.15, as a temporary ward plan for the municipality to remain in effect until superseded by a ward plan adopted by the governing body in compliance with s. 5.15.

*History:* 1985 a. 304 ss. 9, 11, 12.

**5.25 Polling places.** (1) All elections under chs. 5 to 12 shall be held at the polling places provided in this section. So far as practicable, the places chosen shall be public buildings.

(2) In cities over 500,000 population, polling shall be at the places established by the board of election commissioners. In all other cities and in villages and towns, polling shall be at the places established by the governing body.

(3) Polling places shall be established for each September primary and general election at least 60 days before the election, and for each other election at least 30 days before the election.

(4) (a) Each polling place shall be accessible to elderly and handicapped individuals.

(b) The executive director of the board shall transmit a copy of each report concerning accessibility of polling places under 42 USC 1973ee-1 (c) (1) to the chief clerk of each house of the legislature for distribution to the appropriate standing committees under s. 13.172 (3).

(c) The board may exempt a polling place from the requirement of par. (a) in accordance with guidelines prescribed by rule of the board.

(5) (a) Except as authorized in par. (b), all electors within a ward shall vote at the same polling place.

(b) The municipal clerk or board of election commissioners of a municipality in which an elderly or handicapped elector resides may reassign the elector to a polling place within the municipality other than the polling place serving the elector's residence in order to permit the elector to utilize a polling place that is accessible to elderly or handicapped individuals.

(c) The electors of more than one ward in the same municipality may vote at a single polling place.

*History:* 1975 c. 275; 1977 c. 427; 1979 c. 89; 1983 a. 532; 1985 a. 304, 332; 1987 a. 391; 1989 a. 192.

**5.35 Polling place requirements.** (1) NATIONAL FLAG. On election days, every polling place shall properly display the national flag during all hours the polls are open.

(2) VOTING BOOTHS. There shall be one voting booth for every 200 electors who voted at the last general election. The booths shall have a surface on which to write or work and be sufficiently enclosed to assure privacy for the elector and anyone lawfully assisting the elector while marking or punching the elector's ballot.

(3) BALLOT BOXES. Where the voting procedure makes it necessary, there shall be a separate ballot box for each form of ballot at each polling place. There shall be a suitable lock and key for each, and an opening no larger than is sufficient to receive a single ballot or a single folded ballot if the box is used for deposit of paper ballots. If the electors of more than one ward use the same polling place, there shall be separate ballot boxes provided for the electors of each ward, unless combined ballot boxes are authorized in accordance with s. 5.15 (6) (b).

(4) LAYOUT; ORGANIZATION. All voting booths and machines shall be placed apart from other activities in the polling place, with their exteriors in full view of the election officials. Only the proper election officials, observers, persons assisting voters under s. 6.82 (2) and electors receiving, preparing or depositing their ballots or casting their votes on the machines are permitted in the voting area. Except where assistance is authorized, only one elector at a time is permitted in a voting booth or machine.

(5) ACTIVITIES RESTRICTED. No polling place may be situated so as to interfere with or distract election officials from carrying out their duties. The municipal clerk and election inspectors shall prevent interference with and distraction of electors at polling places.

(6) POSTING REQUIREMENTS. (a) At each polling place in the state, the municipal clerk or board of election commissioners shall post the following materials, positioned so that they may be readily observed by electors entering the polling place or waiting in line to vote:

1. The relevant portions of the voting instructions in the type B notice for the election as specified in s. 10.02 (3) and, for each referendum on the ballot, the text of the type C notice specified in s. 10.01 (2) (c).

2. A copy of the election fraud laws provided in s. 12.13 (1) and (3) (intro), (d), (f), (g), (k), (L), (o), (q), (r), (u), (v) and (x), together with the applicable penalties provided in s. 12.60 (1).

3. Two sample ballots prepared under s. 5.66 (2).

4. At each presidential election where an electronic voting system or voting machines are used, a notice advising electors who wish to vote for all the candidates of one recognized political party that they must cast a separate ballot for the offices of president and vice president.

5. Any other voting information directed to be posted by the board.

(b) At each polling place in the state where an electronic voting system is utilized at a partisan primary election incorporating a ballot upon which electors may mark or punch votes for candidates of more than one recognized political party or for candidates of a recognized political party and independent candidates, the municipal clerk or board of election commissioners shall prominently post a sign in the form prescribed by the board warning electors in substance that on any ballot with votes cast for candidates of more than one recognized political party or any ballot with

votes cast for candidates of a recognized political party and independent candidates, no votes cast for any candidates for partisan office will be counted unless a preference for a party or for the independent candidates is made. If the elector designates a preference, only votes cast for candidates of that preference will be counted.

*History:* 1975 c. 85, 199; 1977 c. 427; 1979 c. 260, 311, 355; 1981 c. 4, 20; 1983 a. 484; 1985 a. 304.

**5.37 Voting machine requirements.** (1) Voting machines shall give every elector a reasonable opportunity to vote for any person for any office and on any proposition the elector is entitled to vote on, assure privacy to the elector so no one will know how the elector is voting or has voted, preclude the electors from voting for persons or propositions upon which they are not entitled to vote and from voting more than once for the same office or on the same proposition. Voting machines shall be constructed to lock so they cannot be manipulated, tampered with, or show the number of votes registered for any candidate or proposition while voting is in progress. The machines shall provide a method for electors to vote a straight party ticket, shall permit voting a split ticket and shall record each vote cast.

(2) When 2 or more wards or aldermanic districts are joined to use a voting machine, under s. 5.15 (6) (b), the machine shall be constructed to allow the electors to vote for all nominated candidates and issues for their aldermanic district or ward, but for no other.

(3) For presidential electors one device shall be provided to vote for all of one party's electoral candidates at the same time. The device shall be opposite or adjacent to the ballot containing the names of the party's candidates for president and vice president.

(4) Voting machines may be used at primary elections when they comply with subs. (1) and (2) and the following provisions: All candidates' names entitled to appear on the ballots at the primary shall appear on the machine; the elector cannot vote for candidates of more than one party, whenever the restriction applies, and an elector who votes for candidates of any party may not vote for independent candidates at the September primary; the elector may secretly select the party for which he or she wishes to vote, or the independent candidates in the case of the September primary; the elector may vote for as many candidates for each office as he or she is lawfully entitled to vote for, but no more.

(5) Polling places may have more than one voting machine.

*History:* 1971 c. 304 a. 29 (1), (2); 1977 c. 107, 427; 1981 c. 314; 1983 a. 484; 1991 a. 316.

*State action in presidential candidate selection.* 1976 WLR 1269.

**5.40 Use of voting machines or systems.** (1) Except as permitted in sub. (3) or as required in subs. (4) to (6), the governing body or board of election commissioners of every municipality with a population of 10,000 or more before July 1, 1995, or of 7,500 or more thereafter shall require the use of voting machines or electronic voting systems in every ward in the municipality at every election. Any other governing body or board of election commissioners may adopt and purchase voting machines or electronic voting systems for use in any ward in the municipality at any election.

(2) Only voting machines complying with s. 5.37 or electronic voting systems approved under s. 5.91 may be used in an election in this state.

(3) Notwithstanding sub. (1), any municipality may elect to utilize paper ballots and voting booths instead of voting machines or an electronic voting system:

(a) For any territory which is included in a portion of a congressional district, legislative district, county supervisory district, school district, vocational district, sewerage district

or sanitary district contained within the municipality for so long as the number of electors residing in the territory does not exceed 100.

(b) Whenever the municipality is precluded under s. 7.23 (2) from clearing the recorders on a sufficient number of voting machines to serve the electors at the election.

(c) Whenever such action is authorized under s. 7.15 (6).

(d) Whenever the municipal clerk or board of election commissioners reassigns an elector to a polling place other than the one serving the elector's residence under s. 5.25 (5) (b).

(4) Notwithstanding sub. (1), a municipality which utilizes voting machines at a polling place shall not utilize a voting machine to receive the ballot of an elector who receives assistance under s. 6.82 (1) (a) or whose vote is challenged under ss. 6.92 to 6.94.

(5) A municipality which utilizes voting machines at a polling place shall not utilize the machines to receive the vote of an elector who declares to the chief inspector that, due to physical disability, the elector is unable to depress a button or lever on a machine.

(5m) Notwithstanding sub. (1), the governing body of a municipality which uses voting machines or an electronic voting system may petition the board for permission to use paper ballots and voting booths for a specific election, and the board may grant such a request.

(6) A municipality which utilizes voting machines or an electronic voting system at a polling place may permit use of the machines or system by electors voting under s. 6.15 only as authorized under s. 6.15 (3) (b).

(7) Whenever a municipality adopts and purchases voting machines or an electronic voting system, or adopts and purchases a different type of voting machine or electronic voting system from the type it was previously using, the municipal clerk or executive director of the municipal board of election commissioners shall promptly notify the county clerk or executive director of the county board of election commissioners and the executive director of the elections board in writing.

*History:* 1971 c. 304 a. 29 (2); 1973 c. 112; 1977 c. 427; 1979 c. 235, 311, 355; 1983 a. 484; 1985 a. 304; 1987 a. 391; 1989 a. 192.

## SUBCHAPTER II

### BALLOT FORM

**5.51 General provisions.** (1) The type face used on all paper ballots shall be easy to read, and the type size may be no smaller than 8 point.

(2) The paper used for ballots shall be 35 pounds per ream for sheets 24 inches by 36 inches. If a different size sheet is used, the weight per ream shall be proportioned accordingly, but shall meet this standard. This subsection does not apply to ballots used with electronic voting systems.

(3) All paper ballots shall be of sufficient width and length to provide space for all matter required to be printed on them. Except on ballots used with electronic voting systems, all ballot columns shall be separated by lines at least one-eighth inch in width.

(4) No stickers may be placed on a ballot by election officials except under s. 7.37 (6). Any other stickers applied by them shall not be counted.

(5) Each official ballot shall be printed on paper of uniform color. Different colors shall be used to distinguish office and referendum ballots and different colors may be used to distinguish separate ballots for different offices. Sample ballots shall be printed on a different color paper than the

official ballots, and need not have the endorsement and certificate.

(6) All candidates' names for the same office shall be placed, projected or composed on the ballot in the same size, style and color of type. The style and size of type shall conform substantially to the official ballot forms prescribed by the board under s. 7.08 (1) (a).

(7) In partisan primary elections, all ballots shall be of uniform color and size, and the same type of paper shall be used for all ballots.

*History:* 1979 c. 260, 311; 1981 c. 377; 1983 a. 484 a. 174; 1985 a. 304; 1987 a. 391.

**5.52 Multi-candidate elections.** If more than one individual is to be elected to the same office from the same jurisdiction or district, the ballot shall provide at the top of the column or to the right of the row for that office: "Vote for not more than .... candidates."

*History:* 1985 a. 304.

**5.53 Voting machine ballots.** (1) Voting machine ballots shall be placed, projected or composed on a board or screen inside the machine, under s. 5.64 and may be arranged in either columns or rows. The type face shall be easy to read, and the type size may be no smaller than 8 point.

(2) Where the provisions require separate ballots, the names or questions shall be placed in separate columns or rows upon the machines so they are voted on separately, except as otherwise provided for referenda under s. 5.64 (2) (c).

*History:* 1979 c. 260, 311; 1981 c. 377 et. 4, 5.

**5.54 Notice to electors.** Every ballot, except a ballot label or voting machine ballot, shall bear substantially the following information on the face: "NOTICE TO ELECTORS: This ballot may be invalid unless initialed by 2 election inspectors. If cast as an absentee ballot, the ballot must bear the initials of the municipal clerk or deputy clerk."

*History:* 1977 c. 427; 1979 c. 260, 311; 1983 a. 484 a. 172 (3); 1985 a. 304; 1989 a. 192.

**5.55 Ballot Identification.** On every ballot, except a ballot label or voting machine ballot, shall be printed "Official .... Ballot" or "Official .... Ballot for ...." followed by the designation of the polling place for which the ballot has been prepared, the date of the election, and the official endorsement and blank certificates. The number of the ward or wards or aldermanic district, if any, and the name of the municipality may be omitted in printing and stamped or written on the ballots at any location which is clearly visible at the option of the county clerk. Printed information and initials shall appear on the back and outside of the ballot. When a ballot card is employed with an electronic voting system, the date of the election may be printed or stamped on the back of the ballot card in such a manner that the card is not reusable, at the option of the county clerk. Each ballot shall be prepared in substantially the following form:

*History:* 1985 a. 304.

**5.56 Multiple columns and rows.** Whenever the number of candidates for any office requires the use of more than one row or column on a voting machine or whenever the official or agency having the responsibility to determine ballot positions determines that the number of candidates for an office requires the use of more than one column on a ballot, the official or agency having such responsibility shall require that the rows or columns be rotated in such a manner that all rows are positioned on top, or all columns are positioned to the left, in an equal number of wards or election districts. If the number of wards and election districts in which voting for an

office is conducted is not equally divisible, the position of the rows or columns in the remaining wards or election districts shall be determined by the official or agency by the drawing of lots. The number of columns or rows shall be determined at the same time that the positions of the candidates' names are determined for each primary and election.

*History:* 1981 c. 377 a. 5.

**5.58 Spring primary ballots.** At spring primary elections the following ballots, when necessary, shall be provided for each ward. 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.

(1) **MUNICIPAL; COUNTY SUPERVISOR BALLOTS.** There shall be separate ballots for municipal and county primaries.

(a) For all cities the official spring primary ballot shall be arranged by the municipal clerk, using the same method as that used by the board under s. 5.60 (1) (b).

(c) Towns and villages holding a primary under s. 8.05 shall arrange the ballot in accordance with the form prescribed by the board under s. 7.08 (1) (a), which shall be the same form as provided in s. 5.60 (5) and (6), insofar as possible.

(1c) **MUNICIPAL JUDGE.** There shall be a separate ballot for municipal judges if they are elected under s. 755.01 (4). Arrangement of the names on the ballot shall be determined by the board. The ballot shall be entitled "Official Primary Ballot for Municipal Judge".

(1g) **SCHOOL DISTRICT.** (a) There shall be a separate ballot for school district officers when so required.

(b) In 1st class cities, the names of the candidates for the seat of the member elected at-large to the board of school directors shall be placed on the official city primary ballot and there shall be a separate ballot giving the names of the candidates for any seat to be filled on the board of school directors from any election district. All names of candidates for the at-large seat shall be placed in one or more separate columns or rows on the ballot.

(c) The arrangement of candidates for school board seats shall be determined by the school district clerk or the executive director of the city board of election commissioners by the drawing of lots not later than the 7th day following the deadline for filing nomination papers or declarations of candidacy. The method of determining arrangement shall be the same as provided in s. 5.60 (1) (b). Sufficient space shall be provided on the ballot for write-in candidates.

(1r) **TOWN SANITARY DISTRICT COMMISSION.** There shall be a separate ballot for members of the town sanitary district commission if commissioners are elected under s. 60.74 and the boundaries of the district are not coterminous with one or more towns. Candidates for different seats shall be listed in separate columns or rows if more than one seat is contested in any election. Arrangement of the names on the ballot shall be determined by the town clerk of the town whose board of supervisors directs the election, in the same manner as provided in s. 5.60 (1) (b). The ballot shall be titled "Official Primary Ballot for Town Sanitary District Commission".

(2) **STATE SUPERINTENDENT OF PUBLIC INSTRUCTION; JUDICIARY; COUNTY EXECUTIVE; AND COUNTY SUPERVISORS.** (a) There shall be one separate ballot for state superintendent, judicial officers, county executive under s. 59.031 and county supervisor. In counties having a population of 500,000 or more, the ballot also shall include those offices under s. 8.11 (2) and (2m). The arrangement of names of candidates for state superintendent, justice, court of appeals judge and circuit court judge shall be determined by the board in the manner

specified in s. 5.60 (1) (b). Arrangement of the names of candidates for county executive and county supervisor shall be determined by the county clerk or by the executive director of the county board of election commissioners in the manner specified in s. 5.60 (1) (b). The ballot shall be titled "Official Ballot for State Superintendent of Public Instruction, Judicial, County Executive and County Supervisor Primary".

(b) The candidates for the offices shall be designated on the ballot as follows: "For State Superintendent", "For Justice of the Supreme Court", "For Court of Appeals Judge", "For Circuit Judge Br. ....", and others as the situation requires.

(2m) METROPOLITAN SEWERAGE COMMISSION. There shall be a separate ballot for members of the metropolitan sewerage commission if commissioners are elected under s. 66.23 (11) (am), with candidates for different seats listed in separate columns or rows if more than one seat is contested at any election. Arrangement of the names on the ballot shall be determined by the board. The ballot shall be titled "Official Primary Ballot for Metropolitan Sewerage Commission".

(3) NAMES ON SPRING BALLOT. Only 2 candidates for state superintendent, for any judicial office, for any elected seat on a metropolitan sewerage commission or town sanitary district commission, in counties having a population of 500,000 or more only 2 candidates for member of the board of supervisors within each district, in counties having a population of less than 500,000 only 2 candidates for each member of the county board of supervisors from each district or numbered seat or only 4 candidates for each 2 members of the county board of supervisors from each district whenever 2 supervisors are elected to unnumbered seats from the same district, in 1st class cities only 2 candidates for any at-large seat and only 2 candidates from any election district to be elected to the board of school directors, in school districts electing school board members to numbered seats, or pursuant to an apportionment plan or district representation plan, only 2 school board candidates for each numbered seat or within each district, and twice as many candidates as are to be elected members of other school boards or other elective officers receiving the highest number of votes at the primary shall be nominees for the office at the spring election. Only their names shall appear on the official spring ballot.

History: 1971 c. 304 ss. 6 to 8, 29 (2); 1973 c. 134, 243; 1973 c. 334 s. 57 (2); 1973 c. 340; 1975 c. 93; 1977 c. 187, 272, 445, 449; 1979 c. 32, 221, 260; 1981 c. 20, 377; 1983 a. 484; 1983 a. 532 s. 36; 1985 a. 29 s. 3202 (56); 1985 a. 89, 225; 1985 a. 304 ss. 27, 27m, 155; 1989 a. 192, 290; 1991 a. 5.

**5.60 Spring election ballots.** At spring elections the following ballots, when necessary, shall be provided for each ward.

(1) STATE SUPERINTENDENT; JUDICIARY; COUNTY EXECUTIVE AND COUNTY SUPERVISORS. There shall be one separate ballot for state superintendent, judicial officers, county executive and county supervisor. For county supervisor, the ballot shall be prepared in accordance with ss. 5.58 (2) and 59.03 (3). Arrangement of the names of candidates for county executive and county supervisor shall be determined by the county clerk or the executive director of the county board of election commissioners in the manner prescribed in par. (b).

(a) The names of candidates for the same office shall be placed in the same column. No party designation may appear on the official ballot. Unless no candidate is certified to appear on the ballot for a state office, a space shall be provided on the ballot for electors to write in the name of a person for each office, regardless of whether there is a primary for that office.

(b) The board shall certify the candidates' names and designate the official ballot arrangement for candidates for state superintendent, justice, court of appeals judge, circuit

judge, municipal judge elected under s. 755.01 (4) and, if commissioners are elected under s. 66.23 (11) (am), the metropolitan sewerage commission. The arrangement of names of all candidates on the ballot whose nomination papers are filed with the board shall be determined by the board by the drawing of lots not later than the 7th day following the deadline for filing nomination papers. Whenever a primary is held for an office, a 2nd drawing of all candidates for that office shall be held by or under the supervision of the board not later than the 3rd day following the completion of the primary canvass to determine the arrangement of candidates on the election ballot.

(c) When 2 or more judges of the same court are to be elected, the official ballot shall contain the names of all candidates, shall state the number of judges to be elected and the number of candidates for whom each elector may vote. Each candidacy shall show the branch being filled.

(2) MUNICIPAL JUDGE. If the election is under s. 755.01 (4), there shall be a separate ballot listing the names of all of the candidates.

(3) CITY. There shall be a separate ballot giving the names of all candidates for city offices, printed in the same form as prescribed by the board under s. 7.08 (1) (a). City election ballots may vary in form to conform to the law under which an election is held.

(a) No party designation shall appear on the official ballot.

(b) The city clerk or executive director of the city election commission shall arrange the official city ballot under s. 5.62 (4).

(4) SCHOOL DISTRICT. (a) There shall be a separate ballot for school district officers when so required.

(b) In 1st class cities, the names of the candidates for the seat of the member elected at-large to the board of school directors shall be placed on the official city ballot and there shall be a separate ballot giving the names of the candidates for any seat to be filled on the board of school directors from any election district. The names of candidates for the at-large seat shall be placed in the same column or row on the ballot.

(c) The arrangement of candidates for school board seats shall be determined by the school district clerk or the executive director of the city board of election commissioners by the drawing of lots not later than the 7th day following the deadline for filing nomination papers or declarations of candidacy, if there is no primary, or not later than the 3rd day following the completion of the primary canvass if a primary is held. The method of determining arrangement shall be the same as provided in sub. (1) (b). Sufficient space shall be provided on the ballot for write-in candidates.

(4m) METROPOLITAN SEWERAGE COMMISSION. A separate ballot shall list the names of all candidates for metropolitan sewerage commission seats, if commissioners are elected under s. 66.23 (11) (am). The names for the different seats shall be placed in separate columns or rows if more than one seat is contested at any election.

(5) VILLAGE. There shall be a separate ballot giving the names of all candidates for village offices.

(a) The offices to be filled shall be arranged on the official ballot in the order they are named in the statutes creating them. Where there is more than one ward, candidates shall be arranged by using the same method as that used by the board under sub. (1) (b). Sufficient space shall be left under each office for write-in candidates.

(b) Only persons nominated under s. 8.05 shall be placed on the official ballots. If no nominations are made, the spaces for this office shall be left blank.

(6) TOWN. (a) There shall be a separate ballot giving the names of all candidates for elective town offices in the form

prescribed by the board under s. 7.08 (1) (a). There shall be 2 ballot forms. One ballot form shall be used for the election of supervisors to numbered seats and one ballot form shall be used for the election of supervisors to unnumbered seats. On the ballot used for the election of supervisors to unnumbered seats, all supervisor candidates shall be listed together and the voting instructions shall state "Vote for not more than.... [insert number of supervisors to be elected] candidates". All towns shall elect their supervisors to unnumbered seats unless the annual town meeting adopts a plan to elect supervisors to numbered seats. The names of candidates for town office shall be arranged by using the same method as that used by the board under sub. (1) (b). A space shall be provided under each office on the ballot for a write-in candidate.

(b) Only the names of individuals nominated under s. 8.05 may be placed on the official ballot. If no nominations for an office are made, the space for that office shall be left blank.

(6m) TOWN SANITARY DISTRICT COMMISSION. A separate ballot shall list the names of all candidates for town sanitary district commission seats, if commissioners are elected under s. 60.74 and the boundaries of the district are not coterminous with the boundaries of one or more towns. The names for different seats shall be placed in separate columns or rows if more than one seat is contested at any election.

(7) REFERENDUM BALLOTS. There shall be a separate ballot setting forth all propositions requiring a vote in the form and manner provided by s. 5.64.

(8) BALLOTS FOR PRESIDENTIAL VOTE. There shall be a separate ballot for each recognized political party filing a certification under s. 8.12 (1), listing the names of all potential candidates of that party determined under s. 8.12 and affording, in addition, an opportunity to the voter to nominate another potential candidate by write-in vote or to vote for an uninstructed delegation to the party convention. The order of such presidential candidates shall be determined by lot by or under the supervision of the board. Each voter shall be given the ballots of all the parties participating in the presidential preference vote, but may vote on one ballot only.

(a) An official ballot shall be printed and provided for use in each voting district. The form of each ballot shall be substantially as follows:

1. Form 1, to be used when there are several candidates:

OFFICIAL BALLOT  
PRESIDENTIAL PREFERENCE VOTE  
.... Party

MARK THIS BALLOT IN ONE SPACE ONLY. You have one of 3 choices—you may either:

Express your preference for one of the persons whose names are printed on this ballot (in that case, make a cross (X) in the square after that person's name); or

Vote for an uninstructed delegation from Wisconsin to the national convention of the .... party (in that case, make a cross (X) in the square following "Uninstructed delegation"); or

Write in the name of another person to become the presidential candidate of the .... party (in that case, write that person's name into the space following "Write-in candidate").

OLE CARLSON.....( )  
AMOS DUNCAN .....( )  
JAMES UNDERWOOD.....( )  
Uninstructed delegation .....( )  
Write-in candidate.....( )

2. Form 2, to be used when there is only one candidate:

OFFICIAL BALLOT  
PRESIDENTIAL PREFERENCE VOTE  
.... Party

MARK THIS BALLOT IN ONE SPACE ONLY. You have one of 3 choices—you may either:

Express your preference for the person whose name is printed on this ballot (in that case, make a cross (X) in the square after that person's name); or

Vote for an uninstructed delegation from Wisconsin to the national convention of the .... party (in that case, make a cross (X) in the square marked "Uninstructed delegation" following that person's name); or

Write in the name of another person to become the presidential candidate of the .... party (in that case, write that person's name into the space following "Write-in candidate").

JOHN DOE ..... ( )  
Uninstructed delegation ..... ( )  
Write-in candidate..... ( )

3. Form 3, to be used when there are no candidates who have qualified to appear on the ballot:

OFFICIAL BALLOT  
PRESIDENTIAL PREFERENCE VOTE  
.... Party

MARK THIS BALLOT IN ONE SPACE ONLY. There are no candidates of the .... party who have qualified to have their names appear on the printed ballot. You have 2 choices—you may either:

Express your preference for an uninstructed delegation from Wisconsin to the national convention of the .... party (in that case, make a cross (X) in the square following "Uninstructed delegation"); or

Write in the name of a person to become the presidential candidate of the .... party (in that case, write that person's name into the space following "Write-in candidate").

Uninstructed delegation ..... ( )  
Write-in candidate..... ( )

(c) The official ballots for the presidential preference vote shall be securely fastened together at the bottom. The party receiving the greatest number of votes for governor at the preceding election shall have its ticket placed on top and the remaining party ballots shall follow in the same manner. A facsimile ballot notice shall be published as provided in s. 10.02.

History: 1971 c. 304 ss. 9 to 11, 29 (2); 1971 c. 336; 1973 c. 134; 1973 c. 334 s. 57; 1975 c. 93; 1977 c. 187, 427, 445, 449; 1979 c. 221, 260, 355; 1981 c. 377; 1983 a. 484; 1983 a. 532 s. 36; 1985 a. 29 s. 3202 (56); 1985 a. 89, 223; 1985 a. 304 ss. 28, 155; 1987 a. 391; 1989 a. 192, 290.

See note to Art. I, sec. 1, citing Democratic Party of U.S. v. Wisconsin, 450 US 107 (1981).

5.62 September primary ballots. (1) (a) At September primaries, the following ballot shall be provided for the nomination of candidates of recognized political parties for national, state and county offices and independent candidates for state office in each ward, in the same form as prescribed by the board under s. 7.08 (1) (a). The ballots shall be made up of the several party tickets with each party entitled to participate in the primary under par. (b) or sub. (2) having its own ballot. The independent candidates for state office other than district attorney shall have a separate ballot for all such candidates as under s. 5.64 (1) (e). The ballots shall be secured together at the bottom. The party ballot of the party receiving the most votes for president or governor at the last general election shall be on top with the other parties arranged in descending order based on their vote for president or governor at the last general election. The ballots of parties qualifying under sub. (2) shall be placed after the parties qualifying under par. (b), in the same order in which the parties filed petitions with the board. The ballot listing the independent candidates shall be placed at the bottom. At polling places where voting machines are used, each party

and the independent candidates shall be represented in one or more separate columns or rows on the ballot. At polling places where an electronic voting system is used other than an electronic voting machine, each party and the independent candidates may be represented in separate columns or rows on the ballot.

(b) Every recognized political party listed on the official ballot at the last gubernatorial election whose candidate for any statewide office received at least one percent of the total votes cast for that office and, if the last general election was also a presidential election, every recognized political party listed on the ballot at that election whose candidate for president received at least one percent of the total vote cast for that office shall have a separate primary ballot or one or more separate columns or rows on the primary ballot as prescribed in par. (a) and a separate column on the general election ballot in every ward and election district. An organization which was listed as "independent" at the last general election and whose candidate meets the same qualification shall receive the same ballot status upon petition of the chairman and secretary of the organization to the board requesting such status and specifying their party name, which may not duplicate the name of an existing party. A petition under this paragraph may be filed no later than 5 p.m. on June 1 in the year of each general election. This paragraph applies to a party only if at least one candidate of the party for a state office qualifies to have his or her name appear on the ballot under the name of the party at the last gubernatorial election.

(2) Any political organization may be represented on a separate primary ballot or one or more separate columns or rows on the primary ballot as prescribed in sub. (1) (a) and a separate column on the general election ballot in every ward and election district if, not later than 5 p.m. on June 1 in the year of a September primary, it files with the board a petition so requesting. To qualify for a separate ballot, the petition shall be signed by at least 10,000 electors, including at least 1,000 electors residing in each of at least 3 separate congressional districts. The petition shall conform to the requirements of s. 8.40. No signature obtained before January 1 in the year of filing is valid. When the candidates of a political organization filing a valid petition fulfill the requirements prescribed by law, they shall appear on a separate ballot or one or more separate columns or rows on the ballot for the period ending with the following general election.

(3) The board shall designate the official primary ballot arrangement for statewide offices and district attorney within each prosecutorial district by using the same procedure as provided in s. 5.60 (1) (b). On each ballot and on each separate column or row on the ballot, the candidates for office shall be listed together with the offices which they seek in the following order whenever these offices appear on the September primary ballot: governor, lieutenant governor, attorney general, secretary of state, state treasurer, U.S. senator, U.S. representative in congress, state senator, representative to the assembly, district attorney and the county offices. Below the names of the independent candidates shall appear the party or principle of the candidates, if any, in 5 words or less, as shown on their nomination papers.

(4) The county clerk or county board of election commissioners shall designate the official primary ballot arrangement for all candidates filing nomination papers in that office.

(a) Within a county the county clerk shall arrange the names of all candidates filing nomination papers with the clerk's office using the same method as that used by the board under s. 5.60 (1) (b).

(b) The county board of election commissioners in counties having a population of more than 500,000 shall prepare the official primary ballot. The commissioners shall arrange the names of all candidates for each office whose nomination papers are filed at the county level, using the same method as that used by the elections board under s. 5.60 (1) (b).

(5) At the September primary, an elector may vote for the candidates of only one party, or the elector may vote for any of the independent candidates for state office listed; but the elector may not vote for more than one candidate for a single office. A space shall be provided on the ballot for an elector to write in the name of his or her choice as a party candidate for any office, but no space shall be provided to write in the names of independent candidates.

History: 1971 c. 304 ss. 12, 29 (2); 1971 c. 336; 1973 c. 334 s. 57; 1975 c. 93; 1977 c. 107, 427; 1979 c. 260, 311, 328; 1981 c. 377; 1983 a. 484; 1985 a. 304; 1987 a. 391; 1989 a. 31, 192; 1991 a. 316.

Filing of a proper petition by the requisite number of electors in a senate, assembly or congressional district will qualify the political organization referred to in said petition as a party entitled to a separate ballot within the specific district only for all the state, congressional, legislative and county offices for which an elector of such district may vote. The petition may be circulated commencing after any November general election and ending on the June 1 immediately prior to the next succeeding September primary. A petition filed February, 1972, signed by the electors of an assembly district, would not qualify filing political organization for a separate ballot at the presidential preference primary to be held at the April, 1972, spring election. 61 Atty. Gen. 41.

**5.64 General election ballots.** At general elections the following ballots, when necessary, shall be provided for each ward.

(1) **OFFICIAL BALLOT.** There shall be a separate ballot giving the names of all candidates for statewide, congressional, legislative and county offices in the same form as prescribed by the board under s. 7.08 (1) (a).

(a) The ballot shall be labeled "Official Ballot" in lettering at least three-eighths inch high. Directly underneath in plain, legible type, shall be the following voting instructions: "If you desire to vote a straight party ticket for all statewide, congressional, legislative and county offices, make a cross (X) in the circle under the party designation at the top of the party column. If you desire to vote for individual candidates, make a cross (X) in the square at the RIGHT of the name of each candidate for whom you desire to vote. To vote for a person whose name does not appear on the ballot, write the name in the blank space provided for the purpose. When voting for governor and lieutenant governor, you may vote only for the candidates on one ticket jointly or write in the names of persons in both spaces." Under the party designation at the top of each party column shall appear the following words in boldface type: "Make a cross (X) in this circle to vote a straight party ticket."

(b) Below the voting instructions the ballot shall be divided into vertical columns. The names of the candidates on the regular party tickets nominated at the primary or replacements appointed under s. 8.35 (2) shall be printed each in a separate column under the party designation. The columns shall be arranged from left to right according to rank, based on the number of votes received by the party's candidate for president or governor at the last general election beginning with the party that received the most votes. To the right of the columns for parties qualifying under s. 5.62 (1) (b) shall be placed the columns for parties qualifying under s. 5.62 (2) in the same order in which the parties filed petitions with the board. To the right of the party columns shall be a column for the names of independent candidates for each office, or more than one column if the first column does not provide sufficient space for the names of all such candidates.

(c) The party designation shall be printed at the top of each column and under it shall appear a circle at least three-eighths of an inch in diameter for electors wishing to vote a straight



party ticket. Within each column only candidates nominated by the party designated at the head of the column shall appear.

(d) The offices shall be arranged beginning with governor and lieutenant governor, whenever these offices are filled, and then the remaining offices in the order designated under s. 5.62 (3).

(e) Within each column, each space shall state the office to be voted for directly above the candidate's first and last name. The candidate's name shall be placed in the party column by which nominated or if independent, in a column designated independent and all candidates for the same office shall appear within the same rows on the ballot. Below the names of the independent candidates shall appear the party or principle of the candidates, if any, in 5 words or less, as shown on their nomination papers. Independent candidates for the same county office shall be listed in the same manner in an order drawn by lot by or under supervision of the county clerk or board of election commissioners. The board shall conduct a redrawing for purposes of determining the arrangement of independent candidates for state office who appeared on the primary ballot in the manner provided in s. 5.60 (1) (b). To the right of each candidate's name, in each column, shall be a square for the elector to make his or her cross (X).

(f) In the case of balloting for the office of governor and lieutenant governor, the names of the candidates shall be placed in the party column by which nominated or if independent, in a column designated independent. To the right of the names of the set of candidates for governor and lieutenant governor, in each column shall be one square for the elector to cast a ballot jointly for both offices.

(g) Following under the independent candidates for each office, a space shall be provided for the elector to write in the name of a candidate of his or her choice for that office.

(2) **REFERENDUM BALLOT.** There shall be a separate ballot when any proposed constitutional amendment or any other measure or question is submitted to a vote of the people. The ballot shall give a concise statement of each question in accordance with the act or resolution directing submission in the same form as prescribed by the board under s. 7.08 (1) (a). The question may not be worded in such a manner as to require a negative vote to approve a proposition or an affirmative vote to disapprove a proposition. Unless otherwise expressly provided, this ballot form shall be used at all elections when questions are submitted to a vote of the people.

(a) The ballot shall be titled "Official Referendum Ballot" in lettering at least three-eighths of an inch high. Directly underneath in plain, legible type shall be the following voting instructions: "If you desire to vote on any question, make a cross (X) in the square beneath the question after "yes" if in favor of the question, or make a cross (X) in the square after "no" if opposed to the question."

(b) Under voting instructions shall be the concise statement of the question submitted. Directly under each question shall appear the words "yes" and "no" with a square to the right of each word.

(c) The official referendum ballot prescribed under this subsection shall be utilized at every election, except that the format shall be altered to the extent provided or required by other laws establishing or authorizing referenda to be conducted. All referenda shall appear on a separate ballot, but more than one referendum question may appear on the same referendum ballot whenever the questions are numbered and all electors voting the ballot are entitled to vote upon all questions appearing thereon. When more than one state

referendum is placed on the same ballot, the board shall number the questions in chronological sequence. If the legislature submits questions on different dates, the board shall number the questions sequentially based on the date on which the questions are submitted by the legislature. State and county referenda shall appear on a separate ballot from municipal or special district referenda. The form of all referendum ballots shall be substantially the same as that prescribed by the board under s. 7.08 (1) (a).

(3) **PRESIDENTIAL BALLOTS.** There shall be a separate ballot when the president and vice president of the United States are to be elected containing the names of all candidates for the offices in the same form as prescribed by the board under s. 7.08 (1) (a).

(a) The ballot shall be titled "Official Presidential Ballot" in lettering at least three-eighths inch high. Directly underneath in plain, legible type shall be the following voting instructions: "Make a cross (X) in the square opposite the names of the candidates for whose electors you desire to vote or write in the names of candidates for president and vice president in the space provided for the purpose. Vote in ONE square only." The names of the candidates for the offices of president and vice president certified under s. 8.16 (7) or filed under s. 8.20 shall appear on the ballot in the form prescribed in s. 7.08 (2) (a). The names of the presidential electors for the candidates supplied under ss. 8.18 (2) and 8.20 (2) (d) are not listed on the ballot but a vote for the candidates for president and vice president is a vote for them through their named presidential electors.

(b) The party candidates shall be arranged consecutively from top to bottom based on the number of votes received by their party's candidate for governor at the last election beginning with the party that received the most votes. The independent president-vice president candidates shall be listed together in an order drawn by lot by or under supervision of the board, following under the party candidates. Below the names of the independent candidates shall appear the party or principle of the candidates, if any, in 5 words or less, as shown on their nomination papers. Following under the independent candidates, a space shall be left for writing in the names of a candidate for president and vice president.

*History:* 1971 c. 304 s. 29 (2); 1977 c. 26, 427; 1979 c. 260; 1981 c. 79, 175, 377, 391; 1983 a. 484; 1985 a. 304; 1987 a. 391; 1989 a. 31, 192; 1991 a. 316.

**5.65 Special referendum ballots.** Unless otherwise provided, ballots for special referenda shall conform to the format prescribed in s. 5.64 (2), insofar as applicable.

*History:* 1983 a. 484.

**5.66 Number of ballots.** (1) For local elections, where necessary, municipal clerks shall have sufficient ballots printed or otherwise prepared whenever a voting system does not utilize printed ballots to assure a ballot for all electors or voting machines. For all other elections the municipal clerks shall certify to their county clerk, on the first day of the 2nd month preceding the month in which the primary is held, the approximate number of electors in the municipality. The county clerk shall total these estimates and order a sufficient supply to assure ballots for all electors and voting machines.

(2) The county clerk or board of election commissioners shall print a sufficient number of sample ballots. The municipal clerk or board of election commissioners shall print sample ballots whenever the municipality prepares ballots under s. 7.15 (2) (b) or (c). Sample ballots shall be printed on nonwhite colored paper and shall be overprinted "SAMPLE". Voting machine sample ballots shall be a reduced size diagram of the face of the board or screen inside the voting machine with all candidates, issues and voting instructions as

they will appear on the official ballot. Sample ballots to be used with an electronic voting system in which ballot labels and ballot cards are used shall be an actual size copy of the ballot label and ballot card. The clerk or board of election commissioners printing the ballots shall distribute the samples approximately as follows: 45% shall be kept in the clerk's or board's office and distributed to electors requesting them; 45% shall be sent to the municipalities, or, if the municipality prints ballots, 45% shall be sent to the county for distribution to the electors; and 10% shall be reserved to be sent to the polling places by municipalities in proportion to the number certified in sub. (1) and made available to electors at the polls on election day.

**History:** 1979 c. 260, 311, 355; 1983 a. 484; 1987 a. 391.

**5.66 Cost of elections.** (1) The cost of acquisition of ballot boxes and voting booths, voting machines or electronic voting systems and regular maintenance thereof shall be borne by the municipalities in which the boxes, booths, machines or systems are used.

(2) Except as otherwise expressly provided, all costs for ballots, supplies, notices and any other materials necessary in preparing or conducting any election shall be paid for by the county or municipality whose clerk or board of election commissioners is responsible for providing them. If a ballot is prepared for a school, vocational, sewerage or sanitary district, the district shall pay for the cost of the ballot. If no other level of government is involved in a school, vocational, sewerage or sanitary district election, the district shall pay for all costs of the ballots, supplies, notices and other materials. If ballots, supplies, notices or other materials are used for elections within more than one unit of local government, the costs shall be proportionately divided between the units of local government involved in the election. In a 1st class city, all costs otherwise attributable to a school district shall be paid by the city.

(3) If voting machines are used or if an electronic voting system is used in which all candidates and referenda appear on the same ballot card, the ballots for all national, state and county offices and for county and state referenda shall be prepared and paid for by the county wherein they are used. If the voting machine or electronic voting system ballot includes a municipal or school, vocational, sewerage or sanitary district ballot, the cost of that portion of the ballot shall be reimbursed to the county or paid for by the municipality or district, except as provided in a 1st class city school district under sub. (2).

(4) The cost of compensation of election officials and trainees shall be borne in the manner provided in s. 7.03.

(5) If a charge is made for the use of a polling place, the charge shall be paid by the unit of government establishing the polling place under s. 5.25 (2) or 120.06 (9) (a).

(6) The clerk of each county or municipality shall submit an invoice to the clerk of each municipality or district which is responsible for payment of election costs under this section. The municipality or district shall make payment to the county or municipal treasurer.

**History:** 1979 c. 260, 311, 355; 1985 a. 304.

**5.72 Correcting ballot errors.** (1) As soon as possible after ballots are delivered to the county clerk or to the municipal clerk if the municipality is preparing ballots under s. 7.15 (2), but not later than 3 weeks before any election relating to a state or national office or statewide referendum, the county or municipal clerk preparing the ballots shall submit one copy of each ballot to the board for review of possible errors. If the contractor preparing the ballots supplies proofs in advance of ballot preparation, the clerk shall submit one copy

of the proofs in lieu of actual ballots. If a voting machine ballot or other ballot combining local candidates or referenda with state or national candidates or referenda is used, the entire ballot shall be submitted, but if ballots intended for distribution to electors are used, only those ballots relating to state or national offices and statewide referenda need be submitted. This subsection does not require delay of ballot distribution or mailing of absentee ballots.

(2) The board shall review ballots and proof copies submitted under sub. (1) and shall notify the county and municipal clerk of any error as soon as possible but in no event later than 7 days after submission. The clerk is not required to correct a ballot error upon receipt of notice of the error, unless ordered to do so under sub. (3) or s. 5.06 (6).

(3) Whenever an affidavit is filed by the board or any elector alleging an error or omission in the preparation of a ballot, the circuit court for the county where the ballot is proposed to be used or its presiding judge, by order, may summarily require a county or municipal clerk to correct the error, or show cause why it should not be corrected and, by order, after the hearing, have the correction made.

**History:** 1979 c. 260; 1979 c. 311 s. 19; 1979 c. 355 ss. 9, 10; Stats. 1979 a. 5.72; 1981 c. 377; 1983 a. 484.

### SUBCHAPTER III

#### ELECTRONIC VOTING SYSTEMS

**5.76 Adoption, experimentation or discontinuance of systems.** The governing body or board of election commissioners of any municipality may by ordinance or resolution adopt, experiment with, or discontinue any electronic voting system authorized by this subchapter and approved under s. 5.91 for use in this state, and may purchase or lease materials or equipment for such system to be used in all or some of the wards within its jurisdiction, either exclusively in combination with mechanical voting machines, or in combination with paper ballots where such ballots are authorized to be used.

**History:** 1979 c. 311; 1985 a. 304.

**5.77 Applicable procedures.** (1) So far as applicable, the procedure provided for voting paper ballots applies when an electronic voting system employing the use of ballots distributed to electors is used.

(2) So far as applicable, the procedure provided for voting with mechanical voting machines applies when an electronic voting system employing the use of electronic voting machines is used.

**History:** 1979 c. 311.

**5.78 Voting booths.** At polling places where an electronic voting system employing the use of ballots distributed to electors is used, the municipality shall supply a sufficient number of voting booths for the use of electors as provided in s. 5.35 (2).

**History:** 1979 c. 311.

**5.79 Instruction of electors.** At polling places where an electronic voting system employing the use of ballot cards or ballot labels and voting devices is used, the election officials shall offer each elector instruction in the operation of the voting device and ballot label or ballot card before the elector enters the voting booth. No instructions may be given after the elector has entered the voting booth, except as authorized under s. 6.82 (2). All instructions shall be given by election officials in such a manner that they may be observed by other persons in the polling place.

**History:** 1979 c. 311.

**5.80 Demonstrator electronic voting system.** When an electronic voting system is used in a forthcoming election, the municipal clerk may provide, for the purpose of instructing electors in the election, one or more demonstrator electronic voting systems using the names of fictitious candidates or fictitious questions for placement in any public building within the municipality in which the election occurs. If such placement of a demonstrator takes place it shall be made available at least 30 days before the election.

History: 1979 c. 311.

**5.81 Ballot information; arrangement; absentee ballots.**

(1) Whenever the statutes require the use of separate ballots or columns or rows for offices, parties or referenda, and an electronic voting system employing a ballot label or ballot card is used at a polling place, a single ballot may be used for all offices, referenda and parties. The ballot information, whether placed on the ballot or on the voting device, shall, as far as practicable, be grouped and ordered in the same manner as provided for other ballots under this chapter, except that the information on the ballot card need not be in separate columns or rows and the information in the ballot label booklet may appear on a number of pages.

(2) When an electronic voting system utilizes a ballot label booklet and ballot card, ballots for candidates and ballots on referenda may be placed on the voting device by providing in the ballot booklet separate ballot label pages or series of pages distinguished by differing colors. Whenever practicable, all candidates for the same office shall appear in the booklet on the same page or facing pages. More than one question may be placed on the same ballot page or series of pages. In elections where provision is made for straight party voting by marking a party circle, the designation of the political parties for straight party voting shall be on a separate page on which no names of candidates may appear. On each succeeding page of the candidate booklet, where the ballot information is listed vertically, the party affiliation of each candidate or the designation "independent" or the candidate's statement of principles, if any, shall appear immediately to the left of the candidate's name, and the name of candidates for the same office shall be listed vertically under the title of that office.

(3) If a municipality utilizes an electronic voting system in which ballots distributed to electors are employed, absentee ballots may consist of ballots utilized with the system or paper ballots and envelopes voted in person in the office of the municipal clerk or voted by mail. If a ballot card is used for voting by mail it shall be accompanied by a punching tool or marking device, elector instructions and a sample ballot showing the proper positions to vote on the ballot card for each party, candidate or referendum and, if the ballot card is to be punched, shall be mounted on a suitable material.

(4) In partisan primary elections, if a ballot contains the names of candidates of more than one party or the names of party candidates and independent candidates, it shall provide a space for electors to designate a party preference or a preference for the independent candidates. Failure to designate a preference does not invalidate any votes cast by an elector, except as provided in s. 7.50 (1) (d).

History: 1979 c. 311; 1985 a. 304.

**5.82 Write-in ballots.** If the ballot card employed by a municipality does not provide a space for write-in votes, the municipality shall provide a separate write-in ballot, which may be in the form of a paper ballot, to permit electors to write in the names of persons whose names are not on the ballot whenever write-in votes are authorized.

History: 1979 c. 311; 1987 a. 391.

**5.83 Preparation for use of voting devices; comparison of ballots.** Where voting devices are used at a polling place, the municipal clerk shall cause the voting devices to be put in order, set, adjusted and made ready for voting when delivered to the polling place. Before the opening of the polls the inspectors shall compare the ballots used in the voting devices with the sample ballots furnished and see that the names, numbers and letters thereon agree and shall certify thereto on forms provided by the board.

History: 1979 c. 311.

**5.84 Testing of equipment; custody of programs and ballots.**

(1) Where any municipality employs an electronic voting system which utilizes automatic tabulating equipment, either at the polling place or at a central counting location, the municipal clerk shall, on any day not more than 10 days prior to the election day on which the equipment is to be utilized, have the equipment tested to ascertain that it will correctly count the votes cast for all offices and on all measures. Public notice of the time and place of the test shall be given by the clerk at least 48 hours prior to the test by publication of a class 1 notice under ch. 985 in one or more newspapers published within the municipality if a newspaper is published therein, otherwise in a newspaper of general circulation therein. The test shall be open to the public. The test shall be conducted by processing a preaudited group of ballots so punched or marked as to record a predetermined number of valid votes for each candidate and on each referendum. The test shall include for each office one or more ballots which have votes in excess of the number allowed by law and, for a partisan primary election, one or more ballots which have votes cast for candidates of more than one recognized political party, in order to test the ability of the automatic tabulating equipment to reject such votes. If any error is detected, the municipal clerk shall ascertain the cause and correct the error. The clerk shall make an errorless count before the automatic tabulating equipment is approved by the clerk for use in the election.

(2) Before beginning the ballot count at each polling place or at the central counting location, the election officials shall witness a test of the automatic tabulating equipment by engaging the printing mechanism and securing a printed result showing a zero count for every candidate and referendum. After the completion of the count, the ballots and programs used shall be sealed and retained under the custody of the municipal clerk in a secure location.

History: 1979 c. 311.

**5.85 Receiving, counting, tallying and return of ballots.**

(1) At any polling place at which an electronic voting system is utilized, the following procedures for receiving, counting, tallying and return of the ballots shall be used. Whenever paper ballots are utilized at a polling place in combination with ballots employed in an electronic voting system, the paper ballots shall be deposited in a separate ballot box or boxes, according to the types of ballots used. For the purpose of transporting the ballots or the record of the votes cast, the municipal clerk shall provide a secure container for each polling place. At each polling place, the applicable portions of the procedure prescribed for initiating the canvass under s. 7.51 (1) and (2) shall be performed, except that no count of the ballots, except write-in votes and paper ballots used for absentee voting and other purposes authorized by law, may be performed at a polling place if a central counting location is designated for the counting of ballots at that polling place by the municipality.

(2) The election officials shall examine the ballots or record of votes cast for write-in votes and shall count and tabulate

the write-in votes. When an electronic voting system is used which utilizes a ballot which is distributed to electors, before separating the remaining ballot cards from their respective covering envelopes, the election officials shall examine the ballots for write-in votes. When an elector has cast a write-in vote, the election officials shall compare the write-in vote with the votes on the ballot to determine whether the write-in vote results in an overvote for any office. In case of an overvote for any office, the election officials, consisting in each case of at least one election official of each of the 2 major political parties, whenever officials of both parties are present, shall make a true duplicate ballot of all votes on the ballot card except for the office which is overvoted, by using the ballot label booklet and voting device for the ward, if any, and one of the punching or marking devices so as to transfer all votes of the elector except for the office overvoted, to an official ballot of that kind used in the ward at that election. Write-in votes shall be counted as provided in s. 7.50 (2) (d). The original ballot upon which there is an overvote shall be clearly labeled "Overvoted Ballot" and the ballot so produced "Duplicate Overvoted Ballot", and each shall bear the same serial number which shall be placed thereon by the election officials, commencing with number "1" and continuing consecutively for each of the ballots of that kind in that ward. The election officials shall initial the "Duplicate Overvoted Ballot" ballots and shall place them in the container for return of the ballots. The "Overvoted Ballot" ballots and their envelopes shall be placed in the "Original Ballots" envelope. Ballots bearing write-in votes marked in the place designated therefor and bearing the initials of an election official and not resulting in an overvote and otherwise complying with the election laws as to marking shall be counted, tallied, and their votes recorded on a tally sheet provided by the municipal clerk. Ballot cards and ballot card envelopes shall be separated and all ballots except any which are defective or overvoted shall be placed separately in the container for return of the ballots, along with the ballots marked "Duplicate Overvoted Ballots".

(3) The election officials shall examine the ballots to determine if any is damaged or defective so that it cannot be counted by the automatic tabulating equipment. If any ballot is damaged or defective so that it cannot be properly counted by the automatic tabulating equipment, the election officials, consisting in each case of at least one official of each of the 2 major political parties whenever present, in the presence of witnesses, shall make a true duplicate ballot of all votes on that ballot by using the ballot label booklet and voting device for the ward, if any, and one of the punching or marking devices so as to transfer all votes of the elector to an official ballot of that kind used in the ward in that election. The original ballot shall be clearly labeled "Damaged Ballot" and the ballot so produced "Duplicate Damaged Ballot", and each shall bear the same number which shall be placed thereon by the election officials, commencing with number "1" and continuing consecutively for the ballots of that kind in the ward. The election officials shall initial the "Duplicate Damaged Ballot" ballots, and shall place them in the container for return of the ballots. The officials shall place "Damaged Ballot" ballots and their envelopes in the "Original Ballots" envelope.

(4) The original ballots shall be preserved with the duplicate ballots and delivered by the inspectors to the municipal clerk. The officials shall then make out a slip indicating the number of electors voting in person, number of absentee ballots deposited in the ballot box, and the total number of electors of each ward served by the polling place who voted at the election, which shall be signed by all the inspectors.

(5) If the municipality has designated a central counting location to be used to count ballots under s. 7.51 (1), the inspectors shall count and deposit the paper ballots in the container. The inspectors shall then place the slip made out under sub. (4) in the container. The inspectors shall also place the tally sheet recording the write-in votes and other votes cast on paper ballots, and all other ballots, or the record of the votes cast on an electronic voting system where no ballots are distributed to electors, in the container and shall thereupon immediately seal the container with an adhesive seal provided by the municipal clerk for the purpose in such manner that the seal completely covers the opening in the container, and each of the inspectors shall sign the seal. The "Defective Ballots" envelope, and "Original Ballots" envelope each shall be securely sealed and the flap or end thereof of each signed by the inspectors and returned to the central counting location with the box for return of the ballots, enclosed ballots and returns. Thereupon, the municipal clerk or 2 of the election officials, of different political parties whenever officials of both parties are present, shall forthwith and by the most direct route transport the container and envelopes to the central counting location designated by the municipal clerk.

History: 1979 c. 311; 1989 a. 192.

**5.86 Proceedings at central counting location.** (1) All proceedings at the central counting location shall be under the direction of the municipal clerk unless the central counting location is at the county seat and the municipal clerk delegates the responsibility to supervise the location to the county clerk. Except for any specially trained technicians required for the operation of the automatic tabulating equipment, the employees at the central counting location shall be equally divided between members of the 2 major political parties under s. 7.30 (2) (a) and all duties performed by the employees shall be by teams consisting of an equal number of members of each political party whenever sufficient persons from each party are available.

(2) At the central counting location, a team of election officials designated by the clerk having charge of the location under sub. (1) shall check the container returned containing the ballots to determine that all seals are intact, and thereupon shall open the container, check the inspectors' slip and compare the number of ballots so delivered against the total number of electors of each ward served by the polling place who voted, remove the ballots or record of the votes cast and deliver them to the technicians operating the automatic tabulating equipment. Any discrepancies between the number of ballots and total number of electors shall be noted on a sheet furnished for that purpose and signed by the election officials.

History: 1979 c. 311; 1985 a. 304.

**5.87 Tabulating votes.** If a central counting location is not utilized, the procedure for tabulating the votes by the automatic tabulating equipment shall be under the direction of the chief inspector and shall conform to the requirements of the automatic tabulating equipment. If any ballot is not accepted by the automatic tabulating equipment, the election officials shall make a duplicate ballot to replace that ballot in the manner prescribed in s. 5.85 (3). All proceedings at the polling place and at any central counting location shall be open to the public, but no person, except those employed and authorized for the purpose, may touch any ballot, container, envelope, return or equipment.

History: 1979 c. 311; 1983 a. 484.

**5.89 Official return.** The return produced by the automatic tabulating equipment shall be appended to the tally sheet by the canvassers. The return constitutes a part of the official return for the ward or election district. The municipal clerk shall check the totals shown by the return and, if it appears that there is an obvious discrepancy with respect to the number of votes cast in any ward or election district, the clerk shall have the ballots for that ward or election district publicly retabulated to correct the return. Upon completion of the count, the return is open to the public.

*History:* 1979 c. 311.

**5.90 Recounts.** Except as otherwise provided in this subchapter, recounts of votes cast on an electronic voting system shall be conducted in the manner prescribed in s. 9.01. If the ballots are in readable form, the board of canvassers may elect to recount the ballots without the aid of automatic tabulating equipment. If the board of canvassers elects to use automatic tabulating equipment, the board of canvassers shall test the automatic tabulating equipment to be used prior to the recount as provided in s. 5.84, and then the official ballots or the record of the votes cast shall be recounted on the automatic tabulating equipment. In addition, the board of canvassers shall check the ballots for the presence or absence of the initials and other distinguishing marks, shall examine the ballots marked "Rejected", "Defective" and "Objected to" to determine the propriety of such labels, and shall compare the "Duplicate Overvoted Ballots" and "Duplicate Damaged Ballots" with their respective originals to determine the correctness of the duplicates.

*History:* 1979 c. 311; 1987 a. 391.

**5.91 Requisites for approval of ballots, devices and equipment.** No ballot, voting device, automatic tabulating equipment or related equipment and materials to be used in an electronic voting system may be utilized in this state unless it is approved by the board. The board may revoke its approval of any ballot, device, equipment or materials at any time for cause. No such ballot, voting device, automatic tabulating equipment or related equipment or material may be approved unless it fulfills the following requirements:

(1) It enables an elector to vote in secrecy and to select the party or the independent candidates for whom an elector will vote in secrecy at a partisan primary election.

(2) Except at a primary election, it enables an elector to vote a straight party ticket, but the automatic tabulating equipment counts the vote of an elector who casts a vote for a candidate for an office outside the straight party ticket for that office only.

(3) Except in primary elections, it enables an elector to vote for a ticket selected in part from the nominees of one party, and in part from the nominees of other parties, and in part from independent candidates and in part of candidates whose names are written in by the elector.

(4) It enables an elector to vote for a ticket of his or her own selection for any person for any office for whom he or she may desire to vote whenever write-in votes are permitted.

(5) It accommodates all referenda to be submitted to the electors in the form provided by law.

(6) The voting device or machine permits an elector in a primary election to vote for the candidates of the recognized political party or the independent candidates of his or her choice, and the automatic tabulating equipment or machine rejects any ballot on which votes are cast in the primary of more than one recognized political party, except where a party or independent candidate designation is made or where an elector casts write-in votes for candidates of more than one party on a ballot that is distributed to the elector.

(7) It permits an elector to vote at an election for all persons and offices for whom and for which the elector is lawfully entitled to vote; to vote for as many persons for an office as the elector is entitled to vote for; to vote for or against any question upon which the elector is entitled to vote; and it rejects all choices recorded on a ballot for an office or a measure if the number of choices exceeds the number which an elector is entitled to vote for on such office or on such measure, except where an elector casts excess write-in votes upon a ballot that is distributed to the elector.

(8) It permits an elector, at a presidential or gubernatorial election, by one action to vote for the candidates of a party for president and vice president or for governor and lieutenant governor, respectively.

(9) It prevents an elector from voting for the same person more than once for the same office, except where an elector casts excess write-in votes upon a ballot that is distributed to the elector.

(10) It is suitably designed for the purpose used, of durable construction, and is usable safely, securely, efficiently and accurately in the conduct of elections and counting of ballots.

(11) It records correctly and counts accurately every vote properly cast and maintains a cumulative tally of the total votes cast that is retrievable in the event of a power outage, evacuation or malfunction so that the records of votes cast prior to the time that the problem occurs is preserved.

(12) It minimizes the possibility of disenfranchisement of electors as the result of failure to understand the method of operation or utilization or malfunction of the ballot, voting device, automatic tabulating equipment or related equipment or materials.

(13) The automatic tabulating equipment authorized for use in connection with the system includes a mechanism which makes the operator aware of whether the equipment is malfunctioning in such a way that an inaccurate tabulation of the votes could be obtained.

*History:* 1979 c. 311; 1983 a. 484; 1985 a. 304.

**5.92 Bond may be required.** Before entering into a contract for the purchase or lease of an electronic voting system or any ballots, voting devices, automatic tabulating equipment or related equipment or materials to be used in connection with a system, any municipality may require the vendor or lessor to provide a performance bond with a licensed surety company as surety, guaranteeing the supply of additional equipment, parts or materials, provision of adequate computer programming, preventive maintenance or emergency repair services, training of election officials and other municipal employes or provision of public educational materials for a specified period, or guaranteeing the security of the computer programs or other equipment or materials to be utilized with the system to prevent election fraud, or such other guarantees as the municipality determines to be appropriate.

*History:* 1979 c. 311.

**5.93 Administration.** The board may promulgate reasonable rules for the administration of this subchapter.

*History:* 1979 c. 311; 1985 a. 332 s. 251 (1).

**5.94 Sample ballot labels and cards; publication.** When an electronic voting system employing a ballot label and ballot card is used, the county and municipal clerk of the county and municipality in which the polling place designated for use of the system is located shall cause to be published, in the type B notices, a true actual-size copy of the ballot label and ballot card containing the names of offices and candidates and statements of measures to be voted on, as nearly as possible, in the form in which they will appear on

the official ballot label and ballot card on election day. The notice may be published as a newspaper insert. Municipal clerks may post the notice if the remainder of the type B notice is posted.

**History:** 1979 c. 311.

ous types of electronic voting systems to be published in lieu of the information specified in s. 10.02 (3) in type B notices whenever the type B notice information is inapplicable.

**History:** 1979 c. 311.

**5.95 Elector Information.** The board shall prescribe information to electors in municipalities and counties using vari-

## CHAPTER 6

## THE ELECTORS

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## WHO MAY VOTE

**6.02 Qualifications, general.** (1) Every U.S. citizen age 18 or older who has resided in an election district or ward for 10 days before any election where the citizen offers to vote is an eligible elector.

(2) Any U.S. citizen age 18 or older who moves within this state later than 10 days before an election shall vote at his or her previous ward or election district if the person is otherwise qualified. If the elector can comply with the 10-day residence requirement at the new address and is otherwise qualified, he or she may vote in the new ward or election district.

*History:* 1971 c. 304 s. 29 (2); 1971 c. 336 s. 37; 1975 c. 85 ss. 5, 66 (3); 1977 c. 394; 1991 a. 316.

An eligible elector and a qualified elector are identical. Ch. 6 applies to annexation referendum elector qualifications under 66.021 (6). *Washington v. Altoona*, 73 W (2d) 250, 243 NW (2d) 404.

Durational residence requirements. *Clifford*, 1973 WLR 914.

**6.03 Disqualification of electors.** (1) The following persons shall not be allowed to vote in any election and any attempt to vote shall be rejected:

(a) Any person who is incapable of understanding the objective of the elective process or under guardianship pursuant to the order of a court under ch. 880, except that when a person is under limited guardianship, the court may determine that the person is competent to exercise the right to vote;

(b) Any person convicted of treason, felony or bribery, unless the person's civil rights are restored.

(2) No person shall be allowed to vote in any election in which the person has made or become interested, directly or indirectly, in any bet or wager depending upon the result of the election.

(3) No person may be denied the right to register to vote or the right to vote by reason that the person is alleged to be incapable of understanding the objective of the elective process unless the person has been so adjudicated in a separate proceeding instituted for that purpose by an elector

of the municipality in accordance with the procedures set forth in ch. 880 for determining incompetency. If a determination of incompetency of the person has already been made, or if a determination of limited incompetency has been made which does not include a specific finding that the subject is competent to exercise the right to vote, and a guardian or limited guardian has been appointed as a result of any such determination, then no determination of incapacity of understanding the objective of the elective process is required unless the guardianship is terminated or modified under s. 880.34.

*History:* 1973 c. 284; 1977 c. 26, 394; 1979 c. 110; 1991 a. 316.  
Disenfranchisement of felons does not deny them equal protection. *Richardson v. Ramirez*, 418 US 24.

**6.05 Election day age determines elector's rights.** Any person who will be 18 years old on or before election day is entitled to vote if the person complies with this chapter.

*History:* 1971 c. 336 s. 37; 1981 c. 390 s. 252; 1991 a. 316.

**6.10 Elector residence.** Residence as a qualification for voting shall be governed by the following standards:

(1) The residence of a person is the place where the person's habitation is fixed, without any present intent to move, and to which, when absent, the person intends to return.

(2) When a married person's family resides at one place and that person's business is conducted at another place, the former place establishes the residence. If the family place is temporary or for transient purposes, it is not the residence.

(3) When an elector moves from one ward to another or from one municipality to another within the state after the last registration day but at least 10 days before the election, the elector may vote in and be considered a resident of the new ward or municipality where residing upon transferring registration under s. 6.40 (1) or upon registering at the proper polling place or other registration location in the new ward or municipality under s. 6.55 (2). If the elector moves within 10 days of an election, the elector shall vote in the elector's old ward or municipality if otherwise qualified to vote there.

(4) The residence of an unmarried person sleeping in one ward and boarding in another is the place where the person sleeps. The residence of an unmarried person in a transient vocation, a teacher or a student who boards at different places for part of the week, month or year, if one of the places is the residence of the person's parents, is the place of the parents' residence unless through registration or similar act the person elects to establish a residence elsewhere. If the person has no parents and if the person has not registered elsewhere, the person's residence shall be at the place which the person considered his or her residence in preference to any other for at least 10 days before an election. If this place is within the municipality, the person is entitled to all the privileges and subject to all the duties of other citizens having their residence there, including voting.

(5) A person shall not lose residence when the person leaves home and goes into another state or county, town, village or ward of this state for temporary purposes with an intent to return.

(6) As prescribed by article III of the constitution, no person loses residence in this state while absent from this state on business for the United States or this state; and no member of the armed forces of the United States gains a residence in this state because of being stationed within this state.

(7) A guest at a national or a state soldiers' home in this state, a guest at a home for the aged supported by benevolence, or a patient of any county home or other charitable institution, resides in the municipality where the home is located and within the ward where the guest or patient sleeps, unless before becoming a guest or patient at the home the guest or patient elects to maintain his or her prior residence as his or her voting residence.

(8) No person gains a residence in any ward or election district of this state while there for temporary purposes only.

(9) No person loses the right to vote at the person's place of residence while receiving public assistance or unemployment compensation even if the legal settlement for assistance is elsewhere.

(10) If a person moves to another state with an intent to make a permanent residence there, or, if while there the person exercises the right to vote as a citizen of that state by voting, the person loses Wisconsin residence.

(11) Neither an intent to acquire a new residence without removal, nor a removal without intent, shall affect residence.

(12) Student status shall not be a consideration in determining residence for the purpose of establishing voter eligibility.

(13) A military elector under s. 6.22 (1) (b) who is the spouse or dependent of another military elector may elect to take as his or her residence either the individual's most recent residence in this state or the residence of the individual's spouse or the individual providing his or her support.

*History:* 1971 c. 304 s. 29 (2); 1975 c. 85, 94, 199; 1977 c. 26; 1979 c. 260; 1983 s. 192, 484; 1985 s. 304; 1987 s. 391; 1991 s. 316.

*Voter residency and absentee voting discussed. 60 Atty. Gen. 214.*  
*Voting residency of family members of military personnel stationed in Wisconsin discussed. 61 Atty. Gen. 269.*

*Upon marriage to a Wisconsin serviceman, a nonresident wife may take Wisconsin voting residence of husband. 61 Atty. Gen. 365.*

**6.15 New residents; presidential voting. (1) QUALIFICATIONS.** Any person who was or who is a qualified elector under ss. 6.02 and 6.03, except that he or she has been a resident of this state for less than 10 days prior to the date of the presidential election, is entitled to vote for the president and vice president but for no other offices. The fact that the person was not registered to vote in the state from which he or she moved does not prevent voting in this state if the elector is otherwise qualified.

(2) **APPLICATION FOR BALLOT.** Any person qualifying under sub. (1) need not register to vote, but shall apply for and cast his or her ballot as follows:

(a) The elector's request for the application form may be made to the proper municipal clerk either in person or in writing any time during the 10-day period in which the elector's residence requirement is incomplete, but not later than the applicable deadline for making application for an absentee ballot, or may be made at the proper polling place in the ward or election district in which the elector resides. The application form shall be returned to the municipal clerk after the affidavit has been signed in the presence of the clerk or any officer authorized by law to administer oaths. The affidavit shall be in substantially the following form:

**STATE OF WISCONSIN**

County of ....

I, ....., do solemnly swear that I am a citizen of the United States; that prior to establishing Wisconsin residence, my legal residence was in the .... (town) (village) (city) of ....., state of ....., residing at .... (street address); that on the day of the next presidential election, I shall be at least 18 years of age and that I have been a legal resident of the state of Wisconsin since ....., 19..., residing at .... (street address), in the [.... ward of the .... aldermanic district of] the (town) (village) (city) of ....., county of ....., that I have resided in the state less than 10 days, that I am qualified to vote for president and vice president at the election to be held November ....., 19..., that I am not voting at any other place in this election and that I hereby make application for an official presidential ballot, in accordance with section 6.15 of the Wisconsin statutes.

Signed ....

P.O. Address ....

Subscribed and sworn to before me this .... day of ....., 19..

....(Name)

....(Title)

(b) The clerk shall provide with the application form a card which the elector shall fill in and return with the application to the municipal clerk. The card shall state that the elector intends to vote for president and vice president in Wisconsin and that his or her voting privileges should be canceled at his or her previous residence. The card shall be in substantially the following form:

.... (Full Name - print or type)

It is my intent to vote for president and vice president in Wisconsin, under section 6.15, Wisconsin Statutes.

( ) I am not registered to vote at my previous address.

( ) I am registered to vote at my previous address and I hereby authorize the cancellation of my previous voting privileges at that address:

.... (Street), .... (Town, village, city), .... (State) .... (Zip)

Signature ....

Present Address ....

(c) The municipal clerk upon receipt of the application form and voting privileges cancellation card shall immediately forward the card to the proper official of the applicant's prior residence.

(3) **VOTING PROCEDURE. (a) Clerk's office.** 1. Upon proper completion of the application and cancellation card, the municipal clerk shall inform the elector that he or she may vote for the presidential electors not sooner than 9 days nor later than 5 p.m. on the day before the election at the office of the municipal clerk, or at a specified polling place on election day. When voting at the municipal clerk's office, the applicant shall provide identification and shall mark or punch the ballot in the clerk's presence in a manner that will not disclose his or her vote. Unless the ballot is utilized with an electronic voting system, the applicant shall fold the ballot so as to



conceal his or her vote. The applicant shall then deposit the ballot and seal it in an envelope furnished by the clerk.

2. The clerk shall enclose the envelope containing the ballot in a carrier envelope, securely seal it, and indorse it with his or her name, title and the words, "This envelope contains the vote for president and vice president of a new resident and shall be opened only at the polls during polling hours on election day". The clerk shall keep the envelope in his or her office until the clerk delivers it to the inspectors, as provided in sub. (4).

3. The clerk shall keep open to public inspection a list of all new residents who have voted under this section. The list shall give the name, address and application date of each elector.

(b) *Election day.* An eligible elector may appear at the polling place for the ward or election district where he or she resides and make application for a ballot under sub. (2). In such case, the inspector or special registration deputy shall perform the duties of the municipal clerk. The elector shall provide identification. If the elector is qualified, he or she shall be permitted to vote. The elector shall mark or punch the ballot and, unless the ballot is utilized with an electronic voting system, the elector shall fold the ballot, and shall give it to the inspector. The inspector shall deposit it directly in the ballot box. Voting machines or ballots utilized with electronic voting systems may only be used by electors voting under this section if they permit voting for president and vice president only.

(4) **DELIVERY AND DEPOSIT OF BALLOTS.** (a) Clerks holding new resident ballots shall deliver them to the election inspectors in the proper ward or election district where the new residents reside, as provided by s. 6.88 for absentee ballots.

(b) During polling hours, the inspectors shall open each carrier envelope, announce the elector's name, check the affidavit for proper execution, and check the voting qualifications for the ward, if any.

(c) The inspectors shall open the inner envelope without examination of the ballot other than is necessary to see that the issuing clerk has indorsed it.

(d) Upon satisfactory completion of the procedure under pars. (b) and (c) the inspectors shall deposit the ballot in the ballot box. The inspectors shall enter the name of each elector voting under this section on a separate list maintained for the purpose under s. 6.79.

(e) If the person is not a qualified elector in the ward or municipality, or if the envelope is open or has been opened and resealed, the inspectors shall reject the vote. Rejected ballots shall be processed the same as rejected absentee ballots, under s. 6.88 (3) (b).

(5) **CHALLENGE OF VOTE.** Any new resident's vote may be challenged for cause in the manner provided in ss. 6.92 to 6.95.

(6) **DEATH OF ELECTOR.** When it appears by due proof to the inspectors that a person voting under this section has died before the date of the election, the inspectors shall return the ballot with defective ballots to the issuing official.

*History:* 1977 c. 394; 1979 c. 311; 1981 c. 391; 1983 a. 484; 1985 a. 304; 1987 a. 391.

**6.18 Former residents.** If ineligible to qualify as an elector in the state to which the elector has moved, any former qualified Wisconsin elector may vote an absentee ballot in the ward of the elector's prior residence in any presidential election occurring within 24 months after leaving Wisconsin by requesting an application form and returning it, properly executed, to the municipal clerk of the elector's prior Wisconsin residence. When requesting an application form for an absentee ballot, the applicant shall specify the applicant's eligibility for only the presidential ballot. The application

form shall require the following information and be in substantially the following form:

This blank shall be returned to the municipal clerk's office. Application must be received in sufficient time for ballots to be mailed and returned prior to any presidential election at which applicant wishes to vote. Complete all statements in full.

**APPLICATION FOR PRESIDENTIAL ELECTOR'S ABSENT BALLOT.**

(To be voted at the Presidential Election on November ...., 19..)

I, .... hereby swear or affirm that I am a citizen of the United States, formerly residing at .... in the .... ward .... aldermanic district (city, town, village) of ...., County of .... for 10 days prior to leaving the State of Wisconsin. I, .... do solemnly swear or affirm that I do not qualify to register or vote under the laws of the State of .... (State you now reside in) where I am presently residing. A citizen must be a resident of: State .... (Insert time) County .... (Insert time) City, Town or Village .... (Insert time), in order to be eligible to register or vote therein. I further swear or affirm that my legal residence was established in the State of .... (the State where you now reside) on .... Month .... Day .... Year.

Signed ....

Address .... (Present address)

.... (City) .... (State)

Subscribed and sworn to before me this .... day of .... 19...  
.... (Notary Public, or other officer authorized to administer oaths.)

.... (County)

My Commission expires

**MAIL BALLOT TO:**

**NAME ....**

**ADDRESS ....**

**CITY .... STATE .... ZIP CODE ....**

*Penalties for Violations.* Whoever swears falsely to any absent elector affidavit under this section may be fined not more than \$1,000 or imprisoned not more than 6 months, or both. Whoever intentionally votes more than once in an election may be fined not more than \$10,000 or imprisoned not more than 3 years, or both.

.... (Municipal Clerk)

.... (Municipality)

*History:* 1971 c. 304 s. 29 (1), (2); 1975 c. 85 ss. 9, 66 (3); 1991 a. 316.

**6.20 Absent electors.** Any qualified elector of this state who registers where required may vote by absentee ballot under ss. 6.84 to 6.89.

*History:* 1985 a. 304.

**6.21 Deceased electors.** When by due proof it appears to the inspectors that a person voting under this section has died before the date of the election, they shall return the ballot with defective ballots to the issuing official. The casting of the ballot of a deceased elector does not invalidate the election.

*History:* 1985 a. 304.

**6.22 Absentee voting for military electors. (1) DEFINITIONS.** In this section:

(a) "Member of the merchant marine" means an individual, other than a member of a uniformed service or an individual employed, enrolled or maintained on the Great Lakes or the inland waterways, who is any of the following:

1. Employed as an officer or crew member of a vessel documented under the laws of the United States, or a vessel owned by the United States, or a vessel of foreign-flag registry under charter to or control of the United States.

2. Enrolled with the United States for employment or training for employment, or maintained by the United States

for emergency relief service, as an officer or crew member of any such vessel.

(b) "Military elector" means any of the following:

1. Members of a uniformed service;
2. Members of the merchant marine of the United States.
3. Civilian employes of the United States and civilians officially attached to a uniformed service who are serving outside the United States.
4. Peace corps volunteers.
5. Spouses and dependents of those listed in the above categories residing with or accompanying them.

(c) "Uniformed service" means the U.S. army, navy, air force, marine corps or coast guard, the commissioned corps of the federal public health service or the commissioned corps of the national oceanic and atmospheric administration.

(2) APPLICATION AND VOTING PROCEDURE. (a) A military elector shall vote in the ward or election district for the address of his or her residence prior to becoming a military elector, except that:

1. A military elector voting in this state who is the spouse of another military elector and who did not maintain a residence in this state prior to becoming a military elector shall vote in the ward or election district for the address of his or her spouse.

2. A military elector voting in this state who is the dependent of another military elector and who did not maintain a residence in this state prior to becoming a military elector shall vote in the ward or election district for the address of the individual providing his or her support.

3. A military elector who is the spouse of another military elector and whose most recent residence in this state was different than the residence of his or her spouse prior to becoming a military elector may vote in the ward or election district for the address of his or her former residence or the ward or election district for the address of his or her spouse.

4. A military elector who is the dependent of another military elector and whose most recent residence in this state was different than the residence of the individual providing his or her support prior to becoming a military elector may vote in the ward or election district for the address of his or her former residence or the ward or election district for the address of the individual providing his or her support.

(b) Whenever an application, affidavit or other act is required in ss. 6.86 to 6.89 any military elector may fulfill the requirements by subscribing or swearing before any person authorized to administer oaths or 2 adult U.S. citizens.

(c) A federal postcard registration and absentee ballot request form may be used to apply for an absentee ballot under this section if the form is completed in such a manner that the municipal clerk or board of election commissioners with whom it is filed is able to determine all of the following:

1. That the applicant is qualified to vote in the ward or election district where he or she seeks to vote under par. (a).
2. That the applicant qualifies to receive an absentee ballot under this section.

(d) If an applicant uses a federal form under par. (c) to request an absentee ballot for all elections, the application shall so state.

(3) REGISTRATION EXEMPT. Military electors are not required to register as a prerequisite to voting in any election.

(4) INSTRUCTIONS AND HANDLING. A military elector may request an absentee ballot for any election or for all elections. A military elector's application for all elections may be received at any time. A military elector's application for an individual election may be received no earlier than the first day of the 6th month commencing before the election. The municipal clerk shall not mail a ballot for an election if the

application is received later than 5 p.m. on the Friday preceding that election. The municipal clerk shall mail a ballot, as soon as available, to each military elector who requests a ballot. The board shall prescribe the instructions for marking or punching and returning ballots and the municipal clerk shall enclose instructions with each ballot and shall also enclose supplemental instructions for local elections. The envelope, return envelope or explanatory note may not contain the name of any candidate appearing on the enclosed ballots other than that of the municipal clerk affixed in the fulfillment of his or her duties. The material shall be prepared and mailed to make use of the federal free postage laws. The mailing list established under this subsection shall be kept current in the same manner as provided in s. 6.86 (2) (b).

(5) VOTING PROCEDURE. Except as authorized in s. 6.25, the ballot shall be marked or punched and returned, deposited and recorded in the same manner as other absentee ballots. In addition, the affidavit under s. 6.87 (2) shall have a statement of the elector's birth date. Failure to return the unused ballots in a primary election does not invalidate the ballot on which the elector casts his or her votes.

(6) MILITARY ELECTOR LIST. Each municipal clerk shall keep an up-to-date list of all eligible local military electors; city clerks shall keep the lists by wards. The list shall contain the name, latest-known military residence and military mailing address of each military elector. All persons over 18 years of age or who will be 18 years old prior to an election shall be listed and remain on the list for the duration of their tour of duty. The list shall be kept current through all possible means. Each clerk shall exercise reasonable care to avoid duplication of names or listing anyone who is not eligible to vote. Each clerk shall distribute 2 copies of the list to the appropriate ward in the municipality for use on election day.

(7) EXTENSION OF PRIVILEGE. This section applies to all military electors for 10 days after the date of discharge from a uniformed service or termination of services or employment of individuals specified in sub. (1) (b) 1 to 4.

History: 1971 c. 304 s. 29 (2); 1971 c. 336 s. 37; 1973 c. 334 s. 57; 1975 c. 85 ss. 10, 66 (3); 1977 c. 394; 1979 c. 89, 311; 1981 c. 391; 1983 a. 484; 1985 a. 304; 1987 a. 391; 1989 a. 192.

**6.24 Federal overseas voting. (1) DEFINITION.** In this section, "overseas elector" means a citizen not disqualified from voting under s. 6.03 who has or will attain the age of 18 by the date of an election who does not qualify as a resident of this state under s. 6.10, but who was last domiciled in this state immediately prior to departure from the United States, and is not registered to vote or voting in any other state, territory or possession.

(2) ELIGIBILITY. An overseas elector under sub. (1) may vote in any election for national office, including the September primary and presidential preference primary and any special primary or election. Such elector may not vote in an election for state or local office. An overseas elector shall vote in the ward or election district in which he or she was last domiciled prior to departure from the United States.

(3) REGISTRATION. If registration is required in the municipality where the overseas elector resides, the elector shall register on a form prescribed by the board designed to ascertain the elector's qualifications under this section. The form shall be substantially similar to the original form under s. 6.33 (1), insofar as applicable. Registration shall be accomplished in accordance with s. 6.30 (3).

(4) REQUESTS. (a) An overseas elector who is properly registered where registration is required may request an absentee ballot in writing under ss. 6.86 to 6.89. The board shall prescribe a special certificate affidavit form for the

envelope for overseas electors under this section which shall be substantially similar to that provided in s. 6.87 (2). An overseas elector who is not registered may request both a registration form and an absentee ballot for a specific election at the same time, and the municipal clerk shall mail the ballot automatically if the registration form is received within the time prescribed in s. 6.30 (3). Whenever an application, affidavit or other act is required in ss. 6.86 to 6.89 an overseas elector may fulfill the requirements by subscribing or swearing before any person authorized to administer oaths or 2 adult U.S. citizens.

(b) A federal postcard registration and absentee ballot request form may be used to apply for an absentee ballot under par. (a) if the form is completed in such manner that the municipal clerk or board of election commissioners with whom it is filed is able to determine all of the following:

1. That the applicant is an overseas elector under sub. (1).
2. That the applicant qualifies to vote in the ward or election district where he or she seeks to vote under sub. (2).

(5) **BALLOTS.** The board shall prescribe a special ballot for use under this section whenever necessary. Official ballots under ss. 5.60 (8) and 5.64 (3) may also be used. The ballot shall be designed to comply with the requirements of ss. 5.60 (8), 5.62 and 5.64 insofar as applicable. All ballots shall be limited to national offices only.

(6) **INSTRUCTIONS AND HANDLING.** The municipal clerk shall mail a ballot, as soon as available, to each overseas elector by whom a request has been made. The board shall prescribe the instructions for marking or punching and returning ballots and the municipal clerk shall enclose such instructions with each ballot. The envelope, return envelope and instructions may not contain the name of any candidate appearing on the enclosed ballots other than that of the municipal clerk affixed in the fulfillment of his or her duties. The municipal clerk shall mail the material postage prepaid to any place in the world. The overseas elector shall provide return postage.

(7) **VOTING PROCEDURE.** Except as authorized under s. 6.25, the ballot shall be marked or punched and returned, deposited and recorded in the same manner as other absentee ballots. In addition, the certificate-affidavit shall have a statement of the elector's birth date. Failure to return the unused ballots in a primary election does not invalidate the ballot on which the elector casts his or her votes.

(8) **OVERSEAS ELECTOR LIST.** Each municipal clerk where registration is not required shall keep an up-to-date list of all eligible local overseas electors; city clerks shall keep the lists by wards. The list shall contain the name, latest-known residence and mailing address of each overseas elector. The list shall be kept current through all possible means. Each clerk shall exercise reasonable care to avoid duplication of names or listing anyone who is not eligible to vote. Each clerk shall distribute 2 copies of the list to the appropriate polling places in the municipality for use on election day.

*History:* 1977 c. 394; 1979 c. 260, 311; 1985 a. 304; 1987 a. 391; 1989 a. 192.

**6.25 Write-in absentee ballot.** (1) Any individual who qualifies as a military elector under s. 6.22 (1) (b) or an overseas elector under s. 6.24 (1) and who transmits an application for an official absentee ballot for a general election no later than 30 days before election day may, in lieu of the official ballot, cast a federal write-in absentee ballot prescribed under 42 USC 1973ff-2 for any candidate or for all of the candidates of any recognized political party for national office listed on the official ballot at the general election if the federal write-in absentee ballot is received by the

appropriate municipal clerk no later than the time prescribed in s. 6.87 (6).

(2) Any individual who qualifies as a military elector under s. 6.22 (1) (b) and who transmits an application for an official absentee ballot for any election no later than 30 days before election day may, in lieu of the official ballot, cast a write-in absentee ballot for any candidate or for all of the candidates of any recognized political party listed on the official ballot at the election if the write-in absentee ballot is received by the appropriate municipal clerk no later than the time prescribed in s. 6.87 (6). The ballot shall contain the information required under s. 5.55 whenever applicable and on the face shall indicate the type and date of election and shall list the offices to be filled and the number of votes that each elector may cast for each office. The ballot shall include a number of spaces under each office equal to the number of votes permitted to be cast for that office for the elector to write in the names of candidates.

(3) Any individual who qualifies as an overseas elector under s. 6.24 (1) and who transmits an application for an official absentee ballot for any election no later than 30 days before election day may, at any election for national office in lieu of the official ballot, cast a write-in absentee ballot for any candidate for national office or for all of the candidates of any recognized political party for national office listed on the official ballot at the election if the write-in absentee ballot is received by the appropriate municipal clerk no later than the time prescribed in s. 6.87 (6). The ballot shall contain the information required under s. 5.55 whenever applicable and on the face shall indicate the type and date of election and shall list the offices to be filled. The ballot shall include a space under each office for the elector to write in the name of a candidate.

(4) A write-in absentee ballot issued under sub. (1), (2) or (3) is valid only if all of the following apply:

(a) The ballot is submitted from a location outside the United States.

(b) The elector submitting the ballot does not submit an official ballot within the time prescribed in s. 6.87 (6).

*History:* 1987 a. 391; 1989 a. 192.

## REGISTRATION

**6.26 Registrars.** (1) Where registration is applicable under s. 6.27, the municipal clerk or the board of election commissioners of each municipality shall administer elector registration within the municipality in accordance with the procedures prescribed under sub. (3). The clerk or board of election commissioners shall prepare and maintain the registration list under this chapter.

(2) (a) A qualified elector of the state may apply to any municipal clerk or board of election commissioners to be appointed as a special registration deputy for the purpose of registering electors prior to the close of registration. An applicant may be appointed by more than one municipal clerk or board of election commissioners to serve more than one municipality.

(b) The municipal clerk or board of election commissioners may appoint an applicant who qualifies under this subsection, unless the applicant's appointment has been revoked by a municipality for cause. A municipal clerk or board of election commissioners may revoke an appointment for cause at any time.

(c) No individual may serve as a special registration deputy in a municipality unless the individual is appointed by the municipal clerk or board of election commissioners of the municipality.

(d) This subsection does not apply to deputies appointed under s. 6.55 (6).

(3) The board shall, by rule, prescribe procedures for appointment of special registration deputies, for revocation of appointments of special registration deputies, and for training of special registration deputies by municipal clerks and boards of election commissioners. The procedures shall be formulated to promote increased registration of electors consistent with the needs of municipal clerks and boards of election commissioners to efficiently administer the registration process.

History: 1985 a. 304 ss. 50, 52g; 1987 a. 391; 1989 a. 192.

**6.27 Where elector registration required.** (1) Every municipality over 5,000 population shall keep a registration list consisting of all currently registered electors. Where used, registration applies to all elections.

(2) By ordinance, the governing body in municipalities with less than 5,000 population may require registration.

(3) Any municipality with less than 5,000 population and any municipality where a federal census has not yet determined the population may have registration by a referendum vote. The vote may be taken at the spring or general election whenever, at least 60 days before the election, the electors file with the municipal clerk a petition requesting a referendum asking whether registration shall be required. The petition shall conform to the requirements of s. 8.40 and be signed by electors at least equal to 15% of the votes cast for governor in the municipality in the last general election.

(4) (a) When registration is ordered or directed under sub. (2) or (3), it may be abolished by a referendum vote. The vote may be taken at the spring or general election whenever, at least 60 days before the election, the electors file a petition conforming to the requirements of s. 8.40 with the clerk requesting a referendum. The petition shall be signed by electors at least equal to 15% of the votes cast for governor in the municipality in the last general election.

(b) Notice shall be given as for municipal elections.

(5) Whenever registration is established or abolished, under sub. (2), (3) or (4), the municipal clerk shall immediately certify the action to the county clerk and the board.

History: 1973 c. 334 s. 57; 1977 c. 394; 1979 c. 260, 355; 1983 a. 484; 1985 a. 304; 1989 a. 192.

**6.275 Registration and voting statistics.** (1) Within 30 days after each primary and election at which a state or national office is filled or a statewide referendum is held, including any special election, the municipal clerk or board of election commissioners shall make a written statement in duplicate to the county clerk or board of election commissioners of each county in which the municipality is located specifying:

(a) The total number of electors residing in that county who voted in the municipality in that primary or election.

(b) Where registration applies, the total number of electors of the municipality residing in that county who were preregistered on the deadline specified in s. 6.28 (1), including valid mail registrations which are postmarked by that day.

(c) Where registration applies, the total number of electors of the municipality residing in that county who registered after the close of registration and prior to the day of the primary or election under s. 6.29.

(d) Where registration applies, the total number of electors of the municipality residing in that county who registered on the day of the primary or election under s. 6.55.

(e) The total number of electors of the municipality voting absentee ballots at the primary or election.

(2) Upon receipt of each report filed under this section, the county clerk or board of election commissioners shall forward one copy to the board within 7 days.

History: 1979 c. 260; 1979 c. 355 ss. 12 to 14; 1983 a. 484; 1985 a. 304; 1989 a. 192.

**6.28 Where and when to register.** (1) **REGISTRATION LOCATIONS; DEADLINE.** Registration in person for any election shall close at 5 p.m. on the 2nd Wednesday preceding the election. Registrations made by mail under s. 6.30 (4) must be delivered to the office of the municipal clerk or postmarked no later than the 2nd Wednesday preceding the election. All applications for registration corrections and additions may be made throughout the year at the office of the city board of election commissioners, at the office of the municipal clerk, at the office of any register of deeds or at other locations provided by the board of election commissioners or the common council in cities over 500,000 population or by either or both the municipal clerk, or the common council, village or town board in all other municipalities and may also be made during the school year at any high school by qualified persons under sub. (2) (a). Other registration locations may include but are not limited to fire houses, police stations, public libraries, institutions of higher education, supermarkets, community centers, plants and factories, banks, savings and loan associations and savings banks. Special registration deputies shall be appointed for all locations.

(2) **AT HIGH SCHOOLS.** (a) Public high schools shall be used for registration for enrolled students and members of the high school staff.

(b) The municipal clerk of each municipality in which elector registration is required shall notify the school board of each school district in which the municipality is located that high schools shall be used for registration pursuant to par. (a). The school board and the municipal clerk shall agree upon the appointment of at least one qualified elector at each high school as a special school registration deputy. The municipal clerk shall appoint such person as a school registration deputy and explain the person's duties and responsibilities. Students and staff may register at the high school on any day that classes are regularly held. The school registration deputies shall promptly forward properly completed registration forms to the municipal clerk of the municipality in which the registering student or staff member resides. The municipal clerk, upon receiving such registration forms, shall add all those registering electors who have met the registration requirements to the registration list. The municipal clerk may reject any registration form and shall promptly notify the person whose registration is rejected of the rejection and the reason therefor. A person whose registration is rejected may reapply for registration if he or she is qualified. The form of each high school student who is qualified and will be eligible to vote at the next election shall be filed in such a way that when a student attains the age of 18 years the student is registered to vote automatically. Each school board shall assure that the principal of every high school communicates elector registration information to students.

(c) The principal of any private high school having a substantial number of students residing in a municipality may request the municipal clerk to establish registration dates when a special registration deputy will be present in the high school, or to appoint a special school registration deputy in accordance with par. (b). The clerk shall establish registration dates or appoint a special school registration deputy in the high school if the clerk determines the school to have a substantial number of students residing in the municipality.

(3) **AT OFFICE OF REGISTER OF DEEDS.** Any person who resides in a municipality requiring registration of electors

shall be given an opportunity to register to vote at the office of the register of deeds. An applicant may fill out the required registration form under s. 6.33. Upon receipt of a completed form, the register of deeds shall forward the form within 5 days to the appropriate municipal clerk, or to the board of election commissioners in cities over 500,000 population. The register of deeds shall forward the form immediately whenever registration closes within 5 days of receipt.

*History:* 1971 c. 304 a. 29 (2); 1973 c. 166, 225, 334; 1975 c. 85, 199; 1977 c. 378, 394, 447; 1979 c. 32; 1981 c. 44 a. 3; 1981 c. 202 a. 23; 1983 a. 484; 1985 a. 304; 1989 a. 31, 192; 1991 a. 221.

**6.29 Late registration in person.** (1) No names may be added to a registration list for any election after the close of registration, except as authorized under this section or s. 6.55 (2) or (3). Any person whose name is not on the registration list but who is otherwise a qualified elector is entitled to vote at the election upon compliance with this section.

(2) (a) Any qualified elector of a municipality where registration is required who has not previously filed a registration form or whose name does not appear on the registration list of the municipality shall be entitled to vote at the election if he or she delivers to the municipal clerk a registration form executed by the elector. The form shall contain a certification by the elector that all statements are true and correct. Alternatively, if the elector cannot obtain a registration form, the elector may deliver a statement, signed by the elector, containing all of the information required on the registration form. The elector shall present acceptable proof of residence as provided in s. 6.55 (7). If no proof is presented, the registration form or the listing of required information shall be substantiated by one other elector of the municipality, corroborating all the material statements therein. The corroborating elector shall then provide acceptable proof of residence under s. 6.55 (7). The signing of the form by the registering elector and statement by the corroborating elector shall be done in the presence of the municipal clerk or deputy clerk not later than 5 p.m. of the day before an election.

(b) Upon the filing of the registration form required by this section, the municipal clerk shall issue a certificate addressed to the inspectors of the proper ward directing that the elector be permitted to cast his or her vote. The certificate shall be numbered serially, prepared in duplicate and one copy preserved in the office of the municipal clerk.

(c) The elector, at the time he or she appears at the correct polling place, shall deliver the certificate issued under par. (b) to the inspectors. If the elector applies for and obtains an absentee ballot, the certificate shall be annexed to and mailed with the absentee ballot to the office of the municipal clerk.

(d) The inspectors shall record the names of electors who present certificates in person or for whom certificates are presented with absentee ballots under this section on the list maintained under s. 6.56 (1). These names shall then be added to the registration list if the electors are qualified.

*History:* 1977 c. 394; 1987 a. 391; 1989 a. 192.

**6.30 How to register.** (1) **IN PERSON.** Registration applications shall be made in person, except under subs. (2) to (4).

(2) **WHEN CONFINED OR DISABLED.** A registration form for a qualified elector may be completed at the home or institution where an elector is confined because of physical illness or infirmity or where a disabled elector resides if the elector finds it difficult, due to such illness, infirmity or disability, to register in another manner. The form shall contain a certification by the elector that all statements are true and correct. A registration form for such an elector may be made in the presence of any individual who is authorized to register electors, or a form may be signed by the elector and witnessed by one other elector of the municipality and then mailed or

delivered to the municipal clerk. The form shall contain a statement that the elector is confined because of physical illness or infirmity or is disabled and finds it difficult, due to such illness, infirmity or disability, to register in another manner.

(3) **WHEN ABSENT.** Any elector who is located more than 50 miles from his or her legal voting residence may register before the close of registration for any election as follows:

(a) The elector shall secure the necessary blank registration form and instructions for its completion from the municipal clerk.

(b) [The elector shall certify that all statements are true and correct. The elector's certification shall be witnessed by 2 adult U.S. citizens or by an individual who is authorized to administer oaths, who shall sign the form.]

*NOTE:* Par. (b) is shown as amended by 1989 Wis. Act 192, a. 34, eff. 7-1-90. 1989 Wis. Act 192, a. 33, repeals par. (b) effective that same date.

(c) The elector shall return the registration form to the clerk of the municipality where the elector resides. The form shall be prepostpaid for return when mailed at any point within the United States. To be eligible to vote in an election the form shall be received by the clerk prior to the close of the clerk's office on the registration deadline date for that election.

(4) **BY MAIL.** Any eligible elector who is located not more than 50 miles from his or her legal voting residence may register by mail on a form prescribed by the board and provided by each municipality. The form shall be designed to obtain the information required in ss. 6.33 (1) and 6.40 (1) (a) and (b). The form shall contain a certification by the elector that all statements are true and correct. The form shall be prepostpaid for return when mailed at any point within the United States, and shall be signed by a special registration deputy or shall be signed and substantiated by one other elector residing in the same municipality in which the registering elector resides, corroborating all material statements therein. The form shall be available in the municipal clerk's office and may be distributed by any elector of the municipality. The clerk shall mail a registration form to any elector upon written or oral request.

*History:* 1971 c. 249; 1975 c. 85 ss. 12, 65; 1975 c. 199, 200, 275, 422; 1977 c. 283, 394; 1983 a. 484; 1989 a. 192.

**6.32 Verification of mail registrations.** (1) Upon receipt of a registration form which is submitted by mail under s. 6.30 (4), the municipal clerk shall examine the form for sufficiency.

(2) If the form is insufficient to accomplish registration or the clerk knows or has reliable information that the proposed elector is not qualified, the clerk shall notify the proposed elector within 5 days, if possible, and request that the elector appear at the clerk's office or other registration center to complete a proper registration or substantiate the information presented.

(3) If the form is submitted later than the close of registration, the clerk shall make a good faith effort to notify the elector that he or she may register at the clerk's office under s. 6.29 or at the proper polling place or other location designated under s. 6.55 (2).

(4) If the form is sufficient to accomplish registration and the clerk has no reliable information to indicate that the proposed elector is not qualified, the clerk shall enter the elector's name on the registration list and transmit a 1st class letter or postcard to the registrant, specifying the elector's ward or aldermanic district, and polling place. If such letter or postcard is returned, or if the clerk is informed of a different address than the one specified by the elector, the clerk shall strike the name of the elector from the list. The letter or postcard shall specify "ADDRESS CORRECTION RE-

QUESTED" or "DO NOT FORWARD—", and if a postcard, "RETURN POSTAGE GUARANTEED".

History: 1975 c. 85, 199; 1977 c. 394; 1979 c. 260; 1983 a. 484.

**6.325 Disqualification of electors.** No person may be disqualified as an elector unless the municipal clerk, board of election commissioners or a challenging elector under s. 6.48 demonstrates beyond a reasonable doubt that the person does not qualify as an elector or is not properly registered. If it appears that the elector or proposed elector is registered in another location, the municipal clerk or board of election commissioners may require the challenged elector to sign an authorization to cancel registration under s. 6.40 (1) (b) and shall notify the proper official at that location. The municipal clerk or board of election commissioners may require naturalized applicants to show their naturalization certificates.

History: 1983 a. 484 a. 37; 1985 a. 304.

**6.33 Registration forms.** (1) The municipal clerk shall supply sufficient registration forms as prescribed by the board printed on loose-leaf sheets or cards to obtain from each applicant information as to name, date, residence location, citizenship, age, whether the applicant has resided within the ward or election district for at least 10 days, whether the applicant has lost his or her right to vote, and whether the applicant is currently registered to vote at any other location, and shall provide a space for the applicant's signature. Each register of deeds shall obtain sufficient registration forms at the expense of the unit of government by which he or she is employed for completion by any elector who desires to register to vote.

(2) (a) The information may be recorded by any person, but the applicant shall sign his or her own name unless the applicant is unable to sign his or her name due to physical disability. In such case, the applicant may authorize another elector to sign the form on his or her behalf. If the applicant so authorizes, the elector signing the form shall attest to a statement that the application is made upon request and by authorization of a named elector who is unable to sign the form due to physical disability. Ward and aldermanic district information shall be filled in by the clerk.

(b) The registration form shall be signed by the registering elector and any corroborating elector under s. 6.29 (2) (a), 6.30 (2) to (4) or 6.55 (2) before the clerk, issuing officer or registration deputy. The form shall contain a certification by the registering elector that all statements are true and correct.

(3) The registration form may include a space for a voting record to be filled in by the municipal clerk. If the form does not include such a space, voting record information shall be maintained separately by the municipal clerk in such form that it may be retrieved by computer.

(4) When an individual's registration is canceled, the municipal clerk or board of election commissioners shall enter the date and reason for cancellation on the individual's registration form.

History: 1971 c. 304 s. 29 (1), (2); 1971 c. 336 s. 37; 1975 c. 85 ss. 15, 16, 17, 66 (3); 1975 c. 94 s. 91; 1977 c. 378, 394, 447; 1979 c. 32; 1981 c. 44 s. 3; 1981 c. 202 s. 23; 1985 a. 304; 1987 a. 391; 1989 a. 31, 192.

**6.35 Filing registration forms.** (1) Under the direction of the municipal clerk or board of election commissioners, the original registration forms shall be filed in one of the following ways:

(a) In alphabetical order of the electors' names.

(b) In alphabetical order according to street names, in numerical order on each street and in alphabetical order of the electors' names at each address on the street.

(2) Registration forms shall be kept on file in the office of the municipal clerk. When the original forms are used on

election day, they shall be returned to the clerk within 2 days after the election.

(3) In municipalities employing data processing for keeping of registration records, original registration forms shall be maintained in the office of the municipal clerk or board of election commissioners at all times.

(5) Duplicate registration forms shall be maintained by municipalities not employing data processing. Duplicates shall be filed in the same order as originals, except that duplicates shall be filed for the entire municipality without regard to wards.

(6) Original registration forms in municipalities not employing data processing shall be maintained by ward. Original registration forms in municipalities employing data processing need not be maintained by ward, but the data processing system employed shall enable retrieval of the registration list by ward.

History: 1971 c. 249; 1971 c. 304 s. 29 (2); 1971 c. 336; 1975 c. 85; 1977 c. 394; 1983 a. 484; 1985 a. 304; 1989 a. 192.

**6.36 Official registration list.** (1) The municipal clerk shall compile a registration list for use in each ward following the arrangement for registration forms under s. 6.35.

(2) The registration lists shall contain the full name and address of each registered elector, a blank column for the entry of the serial number of the electors when they vote, and a form of a certificate stating that each list is a true and complete combined check and registration list of the respective wards.

(3) Municipalities shall prepare at least 2 copies of the registration list for each ward and bind them in book form. The original registration forms constitute the official registration list and shall be controlling whenever discrepancies occur.

History: 1971 c. 304 s. 29 (2); 1975 c. 85; 1977 c. 394 ss. 21, 22, 53.

**6.40 Transferring registration.** (1) **ELECTOR INITIATIVE.** (a) *Within municipality.* Any registered elector shall transfer registration after a change of residence within the municipality in which he or she is registered by appearing in person or by mailing to the municipal clerk a signed request stating his or her present address, affirming that this will be the elector's residence for 10 days prior to the election and providing the address where he or she was last registered. Alternatively, the elector may transfer his or her registration at the proper polling place or other registration location under s. 6.02 (2) in accordance with s. 6.55 (2) (a). If an elector is voting at a former ward or election district, the change shall be effective for the next election.

(b) *Within state.* Any elector who changes residence within this state from one municipality to another shall give his or her previous residence upon application for registration at the new residence and shall sign an authorization to cancel voting privileges at the former residence on a form prescribed by the board and furnished by each municipality. The cancellation authorization shall be forwarded to the proper election officials no later than 3 days after the close of registration. Such elector may also transfer his or her registration at the proper polling place or other registration location as provided in s. 6.55 (2) (a).

(c) *Name change.* Whenever an elector's name is legally changed, including a change by marriage or divorce, the elector shall transfer his or her registration to his or her legal name by appearing in person or mailing to the municipal clerk a signed request for a transfer of registration to such name. Alternatively, a registered elector may make notification of a name change at his or her polling place under s. 6.55 (2) (d).

(2) **CLERK'S INITIATIVE.** (a) Municipal clerks may transfer any elector's registration upon receipt of reliable information that the elector has changed residence within the municipality. The clerk shall mail the elector a notice of the transfer.

(b) In addition to the revision which is required under s. 6.50, municipal clerks may conduct door-to-door and mail registration canvasses at any time. The door-to-door canvass shall consist of both the deletion from the registration list of the names of electors who no longer reside at the address for which they are registered and the addition to the registration list of the names of electors who reside at that address. The mail canvass shall consist of the municipal clerk examining the registration records and canceling the registration of electors after the mailing of notices in accordance with s. 6.50 (1) and (2) or (2m). The mail canvass may also consist of adding to the registration list the names of eligible electors. Both door-to-door and mail canvasses whenever made shall be made throughout the municipality in a uniform manner.

(3) **RECORDING CHANGES.** All changes of names and addresses under this section shall be filed with the municipal clerk and the clerk shall then correct the official registration list.

*History:* 1971 c. 242; 1971 c. 304 s. 29 (1), (2); 1975 c. 85, 199, 200; 1977 c. 394 ss. 23, 24, 53; 1983 a. 484; 1985 a. 304.

**6.45 Access to registration list.** (1) After the deadline for revision of the registration list, the municipal clerk shall make copies of the list for election use. The registration list and any supplemental lists which are prepared at polling places or other registration locations under s. 6.55, shall be open to public inspection. Under the regulations prescribed by the municipal clerk, any person may copy the registration list at the office of the clerk. A registration list maintained at a polling place may be examined by an observer when such use does not interfere with the conduct of the election.

(2) The municipal clerk shall furnish upon request to each candidate who has filed nomination papers for an office which represents at least part of the residents of the municipality one copy of the current registration list for those areas for which he or she is a candidate for a fee not to exceed the cost of reproduction.

*History:* 1975 c. 85, 199; 1977 c. 394 s. 53; 1983 a. 484; 1989 a. 192.

**6.46 Poll lists; copying.** Poll lists shall be preserved by the municipal clerk until destruction or other disposition is authorized under s. 7.23, and shall be open to public inspection. The municipal clerk shall furnish upon request to each candidate who has filed nomination papers for an office which represents at least part of the municipality one copy of the current poll list for those areas for which he or she is a candidate for a fee not to exceed the cost of reproduction. If a copying machine is not accessible, the clerk shall remove the lists from the office for the purposes of copying, and return them immediately thereafter.

*History:* 1975 c. 85, 199.

**6.48 Challenging registration.** (1) **GENERAL PROCEDURE.**

(a) Any registered elector of a municipality may challenge the registration of any other registered elector by submitting to the municipal clerk or executive director of the board of election commissioners in cities of more than 500,000 population an affidavit stating that the elector is not qualified to vote and the reasons therefor. The clerk or director, upon receipt of the affidavit, shall mail a notification of the challenge to the challenged elector, at his or her registered address.

(b) The challenged and challenging electors shall appear before the municipal clerk within one week of notification or arrange under sub. (2) to appear before the board of election commissioners. The challenging elector shall make an affida-

vit answering any questions necessary to determine the challenged elector's qualifications. Judgment rests with the municipal clerk and decisions shall be rendered as soon as heard. If the clerk cannot resolve the issue or has reservations as to the answers, the clerk may require the challenging elector to take the oath under s. 6.925. If the challenged elector appears and contests any answer of the challenging elector, the clerk may require the challenged elector to take the oath under s. 6.94 and to answer any question necessary to determine the challenged elector's qualifications. If the challenging elector appears before the municipal clerk or board of election commissioners but the challenged elector fails to appear, such clerk or board may make the decision without consulting the challenged elector. If the municipal clerk or board of election commissioners does not sustain the challenge, the challenged elector's registration remains valid.

(c) If the challenging elector fails to appear before the municipal clerk within one week or in cities of more than 500,000 population fails to appear before the board of election commissioners under sub. (2) to answer questions and take the oath under s. 6.925, such clerk or board shall cancel the challenge.

(d) If the clerk determines that the challenged elector is not qualified, the clerk shall cancel the challenged elector's registration, make the necessary change in the registration list and notify the inspectors for the ward or election district where the elector was registered.

(2) **SPECIAL PROCEDURE IN POPULOUS CITIES.** (a) In cities of more than 500,000 population, objections may be made before the board of election commissioners which shall sit on the last Wednesday before each election from 9 a.m. to 12 a.m. and from 2 p.m. to 5 p.m. to hear objections then made or deferred under sub. (1). If all the objections cannot then be determined, the commissioners shall sit during the same hours the next day.

(b) Upon appearing in person, objectors shall be examined, under oath, by the commissioners and testimony taken. Judgment rests with the board of election commissioners and decisions shall be rendered as soon as heard. All cases are heard and decided summarily. The commissioners shall determine whether the person objected to is qualified. If they determine that a person is not qualified, the name shall be stricken from the registration list and the proper ward officials notified of the change immediately.

(3) **CHALLENGE BASED ON INCOMPETENCY.** Section 6.03 (3) applies to any challenge which is made to registration based on an allegation that an elector is incapable of understanding the objective of the elective process and thereby ineligible for registration.

(4) **DISQUALIFICATION.** The municipal clerk or board of election commissioners may not disqualify an elector under this section except upon the grounds and in accordance with the procedure specified in s. 6.325.

*History:* 1971 c. 304 s. 29 (2); 1973 c. 334; 1975 c. 85, 199; 1977 c. 394; 1979 c. 110; 1983 a. 484; 1985 a. 304; 1987 a. 391.

**6.50 Revision of registration list.** (1) Within 90 days following each general election, the municipal clerk or board of election commissioners of each municipality in which registration is required shall examine the registration records and identify each elector who has not voted within the previous 4 years if qualified to do so during that entire period and shall mail a notice to the elector in substantially the following form:

**"NOTICE OF SUSPENSION OF  
REGISTRATION**

You are hereby notified that your voter registration will be canceled, according to state law, for failure to vote within the

previous 4-year period, unless you apply for continuation of your registration within 30 days. You may continue your registration by signing the statement below and returning it to this office by mail or in person.

**APPLICATION FOR CONTINUATION  
OF REGISTRATION**

I hereby certify that I still reside at the address at which I am registered and apply for continuation of registration.

Signed ....

Present Address ....

If you have moved within this municipality or changed your name, please contact this office to complete a change of name or address form.

[Office of clerk or board  
of election commissioners  
Address  
Telephone]"

(2) The municipal clerk or board of election commissioners shall cancel the registration of all notified electors under sub. (1) who have not applied for continuation of registration within 30 days of the date of mailing of the notice of suspension.

(2m) (a) As an alternative to the procedure prescribed in subs. (1) and (2), the governing body of a municipality where registration is required may provide for revision of registration lists under this subsection.

(b) Following each general election, the municipal clerk of the municipality shall revise and correct the registration list by reviewing the registration of any elector who failed to vote within the past 4 years if qualified to do so during that entire period. Each such elector shall be mailed an address verification card under par. (c). If an address verification card is returned by the postal service to the clerk, the registration of such elector shall be canceled. Otherwise, the registration shall be retained notwithstanding failure of the elector to vote at any election, except as provided in subs. (4) to (7).

(c) Upon a 1st class postcard bearing the mailing legend, "DO NOT FORWARD — RETURN POSTAGE GUARANTEED", the voter address verification shall read substantially as follows:

**"OFFICIAL VOTER ADDRESS VERIFICATION**

The official voter registration list shows that you are registered to vote by the name and address appearing on the front of this card. If either the name or address appearing on the front of this card is incorrect, please contact this office in person or by mail. Improper registration may result in your being denied the right to vote.

[Office of clerk  
Clerk's address  
Telephone]"

(3) Upon receipt of reliable information that a registered elector has changed his or her residence to a location outside of the municipality, the municipal clerk or board of election commissioners shall notify the elector by mailing a notice by 1st class mail to the elector's registration address stating the source of the information. All municipal departments and agencies receiving information that a registered elector has changed his or her residence shall notify the clerk or board of election commissioners. If the elector no longer resides in the municipality or fails to apply for continuation of registration within 30 days of the date the notice is mailed, the clerk or board of election commissioners shall cancel the elector's registration. Upon receipt of reliable information that a registered elector has changed his or her residence within the municipality, the municipal clerk or board of election commissioners shall transfer the elector's registration and mail the elector a notice of the transfer under s. 6.40 (2). This

subsection does not restrict the right of an elector to challenge any registration under s. 6.325, 6.48, 6.925 or 6.93.

(4) The municipal clerk or board of election commissioners shall cancel the registration of deceased electors by means of checking vital statistics reports. No notice need be sent of registrations canceled under this subsection.

(5) The registration of any elector whose address is listed at a building which has been condemned for human habitation by the municipality under s. 66.05 (2) shall be investigated by the municipal clerk or board of election commissioners. If the clerk or board of election commissioners can find no reason why the registration of such an elector should not be stricken from the registration list, the elector's registration shall be canceled. If the elector has left a forwarding address with the U.S. postal service, a notice of cancellation shall be mailed by the clerk or board of election commissioners to the forwarding address.

(6) The municipal clerk, upon authorization by an elector, shall cancel the elector's registration.

(7) When an elector's registration is canceled, the municipal clerk shall make an entry upon the registration card, giving the date and cause of cancellation.

(8) Any municipal governing body may direct the municipal clerk or board of election commissioners to arrange with the U.S. postal service pursuant to applicable federal regulations, to receive change of address information with respect to individuals residing within the municipality for revision of the elector registration list. If required by the U.S. postal service, the governing body may create a registration commission consisting of the municipal clerk or executive director of the board of election commissioners and 2 other electors of the municipality appointed by the clerk or executive director for the purpose of making application for address changes and processing the information received. The municipal clerk or executive director shall act as chairperson of the commission. Any authorization under this subsection shall be for a definite period or until the municipal governing body otherwise determines. The procedure shall apply uniformly to the entire municipality whenever used. The procedure shall provide for receipt of complete change of address information on an automatic basis, or not less often than once every 2 years during the 60 days preceding the close of registration for the September primary. If a municipality adopts the procedure for obtaining address corrections under this subsection, it need not comply with the procedure for mailing address verification cards under subs. (1) and (2) or (2m).

(9) Whenever a name is stricken from the registration list, the municipal clerk or board of election commissioners shall enter the reason for striking on the list next to the stricken name.

(10) Any elector whose registration is canceled under this section may have his or her registration reinstated by filing a new registration form.

History: 1971 c. 242; 1971 c. 304 s. 29 (2); 1971 c. 336 s. 37; 1973 c. 164; 1975 c. 85, 199, 200; 1977 c. 394 ss. 27, 53; 1979 c. 260; 1983 a. 484; 1985 a. 304; 1987 a. 391.

**6.54 Failure to register; rights.** No name may be added to the registration list after the close of registration, but any person whose name is not on the registration list but who is otherwise a qualified elector is entitled to vote at the election upon compliance with s. 6.29 or 6.55.

History: 1985 a. 304 s. 60.

**6.55 Polling place registration; voting by certification. (2)**  
(a) Except where the procedure under par. (c) is employed, any person who qualifies as an elector in the ward or election district where he or she desires to vote, but has not previously



filed a registration form, or was registered at another location in a municipality where registration is required, may request permission to vote at the polling place for that ward or election district, or at an alternate polling place assigned under s. 5.25 (5) (b). When a proper request is made, the inspector shall require the person to execute a registration form prescribed by the board which shall contain the following certification:

"I, ....., hereby certify that to the best of my knowledge, I am a qualified elector, having resided at .... for at least 10 days immediately preceding this election, and that I am not disqualified on any ground from voting, and I have not voted, at this election." If a change of address is made from outside the municipality, the elector shall file a cancellation under s. 6.40 (1) (b).

(b) Upon executing the registration form under par. (a), the person shall be required by a special registration deputy or inspector to present acceptable proof of residence under sub. (7). If the person cannot supply such proof, the registration form shall be substantiated and signed by one other elector who resides in the same municipality as the registering elector, corroborating all the material statements therein. The corroborator shall then provide acceptable proof of residence. The signing by the elector executing the form and by any elector who corroborates the information in the form shall be in the presence of the special registration deputy or inspector. Upon compliance with this procedure, such person shall then be given the right to vote.

(c) 1. As an alternative to registration at the polling place under pars. (a) and (b), the board of election commissioners, or the governing body of any municipality in which registration is required may by resolution require a person who qualifies as an elector and who is not registered and desires to register on the day of an election to do so at another readily accessible location in the same building as the polling place serving the elector's residence or at an alternate polling place assigned under s. 5.25 (5) (b), instead of at the polling place serving the elector's residence. In such case, the municipal clerk shall prominently post a notice of the registration location at the polling place. The municipal clerk, deputy clerk or special registration deputy at the registration location shall require such person to execute a registration form as prescribed under par. (a) and to provide acceptable proof of residence as provided under sub. (7). If the person cannot supply such proof, the registration form shall be corroborated in the manner provided in par. (b). The signing by the elector executing the form and by any corroborating elector shall be in the presence of the municipal clerk, deputy clerk or special registration deputy. Upon proper completion of registration, the municipal clerk, deputy clerk or special registration deputy shall serially number the registration and give one copy to the elector for presentation at the polling place serving the elector's residence or an alternate polling place assigned under s. 5.25 (5) (b).

2. Upon compliance with the procedures under subd. 1, the municipal clerk or deputy clerk shall issue a certificate addressed to the inspectors of the proper polling place directing that the elector be permitted to cast his or her vote. If the elector's registration is corroborated, the clerk shall enter the name and address of the corroborator on the face of the certificate. The certificate shall be numbered serially and prepared in duplicate. The municipal clerk shall preserve one copy in his or her office.

3. The elector, at the time he or she appears to vote at the polling place, shall deliver the certificate issued under subd. 2 to the inspectors.

(d) A registered elector who has changed his or her name but resides at the same address, and has not notified the municipal clerk under s. 6.40 (1) (c), shall notify the inspector of the change before voting. The inspector shall then notify the municipal clerk at the time which materials are returned under s. 6.56 (1). If an elector changes both a name and address, the elector shall complete a registration form at the polling place or other registration location under pars. (a) and (b).

(3) Any qualified elector in the ward or election district where the elector desires to vote whose name does not appear on the registration list where registration is required but who claims to be registered to vote in the election may request permission to vote at the polling place for that ward or election district. When the request is made, the inspector shall require the person to give his or her name and address. If the elector is not at the polling place which serves the ward or election district where the elector resides, the inspector shall provide the elector with directions to the correct polling place. If the elector is at the correct polling place, the elector shall then execute the following written statement: "I, ....., hereby certify that to the best of my knowledge, I am a qualified elector, having resided at .... for at least 10 days immediately preceding this election, and that I am not disqualified on any ground from voting, and I have not voted at this election and am properly registered to vote in this election." The person shall be required to provide acceptable proof of residence as provided under sub. (7) and shall then be given the right to vote. If acceptable proof is presented, the elector need not have the information corroborated by any other elector. If acceptable proof is not presented, the statement shall be certified by the elector and shall be corroborated by another elector who resides in the municipality. The corroborator shall then provide acceptable proof of residence as provided in sub. (7). Whenever the question cannot be satisfactorily resolved and the elector permitted to vote, an inspector shall telephone the office of the municipal clerk to reconcile the records at the polling place with those at the office.

(5) Any person who violates this section may be punished as provided in ss. 12.13 (3) (g) and 12.60 (1) (b).

(6) The governing body or board of election commissioners of any municipality may provide by resolution that any of the registration duties of inspectors under sub. (2) shall be carried out in the municipality by special registration deputies appointed by the municipal clerk or board of election commissioners at any polling place or other registration location whenever the clerk or board of election commissioners determines that the registration process provided for in that subsection will be facilitated thereby. The deputies shall be specially appointed by the clerk or board of election commissioners for one election only to conduct elector registration only.

(7) (a) For purposes of this section, a form of identification constitutes acceptable proof of residence if it includes:

1. A current and complete name, including both the given and family name; and
2. A current and complete residential address, including a numbered street address, if any, and the name of a municipality.

(b) If an elector's address has changed since a piece of identification was issued, the new information may be typed or printed on the identification by hand, in ink.

(c) Forms of identification which constitute acceptable proof of residence under this section, when they contain the information specified in par. (a), include the following:

1. A Wisconsin motor vehicle operator's license.

2. A Wisconsin identification card issued under s. 125.08, 1987 stats.

3. Any other official identification card or license issued by a Wisconsin governmental body or unit or by an employer in the normal course of business, but not including a business card.

4. A credit card or plate.

5. A library card.

6. A check-cashing or courtesy card issued by a merchant in the normal course of business.

7. A real estate tax bill or receipt for the current year or the year preceding the date of the election.

8. A residential lease which is effective for a period that includes election day.

9. A university, college or technical institute fee card.

10. A university, college or technical institute identification card.

11. An airplane pilot's license.

12. A gas, electric or telephone service statement for the period commencing not earlier than 90 days before election day.

(d) Forms of identification specified in par. (c) which are valid for use during a specified period shall be valid on the day of an election in order to constitute acceptable proof of residence at that election.

*History:* 1971 c. 304 s. 29 (2); 1973 c. 222; 1975 s. 85, 93, 199, 200; 1977 c. 394, 427; 1979 c. 311; 1981 c. 44 s. 3; 1981 c. 202 s. 23; 1983 a. 484; 1985 a. 304; 1987 a. 391; 1989 a. 31, 192.

**6.56 Verification of voters not appearing on list.** (1) The list containing the names of persons voting under ss. 6.29 and 6.55 (2) and (3) shall be returned together with all forms and certificates to the municipal clerk.

(2) Upon receipt of the list, the municipal clerk shall make a check to determine whether each person who has been allowed to vote under s. 6.55 (3) is properly registered. If so, the clerk shall correct the registration list. If the address on the registration list is not correct, the clerk shall correct the address. The clerk shall then notify the elector by postcard when he or she is properly registered. If such person is found not to be properly registered, the clerk shall send the person a 1st class letter with that information, containing a mail registration form under s. 6.30 (4). The letter shall be marked "ADDRESS CORRECTION REQUESTED". If such letter is returned undelivered, or if the U.S. postal service notifies the clerk of an improper address which was apparently improper on the day of the election, the clerk shall notify the district attorney.

(3) The municipal clerk or board of election commissioners shall make an audit of all electors registering to vote at the polling place or other registration location under s. 6.55 (2) upon receipt of the list under sub. (1). The audit shall be made by 1st class postcard. The postcard shall be labeled "ADDRESS CORRECTION REQUESTED" or "DO NOT FORWARD—RETURN POSTAGE GUARANTEED". If any postcard is returned undelivered, or if the clerk or board of election commissioners is informed of a different address than the one specified by the elector which was apparently improper on the day of the election, the clerk or board shall remove the elector's name from the registration list, mail the elector a notice of the removal and provide the name to the district attorney for the county where the polling place is located.

(4) After each election, the municipal clerk shall carefully check to assure that no person has been allowed to vote more than once. Whenever the municipal clerk has good reason to believe that a person has voted more than once in an election, the clerk shall send the person a 1st class letter with return receipt and address correction requested, informing him or her that all registrations relating to that person may be

anceled within 7 days unless the person contacts the office of the clerk to clarify the matter. A copy of such letter and any subsequent information received from or about the addressee shall be sent to the district attorney.

(5) Whenever any letter or postcard mailed under this section is returned undelivered, or whenever the U.S. postal service notifies the clerk of an improper address which was apparently improper on the day of the election or whenever it otherwise appears that a person has voted who is not qualified or has voted more than once in an election, and the person has been permitted to vote after corroboration was made under s. 6.55 (2) or (3), the name of the corroborator shall also be provided to the district attorney.

(6) The municipal clerk may not disqualify an elector under this section except upon the grounds and in accordance with the procedures specified in s. 6.325.

*History:* 1975 c. 85, 199; 1977 c. 394; 1979 c. 260; 1983 a. 484; 1985 a. 304; 1989 a. 192.

**6.57 Registration list for school and special elections.** If the registration list has not been revised in time to be used at any school or special election, the registration list used at the last preceding general or municipal election plus a supplementary list shall be used for the election. Before issuing the supplementary list the municipal clerk shall add the newly registered electors and strike the names of those electors known to have died or become disqualified since the registration list was last revised.

*History:* 1975 c. 85 s. 30; Stats. 1975 s. 6.57; 1977 c. 394.

## VOTING

**6.76 Time off for voting.** (1) Any person entitled to vote at an election is entitled to be absent from work while the polls are open for a period not to exceed 3 successive hours to vote. The elector shall notify the affected employer before election day of the intended absence. The employer may designate the time of day for the absence.

(2) No penalty, other than a deduction for time lost, may be imposed upon an elector by his or her employer by reason of the absence authorized by this section.

(3) This section applies to all employers including the state and all political subdivisions of the state and their employes, but does not affect the employes' right to holidays existing on June 28, 1945, or established after that date.

*History:* 1977 c. 394; 1991 a. 316.

**6.77 Place for voting.** (1) An elector may vote only at the polling place for his or her residence designated by the governing body or board of election commissioners.

(2) Whenever territory which was formerly a part of one municipality becomes a part of another municipality, an elector of the territory shall vote in the municipality in which the territory is included on the day of the election.

*History:* 1975 c. 85; 1985 a. 304.

**6.78 Poll hours.** The polls at any election shall be open:

(1) In 1st, 2nd and 3rd class cities, from 7 a.m. until 8 p.m.

(2) In 4th class cities, villages and towns, from 9 a.m. until 8 p.m.; extendable by the governing body to not earlier than 7 a.m. Notice of the change of hours shall be given by publication in a newspaper, under ch. 985, once each week for 2 successive weeks, with the first insertion not less than 8 days before the election. The new hours shall take effect only after the notice provisions have been complied with. When the ordinance applies to all future elections, notice need be given only for the first election affected by the change.

(3) The polls at school elections shall be open the same hours as provided under subs. (1) and (2) in the municipality

or municipalities in which the school district is located, except as authorized in s. 120.06 (9) (a).

(4) Any elector waiting to vote, whether within the polling booth or in the line outside the booth at the time the polls officially close, shall be permitted to vote.

History: 1985 a. 304; 1991 a. 316.

**6.79 Recording electors.** Two election officials at each election ward shall be in charge of and shall maintain 2 separate lists of all persons voting.

(1) **MUNICIPALITIES WITHOUT REGISTRATION.** Where there is no registration, before being permitted to vote, each person shall state his or her full name and address. The officials shall record each name and address on a poll list in the same order as the votes are cast. If the residence of the elector does not have a number, the election officials shall, in the appropriate space, write "none". Alternatively, the municipal clerk may maintain a poll list consisting of the full name and address of electors compiled from previous elections. Whenever an elector appears to vote, the officials shall verify the correctness of the elector's name and address, and shall enter a serial number next to the name of the elector in the order that the votes are cast, beginning with the number one. If the name and address of an elector do not appear on the prepared poll list, the officials shall record the name, address and serial number of the elector at the bottom of the list. The officials may require any elector to provide identification, including acceptable proof of residence, or to have another elector corroborate his or her information in accordance with the procedure specified in s. 6.55 (2) (b) before permitting the elector to vote. The officials shall maintain a separate list of those persons voting under ss. 6.15 and 6.24.

(2) **MUNICIPALITIES WITH REGISTRATION.** Where there is registration, each person, before receiving a voting number, shall state his or her full name and address. Upon the prepared registration list, after the name of each elector, the officials shall enter the serial number of the vote as it is polled, beginning with number one. Each elector shall receive a slip bearing the same serial number. A separate list shall be maintained for electors who are voting under s. 6.15, 6.29 or 6.55 (2) or (3) and electors who are reassigned from another polling place under s. 5.25 (5) (b). Each such elector shall have his or her full name, address and serial number likewise recorded and shall be given a slip bearing such number.

(3) **REFUSAL TO GIVE NAME AND ADDRESS.** If any elector offering to vote at any polling place refuses to give his or her name and address, the elector may not be permitted to vote.

(4) **SUPPLEMENTAL INFORMATION.** When any elector provides identification under sub. (1) or s. 6.15, 6.29 or 6.55 (2) or (3), the election officials shall enter the type of identification on the poll or registration list, or supplemental list maintained under sub. (2). If the form of identification includes a number which applies only to the individual holding that piece of identification, the election officials shall also enter that number on the list. When any elector corroborates the registration identity or residence of any person offering to vote under sub. (1) or s. 6.55 (2) (b) or (c) or (3) the name and address of the corroborator shall also be entered next to the name of the elector whose information is being corroborated on the registration or poll list, or the separate list maintained under sub. (2). When any person offering to vote has been challenged and taken the oath, following the person's name on the registration or poll list, the officials shall enter the word "Sworn".

(5) **POLL LIST FORMS.** Poll lists shall be kept on forms designed by the board to be substantially similar to the standard registration list forms used in municipalities where

registration is required and shall require, for each person offering to vote, the entry of the person's full name and address.

History: 1971 c. 304 a. 29 (2); 1975 c. 85, 199, 200; 1977 c. 394, 447; 1979 c. 260, 311, 355; 1985 a. 304; 1989 a. 192.

**6.80 Mechanics of voting. (1) VOTING BOOTH OR MACHINE USE.** Only one individual at a time is permitted to occupy a voting booth or machine, except that an elector who is a parent or guardian may be accompanied by the elector's minor child or minor ward, and an elector who qualifies for assistance under s. 6.82 (2) may be assisted as provided in that subsection.

(2) **METHOD OF VOTING. (a)** Upon receiving his or her ballot and without leaving the polling place, the elector shall enter an unoccupied voting booth or machine alone to cast his or her vote, except as authorized in sub. (1). An elector may use or copy an unofficial sample ballot which may be marked in advance of entering the polling place, but an elector may not use or bring into the polling place any ballot printed upon paper of the type required or utilized for official ballots at that polling place.

(am) In partisan primaries, an elector may vote for a person as the candidate of the party of the elector's choice, if that person's name does not appear on the official ballot of that party, by writing in the name of the person in the space provided on the ballot or the ballot provided for that purpose, or where voting machines are used, in the irregular ballot device, designating the party for which the elector desires such person to be the nominee.

(b) After preparing his or her ballot, unless the ballot is intended for counting with automatic tabulating equipment, the elector shall fold it so its face will be concealed.

(c) Any elector who, by accident or mistake, spoils or erroneously prepares a ballot may receive another, by returning the defective ballot, but not to exceed 3 ballots in all.

(d) If an elector receives a ballot which is not initialed by 2 inspectors, or is defective in any other way, the elector shall return it to the inspectors. If the initials are missing, the inspectors shall supply the missing initials. If the ballot is defective, they shall destroy it and issue another ballot to the elector.

(e) Upon voting his or her ballot, the elector shall publicly and in person deposit it in the ballot box or deliver it to an inspector for deposit in the box.

(f) In the presidential preference primary and other partisan primary elections at polling places where ballots are distributed to electors, unless the ballots are utilized with an electronic voting system in which all candidates appear on the same ballot, after the elector prepares his or her ballot the elector shall detach the remaining ballots, fold the ballots to be discarded, fold the completed ballot unless the ballot is intended for counting with automatic tabulating equipment, personally deposit the ballots to be discarded in the separate ballot box marked "blank ballot box", and deposit the completed ballot in the ballot box indicated by the inspectors. The inspectors shall keep the blank ballot box locked until the canvass is completed and shall dispose of the blank ballots as prescribed by the municipal clerk.

(3) **TIME IN BOOTH OR MACHINE. (a)** Each elector shall be allowed a reasonable time to vote. Unless otherwise specified for that election, a majority of the inspectors shall determine the time each elector shall have to mark the ballot, taking into consideration the size of the ballot and the number of electors in line waiting to vote. In no case shall the time be less than one minute. If there are electors in line waiting to vote, the time shall not exceed 5 minutes.

(b) If an elector refuses to leave the booth or machine after being notified by one of the inspectors that the time has expired, the elector shall be removed by the inspectors.

*History:* 1977 c. 427 ss. 40, 41, 132; 1979 c. 311; 1981 c. 377, 391; 1983 a. 484 ss. 45m, 172 (3); 1985 a. 304; 1991 a. 316.

**6.82 Assisting electors. (1) RECEIPT OF BALLOT AT POLL ENTRANCE.** (a) When any inspectors are informed that an elector is at the entrance to the polling place who as a result of disability is unable to enter the polling place, they shall permit the elector to be assisted in marking or punching a ballot by any individual selected by the elector, except the elector's employer or an agent of that employer or an officer or agent of a labor organization which represents the elector. The inspectors shall issue a ballot to the individual selected by the elector and shall accompany the individual to the polling place entrance where the assistance is to be given. If the ballot is a paper ballot, the assisting individual shall fold the ballot after the ballot is marked or punched by the assisting individual. The assisting individual shall then immediately take the ballot into the polling place and give the ballot to an inspector. The inspector shall distinctly announce that he or she has "a ballot offered by .... (stating person's name), an elector who, as a result of disability, is unable to enter the polling place without assistance". The inspector shall then ask, "Does anyone object to the reception of this ballot?" If no objection is made, the inspectors shall record the elector's name under s. 6.79 and deposit the ballot in the ballot box, and shall make a notation on the registration or poll list: "Ballot received at poll entrance".

(b) If objection to receiving the ballot is made by any qualified elector present, the inspectors shall receive the ballot under s. 6.95.

**(2) AID IN MARKING BALLOT.** (a) If an elector declares to the presiding election official that he or she cannot read or write, or has difficulty in reading, writing or understanding English or that due to disability is unable to mark or punch a ballot or depress a button or lever on a voting machine, the elector shall be informed by the officials that he or she may have assistance. When assistance is requested, the elector may select any individual to assist in casting his or her vote. The selected individual rendering assistance may not be the elector's employer or an agent of that employer or an officer or agent of a labor organization which represents the elector. The selected individual shall certify on the back of the ballot that it was marked or punched with his or her assistance. Where voting machines are used, certification shall be made on the registration list.

(b) The individual chosen shall enter the voting booth or machine with the elector and shall read the names of all candidates on the ballot for each office, and ask, "For which one do you vote?". The ballot shall be marked or punched or the lever or button depressed according to the elector's expressed preference. The individual selected to assist may not disclose to anyone how the elector voted.

(c) Intoxication shall not be regarded as a disability.

(d) The election officials shall enter upon the poll list after the name of any elector who had assistance in voting the word "assisted". The officials shall also record on the poll list the full name and address of the individual who renders assistance.

**(3) USE OF PAPER BALLOTS.** Whenever, in a municipality in which voting machines are used, an elector declares to the chief inspector that, due to physical disability, the elector is unable to depress a button or lever on a voting machine, the inspectors shall permit the elector to vote using a paper ballot and voting booth.

**(4) SOLICITATION PROHIBITED.** No election official or other person assisting an elector under this section or s. 5.79 may request, suggest or seek to persuade an elector to cast a vote for or against any candidate, party or question.

*History:* 1971 c. 304 s. 29 (2); 1975 c. 85, 199, 275; 1977 c. 26; 1977 c. 394 s. 53; 1979 c. 260, 311, 355; 1983 a. 484; 1985 a. 304; 1987 a. 391; 1989 a. 192.

An elector with dyslexia may qualify for voter assistance under (2), [1971 stats.], 62 Atty. Gen. 195.

## VOTING ABSENTEE

**6.84 Construction. (1) LEGISLATIVE POLICY.** The legislature finds that voting is a constitutional right, the vigorous exercise of which should be strongly encouraged. In contrast, voting by absentee ballot is a privilege exercised wholly outside the traditional safeguards of the polling place. The legislature finds that the privilege of voting by absentee ballot must be carefully regulated to prevent the potential for fraud or abuse; to prevent overzealous solicitation of absent electors who may prefer not to participate in an election; to prevent undue influence on an absent elector to vote for or against a candidate or to cast a particular vote in a referendum; or other similar abuses.

**(2) INTERPRETATION.** Notwithstanding s. 5.01 (1), with respect to matters relating to the absentee ballot process, ss. 6.86, 6.87 (3) to (7) and 9.01 (1) (b) 2 and 4 shall be construed as mandatory. Ballots cast in contravention of the procedures specified in those provisions may not be counted. Ballots counted in contravention of the procedures specified in those provisions may not be included in the certified result of any election.

*History:* 1985 a. 304; 1987 a. 391.

**6.85 Absent elector; definition.** An absent elector is any otherwise qualified elector who is or expects to be absent from the municipality in which the absent elector is a qualified elector on election day whether by reason of active service in the U.S. armed forces or for any other reason, or who because of age, sickness, handicap, physical disability, jury duty, service as an election official or religious reasons cannot appear at the polling place in his or her ward. No person under the age of 70 qualifies as an absent elector solely because of age. Any otherwise qualified elector who changes residence within this state by moving to a different ward or municipality later than 10 days prior to an election may vote an absentee ballot in the ward or municipality where he or she was qualified to vote before moving. An elector qualifying under this section may vote by absentee ballot under ss. 6.86 to 6.89.

*History:* 1971 c. 304 s. 29 (2); 1975 c. 85, 199; 1977 c. 394; 1979 c. 232; 1983 a. 484.

Voter residency and absentee voting discussed, 60 Atty. Gen. 214.

**6.86 Application for absentee ballot. (1) (a)** Any elector, qualifying under ss. 6.20 and 6.85 as an absent elector, may make written application to the municipal clerk for an official ballot by one of the following methods:

1. By mail.
2. In person at the office of the municipal clerk.
3. By signing a statement under sub. (2) (a).
4. By agent as provided in sub. (3).
5. By delivering an application to a special voting deputy under s. 6.875 (6).

(ag) An elector who is unable to write his or her name due to physical disability may authorize an application to be made by another elector on his or her behalf. In such case, the application shall state that it is made on request and by authorization of a named elector who is unable to sign the application due to physical disability.

(ar) Except as authorized in s. 6.875 (6), the municipal clerk shall not issue an absentee ballot unless the clerk receives a written application therefor from a qualified elector of the municipality. The clerk shall retain each absentee ballot application until destruction is authorized under s. 7.23 (1).

(b) Except as provided in s. 6.22 (4) and sub. (3), if application is made in writing, the application, signed by the elector, shall be received no sooner than the first day of the 6th month commencing before the election nor after 5 p.m. on the Friday immediately preceding the election. If application is made in person, the application shall not be made sooner than the first day of the 6th month commencing before the month of the election nor later than 5 p.m. on the day preceding the election. If the elector is making written application and the reason for requesting an absentee ballot is that the elector is a sequestered juror, the application shall be received no sooner than 7 days before the election nor after 5 p.m. on election day. If the application is received after 5 p.m. on the Friday immediately preceding the election, the municipal clerk or the clerk's agent shall immediately take the ballot to the court in which the elector is serving as a juror and deposit it with the judge. The judge shall recess court, as soon as convenient, and give the elector the ballot. The judge shall then notarize the affidavit as provided in s. 6.87 and shall turn the ballot over to the clerk or agent of the clerk who shall deliver it to the polling place as required in s. 6.88. If application is made under sub. (2), the application may be received at any time before 5 p.m. on the Friday immediately preceding the election.

(2) (a) An elector who is indefinitely confined because of age, physical illness or infirmity or is disabled for an indefinite period may by signing a statement to that effect require that an absentee ballot be sent to the elector automatically for every election. The application form and instructions shall be prescribed by the board, and furnished upon request to any elector by each municipality. The envelope containing the absentee ballot shall be clearly marked as not forwardable. If any elector is no longer indefinitely confined, the elector shall so notify the municipal clerk.

(b) The mailing list established under this subsection shall be kept current through all possible means. If an elector fails to cast and return an absentee ballot received under this subsection, the clerk shall notify the elector by 1st class letter or postcard that his or her name will be removed from the mailing list unless the clerk receives a renewal of the application within 30 days of the notification. The clerk shall remove from the list the name of each elector who does not apply for renewal within the 30-day period. The clerk shall remove the name of any other elector from the list upon request of the elector or upon receipt of reliable information that an elector no longer qualifies for the service. The clerk shall notify the elector of such action not taken at the elector's request within 5 days, if possible.

(3) (a) Any elector who is registered, or otherwise qualified where registration is not required, and who qualifies under ss. 6.20 and 6.85 as an absent elector because the elector is hospitalized, may apply for and obtain an official ballot by agent. The agent may apply for and obtain a ballot for the hospitalized absent elector by presenting a form prescribed by the board and containing the required information supplied by the hospitalized elector and signed by that elector and any other elector residing in the same municipality as the hospitalized elector, corroborating the information contained therein. The corroborating elector shall state on the form his or her full name and address.

(b) When such properly executed form is presented to the municipal clerk, if the elector who proposes to vote is qualified, an absentee ballot shall be issued and the name of such hospitalized elector shall be recorded by the clerk. An agent who is issued an absentee ballot under this section shall present identification, provide his or her name and address, and attest to a statement that the ballot is received solely for the benefit of a named elector who is hospitalized, and the agent will promptly transmit the ballot to such person.

(c) An application under this subsection by agent may be made in person at the office of the municipal clerk not earlier than 7 days before an election and not later than 5 p.m. on the day of the election. A list of hospitalized electors applying for ballots under this subsection shall be made by the municipal clerk and used to check that the electors vote only once, and by absentee ballot. The ballot shall be sealed by the elector and returned to the municipal clerk either by mail or by personal delivery of the agent; but if the ballot is returned on the day of the election, the agent shall make personal delivery at the polling place serving the hospitalized elector's residence before the closing hour for the ballot to be counted.

(4) If a municipality employs an electronic voting system which utilizes a ballot that is inserted into automatic tabulating equipment, the municipality may distribute ballots for utilization with the electronic voting system as absentee ballots or it may distribute paper ballots as absentee ballots.

(5) Whenever an elector returns a spoiled or damaged absentee ballot to the municipal clerk, or an elector's agent under sub. (3) returns a spoiled or damaged ballot to the clerk on behalf of an elector, and the clerk believes that the ballot was issued to or on behalf of the elector who is returning it, the clerk shall issue a new ballot to the elector or elector's agent, and shall destroy the spoiled or damaged ballot. Any request for a replacement ballot under this subsection must be made within the applicable time limits under subs. (1) and (3) (c).

*History:* 1975 c. 85 ss. 37, 38, 65; 1975 c. 90, 199, 200, 275, 422; 1977 c. 394 ss. 14, 40, 41; 1979 c. 232, 311; 1981 c. 391; 1983 a. 183, 484; 1985 a. 304 ss. 69, 156; 1987 a. 391.

**6.865 Federal postcard request form.** A federal postcard registration and absentee ballot request form may be used to apply for an absentee ballot under s. 6.86 (1) if the form is completed in such manner that the municipal clerk or board of election commissioners with whom it is filed is able to determine all of the following:

(1) That the applicant is an elector of this state and of the ward or election district where the elector seeks to vote.

(2) That the applicant qualifies for an absentee ballot under s. 6.85.

*History:* 1989 a. 192.

**6.87 Absent voting procedure.** (1) Upon proper request made within the period prescribed in s. 6.86, the municipal clerk or a deputy clerk authorized by the municipal clerk shall write on the official ballot, in the space for official endorsement, the clerk's initials and official title.

(2) The municipal clerk shall place the ballot in an unsealed envelope furnished by the clerk. The envelope shall have the name, official title and post-office address of the clerk upon its face. The other side of the envelope shall have a printed certificate-affidavit in substantially the following form:

[STATE OF ...]

County of ....]

or

[(name of foreign country and city or other jurisdictional unit)]

I, ....., (certify) (do solemnly swear) subject to the penalties of s. 12.60 (1) (b), Wis. Stats. for false statements that I am a resident of the [.... ward of the] (town) (village) of ....., or of the .... aldermanic district in the city of ....., residing at .... in said city, the county of ....., state of Wisconsin, and am entitled to vote in the (ward) (election district) at the election to be held on ....; that I am not voting at any other location in this election; that I cannot appear at the polling place in the (ward) (election district) on election day because I expect to be absent from the municipality or because of age, sickness, handicap, physical disability, religious reasons, jury duty, service as an election official, or because I have changed my residence within the state from one ward or election district to another within 10 days before the election. I (certify) (swear) that I exhibited the enclosed ballot unmarked to the (2 witnesses) (person administering the oath), that I then in (their) (his) (her) presence and in the presence of no other person marked the ballot and enclosed and sealed the same in this envelope in such a manner that no one but myself and any person rendering assistance under s. 6.87 (5), Wis. Stats., if I requested assistance, could know how I voted.

Signed ....

The (2 witnesses) (person administering the oath) shall execute either of the following as appropriate:

We, the undersigned witnesses, subject to the penalties of s. 12.60 (1) (b), Wis. Stats., for false statements, certify that the above statements are true and the voting procedure was executed as there stated. Neither of us is a candidate for any office on the enclosed ballot (except in the case of an incumbent municipal clerk). The elector was not solicited or advised by us to vote for or against any candidate or measure.

....(Name)

....(Address)

....(Name)

....(Address)

Subscribed and sworn to before me this .... day of ....., A.D., ....., and I hereby certify that I am not a candidate on the ballot upon which the affiant voted (unless I am an incumbent municipal clerk), that the voting procedure above was executed as therein stated, and that the affiant was not solicited or advised by me to vote for or against any candidate or measure.

....(Name)

....(Title)

....(State or nation)

(3) (a) Except as otherwise provided in s. 6.875, the municipal clerk shall mail the absentee ballot postage prepaid for return to the elector's residence unless otherwise directed, or shall deliver it to the elector personally at the clerk's office.

(b) No elector may direct that a ballot be sent to the address of a candidate, political party or other registrant under s. 11.05 unless the elector permanently or temporarily resides at that address. Upon receipt of reliable information that an address given by an elector is not eligible to receive ballots under this paragraph, the municipal clerk shall refrain from sending ballots to that address. Whenever possible, the municipal clerk shall notify an elector if his or her ballot cannot be mailed to the address directed by the elector.

(c) If an elector's ballot is mailed to a location other than the elector's residence, it shall be prepaid for return when mailed within the United States. If the ballot is delivered to the elector at the clerk's office, the ballot shall be voted at the office and may not be removed therefrom.

(4) Except as otherwise provided in s. 6.875, the elector voting absentee shall either make and subscribe to the affidavit before a person authorized to administer oaths or make and subscribe to the certification before 2 witnesses. The

absent elector, in the presence of the administrator of the oath or witnesses, shall mark or punch the ballot in a manner that will not disclose how the elector's vote is cast. The elector shall then, still in the presence of the administrator of the oath or the 2 witnesses, fold the ballots if they are paper ballots so each is separate and conceals the markings or punches thereon and deposit them in the proper envelope, but may receive assistance under sub. (5). The return envelope shall then be sealed. The witnesses or the official oath administrator may not be a candidate. The envelope shall be mailed by the elector, postage prepaid, or delivered in person, to the municipal clerk issuing the ballot. Failure to return an unused ballot in a primary does not invalidate the ballot on which the elector's votes are cast. Return of more than one marked or punched ballot in a primary or return of a ballot used with an electronic voting system in a primary which is marked or punched for candidates of more than one party invalidates all votes cast by the elector for candidates in the primary.

(5) If the absent elector declares that he or she is unable to read, has difficulty in reading, writing or understanding English or due to disability is unable to mark or punch his or her ballot, the elector may select any individual, except the elector's employer or an agent of that employer or an officer or agent of a labor organization which represents the elector, to assist in marking or punching the ballot, and the assistant shall then sign his or her name to a certification on the back of the ballot, as provided under s. 5.55.

(6) The ballot shall be returned so it is received by the municipal clerk in time for delivery to the polls before the closing hour. Any ballot not mailed or delivered as provided in this subsection may not be counted.

(7) No individual who is a candidate at the election in which absentee ballots are cast may administer the oath or serve as a witness. Any candidate who administers the oath or serves as a witness shall be penalized by the discounting of a number of votes for his or her candidacy equal to the number of certificate-affidavit envelopes bearing his or her signature.

(8) The provisions of this section which prohibit candidates from assisting or administering the oath to absentee electors shall not apply to the municipal clerk in the performance of the clerk's official duties.

(9) If a municipal clerk receives an absentee ballot with an improperly completed certificate-affidavit or with no certificate-affidavit, the clerk may return the ballot to the elector, inside the sealed envelope when an envelope is received, together with a new envelope if necessary, whenever time permits the elector to correct the defect and return the ballot within the period prescribed in sub. (6).

History: 1971 c. 242; 1971 c. 304 a. 29 (1), (2); 1975 c. 85; 1975 c. 93 a. 119 (2); 1975 c. 199; 1977 c. 394; 1979 c. 232, 260, 311, 355; 1983 a. 36, 484, 538; 1985 a. 304; 1991 a. 316.

In consonance with the statutory rule of construction applicable to the election laws, and the general rule as to whether an election statute should be construed as being either mandatory or directory, the direction in (3) for mailing or personal delivery of an absentee ballot and the provision in (6) that a ballot not mailed or delivered as provided in the section should not be counted, are directory and not mandatory. *Lanser v. Koconis*, 62 W (2d) 86, 214 NW (2d) 425.

Sub. (4), which prescribes that the absentee voter shall either make and subscribe to the affidavit or to the certification, is directory and not mandatory, and printing their names constituted substantial, albeit nontechnical compliance with the statute's requirements. *Lanser v. Koconis*, 62 W (2d) 86, 214 NW (2d) 425.

See note to 9.01, citing Appeal From Recount in Election Contest, 105 W (2d) 468, 313 NW (2d) 869 (Ct. App. 1981).

**6.875 Absentee voting in nursing and retirement homes and certain community-based residential facilities.** (1) In this section:

(a) "Community-based residential facility" has the meaning given in s. 50.01 (1g), except that the term does not include a place where fewer than 10 unrelated adults reside.

(am) "Nursing home" means a facility occupied by 10 or more unrelated individuals for the primary purpose of obtaining full-time personal or nursing care which is necessitated by their physical or mental conditions, but does not include a hospital.

(as) "Qualified community-based residential facility" means a community-based residential facility that qualifies under sub. (2) (b) to utilize the procedures under this section.

(at) "Qualified retirement home" means a retirement home that qualifies under sub. (2) (b) to utilize the procedures under this section.

(b) "Relative" means a spouse or individual related within the 1st, 2nd or 3rd degree of kinship under s. 852.03 (2).

(c) "Retirement home" means a facility occupied as a primary place of abode by 10 or more unrelated individuals.

(2) (a) The procedures prescribed in this section are the exclusive means of absentee voting for electors who are occupants of nursing homes or qualified community-based residential facilities.

(b) The municipal clerk or board of election commissioners of any municipality where a community-based residential facility home is located may adopt the procedures under this section for absentee voting in any community-based residential facility located in the municipality if the municipal clerk or board of election commissioners finds that a significant number of the occupants of the community-based residential facility lack adequate transportation to the appropriate polling place, a significant number of the occupants of the community-based residential facility may need assistance in voting, there are a significant number of the occupants of the community-based residential facility aged 60 or over, or there are a significant number of indefinitely confined electors who are occupants of the community-based residential facility. The municipal clerk or board of election commissioners shall promptly notify the individual submitting nominations for special voting deputies under s. 7.30 (4) of any action taken under this paragraph.

(c) The municipal clerk or board of election commissioners of any municipality where a retirement home is located may adopt the procedures under this section for absentee voting in any retirement home located in the municipality if the municipal clerk or board of election commissioners finds that a significant number of the occupants of the retirement home lack adequate transportation to the appropriate polling place, a significant number of the occupants of the retirement home may need assistance in voting, there are a significant number of the occupants of the retirement home aged 60 or over, or there are a significant number of indefinitely confined electors who are occupants of the retirement home. The municipal clerk or board of election commissioners shall promptly notify the individual submitting nominations for special voting deputies under s. 7.30 (4) of any action taken under this paragraph.

(3) An occupant of a nursing home or qualified retirement home or qualified community-based residential facility who qualifies as an absent elector and desires to receive an absentee ballot shall make application under s. 6.86 (1) or (2) with the municipal clerk or board of election commissioners of the municipality in which the elector is a resident. The clerk or board of election commissioners of a municipality receiving an application from an elector who is an occupant of a nursing home or qualified retirement home or qualified community-based residential facility located in a different municipality shall, as soon as possible, notify and transmit an absentee ballot for the elector to the clerk or board of election commissioners of the municipality in which the home or qualified community-based residential facility is located. The

clerk or board of election commissioners of a municipality receiving an application from an elector who is an occupant of a nursing home or qualified retirement home or qualified community-based residential facility located in the municipality but who is a resident of a different municipality shall, as soon as possible, notify and request transmission of an absentee ballot from the clerk or board of election commissioners of the municipality in which the elector is a resident. The clerk or board of election commissioners shall make a record of all absentee ballots to be transmitted, delivered and voted under this section.

(4) For the purpose of absentee voting in nursing homes and qualified retirement homes and qualified community-based residential facilities, the municipal clerk or board of election commissioners of each municipality in which one or more nursing homes or qualified retirement homes or qualified community-based residential facilities are located shall appoint at least 2 special voting deputies for the municipality in the manner prescribed in s. 7.30 (4). Upon application under s. 6.86 (1) or (2) by one or more qualified electors who are occupants of such a nursing home or qualified retirement home or qualified community-based residential facility, the clerk or board of election commissioners shall dispatch 2 special voting deputies to visit the home or qualified community-based residential facility for the purpose of supervising absentee voting procedure by occupants of the home or qualified community-based residential facility. The 2 deputies designated to visit each nursing home or qualified retirement home and qualified community-based residential facility shall be affiliated with different political parties whenever deputies representing different parties are available. Nominations for deputy positions shall be submitted by the 2 recognized political parties whose candidates for governor or president received the greatest numbers of votes in the municipality at the most recent general election. The deputies shall be specially appointed to carry out duties under this section for the period specified in s. 7.30 (6) (a). The clerk or board of election commissioners may revoke an appointment at any time. No individual who is employed or retained, or within the 2 years preceding appointment has been employed or retained at a nursing home or qualified retirement home or qualified community-based residential facility in the municipality, or any member of the immediate family of such an individual as defined in s. 19.42 (7), may be appointed to serve as a deputy.

(5) Prior to entering upon his or her duties, each individual appointed to serve as a deputy under this section shall file the oath required by s. 7.30 (5). In the oath, the individual shall swear that he or she is qualified to act as a deputy under this section, that he or she has read the statutes governing absentee voting, that he or she understands the proper absentee voting procedure, that he or she understands the penalties for noncompliance with the procedure under s. 12.13, that his or her sacred obligation will be to fully and fairly implement the absentee voting law and seek to have the intent of the electors ascertained. In addition, the oath shall state that the individual realizes that any error in conducting the voting procedure may result in invalidation of an elector's vote under s. 7.51 (2) (e) and that the individual realizes that absentee voting is a privilege and not a constitutional right. The form of the oath shall be prescribed by the board.

(6) Special voting deputies in each municipality shall, not later than 5 p.m. on the Friday preceding an election, arrange one or more convenient times with the administrator of each nursing home or qualified retirement home and qualified community-based residential facility in the municipality from which one or more occupants have filed an application under

s. 6.86 to conduct absentee voting for the election. The time may be no earlier than the 4th Monday preceding the election and no later than 5 p.m. on the Monday preceding the election. Upon request of a relative of an occupant of a nursing home or qualified retirement home or qualified community-based residential facility, the administrator may notify the relative of the time or times at which special voting deputies will conduct absentee voting at the home or facility, and permit the relative to be present in the room where the voting is conducted. At the designated time, 2 deputies appointed under sub. (4) shall visit the nursing home or qualified retirement home or qualified community-based residential facility. The municipal clerk or executive director of the board of election commissioners shall issue a supply of absentee ballots to the deputies sufficient to provide for the number of valid applications received by the clerk, and a reasonable additional number of ballots. The municipal clerk or executive director shall keep a careful record of all ballots issued to the deputies and shall require the deputies to return every ballot issued to them. The deputies shall personally offer each elector who has filed a proper application the opportunity to cast his or her absentee ballot. If an elector is present who has not filed a proper application, the 2 deputies may accept an application from the elector and shall issue a ballot to the elector if the elector is qualified and the application is proper. The deputies shall administer the oath and may, upon request of the elector, assist the elector in marking or punching the elector's ballot. Upon request of the elector, a relative of the elector who is present in the room may assist the elector in marking or punching the elector's ballot. All voting shall be conducted in the presence of the deputies. No individual other than a deputy may administer the oath and no individual other than a deputy or relative of an elector may render voting assistance to the elector. Upon completion of the voting, the deputies shall promptly deliver, either personally or by 1st class mail, any absentee ballot applications and the sealed certificate-affidavit envelope containing each ballot to the clerk or board of election commissioners of the municipality in which the elector casting the ballot resides, within such time as will permit delivery to the polling place serving the elector's residence on election day. Personal delivery may be made by the deputies no later than noon on election day. If a qualified elector is not able to cast his or her ballot on 2 separate visits by the deputies to the nursing home or qualified retirement home, they shall so inform the municipal clerk or executive director of the board of election commissioners, who may then mail the ballot to the elector no later than 5 p.m. on the Friday preceding the election.

History: 1985 a. 304; 1987 a. 391; 1989 a. 192.

**6.88 Voting and recording the absentee ballot.** (1) When an absentee ballot arrives at the office of the municipal clerk, the clerk shall enclose it, unopened, in a carrier envelope which shall be securely sealed and endorsed with the name and official title of the clerk, and the words "This envelope contains the ballot of an absent, aged, sick, handicapped or disabled elector or the ballot of an election official and must be opened at the polls during polling hours on election day". The clerk shall keep the ballot in the clerk's office until delivered, as required in sub. (2).

(2) When an absentee ballot is received by the municipal clerk prior to the delivery of the official ballots to the election officials of the ward in which the elector resides, the ballot envelope, sealed in the carrier envelope, shall be enclosed in the package and delivered to the election inspectors of the proper ward. When the official ballots for the ward have been delivered to the election officials before the receipt of an absentee ballot, the clerk shall immediately enclose the envelope

containing the absentee ballot in a carrier envelope as under sub. (1) and deliver it in person to the proper election officials.

(3) (a) Any time between the opening and closing of the polls on election day, the inspectors shall open the carrier envelope only, and announce the absent elector's name. When the inspectors find that the certification or affidavit has been properly executed, the applicant is a qualified elector of the ward or election district, and the applicant has not voted in the election, they shall enter an indication on the poll or registration list next to the applicant's name indicating an absentee ballot is cast by the elector. They shall then open the envelope containing the ballot in a manner so as not to deface or destroy the affidavit or certification thereon. The inspectors shall take out the ballot without unfolding it or permitting it to be unfolded or examined. Unless the ballot is cast under s. 6.95, the inspectors shall verify that the ballot has been endorsed by the issuing clerk. The inspectors shall deposit the ballot in the proper ballot box and enter the absent elector's name or voting number after his or her name on the poll or registration list the same as if the elector had been present and voted in person.

(b) When the inspectors find that an affidavit or certification is insufficient, that the applicant is not a qualified elector in the ward, that the ballot envelope is open or has been opened and resealed, or that the ballot envelope contains more than one ballot of any one kind, or if proof is submitted to the inspectors that an elector voting an absentee ballot has since died, the inspectors shall not count the ballot. The inspectors shall endorse every ballot not counted on the back, "rejected (giving the reason)". The inspectors shall reinsert each rejected ballot into the affidavit envelope in which it was delivered and enclose the affidavit envelopes and ballots, and securely seal the ballots and envelopes in an envelope marked for rejected absentee ballots. The inspectors shall endorse the envelope, "rejected ballots" with a statement of the ward or election district and date of the election, signed by the chief inspector and one of the inspectors representing each of the 2 major political parties and returned to the municipal clerk in the same manner as official ballots voted at the election.

History: 1971 c. 304 a. 29 (2); 1975 c. 85, 199; 1977 c. 394 ss. 43, 53; 1979 c. 232, 260; 1983 a. 183, 484; 1987 a. 391.

**6.89 Absent electors list public.** The municipal clerk shall keep a list of all electors who make application for an absent elector's ballot and who have voted under the absent elector provisions giving the name, address and date of application. The list shall be open to public inspection.

## CHALLENGING ELECTORS

**6.92 Inspector making challenge.** Each inspector shall challenge for cause any person offering to vote whom the inspector knows or suspects is not a qualified elector. If a person is challenged as unqualified by an inspector, one of the inspectors shall administer the following oath or affirmation to the person: "You do solemnly swear (or affirm) that you will fully and truly answer all questions put to you regarding your place of residence and qualifications as an elector of this election"; and shall then ask those of the following questions which are appropriate to test the person's qualifications:

(1) If challenged as unqualified on the ground that the person is not a citizen: Are you a citizen of the United States?

(2) If challenged as unqualified on the ground that the person is not a resident of the ward where the person's vote is offered:

(a) When did you last come into this ward?



(b) Did you come for a temporary purpose only, or for the purpose of making it your home?

(c) Did you come into this ward for the purpose of voting here?

(d) Have you now and have you had for the last 10 days a voting residence in this ward? If so, what is the particular description, name and location of your residence?

(e) If the answer to par. (d) is no, then: Have you moved from the ward after the close of registration?

(f) Have you registered to vote at this election at any other place within or outside this state?

(g) Have you applied for an absentee ballot at any place in this or any other state?

(h) If single, do you board for part of the week, month or year with your parents?

(i) If you have no parents, or are self-supporting, have you registered to vote in this ward?

(j) Will you file your next state income tax return as a resident of this ward?

(3) If challenged as unqualified on the ground that the person is not 18 years of age: Are you 18 years of age to the best of your knowledge and belief?

(4) If challenged as unqualified on the ground that the person has made or become directly or indirectly interested in any bet or wager depending upon the result of the election:

(a) Have you made, in any manner, any bet or wager depending upon the result of this election, or on the election of any person for whom votes may be cast at the election?

(b) Are you in any manner, directly or indirectly, interested in any bet or wager depending in any way upon the result of this election?

(5) If challenged as unqualified on the ground that the person has been convicted of treason, felony or bribery and not been subsequently restored to civil rights:

(a) Have you ever been tried or convicted in this state of any crime? If yes, then—

(b) Of what crime, when and in what court were you so convicted?

(c) Have you in any manner since the conviction been restored to civil rights, and if yes, how?

(6) The inspectors, or one of them, shall ask the challenged person any other or further questions to test qualifications as an elector at the election.

*History:* 1971 c. 304 s. 29 (2); 1971 c. 336 s. 37; 1975 c. 85 ss. 41, 42, 43, 66 (3); 1975 c. 199, 200, 421; 1977 c. 394; 1991 a. 316.

**6.925 Elector making challenge in person.** Any elector may challenge for cause any person offering to vote whom the elector knows or suspects is not a qualified elector. If a person is challenged as unqualified by an elector, one of the inspectors may administer the oath or affirmation to the challenged elector under s. 6.92 and ask the challenged elector the questions under that section which are appropriate to test the elector's qualifications. In addition, one of the inspectors shall administer the following oath or affirmation to the challenging elector: "You do solemnly swear (or affirm) that you will fully and truly answer all questions put to you regarding the challenged person's place of residence and qualifications as an elector of this election"; and shall then ask those of the following questions which are appropriate to test the qualifications of the challenged elector:

(1) If challenged as unqualified on the ground that the person is not a citizen: Is the challenged person a citizen of the United States?

(2) If challenged as unqualified on the ground that the person is not a resident of the ward where the person offers to vote:

(a) When did the challenged person last come into this ward?

(b) Did the challenged person come for a temporary purpose only, or for the purpose of making it home?

(c) Did the challenged person come into this ward for the purpose of voting here?

(d) Has the person now and for the last 10 days a voting residence in this ward? If so, what is the particular description, name and location of the person's residence?

(e) If the answer to par. (d) is no, then: Has the challenged person moved from the ward after the close of registration?

(f) Has the challenged person registered to vote at this election at any other place within or outside this state?

(g) Has the challenged person applied for an absentee ballot at any place in this or any other state?

(h) If single, has the challenged person boarded for part of the week, month or year with the person's parents?

(i) If the challenged person has no parents, or is self-supporting, has the person registered to vote in this ward?

(j) Will the challenged person file his or her next state income tax return as a resident of this ward?

(3) If challenged as unqualified on the ground that the person is not 18 years of age: Is the challenged person 18 years of age to the best of your knowledge and belief?

(4) If challenged as unqualified on the ground that the person has made or become directly or indirectly interested in any bet or wager depending upon the result of the election:

(a) Has the challenged person made, in any manner, any bet or wager depending upon the result of this election, or on the election of any person for whom votes may be cast at the election?

(b) Is the challenged person in any manner, directly or indirectly, interested in any bet or wager depending in any way upon the result of this election?

(5) If challenged as unqualified on the ground that the person has been convicted of treason, felony or bribery and not been subsequently restored to civil rights:

(a) Has the challenged person ever been tried or convicted in this state of any crime? If yes, then—

(b) Of what crime, when and in what court was the challenged person so convicted?

(c) Has the challenged person in any manner since the conviction been restored to civil rights, and if yes, how?

(6) The inspectors, or one of them, shall ask the challenging person any further questions to test the challenging person's knowledge of the qualifications of the challenged person as an elector at the election.

*History:* 1975 c. 85, 199; 1977 c. 394; 1985 a. 304.

**6.93 Challenging the absent elector.** The vote of any absent elector may be challenged for cause and the inspectors of election shall have all the power and authority given them to hear and determine the legality of the ballot the same as if the ballot had been voted in person.

**6.935 Challenge based on incompetency.** Section 6.03 (3) applies to any challenge of a person's right to vote under s. 6.92, 6.925 or 6.93 based on an allegation that an elector is incapable of understanding the objective of the elective process and thereby ineligible to vote.

*History:* 1977 c. 394; 1979 c. 110.

**6.94 Challenged elector oath.** If the person challenged refuses to answer fully any relevant questions put to him or her by the inspector under s. 6.92, the inspectors shall reject the elector's vote. If the challenge is not withdrawn after the person offering to vote has answered the questions, one of the inspectors shall administer to the person the following oath

or affirmation: "You do solemnly swear (or affirm) that: you are 18 years of age; you are a citizen of the United States; you are now and for 10 days have been a resident of this ward except under s. 6.02 (2); you have not voted at this election; you have not made any bet or wager or become directly or indirectly interested in any bet or wager depending upon the result of this election; you are not on any other ground disqualified to vote at this election". If the person challenged refuses to take the oath or affirmation, the person's vote shall be rejected. If the person challenged answers fully all relevant questions put to the elector by the inspector under s. 6.92, takes the oath or affirmation, fulfills the registration requirements, where applicable, and the answers to the questions given by the person indicate that the person meets the voting qualification requirements, the person's vote shall be received.

**History:** 1971 c. 304 s. 29 (2); 1971 c. 336 s. 37; 1975 c. 85 ss. 45, 66 (3); 1977 c. 394 s. 54; 1983 a. 484.

**6.95 Voting procedure for challenged electors.** Whenever the inspectors under ss. 6.92 to 6.94 receive the vote of a person offering to vote who has been challenged, they shall give the elector a ballot. Before depositing the ballot, the

inspectors shall write on the back of the ballot the serial number of the challenged person corresponding to the number kept at the election on the registration or poll list, or other list maintained under s. 6.79. If voting machines are used in the municipality where the person is voting, the person's vote may be received only upon an absentee ballot furnished by the municipal clerk which shall have the corresponding serial number from the registration or poll list or other list maintained under s. 6.79 written on the back of the ballot before the ballot is deposited. The inspectors shall indicate on the list the reason for the challenge. The challenged ballots shall be counted under s. 5.85 or 7.51. The municipal board of canvassers may decide any challenge when making its canvass under s. 7.53. If the returns are reported under s. 7.60, a challenge may be reviewed by the county board of canvassers. If the returns are reported under s. 7.70, a challenge may be reviewed by the board of state canvassers. The decision of the canvassers may be appealed under s. 9.01. The standard for disqualification specified in s. 6.325 shall be used to determine the validity of challenged ballots.

**History:** 1977 c. 427; 1983 a. 484; 1985 a. 304.

## CHAPTER 7

## ELECTION OFFICIALS, BOARDS, OBSERVERS; SELECTION AND DUTIES, CANVASSING

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## SELECTION AND DUTIES

**7.03 Compensation of election officials and trainees. (1)**

(a) A reasonable daily compensation shall be paid to each inspector, voting machine custodian, automatic tabulating equipment technician, member of a board of canvassers, messenger and tabulator who is employed and performing duties under chs. 5 to 12. Alternatively, such officials may be paid by the hour at a proportionate rate for each hour actually worked.

(b) Except as provided in par. (bm), payment shall be made by the municipality in which the election is held, except that any technician, messenger, tabulator or member of the board of canvassers who is employed to perform services for the county shall be paid by the county and any messenger or tabulator who is employed to perform services for the state shall be paid by the board.

(bm) Whenever a special election is called by a county or by a school district, a vocational, technical and adult education district, a sewerage district, a sanitary district or a public inland lake protection and rehabilitation district, the county or district shall pay the compensation of all election officials, as determined under sub. (2).

(c) If a central counting location serving more than one municipality is utilized under s. 7.51 (1), the compensation of election officials at the location shall be proportionately divided between the municipalities utilizing the location, except that if all municipalities within a county utilize the location, the compensation shall be paid by the county.

(d) Special registration deputies appointed under s. 6.55 (6), special voting deputies appointed under s. 6.875 (4) and officials and trainees who attend training sessions under s. 7.15 (1) (e) or 7.25 (5) may be compensated at the option of the municipality.

(2) The amount of compensation of election officials, when authorized or required, shall be fixed by the appropriate county board of supervisors, municipal governing body, or municipal board of election commissioners in cities over 500,000 population. The board shall fix the amount to be paid any person employed to perform duties for the state. If the board employs an individual to perform duties which are the responsibility of a county or municipality, the board shall charge the expense to the county or municipality.

**History:** 1973 c. 334 s. 57; 1977 c. 394, 427; 1979 c. 89, 260, 311, 355; 1983 a. 484; 1985 a. 304; 1987 a. 111, 391.

**7.08 Elections board.** In addition to its duties for ballot arrangement under ch. 5 and date and notice requirements under ch. 10, the board shall:

(1) **ELECTION FORMS, BLANKS, VOTING APPARATUS.** (a) Prescribe all official ballot forms necessary under chs. 5 to 12 and revise the official ballot forms to harmonize with legislation and the current official status of the political parties whenever necessary. The board shall provide one copy of each ballot form without charge to each county and municipal clerk and board of election commissioners. The board shall distribute or arrange for distribution of additional copies. The prescribed forms shall be substantially followed in all elections under chs. 5 to 12.

(b) Prescribe the necessary standard sample blanks and ballot containers to make the canvass, returns, statements and tally sheet statements for all elections the results of which are reportable to the board under s. 7.60 (4) (a), and all other materials as it deems necessary to conduct the elections. The sample blanks shall contain the necessary certificates of the inspectors and canvassers with notes explaining their use and statutory basis.

(c) Prescribe forms required by ss. 6.24 (3) and (4), 6.30 (3) and (4), 6.33 (1), 6.40 (1) (b), 6.55 (2) and (3), 6.79 (5) and 6.86 (2) and (3). All such forms shall contain a statement of the penalty applicable to false or fraudulent registration or voting through use of the form. Forms are not required to be furnished by the board.

(d) Promulgate rules for the administration of the statutory requirements for voting machines and electronic voting systems and any other voting apparatus which may be introduced in this state for use at elections. Pursuant to such responsibility, the board may obtain assistance from competent persons to check the machines, systems and apparatus and approve for use those types meeting the statutory requirements and shall establish reasonable compensation for persons performing duties under this paragraph.

(2) **CERTIFIED LISTS.** (a) As soon as possible after the closing date for filing nomination papers or after the canvass of the primary vote, but no later than the deadlines established in s. 10.06, transmit to each county clerk a certified list of all candidates on file in its office for which electors in that county may vote. The list shall designate the order of arrangement and contain each candidate's first name, middle initial or initials and last name, unless the candidate on his or her nomination papers or declaration of candidacy specifies that the middle initial be deleted, that a full middle name or former legal surname be substituted for the middle initial or

that an initial be substituted for the candidate's first name, but no other abbreviations, nicknames or titles are permitted. The list shall also include each candidate's residence and post-office address; the office for which the person is a candidate; and, the party or principle the candidate represents, if any, in 5 words or less. Names of candidates nominated under s. 7.38 (3) or 8.35 shall be certified by the board upon filing of the necessary papers with it. At any time prior to an election, the board may transmit an amended certification if a candidate dies or is determined not to qualify for ballot placement.

(b) The certified list of candidates for president and vice president nominated at a national convention by a party entitled to a September primary ballot or for whom electors have been nominated under s. 8.20 shall be sent as soon as possible after the closing date for filing nomination papers, but no later than the deadlines established in s. 10.06.

(c) As soon as possible after the canvass of the spring and September primary votes, but no later than the first Tuesday in March and the 4th Tuesday in September, transmit to the state treasurer a certified list of all eligible candidates for state office who have filed applications under s. 11.50 (2) and whom the board determines to be eligible to receive payments from the Wisconsin election campaign fund. The list shall contain each candidate's name, the mailing address indicated upon the candidate's registration form, the office for which the individual is a candidate and the party or principle which he or she represents, if any.

(cm) As soon as possible after the canvass of a special primary, or the date that the primary would be held, if required, transmit to the state treasurer a certified list of all eligible candidates for state office who have filed applications under s. 11.50 (2) and whom the board determines to be eligible to receive a grant from the Wisconsin election campaign fund prior to the election. The board shall also transmit a similar list of candidates, if any, who have filed applications under s. 11.50 (2) and whom the board determines to be eligible to receive a grant under s. 11.50 (1) (a) 2 after the special election. The list shall contain each candidate's name, the mailing address indicated upon the candidate's registration form, the office for which the individual is a candidate and the party or principle which he or she represents, if any.

(3) **ELECTION MANUAL.** Prepare and publish separate from the election laws an election manual written so as to be easily understood by the general public explaining the duties of the election officials, together with notes and references to the statutes as the board considers advisable. The manual shall be furnished by the board free to each county and municipal clerk or board of election commissioners and others in such manner as it deems most likely to promote the public welfare. The election manual shall:

(a) Be compiled by the board, with the advice of the elections advisory council.

(b) Emphasize the fact that election officials should help, not hinder, electors in exercising their voting rights.

(c) Be subject to periodic review and revision when necessary.

(4) **ELECTION LAWS.** Publish the election laws. The board shall furnish the election laws free to each county and municipal clerk and board of election commissioners in sufficient supply to provide one copy for reference at each office and at each polling place. The board shall sell or arrange for the sale of copies of the election laws to members of the public.

*History:* 1971 c. 242; 1973 c. 334 s. 6, 57; 1975 c. 85, 93, 94, 199; 1977 c. 29, 107, 394, 427; 1979 c. 89, 177, 260, 311; 1981 c. 377; 1983 a. 51, 484; 1985 a. 120, 304; 1989 a. 192.

**7.10 County clerks. (1) ELECTION SUPPLIES AND BALLOTS.** (a) Each county clerk shall provide ballots for every election in the county for all national, state and county offices, including metropolitan sewerage commission elections under s. 66.23 (1) (am), for municipal judges elected under s. 755.01 (4) and for state and county referenda. The official and sample ballots shall be prepared in substantially the same form as those prescribed by the board under s. 7.08 (1) (a).

(b) The county clerk shall supply sufficient poll list blanks for municipalities that do not have elector registration and other election supplies for national, state and county elections. The poll list blanks and other election supplies shall be enclosed in the sealed package containing the official ballots and delivered to the municipal clerk.

(c) With county board approval any county clerk may purchase or print the official forms of nomination papers for distribution to any person at cost or free.

(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 ballots under the appropriate office and party titles.

(3) **TIME SCHEDULE.** (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. Election blanks 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.

(b) The county clerk shall distribute an adequate supply of separately wrapped official ballots to each municipal clerk so the municipal clerk may supply ballots to absent elector applicants. The remaining ballots shall be sent in separately sealed packages clearly designating the ward for which each is intended and the approximate number of ballots of each kind enclosed.

(4) **RESOLVING NOTICE DOUBTS.** When in doubt as to compliance with the statutory requirements for election notices or the correct fees to be paid for them, the county clerk may consult the board.

*History:* 1971 c. 304 s. 29 (2); 1973 c. 280; 1973 c. 334 s. 57; 1977 c. 394 s. 53; 1977 c. 427; 1979 c. 221, 260, 311, 355; 1981 c. 377; 1983 a. 484; 1985 a. 89, 304; 1991 a. 316.

**7.11 Menominee county; town elections.** The clerk shall prepare a ballot distinguishing between supervisors elected at large and by ward in any county having only one town with a part of the county board members elected by wards.

*History:* 1971 c. 304 s. 29 (2); 1973 c. 334.

**7.15 Municipal clerks. (1) SUPERVISE REGISTRATION AND ELECTIONS.** Each municipal clerk has charge and supervision of elections and registration in the municipality. The clerk shall perform the following duties and any others which may be necessary to properly conduct elections or registration:

(a) Equip polling places.

(b) Provide for the purchase and maintenance of election equipment.

(c) Prepare ballots for municipal elections, and distribute ballots and provide other supplies for conducting all elections. The municipal clerk shall deliver poll list forms received from the county clerk to the polling places with the ballots before the polls open.

(cm) Prepare official absentee ballots for delivery to electors requesting them, and mail an official absentee ballot to each elector who has requested one 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 mail an official absentee ballot within one day of the time the elector's request is received.

(cs) Prepare write-in absentee ballots for delivery to military electors under s. 6.25 (2) at each election, and prepare write-in absentee ballots for delivery to overseas electors under s. 6.25 (3) at each election for national office, no later than the 90th day before the election, or as soon as possible after the offices to be contested at the election are known, whichever is later, and distribute the ballots to each military or overseas elector after ballots are available or within one day after a request is received, whichever is later, but beginning on the day that official absentee ballots become available, the clerk shall not mail write-in absentee ballots and shall substitute official absentee ballots for any write-in absentee ballots requested.

(d) Prepare the necessary notices and publications in connection with the conduct of elections or registrations.

(e) Instruct election officials in their duties, calling them together whenever advisable, advise them of changes in laws, rules and procedures affecting the performance of their duties, and administer examinations as authorized under s. 7.30 (2) (c). The clerk shall assure that officials who serve at polling places where an electronic voting system is used are familiar with the system and competent to instruct electors in its proper use. The clerk shall inspect systematically and thoroughly the conduct of elections in the municipality so that elections are honestly, efficiently and uniformly conducted.

(f) Discharge election officials for improper conduct or wilful neglect of duties.

(g) Report suspected election frauds, irregularities or violations of which the clerk has knowledge to the district attorney.

(h) Review, examine and certify the sufficiency and validity of petitions and nomination papers.

(i) Direct how and when to destroy the contents of the blank ballot boxes and unused election materials.

(j) Send an absentee ballot automatically to each person making an authorized request therefor in accordance with s. 6.22 (4) or 6.86 (2).

(k) Reassign inspectors appointed to serve at one polling place to another polling place within the municipality whenever necessary to assure adequate staffing at all polling places. No such reassignment may have the effect of eliminating representation at a polling place by one of the political parties entitled to nominate inspectors under s. 7.30 (2) (a).

(2) MUNICIPAL ELECTION DUTIES. (a) In municipal elections, the municipal clerks shall perform the duties prescribed for county clerks by s. 7.10.

(b) Cities over 500,000 population may prepare their own official and sample ballots. Official ballots not utilized as absentee ballots shall be printed so they are ready at least 2 days before the election.

(c) With the consent of the county clerk, municipalities may prepare their own ballots whenever voting machines or electronic voting systems are used in elections where candidates for both local offices and national, state or county offices appear on the ballot. This paragraph does not apply to cities under par. (b).

(d) Whenever the governing body of any municipality submits any question to a vote of the electors or whenever a

proper recall petition and certificate are filed under s. 9.10, the municipal clerk shall issue a call for the election and prepare and distribute ballots as required in the authorization of submission or as provided in s. 9.10. The date of the referendum shall be fixed by the municipal clerk or board of election commissioners unless otherwise provided by law or unless the governing body fixes a date. The ballot for any referendum shall conform to s. 5.64 (2). If there is already an official municipal referendum ballot for the election, the question may appear on the same ballot.

(3) BALLOT SUPPLY; SAMPLE BALLOTS. (a) Where voting machines are used or where electronic voting systems are employed, the municipal clerk shall provide at least 2 duplicate sample ballots for each ward in diagram form showing the board or screen inside each voting machine or the front of each ballot as it will appear in the voting machines or booths on election day.

(b) Sample ballots, voting machine ballots and ballot labels for electronic voting systems, whenever the labels are affixed to the voting devices, shall be furnished to the officials in the ward or election district at least one day before each election.

(4) RECORDING ELECTORS. After each election where registration is used, the municipal clerk shall make a record of each elector who has voted at the election by stamping or writing the date of the election in the appropriate space on the original registration form of the elector. Municipalities employing data processing may, in lieu of this requirement, record voting information in such a manner that it is readily available for retrieval by computer.

(5) RECORD OF BALLOTS RECEIVED. Each municipal clerk shall keep a record of when and in what condition the packages containing the ballots were received from the county clerk. The municipal clerk shall deliver to the proper officials the unopened packages of ballots the day before the election.

(6) SUBSTITUTE BALLOTS. (a) The municipal clerk shall provide substitute paper ballots in substantially the form of the original ballots whenever the necessary original ballots are not delivered to the municipality, are destroyed, are lost or stolen after delivery, are not ready for distribution or the supply is exhausted during polling hours. The municipal clerk may also provide substitute paper ballots, together with ballot boxes and voting booths, whenever a voting machine or electronic voting system is rendered inoperable by a malfunction which occurs within 24 hours of the time set for opening of the polls. Paper ballots may be cast only in accordance with the procedures prescribed in ss. 6.80 (2) and 7.37 (4).

(b) Upon receiving the substitute paper ballots accompanied by a statement made under oath by the municipal clerk that the ballots have been prepared and furnished by the clerk to replace the original ballots which are not available, or to substitute for a voting machine or electronic voting system which has been rendered inoperable by a malfunction which occurred within 72 hours of the time set for opening of the polls, the election officials shall use the substitute ballots in the same manner as if they had been original ballots.

(7) REQUEST CANVASS ASSISTANCE. The municipal clerk may request all election officials to assist the inspectors in canvassing the votes received at the respective polling places.

(8) RESOLVING NOTICE DOUBTS. When in doubt as to compliance with the statutory requirements for election notices or the correct fees to be paid for them, the municipal clerk may consult the board.

History: 1971 c. 304 s. 29 (2); 1973 c. 334 s. 57; 1975 c. 85 ss. 50, 65; 1975 c. 275, 422; 1977 c. 283; 1977 c. 394 s. 54; 1977 c. 427, 447; 1979 c. 260, 311; 1981 c. 391; 1983 a. 484; 1985 a. 304; 1987 a. 391; 1989 a. 192; 1991 a. 316.

**7.20 Board of election commissioners.** (1) A municipal board of election commissioners and a county board of election commissioners shall be established in every city and county over 500,000 population.

(2) Each board of election commissioners shall consist of 3 members, each member being chosen from lists of at least 3 names each, selected and approved by the county committee of the 2 political parties receiving the most votes for governor in the county in the case of the county board of election commissioners, and receiving the most votes for governor in the city in the case of the city board of election commissioners, in the last general election. The county executive, for the county board of election commissioners, shall select from the list 2 persons from the majority party and one person from the next highest party in the county. The mayor, for the city board of election commissioners, shall select from the list 2 persons from the majority party and one person from the next highest party in the city.

(3) The persons chosen shall be qualified electors and residents of the state and county and, for the city board of election commissioners, of the city.

(4) Before beginning their duties as election commissioners each appointee shall take and file the official oath.

(5) Each board of election commissioners shall choose its own chairman. An act of a majority of the board is an act of the board.

(6) The election commissioners shall not hold any other public office and are ineligible for any appointive or elective public office, except the office of notary public, during their term.

(7) The term of office shall be 4 years, and until successors have been commissioned and qualified, beginning on July 1 each year following a presidential election. Successors shall be appointed the same way.

History: 1973 c. 334; 1975 c. 124; 1983 a. 484 s. 172 (1).

**7.21 Election commissioners, duties and regulations.** (1) All powers and duties assigned to the municipal or county clerk or the municipal or county board of canvassers under chs. 5 to 12 shall be carried out by the municipal or county board of election commissioners or its executive director, unless specifically retained or assigned in this section or s. 7.22.

(2) The county board of election commissioners may hire an executive director who shall perform whatever duties the board assigns to him or her. The county board shall determine the salary of that executive director. Appointment and removal of that executive director shall be subject to civil service standards. An executive director of the city board of election commissioners shall be appointed under s. 66.146.

(3) The board of election commissioners is authorized to employ additional clerical assistants to carry out its necessary duties. The assistants' salaries shall be fixed by the governing body of the municipality or county.

(4) The board of election commissioners may procure a seal to authenticate official papers and documents.

(5) The city council and county board shall provide office space in the city hall and county courthouse, respectively, pay all the necessary expenses, cooperate with the board of election commissioners, provide storage space for the election equipment and supplies and assist with the moving and conducting of the elections as necessary.

History: 1973 c. 334; 1979 c. 89; 1983 a. 36; 1983 a. 484 s. 172 (1), (2); 1985 a. 304 ss. 81, 155; 1987 a. 382.

**7.22 Municipal board of election commissioners.** (1) The common council shall determine the salaries of the election commissioners and shall include sufficient funds in its budget

to allow the municipal board of election commissioners to fulfill its duties.

(2) All expenses shall be paid upon order of the municipal board of election commissioners, signed by the chairman and executive director and countersigned by the city comptroller. The orders, made payable to persons in whose favor issued, shall be the vouchers for the city treasurer for the payment of the orders.

(3) The municipal board of election commissioners shall prepare and furnish copies of all registrations, books, maps, instructions and blanks pertaining to the rules for registration and conducting elections for the use and guidance of the election officials.

(4) The municipal board of election commissioners shall compile and publish a biennial report, containing election statistics and returns of all primaries and elections held within their city and county. Copies of the same shall be distributed to persons in such quantities as the municipal board of election commissioners deems proper.

(5) The chief of police shall station a police officer at polling places designated by the municipal board of election commissioners for each election.

History: 1973 c. 334; 1977 c. 51; 1983 a. 484 s. 172 (1); 1985 a. 304 s. 155.

**7.23 Destruction of election materials.** (1) All materials and supplies associated with an election, except as provided in sub. (2), may be destroyed according to the following schedule:

(a) Any unused materials after an election and the contents of the blank ballot box after a primary may be destroyed at a time and in a manner designated by the appropriate clerk.

(b) Voting machine recorders essential for proper operation of voting machines may be cleared and reactivated 14 days after any primary and 21 days after any other election.

(c) Registration cards which are canceled under s. 6.50 (7) may be destroyed 4 years after cancellation.

(d) Except as provided in s. 11.21 (11) (a), financial reports may be destroyed 6 years after the date of receipt. Financial registration statements may be destroyed 6 years after termination of registration.

(e) Registration and poll lists created at a nonpartisan primary or election may be destroyed 2 years after the primary or election at which they were created and registration and poll lists created at a partisan primary or election may be destroyed 4 years after the primary or election at which they were created.

(f) Except as authorized in pars. (b) and (g), ballots, applications for absentee ballots, registration forms, or other records and papers requisite to voting at any federal election, other than registration cards, may be destroyed after 22 months.

(g) Detachable recording units and compartments for use with electronic voting machines may be cleared or erased 14 days after any primary and 21 days after any other election. Before clearing or erasing the units or compartments, a municipal clerk shall transfer the data contained in the units or compartments to a disk or other recording medium which may be erased or destroyed 22 months after the election to which the data relates.

(h) Ballots may be destroyed 30 days after any election.

(i) Official canvasses may be destroyed 10 years after the election to which they relate.

(j) Election notices, and proofs of publication and correspondence filed in connection with such notices may be destroyed one year after the date of the election to which they relate.

(k) All other materials and supplies associated with an election may be destroyed 90 days after the election.

(2) If there is a demand for a recount, notice of an election contest or any contest or litigation pending with respect to an election, materials may be destroyed and recorders, units or compartments may be cleared or erased only by order of the judge in whose court litigation is pending or if no litigation is pending, by order of any circuit judge for the affected jurisdiction. Upon petition of the attorney general or a district attorney or U.S. attorney for the affected jurisdiction, a circuit judge for the affected jurisdiction may order that specified materials not be destroyed or that specified recorders, units or compartments not be cleared or erased as otherwise authorized under this subsection until the court so permits. The governor may by order permit the clearing of voting machine recorders on machines needed to conduct a special election prior to the time authorized under this subsection, unless there is a demand for recount, notice of an election contest or a contest or litigation pending, or a court of record orders that the recorders not be cleared.

*History:* 1973 c. 334; 1975 c. 85, 200; 1977 c. 394 s. 53; 1977 c. 427; 1979 c. 260 ss. 42, 94; 1979 c. 311, 328; 1983 a. 484 ss. 60 to 63, 174; 1985 a. 304 ss. 82, 143; 1987 a. 391.

**7.24 Title to election materials.** The filing of a nomination paper, ballot application, financial report, affidavit, or other form or statement with the appropriate official or agency responsible for accepting such materials under chs. 5 to 12 irrevocably transfers the legal title to such official or agency, regardless of the sufficiency of the filing. The official or agency shall retain all election materials until destruction or other disposition is authorized under s. 7.23.

*History:* 1975 c. 93; 1979 c. 89.

**7.25 Voting machine officials' duties.** (1) The municipal clerk of each municipality in which voting machines are used is responsible for the proper ballot being placed on each machine, the sample ballots, setting, adjusting, and putting the machine in order to use in voting when delivered to the ward. For the purpose of labeling, setting, adjusting and putting the voting machines in order, one or more competent voting machine custodians may be employed.

(2) Under the direction of the municipal clerk, the custodian shall label or insert, set, adjust, put in order and deliver the machines with all necessary furniture and appliances to the rooms where the election will be held for each ward at least one hour before the time set for opening the polls on election day.

(3) In preparing a voting machine for an election according to the directions furnished, the custodian shall arrange the machine and ballot so both will meet all the requirements for voting and counting the election in the manner provided for in machine construction.

(4) When a voting machine is properly prepared for an election and delivered to the election ward, it shall be locked and sealed against any movement and the governing body or board of election commissioners shall provide proper protection to prevent tampering with the machines. The custodians preparing the machines shall deliver the keys for the machines to the municipal clerk or executive director of the board of election commissioners together with a written report of each machine's condition.

(5) Before an election each election official serving at a polling place where voting machines are used shall be instructed in their use and their duties in connection with them by the municipal clerk, who shall call as many meetings to give instructions to the election officials as are necessary. Officials and trainees may be compensated for attendance.

Any person who does not understand the machines shall not be paid nor be allowed to serve.

(6) (a) Where voting machines are used, the election officials for each ward shall meet at their proper polling place at least 15 minutes before the time set for opening of the polls to arrange the voting machines and furniture to properly conduct the election.

(b) Before opening the polls, they shall compare the ballots on the machines with the sample ballots furnished by the municipal clerk to ensure that the names, numbers and letters thereon agree; examine the seal on each machine to see that it has not been broken; and examine the counter on each machine to see that each registers 000. If any counter on any machine does not register 000, the counter number and the number showing on the counter shall be recorded, signed by all the election officials and a copy shall be conspicuously posted by the inspectors at the polling place during polling hours.

(c) After the inspection under par. (b), on the blanks furnished, they shall certify the condition of each voting machine and its counters. Each form shall be signed by each election official. After the election, one copy of each machine's certification shall be delivered with each copy of the election returns.

*History:* 1971 c. 304 s. 29 (2); 1977 c. 427; 1979 c. 311; 1985 a. 304.

**7.30 Appointment of election officials.** (1) **NUMBER.** There shall be 7 inspectors for each polling place at each election. In municipalities where voting machines are used, the municipal governing body may reduce the number of inspectors to 5. A municipal governing body may provide for the appointment of additional inspectors whenever more than one voting machine is used or wards are combined under s. 5.15 (6) (b). A municipal governing body may provide by ordinance for the selection of alternate officials or the selection of 2 sets of officials to work at different times on election day. Additional officials shall be appointed in such a manner that the total number of officials is an odd number and the predominant party under sub. (2) is represented by one more official than the other party.

(2) **QUALIFICATIONS AND PROCEDURE.** (a) Only election officials appointed under this section may conduct an election. Except as authorized in s. 7.15 (1) (k), each inspector shall be a qualified elector in the ward for which the polling place is established. Special registration deputies appointed under s. 6.55 (6) and election officials serving more than one ward or when necessary to fill a vacancy under par. (b) need not be a resident of that ward, but shall be a resident of the municipality. Special registration deputies may be appointed to serve more than one polling place. All officials shall be able to read and write the English language, be capable, be of good understanding, and may not be a candidate, other than for party committeeman or committeewoman, to be voted for at an election at which they serve. In 1st class cities, they may hold no public office other than notary public. Except as authorized under sub. (4) (c), all inspectors shall be affiliated with one of the 2 recognized political parties which received the largest number of votes for president, or governor in nonpresidential general election years, in the ward or combination of wards served by the polling place at the last election. The party which received the largest number of votes is entitled to one more inspector than the party receiving the next largest number of votes at each polling place. The same election officials may serve the electors of more than one ward where wards are combined under s. 5.15 (6) (b). If a municipality is not divided into wards, the ward requirements in this paragraph apply to the municipality at large.

(b) When a vacancy occurs, the appointment shall be filled by the municipal clerk from the remaining names on the lists submitted under sub. (4) or from additional names submitted by the chairperson of the county party committee of the appropriate party under sub. (4). If the vacancy is due to candidacy, sickness or any other temporary cause, the appointment shall be a temporary appointment and effective only for that election. The same qualifications shall be required, but vacancies may be filled in cases of emergency or because of time limitations by a person from another aldermanic district or ward within the municipality so the proper balance of party representation is maintained.

(c) The governing body of any municipality may require all persons named on the party lists for election officials to prove their ability to read and write English and to have a general knowledge of the election laws. Examinations may be given to prove the qualifications can be met.

(3) **TABULATORS.** (a) Not less than 30 days before any election the governing body or board of election commissioners of any municipality, by resolution, may authorize the municipal clerk or executive director of the board of election commissioners to select and employ tabulators for any election. Such authorization applies to the elections specified in the resolution, and if not specified, applies until the authorization is modified or revoked.

(b) The tabulators shall assist and be under the direction of the election inspectors after the close of the polls.

(4) **APPOINTMENTS.** (a) Except in cities where there is a board of election commissioners, the mayor, president or chairperson of each municipality shall nominate to the governing body no later than their last regular meeting in December of each even-numbered year the necessary election officials for each election ward. If no regular meeting is scheduled, the mayor, president or chairperson shall call a special meeting for the purpose no later than December 31.

(b) The 2 dominant parties, under sub. (2), are each responsible for submitting a list of names from which the appointees shall be chosen.

1. In cities where there is a board of election commissioners, the aldermanic district committeemen or committeewomen under s. 8.17 of each of the 2 dominant recognized political parties shall submit a certified list no later than November 30 of each even-numbered year containing the names of at least as many electors as there are inspectors from that party for each of the voting wards in the aldermanic district. The chairperson of the city committee, or if there is none, the chairperson of the county committee shall submit a certified list no later than November 30 of each even-numbered year containing the names of at least as many special voting deputies under s. 6.875 (4) as are required to be appointed in the city. The chairperson may designate any individual whose name is submitted as a first choice nominee. The board of election commissioners shall appoint, no later than December 31 of even-numbered years, the required number of special voting deputies and at least 5 inspectors for each ward. The board of election commissioners shall appoint all first choice nominees for so long as positions are available, unless nonappointment is authorized under par. (e), and shall appoint other individuals in its discretion. The board of election commissioners may designate such alternates as it deems advisable.

2. In municipalities other than cities and villages located in counties having a population of more than 500,000, the committees organized under s. 8.17 from each of the 2 dominant parties under sub. (2) shall submit a list containing at least as many names as there are needed appointees from that party. The list shall be submitted by the chairperson of

each of the 2 committees to the mayor, president or chairperson of the municipality. If committees are organized in subdivisions of a city, the list shall be submitted through the chairperson of the city committee. If there is no municipal committee, the list shall be submitted by the chairperson of the county or legislative district committee. Except as provided in par. (c), only those persons submitted by the chairperson of each committee under s. 8.17 may act as election officials. The chairperson may designate any individual whose name is submitted as a first choice nominee. The list shall contain the signature of the chairperson and secretary of the submitting committee. In cities or villages located in counties having a population of more than 500,000, other than cities where there is a board of election commissioners, the aldermanic district or village committeeman or committeewoman for the ward or wards where each polling place is located, if there is one, shall submit a list containing at least as many names as there are needed appointees for inspector positions from the party represented by the committeeman or committeewoman. For appointments of special voting deputies under s. 6.875 (4) and appointments of inspectors in cities and villages where there is no aldermanic district or village committeeman or committeewoman, nominations shall proceed in the same manner as in municipalities located in counties having a population of 500,000 or less. The list shall be submitted to the mayor or president. Except as provided in par. (c), only those persons whose names are submitted as provided in this paragraph may act as election officials. The committeeman or committeewoman may designate any individual whose name is submitted as a first choice nominee. The list shall contain the signature of the aldermanic district or village committeeman or committeewoman or the chairperson of the appropriate committee. Upon submission of each nominee's name, the governing body shall appoint each first choice nominee for so long as positions are available, unless nonappointment is authorized under par. (e), and shall appoint other nominees in its discretion. If any nominee is not appointed, the mayor, president or chairperson of the municipality shall immediately nominate another person from the appropriate lists submitted and continue until the necessary number of election officials from each party is achieved at that meeting.

(c) For so long as nominees are made available by the political parties under this section, appointments may be made only from the lists of submitted nominees. If the lists are not submitted by November 30 of the year in which appointments are to be made, the board of election commissioners shall appoint, or the mayor, president or chairperson of a municipality shall nominate qualified persons whose names have not been submitted. If an insufficient number of nominees appears on the lists as of November 30, the board of election commissioners shall similarly appoint, or the mayor, president or chairperson shall similarly nominate sufficient individuals to fill the remaining vacancies. If an official is appointed whose name was not submitted on the lists, the official shall be affiliated with or designated by the appointing authority to represent one of the 2 parties that are entitled to submit lists. An official who is affiliated with one party may not be designated to represent a different party, unless the municipal clerk first makes a good faith effort to appoint an official who is affiliated with the represented party.

(cm) Notwithstanding pars. (a) to (c), the governing body or board of election commissioners of a municipality may make appointments of special voting deputies under this section to provide service in a community-based residential facility at any time after the municipal clerk or board of



election commissioners adopts the procedures under s. 6.875 for use in a community-based residential facility located in the municipality.

(cn) Notwithstanding pars. (a) to (c), the governing body or board of election commissioners of a municipality may make appointments of special voting deputies under this section to provide service in a retirement home at any time after the municipal clerk or board of election commissioners adopts the procedures under s. 6.875 for use in a retirement home located in the municipality.

(d) A party committee or aldermanic district or village committeeman or committeewoman under s. 8.17 may submit additional names for inclusion in its list of nominations under this section at any time. Whenever there are no available names on any list, the board of election commissioners or the mayor, president or chairman of the municipal committee or the appropriate aldermanic district or village committeeman or committeewoman under s. 8.17. However, an appointment need at no time be delayed because of the lack of availability of party nominees.

(e) If an appointing authority believes that, for good cause, it should not appoint an individual whose name is submitted as a first choice nominee under par. (b), it may request the board to authorize nonappointment. The board may permit nonappointment of an individual for cause demonstrated by an appointing authority.

(5) **OATH OF OFFICE.** Within 5 days after appointment of the election officials the municipal clerk shall give each appointee notice. The appointees shall file the official oath with the municipal clerk within 10 days after the mailing of the notice. Appointees to fill vacancies or any other election official who has not filed the oath, before receiving any ballots, shall sign the oath and return it to the municipal clerk. An inspector, after taking the oath, may administer any oath required to conduct an election.

(6) **OFFICE TENURE.** (a) The appointed election officials shall hold office for 2 years and until their successors are appointed and qualified. They shall serve at every election held in their ward during their term of office.

(b) Prior to the first election following the appointment of the inspectors, the inspectors at each polling place shall elect one of their number to act as chief inspector. The chief inspector shall hold the position for the remainder of the term, except that whenever wards are combined or separated under s. 5.15 (6) (b), the inspectors shall elect a new chief inspector. If a vacancy occurs in the position of chief inspector, the municipal clerk shall appoint one of the other inspectors to fill the vacancy.

(c) If any election official lacks the qualifications set forth in this section, fails to attend training sessions required under s. 7.15 (1) (e) unless excused therefrom, is guilty of neglecting his or her official duties or commits official misconduct, the municipal clerk or board of election commissioners shall summarily remove the official from office and the vacancy shall be filled under sub. (2) (b).

*History:* 1971 c. 242; 1971 c. 304 s. 29 (1), (2); 1971 c. 336; 1973 c. 280, 334; 1975 c. 93, 101; 1977 c. 394, 427, 447; 1979 c. 89, 260, 355; 1983 a. 183, 484, 538; 1985 a. 131 a. 3; 1985 a. 304, 332; 1987 a. 391; 1989 a. 192, 359.

**7.32 Change of election official numbers.** Notwithstanding s. 7.30 (1), the governing body or board of election commissioners of any municipality may by resolution reduce the number of election officials and modify or rescind any similar previous action. No such action may reduce the number of officials at a polling place to less than 3.

*History:* 1977 c. 427; 1979 c. 260 s. 46; Stats. 1979 a. 7.32; 1983 a. 484; 1985 a. 304.

**7.33 Service as an election official.** (1) In this section:

(a) "Employee" has the meaning given under s. 101.01 (2) (a).

(b) "Employer" has the meaning given under s. 101.01 (2) (b).

(c) "State agency" has the meaning given under s. 20.001 (1) and includes an authority created under ch. 231, 232 or 234.

(2) Service as an election official under this chapter shall be mandatory upon all qualified electors appointed, during the full 2-year term, after which they shall be exempt from further service as an election official, under this chapter, until 3 terms of 2 years each have elapsed. Municipal clerks may grant exemptions from service at any time.

(3) Every employer shall grant to each employee who is appointed to serve as an election official a leave of absence for the entire 24-hour period of each election day in which the official serves in his or her official capacity. An employee who serves as an election official shall provide his or her employer with at least 7 days' notice of application for a leave. The municipal clerk shall verify appointments upon request of any employer.

(4) Each state agency shall, upon proper application under sub. (3), permit each of its employees to serve as an election official without loss of fringe benefits or seniority privileges earned for scheduled working hours during the period specified in sub. (3), and without loss of pay for scheduled working hours during the period specified in sub. (3) except as provided in sub. (5), and shall not impose any other penalty upon an employee who serves as an election official.

(5) Any employee of the state who obtains a paid leave of absence in order to serve as an election official under s. 7.30 shall certify in writing to the head of the state agency by which he or she is employed the amount of compensation that the employee receives for such service. Upon receipt of the certification, the head of the state agency shall deduct that amount from the employee's pay earned for scheduled working hours during the period specified in sub. (2) when the employee is on a paid leave of absence.

(6) Each employer other than a state agency shall, upon proper application under sub. (3), permit each of its employees to serve as an election official without loss of fringe benefits or seniority privileges earned for scheduled working hours during the period specified in sub. (3), and shall not impose any other penalty upon an employee who serves as an election official, except the employer need not pay wages to an employee for time not worked while the employee is serving as an election official.

*History:* 1977 c. 398; 1979 c. 260 s. 44; Stats. 1979 a. 7.33; 1987 a. 111; 1987 a. 391 ss. 37m, 41g, 41r; 1989 a. 56 s. 259.

**7.36 Chief inspector's duties.** Subject to the supervision of the municipal clerk or executive director of the board of election commissioners, the chief inspector shall direct the conduct of activities assigned to the inspectors at the polling place. The chief inspector shall refer any question as to the proper procedure to be employed in carrying out the inspectors' duties to the municipal clerk or executive director.

*History:* 1985 a. 304.

**7.37 Inspectors' duties.** (1) **ADJOURN TO ANOTHER LOCATION.** Whenever it becomes impossible or inconvenient to hold an election at the designated location, the inspectors, after assembling at or as near the designated polling place as practicable and before receiving any votes, may adjourn to the nearest convenient place for holding the election. The inspectors shall make a proclamation of the move and a law enforcement officer or other proper person designated by the

municipal clerk shall be stationed at or as near as possible to the place where the adjournment was made, to notify all electors of the place to which the election adjourned. At the new location the inspectors shall immediately proceed with the election.

(2) **PRESERVE ORDER.** The inspectors shall possess full authority to maintain order and to enforce obedience to their lawful commands during the election and the canvass of the votes. They shall permit only one person in a voting booth at a time and shall prevent any person from taking notice of how another person has voted, except when assistance is given under s. 6.82. They shall enforce s. 5.35 (5) and prevent electioneering from taking place in violation of s. 12.03. If any person refuses to obey the lawful commands of an inspector, or is disorderly in the presence or hearing of the inspectors, interrupts or disturbs the proceedings, they may order any law enforcement officer to remove the person from the voting area or to take the person into custody.

(3) **CHECK BALLOT BOXES.** Immediately before the proclamation that the polls are open the election inspectors shall open each ballot box in the presence of the people assembled there, turn the boxes upside down so as to empty them of everything that may be inside and then lock them. The ballot boxes shall remain locked and shall not be reopened until the polls close for the purpose of counting the ballots therein.

(4) **BALLOTING PROCEDURE.** At polling places which utilize paper ballots or electronic voting systems in which ballots are distributed to electors, 2 inspectors shall be assigned to take charge of the official ballots. They shall write their initials on the back of each ballot and deliver to each elector as he or she enters the voting booth one ballot properly endorsed by each of them. Where paper ballots are used, the inspectors shall fold each ballot in the proper manner to be deposited before delivering it to the elector. If asked, inspectors may instruct any elector as to the proper manner of marking or punching the ballot, but they may not give advice, suggestions, express any preferences or make any requests as to the person for whom, the question on which or the ballot on which the elector shall vote.

(5) **IMPROPER CONDUCT.** Any election official who intentionally fails to properly indorse a ballot or who intentionally gives an elector a ballot not properly indorsed shall be removed as an election official.

(6) **ATTACH STICKERS.** Whenever a vacancy occurs in a nomination after the ballots have been printed and stickers are provided under s. 7.38 (3) or 8.35 (2), the inspectors shall, at the direction of the municipal clerk, properly apply the stickers to the official ballots before endorsement.

(7) **REGISTRATION AND POLL LISTS.** Two inspectors shall be assigned to have charge of the registration or poll lists at each election.

(8) **ELECTRONIC VOTING SYSTEMS.** Prior to the opening of the polling place, wherever electronic voting systems employing voting devices are used, the inspectors shall place the voting devices in position for voting and examine them to see that they are in proper working order and that they have the correct ballot labels by comparing them with the sample ballots.

(9) **POSTING SAMPLE BALLOTS.** Two sample ballots sent by the municipal clerk shall be posted by the inspectors near the entrance to the polling place for public inspection throughout the day.

(10) **CHALLENGED ELECTORS.** If any person is challenged for cause, the inspectors shall proceed under ss. 6.92 and 6.925 and with the aid of other provisions of ch. 6 as appear applicable, shall resolve the challenge.

(11) **SPOILED BALLOTS.** Any spoiled ballot returned to an inspector under s. 6.80 (2) (c) shall be immediately destroyed by one of the inspectors.

(12) **CANVASSERS.** The election inspectors shall constitute the board of canvassers of their polling place and in that capacity shall perform the duties under s. 7.51, except as otherwise designated by the municipal clerk under ss. 5.85 and 5.86.

*History:* 1971 c. 304 s. 29 (2); 1975 c. 85; 1977 c. 427; 1979 c. 260, 311, 355; 1981 c. 391; 1983 a. 484 ss. 68, 69, 71 to 73, 172 (3); 1985 a. 304; 1989 a. 192.

**7.38 Political party election functions.** (1) **OBSERVERS.** Each recognized political party may appoint observers at polling places as provided in s. 7.39.

(3) **VACANCIES AFTER NOMINATION.** (a) Except as provided in par. (d), after the death of a candidate nominated for a partisan office, either in a primary or when no primary is required under s. 8.50 (3) (b), the vacancy may be filled by the candidate's political party. In the case of county offices, the vacancy shall be filled by the chairman of the county committee. If no county committee exists, the vacancy shall be filled by the chairman of the state committee. For other offices, the vacancy shall be filled by the chairman of the state committee. The appropriate chairman shall file with the official or agency with whom nomination papers are filed for the office a certificate signed, certified and sworn to the same as an original nomination paper. The certificate shall state the cause of the vacancy, the name of the new nominee and the office for which the nomination is made. A political party may not nominate a candidate for an office for which no person representing that party has filed nomination papers and a declaration of candidacy.

(b) The certificate shall be filed within 4 days of the date of notification of the vacancy and shall have the same effect as original nomination papers.

(c) If the vacancy occurs after ballots have been printed in any county or municipality, the chairman of the committee filling the vacancy shall supply the municipal clerk with stickers containing the name of the new nominee only. The stickers may be no larger than the space provided on the ballot for the original candidate's name and office.

(d) There can be no vacancy in nomination prior to a party primary, except when no primary is required under s. 8.50 (3) (b).

(e) In the event of failure to file the name of a current state chairman, as required under s. 8.17 (12), the board may not recognize the state committee for the purpose of filling vacancies under par. (a).

*History:* 1971 c. 304 s. 29 (2); 1973 c. 334; 1975 c. 93, 200; 1977 c. 340, 427; 1979 c. 311; 1983 a. 484; 1985 a. 304; 1987 a. 391.

**7.39 Observers.** (1) **PARTY OBSERVERS.** For every polling place, each recognized political party may appoint 2 party observers and an alternate for each, as observers of the election proceedings. The appointments may be made by the county committee of the party that nominated the candidates. Party appointments shall be filled by the chairman of the party. Except at primary elections, observers appointed by a party shall serve as observers for all candidates appearing on the ballot or in the column of that party.

(2) **OTHER OBSERVERS.** (a) Candidates at partisan primary elections, independent candidates at partisan elections and candidates at nonpartisan elections may similarly appoint one observer for each polling place to represent them.

(b) Groups registered under s. 11.05 (1) may similarly appoint one observer for each polling place to represent the group at any referendum election.

(c) The board may promulgate rules prescribing procedures and standards whereby nonpartisan and bipartisan organizations of electors not affiliated with any candidate may be authorized to appoint observers under this section.

(2m) **CANDIDATE DISQUALIFICATION.** No candidate at an election may serve as an observer of the election proceedings at that election.

(3) **FILING OF APPOINTMENT.** The person making each appointment shall file a signed letter of appointment with the municipal clerk or board of election commissioners of the municipality in which the appointee is designated to serve at least 4 days before the election. The file copy shall specify the name and residence of the appointee, the polling place for which appointed, and the name of an alternate appointee, if any, in case the original appointee is absent.

(4) **PERMITS.** Upon filing, the clerk shall issue permits to the appointees giving authority to be present during the election and counting of the ballots. Upon request, the clerk shall issue a permit to the alternate appointee when an original appointee fails to serve for all or a part of the day.

(5) **POLL POSITIONS.** Observers of election proceedings, as a matter of right, shall be so positioned at the polls by the chief inspector as to reasonably be enabled to closely observe proceedings and hear instructions given to voters.

*History:* 1987 a. 391 ss. 42 to 45, 47; 1989 a. 192, 359.

**7.40 Sample ballots.** Any individual, committee or candidate, at their own expense, subject to limitations upon contributions and disbursements under ch. 11, may print a supply of sample ballots, provided they bear on their face the information required by s. 11.30 (2) and they contain all the names shown on the official ballot.

*History:* 1987 a. 391 s. 46m.

**7.41 Public's right to access.** (1) Any member of the public may be present at any polling place for the purpose of observation of an election, except a candidate at that election.

(2) The chief inspector may restrict the location of any individual exercising the right under sub. (1) to certain areas within a polling place. The chief inspector shall clearly designate such an area as an observation area. Designated observation areas shall be so positioned to permit any authorized individual to readily observe all public aspects of the voting process.

(3) The chief inspector may order the removal of any individual exercising the right under sub. (1) if that individual commits an overt act which:

- (a) Disrupts the operation of the polling place; or
- (b) Violates s. 12.03 (2).

*History:* 1989 a. 192.

#### CANVASS OF RETURNS AND CERTIFICATION

**7.50 Elector Intent.** (1) **REQUIREMENTS AND RESTRICTIONS.**

(a) Except as provided in s. 7.15 (6), only ballots provided by the person authorized to have them printed shall be cast and counted in any election.

(b) When an elector casts more votes for any office or measure than he or she is entitled to cast at an election, all the elector's votes for that office or measure are invalid and the elector is deemed to have voted for none of them, except as provided in par. (c) and sub. (2) (d). If an elector casts less votes for any office or measure than he or she is entitled to cast at an election, all votes cast by the elector shall be counted but no vote shall be counted more than once.

(c) If an elector casts more than one vote for the same candidate for the same office, the first vote is valid and the remaining votes are invalid.

(d) Whenever an electronic voting system is used at a polling place in a partisan primary, and the same ballot is utilized to cast votes for candidates of more than one recognized political party or candidates of a party and independent candidates, if an elector designates a preference for a party or for independent candidates, only votes cast within that preference category may be counted. If an elector does not designate a preference and makes a mark or punch or affixes a sticker opposite candidates of more than one recognized political party or opposite a candidate in the independent candidates' column and a candidate of a recognized political party, no votes cast by the elector for any candidate for partisan office are valid. Votes for other candidates and votes on ballot questions, if any, shall be counted if otherwise valid.

(2) **ASCERTAINMENT OF INTENT.** All ballots cast at an election which bear the initials of 2 inspectors shall be counted for the person or referendum question for whom or for which they were intended, so far as the electors' intent can be ascertained from the ballots notwithstanding informality or failure to fully comply with other provisions of chs. 5 to 12. To determine intent:

(a) At a general election, if the elector places a mark, symbol or sticker or punches a hole under a party designation at the head of a column in or near the space indicated for that purpose, it is a vote for all the candidates whose names appear in the marked or punched column except as otherwise provided in this paragraph. If a name is stricken, it is not a vote for that candidate. If a name is written in, it is a vote for the write-in candidate. If a sticker is attached it is a vote for the candidate whose name appears on the sticker. If in some other column there is a mark or punch in the square to the right of a specific candidate's name or at the place designated on the ballot for marking or punching a vote for a specific candidate for the same office, it is a vote for that specific candidate and no vote may be counted for the candidate for the same office in the column marked or punched for a straight party vote.

(b) A ballot cast without any marks, stickers or punches may not be counted. A ballot without a mark or punch at the top of a party column may be counted only for persons for whom marks or punches are applicable.

(c) If an elector marks a ballot with a cross (X), or any other marks, as I, A, V, O, /, ✓, +, within the square to the right of a candidate's name, or any place within the space in which the name appears, indicating an intent to vote for that candidate, it is a vote for the candidate whose name it is opposite.

(cm) Any apparent erasure of a mark next to the name of a candidate may not be counted as a vote for that candidate if the elector makes another mark next to the name of one or more different candidates for the same office and counting of the mark would result in an excess number of votes cast for the office.

(d) If an elector writes a person's name in the proper space for write-in candidates for an office, it is a vote for the person written in for the office indicated, regardless of whether the elector strikes the names appearing in the same column for the same office, or places a mark or punch by the same or any other name for the same office, or omits placing a mark or punch to the right of the name written in. If an elector is permitted to vote for more than one candidate for the same office in an election and casts one or more write-in votes which, when added to the votes cast for candidates whose names appear on the ballot, exceed the number of votes authorized to be cast for the office, the write-in votes shall be counted and the votes for candidates whose names appear on the ballot may not be counted, unless there are more write-in

votes than votes authorized to be cast, in which case no votes may be counted for the office.

(e) No write-in vote shall be regarded as defective due to misspelling a candidate's name, or by abbreviation, addition, omission or use of a wrong initial in the name. Every vote shall be counted for the candidate for whom it was intended, if the elector's intent can be ascertained from the ballot itself.

(f) If a sticker applied to the ballot lists a candidate's name and the office which the candidate seeks, it is a vote for the name appearing on the sticker even if the sticker does not contain a box or the elector omits the cross to the right of the name, or makes a cross in another column for a candidate for the same office. If a sticker is pasted over the name of any candidate printed on the ballot, it is a vote for the candidate shown on the sticker but no vote may be counted for the candidate over which the sticker is pasted. Only stickers appearing on the face of the ballot may be counted.

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

(h) In the general election or a partisan special election, a write-in vote may not be counted for any candidate if the candidate's name appears on the official ballot, except a write-in vote cast for the same office under which the candidate's name appears if no other similar name appears on the ballot for any office.

(hm) In a nonpartisan primary or election using voting machines if an elector is permitted to vote for more than one candidate for the same office, a write-in vote may not be counted if the vote is cast for a candidate whose name appears on the ballot for that office.

(i) The failure by an elector to write in the name of a candidate for the office of vice president of the United States on the general election ballot does not invalidate the elector's vote for any candidate whose name is written in for the office of president of the United States. The failure of an elector to write in the name of a candidate for the office of president of the United States on the general election ballot invalidates the elector's vote for any candidate whose name is written in for the office of vice president of the United States. The failure of an elector to write in the names of candidates for the offices of governor and lieutenant governor on the general election ballot invalidates the elector's vote for any candidate whose name is written in for the office of governor or lieutenant governor alone.

(j) If an elector writes in or pastes a sticker in the position for an office, it is a vote for that office, even if the elector writes in or the sticker indicates the name of a different office.

*History:* 1977 c. 107, 272, 427; 1979 c. 89, 311, 328; 1981 c. 377 ss. 20, 22; 1981 c. 391; 1983 a. 183; 1983 a. 484 ss. 75, 172 (3); 1985 a. 304; 1987 a. 391; 1989 a. 192, 359; 1991 a. 316.

**7.51 Local board of canvassers. (1) CANVASS PROCEDURE.** Immediately after the polls close the inspectors shall proceed to canvass publicly all votes received at the polling place. In any municipality where an electronic voting system is used, the municipal governing body or board of election commissioners may provide or authorize the municipal clerk or executive director of the board of election commissioners to provide for the adjournment of the canvass to one or more central counting locations for specified polling places in the manner prescribed in subch. III of ch. 5. No central counting location may be used to count votes at a polling place where an electronic voting system is not employed. The canvass, whether conducted at the polling place or at the central counting location, shall continue without adjournment until the canvass is completed and the return statements are made.

(2) **TALLYING.** (a) The inspectors shall first compare the poll or registration lists, correcting any mistakes until the poll or registration lists agree. The chief inspector and the inspectors who are responsible for recording electors under s. 6.79 shall verify the correctness of the poll or registration lists after the polls close by each signing their name thereto. Where ballots are distributed to electors, the inspectors shall then open the ballot box and remove and count the number of ballots therein without examination except as is necessary to ascertain that each is a single ballot. If 2 or more ballots are folded together so as to appear as a single ballot, the inspectors shall lay them aside until the count is completed; and if, after a comparison of the count and the appearance of the ballots it appears to a majority of the inspectors that the ballots folded together were voted by the same person they may not be counted but the inspectors shall mark them as to the reason for removal, set them aside and carefully preserve them. The inspectors shall then proceed under par. (b).

(b) When during the counting of the ballots cast at an election a majority of the inspectors find that a ballot is so defective that they cannot determine with reasonable certainty for whom it was cast, they shall so mark the ballot and preserve it. The inspectors shall not count the vote cast on the ballot for any office for which they determine the ballot to be defective.

(c) Whenever the number of ballots exceeds the number of voting electors as indicated on the poll or registration list, the inspectors shall place all ballots face up to check for blank ballots. In this paragraph, "blank ballot" means a ballot on which no votes are cast for any office or question. The inspectors shall mark, lay aside and preserve any blank ballots. If the number of ballots still exceeds the number of voting electors, the inspectors shall place all ballots face down and proceed to check for the initials. The inspectors shall mark, lay aside and preserve any ballot not bearing the initials of 2 inspectors or any absentee ballot not bearing the initials of the municipal clerk. During the count the inspectors shall count those ballots cast by challenged electors the same as the other ballots.

(d) The inspectors shall keep a written statement, in duplicate, of the number of ballots set aside and the number of defective ballots and challenged ballots. The statement shall contain a record of the reasons for setting aside each ballot and the reasons why each defective or challenged ballot is defective or challenged. The inspectors shall certify that the statement is correct, sign it, and attach it to the tally sheets.

(e) If, after any ballots have been laid aside, the number of ballots still exceeds the total number of electors recorded on the registration or poll list, the inspectors shall separate the absentee ballots from the other ballots. If there is an excess number of absentee ballots, the inspectors shall place the absentee ballots in the ballot box and one of the inspectors shall publicly and without examination draw therefrom by chance the number of ballots equal to the excess number of absentee ballots. If there is an excess number of other ballots, the inspectors shall place those ballots in the ballot box and one of the inspectors shall publicly and without examination draw therefrom by chance the number of ballots equal to the excess number of those ballots. All ballots so removed may not be counted but shall be specially marked as having been removed by the inspectors on original canvass due to an excess number of ballots, set aside and preserved. When the number of ballots and total shown on the poll or registration list agree, the inspectors shall return all ballots to be counted to the ballot box and shall turn the ballot box in such manner as to thoroughly mix the ballots. The inspectors shall then open, count and record the number of votes. When the ballots

are counted, the inspectors shall separate them into piles for ballots similarly voted. Objections may be made to placement of ballots in the piles at the time the separation is made.

(f) If corrected ballots are distributed under s. 5.72 (3) or 7.10 (3), only the votes cast on the corrected ballots may be counted for any office or referendum in which the original ballots differ from the corrected ballots.

(g) Immediately after the polls close, where voting machines are used, the inspectors shall open the registering or recording compartments or remove the record of the votes cast and shall canvass, record, announce and return on the tally sheets and certificates furnished. In recording the votes registered on any counter which, before the opening of the polls, did not register 000, the inspectors shall upon the return sheets subtract the number registered before the polls opened from the number registered when the polls closed. The difference between the 2 numbers is the correct vote for the candidate whose name was represented by the counter, except if the number registered on the counter when the polls closed is smaller than the number registered thereon when the polls opened, the number 1,000 shall be added to the number registered when the polls closed, before the subtraction is made.

(h) Where a voting machine is used which produces a written record of the total votes cast for each candidate or referendum, the written record shall be presumed correct without reference to the total shown on the recorder in making its original statement, unless an error in the record is clearly apparent or unless a candidate at the election, or in the canvass of a referendum an elector who voted at the referendum, requests that the machine be viewed.

(3) **SECURING THE BALLOTS.** (a) The inspectors shall place together all ballots counted by them which relate to any national, state or county office or any state, county or vocational district referendum and secure them together so that they cannot be untied or tampered with without breaking the seal. The secured ballots together with any ballots marked "Defective" shall then be secured by the inspectors in the ballot container in such a manner that the container cannot be opened without breaking the seals or locks, or destroying the container. The inspectors shall deliver the ballots to the municipal clerk in the container.

(b) For ballots which relate only to municipal or school district offices or referenda, the inspectors, in lieu of par. (a), after counting the ballots shall return them to the proper ballot boxes, lock the boxes, paste paper over the slots, sign their names to the paper and deliver them and the keys therefor to the municipal or school district clerk. The clerk shall retain the ballots until destruction is authorized under s. 7.23.

(c) Where voting machines are used, as soon as the count is complete and fully recorded, the inspectors shall seal, close and lock the machine, or remove the record so it cannot be voted on or tampered with. They shall then proceed to separately canvass and return any paper ballots voted under s. 5.40 (3) to (6). The inspectors shall count the challenged ballots the same as other ballots. Upon completion of the canvass, the inspectors shall return the paper ballots in a separate envelope marked "Paper Ballots". The inspectors shall place the record of write-in votes cast on the machines in an envelope marked "Write-In Votes". The inspectors shall return the paper ballots and write-in votes along with any printed voting record produced by the voting machines to the clerk under par. (a) or (b) or to the board of election commissioners. The inspectors shall place the envelopes and printed voting record in a properly sealed bag or container, indicating the ward or wards and county.

(d) All absentee certificate-affidavit envelopes which have been opened shall be returned by the inspectors to the municipal clerk in a securely sealed carrier envelope which is clearly marked "used absentee certificate-affidavit envelopes". The envelopes shall be signed by the chief inspector and 2 other inspectors. Except when the ballots are used in a municipal or school district election only, the municipal clerk shall transmit the used envelopes to the county clerk.

(4) **ANNOUNCE AND REPORT.** (a) The tally sheets shall state the total number of votes cast for each office and for each individual receiving votes for that office, whether or not the individual's name appears on the ballot, and shall state the vote for and against each proposition voted on. Upon completion of the tally sheets, the inspectors shall immediately complete inspectors' statements in duplicate. The inspectors shall state the excess by which the number of ballots exceeds the number of electors voting as shown by the poll or registration list, if any, and shall state the number of the last elector as shown by the registration or poll lists. At least 3 inspectors, including the chief inspector and at least one inspector representing each political party, shall then certify to the correctness of the statements and tally sheets and sign their names. All other election officials assisting with the tally shall also certify to the correctness of the tally sheets. When the tally is complete, the inspectors shall publicly announce the results from the statements.

(b) The chief inspector, or one of the inspectors appointed by him or her, immediately after the votes are tabulated or counted at each election, shall report the returns of the election to the municipal clerk or to the school district clerk for school district elections, except in 1st class cities. The clerk shall then make the returns public.

(5) **RETURNS.** The inspectors shall make full and accurate return of the votes cast for each candidate and proposition on tally sheet blanks provided by the municipal clerk for the purpose. Each tally sheet shall record the returns for each office or referendum by ward, unless combined returns are authorized in accordance with s. 5.15 (6) (b) in which case the tally sheet shall record the returns for each group of combined wards. After recording the votes, the inspectors shall seal in a carrier envelope outside the ballot bag or container one inspectors' statement under sub. (4) (a), one tally sheet and one poll or registration list for delivery to the county clerk, unless the election relates only to municipal or school district offices or referenda. The inspectors shall also similarly seal one inspectors' statement, one tally sheet and one poll or registration list for delivery to the municipal clerk. For school district elections, except in 1st class cities, the inspectors shall similarly seal one inspectors' statement, one tally sheet and one poll or registration list for delivery to the school district clerk. The inspectors shall immediately deliver all ballots, statements, tally sheets, lists and envelopes to the municipal clerk. The municipal clerk shall arrange for delivery of all ballots, statements, tally sheets, lists and envelopes relating to a school district election to the school district clerk. The municipal clerk shall deliver the ballots, statements, tally sheets, lists and envelopes for his or her municipality relating to any county, vocational district, state or national election to the county clerk by 2 p.m. on the day following each such election. The person delivering the returns shall be paid out of the municipal treasury. Each clerk receiving ballots, statements, tally sheets or envelopes shall retain them until destruction is authorized under s. 7.23 (1).

(6) **ELECTRONIC VOTING SYSTEMS.** The procedure for canvassing of votes cast at polling places utilizing an electronic voting system in which ballots are distributed to electors shall follow the procedure for canvassing paper ballots insofar as

applicable, and the procedure for canvassing of votes cast at polling places utilizing an electronic voting machine shall follow the procedure for canvassing of mechanical voting machines insofar as applicable, except as otherwise provided in ss. 5.85 to 5.89.

**History:** 1971 c. 304 s. 29 (2); 1977 c. 29; 1977 c. 394 s. 53; 1977 c. 427, 447; 1979 c. 260 ss. 36, 48; 1979 c. 311; 1981 c. 4, 391; 1983 a. 183, 442; 1983 a. 484 ss. 76, 77, 172 (3); 1983 a. 538; 1985 a. 120, 304; 1987 a. 391; 1989 a. 56, 192.

**7.53 Municipal canvass.** (1) MUNICIPALITIES WITH ONE POLLING PLACE. Where the municipality constitutes one ward or combines all wards to utilize a single polling place under s. 5.15 (6) (b), the canvass shall be conducted publicly under s. 7.51 and the inspectors shall act as the municipal board of canvassers. Upon completion of the canvass and ascertainment of the results by the inspectors, the clerk shall publicly read the names of the persons voted for and the number of votes for each person for each municipal office, the names of the persons declared by the inspectors to have won nomination or election to each municipal office and the number of votes cast for and against each municipal referendum question.

(2) MUNICIPALITIES WITH 2 OR MORE WARDS. (a) Except as provided in par. (c), the municipal board of canvassers for municipal elections in each municipality utilizing more than one polling place shall be composed of the municipal clerk and 2 other qualified electors of the municipality appointed by the clerk. The members of the board of canvassers shall serve for 2-year terms commencing on January 1 of each odd-numbered year, except that any member who is appointed to fill a permanent vacancy shall serve for the unexpired term of the original appointee. If the municipal clerk's office is vacant, if the clerk cannot perform his or her duties or if the clerk is a candidate at an election being canvassed, the mayor, president or board chairperson of the municipality shall designate another qualified elector of the municipality to serve in lieu of the clerk for that election. If any other member of the board of canvassers is a candidate at the election being canvassed, the clerk shall appoint another qualified elector of the municipality to temporarily fill the vacancy.

(c) In cities of more than 500,000 population, the board of election commissioners shall act as the board of canvassers.

(cm) If one or more temporary vacancies on the municipal board of canvassers reduces the number of members to less than 3, the municipal clerk shall appoint a member to fill each vacancy, except in cities of more than 500,000 population. In cities of more than 500,000 population, the executive director of the board of election commissioners shall serve as a member of the board of canvassers to fill a temporary vacancy on that board.

(d) The municipal board of canvassers shall publicly canvass the returns of every municipal election. The canvass shall begin within 24 hours after the polls close. At the spring election, the board of canvassers shall publicly declare the results on or before the 2nd Tuesday in April. The board of canvassers shall prepare a statement showing the results of each election for any municipal office and each municipal referendum. After each primary for municipal offices, the board of canvassers shall prepare a statement certifying the names of those persons who have won nomination to office. After each other election for a municipal office and each municipal referendum, the board of canvassers shall prepare a determination showing the names of the persons who are elected to each municipal office and the results of each municipal referendum. The board of canvassers shall file each statement and determination in the office of the municipal clerk or board of election commissioners.

(3) SCHOOL DISTRICT ELECTIONS. (a) In a common, union high or unified school district, the school district clerk shall appoint 2 qualified electors of the school district prior to the date of the election being canvassed who shall, with the school district clerk, constitute the school district board of canvassers. If the school district clerk is a candidate at the election being canvassed, the other 2 members of the board of canvassers shall designate a 3rd member to serve in lieu of the clerk for that election. The canvass shall begin as soon as possible after receipt of the returns, and shall continue, without adjournment, until completed. The board of canvassers may return defective returns to the municipal board of canvassers in the manner provided in s. 7.60 (3). The board of canvassers shall prepare a written statement showing the numbers of votes cast for each person for each office and for and against each question and shall prepare a determination showing the names of the persons who are elected to the school board and the results of any school district referendum. Following each primary election, the board of canvassers shall prepare a statement certifying the names of the persons who have won nomination to the school board. Each statement and determination shall be attested by each of the canvassers. The board of canvassers shall file each statement and determination in the school district office. The school district clerk shall certify nominations after each primary and issue certificates of election to persons who are elected to the school board after each election in the manner provided in sub. (4).

(b) In a 1st class city school district, the municipal board of canvassers or election commissioners shall determine the results of school district elections and referenda and shall file a written statement and determination of the results for each election and referendum in the office of the city clerk or board of election commissioners. The board of election commissioners or city clerk shall certify nominations after each primary and issue certificates of election to persons who are elected to the board of school directors after each election in the manner provided in sub. (4).

(4) CERTIFICATE OF ELECTION. As soon as the deadline for filing a petition for a recount has passed, the municipal clerk shall issue promptly a certificate of election to each person elected to any municipal office. When a valid petition for a recount is filed, the municipal clerk shall not issue the certificate of election for the office in question until the recount has been completed and the time allowed for filing an appeal has passed, or if appealed until the appeal is decided.

**History:** 1971 c. 304 s. 29 (2); 1977 c. 290, 427, 447; 1979 c. 260; 1981 c. 314; 1983 a. 183, 484; 1985 a. 225; 1985 a. 304 ss. 93, 155; 1987 a. 391; 1989 a. 192.

**7.54 Contested elections.** In all contested election cases, the contesting parties have the right to have the ballots opened and to have all errors of the inspectors, either in counting or refusing to count any ballot, corrected by the board of canvassers or court deciding the contest. The ballots and related materials may be opened only in open session of the board of canvassers or in open court and in the presence of the official having custody of them.

**History:** 1983 a. 484.

**7.60 County canvass.** (1) KEEP OFFICE OPEN. On election night the county clerk shall keep the clerk's office open to receive reports from the ward inspectors and shall post all returns.

(2) COUNTY BOARD OF CANVASSERS. The county clerk and 2 qualified electors of the county appointed by the clerk constitute the county board of canvassers. The members of the board of canvassers shall serve for 2-year terms commencing on January 1 of each odd-numbered year, except that any

member who is appointed to fill a permanent vacancy shall serve for the unexpired term of the original appointee. One member of the board of canvassers shall belong to a political party other than the clerk's. If the county clerk's office is vacant, or if the clerk cannot perform his or her duties, the county executive or, if there is no county executive, the chairperson of the county board of supervisors shall designate another qualified elector of the county to perform the clerk's duties. If a member other than the clerk cannot perform his or her duties, the clerk shall appoint another member to serve. No person may serve on the county board of canvassers if the person is a candidate for an office to be canvassed by that board. If lists of candidates for the county board of canvassers are submitted to the county clerk by political party county committees, the lists shall consist of at least 3 names and the clerk shall choose the board members from the lists. Where there is a county board of election commissioners, it shall serve as the board of canvassers.

(3) **CANVASSING.** Not later than 9 a.m. on the Thursday after each election the county board of canvassers shall open and publicly examine the returns. If returns have not been received from any election district or ward in the county, they shall dispatch a messenger and the person having them shall deliver the returns to the messenger. If, on examination, any of the returns received are so informal or defective that the board cannot intelligently canvass them, they shall dispatch a messenger to deliver the returns back to the municipal board of canvassers with written specifications of the informalities or defects and command them to immediately complete the returns or remedy the defects in the manner required and deliver them to the messenger. Every messenger shall safely keep all returns, show them to no one but the municipal clerk and board of canvassers and deliver them to the county clerk with all possible dispatch. To acquire the necessary full returns and remedy any informalities or defects the county board of canvassers may adjourn not longer than one day at a time nor more than 2 days in all.

(4) **STATEMENTS AND DETERMINATIONS.** (a) The board of canvassers shall make separate duplicate statements showing the numbers of votes cast for the offices of president and vice president; state officials; U.S. senators and representatives in congress; state legislators; justice; court of appeals judge; circuit judges; district attorneys; municipal judges, if they are elected under s. 755.01 (4); and metropolitan sewerage commissioners, if the commissioners are elected under s. 66.23 (11) (am). For partisan candidates, the statements shall include the political party or principle designation, if any, next to the name of each candidate. The board of canvassers shall also prepare a statement showing the results of any county, vocational district or statewide referendum. Each statement shall state the total number of votes cast in the county for each office; the names of all persons for whom the votes were cast, as returned; the number of votes cast for each person; and the number of votes cast for and against any question submitted at a referendum. The board of canvassers shall use one copy of the statement to report to the elections board or vocational district board and shall file the other statement in the office of the county clerk or board of election commissioners.

(b) The board of canvassers shall then prepare a written determination, in duplicate where necessary, giving the names of the persons elected to any county office. The board of canvassers shall likewise prepare a written determination showing the results of any county referendum. Following any primary election, the board of canvassers shall prepare a statement certifying the names of all persons who have won nomination to any county office. The board of canvassers

shall file all statements and determinations in the office of the county clerk or board of election commissioners.

(c) In preparing the statements and determinations, the board of canvassers shall carefully review the tally sheets and inspectors' statement. The board of canvassers may omit the names of individuals whose names do not appear on the ballot and who receive a comparatively small number of votes. The board of canvassers shall designate votes received by such individuals as scattering votes. The board of canvassers shall append to each statement and determination a tabulation of the votes cast at each election district, ward or combination of wards authorized under s. 5.15 (6) (b) in the county for each office and each individual, whether the votes are canvassed or not, as well as the total canvassed votes cast for each individual and each office, except where scattering votes are designated. If any votes are rejected, the board of canvassers shall specify the reasons therefor.

(d) Each statement and determination issued under pars. (a) and (b) shall be certified as correct and attested to by each canvasser's signature.

(5) **REPORTING.** Immediately following the canvass the county clerk shall deliver or send to the elections board, by 1st class mail, a certified copy of each statement of the county board of canvassers for president and vice president; state officials; senators and representatives in congress; state legislators; justice; court of appeals judge; circuit judge; district attorney; municipal judge, if elected under s. 755.01 (4); and metropolitan sewerage commissioners, if the commissioners are elected under s. 66.23 (11) (am). The statement shall record the returns for each office or referendum by ward, unless combined returns are authorized under s. 5.15 (6) (b) in which case the statement shall record the returns for each group of combined wards. Following primaries the county clerk shall enclose on blanks prescribed by the elections board the names, party or principle designation, if any, and number of votes received by each candidate recorded in the same manner. The county clerk shall deliver or transmit the certified statement to the elections board no later than 7 days after each primary and no later than 10 days after any other election. The board of canvassers shall deliver or transmit a certified copy of each statement for any vocational district referendum to the secretary of the district board of vocational, technical and adult education. If the board of canvassers becomes aware of a material mistake in the canvass of an election for state or national office or a statewide or vocational district referendum prior to the close of business on the day the elections board receives returns from the last county board of canvassers with respect to that canvass, the board of canvassers may petition the elections board to reopen and correct the canvass. The elections board shall direct the canvass to be reopened and corrected if it determines that the public interest so requires. If the elections board directs the canvass to be reopened, the board of canvassers shall reconvene and transmit a certified corrected copy of the canvass statement to the elections board or secretary of the district board of vocational, technical and adult education.

(6) **CERTIFICATE OF ELECTION.** Immediately after expiration of the time allowed to file a petition for a recount the county clerk shall issue a certificate of election to each person who is elected to any county office and to each person who is elected to the office of party committeeman or committeewoman. The certificate notice shall state the amount of the required official bond, if any. When a petition for a recount is filed, the county clerk shall not issue the certificate of election for the office in question until the recount has been completed and the time allowed for filing an appeal has passed, or if appealed until the appeal is decided.

(7) **OFFICIAL CANVASS RECORD.** After the certificates of election have been prepared under sub. (6), the county clerk shall retain one copy of the official canvass for county offices and referenda in his or her office for public inspection.

*History:* 1971 c. 304 s. 29 (2); 1973 c. 334 ss. 14, 57; 1975 c. 93, 199; 1977 c. 187, 427, 449; 1979 c. 221, 260, 355; 1981 c. 4; 1983 a. 442, 484, 538; 1985 a. 89, 304, 332; 1987 a. 391; 1989 a. 31; 1991 a. 316.

**7.70 State canvass. (1) RECORDING AND PRESERVING RETURNS.** (a) Upon receipt of the certified statements from the county clerks, the elections board shall record the election results by counties and file and carefully preserve the statements.

(b) If any county clerk fails or neglects to forward any statements, the elections board may require the clerk to do so immediately and if not received by the 8th day after a primary, or by the 11th day after any other election, the elections board may dispatch a special messenger to obtain them. Whenever it appears upon the face of any statement that an error has been made in reporting or computing, the elections board may return it to the county clerk for correction.

(3) **CANVASSING.** (a) The board of state canvassers shall meet publicly at the state capitol or at the office of the elections board on or before the 2nd Tuesday following a spring primary, the 15th day of May following a spring election, the 4th Tuesday in September following a September primary, the first day of December following a general election, the 2nd Thursday following a special primary, or within 18 days after any special election to canvass the returns and determine the election results.

(b) The board of state canvassers shall examine the certified statements of the county boards of canvassers. If it appears that any material mistake has been made in the computation of votes, or any county board of canvassers failed to canvass the votes or omitted votes from any ward or election district in the county, the board of state canvassers may dispatch a messenger to the county clerk with written instructions to certify the facts concerning the mistake or the reason why the votes were not canvassed. A clerk to whom such instructions are delivered shall immediately make a true and full answer, sign it, affix the county seal and deliver it to the messenger. The messenger shall deliver it with all possible dispatch to the elections board.

(c) The board of state canvassers may adjourn as necessary but not more than 10 days in all.

(d) When the certified statements and returns are received, the board of state canvassers shall proceed to examine and make a statement of the total number of votes cast at any election for the offices involved in the election for president and vice president; a statement for each of the offices of governor, lieutenant governor, if a primary, and a joint statement for the offices of governor and lieutenant governor, if a general election; a statement for each of the offices of secretary of state, state treasurer, attorney general, and state superintendent; for U.S. senator; representative in congress for each congressional district; the state legislature; justice; court of appeals judge; circuit judge; district attorney; municipal judge, if he or she is elected under s. 755.01 (4); metropolitan sewerage commission, if the commissioners are elected under s. 66.23 (11) (am); and for any referenda questions submitted by the legislature.

(e) The board of state canvassers shall make a special statement to the elections board as soon as possible after the canvass certifying:

1. After each September primary, the name of each candidate not defeated in the primary who receives at least 6% of the total vote cast for all candidates on all ballots at the

primary for each separate state office except district attorney, and the percentage of the total vote received by that candidate. Such percentage shall be calculated within each district in the case of legislative candidates.

2. After the general election, the name of each political party which receives at least one percent of the vote cast in such election for any statewide office.

(f) The statements shall show the persons' names receiving votes, and any referenda questions; the whole number of votes given to each; and an individual listing by the districts or counties in which they were given. The names of persons not regularly nominated who received only a comparatively small number of votes may be omitted and their votes designated as scattering votes.

(g) Following each primary election, the board of state canvassers shall prepare a statement certifying the results of the primary, which shall indicate the names of the persons who have won nomination to any state or national office. Following each other election, the board of state canvassers shall prepare a statement certifying the results of the election and shall attach to the statement a certificate of determination which shall indicate the names of persons who have been elected to any state or national office. The board of state canvassers shall likewise prepare a statement and certificate for any statewide referendum. The board of state canvassers shall deliver each statement and determination to the elections board.

(h) Whenever a referendum question submitted to a vote of the people is approved, the elections board shall record it and the secretary of state shall have the record bound in the volume containing the original enrolled laws passed at the next succeeding session of the legislature and have the record published with the laws thereof. Whenever a constitutional amendment or other statewide validating or ratifying referendum question which is approved by the people does not expressly state the date of effectiveness, it shall become effective at the time the board of state canvassers certifies that the amendment or referendum question is approved.

(i) The board of state canvassers shall canvass only regular returns made by the county board of canvassers and shall not count or canvass any additional or supplemental returns or statements made by the county board or any other board or person. The board of state canvassers shall not count or canvass any statement or return which has been made by the county board of canvassers at any other time than that provided in s. 7.60. This provision does not apply to any return made subsequent to a recount under s. 9.01, when the return is accepted in lieu of any prior return from the same county for the same office; or to a statement given to the board of state canvassers or a messenger sent by it to obtain a correction.

(5) **CERTIFICATES OF ELECTION.** (a) The elections board shall record in its office each certified statement and determination made by the board of state canvassers. Immediately after the expiration of the time allowed to file a petition for recount, it shall make and transmit to each person declared elected a certificate of election under the seal of the elections board. It shall also prepare similar certificates, attested by the executive director of the elections board, addressed to the U.S. house of representatives, stating the names of those persons elected as representatives to the congress from this state. In the case of U.S. senators, the board shall prepare a certificate of election for the governor's signature, and the governor shall sign and affix the great seal of the state and transmit the certificate to the president of the U.S. senate. The certificate shall be countersigned by the secretary of state. If a person elected was elected to fill a vacancy, the certificate shall so



state. When a valid petition for recount is filed, the elections board may not certify a nomination, and the governor or elections board may not issue a certificate of election until the recount has been completed and the time allowed for filing an appeal has passed, or if appealed until the appeal is decided.

(b) For presidential electors, the elections board shall prepare a certificate showing the determination of the results of the canvass and the names of the persons elected, and the governor shall sign, affix the great seal of the state and transmit the certificate by registered mail to the U.S. administrator of general services. The governor shall also prepare 6 duplicate originals of such certificate and deliver them to one of the presidential electors on or before the first Monday after the 2nd Wednesday in December.

*History:* 1971 c. 304 s. 29 (2); 1973 c. 334 ss. 15, 57; 1975 c. 93, 199; 1977 c. 107, 187, 427, 449; 1979 c. 221, 260, 328; 1983 a. 484; 1985 a. 89, 304; 1987 a. 391; 1989 a. 31, 192.

**7.75 Presidential electors meeting.** (1) The electors for president and vice president shall meet at the state capitol following the presidential election at 12:00 noon the first Monday after the 2nd Wednesday in December. If there is a vacancy in the office of an elector due to death, refusal to act,

failure to attend or other cause, the electors present shall immediately proceed to fill by ballot, by a plurality of votes, the electoral college vacancy. When all electors are present, or the vacancies filled, they shall perform their required duties under the constitution and laws of the United States.

(2) The presidential electors, when convened, shall vote by ballot for that person for president and that person for vice president who are, respectively, the candidates of the political party which nominated them under s. 8.18, the candidates whose names appeared on the nomination papers filed under s. 8.20, or the candidate or candidates who filed their names under s. 8.185 (2), except that at least one of the persons for whom the electors vote may not be an inhabitant of this state. A presidential elector is not required to vote for a candidate who is deceased at the time of the meeting.

*History:* 1979 c. 246.

**7.80 Notice of election.** Personal service or service by first class mail of a certificate of election is official notification for all legal purposes to any person of his or her election to office.

*History:* 1977 c. 427.

## CHAPTER 8

## NOMINATIONS, PRIMARIES, ELECTIONS

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**8.01 Method of nomination.** Candidates for elective office shall be nominated according to this chapter.

**8.02 Nomination paper circulation date.** Whenever a specific date is not given to begin circulation of nomination papers, the first day for circulation shall be the first day of the month one month prior to the month in which the filing deadline is scheduled. Signatures shall not be counted if signed and dated prior to the first day for circulation.

**8.03 Multiple nominations.** (1) The name of any candidate who is nominated to the same office by more than one party or primary or nominated for more than one partisan or state nonpartisan office shall appear under the party first nominating him or her or under the office to which he or she was first nominated. If the double nomination is simultaneous, the candidate who is nominated, before the deadline for filing nomination papers shall file a written statement with the same person with whom he or she files nomination papers stating the person's party or office preference. If the candidate fails to select the party or office, the filing officer shall place the candidate's name on the ballot under either party or office, but may not permit it to appear more than once. If a candidate is nominated at a primary election for partisan office or nonpartisan state office on a ballot where his or her name appears or by nomination papers filed by the candidate, and is also nominated by write-in votes at the primary election to another office, or to the same office as the candidate of a different party, the candidate does not have a choice, but shall be placed on the ballot for the election under the office and party for which the candidate's name appeared on the primary ballot or for which the candidate had filed nomination papers.

(2) Subsection (1) shall not apply when a candidate for the office of president or vice president of the United States is nominated for another elective office during the same election. If the candidate is elected president or vice president of the United States such election shall void the candidate's election to any other office. A special election shall be held to fill any office vacated under this subsection.

(2m) A candidate may appear on the ballot for more than one local nonpartisan office at the same election.

(3) This section does not affect the law of compatibility of offices.

History: 1979 c. 260; 1989 a. 192; 1991 a. 316.

**8.04 Nomination paper signatures.** If any person signs nomination papers for 2 candidates for the same office in the

same election at different times, the earlier signature is valid and the later signature is invalid. If any person circulates a nomination paper for 2 candidates for the same office in the same election at different times, the earlier paper is valid and the later paper is invalid.

History: 1979 c. 260.

**8.05 Nomination in towns and villages.** Every candidate for an elective office in a town or village shall be nominated under this section.

(1) CAUCUS. (a) When nomination papers are not used, there shall be a caucus to nominate candidates. The governing body shall between December 1 and January 1 decide the date of the caucus. The date of the caucus may be established between the first Tuesday in January and the last Tuesday in January. When possible, preference should be given to having the caucus on the last Tuesday in January.

(b) Whenever a caucus is held, the municipal clerk shall give notice of the date, time and place for the caucus by posting in the clerk's office and by one publication in a newspaper under ch. 985, at least 5 days before the date of the caucus.

(c) The town chairperson or village president together with the municipal clerk shall serve as caucus officials. If the chairperson or president is a candidate, he or she shall call for the election of officials to conduct the caucus. The officials shall be elected by acclamation or ballot as the meeting directs. The electors attending the meeting shall select 2 tellers to canvass the vote for each office at the caucus.

(d) Names of candidates shall be placed in nomination either by motion made and seconded from the floor or by writing the candidate's name on a slip of paper distributed by the tellers to those electors attending the caucus. Only persons placed in nomination shall be voted on.

(e) Nominations shall be made for one office at a time. Nominations for the office of town supervisor when supervisors are elected to unnumbered seats and nominations for the office of village trustee shall be considered together, and each elector voting at the caucus may cast as many votes as there are seats to be filled at the election.

(f) Before balloting the caucus chairman shall announce the names of all candidates placed in nomination.

(g) The voting for each office shall be by ballot, but the caucus chairperson may dispense with voting by ballot when only one or 2 persons are nominated for the same office.

(h) The 2 candidates receiving the highest number of votes cast for each office shall be nominated and certified by the caucus chairman and tellers to the municipal clerk. If a town

under s. 5.60 (6) elects its supervisors to unnumbered seats, candidates equal to twice the number of positions to be filled, who receive the most votes, shall be nominated and certified.

(i) Village trustees, excluding the office of village president, shall be nominated together and at large. Candidates, equal to twice the number of positions to be filled, who receive the most votes, shall be nominated and certified.

(j) The municipal clerk shall notify in writing each candidate whose name is certified as a nominee under par. (h) of his or her nomination. Upon receipt of the notice, each candidate shall file a declaration of candidacy in the manner prescribed by s. 8.21 with the municipal clerk making the notification no later than 5 p.m. on the 5th day after the notification is mailed or personally delivered to the candidate by the municipal clerk. If the candidate has not filed a registration statement under s. 11.05 at the time of the notification, the candidate shall file the statement with the declaration. A candidate for municipal judge shall also file a statement of economic interests with the ethics board under s. 19.43 (4) no later than 4:30 p.m. on the 5th day after notification of nomination is mailed or personally delivered to the candidate by the municipal clerk. Upon receipt of the declaration of candidacy and registration statement of each qualified candidate, and upon filing of a statement of economic interests by each candidate for municipal judge, the municipal clerk shall place the name of the candidate on the ballot. No later than the end of the 3rd day following qualification by all candidates, the municipal clerk shall draw lots to determine the arrangement of candidates' names on the spring election ballot.

(k) Within 10 days of the date of the original caucus, the town board chairperson or the village president may reconvene the caucus to correct any procedural error or to nominate a candidate for a position for which no candidate was nominated at the original caucus or for which no candidate nominated at the original caucus qualified. The municipal clerk shall give notice of the reconvened caucus as provided in par. (b).

(3) **TOWN NONPARTISAN PRIMARY.** (a) In lieu of sub. (1), the electors either by referendum or at the town meeting may provide for nomination of elective town office candidates at a nonpartisan primary conducted as provided in sub. (5). The nomination papers shall be signed by not less than 20 nor more than 100 electors of the town. The nomination papers shall be circulated not sooner than December 1 preceding the election and shall be filed with the town clerk not later than 5 p.m. the first Tuesday in January, or the next day if Tuesday is a holiday.

(b) Notice shall be given under ss. 10.01 (2) (a) and 10.06 (2) (a).

(c) When this subsection is used, no additional candidates may be nominated under sub. (1).

(d) The question of adoption of the nonpartisan primary under this subsection may be submitted to the electors at any regular election held in the town or at a special election called for the purpose. When a petition conforming to the requirements of s. 8.40 signed by at least 20 electors of the town is filed with the town clerk so requesting, the question shall be submitted to a vote.

(e) Petitions requesting a vote on the question at a regular town election shall be filed no later than 5 p.m. the last Tuesday in February. When the petition is filed, the clerk shall check its sufficiency. Whether at a regular or special election, the clerk shall give separate notice by one publication in a newspaper at least 5 days before the election.

(f) The ballot used for the referendum question shall be arranged under s. 5.60 (7) and shall ask: "Shall all candidates

in the town of .... for elective town offices be nominated at a nonpartisan primary?"

(g) If a majority of the votes cast are in the affirmative, a nonpartisan primary, under sub. (5), shall thereafter be held to obtain candidates for elective town offices.

(4) **VILLAGE NONPARTISAN PRIMARY.** (a) A majority of the governing body of any village may provide under s. 8.11 (1) (a) and (b) that candidates for elective village office shall be nominated by a nonpartisan primary, under sub. (5). Determination of the governing body to provide for such primary under s. 8.11 (1) (a) shall be made not later than December 1 preceding the election.

(b) Nomination papers shall be signed by not less than 20 nor more than 100 electors of the village. The papers shall be circulated not sooner than December 1 preceding the election and shall be filed with the village clerk not later than 5 p.m. the first Tuesday in January, or the next day if Tuesday is a holiday.

(c) Notice shall be given, under ss. 10.01 (2) (a) and 10.06 (3) (a).

(d) When this subsection is used, no additional candidates may be nominated under sub. (1).

(5) **WHEN PRIMARY IS HELD.** Towns and villages adopting the nonpartisan primary to nominate candidates, under subs. (3) and (4), shall hold a primary only when the number of candidates for an elective office in the municipality exceeds twice the number to be elected to the office. Those offices for which a primary has been held shall have only the names of candidates nominated at the primary appear on the official spring election ballot. When the number of candidates for an office does not exceed twice the number to be elected, their names shall appear on the official ballot for the election without a primary.

(6) **MENOMINEE COUNTY.** In counties containing only one town candidates shall be nominated for the office of supervisors at large and by wards, and all applicable provisions of this section shall apply to their selection. In selecting the candidates for ward supervisor by caucus, the candidates for each ward shall be selected separately, and only those electors shall participate in each as are residents of that ward. Any ward candidate seeking nomination by the circulation of nomination papers shall incorporate in the nomination papers a statement that the signers are qualified electors of that ward.

*History:* 1971 c. 304 s. 29 (2); 1973 c. 280; 1977 c. 340; 1977 c. 447 ss. 11, 210; 1979 c. 311; 1983 a. 484; 1985 a. 304; 1987 a. 391; 1989 a. 56, 192; 1991 a. 316.

**8.06 Special elections may be called.** Towns, cities, villages and school districts may call special elections for any purpose authorized by law. If an election is called for a special referendum, the election shall be noticed under s. 8.55.

*History:* 1979 c. 32; 1989 a. 192.

**8.07 Validity of nomination papers.** The board shall promulgate rules under this chapter for use by election officials in determining the validity of nomination papers and signatures thereon.

*History:* 1983 a. 484; 1989 a. 359.

**8.10 Nominations for spring election.** (1) Candidates for office to be filled at the spring election shall be nominated by nomination papers, or by nomination papers and selection at the primary if a primary is held, except as provided for towns and villages under s. 8.05. Unless designated in this section or s. 8.05, the general provisions pertaining to nomination at the September primary apply.

(2) (a) Nomination papers for offices to be filled at the spring election shall be circulated not sooner than December

1 preceding the election and shall be filed not later than 5 p.m. on the first Tuesday in January, or the next day if Tuesday is a holiday.

(b) Each nomination paper shall have substantially the following words printed at the top:

I, the undersigned, request that the name of (insert candidate's last name plus first name or initial, and middle name, former legal surname or middle initial or initials if desired, but no other abbreviations, nicknames or titles), residing at (insert candidate's street address) be placed on the ballot at the (spring or special) election to be held on (date of election) as a candidate so that voters will have the opportunity to vote for (him or her) for the office of (name of office). I am eligible to vote in the (name of jurisdiction or district in which candidate seeks office). I have not signed the nomination paper of any other candidate for the same office at this election.

(c) Each candidate shall include his or her mailing address on the candidate's nomination papers.

(3) The affidavit of a qualified elector under s. 8.15 (4) (a) shall be appended to each nomination paper. The number of required signatures on nomination papers filed under this section is:

(a) For statewide offices, not less than 2,000 nor more than 4,000 electors;

(am) For court of appeals judges, not less than 1,000 nor more than 2,000 electors;

(b) For judicial offices not specified in pars. (a), (am) and (c), not less than 200 nor more than 400 electors;

(c) For judicial offices in counties over 500,000 population, not less than 1,000 nor more than 2,000 electors;

(cm) For county executives in counties over 500,000 population, not less than 2,000 nor more than 4,000 electors;

(d) For county executives in counties between 100,000 and 500,000 population, not less than 500 nor more than 1,000 electors;

(e) For county executives in counties under 100,000 population, not less than 200 nor more than 400 electors;

(f) For supervisors in counties over 500,000 population, not less than 200 nor more than 400 electors;

(g) For supervisors in counties between 100,000 and 500,000 population, not less than 100 nor more than 200 electors, except as provided in sub. (3m).

(h) For supervisors in counties under 100,000 population, not less than 20 nor more than 100 electors;

(hm) For members of the metropolitan sewerage commission in districts over 1,000,000 population, not less than 1,000 nor more than 2,000 electors, in districts over 200,000 but not over 1,000,000 population, not less than 200 nor more than 400 electors, and in districts not over 200,000 population, not less than 100 nor more than 200 electors.

(i) For city offices in 1st class cities, not less than 1,500 nor more than 3,000 electors for city-wide offices, not less than 200 nor more than 400 electors for aldermen elected from aldermanic districts and not less than 400 nor more than 800 electors for members of the board of school directors elected from election districts.

(j) For city offices in 2nd and 3rd class cities, not less than 200 nor more than 400 electors for city-wide offices and not less than 20 nor more than 40 electors for aldermen elected from aldermanic districts.

(k) For city offices in 4th class cities, not less than 50 nor more than 100 for city-wide offices and not less than 20 nor more than 40 electors for aldermen elected from aldermanic districts.

(km) For school district officer in any school district which contains territory lying within a 2nd class city, not less than 100 nor more than 200 electors.

(ks) For school district officer in any school district which does not contain territory lying within a 1st or 2nd class city, if nomination papers are required under s. 120.06 (6) (a), not less than 20 nor more than 100 electors.

(L) For other offices, not less than 20 nor more than 100 electors.

(3m) The county board of any county having a population of at least 100,000 but not more than 500,000 may provide by ordinance that the number of required signatures on nomination papers for the office of county supervisor in the county is not less than 50 nor more than 200 electors. A county that enacts such an ordinance may repeal the ordinance at a later date. Any ordinance changing the number of signatures under this subsection takes effect on November 15 following enactment of the ordinance.

(4) (a) All signers on each nomination paper shall reside in the jurisdiction or district which the candidate named on the paper will represent, if elected.

(b) Only one signature per person for the same office is valid. In addition to his or her signature, each signer of a nomination paper shall list his or her municipality of residence for voting purposes, the street and number, if any, on which the signer resides, and the date of signing.

(5) Nomination papers shall be accompanied by a declaration of candidacy under s. 8.21. If a candidate has not filed a registration statement under s. 11.05 at the time he or she files nomination papers, the candidate shall file the statement with the papers. A candidate for state office or municipal judge shall also file a statement of economic interests with the ethics board under s. 19.43 (4) no later than 4:30 p.m. on the 3rd day following the last day for filing nomination papers under sub. (2) (a).

(6) Nomination papers shall be filed:

(a) For state offices; municipal judges, if they are elected under s. 755.01 (4); or seats on a metropolitan sewerage commission, if the commissioners are elected under s. 66.23 (1) (am), in the office of the board.

(b) For county offices, in the office of the county clerk or board of election commissioners.

(c) For city offices and other offices voted for exclusively within the municipality, except the office of county supervisor, in the office of the municipal clerk or board of election commissioners.

(d) For school district offices to be voted for within more than one municipality, with the person designated by the school board as the filing official for their school district.

History: 1971 c. 304 s. 29 (1), (2); 1973 c. 280; 1973 c. 334 s. 57; 1975 c. 93, 328, 422; 1977 c. 187, 340, 427, 445, 449; 1979 c. 221, 249, 260, 355; 1983 a. 484; 1985 a. 89, 304; 1989 a. 88, 290.

Petitioner who timely filed with county clerk rather than with board under (6) (a) is barred from ballot. State ex rel. Ahlgrim v. State Elections Bd. 82 W (2d) 585, 263 NW (2d) 152.

**8.11 Spring primary. (1) CTRY. (a)** A primary may be held in any city for the nomination of candidates for city office. When a majority of all the members of the governing body of a city decide upon a spring primary for any specific election, they shall so provide not later than 3 days after the deadline for filing nomination papers.

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

(c) Whenever electors, equal to at least 10% of the vote for governor in the city at the last general election, file a petition conforming to the requirements of s. 8.40 with the city clerk

requesting a primary within 3 days after the deadline for filing nomination papers, there shall be a primary for any specific election.

(d) When the number of candidates for any city office does not exceed twice the number to be elected to the office, no primary may be held for the office and the candidates' names shall appear on the ballot for the ensuing election.

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

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

(3) **STATE.** A primary shall be held if more than 2 candidates file nomination papers for the office of state superintendent, for justice, for court of appeals judge in the same district or for judge of the same branch of circuit court.

(4) **PRIMARY EXCLUSIVE.** Those offices for which a primary has been held shall have only the names of candidates nominated at the primary appear on the official spring election ballot.

(5) **COUNTY SUPERVISORS.** A primary shall be held in an election for county board supervisor whenever 3 or more candidates file nomination papers.

*History:* 1973 c. 118 s. 7; 1973 c. 243; 1977 c. 187, 445, 449; 1979 c. 260, 311; 1983 a. 192, 484; 1985 a. 225, 304; 1989 a. 192, 290.

**8.12 Presidential preference vote.** (1) **SELECTION OF NAMES FOR BALLOT.** (a) No later than 5 p.m. on the first Tuesday in January, or the next day if Tuesday is a holiday, in 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 election be given an opportunity to express their preference for the person to be the presidential candidate of that party.

(b) On the last Tuesday in January in each year 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 chairman of that state party organization or the chairman's designee, one national committeeman and one national committeewoman designated by the state chairman; 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 chairman and shall determine, and certify to the board no later than on the Friday following the last Tuesday in January, 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 3rd Tuesday in February of each presidential election year, any person seeking the nomi-

nation 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 last Tuesday in January of such year 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 3rd Tuesday in February 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.

(2) **BALLOTS.** The form of the official ballots shall be prescribed by the board under s. 5.60 (8).

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

*History:* 1973 c. 334 ss. 16, 57; 1975 c. 93, 185, 199, 422; 1977 c. 427; 1979 c. 34, 260, 311, 355; 1983 a. 484; 1985 a. 304 ss. 100 to 106, 156; 1987 a. 391; 1989 a. 192.

*See note to art. 1, sec. 1, citing Democratic Party of U.S. v. Wisconsin, 450 US 107 (1981).*

**8.125 Accessibility of presidential caucuses.** Any political party which holds a caucus open to the public for the purpose of selecting delegates to the national presidential nominating convention of the party shall hold the caucus in a place which is accessible to persons in wheelchairs.

*History:* 1985 a. 304.

**8.13 Commission city primary.** At the first primary after adoption of the commission form of government the 2 candidates for mayor and the 4 candidates for council members receiving the highest number of votes shall be nominated. At subsequent primaries the 2 candidates receiving the most votes for either office shall be nominated. Only the names of the nominees shall appear on the spring election ballot.

*History:* 1985 a. 135 s. 83 (2).

**8.15 Nominations for September primary.** (1) Nomination papers shall be circulated not sooner than June 1 preceding the election and shall be filed not later than 5 p.m. on the 2nd Tuesday of July in those years when a September primary is held. Only those candidates for whom nomination papers containing the necessary signatures acquired within the allotted time and filed before the deadline may have their names appear on the official September primary ballot.

(2) Only one signature per person for the same office is valid. In addition to his or her signature, each signer of a nomination paper shall list his or her municipality of residence for voting purposes, the street and number, if any, on which the signer resides, and the date of signing.

(3) All signers on each separate nomination paper for all state offices, county offices, and the offices of U.S. senator and representative in congress shall reside in the jurisdiction

or district which the candidate named on the paper will represent, if elected.

(4) (a) The affidavit of a qualified elector stating his or her residence with street and number, if any, shall appear at the bottom of each nomination paper, stating he or she personally circulated the nomination paper and personally obtained each of the signatures; he or she knows they are electors of the ward, aldermanic district, municipality or county, as the nomination papers require; he or she knows they signed the paper with full knowledge of its content; he or she knows their respective residences given; he or she knows each signer signed on the date stated opposite his or her name; and, that he or she, the affiant, resides within the district which the candidate named therein will represent, if elected; that he or she intends to support the candidate; and that he or she is aware that falsifying the affidavit is punishable under ss. 12.13 (3) (a) and 946.32 (1) (a), Wis. stats. The affidavit may be made by the candidate or any qualified elector. The nomination papers are valid with or without the seal of the officer who administers the oath.

(b) Nomination papers shall be accompanied by a declaration of candidacy under s. 8.21. If a candidate for state or local office has not filed a registration statement under s. 11.05 at the time he or she files nomination papers, the candidate shall file the statement with the papers. A candidate for state office shall also file a statement of economic interests with the ethics board no later than the end of the 3rd day following the last day for filing nomination papers under sub. (1).

(5) (a) Each nomination paper shall have substantially the following words printed at the top:

I, the undersigned, request that the name of (insert candidate's last name plus first name or initial, and middle name, former legal surname or middle initial or initials if desired, but no other abbreviations, nicknames or titles) residing at (insert candidate's street address) be placed on the ballot at the (general or special) election to be held on (date of election) as a candidate representing the (name of party) so that voters will have the opportunity to vote for (him or her) for the office of (name of office). I am eligible to vote in (name of jurisdiction or district in which candidate seeks office). I have not signed the nomination paper of any other candidate for the same office at this election.

(b) Each candidate shall include his or her mailing address on the candidate's nomination papers.

(6) The number of required signatures on nomination papers shall be as follows:

(a) For state-wide offices, not less than 2,000 nor more than 4,000 electors.

(b) For representatives in congress, not less than 1,000 nor more than 2,000 electors.

(c) For state senators, not less than 400 nor more than 800 electors.

(d) For representatives to the assembly, not less than 200 nor more than 400 electors.

(dm) For district attorneys, not less than 500 nor more than 1,000 electors in prosecutorial units over 100,000 population and not less than 200 nor more than 400 electors in prosecutorial units of 100,000 population or less.

(e) For county offices, not less than 500 nor more than 1,000 electors in counties over 100,000 population and not less than 200 nor more than 400 electors in counties of 100,000 population or less.

(7) A candidate may not run in more than one party primary at the same time. No filing official may accept nomination papers for the same person in the same election for more than one party. An independent candidate at a

partisan primary or other election may not file nomination papers as the candidate of a recognized political party for the same office at the same election. A person who files nomination papers as the candidate of a recognized political party may not file nomination papers as an independent candidate for the same office at the same election.

(8) Nomination papers shall be filed:

(a) For state offices and the offices of U.S. senator and representative in congress, in the office of the board.

(b) For county offices, in the office of the county clerk or board of election commissioners.

(9) Upon filing of nomination papers by any candidate for representative in congress, state senator or representative to the assembly under this section or upon appointment or nomination of such a candidate by write-in vote, the board shall provide to the candidate a copy of the map or maps, received under s. 16.96 (3) (b), required to show the boundaries of the district which the candidate seeks to represent.

*History:* 1971 c. 304 ss. 13, 29 (1), (2); 1973 c. 334 s. 57; 1977 c. 107, 427; 1979 c. 249, 260, 311; 1983 a. 29, 484; 1985 a. 304; 1989 a. 31.

*Ban on multiple party nominations under (7) does not burden the associational rights of political parties and is justified by compelling state interests. Swamp v. Kennedy, 950 F (2d) 383 (1991).*

*Candidate for election to Congress need not be a resident of the district at the time he files his nomination papers and executes the declaration of intent to accept the office if elected. A candidate for Congress must be an inhabitant of the state at the time of election. 61 Atty. Gen. 155.*

**8.16 Partisan nominations.** (1) Except as provided in sub. (2), the person who receives the greatest number of votes for an office on a party ballot at any partisan primary, regardless of whether the person's name appears on the ballot, shall be the party's candidate for the office, and the person's name shall so appear on the official ballot at the next election. All independent candidates shall appear on the general election ballot regardless of the number of votes received by such candidates at the September primary.

(2) A person who receives only write-in votes shall not appear on the ballot as the candidate of a recognized political party for an office whenever no candidate's name appears on the ballot for that office unless the person receives at least 5% of the vote cast in the jurisdiction or district for the party's gubernatorial candidate at the last general election or the number of votes equivalent to the minimum number of signatures required on nomination papers for that office under s. 8.15 (6), whichever is greater, and unless:

(a) The person files a declaration of candidacy under s. 8.21 no later than 5 p.m. on the 3rd day after notification of nomination is mailed or personally delivered to the person by the filing officer or agency for the office sought;

(b) If the person is a candidate for state office, the person files a statement of economic interests under s. 19.43 (4), no later than 4:30 p.m. on the 3rd day after notification of nomination is mailed or personally delivered to the person by the board; and

(c) If the person is a candidate for state or local office, the person files a registration statement under s. 11.05.

(2m) Independent candidates may not be nominated by write-in votes but shall file nomination papers under s. 8.20.

(3) Where the boundaries of a district in which the candidate of a political party seeks office have been changed since the most recent gubernatorial election such that it is not possible to calculate the exact percentage of write-in votes, under sub. (2), which are needed by that candidate to become the nominee of the party, the number of votes cast for a political party's nominee for governor at the last general election in each ward or aldermanic district, or each municipality where there are no wards, which is wholly contained within the boundaries of the newly formed district shall be calculated. If a candidate of a political party in a newly

formed district does not obtain 5% of the number of votes calculated or the number of votes equivalent to the minimum number of signatures required under s. 8.15 (6), whichever is greater, the candidate shall not appear on the ballot as the candidate of that party for the office sought.

(4) A recognized political party which participated in the most recent gubernatorial election but loses its ballot position and subsequently regains such position under s. 5.62 (2) does not cease to be a political party for purposes of qualification under subs. (2) and (3).

(5) Any candidate for a partisan state office except district attorney may also qualify for payments under s. 11.50 if the candidate meets the requirements specified in s. 11.50; however, a candidate who qualifies under this section for placement on the official ballot at the general election shall appear on such ballot regardless of whether he or she qualifies for payments under s. 11.50.

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

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

*History:* 1975 c. 41, 93, 199; 1977 c. 107, 383, 427, 447; 1983 a. 484; 1985 a. 304; 1987 a. 391; 1989 a. 31.

The vote percentage requirement set forth in (2) applies to special partisan primary elections. 61 Atty. Gen. 172.

Five per cent requirement of (2) did not violate equal protection nor did it burden rights to associate and cast votes effectively. *Blair v. Hebl*, 498 F Supp. 756 (1980).

**8.17 Political party committees.** (1) (a) Political parties qualifying for a separate ballot under s. 5.62 (1) (b) or (2) shall elect their party committeemen and committeewomen at the September primary. The function of committeemen and committeewomen is to represent their neighborhoods in the structure of a political party. Committeemen and committeewomen shall act as liaison representatives between their parties and the residents of the election districts in which they serve. Activities of committeemen and committeewomen shall include, but not be limited to, voter identification; assistance in voter registration drives; increasing voter participation in political parties; polling and other methods of passing information from residents to political parties and elected public officials; and dissemination of information from public officials to residents. For assistance in those and other activities of interest to a political party, each committeeman and committeewoman may appoint a captain to engage in these activities in each ward, if the election district served by the committeeman or committeewoman includes more than one ward. In an election district which includes more than one ward, the committeeman or committeewoman shall coordinate the activities of the ward captains in promoting the interests of his or her party.

(b) Each political party shall elect one committeeman or committeewoman from each election district. In this section, each village, each town and each city is an "election district"; except that in cities having a population of more than 7,500 which are divided into aldermanic districts, each aldermanic district is an "election district"; and in cities having a population of more than 7,500 which are not divided into aldermanic

districts and villages or towns having a population of more than 7,500, each ward or group of combined wards under s. 5.15 (6) (b) constituting a polling place on June 1 of the year in which committeemen or committeewomen are elected is an "election district". To be eligible to serve as its committeeman or committeewoman, an individual shall be, at the time of filing nomination papers or at the time of appointment under this section, a resident of the election district which he or she is chosen to represent and shall be at least 18 years of age.

(2) Nomination papers shall be in substantially the same form as those required for candidates for the assembly. The papers shall include a statement signed by the candidate declaring the candidate's candidacy and that the candidate meets the eligibility requirements of sub. (1). Nomination papers may be circulated no sooner than June 1 preceding the election and may be filed in the office of the county clerk or board of election commissioners no later than 5 p.m. on the 2nd Tuesday of July in those years when a September primary is held. The signatures of not less than 20 nor more than 40 electors are required.

(3) (a) Only individuals filing nomination papers may have their names appear on the ballot. There shall be no space provided for write-in candidates. When no candidate files nomination papers for party committeeman or committeewoman, the office may not appear on the ballot for that party in that election district and the vacancy shall be filled by the county committee under sub. (5) (g) and (h).

(b) The county clerk or board of election commissioners shall arrange the names of candidates for committeemen or committeewomen in the proper party column under s. 5.62 for each election district.

(4) (a) Each elector may vote for party committeeman or committeewoman by voting for one of the names on the ballot.

(b) The results shall be returned as are other results of the September primary, but no write-in votes or stickers may be counted. Whenever 2 or more candidates for party committeeman or committeewoman receive an equal number of votes, the county board of canvassers shall certify as the winner the one of them who was the first to file proper nomination papers.

(c) The term of office of each elected or appointed committeeman or committeewoman shall end on the date of the meeting held under sub. (5) (b) following each September primary.

(5) (a) The county committee of each political party shall consist of the duly elected committeemen and committeewomen and appointed committeemen and committeewomen residing in the county.

(b) A combined meeting of the county committee and members in good standing of the party in the county shall be held no sooner than 15 days after the September primary and no later than April 1 of the following year. At this meeting, the county committee offices of chairman, vice chairman, secretary and treasurer shall be filled by election by the committeemen, committeewomen and party members present and voting, each of whom is entitled to one vote. At this meeting, the county committee shall elect the members of the congressional district committee as provided in sub. (6) (b), (c) and (d). The secretary of the county committee shall give at least 7 days' written notice of the meeting to party and committee members. Individuals elected as county committee officers or as congressional district committee members may be, but are not required to be, committeemen or committeewomen. They are required to be party members in good standing. Their terms begin during the meeting immediately

upon completion and verification of the voting for each office.

(c) The secretary of the county committee shall notify the county clerk in writing of the name and address of the elected county committee chairman within 10 days of his or her election.

(d) The chairman of the county committee shall notify the chairman of the state committee of the names and addresses of the individuals elected as congressional district committee members within 10 days of their election.

(e) Except as authorized in this paragraph, all county committee meetings shall be called by the chairman of the county committee. The secretary of the county committee shall give at least 7 days' written notice of each meeting to the committee members. A majority of committee members may, upon petition to the chairman signed by all of them, demand that the chairman call a meeting. If after 3 days the chairman has failed to do so, the demanding members may designate one of them to call and preside at a meeting, also upon at least 7 days' written notice to all committee members. The member so designated shall provide the notice. Meetings called in either manner have equal standing.

(f) Any of the county committee officers named in par. (b) may be removed from office at any meeting of the committee if at least two-thirds of the committeemen or committeewomen are present; at least 7 days' written notice of the meeting is given to members of the party in the county; the notice discloses that discussion of the removal of one or more officers is on the agenda; and the notice includes and identifies this paragraph. Any such removal, and subsequent filling of a vacancy, shall be by vote of the committeemen, committeewomen and party members present and voting, each of whom is entitled to one vote.

(g) Any vacancy in any county committee office, except the offices named in par. (b) shall be filled by the county committee, except that the county committee chairman may temporarily fill any vacancy.

(h) The county committee may appoint a committeeman or committeewoman for any election district in which no one was elected. An appointed committeeman or committeewoman has the same responsibilities and may engage in the same activities as an elected committeeman or committeewoman.

(i) Each committee and its officers shall have the powers usually exercised by committees and their officers.

(6) (a) The congressional district committee shall consist of members elected by the county committee or committees under pars. (b) and (c).

(b) For each assembly district lying wholly within one county, the county committee shall elect 2 persons from each assembly district as members of the congressional district committee.

(c) For each assembly district lying partially within one county, the county committee shall elect one person as a member of the congressional district committee, except that the county committee may elect additional members so that the county has at least 2 members on the committee of each congressional district in which it lies.

(d) County committees may elect alternate members to congressional district committees on the same basis and in the same numbers as they are entitled to elect under pars. (b) and (c).

(e) At least once every year, the chairman of the congressional district committee shall call, with at least 30 days' notice in writing to the chairman of the county committee, or committees lying within the district, for a caucus of members of the party in the district. Committee offices of chairman, vice chairman, secretary, and treasurer shall be filled by a

caucus in the time and manner prescribed by the constitution of either the district committee or the state committee. Individuals elected to these offices may be, but are not required to be, members of the congressional district committee. The secretary shall provide notice of all meetings of the congressional district committee.

(7) (a) Duly elected or appointed committeemen and committeewomen residing in any political subdivision or assembly district may organize a committee for their area upon presenting a petition therefor to the congressional district committee, which petition shall be signed by at least 25% of the committeemen and committeewomen who reside in that same area. Upon filing such a petition:

1. The chairman of the congressional district committee shall call the first meeting within 10 days of delivery of the petition.

2. The secretary of the congressional district committee shall give at least 5 days' advance written notice of the meeting to all committeemen, committeewomen and party members residing in the area of the new committee.

3. Committee offices of chairman, vice chairman, secretary, and treasurer shall be filled by election in the same manner as that provided for the county committee, and may be filled by individuals who are not committeemen or committeewomen.

4. Additional meetings may be called in the same manner as that provided for the county committee under sub. (5) (e).

5. Holders of committee offices may be removed and subsequent vacancies filled in the same manner as that provided for the county committee under sub. (5) (f).

6. Committeemen and committeewomen who are members of committees organized in any political subdivision or assembly district retain their status as members of the county committee.

(b) Assembly district committees shall also include as members those individuals elected by the county committee under sub. (6) as members of the congressional district committee.

(8) (a) The congressional district committee shall elect at least 2 individuals to become members of the state committee. Those elected may be, but are not required to be, members of the district committee.

(b) The state committee may consist solely of members elected under par. (a) or may consist of those members and as many other members called for and chosen in the manner prescribed in the constitution of the state committee.

(9) (a) If a county has no committee as provided by sub. (5) (a), residents of that county may voluntarily form a committee, which, upon approval of the state committee and certification by the secretary of the state committee to the board and the county clerk or board of election commissioners, shall then become the county committee with equal standing as if it had been organized under sub. (5) (a). This standing shall remain unless and until a committee is organized under sub. (5) (a).

(b) Members of a committee organized under par. (a) are not, and shall not be known as, committeemen and committeewomen.

(10) Committeemen and committeewomen who are members in good standing of their county parties, by virtue of their offices, shall be granted credentials for participation in any caucus or convention called by their congressional district committees or the state committee, and those credentials shall be distributed at least 21 days in advance of the meeting by the secretary of the committee calling the caucus or convention.



(11) The names of the committees shall be that of the identifying name followed by Party of ....., the blank to be filled with the name of the county, congressional district, or other geographic areas.

(12) The secretary of the state committee of each recognized political party under s. 5.62 (1) (b) or (2) shall notify the board in writing of the name and address of the elected state committee chairman within 10 days of his or her election.

History: 1971 c. 304 s. 29 (1), (2); 1971 c. 336; 1973 c. 334; 1979 c. 260, 311, 355; 1981 c. 116; 1983 a. 484, 549; 1985 a. 131, 304; 1987 a. 391; 1991 a. 316.

**8.18 Nomination of presidential electors.** (1) Candidates for the senate and assembly nominated by each political party at the primary, the state officers and the holdover state senators of each political party shall meet in the state capitol at 10 a.m. on the first Tuesday in October of each year in which there is a presidential election.

(2) The purpose of the convention is to nominate one presidential elector from each congressional district and 2 electors from the state at large. The names of the nominees shall be certified immediately by the chairman of the state committee of each party to the chairman of the elections board.

History: 1973 c. 334; 1975 c. 93; 1977 c. 427.

**8.185 Write-in candidates for president and vice president.** (1) The names of candidates for president and vice president may be written in, in the place provided, on the general ballot at the general election for choosing the president and vice president of the United States. Write-in votes shall be listed as scattering unless the person whose name is written in has a list of presidential electors on file with the board in accordance with this section or unless the person whose name is written in has received more than 10% of the total vote cast in the ward, or in the municipality if not divided into wards.

(2) Any candidates for the office of president and vice president of the United States as write-in candidates shall file a list of presidential electors and a declaration of candidacy in the manner prescribed in s. 8.21 with the board no later than 4:30 p.m. on the 2nd Tuesday preceding the day of the general election to choose the president and vice president of the United States. The list shall contain one presidential elector from each congressional district and 2 electors from the state at large and the names of the candidates for president and vice president for whom they intend to vote, if elected. Compliance with this subsection may be waived by the board but only if the results of the general election indicate that a write-in candidate for the office of president is eligible to receive the electoral votes of this state except for non-compliance with this subsection. In such event, the write-in candidate shall have until 4:30 p.m. on the Friday following the general election to comply with the filing requirements of this subsection.

(3) If more than one list of presidential electors is filed with the board by any write-in candidates for the offices of president and vice president of the United States, the first list filed shall be considered the valid list, provided that this list meets the additional requirements of this section.

(4) Write-in votes for president and vice president shall be counted as provided in s. 7.50 (2) (i).

History: 1971 c. 304 s. 29 (2); 1973 c. 334 s. 57; 1977 c. 427; 1981 c. 377 ss. 21 to 23; 1983 a. 484.

**8.19 Party name.** (1) The state committee of any party polling less than 75,000 presidential votes in this state in the last election may change the name of the party. The new name may not duplicate that of an existing national party. A

certificate of approval by the party's national committee which has been certified by the national committee secretary, the state committee chairman and the state committee secretary shall be filed with the board.

(2) The new name shall take effect upon certification.

(3) Every political party entitled, under s. 5.62, to have its candidates on the September primary and general election ballots has exclusive right to the use of the name designating it at any election involving political parties. The board shall not certify nor the county clerk print the name of any person whose nomination papers indicate a party name comprising a combination of existing party names, qualifying words, phrases, prefixes or suffixes in connection with any existing party name.

History: 1973 c. 334 s. 57; 1975 c. 93.

**8.20 Nomination of Independent candidates.** (1) Independent nominations may be made for any office to be voted for at any general or partisan special election.

(2) (a) Nomination is by nomination papers. Each nomination paper shall have substantially the following words printed at the top:

I, the undersigned, request that the name of (insert candidate's last name plus first name or initial, and middle name, former legal surname or middle initial or initials if desired, but no other abbreviations, nicknames or titles), residing at (insert candidate's street address) be placed on the ballot at the (general or special) election to be held on (date of election) as a candidate [(representing the (name of party)) or (representing the principle(s) of (statement of principles))] so that voters will have the opportunity to vote for (him or her) for the office of (name of office). I am eligible to vote in the (name of jurisdiction or district in which candidate seeks office). I have not signed the nomination paper of any other candidate for the same office at this election.

(b) Each candidate shall include his or her mailing address on the candidate's nomination papers.

(c) In the case of candidates for the offices of president and vice president, the nomination papers shall contain both candidates' names; the office for which each is nominated; the residence and post-office address of each; and the party or principles they represent, if any, in 5 words or less. In the case of candidates for the offices of governor and lieutenant governor, the nomination papers shall contain both candidates' names; the office for which each is nominated; the residence and post-office address of each; and the party or principles they represent, if any, in 5 words or less.

(d) Nomination papers for president and vice president shall list one candidate for presidential elector from each congressional district and 2 candidates for presidential elector from the state at large who will vote for the candidates for president and vice president, if elected.

(3) The affidavit of an elector under s. 8.15 (4) (a) shall be appended to each nomination paper.

(4) The number of required signatures on nomination papers for independent candidates shall be the same as the number specified in s. 8.15 (6). For independent presidential electors intending to vote for the same candidates for president and vice president, the number of required signatures shall be not less than 2,000 nor more than 4,000 electors.

(5) Only one signature per person for the same office is valid. In addition to his or her signature, each signer shall list his or her municipality of residence for voting purposes, the street and number, if any, on which the signer resides, and the date of signing. Signers of each nomination paper shall reside in the same jurisdiction or district which the candidate named therein will represent, if elected.

(6) Nomination papers shall be accompanied by a declaration of candidacy under s. 8.21. If a candidate for state or local office has not filed a registration statement under s. 11.05 at the time he or she files nomination papers, the candidate shall file the statement with the papers. A candidate for state office shall also file a statement of economic interests with the ethics board no later than the end of the 3rd day following the last day for filing nomination papers under sub. (8) (a).

(7) Nomination papers shall be filed in the office of the board for all state offices and the offices of U.S. senator and representative in congress, and in the office of county clerk or board of election commissioners for all county offices.

(8) (a) Nomination papers for independent candidates for any office to be voted upon at a general election or September primary and general election, except president, vice president and presidential elector, may be circulated no sooner than June 1 preceding the election and may be filed not later than 5 p.m. on the 2nd Tuesday in July.

(am) Nomination papers for independent candidates for president and vice president, and the presidential electors designated to represent them, may be circulated no sooner than August 1 and may be filed not later than 5 p.m. on the first Tuesday in September.

(b) Nomination papers for independent candidates for any office to be voted upon at a partisan special election shall be circulated and filed as provided in s. 8.50 (3) (a).

(9) Persons nominated by nomination papers without a recognized political party designation shall be placed on the official ballot at the general election and at any partisan election to the right or below the recognized political party candidates in their own column or row designated "Independent". At the September primary, persons nominated for state office by nomination papers without a recognized political party designation shall be placed on a separate ballot or row on the voting machine designated "Independent". If the candidate's name already appears under a recognized political party it may not be listed on the independent ballot, column or row.

(10) Upon filing of nomination papers by any candidate for representative in congress, state senator or representative to the assembly under this section or upon appointment of such a candidate, the board shall provide to the candidate a copy of the map or maps, received under s. 16.96 (3) (b), required to show the boundaries of the district which the candidate seeks to represent.

History: 1971 c. 242, 304; 1973 c. 334 s. 57; 1975 c. 369; 1977 c. 107, 287, 427; 1979 c. 249, 260; 1981 c. 377; 1983 a. 29, 484; 1985 a. 304; 1987 a. 391.

**8.21 Declaration of candidacy.** Each candidate, except a candidate for presidential elector under s. 8.20 (2) (d), shall file a declaration of candidacy, no later than the latest time provided for filing nomination papers under 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 s. 8.16 (2) or 8.35 (2) (c). A candidate shall file the declaration with the officer or agency with which nomination papers are filed for the office which the candidate seeks, or if nomination papers are not required, with the clerk or board of election commissioners of the jurisdiction in which the candidate seeks office. The declaration shall be sworn to before any officer authorized to administer oaths, and shall state that the signer is a candidate for a named office, that he or she meets or will at the time he or she assumes office meet applicable age, citizenship, residency or voting qualification requirements, if any, prescribed by the constitutions and laws of the United States and of this state, and that he or she will otherwise qualify for office if nominated and elected. The declaration shall include the candidate's name in the form in

which it will appear on the ballot. Each candidate for state and local office shall include in the declaration a statement that he or she has not been convicted of any infamous crime for which he or she has not been pardoned and a list of all felony convictions for which he or she has not been pardoned. In addition, each candidate for state or local office shall include in the declaration a statement that discloses his or her municipality of residence for voting purposes, and the street and number, if any, on which the candidate resides. The declaration is valid with or without the seal of the officer who administers the oath. A candidate for state or local office shall file an amended declaration under oath with the same officer or agency if any information contained in the declaration changes at any time after the original declaration is filed and before the candidate assumes office or is defeated for election or nomination.

History: 1983 a. 484 s. 94; 1985 a. 304; 1987 a. 391.

**8.25 Election of state and federal officers. (1) PRESIDENTIAL ELECTORS.** By general ballot at the general election for choosing the president and vice president of the United States there shall be elected as many electors of president and vice president as this state is entitled to elect senators and representatives in congress. A vote for the president and vice president nominations of any party is a vote for the electors of the nominees.

(2) UNITED STATES SENATOR. One senator to serve in the United States congress shall be chosen at the general election in 1962 and every 6 years thereafter and another in 1964 and every 6 years thereafter.

(3) REPRESENTATIVE IN CONGRESS. One representative to serve in the United States congress shall be chosen from each congressional district at the general election held in each even-numbered year.

(4) CONSTITUTIONAL OFFICERS; TERMS. (a) A governor, lieutenant governor, secretary of state, treasurer and an attorney general shall be elected at the general election in 1970 and quadrennially thereafter. A state superintendent shall be elected on the first Tuesday in April 1917 and quadrennially thereafter.

(b) 1. The regular full term of office of the state superintendent commences on the first Monday of July, next succeeding the superintendent's election.

2. The regular full term of each other officer enumerated in par. (a) commences on the first Monday of January, next succeeding the officer's election.

(5) DISTRICT ATTORNEY; TERM. A district attorney shall be elected for each prosecutorial unit specified in s. 978.01 at the general election in 1990 and biennially thereafter. The regular term of the office of district attorney commences on the first Monday in January next succeeding the officer's election.

History: 1981 c. 62, 314; 1987 a. 391; 1989 a. 31.

**8.28 Challenge to residency qualifications. (1)** Any individual who believes that an individual holding or elected to state or local office is not a resident or inhabitant of this state or of the jurisdiction or district in which he or she serves, whenever such qualification is required by the constitution of this state or by any applicable law, may file a verified complaint with the attorney general alleging such facts as may cause him or her to believe that the individual is not qualified to hold office because of failure to meet a residency requirement.

(2) The attorney general may thereupon investigate whether such allegations are true. If the attorney general finds that the allegations of the complaint are true or for any other reason finds that the subject person who is holding or elected to office is not qualified because of failure to meet a residency

requirement, the attorney general may commence an action under ch. 784 for a writ of quo warranto to have the subject person's office declared vacant or to restrain any person not entitled to take office from assuming it. In the case of a person who is elected to office in the legislature, the clerk of court shall transmit a copy of the judgment to the presiding officer of the appropriate house, and the house shall determine whether the person is qualified to be seated or whether a vacancy exists.

*History:* 1979 c. 249; 1983 a. 484.

**8.30 Candidates ineligible for ballot placement.** (1) Except as otherwise provided in this section, the official or agency with whom declarations of candidacy are required to be filed may refuse to place the candidate's name on the ballot:

(a) If the nomination papers are not prepared, signed and executed, as required under this chapter;

(b) If it conclusively appears, either on the face of the nomination papers offered for filing, or by admission of the candidate or otherwise, that the candidate is ineligible to be nominated or elected;

(c) If elected the candidate could not qualify for the office sought within the time allowed by law for qualification because of age, residence or other impediment.

(2) If no registration statement has been filed by or on behalf of a candidate for state or local office in accordance with s. 11.05 (2g) or (2r) by the applicable deadline for filing nomination papers by such candidate, or the deadline for filing a declaration of candidacy for an office for which nomination papers are not filed, the name of the candidate may not appear on the ballot. This subsection may not be construed to exempt a candidate from applicable penalties if he or she files a registration statement later than the time prescribed in ss. 11.01 (1) and 11.05 (2g).

(3) The official or agency with whom declarations of candidacy are required to be filed may not place a candidate's name on the ballot if the official or agency is prohibited from doing so under s. 19.43 (4) or an ordinance adopted under s. 19.59 (3) (b).

(4) The official or agency with whom a declaration of candidacy is required to be filed may not place a candidate's name on the ballot if the candidate fails to file a declaration of candidacy within the time prescribed under s. 8.21.

*History:* 1975 c. 93; 1979 c. 120, 328; 1979 c. 355 ss. 28, 29; 1983 a. 484; 1985 a. 304; 1987 a. 391.

See note to 8.10, citing *State ex rel. Ahlgrimm v. State Elections Bd.* 82 W (2d) 585, 263 NW (2d) 152.

**8.35 Vacancies after nomination.** (1) Any person who files nomination papers and qualifies to appear on the ballot may not decline nomination. The name of that person shall appear upon the ballot except in case of death of the person. A person who is appointed to fill a vacancy in nomination or who is nominated by write-in votes is deemed to decline nomination if he or she fails to file a declaration of candidacy within the time prescribed under sub. (2) (c) or s. 8.16 (2).

(2) (a) If a vacancy occurs after nomination due to the death of a candidate of a recognized political party for a partisan office, other than party committeeman or committeewoman, the vacancy may be filled by the chairperson of the committee of the proper political party under s. 7.38 (3), or the personal campaign committee, if any, in the case of independent candidates. Similar vacancies in nominations of candidates for nonpartisan local offices may be filled by the candidate's personal campaign committee or, if the candidate had none, by the body which governs the local governmental unit in which the deceased person was a candidate for office. The chairperson, chief officer of the committee, or clerk of

the body making an appointment shall file a certificate of appointment with the official or agency with whom declarations of candidacy for the office are filed. For purposes of this paragraph, the official or agency need not recognize members of a personal campaign committee whose names were not filed under s. 11.05 prior to the death of the candidate.

(b) If a vacancy in nomination occurs due to the death of a candidate, the officer or agency with whom nomination papers are filed for the office shall promptly notify the chairman, committee or body, if any, that the vacancy may be filled within 4 days of the date of the notice, as shown by the postmark if the notice is mailed. The chairman, committee or body may file a sworn certificate of nomination with the official or agency within the 4-day period.

(c) The official or agency with whom a proper certificate is filed under par. (b) shall promptly notify the candidate who is nominated and transmit to the candidate a declaration of candidacy form and, in the case of a candidate for state or local office, a financial registration statement form under s. 11.05. No later than 5 p.m. on the 3rd day after notification of nomination is mailed or personally delivered to the new nominee by the official or agency, the nominee shall file a declaration of candidacy and, in the case of a candidate for state or local office, a registration statement under s. 11.05. No later than 4:30 p.m. on the 3rd day after notification of nomination is mailed or personally delivered to a new nominee for state office or municipal judge by the official or agency, the nominee shall file a statement of economic interests under s. 19.43 (4). If the nominee fails to file the declaration of candidacy, the official or agency may refuse to place the candidate's name on the ballot. If the nominee fails to file the registration statement or statement of economic interests, the official or agency may not place the candidate's name on the ballot.

(d) If the ballots have been prepared, the committees or body filling the vacancy shall supply stickers as provided under s. 7.38 (3) (c). No vacancy in a nomination occurs prior to the time of the primary election for an office, unless no primary is required for the office for which the nomination is made.

(e) This subsection does not apply in the event of the death of a candidate for nonpartisan office who has no opponent appearing on the election ballot.

(3) Whenever a nominee dies after the election ballots are prepared, and no nomination is made under this section, the votes cast for the deceased shall be counted and returned. If he or she receives a plurality of the votes cast, the vacancy shall be filled as in the case of a vacancy occurring by death after election.

(4) (a) When a candidate is appointed to fill a vacancy under this section, the funds remaining in the former candidate's depository after payment of the former candidate's lawful campaign debts, if any, shall be: a) donated to the former candidate's local or state political party if he or she was a partisan candidate or donated to the charitable organization of his or her choice or the charitable organization chosen by his or her next of kin if the former candidate is deceased, or if no choice is made returned to the donors on a proportional basis; or b) if he or she was a nonpartisan candidate, donated to the charitable organization of his or her choice or the charitable organization chosen by the former candidate's next of kin if he or she is deceased; or c) if no choice is made, returned to the donors on a proportional basis, with contributions which cannot be identified donated in accordance with a) or b). A petitioner or personal representative may make the choice under a) or b) where c) applies.

(b) Notwithstanding par. (a), any unspent and unencumbered moneys received by a candidate from the Wisconsin election campaign fund shall be immediately transferred to any candidate who is appointed to replace such candidate, upon filing of a proper application therefor under s. 11.50 (2). If there is no candidate appointed or if no proper application is filed within 7 days of the date on which the vacancy occurs, such moneys shall revert to the state as provided in s. 11.50 (8).

(c) The transfer shall be reported to the appropriate filing officer in a special report submitted by the former candidate's campaign treasurer. If the former candidate is deceased and was serving as his or her own campaign treasurer, the former candidate's petitioner or personal representative shall file the report and make the transfer required by par. (b), if any. The report shall include a complete statement of all contributions, disbursements and incurred obligations pursuant to s. 11.06 (1) covering the period from the day after the last date covered on the former candidate's most recent report to the date of disposition.

(d) The newly appointed candidate shall file his or her report at the next appropriate interval under s. 11.20 (2) or (4) after his or her appointment. The appointed candidate shall include any transferred funds in his or her first report.

(e) Any person who violates this subsection may be punished as provided under s. 11.60 or 11.61.

*History:* 1973 c. 334; 1975 c. 93; 1977 c. 107, 340; 1979 c. 110 s. 60 (11); 1979 c. 311; 1983 a. 484; 1985 a. 131 s. 3; 1985 a. 303 s. 88; 1985 a. 304; 1987 a. 391.

*Vacancy due to death of circuit court candidate may not be filled under (2). Committee to Retain Byers v. Elections Board, 95 W (2d) 632, 291 NW (2d) 616 (Ct. App. 1980).*

**8.40 Petition requirements.** (1) In addition to any other requirements provided by law, each separate sheet of each petition for an election, including a referendum, shall have on the face at the top in boldface print the words "PETITION". Each signer of such a petition shall affix his or her signature to the petition, accompanied by his or her municipality of residence for voting purposes, the street and number, if any, on which the signer resides, and the date of signing.

(2) The affidavit of a qualified elector stating his or her residence with street and number, if any, shall appear at the bottom of each separate sheet of each petition specified in sub. (1), stating that the affiant personally circulated the petition and personally obtained each of the signatures; that the affiant knows that they are electors of the jurisdiction or district in which the petition is circulated; that the affiant knows that they signed the paper with full knowledge of its content; that the affiant knows their respective residences given; that the affiant knows that each signer signed on the date stated opposite his or her name; that the affiant resides within the jurisdiction or district in which the petition is circulated; and that the affiant is aware that falsifying the affidavit is punishable under ss. 12.13 (3) (a) and 946.32 (1) (a). The petition is valid with or without the seal of the officer who administers the oath.

(3) The board shall, by rule, prescribe standards consistent with this chapter and s. 9.10 (2) to be used by all election officials and governing bodies in determining the validity of petitions for elections and signatures thereon.

*History:* 1989 a. 192.

**8.50 Special elections.** Unless otherwise provided, this section applies to filling vacancies in the U.S. senate and house of representatives, executive state offices except the offices of governor, lieutenant governor and district attorney, judicial and legislative state offices, county offices and the offices of municipal judge and member of the board of school directors in school districts organized under ch. 119. State

legislative offices may be filled in anticipation of the occurrence of a vacancy whenever authorized in sub. (4) (e). No special election may be held after February 1 preceding the spring election unless it is held on the same day as the spring election, nor after September 1 preceding the general election unless it is held on the same day as the general election, until the day after that election. If the special election is held on the day of the general election, the primary for the special election, if any, shall be held on the day of the September primary. If the special election is held on the day of the spring election, the primary for the special election, if any, shall be held on the day of the spring primary.

**(1) SPECIAL ELECTION ORDER AND NOTICES.** (a) When there is to be a special election, the special election for county clerk shall be ordered by the sheriff; the special election for any other county office shall be ordered by the county clerk except as provided in s. 17.21 (5); the special election for school board member in a school district organized under ch. 119 shall be ordered by the school board; the special election for municipal judge shall be ordered by the mayor, president or chairman of the municipality, except in 1st class cities; and all other special elections shall be ordered by the governor. When the governor or attorney general issues the order, it shall be filed and recorded in the office of the board. When the county clerk or sheriff issues the order, it shall be filed and recorded in the office of the county clerk. When the county executive issues the order, it shall be filed in the office of the county board of election commissioners. When the school board of a school district organized under ch. 119 issues the order, it shall be filed and recorded in the office of the city board of election commissioners. When the mayor, president or chairman issues the order, it shall be filed in the office of the municipal clerk or city board of election commissioners.

(b) Notice of any special election shall be given upon the filing of the order under par. (a) by publication in a newspaper under ch. 985. If the special election concerns a national or state office, the board shall give notice as soon as possible to the county clerks. Upon receipt of notice from the board, or when the special election is for a county office, the county clerk shall give notice as soon as possible to all municipal clerks and publish one type A notice for all offices to be voted upon within the county as provided in s. 10.06 (2) (n) and (3) (f).

(c) The order and notice shall specify the office to be filled, the expiration date of the remaining term of office, the date of the election, the earliest date for circulating and deadline for filing nomination papers, the area involved in the election, the name of the incumbent before the vacancy occurred and a description of how the vacancy occurred, or for an election held under sub. (4) (e), the name of the incumbent and a description of how and when the vacancy is expected to occur. Except as otherwise provided in this paragraph, the notice shall include the information specified in s. 10.01 (2) (a).

(d) When the election concerns a national or state office, the board shall transmit to each county clerk at least 22 days before the special primary a certified list of all persons for whom nomination papers have been filed in its office. If no primary is required, the list shall be transmitted at least 42 days prior to the day of the election. Immediately upon receipt of the certified list, the county clerk shall prepare his or her ballots. For a county special election, the county clerk shall certify the candidates and prepare the ballots. If there is a primary, the county clerk shall publish one type B notice in a newspaper under ch. 10. When a primary is held, as soon as possible after the primary, the county clerk shall certify the candidates and prepare the ballots for the following special

election. The clerk shall publish one type B notice in a newspaper under ch. 10 for the election.

(2) **DATE OF SPECIAL ELECTION.** (a) The date for the special election shall be not less than 62 nor more than 77 days from the date of the order except when the special election is held on the day of the general election or spring election. If a special election is held concurrently with the spring or general election, the special election may be ordered not earlier than 92 days prior to the spring primary or September primary, respectively, and not later than 49 days prior to that primary.

(b) If a primary is required, the primary shall be on the day 4 weeks before the day of the special election except when the special election is held on the same day as the general election the special primary shall be held on the same day as the September primary or if the special election is held concurrently with the spring election, the primary shall be held concurrently with the spring primary.

(3) **NOMINATION, PRIMARY AND CANVASS.** (a) Nomination papers may be circulated no sooner than the day the order for the special election is filed and shall be filed not later than 5 p.m. 28 days before the day that the special primary will or would be held, if required, except when a special election is held concurrently with the spring election or general election, the deadline for filing nomination papers shall be specified in the order and the date shall be no earlier than the date provided in s. 8.10 (2) (a) or 8.15 (1), respectively, and no later than 35 days prior to the date of the spring or September primary. Nomination papers may be filed in the manner specified in s. 8.10, 8.15 or 8.20. Each candidate shall file a declaration of candidacy in the manner provided in s. 8.21 no later than the latest time provided in the order for filing nomination papers. If a candidate for state or local office has not filed a registration statement under s. 11.05 at the time he or she files nomination papers, the candidate shall file the statement with the papers. A candidate for state office shall also file a statement of economic interests with the ethics board no later than the end of the 3rd day following the last day for filing nomination papers specified in the order.

(b) Except as otherwise provided in this section, the provisions for September primaries under s. 8.15 are applicable to all partisan primaries held under this section, and the provisions for spring primaries under s. 8.10 are applicable to all nonpartisan primaries held under this section. In a special partisan primary or election, the order of the parties on the ballot shall be the same as provided under s. 5.62 (1) or 5.64 (1) (b). Independent candidates for state office at a special partisan election shall not appear on the primary ballot. No primary is required for a nonpartisan election in which not more than 2 candidates for an office appear on the ballot or for a partisan election in which not more than one candidate for an office appears on the ballot of each recognized political party. In every special election except a special election for nonpartisan state office where no candidate is certified to appear on the ballot, a space for write-in votes shall be provided on the ballot, regardless of whether a special primary is held.

(c) Notwithstanding ss. 5.37 (4), 5.91 (6) and 6.80 (2) (f), whenever a special partisan primary is held concurrently with the presidential preference primary, an elector may choose the party column or ballot in which the elector will cast his or her vote separately for each of the 2 primaries. Whenever 2 or more special partisan primaries or one or more special partisan primaries and a September primary are held concurrently, the procedure prescribed in ss. 5.37 (4), 5.91 (6) and 6.80 (2) (f) applies.

(d) The requirements for nominations and special primaries under this section apply to the filing of any office for

which a municipal caucus is regularly used to nominate candidates.

(e) In a special election for a state or national office, the county clerk or board of election commissioners shall transmit the statement of the county board of canvassers to the elections board no later than 7 days after the special primary and 13 days after the special election.

(4) **REGULATIONS ON SPECIAL ELECTIONS.** (b) A vacancy in the office of U.S. senator or representative in congress occurring prior to the 2nd Tuesday in May in the year of the general election shall be filled at a special primary and election. A vacancy in that office occurring between the 2nd Tuesday in May and the 2nd Tuesday in July in the year of the general election shall be filled at the September primary and general election.

(c) A vacancy in the office of secretary of state, state treasurer, attorney general or state superintendent, occurring more than 6 months before the expiration of the current term, may be filled at a special election.

(d) Any vacancy in the office of state senator or representative to the assembly occurring before the 2nd Tuesday in May in the year in which a regular election is held to fill that seat shall be filled as promptly as possible by special election. However, any vacancy in the office of state senator or representative to the assembly occurring after the close of the last regular floorperiod of the legislature held during his or her term shall be filled only if a special session or extraordinary floorperiod of the legislature is called or a veto review period is scheduled during the remainder of the term. The special election to fill the vacancy shall be ordered, if possible, so the new member may participate in the special session or floorperiod.

(e) Whenever a member of the legislature is elected to another office after the commencement of his or her term, and the term of the new office or the period during which the legislator is eligible to assume that office commences prior to the end of the legislator's original term of office, the governor may call a special election to fill the seat of the member in anticipation of a vacancy, upon receipt of a written resignation from that member which is effective on a date not later than the date of the proposed special election.

(f) 1. Except as provided in subds. 2 and 3, a vacancy in the office of justice, court of appeals judge or circuit judge occurring in any year after the date of the spring election and on or before December 1 shall be filled, if in the office of circuit judge, at the succeeding spring election; if in the office of court of appeals judge, at the first succeeding spring election when no other court of appeals judge is to be elected from the same court of appeals district; or, if in the office of justice, at the first succeeding spring election when no other justice is to be elected. A vacancy in the office of justice, court of appeals judge or circuit judge occurring after December 1 and on or before the date of the succeeding spring election shall be filled, if in the office of circuit judge, at the 2nd succeeding spring election; if in the office of court of appeals judge, at the first spring election, beginning with the 2nd succeeding spring election, when no other court of appeals judge is to be elected from the same court of appeals district; or, if in the office of justice, at the first spring election, beginning with the 2nd succeeding spring election, when no other justice is to be elected.

2. If a vacancy in the office of justice, court of appeals judge or circuit judge occurs after December 1 and on or before the date of the succeeding spring election as the result of the resignation of the incumbent, if an election for that seat is scheduled to be held at the succeeding spring election and if

the incumbent is not a candidate to succeed himself or herself, the vacancy shall be filled at the regularly scheduled election.

3. If a vacancy in the office of justice, court of appeals judge or circuit judge occurs after the date of the spring election for that seat and before the succeeding August 1 as the result of the resignation of the incumbent and the incumbent is not elected to succeed himself or herself, the vacancy shall be filled by the individual who was elected at the regularly scheduled election. If no individual is elected at the regularly scheduled election or if the individual who is elected dies or declines to serve, the vacancy shall be filled under subd. 1.

4. All vacancies filled under subds. 1 and 2 are for a full term commencing on August 1 succeeding the spring election at which they are filled.

(m) A permanent vacancy in the office of municipal judge may be filled by temporary appointment of the municipal governing body. The office shall then be permanently filled by special election, held concurrently with the next spring election following the occurrence of the vacancy, except that a vacancy occurring during the period after December 1 and on or before the date of the spring election shall be filled at the 2nd succeeding spring election, and no such election may be held after the expiration of the term of office nor at the time of holding the regular election for the office.

(g) If through neglect or failure, an elected officer who should have been chosen at the spring or general election is not chosen at that election, a special election may be held to fill the vacancy; but no special election may be held for any school or county officer after the time when the officer's term would have commenced had such person been elected at the proper spring or general election, except as authorized under this section, and no election may be held to fill a vacancy in the office of justice or judge except as authorized in par. (f).

(h) Whenever the right to office of any person who is elected to the legislature or the U.S. senate or house of representatives ceases before the commencement of the term of office to which he or she is elected, a special election shall be held to fill the vacancy.

(i) When the governor so directs, a special election shall be held to fill any vacancy not provided for in this section. This paragraph does not apply to judicial offices.

(5) CAMPAIGN FINANCE LAWS. All laws and rules promulgated under ch. 11 governing campaign finance and reporting, including all deadlines for filing reports and statements, are applicable to special elections, except as otherwise specifically provided.

History: 1971 c. 1, 40; 1973 c. 334 ss. 22, 57; 1973 c. 336; 1975 c. 80, 93, 199, 369; 1977 c. 26, 107, 187, 340, 427, 445, 447, 449; 1979 c. 27, 32, 260, 311; 1983 a. 484; 1985 a. 304; 1987 a. 391; 1989 a. 31, 359.

**8.55 Special referenda.** (1) Whenever a special referendum is called, the clerk of the jurisdiction which calls the special referendum shall publish a type A notice of the special referendum on the 4th Tuesday preceding the special referendum.

(2) The clerk of the jurisdiction which calls a special referendum shall publish type B and C notices of the special referendum on the day preceding the special referendum.

(3) Whenever a special county referendum is called, the municipal clerk of each municipality which is wholly or partly contained within the county shall publish type D and E notices of the special referendum at the times specified in s. 10.06 (3). Whenever a special municipal referendum is called, the municipal clerk of that municipality shall publish type D and E notices of the special referendum at the times specified in s. 10.06 (3). Whenever a special referendum is called by a special purpose district, the clerk of the jurisdiction which calls a special referendum shall publish type D and E notices of the referendum at the times specified in s. 10.06 (4). If an election for national, state, county or municipal office or a state, county or municipal referendum is called in a municipality on the same day that a special referendum is called by a special purpose district in the same municipality, the type D and E notices shall be published only by the municipal clerk.

(4) Whenever the clerks of more than one jurisdiction are required under this section to publish the same notice on the same day, they may publish one notice only and share the cost under s. 10.07 (1).

History: 1987 a. 391.

## CHAPTER 9

## POST ELECTION ACTIONS; DIRECT LEGISLATION

9.01 Recount.  
9.10 Recall.

9.20 Direct legislation.

**9.01 Recount. (1) PETITION; FEES; GENERAL PROCEDURES.** (a) Any candidate voted for at any election or any elector who voted upon any referendum question at any election may request a recount. The petitioner shall file a verified petition or petitions accompanied by the fee prescribed in par. (ag), if any, with the proper clerk or body under par. (ar) not earlier than the time of completion of the canvass and not later than 5 p.m. on the 3rd business day following the last meeting day of the municipal or county board of canvassers determining the election for that office or on that referendum question or, if more than one board of canvassers makes the determination not later than 5 p.m. on the 3rd business day following the last meeting day of the last board of canvassers which makes a determination. If the board of state canvassers makes the determination for the office or the referendum question, the petitioner shall file the petition not earlier than the last meeting day of the last county board of canvassers to make a statement in the election or referendum and not later than 5 p.m. on the 3rd business day following the day on which the elections board receives the last statement from a county board of canvassers for the election or referendum. Each verified petition shall state that at the election the petitioner was a candidate for the office in question or that he or she voted on the referendum question in issue; that the petitioner is informed and believes that a mistake or fraud has been committed in a specified ward or municipality in the counting and return of the votes cast for the office or upon the question; or shall specify any other defect, irregularity or illegality in the conduct of the election. The petition shall specify each ward, or each municipality where no wards exist, in which a recount is desired. If a recount is requested for all wards within a jurisdiction, each ward need not be specified. The petition may be amended to include information discovered as a result of the investigation of the board of canvassers after the filing of the petition, if the petitioner moves to amend the petition as soon as possible after the petitioner discovered or reasonably should have discovered the information which is the subject of the amendment and the petitioner was unable to include information in the original petition.

(ag) 1. Each petition for a recount shall be accompanied by the fee prescribed in this paragraph. If the difference between the votes cast for the leading candidate and those cast for the petitioner or the difference between the affirmative and negative votes cast upon any referendum question is less than 10 if 1,000 or less votes are cast or less than .5% of the total votes cast for the office or on the question if more than 1,000 votes are cast, the petitioner is not required to pay a fee.

2. If the difference between the votes cast for the leading candidate and those cast for the petitioner or the difference between the affirmative and negative votes cast upon any referendum question is at least 10 if 1,000 or less votes are cast or at least .5% if more than 1,000 votes are cast, the petitioner shall pay a fee of \$5 for each ward for which the petition requests a ballot recount, or \$5 for each municipality where no wards exist.

3. All fees shall be prepaid in cash or another form of payment which is acceptable to the officer to whom they are paid. No petition for which a fee is required is valid unless the proper fee is paid at the time of filing.

4. The board shall deposit all moneys received by it into the account under s. 20.510 (1) (g), and shall pay the fees required for each recount to the county clerks of the counties in which the recount is to be held. The county clerk shall deposit fees received by him or her with the county treasurer. The municipal clerk shall deposit fees received by him or her with the municipal treasurer.

5. In this paragraph, the "leading candidate" includes every individual whose vote total at the time of the filing of the recount petition would entitle the individual to election or nomination to office. In an election in which more than one office of the same type is to be filled from the same territory, the number and percentage of votes cast under this paragraph shall be determined by first dividing the total number of votes cast for the office by the number of offices being filled at the election from the same territory.

(ar) 1. In the event of a recount for any office, the petition shall be filed with the clerk or body with whom nomination papers are filed for that office.

2. In the event of a recount for a referendum, the petition shall be filed with the clerk of the jurisdiction in which the referendum is called, and in the case of the state with the elections board.

3. Upon receipt of a valid petition, the clerk shall thereupon notify the proper board of canvassers. Upon receipt of a valid petition by the elections board, the board shall promptly by certified mail or other expeditious means order the proper county boards of canvassers to commence the recount. County boards of canvassers shall convene no later than 9 a.m. on the day following receipt of an order and may adjourn for not more than one day at a time until the recount is completed in the county, except that the elections board may permit extension of the time for adjournment. Returns from a recount ordered by the elections board shall be transmitted to the office of the board as soon as possible, but in no case later than 13 days from the date of the order of the board directing the recount. The board of state canvassers may not make a determination in any election if a recount is pending before any county board of canvassers in that election. The board of state canvassers need not recount actual ballots, but shall verify the returns of the county boards of canvassers in making its determinations.

(b) The proper board of canvassers shall reconvene no earlier than 9 a.m. on the day following delivery of notice to all candidates under sub. (2) and no later than 9 a.m. on the day following the last day for filing of a petition and proceed to recount the ballots in the wards or municipalities specified and to review the allegations of fact contained in the petition or petitions. The recount shall proceed for each ward or municipality as follows:

1. The board of canvassers shall first compare the registration or poll lists and determine the number of voting electors.

2. The board of canvassers shall then examine the absentee ballot envelopes. Any defective absentee ballot envelopes shall be laid aside, properly marked and carefully preserved. The number of voters shall be reduced by the number of ballot envelopes set aside under this subdivision. An absentee ballot envelope is defective only if it is neither sworn nor witnessed, if it is not signed by the voter or if the affidavit supporting the absentee ballot envelope has such a number of technical errors that the board of canvassers is doubtful of the legal effect of the affidavit.

3. They shall then examine the container or bag containing the ballots to be certain it has not been tampered with, opened, or opened and resealed. Any irregularities or possible tampering with the container or bag shall be noted.

4. When the container or bag has been checked, it shall be opened and the contents removed. The board of canvassers shall, without examination other than is necessary to determine that each is a single ballot, count the number of ballots therein, excluding ballots removed under s. 7.51 (2) (e). Then, for each opened absentee ballot envelope that was laid aside as defective under subd. 2, the board of canvassers shall, without inspection, randomly draw one absentee ballot from the container or bag. In differentiating absentee ballots from other ballots, the board of canvassers shall presume that a ballot initialed only by the municipal clerk, the executive director of the board of elections commissioners or a deputy clerk or secretary is an absentee ballot. If there are more defective absentee ballot envelopes than there are probable absentee ballots, all of the probable absentee ballots shall be removed from the container or bag. Additional ballots shall be removed only if the number of remaining ballots still exceeds the number of voting electors recorded under subd. 1, reduced by the number of defective envelopes set aside under subd. 2. All ballots removed shall not be counted, but shall be marked as to the reason for their removal, set aside and carefully preserved. If the number of ballots still exceeds the number of voters, the board of canvassers shall place all ballots face up to check for blank ballots. Any blank ballots shall be so marked, set aside and carefully preserved. If the number of ballots still exceeds the number of voters reduced by the number of defective envelopes set aside under subd. 2, the board of canvassers shall place all ballots face down to check the initials. Any ballot not properly initialed by 2 inspectors or any absentee ballot not properly initialed by the municipal clerk, the executive director of the board of election commissioners or a deputy clerk or secretary shall be temporarily set aside and the board of canvassers shall, without inspection, randomly draw from these ballots as many as are necessary to reduce the number of ballots to equal the number of voters. Any ballots removed for lack of initials shall not be counted but shall be marked, set aside and carefully preserved. If the number of ballots still exceeds the number of voters reduced by the number of defective envelopes set aside under subd. 2, the remaining ballots shall be returned to the container or bag and the board of canvassers shall draw a number of ballots equal to the excess number of ballots by chance and without inspection from the container or bag. These ballots shall not be counted but shall be marked as having been removed by the canvassers on recount due to an excess number of ballots, set aside and carefully preserved.

5. When the number of ballots and voters agree, or after noting that the number of voters exceeds the number of ballots, the board of canvassers shall return all ballots to be counted to the ballot box and shall turn the ballot box in such manner as to thoroughly mix the ballots. The recount shall then begin.

5m. Except as otherwise provided in this section, the recount shall be conducted in accordance with s. 7.51.

6. In recounting the votes cast on a voting machine in which the record of the votes cast is contained in the machine, the board of canvassers shall make a record of the number of the seal, if any, the number of the protective counter or other device, if one is provided, and shall open the recording compartment of the machine, and without unlocking the machine against voting, shall recount the votes thereon. If the machine is an electronic voting machine utilizing a detachable record of votes cast, the record shall be retabulated under s. 5.90.

7. When a machine is recounted, the board of canvassers shall proceed to inspect and examine the machine showing the votes cast for each office or referendum specified in the petition, and shall make a record of the votes for that office or referendum as shown on that voting machine, which they shall certify as correct, in the presence of at least one witness.

8. If upon the recount it is found that the original canvass of the returns has been correctly made from a voting machine and that a discrepancy still remains unaccounted for, the board of canvassers shall publicly unlock the voting and counting mechanism of the machine, and shall proceed to examine and test the machine to determine the cause of the discrepancy in returns from the machine. A similar test shall be performed for electronic voting machines to ascertain whether there is any malfunction in the machine. After the completion of the examination and test, the board of canvassers shall prepare a statement giving the results of the examination and test. The statement shall be witnessed by at least one witness.

8m. Where a voting machine or electronic voting system is used, and an error in the vote total as shown on the machine or record of votes cast is clearly apparent, the board of canvassers may change the vote total as shown by the machine or system and certify or use a different total to certify a different result than is indicated by the machine or system if there is evidence of a specific malfunction in the machine or system, if the malfunction could reasonably have caused the error, and if clear and convincing evidence exists which indicates the exact actual total number of votes cast. The burden of demonstrating that a vote total shown on a machine or record of votes cast is incorrect rests with the party seeking to change the recorded result on the basis of clear and convincing evidence.

9. If upon the recount it appears that the original canvass of the returns by the election officials was incorrect, the statements and determinations of the board of canvassers shall be corrected accordingly.

10. Recounts at polling places utilizing an electronic voting system in which ballots are distributed to electors shall be performed in accordance with the procedure for recounting paper ballots insofar as applicable, except as provided in s. 5.90. Recounts at polling places utilizing electronic voting machines shall be performed in accordance with the procedure for recounting votes cast on mechanical voting machines, insofar as applicable, except as provided in s. 5.90.

11. All steps of the recount shall be performed publicly. All materials and ballots may be viewed and identified by the candidates, the person demanding the recount and their authorized representatives and counsel, but only members of the board of canvassers and tabulators assisting them may touch any of the materials or ballots. The candidates, the person demanding the recount and their authorized representatives and counsel may object to the counting of any ballot. Any errors shall be corrected.



(2) **NOTICE TO CANDIDATES.** When the recount concerns an election for an office, the clerk or body with whom the petition is filed shall promptly prepare a copy of the petition for delivery to each opposing candidate for the same office whose name appears on the ballot. In a recount proceeding for a partisan primary, the clerk or body shall prepare a copy of the petition for delivery to each opposing candidate for the same party nomination for the same office, to each opposing candidate for the party nomination of each other party for the same office and to each independent candidate qualifying to have his or her name placed on the ballot for the succeeding election. The clerk or body shall then promptly deliver the copies of the petition to the sheriff, who shall promptly deliver the copies of the petition to each candidate at the address given on the candidate's nomination papers, without fee, in the manner provided for service of a summons in civil actions.

(3) **REPRESENTATION AND OBSERVATION.** The petitioner, all opposing candidates and interested persons shall be entitled to be present in person and by counsel to observe the proceedings.

(4) **RIGHT TO COMPLETE RECOUNT.** Whenever a recount petition for part of the wards within a jurisdiction or district, or for part of the municipalities within a district where there are no wards, is filed under this section, the opposing candidate, or any voter or other interested party including a municipality if on a referendum question, may similarly file a petition for recount in any or all of the remaining wards or municipalities in the jurisdiction or district. The petition shall be filed not later than 5 p.m. 2 days after the board of canvassers completes the first recount. The proper board of canvassers shall reconvene at 9 a.m. on the next business day following the filing of the petition and proceed to recount the ballots in all wards or municipalities specified and to otherwise review the allegations of fact contained in the petition. Any errors shall be corrected.

(5) **OATHS; MINUTES; WITNESS FEES; TABULATORS; TIMING; PUBLICATION.** (a) The board of canvassers shall keep complete minutes of all its proceedings. The minutes shall include a record of objections and offers of evidence. If the board of canvassers receives exhibits from any party, it shall number and preserve the exhibits. The board of canvassers shall make specific findings of fact with respect to any irregularity raised in the petition or discovered during the recount. Any member of the board of canvassers may administer oaths, certify official acts and issue subpoenas for purposes of this section. Witness fees shall be paid by the county. In the case of the board of state canvassers, witness fees shall be paid by the elections board.

(b) The board of canvassers conducting a recount may select and employ tabulators to assist it in its duties. Tabulators shall perform their duties under the direction of the board of canvassers. Only the members of the board of canvassers are competent to make any determination as to the validity of any vote tabulated. Compensation of tabulators shall be determined under s. 7.03.

(c) If the recount is made by a municipal or county board of canvassers and the result is required to be reported to a county board of canvassers or to the board of state canvassers, the board of canvassers making the initial recount shall immediately certify the results to the county board of canvassers or board of state canvassers. If a county board of canvassers receives such results, it shall then convene not later than 9 a.m. on the next business day following receipt to examine the returns and determine the results. If the board of state canvassers receives such results, it shall convene not later than 9 a.m. on the 3rd business day following receipt to

examine the returns and determine the results, but if that day is earlier than the latest meeting day permitted for that election under s. 7.70 (3) (a), the board of state canvassers may convene not later than the day specified in s. 7.70 (3) (a).

(d) Whenever publication of an original determination is required, the county or municipal clerk shall publish the recount determination in the same manner.

(6) **APPEAL TO CIRCUIT COURT.** (a) Within 5 business days after completion of the recount determination by the board of canvassers in all counties concerned, or within 5 business days after completion of the recount determination by the board of state canvassers whenever a determination is made by that body, any candidate, or any elector when for a referendum, aggrieved by the recount may appeal to circuit court. The appeal shall commence by serving a written notice of appeal on the other candidates and persons who filed a written notice of appearance before each board of canvassers whose decision is appealed, or in the case of a statewide recount, before the board of state canvassers. The appellant shall also serve notice on the elections board if the board of state canvassers is responsible for determining the election. The appellant shall serve the notice by certified mail or in person. The appellant shall file the notice with the clerk of circuit court together with an undertaking and surety in the amount approved by the court, conditioned upon the payment of all costs taxed against the appellant.

(b) If an appeal is filed from a recount determination in an election which is held in more than one judicial circuit, the chief judge of the judicial administrative district in which the election is held shall consolidate all appeals relating to that election and appoint a circuit judge, who shall be a reserve judge if available, to hear the appeal. If the election is held in more than one judicial administrative district, the chief justice of the supreme court shall make the appointment.

(7) **COURT PROCEDURES; COSTS.** (a) The court with whom an appeal is filed shall forthwith issue an order directing each affected county or municipal clerk or board to transmit immediately all ballots, papers and records affecting the appeal to the clerk of court or to impound and secure such ballots, papers and records, or both. The order shall fix a place and a time for the hearing within 5 days of the order either in open court, at chambers or before a referee. The order shall be served upon each affected county or municipal clerk or board and all other candidates and persons who filed a written notice of appearance before any board of canvassers involved in the recount. A reference may be ordered upon any question. At the assigned time and place, the matter shall be summarily heard and determined and costs taxed as in other civil actions.

(b) The appeal shall be heard by a judge without a jury. Within 10 days after an appeal is filed, the appellant shall file a complaint enumerating with specificity every alleged irregularity, defect, mistake or fraud committed during the recount. The appellant shall file a copy of the complaint with each person who is entitled to receive a copy of the order under par. (a). The court shall promptly require an answer from the other parties to the appeal. The court shall hold a hearing on the matter within 15 days of the date that the answer is filed. Those provisions of chs. 801 to 806 which are inconsistent with a prompt and expeditious hearing do not apply to appeals under this section.

(8) **SCOPE OF REVIEW.** Unless the court finds a ground for setting aside or modifying the determination of the board of canvassers, it shall affirm the determination. The court shall separately treat disputed issues of procedure, interpretations of law and findings of fact. The court may not receive evidence not offered to the board of canvassers except for

evidence that was unavailable to a party exercising due diligence at the time of the recount or newly discovered evidence that could not with due diligence have been obtained during the recount, and except that the court may receive evidence not offered at an earlier time because a party was not represented by counsel in all or part of a recount proceeding. A party who fails to object or fails to offer evidence of a defect or irregularity during the recount waives the right to object or offer evidence before the court except in the case of evidence that was unavailable to a party exercising due diligence at the time of the recount or newly discovered evidence that could not with due diligence have been obtained during the recount or evidence received by the court due to unavailability of counsel during the recount. The court shall set aside or modify the determination if it finds that the board of canvassers has erroneously interpreted a provision of law and a correct interpretation compels a particular action. If the determination depends on any fact found by the board of canvassers, the court may not substitute its judgment for that of the board of canvassers as to the weight of the evidence on any disputed finding of fact. The court shall set aside the determination if it finds that the determination depends on any finding of fact that is not supported by substantial evidence.

(9) **APPEAL TO COURT OF APPEALS.** (a) Within 30 days after entry of the order of the circuit court, a party aggrieved by the order may appeal to the court of appeals.

(b) If an appeal is filed in respect to an election which is held in more than one court of appeals district, the chief justice of the supreme court shall consolidate all appeals relating to that election and designate one district to hear the appeal, except that if an appeal is filed in respect to an election for statewide office or a statewide referendum, the appeal shall be heard by the 4th district court of appeals.

(c) The court of appeals shall give precedence to the appeal over other matters not accorded similar precedence by law.

(10) **STANDARD FORMS AND METHODS.** The elections board shall prescribe standard forms and procedures for the making of recounts under this section.

(11) **EXCLUSIVE REMEDY.** This section constitutes the exclusive judicial remedy for testing the right to hold an elective office as the result of an alleged irregularity, defect or mistake committed during the voting or canvassing process.

*History:* 1971 c. 251; 1971 c. 304 s. 29 (2); 1971 c. 336; 1973 c. 313; 1973 c. 334 ss. 23 to 26, 57; 1975 c. 41, 422; 1977 c. 394 s. 53; 1977 c. 427; 1979 c. 200; 1979 c. 260 ss. 66 to 68, 93; 1979 c. 311, 355; 1983 a. 183; 1983 a. 484 s. 172 (3); 1983 a. 538; 1985 a. 304; 1987 a. 391; 1989 a. 192.

Challenge of compliance with procedures for absent voting is within board's jurisdiction. Absent connivance, fraud or undue influence, substantial compliance with statutory voting procedures is sufficient. *Appeal From Recount in Election Contest*, 105 W (2d) 468, 313 NW (2d) 869 (Ct. App. 1981).

Sub. (8) doesn't require party against whom board rules to object to board's determination to preserve issue for judicial review. *Clifford v. Colby School Dist.*, 143 W (2d) 581, 421 NW (2d) 852 (Ct. App. 1988).

Post-election eligibility challenges are properly brought under this section. *Logerquist v. Nasewaupce Canvassers*, 150 W (2d) 907, 442 NW (2d) 551 (Ct. App. 1989).

**9.10 Recall. (1) RIGHT TO RECALL; PETITION SIGNATURES.** (a) The qualified electors of the state, of any county, city, village, town, of any congressional, legislative, judicial or school district, or of any prosecutorial unit may petition for the recall of any incumbent elective official by filing a petition with the same official or agency with whom nomination papers or declarations of candidacy for the office are filed demanding the recall of the officeholder.

(b) Except as provided in par. (c), a petition for recall of a state, congressional, legislative, judicial or county officer shall be signed by electors equal to at least 25% of the vote cast for the office of governor at the last election within the

same district or territory as that of the officeholder being recalled. Except as provided in par. (c), a petition for the recall of a city, village, town or school district officer shall be signed by electors equal to at least 25% of the vote cast for the office of president at the last election within the same district or territory as that of the officeholder being recalled.

(c) If no statistics are available to calculate the required number of signatures on a petition for recall of an officer, the number of signatures shall be determined as follows:

1. The area of the district in square miles shall be divided by the area of the municipality in square miles in which it lies.

2. The vote for governor or president, as required, at the last general election in the municipality within which the district lies shall be multiplied by 25% of the quotient determined under subd. 1 to determine the required number of signatures.

3. If a district is in more than one municipality, the method of determination under subds. 1 and 2 shall be used for each part of the district which constitutes only a fractional part of any area for which election statistics are kept.

(d) The official or agency with whom declarations of candidacy are filed for each office shall determine and certify to any interested person the number of signatures required on a recall petition for that office.

(2) **PETITION REQUIREMENTS.** (a) Every recall petition shall have on the face at the top in bold print the words "RECALL PETITION". Other requirements as to preparation and form of the petition shall be governed by s. 8.40.

(b) A recall petition for a city, village, town or school district office shall contain a statement of a reason for the recall which is related to the official responsibilities of the official for whom removal is sought.

(c) A petition requesting the recall of each elected officer shall be prepared and filed separately.

(d) No petition may be offered for filing for the recall of an officer unless the petitioner first files a registration statement under s. 11.05 (1) or (2) with the filing officer with whom the petition is filed. The petitioner shall append to the registration a statement indicating his or her intent to circulate a recall petition, the name of the officer for whom recall is sought and, in the case of a petition for the recall of a city, village, town or school district officer, a statement of a reason for the recall which is related to the official responsibilities of the official for whom removal is sought. No petitioner may circulate a petition for the recall of an officer prior to completing registration. The last date that a petition for the recall of a state, congressional, legislative, judicial or county officer may be offered for filing is 5 p.m. on the 60th day commencing after registration. The last date that a petition for the recall of a city, village, town or school district officer may be offered for filing is 5 p.m. on the 30th day commencing after registration. After the recall petition has been offered for filing, no name may be added or removed. No signature may be counted unless the date of the signature is within the period provided in this paragraph.

(e) An individual signature on a petition sheet may not be counted if:

1. The signature is not dated.
2. The signature is dated outside the circulation period.
3. The signature is dated after the date of the notarization contained on the petition sheet.
4. The residency of the signer of the petition sheet cannot be determined by the address given.
5. The signature is that of an individual who is not a resident of the jurisdiction or district from which the elective official being recalled is elected.

6. The signer has been adjudicated not to be a qualified elector on grounds of incompetency or limited incompetency as provided in s. 6.03 (3).

7. The signer is not a qualified elector by reason of age.

8. The circulator knew or should have known that the signer, for any other reason, was not a qualified elector.

(em) No signature on a petition sheet may be counted if:

1. The petition sheet circulator fails to sign the affidavit of circulator.

2. The residency of the circulator cannot be determined by the information given on the petition.

3. The notary or person authorized to administer the oath fails to sign the jurat of the affidavit of circulator.

4. The title of the individual, other than a notary, administering the oath is not listed.

5. The notary commission or term of office of the individual administering the oath has expired.

(f) The filing officer or agency shall review a verified challenge to a recall petition if it is made prior to certification.

(g) The burden of proof for any challenge rests with the individual bringing the challenge.

(h) Any challenge to the validity of signatures on the petition shall be presented by affidavit or other supporting evidence demonstrating a failure to comply with statutory requirements.

(i) If a challenger can establish that a person signed the recall petition more than once, the 2nd and subsequent signatures may not be counted.

(j) If a challenger demonstrates that someone other than the elector signed for the elector, the signature may not be counted, unless the elector is unable to sign due to physical disability and authorized another individual to sign in his or her behalf.

(k) If a challenger demonstrates that the date of a signature is altered and the alteration changes the validity of the signature, the signature may not be counted.

(L) If a challenger establishes that an individual is ineligible to sign the petition, the signature may not be counted.

(m) No signature may be stricken on the basis that the elector was not aware of the purpose of the petition, unless the purpose was misrepresented by the circulator.

(n) No signature may be stricken if the individual administering the affidavit of circulator does not date the jurat.

(o) If the date of administering the oath predates the date of a signature, the signature is invalid. If the date of administering the oath is shown to be incorrect and the date postdates the date of a signature, the signature is valid.

(p) If a signature on a petition sheet is crossed out by the petitioner before the sheet is offered for filing, the elimination of the signature does not affect the validity of other signatures on the petition sheet.

(q) Challenges are not limited to the categories set forth in pars. (i) to (L).

(r) A petitioner may file affidavits or other proof correcting insufficiencies, including but not limited to:

1. An expired notary commission date.

2. Failure of a notary to sign the petition.

3. Failure to indicate the duration of a notary commission or title of an office.

4. Failure of the circulator to sign an affidavit.

5. Failure of the circulator to include all necessary information.

(s) No petition for recall of an officer may be offered for filing prior to the expiration of one year after commencement of the term of office for which the officer is elected.

(3) STATE, COUNTY, CONGRESSIONAL, LEGISLATIVE AND JUDICIAL OFFICES. (a) This subsection applies to the recall of all

elective officials other than city, village, town and school district officials. City, village, town and school district officials are recalled under sub. (4).

(b) Within 10 days after the petition is offered for filing, the officer against whom the petition is filed may file a written challenge with the official, specifying any alleged insufficiency. If a challenge is filed, the petitioner may file a written rebuttal to the challenge with the official within 5 days after the challenge is filed. If a rebuttal is filed, the officer against whom the petition is filed may file a reply to any new matter raised in the rebuttal within 2 days after the rebuttal is filed. Within 14 days after the expiration of the time allowed for filing a reply to a rebuttal, the official shall file the certificate or an amended certificate. Within 31 days after the petition is offered for filing, the official with whom the petition is offered for filing shall determine by careful examination whether the petition on its face is sufficient and so state in a certificate attached to the petition. If the official finds that the amended petition is sufficient, the official shall file the petition and call a recall election to be held on the Tuesday of the 6th week commencing after the date of filing of the petition. If Tuesday is a legal holiday, the recall election shall be held on the first day after Tuesday which is not a legal holiday. If the official finds that the petition is insufficient, the certificate shall state the particulars creating the insufficiency. The petition may be amended to correct any insufficiency within 5 days following the affixing of the original certificate. Within 5 days after the offering of the amended petition for filing, the official with whom the petition is filed shall again carefully examine the face of the petition to determine sufficiency and shall attach a certificate stating the findings. Upon showing of good cause, the circuit court for the county in which the petition is offered for filing may grant an extension of any of the time periods provided in this paragraph.

(bm) Within 7 days after an official makes a final determination of sufficiency or insufficiency of a recall petition under par. (b), the petitioner or the officer against whom the recall petition is filed may file a petition for a writ of mandamus or prohibition with the circuit court for the county where the recall petition is offered for filing. Upon filing of such a petition, the only matter before the court shall be whether the recall petition is sufficient. The court may stay the effect of the official's order while the petition is under advisement and may order the official to revise the election schedule contained in the order if a revised schedule is necessitated by judicial review. Whenever the recall petitioner files a petition under this paragraph, the officer against whom the recall petition is filed shall be a party to the proceeding. The court shall give the matter precedence over other matters not accorded similar precedence by law.

(c) The official against whom the recall petition is filed shall be a candidate at the recall election without nomination unless the official resigns within 10 days after the original filing of the petition. Candidates for the office may be nominated under the usual procedure of nomination for a special election by filing nomination papers not later than 5 p.m. on the 4th Tuesday preceding the election and have their names placed on the ballot at the recall election.

(d) If more than 2 persons compete for a nonpartisan office, a recall primary shall be held. The names of the 2 persons receiving the highest number of votes in the recall primary shall be certified to appear on the ballot in the recall election, but if any person receives a majority of the total number of votes cast in the recall primary, a recall election shall not be held. If the incumbent receives a majority of the votes cast, the incumbent shall be retained in office for the

remainder of the term. If another candidate receives a majority of the votes cast, that candidate shall be elected to serve for the residue of the unexpired term of the incumbent. Write-in votes are permitted only at a recall primary or at a recall election in which no primary is held.

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

(f) If a recall primary is required, the date specified under par. (b) shall be the date of the recall primary and the recall election shall be held on the Tuesday of the 4th week commencing after the recall primary or, if that Tuesday is a legal holiday, on the first day after that Tuesday which is not a legal holiday.

(4) CITY, VILLAGE, TOWN AND SCHOOL DISTRICT OFFICES. (a) Within 10 days after a petition for the recall of a city, village, town or school district official, is offered for filing, the officer against whom the petition is filed may file a written challenge with the municipal clerk or board of election commissioners or school district clerk with whom it is filed, specifying any alleged insufficiency. If a challenge is filed, the petitioner may file a written rebuttal to the challenge with the clerk or board of election commissioners within 5 days after the challenge is filed. If a rebuttal is filed, the officer against whom the petition is filed may file a reply to any new matter raised in the rebuttal within 2 days after the rebuttal is filed. Within 14 days after the expiration of the time allowed for filing a reply to a rebuttal, the clerk or board of election commissioners shall file the certificate or an amended certificate. Within 31 days after the petition is offered for filing, the clerk or board of election commissioners shall determine by careful examination of the face of the petition whether the petition is sufficient and shall so state in a certificate attached to the petition. If the petition is found to be insufficient, the certificate shall state the particulars creating the insufficiency. The petition may be amended to correct any insufficiency within 5 days following the affixing of the original certificate. Within 2 days after the offering of the amended petition for filing, the clerk or board of election commissioners shall again carefully examine the face of the petition to determine sufficiency and shall attach to the petition a certificate stating the findings. Immediately upon finding an original or amended petition sufficient, except in cities over 500,000 population, the municipal clerk or school district clerk shall transmit the petition to the governing body or to the school board. Immediately upon finding an original or amended petition sufficient, in cities over 500,000 population, the board of election commissioners shall file the petition in its office.

(d) The governing body, school board or board of election commissioners upon receiving the certificate shall call an election on the Tuesday of the 6th week commencing after the date of the certificate. If Tuesday is a legal holiday, the recall election shall be held on the first day after Tuesday which is not a legal holiday.

(e) The official against whom the recall petition is filed shall be a candidate at the recall election without nomination unless the official resigns within 10 days after the date of the certificate. Candidates for the office may be nominated under the usual procedure of nomination for a special election by

filing nomination papers or declarations of candidacy not later than 5 p.m. on the 4th Tuesday preceding the election and have their names placed on the ballot at the recall election.

(f) If more than 2 persons compete for an office, a recall primary shall be held. The names of the 2 persons receiving the highest number of votes in the recall primary shall be certified to appear on the ballot in the recall election, but if any person receives a majority of the total number of votes cast in the recall primary, a recall election shall not be held. If the incumbent receives a majority of the votes cast, the incumbent shall be retained in office for the remainder of the term. If another candidate receives a majority of the votes cast, that candidate shall be elected to serve for the residue of the unexpired term of the incumbent. Write-in votes are permitted only at a recall primary or at a recall election in which no primary is held.

(g) If a recall primary is required, the date specified under par. (d) shall be the date of the recall primary and the recall election shall be held on the Tuesday of the 4th week commencing after the recall primary or, if that Tuesday is a legal holiday, on the first day after that Tuesday which is not a legal holiday.

(h) All candidates for any town or village office, other than the official against whom the recall petition is filed, shall file nomination papers, regardless of the method of nomination of candidates for town or village office under s. 8.05.

(5) VOTING METHOD; ELECTION RESULTS. (a) The recall primary or election of more than one official may be held on the same day. If more than one official of the same office designation elected at large for the same term from the same district or territory is the subject of a recall petition, there shall be a separate election contest for the position held by each official. Candidates shall designate which position they are seeking on their nomination papers. Instructions shall appear on the ballot to electors to vote for each position separately.

(b) The official against whom a recall petition has been filed shall continue to perform the duties of his or her office until a certificate of election is issued to his or her successor. The person receiving a plurality of votes at the recall election or a majority of votes at a primary when authorized under sub. (3) (d) or (4) (f) shall be declared elected for the remainder of the term. If the incumbent receives the required number of votes he or she shall continue in office. Except as provided in sub. (4) (f), if another person receives the required number of votes that person shall succeed the incumbent if he or she qualifies within 10 days after receiving a certificate of election.

(6) LIMITATION ON RECALL ELECTIONS. After one recall petition and recall election, no further recall petition may be filed against the same official during the term for which he or she was elected.

(7) PURPOSE. The purpose of this section is to facilitate the operation of article XIII, section 12, of the constitution and to extend the same rights to electors of cities, villages, towns and school districts.

History: 1977 c. 187 s. 134; 1977 c. 403, 447; 1979 c. 260; 1983 a. 219, 491, 538; 1985 a. 304; 1987 a. 391; 1989 a. 31, 192; 1991 a. 269, 315.

Striking entire page of signatures for one invalid signature violates elector's right to recall. *Stahovic v. Rajchel*, 122 W (2d) 370, 363 NW (2d) 243 (Cl. App. 1984).

This section applies to members of Congress. 68 Atty. Gen. 140.

9.20 Direct legislation. (1) A number of electors equal to at least 15% of the votes cast for governor at the last general election in their city or village may sign and file a petition with the city or village clerk requesting that an attached proposed ordinance or resolution, without alteration, either be adopted

by the common council or village board or be referred to a vote of the electors. The individual filing the petition on behalf of the electors shall designate in writing an individual to be notified of any insufficiency or improper form under sub. (3).

(2) The preparation and form of the direct legislation petition shall be governed by s. 8.40.

(2m) After the petition has been offered for filing, no name may be erased or removed. No signature may be considered valid or counted unless the date is less than 60 days before the date offered for filing.

(3) Within 15 days after the petition is filed, the clerk shall determine by careful examination whether the petition is sufficient and whether the proposed ordinance or resolution is in proper form. The clerk shall state his or her findings in a signed and dated certificate attached to the petition. If the petition is found to be insufficient or the proposed ordinance or resolution is not in proper form, the certificate shall give the particulars, stating the insufficiency or improper form. The petition may be amended to correct any insufficiency or the proposed ordinance or resolution may be put in proper form within 10 days following the affixing of the original certificate and notification of the individual designated under sub. (1). When the original or amended petition is found to be sufficient and the original or amended ordinance or resolution is in proper form, the clerk shall so state on the attached certificate and forward it to the common council or village board immediately.

(4) The common council or village board shall, without alteration, either pass the ordinance or resolution within 30 days following the date of the clerk's final certificate, or submit it to the electors at the next spring or general election, if the election is more than 6 weeks after the date of the council's or board's action on the petition or the expiration of

the 30-day period, whichever first occurs. If there are 6 weeks or less before the election, the ordinance or resolution shall be voted on at the next election thereafter. The council or board by a three-fourths vote of the members-elect may order a special election for the purpose of voting on the ordinance or resolution at any time prior to the next election, but not more than one special election for direct legislation may be ordered in any 6-month period.

(5) The clerk shall cause notice of the ordinance or resolution that is being submitted to a vote to be given as provided in s. 10.06 (3) (f).

(6) The ordinance or resolution need not be printed in its entirety on the ballot, but a concise statement of its nature shall be printed together with a question permitting the elector to indicate approval or disapproval of its adoption.

(7) If a majority vote in favor of adoption, the proposed ordinance or resolution shall take effect upon publication under sub. (5). Publication shall be made within 10 days after the election.

(8) City ordinances or resolutions adopted under this section shall not be subject to the veto power of the mayor and city or village ordinances or resolutions adopted under this section shall not be repealed or amended within 2 years of adoption except by a vote of the electors. The common council or village board may submit a proposition to repeal or amend the ordinance or resolution at any election.

*History:* 1977 c. 102; 1983 a. 484; 1989 a. 192, 273.

This section implements legislative powers reserved by the people. Subject to certain conditions, common council has no authority to make initial judgment of the constitutionality or validity of proposed direct legislation. State ex rel. Althouse v. Madison, 79 W (2d) 97, 255 NW (2d) 449.

Proposal that is administrative, rather than legislative in character, is not proper subject of initiative proceedings. State ex rel. Becker v. Common Council, 101 W (2d) 680, 305 NW (2d) 178 (Cl. App. 1981).

City clerk has mandatory duty to forward to common council a sufficient petition and ordinance in proper form. State ex rel. North v. Goetz, 116 W (2d) 239, 342 NW (2d) 747 (Cl. App. 1983).

## CHAPTER 10

## ELECTION DATES AND NOTICES

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SUBCHAPTER I  
ELECTION NOTICES

**10.01 Election notice form.** (1) The form of the various election notices shall be prescribed by the board to standardize election notices. To accomplish this purpose, the board shall make rules and draft whatever forms it considers necessary. Notification or certification lists of candidates or referenda questions sent to the county clerks shall prescribe the form in which the county clerks shall publish the relevant portions of the notice and any additional county offices and referenda questions. The board shall also prescribe the provisions for municipal notices which shall be sent to each county clerk who shall immediately forward them to each municipal clerk.

(2) For election purposes there shall be 5 basic types of notices, modified as necessary to apply to the various elections, which shall be published in substantially the same form as prescribed by the board. The 5 types of notices are:

(a) **Type A**—The type A notice shall be entitled "Notice of Election". The notice shall list the date of the election. For an election to fill any office, the notice shall list each office to be filled and the incumbent for each; the length of the term of each office and the expiration date of the term; and the beginning date for circulating, the place and deadline for filing declarations of candidacy and nomination papers, where required, for each office listed and the date of the primary election, if required. If a redistricting since the most recent election makes the description of the incumbent's office of limited usefulness, the notice may contain supplementary information describing the territory in which an election is to be held. For an election at which a referendum is held, the notice shall contain the text of the question and a statement specifying where a copy of the resolution directing submission of the question may be obtained. Whenever an election is noticed to be held within a district, the notice shall contain a statement specifying where information concerning district boundaries may be obtained. The type A notice shall be published once by the county clerk of each county for each national, state or county election, and once by the clerk of each municipality or special purpose district for each municipal or special purpose district election, at the times designated in s. 10.06.

(b) **Type B**—The type B notice shall include the relevant facsimile ballots and the relevant portions of voting instructions to electors under s. 10.02 for each office or referendum and shall specify the date of the election. In counties or

municipalities where an electronic voting system employing a ballot label and ballot card is used, the notice shall include the information specified in s. 5.94. The type B notice shall be published once by the county clerks, and for primaries and other elections in municipalities or special purpose districts, once by the clerk of the municipality or special purpose district on the day preceding each primary and other election.

(c) **Type C**—The type C notice shall be entitled "Notice of Referendum". The notice shall be given whenever a referendum is held. The notice shall contain the date of the referendum, the entire text of the question and the proposed enactment, if any, as well as an explanatory statement of the effect of either a "yes" or "no" vote. For state questions, the statement shall be prepared by the attorney general. For county questions, the statement shall be prepared by the corporation counsel. For other questions, the statement shall be prepared by the attorney for the jurisdiction in which the question is submitted. County clerks and, for questions submitted by municipalities or special purpose districts, the clerk of the municipality or special purpose district shall publish the type C notice once at the same time that the type B notice is published. The type C notice shall be printed in the newspaper as close as possible to that portion of the type B notice showing the facsimile referendum ballot.

(d) **Type D**—The type D notice shall state the hours the polls will be open and the polling places to be utilized at the election or shall include a concise statement of how polling place information may be obtained. In cities over 500,000 population, the board of election commissioners shall determine the form of the notice. In other municipalities and special purpose districts, the clerk of the municipality or special purpose district shall give the polling place information in the manner the governing body of the municipality or special purpose district decides will most effectively inform the electors. The type D notice shall be published by the municipal clerk or board of election commissioners of each municipality once on the day before each spring primary and election, each special national, state, county or municipal election at which the electors of that municipality are entitled to vote and each September primary and general election. The clerk of each special purpose district which calls a special election shall publish a type D notice on the day before the election, and the day before the special primary, if any, except as authorized in s. 8.55 (3).

(e) **Type E**—The type E notice shall state the qualifications for absentee voting, the procedures for obtaining an absentee ballot in the case of registered and unregistered voters, and the places and the deadlines for application and return of

application. The municipal clerk shall publish a type E notice on the 4th Tuesday preceding each spring primary and election, on the 4th Tuesday preceding each September primary and general election, on the 4th Tuesday preceding the primary for each special national, state, county or municipal election if any, on the 4th Tuesday preceding a special county or municipal referendum, and on the 3rd Tuesday preceding each special national, state, county or municipal election to fill an office which is not held concurrently with the spring or general election. The clerk of each special purpose district which calls a special election shall publish a type E notice on the 4th Tuesday preceding the primary for the special election, if any, on the 4th Tuesday preceding a special referendum, and on the 3rd Tuesday preceding a special election for an office which is not held concurrently with the spring or general election except as authorized in s. 8.55 (3).

*History:* 1973 c. 334 s. 57; 1975 c. 275; 1979 c. 260, 311; 1983 s. 484; 1985 s. 304; 1987 s. 391; 1989 s. 31.

**10.02 Type B notice content.** (1) Before any election an appropriate type B notice shall be published in substantially the form prescribed by the board at the times prescribed in s. 10.06. The type B notice shall include the following relevant sections and be within the guidelines established in this section.

(2) (a) The headline or caption, the introductory paragraph and the voting instructions shall be printed once at the beginning of the notice followed by a facsimile of each ballot to be used at the election. The headline or caption shall be conspicuously displayed, but the caption together with the necessary spacing above and below shall not exceed 1 1/4 inches in depth. The introductory paragraph and voting instructions shall be set solid in the type of the regular reading matter of the newspaper but no smaller than 5 1/2-point nor larger than 10-point type.

(b) Following the introductory paragraph, but preceding the facsimile ballot notice, shall appear the statement of information to electors in the form prescribed in sub. (3).

(c) The facsimile ballots shall follow the voting instructions. The size and style of type and the general display of the facsimile ballots shall be prescribed by the board and shall conform to the form prescribed by the board under s. 7.08 (1) (a). The party columns shall not exceed 2-1/6 inches in width and the ballot size may be reduced. Voting machine facsimile ballots shall show a reduced diagram of the front of the voting machine and instructions to electors on how to vote on the machine. If the ballots in the wards or election districts within a county or municipality are identical but for the names of different candidates, districts or seats, the facsimile ballot may show the ballot for one ward or election district, accompanied by a list of candidates, districts and seats to be voted upon in the other wards or election districts.

(3) The notice shall contain the following:

**FACSIMILE BALLOT NOTICE  
OF .... ELECTION**

Office of .... [County] [Municipal] Clerk.

To the Electors of .... [County] [Municipality]:

Notice is hereby given of a .... election to be held in the several wards in the [county] [municipality] of ....., on the .... day of ....., 19.., at which the officers named below shall be chosen. The names of the candidates for each office to be voted for, whose nominations have been certified to or filed in this office, are given under the title of the office and under the appropriate party or other designation, each in its proper column, together with the questions submitted to a vote, in the sample ballot below.

**INFORMATION TO ELECTORS**

Except where a different statement is prescribed by the board for use in whole or in part by municipalities using electronic voting systems under s. 5.95, the voting instructions shall be given substantially as follows:

(a) Upon entering the polling place, an elector shall give his or her name and address before being permitted to vote. Where ballots are distributed to electors, the initials of 2 inspectors must appear on the ballot. Upon being permitted to vote, the elector shall retire alone to a voting booth or machine and cast his or her ballot, except that an elector who is a parent or guardian may be accompanied by the elector's minor child or minor ward. An election official may inform the elector of the proper manner for casting a vote, but the official may not in any manner advise or indicate a particular voting choice.

(b) 1. If an elector wishes to vote for all candidates nominated by any party, the elector shall make a cross (X) in the circle or depress the lever or button under the party designation printed at the top of the ballot. Unless a name has been erased or crossed out, another name written in, a cross made to the right of a candidate for the same office in another column or a sticker applied, a cross in the circle at the top of the column is a vote for all the party's candidates listed in the column. If an elector does not wish to vote for all the candidates nominated by one party, the elector shall make a cross (X) in the square at the right of or separately depress the levers or buttons next to each candidate's name for whom he or she intends to vote, or shall insert or write in the name of a candidate.

2. At a special partisan primary, the elector shall select the party ballot of his or her choice and shall make a cross (X) in the square at the right of or depress the lever or button next to the candidate's name for each office for whom the elector intends to vote, or shall insert or write in the name of the elector's choice for a candidate.

2m. At the September primary, the elector shall select the party ballot of his or her choice or the ballot containing the names of the independent candidates for state office, and make a cross (X) in the square at the right of or depress the lever or button next to the candidate's name for each office for whom the elector intends to vote or insert or write in the name of the elector's choice for a party candidate, if any. In order to qualify for participation in the Wisconsin election campaign fund, a candidate for state office at the September primary, other than a candidate for district attorney, must receive at least 6% of all votes cast on all ballots for the office for which he or she is a candidate, in addition to other requirements.

3. When casting a presidential preference vote, the elector shall select the party ballot of his or her choice and make a cross (X) in the square at the right of or depress the button or lever next to the candidate's name for whom he or she intends to vote or shall, in the alternative, make a cross (X) in the square at the right of or depress the button or lever next to the words "Uninstructed delegation", or shall write in the name of his or her choice for a candidate.

4. At a nonpartisan primary, the elector shall make a cross (X) in the square at the right of or depress the button or lever next to the candidate's name for each office for whom he or she intends to vote, or insert or write in the name of his or her choice for a candidate.

(c) In presidential elections, the elector shall make a cross (X) in the square at the right of or depress the button or lever next to the set of candidates for president and vice president for whom he or she intends to vote. The vote shall be counted

for all the candidates for presidential electors of those candidates.

(d) On referenda questions, the elector shall make a cross (X) in the square at the right of or depress the button or lever next to the answer which he or she intends to give.

(e) The vote should not be cast in any other manner. If the elector spoils a ballot, he or she shall return it to an election official who shall issue another in its place, but not more than 3 ballots shall be issued to any one elector. If the ballot has not been initialed by 2 inspectors or is defective in any other way, the elector shall return it to the election official, who shall issue a proper ballot in its place. Not more than 5 minutes' time shall be allowed inside a voting booth or machine. Unofficial ballots or a memorandum to assist the elector in marking his or her ballot may be taken into the booth and copied. The sample ballot shall not be shown to anyone so as to reveal how the ballot is marked.

(f) After an official paper ballot is marked, it shall be folded so the inside marks do not show but so the printed endorsements and inspectors' initials on the outside do show. After casting his or her vote, the elector shall leave the voting machine or booth, and where paper ballots are distributed to the electors, deposit his or her folded ballot in the ballot box or deliver it to an inspector for deposit in the box, and shall leave the polling place promptly.

(g) An elector may select an individual to assist in casting his or her vote if the elector declares to the presiding official that he or she is unable to read, has difficulty reading, writing or understanding English or that due to disability is unable to cast his or her ballot. The selected individual rendering assistance may not be the elector's employer or an agent of that employer or an officer or agent of a labor organization which represents the elector.

(h) The following is a facsimile of the official ballot: (insert facsimile of ballot)

...., (County Clerk)  
(Municipal Clerk)

History: 1971 c. 304 a. 29 (2); 1973 c. 334 s. 57; 1975 c. 85, 199; 1977 c. 107, 427, 447; 1979 c. 311; 1981 c. 377; 1983 a. 484 ss. 119, 172 (3); 1985 a. 304; 1989 a. 31.

**10.03 Cross references required.** Whenever possible the complete election notice shall appear on a single page of the newspaper. If this is impracticable, a footnote in 12-point caps shall indicate the page where the notice is continued. At the top of each succeeding page, or column of the notice, shall appear in 12-point caps and figures the notation, "For information to Electors and other facsimile ballots, see page ....".

**10.04 Newspaper selection and fees.** (1) Election notices required by law to be published may be published only in newspapers qualified under ch. 985.

(2) (a) County clerks shall publish election notices in all newspapers published within the county that qualify under ch. 985 unless the county board provides otherwise by resolution.

(b) The board of election commissioners or governing body of a municipality may authorize by resolution the publication of election notices in more than one newspaper. The resolution may name the newspapers in which all election notices shall appear.

(3) (a) Whenever, in chs. 5 to 12, provision is made for the publication of a notice on a specific date and a weekly newspaper is chosen, the notice shall appear in that newspaper's closest preceding issue. Whenever, in chs. 5 to 12, provision is made for the publication of a notice on the day before an election and the county or municipal clerk who is

responsible for publishing the notice determines that, due to the method of delivering newspapers in the municipality, more effective notice will be provided by publication at an earlier date, the municipal clerk may publish the notice not earlier than 3 days before the election.

(b) Whenever, in chs. 5 to 12, provision is made for publication of an election notice by more than one insertion, this may be done (in counties over 200,000 population) by publication in one or more newspapers on the dates prescribed or in different newspapers at least equal in number to the number of insertions required. When different newspapers are used, the publications shall always be in each newspaper's latest issue preceding the last given date for publishing that notice.

(4) Compensation for publishing all notices may not exceed that authorized for legal notices under s. 985.08.

History: 1977 c. 427; 1979 c. 89; 1985 a. 304.

**10.05 Posting of notice.** Unless specifically designated elsewhere, this section applies to villages, towns and school districts. Whenever a notice is required to be published, a village, town or school district may post 3 notices in lieu of publication under ch. 985 whenever there is not a newspaper published within the village, town or school district or whenever the governing body of the village, town or school district chooses to post in order to supplement notice provided in a newspaper. Whenever the manner of giving notice is changed by the governing body, the body shall give notice of the change in the manner used before the change. Whenever posting is used, the notices shall be posted no later than the day prescribed by law for publication, or if that day falls within the week preceding the election to be noticed, at least one week before the election. All notices given for the same election shall be given in the same manner.

History: 1987 a. 391.

**10.06 Basic election notices.** (1) **ELECTIONS BOARD.** (a) On or before November 15 preceding a spring election the board shall send a type A notice to each county clerk.

(c) As soon as possible after the deadline for filing nomination papers for the spring election, but no later than the 2nd Tuesday in January, the board shall send a type B notice certifying the list of candidates to each county clerk if a primary is required.

(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 primary is held, 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.

(f) On or before the 2nd Tuesday in May preceding a September primary and general election the board shall send a type A notice to each county clerk.

(h) As soon as possible after the deadline for determining ballot arrangement for the September primary on the 3rd Tuesday in July, the board shall send a type B notice to each county clerk certifying the list of candidates for the September primary.

(i) As soon as possible after the state canvass, but no later than the 4th Tuesday in September, the board shall send a type B notice certifying the list of candidates and type A and C notices certifying each question for any referendum to each county clerk for the general election and a certified list of



candidates under s. 11.50 to the state treasurer pursuant to s. 7.08 (2) (c).

(2) **COUNTY CLERKS.** (a) On the 4th Tuesday in November preceding a spring election each county clerk shall publish a type A notice based on the notice received from the board for all state offices to be filled at the election by any electors voting in the county and a similar notice incorporating any county offices.

(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 coming spring primary. When there is no state spring primary within the county, but there is to be a county spring primary, the county clerk shall prepare the ballots and send notice to each municipal clerk.

(d) On the Monday preceding the spring primary, when held, the county clerk shall publish a type B notice.

(e) Upon receipt of the type B notice from the board each county clerk shall add any county offices and referenda, prepare the ballots and send notice to each municipal clerk of the coming spring election.

(f) On the 4th Tuesday preceding the spring election, the county clerk shall publish a type A notice of any state or county referendum to be held at the election.

(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 those years in which a presidential preference primary is held, the county clerk shall also publish notice of the 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.

(gm) On the last Tuesday in May the county clerk shall send notice of the coming September primary and general election to each municipal clerk.

(h) On the first Tuesday in June preceding a September primary and general election, the county clerk shall publish a type A notice based on the notice received from the board for all national and state offices to be filled at the election by any electors voting in the county and incorporating county offices.

(j) On the Monday preceding the September primary the county clerk shall publish a type B notice.

(k) Upon receipt of the type B notice from the board preceding the general election, the county clerk shall add county offices and referenda, if any, and send notice to each municipal clerk of the coming general election and prepare the ballots.

(L) On the 4th Tuesday preceding the general election, the county clerk shall publish a type A notice of any state or county referendum to be held at the election.

(m) On the Monday preceding the general election the county clerk shall publish a type B notice containing the same information prescribed in par. (h). In addition, the county clerk shall publish a type C notice on the Monday preceding the general election for all state and county referenda to be voted upon by electors of the county.

(n) On the 4th Tuesday preceding any special primary or election for national, state or county office, or any special county referendum, the county clerk shall publish a type A notice. On the day preceding any special primary or election for national, state or county office, the county clerk shall publish a type B notice. On the day preceding a special county referendum, the county clerk shall publish type B and C notices for the referendum.

(3) **MUNICIPAL CLERKS.** (a) On the 4th Tuesday in November preceding a spring municipal election the municipal clerk

shall publish one type A notice for municipal offices. Publication shall be on the following day if Tuesday is a holiday.

(am) As soon as possible following the deadline for filing nomination papers for any municipal election when there is to be an election for a county or state office or a county or statewide referendum, but no later than 2 days after such deadline, the municipal clerk of each municipality in which voting machines or ballots containing the names of candidates for both local offices and national, state or county offices are used shall certify the list of candidates for municipal office to the county clerk if a primary is required, unless the municipality prepares its own ballots under s. 7.15 (2) (c).

(as) On the 4th Tuesday preceding the spring primary, when held, the municipal clerk shall publish a type E notice. In cities and villages, the municipal clerk shall publish a type A notice on the 4th Tuesday preceding the spring primary of any direct legislation questions to be voted on at the primary.

(b) If there is to be a municipal primary, the municipal clerk shall publish a type B notice on the Monday before the primary election. In cities and villages, the municipal clerk shall publish a type C notice on the Monday before the primary election of any direct legislation questions to be voted on at the primary.

(bm) As soon as possible following the municipal canvass of the primary vote or the municipal caucus when there is to be an election for a county or state office or a county or statewide referendum, but no later than 2 days after such date, the municipal clerk of each municipality in which voting machines or ballots containing the names of candidates for both local offices and national, state or county offices are used shall certify the list of candidates for municipal office and municipal referenda appearing on the ballot to the county clerk, unless the municipality prepares its own ballots under s. 7.15 (2) (c).

(bs) On the 4th Tuesday preceding the spring election, the municipal clerk shall publish a type E notice. If there are municipal referenda, the municipal clerk shall publish a type A notice of the referenda at the same time.

(c) On the Monday before the spring election, the municipal clerk shall publish a type B notice and a type D notice. If there are municipal referenda, the municipal clerk shall publish a type C notice at the same time.

(cm) On the 4th Tuesday preceding the September primary and general election, when held, the municipal clerk shall publish a type E notice. If there are municipal referenda, the municipal clerk shall publish a type A notice of the referenda at the same time.

(d) On the Monday preceding the general election, the municipal clerk shall publish a type D notice. If there are municipal referenda, the municipal clerk shall publish type B and C notices at the same time.

(e) When electronic or mechanical voting machines or electronic voting systems employing a ballot card or label are used in a municipality at a municipal election, the municipal clerk shall publish a type B notice on the Monday before the election. The notice shall include all offices and questions to be voted on at the election. The cost of this notice shall be shared under s. 5.68 (2) and (3).

(f) At least 40 days prior to any special primary or election for municipal office, the municipal clerk shall publish a type A notice. On the 4th Tuesday prior to any special primary for national, state, county or municipal office, the municipal clerk shall publish a type E notice. On the 3rd Tuesday prior to any special election for national, state, county or municipal office which is not held concurrently with the spring or general election, the municipal clerk shall publish a type E notice. On the 4th Tuesday prior to any special county

referendum, the municipal clerk shall publish a type E notice. On the 4th Tuesday prior to any special municipal referendum, the municipal clerk shall publish type A and E notices. On the day preceding any special primary or election for municipal office, or any special municipal referendum, the municipal clerk shall publish a type B notice. The municipal clerk shall publish a type C notice on the day preceding a special municipal referendum. On the day preceding any special primary or election for national, state, county or municipal office, or a special county or municipal referendum, the municipal clerk shall publish a type D notice.

(4) **OTHER CLERKS.** (a) Unless otherwise provided, on the 4th Tuesday in November preceding an election for any office other than a national, state, county or municipal office, the clerk of the jurisdiction in which the election is held shall publish a type A notice.

(b) Unless otherwise provided, at least 40 days prior to any special primary or election for any office other than a national, state, county or municipal office, the clerk of the jurisdiction which calls the primary or election shall publish a type A notice.

(c) On the 4th Tuesday prior to any referendum other than a county or municipal referendum, the clerk of the jurisdiction which calls the referendum shall publish a type A notice.

(d) On the 4th Tuesday prior to any special primary for any office other than a national, state, county or municipal office, the clerk of the jurisdiction which calls the election for which the primary is held shall publish a type E notice.

(e) On the 3rd Tuesday prior to any special election for an office other than a national, state, county or municipal office which is not held concurrently with the spring or general election, the clerk of the jurisdiction which calls the election shall publish a type E notice.

(f) On the 4th Tuesday prior to any special referendum other than a county or municipal referendum, the clerk of the jurisdiction which calls the referendum shall publish a type E notice.

(g) On the day preceding any primary or election for any office other than a national, state, county or municipal office, the clerk of the jurisdiction in which the primary or election is held shall publish a type B notice.

(h) On the day preceding any special primary or election for any office other than a national, state, county or municipal office, the clerk of the jurisdiction which calls the election shall publish a type D notice.

(i) On the day preceding any referendum other than a state, county or municipal referendum, the clerk of the jurisdiction which calls the referendum shall publish type B and C notices.

*History:* 1973 c. 280; 1973 c. 334 s. 57; 1975 c. 275, 422; 1977 c. 107, 340, 427; 1979 c. 260, 311; 1983 a. 484; 1985 a. 304, 332; 1987 a. 391; 1989 a. 273.

**10.07 Combination of notices; cost.** (1) Except as provided in sub. (2) in the case of voting machine ballots, whenever any county clerk or municipal or school district clerks within the same county are directed to publish any notice or portion of a notice under this chapter on the same date in the same newspaper, the text of which is identical, the clerks may publish one notice only. The cost of publication of such notice or the portion of the notice required shall be apportioned equally between the county and each municipality or school district sharing in its publication.

(2) When a voting machine ballot or ballot to be used with an electronic voting system includes 2 or more levels of government, the cost of giving the type B notice shall be prorated under s. 5.68 (3).

*History:* 1977 c. 427; 1979 c. 311; 1985 a. 304 ss. 130m, 156.

## SUBCHAPTER II SCHEDULE OF DATES

**10.51 Election occurrences listing; explanation.** This subchapter contains listings of election occurrences in chronological order by date according to the position or persons involved with the specific actions or notices to be performed or given.

(1) All the listings contained in this subchapter relate to other provisions of the statutes which are referred to in each paragraph of these listings.

(2) Sections 10.62 to 10.82 are intended as a timetable guide and check list to certain election procedure requirements, and shall not be considered substantive law.

(3) In case of any conflict between ss. 10.62 to 10.82 and the substantive statutes to which such sections refer, or the original acts of the legislature on which said substantive statutes are based, the substantive statute or the original act of the legislature shall control.

*History:* 1973 c. 334 s. 28; Stats. 1973 s. 10.51.

**10.52 Election occurrences listing; fluctuations.** In ss. 10.62 to 10.82, each subsection is arranged in chronological order with each occurrence listed in the month it is most likely to happen. Due to calendar fluctuations, there will be times when these occurrences will happen in a different month than listed and may occur in a different sequence than as shown.

*History:* 1973 c. 334 s. 28; Stats. 1973 s. 10.52.

**10.53 Revisor to correct listings.** In preparing each edition of the statutes for publication the revisor shall, if the revisor finds that a conflict exists between the listings in ss. 10.62 to 10.82 and the substantive statutes to which such sections refer, correct the listing in this subchapter to properly reflect the intent of said substantive statute or of the act of the legislature on which the substantive statute is based.

(1) For any correction made by the revisor under the authority of this section, the revisor shall prepare a note explaining the correction and such note shall be printed with the affected listing in this subchapter.

(2) If the revisor makes any correction under the authority of this section, the revisor shall incorporate the change in a revisor's correction bill to be submitted to the legislature at its next regularly scheduled meeting.

(3) Whenever a new act of the legislature requires a position or person to give an election notice or to perform a specific action in connection with any election, but such act fails to create an appropriate paragraph for inclusion within the listings in this subchapter, the revisor shall create and print the appropriate paragraph in compliance with this section.

*History:* 1973 c. 334; 1991 a. 32.

**10.62 Elections board; spring primary and election.** The following subsections set forth, in chronological order, dates relating to the spring primary and election or occurrences during the spring period which affect the elections board.

(1) **NOVEMBER.** (a) *No later than November 15.* On or before November 15 the board sends a type A notice of the spring election to the county clerks. See s. 10.06 (1) (a).

(1m) **DECEMBER.** (a) *December 1.* December 1 is the earliest date that nomination papers may be circulated for candidates running in the spring election. See s. 8.10 (2).

(2) **JANUARY.** (a) *First Tuesday in January.* 1. 5 p.m., on the first Tuesday in January, or the next day if Tuesday is a holiday, is the deadline for candidates for state office at the

spring election to file nomination papers and a declaration of candidacy with the board. See ss. 8.10 (2) and (5) and 8.21.

2. 5 p.m., on the first Tuesday in January, or the next day if Tuesday is a holiday, is the deadline for eligible candidates for state office to file applications to participate in the Wisconsin election campaign fund. See s. 11.50 (2) (a).

(b) *2nd Tuesday in January.* As soon as possible after the deadline for filing nomination papers, but no later than the 2nd Tuesday in January, the board sends the county clerks notice of any required primary and includes the certified list of candidates. See s. 10.06 (1) (c).

(c) *January 17.* No later than January 17, the board mails to each candidate for state office or such person's campaign treasurer, to each committee or individual supporting or opposing a candidate and to each group or individual supporting or opposing a statewide referendum who is registered with it, forms for the continuing report. See s. 11.21 (2).

(f) *22 days prior to primary.* No later than 22 days prior to the spring primary, the board mails to each candidate for state office or such person's campaign treasurer, and to each committee or individual supporting or opposing a candidate who is registered with it, forms for the pre-primary report. See s. 11.21 (2).

(gm) *Last Tuesday in January.* On the last Tuesday in January in presidential election years, the committee to determine the candidates for the presidential preference primary convenes. See s. 8.12 (1) (b).

(gs) *Friday after last Tuesday in January.* On the Friday after the last Tuesday in January in presidential election years, the board contacts each person who has been nominated for president. See s. 8.12 (1) (d).

(h) *January 31.* No earlier than January 1 and no later than January 31, the board shall receive continuing reports by candidates for state office, by committees and individuals supporting or opposing such candidates and by groups and individuals supporting or opposing a statewide referendum. See s. 11.20 (4).

(3) FEBRUARY. (a) *February 1.* No special election may be scheduled after February 1 and before the date of the spring election. See s. 8.50 (intro.).

(am) *Beginning on February 1.* 1. The board sends notice to delinquents of failure to comply with filing requirements. See s. 11.21 (13).

2. The board makes a list of delinquents available for public inspection. See s. 11.21 (10).

(e) *Last 14 days before primary.* The board shall receive reports of late contributions of \$500 or more by candidates for state office or committees or individuals supporting or opposing such a candidate, and reports of late disbursements exceeding \$20 by committees or individuals supporting or opposing a candidate for state office during the last 14 days before the spring primary. See s. 11.12 (5) and (6).

(f) *14 to 8 days before primary.* No earlier than 14 days and no later than 8 days before the primary, the board shall receive election reports by candidates for state office and by committees and individuals supporting or opposing such candidates. See s. 11.20 (2).

(g) *Beginning 7 days before primary.* 1. The board sends notice to delinquents of failure to comply with filing requirements. See s. 11.21 (13).

2. The board makes a list of delinquents available for public inspection. See s. 11.21 (10).

(h) *3rd Tuesday in February.* 1. The 3rd Tuesday in February is the day of the spring primary. See s. 5.02 (22).

2. The 3rd Tuesday in February is the last day to remove a candidate's name from the presidential preference ballot. See s. 8.12 (1) (d).

3. 5 p.m. on the 3rd Tuesday in February is the deadline for any person seeking endorsement by the national convention of a political party for the office of president to submit a petition to the board for placement on the presidential preference ballot. See s. 8.12 (1) (c).

(hm) *4th Tuesday in February.* 1. 4:30 p.m., on the 4th Tuesday in February, is the deadline for any write-in candidate for justice or state superintendent who is certified to appear on the spring election ballot to file an application to participate in the Wisconsin election campaign fund. See s. 11.50 (2) (a).

2. The 4th Tuesday in February is the deadline for any candidate seeking to participate in the Wisconsin election campaign fund to file a special financial report with the board. See s. 11.50 (2) (c).

(j) *3 days after primary results received.* 1. At 5 p.m. on the 3rd business day following the day on which the board receives the last statement from a county board of canvassers for the primary is the deadline to demand a recount. See s. 9.01 (1) (a).

2. At 9 a.m., on the day following the last day for filing of a recount petition, the board of canvassers reconvenes to begin the recount procedure. See s. 9.01 (1) (b).

3. 5 p.m., 2 days after completion of the first recount, is the deadline to demand a recount in any remaining wards or municipalities. See s. 9.01 (4).

4. No later than 5 business days after the recount determination aggrieved parties may appeal to circuit court. See s. 9.01 (6) (a).

(4) MARCH. (a) *2nd Tuesday after primary.* On or before the 2nd Tuesday after the spring primary the board of state canvassers meets. See s. 7.70 (3) (a).

(b) *First Tuesday in March.* 2. As soon as possible after the state canvass but no later than the first Tuesday in March the board sends the county clerks a type B notice and type A and C notices, when necessary, of the spring election. See s. 10.06 (1) (e).

4. No later than the first Tuesday in March, the board sends a certified list of candidates who are eligible to participate in the Wisconsin election campaign fund to the state treasurer. See s. 7.08 (2) (c).

(f) *22 days prior to election.* No later than 22 days prior to the spring election, the board mails to each candidate for state office or such person's campaign treasurer, to each committee or individual supporting or opposing a candidate and to each group or individual supporting or opposing a statewide referendum who is registered with it, forms for the pre-election report. See s. 11.21 (2).

(j) *Last 14 days before election.* The board shall receive reports of late contributions of \$500 or more by candidates for state office or committees or individuals supporting or opposing such a candidate, and by groups and individuals supporting or opposing statewide referenda and reports of late disbursements exceeding \$20 by committees and individuals supporting or opposing a candidate for state office during the last 14 days before the spring election. See ss. 11.12 (5) and (6) and 11.23 (6).

(k) *14 to 8 days before election.* No earlier than 14 days and no later than 8 days before the election, the board shall receive election reports by candidates for state office, by committees and individuals supporting or opposing such candidates, and by groups and individuals supporting or opposing statewide referenda. See s. 11.20 (2).

(L) *Beginning 7 days before election.* 1. The board sends notice to delinquents of failure to comply with filing requirements. See s. 11.21 (13).

2. The board makes a list of delinquents available for public inspection. See s. 11.21 (10).

(5) **APRIL.** (a) *First Tuesday in April.* The first Tuesday in April is the day of the spring election. See s. 5.02 (21).

(c) *3 days after election results received.* 1. At 5 p.m. on the 3rd business day following the day on which the board receives the last statement from a county board of canvassers for the election is the deadline to demand a recount. See s. 9.01 (1) (a).

2. At 9 a.m., on the day following the last day for filing of a recount petition, the board of canvassers reconvenes to begin the recount procedure. See s. 9.01 (1) (b).

3. 5 p.m., 2 days after completion of the first recount, is the deadline to demand a recount in any remaining wards or municipalities. See s. 9.01 (4).

4. No later than 5 business days after the recount determination aggrieved parties may appeal to circuit court. See s. 9.01 (6) (a).

(6) **MAY.** (c) *May 15.* 1. May 15 is the deadline for the board to notify the state chairperson of each recognized political party of the results of the presidential preference vote. See s. 8.12 (3).

2. May 15 is the latest date the board of state canvassers may meet to canvass the spring election. See s. 7.70 (3) (a).

3. Following the canvass, the board issues the certificates of election. See s. 7.70 (5) (a).

(7) **JUNE.** (a) *90 days after primary.* Most spring primary election materials may be destroyed 90 days after the spring primary. See s. 7.23.

(8) **JULY.** (a) *90 days after election.* Most spring election materials may be destroyed 90 days after the spring election. See s. 7.23.

(b) *3 years after any election.* Records transferred to the board by any former registrant who has submitted a dissolution report may be destroyed 3 years after the last election in which the registrant participated. See ss. 11.12 (3) and 11.23 (3).

(c) *6 years after any election.* Financial reports may be destroyed 6 years after any election. See ss. 7.23 (1) (d) and 11.21 (11) (a).

(e) *10 years after any election.* Official canvasses may be destroyed 10 years after the election to which they relate. See s. 7.23 (1) (i).

*History:* 1971 c. 304 s. 29 (2); 1973 c. 243, 280; 1973 c. 334 s. 29; 1973 c. 339; 1973 s. 10.62; 1975 c. 420; 1977 c. 448; 1979 c. 354; 1981 c. 314 s. 146; 1983 a. 36, 539; 1985 a. 333 ss. 1 to 11, 173; 1987 a. 404; 1989 a. 368.

**10.64 County clerk; spring primary and election.** The following subsections set forth, in chronological order, dates relating to the spring primary and election or occurrences during the spring period which affect the county clerk.

(1) **NOVEMBER.** (b) *4th Tuesday in November.* On the 4th Tuesday in November, the county clerk publishes a type A notice of the spring election. See s. 10.06 (2) (a).

(1m) **DECEMBER.** (a) *December 1.* December 1 is the earliest date that nomination papers may be circulated for candidates running for office in the spring election. See s. 8.10 (2).

(2) **JANUARY.** (a) *1st Tuesday in January.* 5 p.m., on the first Tuesday in January, or the next day if Tuesday is a holiday, is the deadline for candidates for county office at the spring election to file nomination papers and a declaration of candidacy with the county clerk. See ss. 8.05 (3) (a) and (4) (b), 8.10 (2) and (5) and 8.21.

(b) *January 17.* No later than January 17, the county clerk mails to each candidate for county office or such person's campaign treasurer, to each committee or individual supporting or opposing a candidate and to each group or individual

supporting or opposing a local referendum who is registered with the clerk forms for the continuing report. See s. 11.22 (3).

(c) *Last Tuesday in January.* On the last Tuesday in January the county clerk upon receipt of the notice from the board prepares the ballots and gives notice to all municipal clerks that there will be a primary. See s. 10.06 (2) (b).

(f) *22 days prior to primary.* 1. No later than 22 days prior to the spring primary, the county clerk mails to each candidate for county office or such person's campaign treasurer, and to each committee or individual supporting or opposing a candidate who is registered with the clerk, forms for the pre-primary report. See s. 11.22 (3).

2. 22 days before the spring primary, the county clerk distributes ballots and blanks prescribed by the board to the municipal clerks in the county. See s. 7.10 (3) (a).

(g) *January 1 to 31.* No earlier than January 1 and no later than January 31, the county clerk shall receive continuing reports by candidates for county office, by committees and individuals supporting or opposing such candidates and by groups and individuals supporting or opposing a local referendum. See s. 11.20 (4).

(3) **FEBRUARY.** (a) *February 1.* No special election may be scheduled after February 1 and before the date of the spring election. See s. 8.50 (intro.).

(am) *Beginning on February 1.* 1. The clerk sends notice to delinquents of failure to comply with filing requirements. See s. 11.22 (9).

2. The clerk makes a list of delinquents available for public inspection. See s. 11.22 (5).

3. The clerk notifies the district attorney or attorney general of delinquencies. See ss. 11.22 (4), 11.60 (4) and 11.61 (2).

(d) *Last 14 days before primary.* The county clerk shall receive reports of late contributions of \$500 or more by candidates for county office or committees or individuals supporting or opposing such a candidate, and reports of late disbursements exceeding \$20 by committees or individuals supporting or opposing a candidate for county office during the last 14 days before the spring primary. See s. 11.12 (5) and (6).

(e) *2nd Monday before primary.* No earlier than 14 days and no later than 8 days before the primary, the county clerk shall receive election reports by candidates for county office and by committees and individuals supporting such candidates. See s. 11.20 (2).

(f) *Beginning 7 days before primary.* 1. The clerk sends notice to delinquents of failure to comply with filing requirements. See s. 11.22 (9).

2. The clerk makes a list of delinquents available for public inspection. See s. 11.22 (5).

3. The clerk notifies the district attorney or the attorney general of delinquencies. See ss. 11.22 (4), 11.60 (4) and 11.61 (2).

(g) *Monday before primary.* On the Monday before the spring primary, the county clerk publishes a type B notice for the primary. See s. 10.06 (2) (d).

(h) *3rd Tuesday in February.* The 3rd Tuesday in February is the day of the spring primary. See s. 5.02 (22).

(i) *Thursday after primary.* No later than 9 a.m. on the Thursday after the spring primary the county canvass shall begin. See s. 7.60 (3).

1. 5 p.m., 3 days after last day of the county canvass, is the deadline to demand the first recount. See s. 9.01 (1) (a).

2. At 9 a.m., on the day following the last day for filing of a recount petition, the board of canvassers reconvenes to begin the recount procedure. See s. 9.01 (1) (b).

3. 5 p.m., 2 days after completion of the first recount, is the deadline to demand a recount in any remaining wards or municipalities. See s. 9.01 (4).

4. No later than 5 business days after the recount determination aggrieved parties may appeal to circuit court. See s. 9.01 (6) (a).

(j) *7 days after primary.* No later than 7 days after the spring primary, the county clerk transmits to the board a statement of votes cast for state offices at the primary. See s. 7.60 (5).

(4) **MARCH.** (d) *4th Tuesday before election.* On the 4th Tuesday before the spring election, the county clerk publishes a type A notice of any state or county referendum to be held at the election. See s. 10.06 (2) (f).

(e) *22 days prior to election.* No later than 22 days prior to the spring election, the county clerk mails to each candidate for county office or such person's campaign treasurer, to each committee or individual supporting or opposing a candidate and to each group or individual supporting or opposing a local referendum who is registered with the clerk, forms for the pre-election report. See s. 11.22 (3).

(em) *22 days before election.* 22 days before the spring election, the county clerk distributes ballots and blanks prescribed by the board to municipal clerks in the county. See s. 7.10 (3) (a).

(f) *3rd Tuesday in March.* On the 3rd Tuesday in March or upon receipt of notice from the board the county clerk prepares the ballots and gives notice to all the municipal clerks. See s. 10.06 (2) (e).

(j) *Last 14 days before election.* The county clerk shall receive reports of late contributions of \$500 or more by candidates for county office or committees or individuals supporting or opposing such a candidate, and by groups or individuals supporting or opposing county referenda and reports of late disbursements exceeding \$20 by committees and individuals supporting or opposing a candidate for county office during the last 14 days before the spring election. See ss. 11.12 (5) and (6) and 11.23 (6).

(L) *2nd Monday before election.* No earlier than 14 days and no later than 8 days before the election, the county clerk shall receive election reports by candidates for county office, by committees and individuals supporting such candidates, and by groups and individuals supporting or opposing local referenda. See s. 11.20 (2).

(m) *Beginning 7 days before election.* 1. The clerk sends notice to delinquents of failure to comply with filing requirements. See s. 11.22 (9).

2. The clerk makes a list of delinquents available for public inspection. See s. 11.22 (5).

3. The clerk notifies the district attorney or attorney general of delinquencies. See ss. 11.22 (4), 11.60 (4) and 11.61 (2).

(5) **APRIL.** (a) *Monday before election.* On the Monday before the spring election the county clerk publishes type B and C notices for the election. See s. 10.06 (2) (d).

(b) *First Tuesday in April.* The first Tuesday in April is the day of the spring election. See s. 5.02 (21).

(c) *Thursday after election.* The county canvass shall begin no later than 9 a.m. on the Thursday after the spring election. See s. 7.60 (3).

1. 5 p.m., 3 days after the last day of the county canvass, is the deadline to demand the first recount. See s. 9.01 (1) (a).

2. At 9 a.m., on the day following the last day for filing of a recount petition, the board of canvassers reconvenes to begin the recount procedure. See s. 9.01 (1) (b).

3. 5 p.m., 2 days after completion of the first recount, is the deadline to demand a recount in any remaining wards or municipalities. See s. 9.01 (4).

4. No later than 5 business days after the recount determination aggrieved parties may appeal to circuit court. See s. 9.01 (6) (a).

5. Immediately after expiration of the recount period, the county clerk issues a certificate of election to each individual elected to county office. See s. 7.60 (6).

(d) *10 days after election.* No later than 10 days after the spring election, the county clerk delivers or transmits to the board a statement of votes cast for state and national offices at the election. See s. 7.60 (5).

(7) **JUNE.** (a) *90 days after primary.* Most spring primary election materials may be destroyed 90 days after the spring primary. See s. 7.23.

(8) **JULY.** (a) *90 days after election.* Most spring election materials may be destroyed 90 days after the spring election. See s. 7.23.

(am) *1 year after any election.* Election notices, correspondence in connection with such notices and proofs of publication may be destroyed 1 year after the election to which they relate. See s. 7.23 (1) (j).

(b) *3 years after any election.* Records transferred to the county clerk by any former registrant who has submitted a dissolution report may be destroyed 3 years after the last election in which the registrant participated. See ss. 11.12 (3) and 11.23 (3).

(c) *6 years after any election.* Financial reports may be destroyed 6 years after any election. See s. 7.23 (1) (d).

(d) *10 years after any election.* Official canvasses may be destroyed 10 years after the election to which they relate. See s. 7.23 (1) (i).

*History:* 1971 c. 40 s. 93; 1971 c. 304 s. 29 (2); 1973 c. 280; 1973 c. 334 s. 29; 1973 c. 339; Stats. 1973 s. 10.64; 1975 c. 420; 1977 c. 203 s. 106; 1977 c. 448; 1979 c. 354; 1981 c. 314 s. 146; 1983 s. 539; 1985 s. 333; 1987 s. 404; 1989 s. 56.

**10.66 Municipal clerk and governing body; spring primary and election.** The following subsections set forth, in chronological order, dates relating to the spring primary and election occurrences during the spring primary which affect the municipal clerk and governing body.

(1) **AUGUST.** (a) *August 1.* August 1 is the earliest application may be made for absentee ballots for the spring primary. See s. 6.86.

(1m) **NOVEMBER.** (a) *90 days before primary.* No later than the 90th day before the spring primary, or as soon as possible after offices to be contested are known, whichever is later, the municipal clerk mails write-in absentee ballots to qualified electors who have requested them. See s. 7.15 (1) (cs).

(b) *4th Tuesday in November.* On the 4th Tuesday in November, or the next day if Tuesday is a holiday, the municipal clerk publishes one type A notice of the municipal spring election. See s. 10.06 (3) (a).

(2) **DECEMBER.** (a) *December 1.* December 1 is the earliest date nomination papers may be circulated for candidates running in the spring election. See ss. 8.05 (3) (a) and (4) (b) and 8.10 (2).

2. On December 1 preceding a spring primary, the municipal clerk certifies to the county clerk the number of electors in the municipality. See s. 5.66 (1).

(d) *Last December meeting.* 1. At the last meeting of the municipal board of election commissioners in December of even-numbered years in cities of the 1st class, the board of election commissioners appoints election officials for 2-year terms. See s. 7.30 (4) (b) 1.

2. At the last meeting of the municipal governing body in December of even-numbered years, except in cities that have

a board of election commissioners, the municipal executive nominates to the governing body the necessary election officials. If no regular meeting is scheduled a special meeting shall be called no later than December 31. See s. 7.30 (4).

3. Within 5 days the municipal clerk notifies each election official appointee of that person's appointment. See s. 7.30 (5).

4. Within 10 days of mailed notice election official appointees shall file official oath with the municipal clerk. See s. 7.30 (5).

(3) **JANUARY.** (a) *No later than January 1.* Between December 1 and January 1, towns and villages having a caucus shall establish the caucus date between the first Tuesday in January and the last Tuesday in January. See s. 8.05 (1) (a).

(am) *First Tuesday in January.* 1. 5 p.m., on the first Tuesday in January, or the next day if Tuesday is a holiday, is the deadline for candidates for municipal office at the spring election to file nomination papers and a declaration of candidacy with the municipal clerk. See ss. 8.05 (3) (a) and (4) (b), 8.10 (2) and (5) and 8.21.

2. The first Tuesday in January is the earliest date the town or village caucus may be held. See s. 8.05 (1) (a). At least 5 days' notice of the caucus shall be given. See s. 8.05 (1) (b).

3. Each candidate who is nominated at the caucus must file a declaration of candidacy within 5 days after notification of nomination. See s. 8.05 (1) (j).

(ar) *Thursday after first Tuesday in January.* No later than the Thursday after the first Tuesday in January, the municipal clerk of each municipality not having a caucus where voting machines or ballots containing the names of candidates for both local offices and national, state or county offices are used certifies the list of candidates for any municipal offices to the county clerk if a primary is required, unless the municipality prepares its own ballots or no state or county election is held. See s. 10.06 (3) (am).

(aw) *3 days after first Tuesday in January.* The deadline for a city to decide to hold a spring primary or for a petition requesting a spring primary is 3 days after the first Tuesday in January, or the next day if Tuesday is a holiday. See ss. 8.10 (2) and 8.11 (1) (a) and (c).

(b) *90 days before election.* No later than the 90th day before the spring election, the municipal clerk mails write-in absentee ballots to qualified electors who have requested them. See s. 7.15 (1) (cs).

(c) *January 17.* No later than January 17, the municipal clerk mails to each candidate for municipal office or such person's campaign treasurer, to each committee or individual supporting or opposing a candidate and to each group or individual supporting or opposing a municipal referendum who is registered with the clerk, forms for the continuing report. See s. 11.22 (3).

(cm) *4th Tuesday before primary.* On the 4th Tuesday before the spring primary, the municipal clerk publishes a type E notice for the spring primary. In cities and villages, the municipal clerk publishes a type A notice of any direct legislation questions to be voted on at the primary. See s. 10.06 (3) (as).

(g) *30 days before primary.* 1. The deadline for selecting tabulators to assist with the spring primary canvass is 30 days before the spring primary. See s. 7.30 (3).

2. The deadline for establishing polling places is 30 days before the spring primary. See s. 5.25 (3).

3. In municipalities employing an electronic voting system, the deadline for placement of a demonstrator system is 30 days before the spring primary. See s. 5.80.

4. Until 30 days before the spring primary, wards may be united to facilitate using a common polling place. See s. 5.15 (6) (b).

(h) *Last Tuesday in January.* The last Tuesday in January is the latest date the town or village caucus may be held. See s. 8.05 (1) (a).

1. At least 5 days' notice of the caucus shall be given. See s. 8.05 (1) (b).

2. Each candidate who is nominated at a caucus must file a declaration of candidacy within 5 days after notification of nomination. See s. 8.05 (1) (j).

(i) *22 days prior to primary.* No later than 22 days prior to the spring primary, the municipal clerk mails to each candidate for municipal office or such person's campaign treasurer, and to each committee or individual supporting or opposing a candidate who is registered with the clerk, forms for the preprimary report. See s. 11.22 (3).

(im) *21 days before primary.* No later than the 21st day before the spring primary, the municipal clerk mails official absentee ballots to qualified electors who have requested them. See s. 7.15 (1) (cm).

(j) *January 1 to 31.* No earlier than January 1 and no later than January 31, the municipal clerk shall receive continuing reports by candidates for municipal office, by committees and individuals supporting or opposing such candidates and by groups and individuals supporting or opposing a municipal referendum. See s. 11.20 (4).

(k) *Thursday after last Tuesday in January.* No later than 2 days after the day of the municipal caucus, the municipal clerk of each municipality where voting machines or ballots containing the names of candidates for both local offices and national, state or county offices are used certifies the list of candidates for any municipal offices and municipal referenda to the county clerk, unless the municipality prepares its own ballots or no state or county election is held. See s. 10.06 (3) (bm).

(4) **FEBRUARY.** (a) *February 1.* No special election may be scheduled after February 1 and before the date of the spring election. See s. 8.50 (intro.).

(am) *Beginning on February 1.* 1. The clerk sends notice to delinquents of failure to comply with filing requirements. See s. 11.22 (9).

2. The clerk makes a list of delinquents available for public inspection. See s. 11.22 (5).

3. The clerk notifies the district attorney of delinquencies. See s. 11.22 (4).

(b) *60 days before election.* The deadline for filing a petition requesting submission of a question to require or abolish registration in municipalities of 5,000 population or less is 60 days before the spring election. See s. 6.27 (3) and (4).

(g) *Last 14 days before primary.* The municipal clerk shall receive reports of late contributions of \$500 or more by candidates for municipal office or committees or individuals supporting or opposing such a candidate, and reports of late disbursements exceeding \$20 by committees or individuals supporting or opposing a candidate for municipal office during the last 14 days before the spring primary. See s. 11.12 (5) and (6).

(gm) *10 days before primary.* No later than 10 days before the spring primary, in any municipality employing an electronic voting system which utilizes automatic tabulating equipment, the municipal clerk has the equipment publicly tested. See s. 5.84 (1).

(h) *2nd Wednesday before primary.* 1. 5 p.m., on the 2nd Wednesday before the spring primary, is the deadline for voter registration. See s. 6.28 (1).

2. The 3rd day after registration closes is the latest the registering municipal clerk may mail voting privilege cancellation cards. See s. 6.40 (1) (b).

(i) *2nd Monday before primary.* 1. The 2nd Monday before the spring primary is the latest date 4th class cities, villages and towns may publish the first of 2 notices of a change in the polling hours for a spring primary. See s. 6.78 (2).

3. No earlier than 14 days and no later than 8 days before the primary, the municipal clerk shall receive election reports by candidates for municipal office and by committees and individuals supporting or opposing such candidates. See s. 11.20 (2).

(j) *Beginning 7 days before primary.* 1. The clerk sends notice to delinquents of failure to comply with filing requirements. See s. 11.22 (9).

2. The clerk makes a list of delinquents available for public inspection. See s. 11.22 (5).

3. The clerk notifies the district attorney of delinquencies. See s. 11.22 (4).

(k) *Wednesday before primary.* On the Wednesday before the spring primary in cities of the 1st class, the board of election commissioners sits to hear registration objections. See s. 6.48 (2).

(L) *Thursday before primary.* The Thursday before the spring primary is the latest posting may be substituted for newspaper publication in villages, towns and school districts taking part in the spring primary. See s. 10.05.

(Lm) *Friday before primary.* 5 p.m., on the Friday before the spring primary, is the deadline for receipt of applications by mail for absentee ballots for the primary. See s. 6.86 (1).

(m) *2 days before primary.* Ballots in cities of the 1st class shall be ready 2 days before the spring primary when they print their own ballots. See s. 7.15 (2) (b).

(n) *Monday before primary.* 1. On the Monday before the spring primary the municipal clerk publishes a type B notice whenever a primary for municipal offices or a municipal referendum is scheduled. A type B notice is also published if the municipality utilizes voting machines or an electronic voting system employing a ballot card or label. If there is a spring primary, municipal clerks also publish a type D notice on this date. See s. 10.06 (3) (b), (d) and (e).

2. The Monday before a spring primary is the latest day 4th class cities, villages and towns may publish the 2nd of 2 notices of a change in the polling hours. See s. 6.78 (2).

3. The Monday before the spring primary is the latest date election materials may be delivered to wards. See s. 7.15 (3) (b) and (5).

4. 5 p.m., on the Monday before the spring primary, is the deadline for application in person for absentee ballots for the primary. See s. 6.86 (1).

(o) The 3rd Tuesday in February is the day of the spring primary. See s. 5.02 (22).

1. 5 p.m. on the day of the primary is the deadline for hospitalized electors to make application for an absentee ballot by agent. See s. 6.86 (3) (c).

2. Upon completion of the ward canvass, the results shall be announced, the results telephoned to the proper clerks and all materials returned to the municipal clerk immediately. See ss. 7.51 (4) (b) and (5) and 7.53 (1).

3. Following the spring primary most unused election materials may be destroyed as the municipal clerk directs. See s. 7.23 (1) (a).

(p) *Day after primary.* 1. 2 p.m., the day after the spring primary, is the deadline for municipal clerks to deliver election materials to the county clerk. See ss. 7.51 (5) and 7.53 (3).

2. Within 24 hours after the polls close, municipalities with more than one ward shall begin the municipal canvass. See s. 7.53 (2).

3. In municipalities having registration, the municipal clerk checks the name of each elector who is allowed to vote at the primary whose name did not appear on the registration list and revises the list accordingly. See s. 6.56.

4. Beginning on the day after the spring primary, the municipal clerk investigates to assure that no person has been allowed to vote more than once at the primary. See s. 6.56 (4).

(q) *2 days after municipal primary canvass.* No later than 2 days after the municipal primary canvass, the municipal clerk of each municipality where voting machines or ballots containing the names of candidates for both local offices and national, state or county offices are used certifies the list of candidates for any municipal offices and municipal referenda to the county clerk, unless the municipality prepares its own ballots or no state or county election is held. See s. 10.06 (3) (bm).

(r) *3 days after last day of municipal canvass.* 1. 5 p.m., 3 days after the last day of the municipal canvass, is the deadline to demand first recount. See s. 9.01 (1) (a).

2. At 9 a.m. on the day following the last day for filing of a recount petition the board of canvassers reconvenes to begin the recount procedure. See s. 9.01 (1) (b).

3. 5 p.m., 2 days after completion of the first recount, is the deadline to demand a recount in any remaining wards or municipalities. See s. 9.01 (4).

4. No later than 5 business days after the recount determination aggrieved parties may appeal to circuit court. See s. 9.01 (6) (a).

(s) *Last Tuesday in February.* 1. 5 p.m., on the last Tuesday in February, is the deadline for filing petition in towns requesting submission of question whether to require nomination papers and a nonpartisan primary in lieu of the caucus. See s. 8.05 (3) (e).

2. Separate notice shall be given 5 days before the election. See s. 8.05 (3) (e).

(5) *MARCH.* (a) *14 days after primary.* No earlier than 14 days after the spring primary, voting machine recorders used in the primary may be cleared and reactivated and detachable recording units and compartments used with electronic voting machines may be cleared or erased. See s. 7.23 (1) (b) and (g).

(b) *30 days before election.* 1. The deadline for selecting tabulators to assist with the spring election canvass is 30 days before the spring election. See s. 7.30 (3).

2. The deadline for establishing polling places is 30 days before the spring election. See s. 5.25 (3).

3. In municipalities employing an electronic voting system, the deadline for placement of a demonstrator system is 30 days before the spring primary. See s. 5.80.

4. Until 30 days before spring election, wards may be united to facilitate using a common polling place. See s. 5.15 (6) (b).

(c) *4th Tuesday before election.* On the 4th Tuesday before the spring election, or the next day if Tuesday is a holiday, the municipal clerk publishes a type E notice for the spring election. If there is a municipal referendum, the municipal clerk publishes a type A notice of the referendum. See s. 10.06 (3) (bs).

(e) *22 days prior to election.* No later than 22 days prior to the spring election, the municipal clerk mails to each candidate for municipal office or such person's campaign treasurer, to each committee or individual supporting or opposing a candidate and to each group or individual supporting or

opposing a municipal referendum who is registered with the clerk, forms for the preelection report. See s. 11.22 (3).

(em) *21 days before election.* No later than the 21st day before the spring election, the municipal clerk mails official absentee ballots to qualified electors who have requested them. See s. 7.15 (1) (cm).

(g) *30 days after primary.* 1. No later than 30 days after the spring primary, the municipal clerk submits to the county clerk a statement of registration and voting information. See s. 6.275 (1).

2. No earlier than 30 days after the spring primary, primary ballots may be destroyed. See s. 7.23 (1) (h).

(i) *Last 14 days before election.* The municipal clerk shall receive reports of late contributions of \$500 or more by candidates for municipal office or committees or individuals supporting or opposing such a candidate, and by groups and individuals supporting or opposing local referenda and reports of late disbursements exceeding \$20 by committees and individuals supporting or opposing a candidate for municipal office during the last 14 days before the spring election. See ss. 11.12 (5) and (6) and 11.23 (6).

(im) *10 days before election.* No later than 10 days before the spring election, in any municipality employing an electronic voting system which utilizes automatic tabulating equipment, the municipal clerk has the equipment publicly tested. See s. 5.84 (1).

(j) *2nd Wednesday before election.* 1. 5 p.m., on the 2nd Wednesday before the spring election, is the deadline for voter registration. See s. 6.28 (1).

2. The 3rd day after registration closes is the latest date registering municipal clerks may mail voting privilege cancellation cards. See s. 6.40 (1) (b).

(k) *2nd Monday before election.* 2. The 2nd Monday before election is the latest date 4th class cities, villages and towns may publish the first of 2 notices of a change in the polling hours. See s. 6.78 (2).

3. No earlier than 14 days and no later than 8 days before the election, the municipal clerk shall receive election reports by candidates for local office, by committees or individuals supporting or opposing such candidates, and by groups and individuals supporting or opposing municipal referenda. See s. 11.20 (2).

(L) *Tuesday before election.* 1. The Tuesday before spring election is the latest date posting may be substituted for newspaper publication in villages, towns and school districts taking part in the spring election. See s. 10.05.

3. Beginning 7 days before the election, the clerk sends notice to delinquents of failure to comply with filing requirements. See s. 11.22 (9).

4. Beginning 7 days before the election, the clerk makes a list of delinquents available for public inspection. See s. 11.22 (5).

5. Beginning 7 days before the election, the clerk notifies the district attorney of delinquencies. See s. 11.22 (4).

(m) *Thursday before election.* No later than the Thursday before the spring election, the town clerk gives separate notice of question requiring nomination papers and nonpartisan primary in lieu of the caucus. See s. 8.05 (3) (e).

(n) *Friday before election.* 1. The Friday before the spring election is the deadline for filing observer appointments. See s. 7.39 (3).

2. Vacancies may be filled in 4 days. See s. 7.38 (3).

3. 5 p.m., on Friday before the spring election, is the deadline for receipt of application by mail for absentee ballots for the election. See s. 6.86 (1).

(o) *2 days before election.* Ballots in cities of the 1st class shall be ready 2 days before the election when they print their own ballots. See s. 7.15 (2) (b).

(p) *Monday before election.* 1. The municipal clerk publishes type B and D notices, and a type C notice when necessary, on the Monday before the spring election. See s. 10.06 (3) (c) and (e).

2. Municipal clerks publish a type D notice on the Monday before spring election. See s. 10.06 (3) (d).

3. The Monday before the spring election is the latest date election materials may be delivered to wards. See s. 7.15 (3) (b) and (5).

4. The Monday before the spring election is the latest date 4th class cities, villages and towns may publish the 2nd of 2 notices of a change in the polling hours. See s. 6.78 (2).

5. 5 p.m., on the Monday before the spring election, is the deadline for application, in person, for absentee ballots for the election. See s. 6.86 (1).

(6) **APRIL.** (a) *First Tuesday in April.* 1. The first Tuesday in April is the day of the spring election. See s. 5.02 (21).

2. 5 p.m. on the day of the spring election is the deadline for hospitalized electors to make application for an absentee ballot by agent. See s. 6.86 (2).

3. Upon completion of the ward canvass, the results shall be announced, the results telephoned to the proper clerks and all materials returned to the municipal clerk immediately. See ss. 7.51 (4) (b) and (5) and 7.53 (1).

4. Following spring election any unused election materials and contents of the blank ballot box may be destroyed as the municipal clerk directs. See s. 7.23 (1) (a).

(b) *Day after election.* 1. 2 p.m., on the day after the spring election, is the deadline for the municipal clerk to deliver election materials to the county clerk. See ss. 7.51 (5) and 7.53 (3).

2. Within 24 hours after the polls close, municipalities with more than one ward shall begin municipal canvass. See s. 7.53 (2).

3. In municipalities having registration, the municipal clerk checks the name of each elector who has been allowed to vote at the election whose name did not appear on the registration list and revises the list accordingly. See s. 6.56.

4. Beginning on the day after the spring election, the municipal clerk investigates to assure that no person has been allowed to vote more than once at the election. See s. 6.56 (4).

(c) *3 days after last day of municipal canvass.* 1. 5 p.m., 3 days after the last day of municipal canvass, is the deadline to demand the first recount. See s. 9.01 (1) (a).

2. At 9 a.m. on the day following the last day for filing of a recount petition, the board of canvassers reconvenes to begin the recount procedure. See s. 9.01 (1) (b).

3. 5 p.m., 2 days after completion of the first recount, is the deadline to demand a recount in any remaining wards or municipalities. See s. 9.01 (4).

4. No later than 5 business days after the recount determination aggrieved parties may appeal to circuit court. See s. 9.01 (6) (a).

(d) *2nd Tuesday in April.* The 2nd Tuesday in April is the latest municipalities holding annual elections may declare results of the spring election. See s. 7.53 (2) (d).

(e) *4th Tuesday in April.* No earlier than 21 days after the spring election, voting machine recorders used in the election may be cleared and reactivated and detachable recording units and compartments used with electronic voting machines may be cleared or erased. See s. 7.23 (1) (b) and (g).

(7) **MAY.** (a) *30 days after election.* 1. No later than 30 days after the spring election, the municipal clerk submits to the



county clerk a statement of registration and voting information. See s. 6.275 (1).

2. No earlier than 30 days after the spring election, election ballots may be destroyed. See s. 7.23 (1) (h).

(b) *90 days after primary.* 1. No earlier than 90 days after the spring primary, registration and poll lists created for the primary of the previous year may be destroyed. See s. 7.23 (1) (e).

2. Most spring primary election materials may be destroyed 90 days after the spring primary. See s. 7.23 (1) (k).

(9) **JULY.** (a) *90 days after election.* 1. Most spring election materials may be destroyed 90 days after the spring election. See s. 7.23 (1) (k).

2. No earlier than 90 days after the spring election, registration and poll lists created for the election of the previous year may be destroyed. See s. 7.23 (1) (e).

(am) *1 year after any election.* Election notices, correspondence in connection with such notices and proofs of publication may be destroyed 1 year after the election to which they relate. See s. 7.23 (1) (j).

(b) *3 years after any election.* Records transferred to the municipal clerk by any former registrant who has submitted a dissolution report may be destroyed 3 years after the last election in which the registrant participated. See ss. 11.12 (3) and 11.23 (3).

(c) *6 years after any election.* Financial reports may be destroyed 6 years after any election. See s. 7.23 (1) (d).

(d) *10 years after any election.* Official canvasses may be destroyed 10 years after the election to which they relate. See s. 7.23 (1) (i).

*History:* 1971 c. 304 ss. 15, 16, 29 (2); 1971 c. 336; 1973 c. 166, 280; 1973 c. 334 s. 29; 1973 c. 339; Stats. 1973 s. 10.66; 1975 c. 420; 1977 c. 394 s. 53; 1977 c. 448; 1979 c. 354; 1981 c. 314 s. 146; 1983 s. 539; 1985 s. 333 ss. 20, 33 to 67, 173; 1987 s. 404 ss. 8, 14 to 22; 1989 s. 56, 273, 368; 1991 s. 32.

**10.68 Candidates; spring primary and election.** The following subsections set forth, in chronological order, dates relating to the spring primary and election or occurrences during the spring period which affect the candidates.

(1) **DECEMBER.** (a) *December 1.* December 1 is the earliest nomination papers may be circulated for candidates running for office in the spring election. See ss. 8.05 (3) (a) and (4) (b) and 8.10 (2).

(2) **JANUARY.** (a) *First Tuesday in January.* 1. 5 p.m., on the first Tuesday in January, or the next day if Tuesday is a holiday, is the deadline for candidates for office at the spring election to file nomination papers and a declaration of candidacy. See ss. 8.05 (3) (a) and (4) (b), 8.10 (2) and (5) and 8.21.

2. 5 p.m., on the first Tuesday in January, or the next day if Tuesday is a holiday, is the deadline for eligible candidates for state office to file applications to participate in the Wisconsin election campaign fund. See s. 11.50 (2) (a).

(b) *Friday after 1st Tuesday in January.* 4:30 p.m., on the Friday after the 1st Tuesday in January, or the following Monday if Tuesday is a holiday, is the deadline for candidates for state office or municipal judge to file statements of economic interests with the ethics board. See s. 19.43 (4).

(bm) *Last Tuesday in January.* Each candidate who is nominated at the town or village caucus must file a declaration of candidacy within 5 days after notification of nomination. See s. 8.05 (1) (j).

(c) *January 31.* January 31 is the deadline for every candidate for state or local office or his or her personal campaign committee to file a continuing report with the board or other appropriate filing officer. Such report is current to the end of December 31. See s. 11.20 (4).

(3) **FEBRUARY.** (a) *Last 14 days before primary.* Any contribution of \$500 or more which is received by a candidate or his or her personal campaign committee within 14 days of the spring primary must be reported to the board or other appropriate filing officer within 24 hours of receipt. See s. 11.12 (5).

(b) *8 days before primary.* The 8th day before the primary is the deadline for each candidate or his or her personal campaign committee to file a pre-primary report with the board or other appropriate filing officer. Such report is current to the end of the 15th day preceding the primary. See s. 11.20 (2) and (7).

(c) *Friday before primary.* 1. The Friday before spring primary is the deadline for filing observer appointments. See s. 7.39 (3).

2. Vacancies may be filled within 4 days. See s. 7.38 (3).

(d) *3rd Tuesday in February.* 1. The 3rd Tuesday in February is the day of the spring primary. See s. 5.02 (22).

2. Upon completion of the ward canvass, the results shall be announced, the results telephoned to the proper clerks and all materials returned to the municipal clerk immediately. See ss. 7.51 (4) (b) and (5) and 7.53 (1).

(f) *3 days after last day of municipal canvass.* 1. 5 p.m., 3 days after the last day of municipal canvass, is the deadline to demand the first recount. See s. 9.01 (1) (a).

2. At 9 a.m. on the day following the last day for filing of a recount petition the board of canvassers reconvenes to begin the recount procedure. See s. 9.01 (1) (b).

3. 5 p.m., 2 days after completion of the first recount, is the deadline to demand a recount in any remaining wards. See s. 9.01 (4).

4. No later than 5 business days after the recount determination aggrieved parties may appeal to circuit court. See s. 9.01 (6) (a).

(g) *3 days after last day of county canvass.* 1. 5 p.m., 3 days after the last day of county canvass, is the deadline to demand the first recount. See s. 9.01 (1) (a).

2. At 9 a.m. on the day following the last day for filing of a recount petition the board of canvassers reconvenes to begin the recount procedure. See s. 9.01 (1) (b).

3. 5 p.m., 2 days after completion of the first recount, is the deadline to demand a recount in any remaining wards or municipalities. See s. 9.01 (4).

4. No later than 5 business days after the recount determination aggrieved parties may appeal to circuit court. See s. 9.01 (6) (a).

(h) *3 days after last day of state canvass.* 1. 5 p.m., 3 days after the last day of canvass, is the deadline to demand the first recount. See s. 9.01 (1) (a).

2. At 9 a.m. on the day following the last day for filing of a recount petition the board of canvassers reconvenes to begin the recount procedure. See s. 9.01 (1) (b).

3. 5 p.m., 2 days after completion of the first recount, is the deadline to demand a recount in any remaining wards or municipalities. See s. 9.01 (4).

4. No later than 5 business days after the recount determination aggrieved parties may appeal to circuit court. See s. 9.01 (6) (a).

(j) *4th Tuesday in February.* 1. 4:30 p.m., on the 4th Tuesday in February, is the deadline for any write-in candidate for justice or state superintendent who is certified to appear on the spring election ballot to file an application to participate in the Wisconsin election campaign fund. See s. 11.50 (2) (a).

2. The 4th Tuesday in February is the deadline for any candidate seeking to participate in the Wisconsin election

campaign fund to file a special financial report with the board. See s. 11.50 (2) (c).

3. The 4th Tuesday in February is the deadline for any candidate in the spring election who filed an application to participate in the Wisconsin election campaign fund to withdraw the application. See s. 11.50 (2) (h).

(4) MARCH. (b) *Last 14 days before election.* Any contribution of \$500 or more which is received by a candidate or his or her personal campaign committee within 14 days of the spring election must be reported to the board or other appropriate filing officer within 24 hours of receipt. See s. 11.12 (5).

(c) *8 days before election.* The 8th day before the election is the deadline for each candidate or his or her personal campaign committee to file a pre-election report with the board or other appropriate filing officer. Such report is current to the end of the 15th day preceding the election. See s. 11.20 (2) and (7).

(5) APRIL. (a) *Friday before election.* 1. The Friday before the spring election is the deadline for filing observer appointments. See s. 7.39 (3).

2. Vacancies may be filled within 4 days. See s. 7.38 (3).

(b) *First Tuesday in April.* The first Tuesday in April is the day of the spring election. See s. 5.02 (21).

(c) *Day after election.* Within 24 hours after the polls close, municipalities with more than one ward shall begin municipal canvass. See s. 7.53 (2).

(d) *3 days after last day of municipal canvass.* 1. 5 p.m., 3 days after the last day of municipal canvass, is the deadline to demand the first recount. See s. 9.01 (1) (a).

2. At 9 a.m. on the day following the last day for filing of a recount petition the board of canvassers reconvenes to begin the recount procedure. See s. 9.01 (1) (b).

3. 5 p.m., 2 days after completion of the first recount, is the deadline to demand a recount in any remaining wards or municipalities. See s. 9.01 (4).

4. No later than 5 business days after the recount determination aggrieved parties may appeal to circuit court. See s. 9.01 (6) (a).

(e) *3 days after last day of county canvass.* 1. 5 p.m., 3 days after the last day of county canvass, is the deadline to demand the first recount. See s. 9.01 (1) (a).

2. At 9 a.m. on the day following the last day for filing of a recount petition the board of canvassers reconvenes to begin the recount procedure. See s. 9.01 (1) (b).

3. 5 p.m., 2 days after completion of the first recount, is the deadline to demand a recount in any remaining wards or municipalities. See s. 9.01 (4).

4. No later than 5 business days after the recount determination aggrieved parties may appeal to circuit court. See s. 9.01 (6) (a).

(f) *Thursday after election.* 9 a.m., on the Thursday after the spring election, is the latest county canvass may begin. See s. 7.60 (3).

(g) *2nd Tuesday in April.* The 2nd Tuesday in April is the latest municipalities holding annual elections may declare results of the spring election. See s. 7.53 (2).

(7) JULY. (a) *3 years after any election.* Records maintained by a candidate or his or her personal campaign committee relating to an election may be destroyed 3 years after such election. See s. 11.12 (3).

(b) *July 10.* 1. July 10 is the deadline for every candidate for state or local office or his or her personal campaign committee to file a continuing report with the board or other appropriate filing officer. Such report is current to the end of June 30. See s. 11.20 (4) and (7).

2. July 10 is the deadline for each candidate at the spring election who receives a grant from the Wisconsin election campaign fund to deliver or transmit to the board proof of payment for disbursements made unless a candidate participates in a special election at least 30 days before that date. See s. 11.50 (12).

*History:* 1971 c. 304 s. 29 (2); 1973 c. 280; 1973 c. 334 s. 29; 1973 c. 339; Stats. 1973 s. 10.68; 1975 c. 420; 1977 c. 448; 1979 c. 354; 1981 c. 314 s. 146; 1983 a. 539; 1985 a. 333 ss. 68 to 73, 173; 1987 a. 404; 1991 a. 32.

**10.70 Public and general provisions; spring primary and election.** The following subsections set forth, in chronological order, dates relating to the spring primary and election or occurrences during the spring period which affect the public.

(1) AUGUST. (a) *August 1.* August 1 is the earliest application may be made for absentee ballots for the spring primary. See s. 6.86 (1).

(1m) OCTOBER. (a) *October 1.* October 1 is the earliest application may be made for absentee ballots for the spring election. See s. 6.86 (1).

(2) JANUARY. (a) *1st Tuesday in January.* 5 p.m., on the 1st Tuesday in January in presidential election years, or the next day if Tuesday is a holiday, is the deadline for the state chairperson of each recognized political party whose candidate for governor received at least 10% of the vote cast at the last election to certify to the board that the party will participate in the presidential preference primary. See s. 8.12 (1) (a).

(b) *3 days after first Tuesday in January.* The deadline for electors to petition a city requesting a primary is 3 days after the first Tuesday in January, or the next day if Tuesday is a holiday. See ss. 8.10 (2) and 8.11 (1) (c).

(c) *January 31.* January 31 is the deadline for every candidate, committee, individual or group registered under s. 11.05 to file a continuing report with the board or other appropriate filing officer. Such report is current to the end of December 31. See s. 11.20 (4) and (7).

(3) FEBRUARY. (a) *60 days before election.* The deadline for filing a petition requesting submission of a question to require or abolish registration in municipalities of 5,000 population or less is 60 days before the spring election. See s. 6.27 (3) and (4).

(b) *Last 14 days before primary.* During the last 14 days before the spring primary, any contribution of \$500 or more which is received by a candidate, committee or individual registered under s. 11.05 and any disbursement exceeding \$20 which is made by a committee or individual supporting or opposing a candidate within 14 days of the primary must be reported to the board or other appropriate filing officer within 24 hours. See s. 11.12 (5) and (6).

(c) *2nd Wednesday before primary.* 5 p.m., on the 2nd Wednesday before the spring primary, is the deadline for voter registration. See s. 6.28 (1).

(d) *8 days before primary.* The 8th day before the primary is the deadline for each candidate and each committee or individual supporting or opposing a candidate to file a pre-primary report with the board or other appropriate filing officer. Such report is current to the end of the 15th day preceding the primary. See ss. 11.09 (3) and 11.20 (2) and (7).

(e) *Wednesday before primary.* On the Wednesday before the spring primary, in cities of the 1st class, the board of election commissioners sits to hear registration objections. See s. 6.48 (2).

(em) *Friday before primary.* 5 p.m., on the Friday before the spring primary, is the deadline for application by mail for an absentee ballot for the spring primary. See s. 6.86 (1).

(f) *Monday before primary.* 1. 5 p.m., on the Monday before the spring primary, is the deadline for application in

person for absentee ballots for the spring primary. See s. 6.86 (1).

2. 5 p.m. on the day before the spring primary is the deadline for registration at the office of the municipal clerk. See s. 6.29 (2) (a).

3. 5 p.m., on the day before the spring primary, is the latest that voting may be conducted in nursing homes, retirement homes and community-based residential facilities. See s. 6.875 (6).

(g) *3rd Tuesday in February*. 1. The 3rd Tuesday in February is the day of the spring primary. See s. 5.02 (22).

2. 5 p.m. on the day of the primary is the deadline for hospitalized electors to make application for an absentee ballot by agent. See s. 6.86 (3) (c).

(h) *3 days after last day of municipal canvass*. 1. 5 p.m., 3 days after the last day of municipal canvass, is the deadline to demand the first recount. See s. 9.01 (1) (a).

2. At 9 a.m. on the day following the last day for filing of a recount petition the board of canvassers reconvenes to begin the recount procedure. See s. 9.01 (1) (b).

3. 5 p.m., 2 days after completion of the first recount, is the deadline to demand a recount in any remaining wards or municipalities. See s. 9.01 (4).

4. No later than 5 business days after the recount determination aggrieved parties may appeal to circuit court. See s. 9.01 (6) (a).

(i) *3 days after last day of county canvass*. 1. 5 p.m., 3 days after the last day of county canvass, is the deadline to demand the first recount. See s. 9.01 (1) (a).

2. At 9 a.m. on the day following the last day for filing of a recount petition the board of canvassers reconvenes to begin the recount procedures. See s. 9.01 (1) (b).

3. 5 p.m., 2 days after completion of the first recount, is the deadline to demand a recount in any remaining wards or municipalities. See s. 9.01 (4).

4. No later than 5 days after the recount determination aggrieved parties may appeal to circuit court. See s. 9.01 (6).

(j) *3 days after last day of canvass*. 1. 5 p.m., 3 days after the last day of canvass, is the deadline to demand the first recount. See s. 9.01 (1) (a).

2. At 9 a.m. on the day following the last day for filing of a recount petition the board of canvassers reconvenes to begin the recount procedure. See s. 9.01 (1) (b).

3. 5 p.m., 2 days after completion of the first recount, is the deadline to demand a recount in any remaining wards or municipalities. See s. 9.01 (4).

4. No later than 5 business days after the recount determination aggrieved parties may appeal to circuit court. See s. 9.01 (6) (a).

(k) *Thursday after primary*. 9 a.m. on the Thursday after the spring primary is the latest that the county canvass may begin. See s. 7.60 (3).

(L) *Last Tuesday in February*. 1. 5 p.m., on the last Tuesday in February, is the deadline for filing petitions in towns requesting submission of the question whether to require nomination papers and a nonpartisan primary in lieu of the caucus. See s. 8.05 (3) (e).

2. Separate notice 5 days before the election shall be given. See s. 8.05 (3) (e).

(4) **MARCH**. (a) *2nd Tuesday after primary*. The 2nd Tuesday after the spring primary is the latest the board of state canvassers may meet. See s. 7.70 (3) (a).

(c) *Last 14 days before election*. During the last 14 days before the spring election, any contribution of \$500 or more which is received by a candidate, committee, individual or group registered under s. 11.05 and any disbursement exceeding \$20 which is made by a committee or individual support-

ing or opposing a candidate within 14 days of the spring election must be reported to the board or other appropriate filing officer within 24 hours. See ss. 11.12 (5) and (6) and 11.23 (6).

(d) *2nd Wednesday before election*. 5 p.m., on the 2nd Wednesday before the spring election, is the deadline for voter registration. See s. 6.28 (1).

(e) *8 days before election*. The 8th day before the election is the deadline for each candidate, committee, individual or group registered under s. 11.05 to file a preelection report with the board or other appropriate filing officer. The report is current to the end of the 15th day preceding the election. See ss. 11.09 (3) and 11.20 (2) and (7).

(5) **APRIL**. (a) *Wednesday before election*. On the Wednesday before the spring election in 1st class cities the city board of election commissioners sits to hear registration objections. See s. 6.48 (2).

(am) *Friday before election*. 5 p.m., on the Friday before the spring election, is the deadline for application by mail for an absentee ballot for the spring election. See s. 6.86 (1).

(b) *Monday before election*. 1. 5 p.m., on the Monday before the spring election, is the deadline for application in person for absentee ballots for the spring election. See s. 6.86 (1).

2. 5 p.m. on the day before the spring election is the deadline for registration at the office of the municipal clerk. See s. 6.29 (2) (a).

3. 5 p.m., on the day before the spring election, is the latest that voting may be conducted in nursing homes, retirement homes and community-based residential facilities. See s. 6.875 (6).

(c) *First Tuesday in April*. 1. The first Tuesday in April is the day of the spring election. See s. 5.02 (21).

2. 5 p.m. on the day of the election is the deadline for hospitalized electors to make application for an absentee ballot by agent. See s. 6.86 (3) (c).

(d) *Day after election*. Within 24 hours after the polls close, municipalities with more than one ward shall begin municipal canvass. See s. 7.53 (2).

(e) *3 days after last day of municipal canvass*. 1. 5 p.m., 3 days after the last day of municipal canvass, is the deadline to demand the first recount. See s. 9.01 (1) (a).

2. At 9 a.m. on the day following the last day for filing of a recount petition the board of canvassers reconvenes to begin the recount procedure. See s. 9.01 (1) (b).

3. 5 p.m., 2 days after completion of the first recount, is the deadline to demand a recount in any remaining wards or municipalities. See s. 9.01 (4).

4. No later than 5 business days after the recount determination aggrieved parties may appeal to circuit court. See s. 9.01 (6) (a).

(f) *3 days after last day of county canvass*. 1. 5 p.m., 3 days after the last day of county canvass, is the deadline to demand the first recount. See s. 9.01 (1) (a).

2. At 9 a.m. on the day following the last day for filing of a recount petition the board of canvassers reconvenes to begin the recount procedure. See s. 9.01 (1) (b).

3. 5 p.m., 2 days after completion of the first recount, is the deadline to demand a recount in any remaining wards or municipalities. See s. 9.01 (4).

4. No later than 5 business days after the recount determination aggrieved parties may appeal to circuit court. See s. 9.01 (6) (a).

(g) *3 days after last day of state canvass*. 1. 5 p.m., 3 days after the last day of state canvass, is the deadline to demand the first recount. See s. 9.01 (1) (a).

2. At 9 a.m. on the day following the last day for filing of a recount petition the board of canvassers reconvenes to begin the recount procedure. See s. 9.01 (1) (b).

3. 5 p.m., 2 days after completion of the first recount, is the deadline to demand recount in any remaining wards or municipalities. See s. 9.01 (4).

4. No later than 5 business days after the recount determination aggrieved parties may appeal to circuit court. See s. 9.01 (6) (a).

(h) *Thursday after election.* 9 a.m., on the Thursday after the spring election, is latest county canvass may begin. See s. 7.60 (3).

(6) MAY. (b) *May 15.* May 15 is the latest the board of state canvassers may meet to canvass the spring election. See s. 7.70 (3) (a).

(7) JULY. (a) *3 years after any election.* Records maintained by a registrant under s. 11.05 relating to any election may be destroyed 3 years after such election. See ss. 11.12 (3) and 11.23 (3).

(b) *July 10.* July 10 is the deadline for every candidate, committee, individual or group registered under s. 11.05 to file a continuing report with the board or other appropriate filing officer. Such report is current to the end of June 30. See s. 11.20 (4) and (7).

History: 1971 c. 304 s. 29 (2); 1971 c. 166, 280; 1973 c. 334 s. 29; 1973 c. 339; Stats. 1973 s. 10.70; 1975 c. 420; 1977 c. 448; 1979 c. 354; 1981 c. 314 ss. 5, 146; 1983 a. 539; 1985 a. 333 ss. 74 to 82, 173; 1987 a. 404; 1989 a. 368.

**10.72 Elections board; September primary and general election.** The following subsections set forth, in chronological order, dates relating to the September primary and general election or occurrences during the fall period which affect the elections board.

(1) MAY. (a) *2nd Tuesday in May.* On or before the 2nd Tuesday in May the board sends a type A notice of the September primary and general election to the county clerks. See s. 10.06 (1) (f).

(2) JUNE. (a) *June 1.* June 1 is the earliest nomination papers may be circulated for candidates for offices to be filled at the general election, except president and vice president. See ss. 8.15 (1), 8.17 (2) and 8.20 (8) (a).

2. 5 p.m. on June 1 is the deadline for political organizations which were listed as independent at the last general election and which qualified for a separate ballot to file a petition with the board so requesting. See s. 5.62 (1) (b).

3. June 1 is the deadline for political organizations which seek to qualify for a separate ballot at the September primary to file a petition with the board so requesting. See s. 5.62 (2).

(b) *June 26.* No later than June 26, the board mails to each candidate for state office or such person's campaign treasurer, to each committee or individual supporting or opposing a candidate and to each group or individual supporting or opposing a statewide referendum who is registered with it, forms for the continuing report. See s. 11.21 (2).

(3) JULY. (b) *Beginning on July 11.* 1. The board sends notice to delinquents of failure to comply with filing requirements. See s. 11.21 (13).

2. The board makes a list of delinquents available for public inspection. See s. 11.21 (10).

(c) *2nd Tuesday in July.* 1. 5 p.m., on the 2nd Tuesday in July, is the deadline for candidates for state and national offices to be filled at the general election, except president and vice president, to file nomination papers and a declaration of candidacy with the board. See ss. 8.15 (1) and (4) (b), 8.17 (2), 8.20 (6) and (8) (a) and 8.21.

2. 5 p.m., on the 2nd Tuesday in July, is the deadline for candidates for state office to file an application to participate in the Wisconsin election campaign fund. See s. 11.50 (2) (a).

(cm) *July 20.* No earlier than July 1 and no later than July 20, the board receives continuing reports by candidates for state office, by committees and individuals supporting or opposing candidates and by groups or individuals attempting to influence the outcome of a statewide referendum. See s. 11.20 (4).

(d) *3rd Tuesday in July.* As soon as possible after the last day for filing nomination papers but no later than the 3rd Tuesday in July the board certifies candidates for offices for the September primary and mails notice to county clerks. See s. 10.06 (1) (h).

(4) AUGUST. (a) *August 1.* August 1 is the earliest nomination papers may be circulated for independent candidates for president and vice president. See s. 8.20 (8) (am).

(b) *22 days prior to primary.* No later than 22 days prior to the September primary, the board mails to each candidate for state office or such person's campaign treasurer, and to each committee or individual supporting or opposing a candidate who is registered with it, forms for the pre-primary report. See s. 11.21 (2), and such person's campaign treasurer, and to each committee or individual who is supporting or opposing a candidate who is registered with it. See s. 11.21 (12).

(d) *Last 14 days before primary.* The board shall receive reports of late contributions of \$500 or more by candidates for state office or committees or individuals supporting or opposing such candidates and reports of late disbursements exceeding \$20 by committees and individuals supporting or opposing a candidate for state office during the last 14 days before the September primary. See s. 11.12 (5) and (6).

(5) SEPTEMBER. (a) *September 1.* In a general election year, no special election may be scheduled between September 1 and the general election. See s. 8.50 (intro.).

(b) *14 to 8 days before primary.* No earlier than 14 days and no later than 8 days before the primary, the board shall receive election reports by candidates for state office and by committees and individuals supporting or opposing such candidates. See s. 11.20 (2).

(bm) *1st Tuesday in September.* 5 p.m., on the 1st Tuesday in September, is the deadline for independent candidates for president and vice president to file nomination papers and a declaration of candidacy with the board. See ss. 8.20 (8) (am) and 8.21.

(c) *Beginning 7 days before primary.* 1. The board sends notice to delinquents of failure to comply with filing requirements. See s. 11.21 (13).

2. The board makes a list of delinquents available for public inspection. See s. 11.21 (10).

(d) *2nd Tuesday in September.* The 2nd Tuesday in September is the day of the September primary. See s. 5.02 (18).

(e) *3rd Tuesday in September.* 1. 4:30 p.m., on the 3rd Tuesday in September, is the deadline for any write-in candidate for state office who is certified to appear on the general election ballot to file an application to participate in the Wisconsin election campaign fund. See s. 11.50 (2) (a).

2. The 3rd Tuesday in September is the deadline for any candidate seeking to participate in the Wisconsin election campaign fund to file a special financial report with the board. See s. 11.50 (2) (c).

(f) *3 days after primary results received.* 1. At 5 p.m. on the 3rd business day following the day on which the board receives the last statement from a county board of canvassers for the primary is the deadline to demand a recount. See s. 9.01 (1) (a).

2. At 9 a.m. on the day following the last day for filing of a recount petition the board of canvassers reconvenes to begin the recount procedure. See s. 9.01 (1) (b).

3. 5 p.m., 2 days after completion of the first recount, is the deadline to demand a recount in any remaining wards or municipalities. See s. 9.01 (4).

4. No later than 5 business days after the recount determination aggrieved parties may appeal to circuit court. See s. 9.01 (6) (a).

(g) *4th Tuesday in September*. 1. No later than the 4th Tuesday in September the board certifies candidates and referenda questions for the general election. See s. 10.06 (1) (i).

2. No later than the 4th Tuesday in September, the board sends a certified list of candidates who are eligible to participate in the Wisconsin election campaign fund to the state treasurer. See s. 7.08 (2) (c).

(h) *2nd Tuesday after primary*. The 2nd Tuesday after the September primary is the latest the board of state canvassers may meet to canvass the September primary. See s. 7.70 (3) (a).

(6) **OCTOBER**. (d) *22 days prior to election*. No later than 22 days prior to the general election, the board mails to each candidate for state office or such person's campaign treasurer, to each committee or individual supporting or opposing a candidate and to each group or individual supporting or opposing a statewide referendum who is registered with it, forms for the pre-election report. See s. 11.21 (2).

(g) *2nd Tuesday before election*. Write-in candidates for the office of president and vice president of the United States shall file their list of presidential electors and a declaration of candidacy with the board by 4:30 p.m. on the 2nd Tuesday before the election. See ss. 8.185 (2) and 8.21.

(h) *Last 14 days before election*. The board shall receive reports of late contributions of \$500 or more by candidates for state office or committees or individuals supporting or opposing such a candidate, and by groups or individuals supporting or opposing statewide referenda and reports of late disbursements exceeding \$20 by committees and individuals supporting or opposing a candidate for state office during the last 14 days before the spring election. See ss. 11.12 (5) and (6) and 11.23 (6).

(i) *14 to 8 days before election*. No earlier than 14 days and no later than 8 days before the election, the board shall receive election reports by candidates for state office, by committees and individuals supporting or opposing such candidates, and by groups or individuals supporting or opposing a statewide referendum. See s. 11.20 (2).

(j) *Beginning 7 days before election*. 1. The board sends notice to delinquents of failure to comply with filing requirements. See s. 11.21 (13).

2. The board makes a list of delinquents available for public inspection. See s. 11.21 (10).

(7) **NOVEMBER**. (a) *Tuesday after first Monday in November*. 1. The Tuesday after the first Monday in November is the day of the general election. See s. 5.02 (5).

(b) *1st Friday after election*. The 1st Friday after the election at 4:30 p.m., whenever the board permits, is the deadline for write-in candidates for the offices of president and vice president who have not filed their electors in advance under sub. (6) but would otherwise be eligible to receive the electoral votes of this state to file a list of presidential electors and a declaration of candidacy with the board. See ss. 8.185 (2) and 8.21.

(c) *3 days after election results received*. 1. At 5 p.m. on the 3rd business day following the day on which the board receives the last statement from a county board of canvassers for the election is the deadline to demand a recount. See s. 9.01 (1) (a).

2. At 9 a.m. on the day following the last day for filing of a recount petition the board of canvassers reconvenes to begin the recount procedure. See s. 9.01 (1) (b).

3. 5 p.m., 2 days after completion of the first recount, is the deadline to demand a recount in any remaining wards or municipalities. See s. 9.01 (4).

4. No later than 5 business days after the recount determination aggrieved parties may appeal to circuit court. See s. 9.01 (6) (a).

(8) **DECEMBER**. (a) *December 1*. 1. December 1 is the latest the board of state canvassers may meet to canvass the general election. See s. 7.70 (3) (a).

2. Following the canvass, the elections board issues certificates of election. See s. 7.70 (5) (a).

(e) *90 days after primary*. Most September primary election materials may be destroyed 90 days after the September primary. See s. 7.23.

(f) *First Monday after 2nd Wednesday in December*. The first Monday after the 2nd Wednesday in December is the latest the board may deliver to one of the presidential electors, in presidential election years, 3 lists of the electors. See s. 7.70 (5) (b).

(g) *90 days after election*. Most general election materials may be destroyed 90 days after the general election. See s. 7.23.

(h) *3 years after any election*. Records transferred to the board by any former registrant who has submitted a dissolution report may be destroyed 3 years after the last election in which the registrant participated. See ss. 11.12 (3) and 11.23 (3).

(i) *6 years after any election*. Financial reports may be destroyed 6 years after any election. See ss. 7.23 (1) (d) and 11.21 (11) (a).

(k) *10 years after any election*. Official canvasses may be destroyed 10 years after the election to which they relate. See s. 7.23 (1) (i).

*History:* 1971 c. 304 s. 29 (2); 1973 c. 334 s. 29; 1973 c. 339; Stats. 1973 s. 10.72; 1975 c. 41, 420; 1977 c. 448; 1979 c. 354; 1981 c. 314 s. 146; 1983 a. 36, 539; 1985 a. 333 ss. 83 to 92, 173; 1987 a. 404; 1989 a. 368.

**10.74 County clerk; September primary and general election.** The following subsections set forth, in chronological order, dates relating to the September primary and general election or occurrences during the fall period which affect the county clerk.

(2) **JUNE**. (a) *June 1*. June 1 is the earliest nomination papers may be circulated for candidates for offices to be filled at the general election and for party committeemen and committeewomen. See ss. 8.15 (1), 8.17 (2) and 8.20 (8) (a).

(b) *1st Tuesday in June*. On the 1st Tuesday in June the county clerk publishes a type A notice for the general election. See s. 10.06 (2) (h).

(c) *June 26*. No later than June 26, the county clerk mails to each candidate for county office or such person's campaign treasurer, to each committee or individual supporting or opposing a candidate and to each group or individual supporting or opposing a local referendum who is registered with such clerk, forms for the continuing report. See s. 11.22 (3).

(3) **JULY**. (c) *Beginning on July 11*. 1. The clerk sends notice to delinquents of failure to comply with filing requirements. See s. 11.22 (9).

2. The clerk makes a list of delinquents available for public inspection. See s. 11.22 (5).

3. The clerk notifies the district attorney or attorney general of delinquencies. See ss. 11.22 (4), 11.60 (4) and 11.61 (2).

(d) *2nd Tuesday in July*. 5 p.m., on the 2nd Tuesday in July, is the deadline for candidates for county offices to be filled at

the general election and candidates for party committeemen and committeewomen to file nomination papers and a declaration of candidacy with the county clerk. See ss. 8.15 (1) and (4) (b), 8.17 (2), 8.20 (6) and (8) (a) and 8.21.

(e) *July 20*. No earlier than July 1 and no later than July 20, the county clerk receives continuing reports by candidates for county office, by committees and individuals supporting or opposing candidates and by groups or individuals attempting to influence the outcome of a local referendum. See s. 11.20 (4).

(4) **AUGUST**. (am) *31 days before primary*. 31 days before the September primary is the latest county clerks may distribute primary ballots and election blanks prescribed by the board to municipal clerks. See s. 7.10 (3) (a).

(b) *22 days prior to primary*. No later than 22 days prior to the September primary, the county clerk mails to each candidate for county office or such person's campaign treasurer, and to each committee or individual supporting or opposing a candidate who is registered with the clerk, forms for the pre-primary report. See s. 11.22 (3).

(f) *Last 14 days before primary*. The county clerk shall receive reports of late contributions of \$500 or more by candidates for county office or committees or individuals supporting or opposing such a candidate, and reports of late disbursements exceeding \$20 by committees or individuals supporting or opposing a candidate for county office during the last 14 days before the September primary. See s. 11.12 (5) and (6).

(5) **SEPTEMBER**. (a) *September 1*. In a general election year, no special election may be scheduled between September 1 and the general election. See s. 8.50 (intro.).

(b) *2nd Monday before primary*. No earlier than 14 days and no later than 8 days before the primary, the county clerk shall receive election reports by candidates for county office and by committees and individuals supporting or opposing such candidates. See s. 11.20 (2).

(c) *Beginning 7 days before primary*. 1. The clerk sends notice to delinquents of failure to comply with filing requirements. See s. 11.22 (9).

2. The clerk makes a list of delinquents available for public inspection. See s. 11.22 (5).

3. The clerk notifies the district attorney or attorney general of delinquencies. See ss. 11.22 (4), 11.60 (4) and 11.61 (2).

(d) *Monday before primary*. On the Monday before the September primary the county clerk publishes a type B notice for the primary. See s. 10.06 (2) (j).

(e) *2nd Tuesday in September*. 1. The 2nd Tuesday in September is the day of the September primary. See s. 5.02 (18).

(f) *Thursday after primary*. 9 a.m., on the Thursday after the September primary, is the latest county canvass may begin. See s. 7.60 (3).

(g) *3 days after last day of county canvass*. 1. 5 p.m., 3 days after the last day of the county canvass, is the deadline to demand the first recount. See s. 9.01 (1) (a).

2. At 9 a.m. on the day following the last day for filing of a recount petition the board of canvassers reconvenes to begin the recount procedure. See s. 9.01 (1) (b).

3. 5 p.m., 3 days after completion of the first recount, is the deadline to demand a recount in any remaining wards or municipalities. See s. 9.01 (4).

4. No later than 5 business days after the recount determination aggrieved parties may appeal to circuit court. See s. 9.01 (6) (a).

(h) *7 days after primary*. No later than 7 days after the September primary, the county clerk transmits to the board a

statement of votes cast for state and national offices at the primary. See s. 7.60 (5).

(6) **OCTOBER**. (am) *31 days before election*. 31 days before the general election is the latest county clerks may distribute ballots and election blanks prescribed by the board to municipal clerks. See s. 7.10 (3) (a).

(ar) *4th Tuesday before election*. On the 4th Tuesday before the general election, the county clerk publishes a type A notice of any state or county referendum to be held at the election. See s. 10.06 (2) (L).

(b) *22 days prior to election*. No later than 22 days prior to the general election, the county clerk mails to each candidate for county office or such person's campaign treasurer, to each committee or individual supporting or opposing a candidate, and to each group or individual supporting or opposing a local referendum who is registered with the clerk, forms for the pre-election report. See s. 11.22 (3).

(e) *Last 14 days before election*. The county clerk shall receive reports of late contributions of \$500 or more by candidates for county office or committees or individuals supporting or opposing such a candidate, and by groups or individuals supporting or opposing a county referendum and reports of late disbursements exceeding \$20 by committees and individuals supporting or opposing a candidate for county office during the last 14 days before the election. See ss. 11.12 (5) and (6) and 11.23 (6).

(f) *2nd Monday before election*. No earlier than 14 days and no later than 8 days before the election, the county clerk shall receive election reports by candidates for county office, by committees and individuals supporting or opposing such candidates, and by groups or individuals supporting or opposing a county referendum. See s. 11.20 (2).

(g) *Beginning 7 days before election*. 1. The clerk sends notice to delinquents of failure to comply with filing requirements. See s. 11.22 (9).

2. The clerk makes a list of delinquents available for public inspection. See s. 11.22 (5).

3. The clerk notifies the district attorney or attorney general of delinquencies. See ss. 11.22 (4), 11.60 (4) and 11.61 (2).

(7) **NOVEMBER**. (a) *Monday before election*. On the Monday before the general election the county clerk publishes a type B notice, and a type C notice when necessary, for the general election. See s. 10.06 (2) (m).

(b) *Tuesday after first Monday in November*. The Tuesday after the first Monday in November is the day of the general election. See s. 5.02 (5).

(c) *Thursday after election*. 9 a.m., on the Thursday after the general election, is the latest county canvass may begin. See s. 7.60 (3).

(d) *3 days after last day of county canvass*. 1. 5 p.m., 3 days after the last day of county canvass, is the deadline to demand the first recount. See s. 9.01 (1) (a).

2. At 9 a.m. on the day following the last day for filing of a recount petition the board of canvassers reconvenes to begin the recount procedure. See s. 9.01 (1) (b).

3. 5 p.m., 2 days after completion of the first recount, is the deadline to demand a recount in any remaining wards or municipalities. See s. 9.01 (4).

4. No later than 5 business days after the recount determination aggrieved parties may appeal to circuit court. See s. 9.01 (6) (a).

(e) *Expiration of recount period*. Immediately after expiration of the recount period, the county clerks issue a certificate of election to each individual elected to county office. See s. 7.60 (6).

(f) *10 days after election.* No later than 10 days after the general election, the county clerk delivers or transmits to the board a statement of votes cast for state and national offices and statewide referenda at the election. See s. 7.60 (5).

(8) **DECEMBER.** (c) *90 days after primary.* Most September primary election materials may be destroyed 90 days after the September primary. See s. 7.23.

(d) *90 days after election.* Most general election materials may be destroyed 90 days after the general election. See s. 7.23.

(dm) *1 year after any election.* Election notices, correspondence in connection with such notices and proofs of publication may be destroyed 1 year after the election to which they relate. See s. 7.23 (1) (j).

(e) *3 years after any election.* Records transferred to the county clerk by any former registrant who has submitted a dissolution report may be destroyed 3 years after the last election in which the registrant participated. See ss. 11.12 (3) and 11.23 (3).

(f) *6 years after any election.* Financial reports may be destroyed 6 years after any election. See s. 7.23 (1) (d).

(g) *10 years after any election.* Official canvasses may be destroyed 10 years after the election to which they relate. See s. 7.23 (1) (i).

**History:** 1971 c. 304 ss. 17, 29 (2); 1973 c. 334 s. 29; 1973 c. 336 s. 1m; 1973 c. 339; Stats. 1973 s. 10.74; 1975 c. 420; 1977 c. 448; 1979 c. 354; 1981 c. 314 s. 146; 1983 s. 539; 1985 s. 333; 1987 s. 404; 1989 s. 56, 368.

**10.76 Municipal clerk and governing body; September primary and general election.** The following subsections set forth, in chronological order, dates relating to the September primary and general election or occurrences during the fall period which affect the municipal clerk and governing body.

(1) **MARCH.** (a) *March 1.* March 1 is the earliest application may be made for absentee ballots for the September primary. See s. 6.86 (1).

(1g) **MAY.** (a) *May 1.* May 1 is the earliest application may be made for absentee ballots for the general election. See s. 6.86 (1).

(1r) **JUNE.** (a) *90 days before primary.* No later than the 90th day before the September primary, the municipal clerk mails write-in absentee ballots to qualified electors who have requested them. See s. 7.15 (1) (cs).

(b) *June 26.* No later than June 26, the municipal clerk mails to each candidate for municipal office or such person's campaign treasurer, to each committee or individual supporting or opposing a candidate and to each group or individual supporting or opposing a municipal referendum who is registered with the clerk, forms for the continuing report. See s. 11.22 (3).

(2) **JULY.** (a) *July 1.* On July 1 preceding a September primary, the municipal clerks certify to the county clerk the approximate number of electors in the district. See s. 5.66 (1).

(b) *60 days before primary.* 1. Until 60 days before the September primary, wards may be united to facilitate using a common polling place. See s. 5.15 (6) (b).

2. The deadline for establishing polling places is 60 days before the September primary. See s. 5.25 (3).

(d) *Beginning on July 11.* 1. The clerk sends notice to delinquents of failure to comply with filing requirements. See s. 11.22 (9).

2. The clerk makes a list of delinquents available for public inspection. See s. 11.22 (5).

3. The clerk notifies the district attorney of delinquencies. See s. 11.22 (4).

(e) *July 20.* No earlier than July 1 and no later than July 20, the municipal clerk receives continuing reports by candidates for municipal office, by committees and individuals support-

ing or opposing candidates and by groups or individuals attempting to influence the outcome of a municipal referendum. See s. 11.20 (4).

(3) **AUGUST.** (a) *90 days before election.* No later than the 90th day before the general election, the municipal clerk mails write-in absentee ballots to qualified electors who have requested them. See s. 7.15 (1) (cs).

(b) *30 days before primary.* 1. No later than the 30th day before the September primary, the municipal clerk mails official absentee ballots to qualified electors who have requested them. See s. 7.15 (1) (cm).

2. The deadline for selecting tabulators to assist with the September primary canvass is 30 days before the September primary. See s. 7.30 (3).

3. In municipalities employing an electronic voting system, the deadline for placement of a demonstrator system is 30 days before the September primary. See s. 5.80.

(bm) *4th Tuesday before primary.* On the 4th Tuesday before the September primary, the municipal clerk publishes a type E notice for the September primary. If there is a municipal referendum, the municipal clerk publishes a type A notice of the referendum. See s. 10.06 (3) (cm).

(c) *22 days prior to primary.* No later than 22 days prior to the September primary, the municipal clerk mails to each candidate for municipal office or such person's campaign treasurer, and to each committee or individual supporting or opposing a candidate who is registered with the clerk, forms for the preprimary report. See s. 11.22 (3).

(em) *10 days before primary.* No later than 10 days before the September primary, in any municipality employing an electronic voting system which utilizes automatic tabulating equipment, the municipal clerk has the equipment publicly tested. See s. 5.84 (1).

(f) *2nd Wednesday before primary.* 1. 5 p.m., on the 2nd Wednesday before the September primary, is the deadline for registration. See s. 6.28 (1).

2. The 3rd day after registration closes is the latest registering municipal clerks may mail voting privilege cancellation cards. See s. 6.40 (1) (b).

(4) **SEPTEMBER.** (a) *22 months after federal election.* Applications for ballots or registration, or other records and papers relating to voting at a federal election, other than registration forms, may be destroyed 22 months after the election. See s. 7.23 (1) (f).

(am) *60 days before election.* 1. The deadline for petitions requesting submission of question to require or abolish registration in municipalities of 5,000 population or less is 60 days before the general election. See s. 6.27 (3) and (4).

2. Until 60 days before the general election, wards may be united to facilitate the use of a common polling place. See s. 5.15 (6) (b).

3. The deadline for establishing polling places is 60 days before the general election. See s. 5.25 (3).

(b) *2nd Monday before primary.* 1. The 2nd Monday before the September primary is the latest 4th class cities, villages and towns may publish the first of 2 notices of a change in the polling hours. See s. 6.78 (2).

2. No earlier than 14 days and no later than 8 days before the primary, the municipal clerk shall receive election reports by candidates for municipal office and by committees and individuals supporting or opposing such candidates. See s. 11.20 (2).

(c) *Beginning 7 days before primary.* 1. The clerk sends notice to delinquents of failure to comply with filing requirements. See s. 11.22 (9).

2. The clerk makes a list of delinquents available for public inspection. See s. 11.22 (5).

3. The clerk notifies the district attorney of delinquencies. See s. 11.22 (4).

(d) *Wednesday before primary.* On the Wednesday before the September primary in cities of the 1st class the board of election commissioners sits to hear registration objections. See s. 6.48 (2).

(e) *Friday before primary.* 1. The Friday before the September primary is the deadline for filing observer appointments. See s. 7.39 (3).

2. Vacancies may be filled within 4 days. See s. 7.38 (3).

3. 5 p.m., on the Friday before the September primary, is the deadline for receipt of mail applications for absentee ballots for the primary. See s. 6.86 (1).

(f) *Monday before primary.* 1. The Monday before the September primary is the latest election materials may be delivered to wards. See s. 7.15 (3) (b) and (5).

2. The Monday before the September primary is the latest 4th class cities, villages and towns may publish the 2nd of 2 notices of a change in the polling hours. See s. 6.78 (2).

3. 5 p.m., on the Monday before the September primary, is the deadline for application in person for absentee ballots for the September primary. See s. 6.86 (1).

4. On the Monday before the September primary, the municipal clerk publishes type B and D notices for the primary. If voting machines or electronic voting systems employing a ballot card or label are used in the municipality, the notice shall include all offices to be voted on at the primary. See s. 10.06 (3) (e).

(g) *2nd Tuesday in September.* 1. The 2nd Tuesday in September is the day of the September primary. See s. 5.02 (18).

2. 5 p.m. on the day of the primary is the deadline for hospitalized electors to make application for an absentee ballot by agent. See s. 6.86 (3) (c).

3. Upon completion of the ward canvass, the results shall be announced, the results telephoned to the proper clerks and all materials returned to the municipal clerk immediately. See ss. 7.51 (4) (b) and (5) and 7.53 (1).

4. Following the September primary any unused election materials and contents of blank ballot box may be destroyed as the municipal clerk directs. See s. 7.23 (1) (a).

(h) *Day after primary.* 1. 2 p.m., on the day after the September primary, is the deadline for municipal clerks to deliver election materials to the county clerk. See ss. 7.51 (5) and 7.53 (3).

2. In municipalities having registration, the municipal clerk checks the name of each elector who has been allowed to vote at the election whose name did not appear on the registration list and revises the list accordingly. See s. 6.56.

3. Beginning on the day after the September primary, the municipal clerk investigates to assure that no person has been allowed to vote more than once at the primary. See s. 6.56 (4).

(i) *14 days after primary.* No earlier than 14 days after the September primary, voting machine recorders used in the primary may be cleared and reactivated and detachable recording units and compartments used with electronic voting machines may be cleared or erased. See s. 7.23 (1) (b) and (g).

(5) **OCTOBER.** (a) *30 days before election.* 1. The deadline for selecting tabulators to assist with the general election canvass is 30 days before the general election. See s. 7.30 (3).

2. No later than the 30th day before the general election, the municipal clerk mails official absentee ballots to qualified electors who have requested them. See s. 7.15 (1) (cm).

3. In municipalities employing an electronic voting system, the deadline for placement of a demonstrator system is 30 days before the general election. See s. 5.80.

(am) *4th Tuesday before election.* On the 4th Tuesday before the general election, the municipal clerk publishes a type E notice for the general election. If there is a municipal referendum, the municipal clerk publishes a type A notice of the referendum. See s. 10.06 (3) (cm).

(b) *30 days after primary.* 1. No later than 30 days after the September primary, the municipal clerk submits to the county clerk a statement of registration and voting information. See s. 6.275 (1).

2. No earlier than 30 days after the September primary, primary ballots may be destroyed. See s. 7.23 (1) (h).

(d) *22 days prior to election.* No later than 22 days prior to the general election, the municipal clerk mails to each candidate for municipal office or such person's campaign treasurer, to each committee or individual supporting or opposing a candidate and to each group or individual supporting or opposing a municipal referendum who is registered with the clerk, forms for the preelection report. See s. 11.22 (3).

(f) *2nd Wednesday before election.* 1. 5 p.m., on the 2nd Wednesday before the general election, is the deadline for voter registration. See s. 6.28 (1).

2. The 3rd day after registration closes is the latest registering municipal clerks may mail voting privilege cancellation cards. See s. 6.40 (1) (b).

(g) *Last 14 days before election.* The municipal clerk shall receive reports of late contributions exceeding \$500 by groups or individuals supporting or opposing municipal referenda during the last 14 days before the spring election. See s. 11.23 (6).

(gm) *10 days before election.* No later than 10 days before the general election, in any municipality employing an electronic voting system which utilizes automatic tabulating equipment, the municipal clerk has the equipment publicly tested. See s. 5.84 (1).

(h) *2nd Monday before election.* 1. The 2nd Monday before the general election is the latest 4th class cities, villages and towns may publish the first of 2 notices of a change in the polling hours. See s. 6.78 (2).

2. No earlier than 14 days and no later than 8 days before the election, the municipal clerk shall receive election reports by candidates for municipal office, by committees and individuals supporting or opposing such candidates, and by groups and individuals supporting or opposing municipal referenda. See s. 11.20 (2).

(i) *Beginning 7 days before election.* 1. The clerk sends notice to delinquents of failure to comply with filing requirements. See s. 11.22 (9).

2. The clerk makes a list of delinquents available for public inspection. See s. 11.22 (5).

3. The clerk notifies the district attorney of delinquencies. See s. 11.22 (4).

(j) *Wednesday before election.* On the Wednesday before the general election in cities of the 1st class, the board of election commissioners sits to hear registration objections. See s. 6.48 (2).

(k) *Friday before election.* 1. The Friday before the general election is the deadline for filing observer appointments. See s. 7.39 (3).

2. Vacancies may be filled within 4 days. See s. 7.38 (3).

3. 5 p.m., on the Friday before the general election, is the deadline for receipt of applications by mail for absentee ballots for the election. See s. 6.86 (1).

(6) **NOVEMBER.** (a) *Monday before election.* 1. 5 p.m. on the Monday before the general election is the deadline for application in person for absentee ballots for the general election. See s. 6.86 (1).



2. The Monday before the general election is the latest 4th class cities, villages and towns may publish the 2nd of 2 notices of a change in the polling hours. See s. 6.78 (2).

3. The Monday before the general election is the latest election materials may be delivered to wards. See s. 7.15 (3) (b) and (5).

4. On the Monday before the general election, the municipal clerk publishes type B and D notices for the election. If voting machines or electronic voting systems employing a ballot card or label are used in the municipality, the notice shall include all offices and questions to be voted on at the election. See s. 10.06 (3) (d) and (e).

(b) *Tuesday after first Monday in November.* 1. The Tuesday after the first Monday in November is the day of the general election. See s. 5.02 (5).

2. 5 p.m. on the day of the election is the deadline for hospitalized electors to make application for an absentee ballot by agent. See s. 6.86 (3) (c).

3. Upon completion of the ward canvass, the results shall be announced, the results telephoned to the proper clerks and all materials returned to the municipal clerk immediately. See ss. 7.51 (4) (b) and (5) and 7.53 (1).

4. Following the general election any unused election materials may be destroyed as the municipal clerk directs. See s. 7.23 (1) (a).

(c) *Following general election.* 1. Following each general election municipal clerks in municipalities having registration conduct a mail canvass of nonvoting electors to revise and update the registration list. See s. 6.50.

2. 4 years after registration cancellation the cards may be destroyed. See s. 7.23 (1) (c).

3. Beginning on the day after the general election, the municipal clerk investigates to assure that no person has been allowed to vote more than once in the election. See s. 6.56 (4).

(d) *Day after general election.* 2 p.m., on the day after the general election, is the deadline for municipal clerks to deliver election materials to the county clerk. See ss. 7.51 (5) and 7.53 (3).

(dm) *21 days after election.* No later than 21 days after the general election, voting machine recorders used in the election may be cleared and reactivated and detachable recording units and compartments used with electronic voting machines may be cleared or erased. See s. 7.23 (1) (b) and (g).

(7) **DECEMBER.** (a) *30 days after election.* 1. No earlier than 30 days after the general election, election ballots may be destroyed. See s. 7.23 (1) (h).

2. No later than 30 days after the general election, the municipal clerk submits to the county clerk a statement of registration and voting information. See s. 6.275 (1).

(am) *90 days after primary.* 1. Most September primary election materials may be destroyed 90 days after the September primary. See s. 7.23.

2. No earlier than 90 days after the September primary, registration and poll lists created for the 2nd preceding primary may be destroyed. See s. 7.23 (1) (e).

(b) *December 15.* On December 15 in the year prior to the time for appointment of new election officials, and political parties shall submit their nominees for election officials. See s. 7.30 (4) (c).

(c) *90 days after election.* Most general election materials may be destroyed 90 days after general election. See s. 7.23.

(cm) *1 year after any election.* Election notices, correspondence in connection with such notices and proofs of publication may be destroyed 1 year after the election to which they relate. See s. 7.23 (1) (j).

(d) *3 years after any election.* Records transferred to the municipal clerk by any former registrant who has submitted a

dissolution report may be destroyed 3 years after the last election in which the registrant participated. See ss. 11.12 (3) and 11.23 (3).

(e) *6 years after any election.* Financial reports may be destroyed 6 years after any election. See s. 7.23.

(f) *10 years after any election.* Official canvasses may be destroyed 10 years after the election to which they relate. See s. 7.23 (1) (i).

(8) **FEBRUARY.** (a) *90 days after election.* No earlier than 90 days after the general election, registration and poll lists created for the 2nd preceding election may be destroyed. See s. 7.23 (1) (e).

*History:* 1971 c. 304 ss. 18, 29 (2); 1973 c. 166; 1973 c. 334 s. 29; 1973 c. 336 s. 2; 1973 c. 339; Stats. 1973 s. 10.76; 1975 c. 420; 1977 c. 394 s. 53; 1977 c. 448; 1979 c. 354; 1981 c. 314 s. 146; 1981 c. 391; 1983 s. 36, 339; 1985 s. 135 s. 85; 1985 s. 333 ss. 115 to 149, 173; 1987 s. 404 ss. 33, 35, 39 to 49; 1989 s. 56, 368; 1991 s. 32.

**10.78 Candidates; September primary and general election.** The following subsections set forth, in chronological order, dates relating to the September primary and general election or occurrences during the fall period which affect the candidates.

(1) **JUNE.** (a) *June 1.* June 1 is the earliest nomination papers may be circulated for candidates for offices to be filled at the general election, except president and vice president, and for party committeemen and committeewomen. See ss. 8.15 (1), 8.17 (2) and 8.20 (8) (a).

(2) **JULY.** (b) *2nd Tuesday in July.* 1. 5 p.m., on the 2nd Tuesday in July, is the deadline for candidates for offices to be filled at the general election, except president and vice president, and candidates for party committeemen and committeewomen to file nomination papers and a declaration of candidacy. See ss. 8.15 (1) and (4) (b), 8.17 (2), 8.20 (6) and 8.21.

2. 5 p.m., on the 2nd Tuesday in July, is the deadline for candidates for state office to file applications to participate in the Wisconsin election campaign fund. See s. 11.50 (2) (a).

(c) *Friday after 2nd Tuesday in July.* 4:30 p.m., on the Friday after the 2nd Tuesday in July, is the deadline for candidates for state office to file statements of economic interests with the ethics board. See s. 19.43 (4).

(d) *July 20.* July 20 is the deadline for every candidate for state or local office or such person's personal campaign committee to file a continuing report with the board or other appropriate filing officer. Such report is current to the end of June 30. See s. 11.20 (4) and (7).

(3) **AUGUST.** (a) *August 1.* August 1 is the earliest nomination papers may be circulated for independent candidates for president and vice president. See s. 8.20 (8) (am).

(b) *Last 14 days before primary.* During the last 14 days before the September primary, any contribution of \$500 or more which is received by a candidate, or by his or her personal campaign committee within 14 days of the primary must be reported to the board or other appropriate filing officer within 24 hours. See s. 11.12 (5).

(4) **SEPTEMBER.** (a) *8 days before primary.* The 8th day before the primary is the deadline for each candidate for state or local office or his or her personal campaign committee to file a pre-primary report with the board or other appropriate filing officer. Such report is current to the end of the 15th day preceding the primary. See s. 11.20 (2) and (7).

(am) *1st Tuesday in September.* 5 p.m., on the 1st Tuesday in September, is the deadline for independent candidates for president and vice president to file nomination papers and a declaration of candidacy with the board. See ss. 8.20 (8) (am) and 8.21.

(b) *Friday before primary.* 1. The Friday before the September primary is the deadline for filing observer appointments. See s. 7.39 (3).

2. Vacancies may be filled within 4 days. See s. 7.38 (3).

(c) *2nd Tuesday in September.* 1. The 2nd Tuesday in September is the day of the September primary. See s. 5.02 (18).

2. Upon completion of the ward canvass, the results shall be announced, the results telephoned to the proper clerks and all materials returned to the municipal clerk immediately. See ss. 7.51 (4) (b) and (5) and 7.53 (1).

(d) *Thursday after primary.* 9 a.m., on the Thursday after the September primary, is the latest county canvass may begin. See s. 7.60 (3).

(g) *3 days after last day of county canvass.* 1. 5 p.m., 3 days after the last day of county canvass, is the deadline to demand the first recount. See s. 9.01 (1) (a).

2. At 9 a.m. on the day following the last day for filing of a recount petition the board of canvassers reconvenes to begin the recount procedure. See s. 9.01 (1) (b).

3. 5 p.m., 2 days after completion of the first recount, is the deadline to demand a recount in any remaining wards or municipalities. See s. 9.01 (4).

4. No later than 5 business days after the recount determination aggrieved parties may appeal to the circuit court. See s. 9.01 (6) (a).

(h) *3rd Tuesday in September.* 1. 4:30 p.m., on the 3rd Tuesday in September, is the deadline for any write-in candidate for state office who is certified to appear on the general election ballot to file an application to participate in the Wisconsin election campaign fund. See s. 11.50 (2) (a).

2. The 3rd Tuesday in September is the deadline for any candidate seeking to participate in the Wisconsin election campaign fund to file a special financial report with the board. See s. 11.50 (2) (c).

3. The 3rd Tuesday in September is the deadline for any candidate in the general election who filed an application to participate in the Wisconsin election campaign fund to withdraw the application. See s. 11.50 (2) (h).

(hm) *7 days after completion of county canvass.* No earlier than 7 days nor later than 30 days after completion of the county canvass each county party committee under s. 8.17 holds a meeting. See s. 8.17 (5) (b).

(i) *2nd Tuesday after primary.* The 2nd Tuesday after the September primary is the latest the board of state canvassers may meet to canvass the September primary. See s. 7.70 (3) (a).

(j) *3 days after last day of state canvass.* 1. 5 p.m., 3 days after the last day of state canvass, is the deadline to demand the first recount. See s. 9.01 (1) (a).

2. At 9 a.m. on the day following the last day for filing of a recount petition the board of canvassers reconvenes to begin the recount procedure. See s. 9.01 (1) (b).

3. 5 p.m., 2 days after completion of the first recount, is the deadline to demand a recount in any remaining wards or municipalities. See s. 9.01 (4).

4. No later than 5 business days after the recount determination aggrieved parties may appeal to circuit court. See s. 9.01 (6) (a).

(5) **OCTOBER.** (a) *First Tuesday in October.* At 10 a.m. on the first Tuesday in October in presidential election years, each political party shall hold a convention in the state capitol to select presidential electors. See s. 8.18.

(b) *2nd Tuesday in October.* The 2nd Tuesday in October is the last day on which a candidate for state office who accepts a campaign grant may return any portion of the grant. See s. 11.50 (10m).

(c) *2nd Tuesday before election.* Write-in candidates for the office of president and vice president shall file their list of presidential electors and a declaration of candidacy with the board by 4:30 p.m. on the 2nd Tuesday before the election. See ss. 8.185 (2) and 8.21.

(d) *Last 14 days before election.* During the last 14 days before the general election, any contribution of \$500 or more which is received by a candidate or by his or her personal campaign committee within 14 days of the election must be reported to the board or other appropriate filing officer within 24 hours. See s. 11.12 (5).

(e) *8 days before election.* The 8th day before the election is the deadline for each candidate for state or local office or his or her personal campaign committee to file a pre-election report with the board or other appropriate filing officer. Such report is current to the end of the 14th day preceding the election. See s. 11.20 (2) and (7).

(f) *Friday before election.* 1. The Friday before the general election is the deadline for filing observer appointments. See s. 7.39 (3).

2. Vacancies may be filled within 4 days. See s. 7.38 (3).

(6) **NOVEMBER.** (a) *Tuesday after first Monday in November.* 1. The Tuesday after the first Monday in November is the day of the general election. See s. 5.02 (5).

2. Upon completion of the ward canvass, the results shall be announced, the results telephoned to the proper clerks and all materials returned to the municipal clerk immediately. See ss. 7.51 (4) (b) and (5) and 7.53 (1).

(b) *Thursday after election.* At 9 a.m. on the Thursday after the general election is the latest county canvass may begin. See s. 7.60 (3).

(c) *1st Friday after election.* On the 1st Friday after the election, whenever the board permits, write-in candidates for the offices of president and vice president who have not filed as provided in sub. (5) (c) but would otherwise be eligible to receive the electoral votes of this state shall file their list of presidential electors and a declaration of candidacy with the board by 4:30 p.m. See ss. 8.185 (2) and 8.21.

(d) *3 days after last day of county canvass.* 1. 5 p.m., 3 days after the last day of county canvass, is the deadline to demand the first recount. See s. 9.01 (1) (a).

2. At 9 a.m. on the day following the last day for filing of a recount petition the board of canvassers reconvenes to begin the recount procedure. See s. 9.01 (1) (b).

3. 5 p.m., 2 days after completion of the first recount, is the deadline to demand a recount in any remaining wards or municipalities. See s. 9.01 (4).

4. No later than 5 business days after the recount determination aggrieved parties may appeal to circuit court. See s. 9.01 (6) (a).

(e) *November 30.* No later than November 30 in the even-numbered years, the political parties submit their nominees for election officials. See s. 7.30 (4) (c).

(7) **DECEMBER.** (a) *December 1.* December 1 is the latest the board of state canvassers may meet to canvass the general election. See s. 7.70 (3) (a).

(b) *3 days after last day of state canvass.* 1. 5 p.m., 3 days after the last day of state canvass, is the deadline to demand the first recount. See s. 9.01 (1) (a).

2. At 9 a.m. on the day following the last day for filing of a recount petition the board of canvassers reconvenes to begin the recount procedure. See s. 9.01 (1) (b).

3. 5 p.m., 2 days after completion of the first recount, is the deadline to demand a recount in any remaining wards or municipalities. See s. 9.01 (4).

4. No later than 5 business days after the recount determination aggrieved parties may appeal to circuit court. See s. 9.01 (6) (a).

(c) *First Monday after the 2nd Wednesday in December.* At 12 noon on the first Monday after the 2nd Wednesday in December, in presidential election years, the presidential electors meet at the state capitol. See s. 7.75 (1).

(e) *3 years after any election.* Records maintained by a candidate or his or her campaign treasurer relating to any election may be destroyed 3 years after such election. See s. 11.12 (3).

(8) **JANUARY.** (a) *January 31.* January 31 is the deadline for each candidate at the general election who receives a grant from the Wisconsin election campaign fund to deliver or transmit to the board proof of payment for disbursements made unless a candidate participates in a special election at least 30 days before that date. See s. 11.50 (12).

*History:* 1971 c. 304 s. 29 (2); 1973 c. 334 s. 29; 1973 c. 336 s. 3; 1973 c. 339; Stats. 1973 s. 10.78; 1975 c. 420; 1977 c. 448; 1979 c. 354; 1981 c. 314 s. 146; 1981 c. 390 s. 252; 1983 s. 539; 1985 s. 333 ss. 150 to 156, 173; 1987 s. 404; 1989 s. 368; 1991 s. 32.

**10.80 Public and general provisions; September primary and general election.** The following subsections set forth, in chronological order, dates relating to the September primary and general election or occurrences during the fall period which affect the public.

(1) **MARCH.** (a) *March 1.* March 1 is the earliest application may be made for absentee ballots for the September primary. See s. 6.86 (1).

(1g) **MAY.** (a) *May 1.* May 1 is the earliest application may be made for absentee ballots for the general election. See s. 6.86 (1).

(1r) **JUNE.** (a) *June 1.* 1. 5 p.m. on June 1 is the deadline for political organizations which were listed as independent at the last general election and which qualified for a separate ballot to file a petition with the board so requesting. See s. 5.62 (1) (b).

2. June 1 is the deadline for political organizations which seek to qualify for a separate ballot at the September primary to file a petition with the board so requesting. See s. 5.62 (2).

(2) **JULY.** (a) *July 20.* July 20 is the deadline for every candidate and committee or individual supporting or opposing a candidate for state or local office and every group or individual attempting to influence the outcome of a referendum to file a continuing report with the board or other appropriate filing officer. Such report is current to the end of June 30. See s. 11.20 (4) and (7).

(3) **AUGUST.** (b) *Last 14 days before primary.* During the last 14 days before the September primary, any contribution of \$500 or more which is received by a candidate, committee or individual registered under s. 11.05 and any disbursement exceeding \$20 which is made by a committee or individual supporting or opposing a candidate within 14 days of the primary must be reported to the board or other appropriate filing officer within 24 hours. See s. 11.12 (5) and (6).

(c) *Wednesday before primary.* 5 p.m., on the 2nd Wednesday before the September primary, is the deadline for voter registration. See s. 6.28 (1).

(4) **SEPTEMBER.** (a) *60 days before election.* The deadline for filing a petition requesting submission of a question to require or abolish registration in municipalities of 5,000 population or less is 60 days before the general election. See s. 6.27 (3) and (4).

(b) *8 days before primary.* The 8th day before the primary is the deadline for each candidate for state or local office and each committee or individual supporting or opposing a candidate to file a preprimary report with the board or other

appropriate filing officer. The report is current to the end of the 15th day preceding the primary. See ss. 11.09 (3) and 11.20 (3) (b) and (7).

(bm) *1st Tuesday in September.* No later than 5 p.m. on the 1st Tuesday in September of presidential election years, the state or national chairperson of each party entitled to a separate ballot certifies to the board the names of the party's nominees for president and vice president. See s. 8.16 (7).

(c) *Wednesday before primary.* On the Wednesday before the September primary, in cities of the 1st class, the board of election commissioners sits to hear registration objections. See s. 6.48 (2).

(cm) *Friday before primary.* 5 p.m., on the Friday before the September primary, is the deadline for application by mail for an absentee ballot for the September primary. See s. 6.86 (1).

(d) *Monday before primary.* 1. 5 p.m., on the Monday before the September primary, is the deadline for application, in person, for absentee ballots for the September primary. See s. 6.86 (1).

2. 5 p.m. on the day before the September primary is the deadline for registration at the office of the municipal clerk. See s. 6.29 (2) (a).

3. 5 p.m., on the day before the September primary, is the latest that voting may be conducted in nursing homes, retirement homes and community-based residential facilities. See s. 6.875 (6).

(e) *2nd Tuesday in September.* 1. The 2nd Tuesday in September is the day of the September primary. See s. 5.02 (18).

2. 5 p.m. on the day of the primary is the deadline for hospitalized electors to make application for an absentee ballot by agent. See s. 6.86 (3) (c).

3. Upon completion of the ward canvass, the results shall be announced, the results telephoned to the proper clerks and all materials returned to the municipal clerk immediately. See ss. 7.51 (4) (b) and (5) and 7.53 (1).

(f) *Thursday after primary.* At 9 a.m. on Thursday after the September primary is the latest county canvass shall begin. See s. 7.60 (3).

(g) *3 days after last day of state canvass.* 1. 5 p.m., 3 days after the last day of state canvass, is the deadline to demand the first recount. See s. 9.01 (1) (a).

2. At 9 a.m. on the day following the last day for filing of a recount petition the board of canvassers reconvenes to begin the recount procedure. See s. 9.01 (1) (b).

3. 5 p.m., 2 days after completion of the first recount, is the deadline to demand a recount in any remaining wards or municipalities. See s. 9.01 (4).

4. No later than 5 business days after the recount determination aggrieved parties may appeal to circuit court. See s. 9.01 (6) (a).

(5) **OCTOBER.** (a) *First Tuesday in October.* At 10 a.m. on the first Tuesday in October in presidential election years, each recognized political party shall hold a convention in the state capitol to select presidential electors. See s. 8.18.

(c) *Last 14 days before election.* During the last 14 days before the general election, any contribution of \$500 or more which is received by a candidate, committee, individual or group registered under s. 11.05 and any disbursement exceeding \$20 which is made by a committee or individual supporting or opposing a candidate within 14 days of the election must be reported to the board or other appropriate filing officer within 24 hours. See ss. 11.12 (5) and (6) and 11.23 (6).

(d) *2nd Wednesday before election.* 5 p.m., on the 2nd Wednesday before the general election, is the deadline for voter registration. See s. 6.28 (1).

(dm) *9 days before election.* 9 days before a presidential election is the earliest that new residents may apply to vote for president and vice president at the office of the municipal clerk. See s. 6.15 (3) (a).

(e) *8 days before election.* The 8th day before the election is the deadline for each candidate for state or local office, each committee or individual supporting or opposing a candidate and each group or individual supporting or opposing a referendum to file a preelection report with the board or other appropriate filing officer. The report is current to the end of the 14th day preceding the election. See ss. 11.09 (3) and 11.20 (2) and (7).

(f) *Wednesday before election.* On the Wednesday before the general election in cities of the 1st class, the board of election commissioners sits to hear registration objections. See s. 6.48 (2).

(g) *Friday before election.* 5 p.m., on the Friday before the general election, is the deadline for application by mail for an absentee ballot for the general election. See s. 6.86 (1).

(6) **NOVEMBER.** (a) *Monday before election.* 1. 5 p.m., on the Monday before the general election, is the deadline for application in person for absentee ballots for the general election. See s. 6.86 (1).

2. 5 p.m. on the day before the general election in presidential election years is the latest that new residents may apply to vote for president and vice president at the office of the municipal clerk. See s. 6.15 (3) (a).

3. 5 p.m., on the day before the general election, is the latest that voting may be conducted in nursing homes, retirement homes and community-based residential facilities. See s. 6.875 (6).

(b) *Tuesday after first Monday in November.* 1. The Tuesday after the first Monday in November is the day of the general election. See s. 5.02 (5).

2. 5 p.m. on the day of the election is the deadline for hospitalized electors to make application for an absentee ballot by agent. See s. 6.86 (3) (c).

3. Upon completion of the ward canvass, the results shall be announced, the results telephoned to the proper clerks and all materials returned to the municipal clerk immediately. See ss. 7.51 (4) (b) and (5) and 7.53 (1).

(c) *Following general election.* Municipal clerks in municipalities having registration conduct a mail canvass of nonvoting electors to revise and update the registration list. See s. 6.50.

(d) *Thursday after election.* At 9 a.m. on the Thursday after the general election is the latest that the county canvass may begin. See s. 7.60 (3).

(e) *3 days after last day of county canvass.* 1. 5 p.m., 3 days after the last day of county canvass, is the deadline to demand the first recount. See s. 9.01 (1) (a).

2. At 9 a.m. on the day following the last day for filing of a recount petition, the board of canvassers reconvenes to begin the recount procedure. See s. 9.01 (1) (b).

3. 5 p.m., 2 days after completion of the first recount, is the deadline to demand a recount in any remaining wards or municipalities. See s. 9.01 (4).

4. No later than 5 business days after the recount determination aggrieved parties may appeal to circuit court. See s. 9.01 (6) (a).

(7) **DECEMBER.** (a) *December 1.* December 1 is the latest the board of state canvassers may meet to canvass the general election. See s. 7.70 (3) (a).

(b) *3 days after last day of state canvass.* 1. 5 p.m., 3 days after the last day of state canvass, is the deadline to demand the first recount. See s. 9.01 (1) (a).

2. At 9 a.m. on the day following the last day for filing of a recount petition the board of canvassers reconvenes to begin the recount procedure. See s. 9.01 (1) (b).

3. 5 p.m., 2 days after completion of the first recount, is the deadline to demand a recount in any remaining wards or municipalities. See s. 9.01 (4).

4. No later than 5 business days after the recount determination aggrieved parties may appeal to circuit court. See s. 9.01 (6) (a).

(c) *First Monday after 2nd Wednesday in December.* At 12 noon on the first Monday after the 2nd Wednesday in December, in presidential election years, the presidential electors meet at the state capitol. See s. 7.75 (1).

(d) *3 years after any election.* Records maintained by a candidate or his or her campaign treasurer relating to any election may be destroyed 3 years after such election. See ss. 11.12 (3) and 11.23 (3).

*History:* 1971 c. 304 s. 29 (2); 1973 c. 334 s. 29; 1973 c. 339; Stats. 1973 s. 10.80; 1975 c. 420; 1977 c. 394 s. 53; 1977 c. 448; 1979 c. 354; 1981 c. 314 s. 146; 1983 s. 539; 1985 s. 333 ss. 157 to 167, 173; 1987 s. 404; 1989 s. 368.

## 10.82 Special primary and election. (1) ELECTIONS BOARD.

(a) *General.* The provisions for campaign financing, recount, registration, absentee voting and other general provisions apply to special elections.

(b) *Special dates affecting filling vacancies by special election.* See s. 8.50 (4).

(c) *Nomination papers.* Nomination papers may be circulated no sooner than the day the order for the special election is filed and shall be filed no later than 5 p.m. 28 days before the special primary, except when the special primary is held concurrently with the spring or September primary. See s. 8.50 (3).

(cm) *Campaign grants.* Applications by candidates for state office for grants from the Wisconsin election campaign fund may be filed with the board no later than 5 p.m. on the 28th day preceding the date the special primary will or would be held, if required, except when the special primary is held concurrently with the spring or September primary. See s. 11.50 (2) (a).

(d) *Date for special primary.* The date for the special primary is 4 weeks before the day of the special election except when the special election is held on the day of the general election the special primary shall be held on the day of the general primary or if the special election is held concurrently with the spring election, the primary shall be held concurrently with the spring primary. See ss. 5.02 (20) and 8.50 (2) (b).

(dm) *Campaign grants.* 1. Applications by write-in candidates for state office for grants from the Wisconsin election campaign fund may be filed with the board no later than 4:30 p.m. on the 7th day after the special primary, or the date the special primary would be held, if required. See s. 11.50 (2) (a).

2. Candidates for state office seeking to participate in the Wisconsin election campaign fund may file a special financial report with the board no later than the 7th day after the special primary, or the date the special primary would be held, if required. See s. 11.50 (2) (c).

3. Candidates for state office who have filed an application with the board to participate in the Wisconsin election campaign fund may withdraw the application no later than the 7th day after the special primary, or the date the special primary would be held, if required. See s. 11.50 (2) (h).

(e) *Date for special election.* The date for the special election shall be not less than 62 nor more than 77 days from date of order except when the special election is held on the day of the spring election or the general election. See s. 8.50 (2).

(f) *Special election notice.* 1. Notice shall be given upon filing of the order calling the election. See s. 8.50 (1) (b).

2. If the special election includes a candidate for state or national office or a statewide referendum the board shall give one notice. See s. 8.50 (1) (b).

(g) *22 days before special primary.* 22 days before the special primary the board sends a certified list of candidates to the county clerk. See s. 8.50 (1) (d).

(h) *2nd Thursday after special primary.* The 2nd Thursday after the special primary is the latest the board of state canvassers may meet. See s. 7.70 (3) (a).

(hm) *Following primary canvass.* As soon as possible after the canvass of the special primary, or the date the primary would be held, if required, the board sends a certified list of candidates who are eligible to participate in the Wisconsin election campaign fund to the state treasurer. See s. 7.08 (2) (cm).

(i) *Special election.* See ss. 5.02 (19) and 8.50.

(j) *18 days after special election.* No later than 18 days after the special election is the latest the board of state canvassers may meet to canvass the special election. See s. 7.70 (3) (a).

(k) *Following election canvass.* After the canvass of the special election, the board sends a certified list of candidates who are eligible to receive a postelection grant from the Wisconsin election campaign fund to the state treasurer. See s. 7.08 (2) (cm).

(2) COUNTY CLERK. (a) *General.* The provisions for campaign financing, recount, registration, absentee voting and other general provisions apply to special elections.

(b) *Special dates affecting filling vacancies by special election.* See s. 8.50 (4).

(c) *Date for special primary.* The special primary shall be 4 weeks before the day of the special election except when the special election is held on the day of the general election the special primary shall be held on the day of the general primary or if the special election is held concurrently with the spring election, the primary shall be held concurrently with the spring primary. See ss. 5.02 (20) and 8.50 (2) (b).

(d) *Date for special election.* The date for the special election shall be not less than 62 nor more than 77 days from date of order except when the special election is held on the day of the spring election or the general election. See s. 8.50 (2).

(e) *Nomination papers.* Nomination papers may be circulated no sooner than the day the order for the special election is filed and shall be filed no later than 5 p.m. 28 days before the special primary. See s. 8.50 (3).

(f) *Special election notice.* The county clerk gives notice of any special election for national, state or county office or any special state or county referendum. See ss. 8.50 (1) (b) and (c), 8.55, 10.01 (2) and 10.06 (2) (n).

(h) *Monday before special primary and election.* On the Monday before the special primary and election the county clerk publishes a type B notice. See ss. 8.50 (1) (d), 10.01 and 10.06 (2) (n).

(i) *7 days after special primary.* The 7th day after the special primary is the deadline for the county clerk to make returns to the board. See s. 7.60 (5).

(j) *Special election.* See ss. 5.02 (19) and 8.50.

(k) *13 days after special election.* The 13th day after the special election is the deadline for the county clerk to make returns to the board. See s. 7.60 (5).

(3) MUNICIPAL CLERK AND GOVERNING BODY. (a) *General.* The provisions for campaign financing, recount, registration, absentee voting and other general provisions apply to special elections.

(b) *Special dates affecting filling vacancies by special election.* See s. 8.50 (4).

(c) *Date for special primary.* The special primary shall be 4 weeks before the day of the special election except when the special election is held on the day of the general election the special primary shall be held on the day of the general primary or if the special election is held concurrently with the spring election, the primary shall be held concurrently with the spring primary. See ss. 5.02 (20) and 8.50 (2) (b).

(d) *Date for special election.* The date for the special election shall be not less than 62 nor more than 77 days from date of order except when the special election is held on the day of the spring election or the general election. See s. 8.50 (2).

(e) *Special election notice.* The municipal clerk gives notice of any special election for municipal office or any special municipal referendum. See ss. 8.55, 10.01 (2) and 10.06 (3) (f).

(f) *Special election.* See ss. 5.02 (19) and 8.50.

(4) CANDIDATES. (a) *General.* The provisions for campaign financing, recount, registration, absentee voting and other general provisions apply to special elections.

(b) *Special dates affecting filling vacancies by special election.* See s. 8.50 (3).

(bm) *Campaign grants.* Applications by candidates for state office for grants from the Wisconsin election campaign fund may be filed with the board no later than 5 p.m. on the 28th day preceding the date the special primary will or would be held, if required, except when the special primary is held concurrently with the spring or September primary. See s. 11.50 (2) (a).

(c) *Date for special primary.* The special primary shall be 4 weeks before the day of the special election except when the special election is held on the day of the general election the special primary shall be held on the day of the general primary or if the special election is held concurrently with the spring election, the primary shall be held concurrently with the spring primary. See ss. 5.02 (20) and 8.50 (2).

(cm) *Campaign grants.* 1. Applications by write-in candidates for state office for grants from the Wisconsin election campaign fund may be filed with the board no later than 4:30 p.m. on the 7th day after the special primary, or the date the special primary would be held, if required. See s. 11.50 (2) (a).

2. Candidates for state office seeking to participate in the Wisconsin election campaign fund may file a special financial report with the board no later than the 7th day after the special primary, or the date the special primary would be held, if required. See s. 11.50 (2) (c).

3. Candidates for state office who have filed an application with the board to participate in the Wisconsin election campaign fund may withdraw the application no later than the 7th day after the special primary, or the date the special primary would be held, if required. See s. 11.50 (2) (h).

(d) *Date for special election.* The date for the special election shall be not less than 62 nor more than 77 days from date of order except when the special election is held on the day of the spring election or the general election. See s. 8.50 (2).

(e) *Nomination papers.* Nomination papers may be circulated no sooner than the day the order for the special election is filed and shall be filed no later than 5 p.m. 28 days before the special primary. See s. 8.50 (3).

(f) *Special election.* See ss. 5.02 (20) and 8.50.

(fm) *Finance reports.* Candidates and personal campaign committees of candidates at a special election shall file campaign finance reports with the appropriate filing officer no later than 8 days before each special primary and special election and no later than 30 days after each special election.

unless a continuing report is required to be filed on or before that date. See s. 11.20 (2) and (2m).

(g) *Proof of payment.* Candidates for state office who participate in the Wisconsin election campaign fund must deliver or transmit proof of payment for disbursements made to the board no later than the next due date for continuing reports which occurs at least 30 days after the special election. See s. 11.50 (12).

(5) PUBLIC AND GENERAL PROVISIONS. (a) *General.* The provisions for campaign financing, recount, registration, absentee voting and other general provisions apply to special elections.

(b) *Date for special primary.* The special primary shall be 4 weeks before the day of the special election except when the special election is held on the day of the general election the special primary shall be held on the day of the general primary or if the special election is held concurrently with the spring election, the primary shall be held concurrently with the spring primary. See ss. 5.02 (20) and 8.50 (2) (b).

(c) *Date for special election.* The date for the special election shall be not less than 62 nor more than 77 days from date of order except when the special election is held on the day of the spring election or the general election. See s. 8.50 (2).

(d) *Nomination papers.* Nomination papers may be circulated no sooner than the day the order for the special election is filed and shall be filed no later than 5 p.m. 28 days before the special primary. See s. 8.50 (3).

(e) *Finance reports.* Individuals and committees supporting or opposing candidates at a special election shall file campaign finance reports with the appropriate filing officer no later than 8 days before each special primary and special election and no later than 30 days after each special election, unless a continuing report is required to be filed on or before that date. See s. 11.20 (2) and (2m).

*History:* 1971 c. 40, 164, 211; 1973 c. 334 s. 29; 1973 c. 339; Stats. 1973 s. 10.82; 1975 c. 420; 1977 c. 448; 1979 c. 354; 1981 c. 314 s. 146; 1983 s. 539; 1985 a. 333; 1987 a. 404.

## CHAPTER 11

## CAMPAIGN FINANCING

11.001	Declaration of policy.	11.24	Unlawful political contributions.
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11.21	Duties of the elections board.	11.66	Elector may compel compliance.
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11.23	Political groups and individuals; referendum questions.		

**11.001 Declaration of policy.** (1) The legislature finds and declares that our democratic system of government can be maintained only if the electorate is informed. It further finds that excessive spending on campaigns for public office jeopardizes the integrity of elections. It is desirable to encourage the broadest possible participation in financing campaigns by all citizens of the state, and to enable candidates to have an equal opportunity to present their programs to the voters. One of the most important sources of information to the voters is available through the campaign finance reporting system. Campaign reports provide information which aids the public in fully understanding the public positions taken by a candidate or political organization. When the true source of support or extent of support is not fully disclosed, or when a candidate becomes overly dependent upon large private contributors, the democratic process is subjected to a potential corrupting influence. The legislature therefore finds that the state has a compelling interest in designing a system for fully disclosing contributions and disbursements made on behalf of every candidate for public office, and in placing reasonable limitations on such activities. Such a system must make readily available to the voters complete information as to who is supporting or opposing which candidate or cause and to what extent, whether directly or indirectly. This chapter is intended to serve the public purpose of stimulating vigorous campaigns on a fair and equal basis and to provide for a better informed electorate.

(2) This chapter is also intended to ensure fair and impartial elections by precluding officeholders from utilizing the perquisites of office at public expense in order to gain an advantage over nonincumbent candidates who have no perquisites available to them.

(3) This chapter is declared to be enacted pursuant to the power of the state to protect the integrity of the elective process and to assure the maintenance of free government.

*History:* 1973 c. 334; 1979 c. 328; 1985 a. 303.

Campaign finance in Wisconsin after Buckley. 1976 WLR 816.

**11.002 Construction.** This chapter shall be construed to impose the least possible restraint on persons or organizations whose activities do not directly affect the elective process, consistent with the right of the public to have a full,

complete and readily understandable accounting of those activities intended to influence elections.

*History:* 1979 c. 328 ss. 9, 11.

**11.01 Definitions.** As used in this chapter:

(1) "Candidate" means every person for whom it is contemplated or desired that votes be cast at any election held within this state, other than an election for national office, whether or not the person is elected or nominated, and who either tacitly or expressly consents to be so considered. A person does not cease to be a candidate for purposes of compliance with this chapter or ch. 12 after the date of an election and no person is released from any requirement or liability otherwise imposed under this chapter or ch. 12 by virtue of the passing of the date of an election.

(2) "Charitable organization" means any organization described in section 170 (c) (2) of the internal revenue code, and also includes the United States, any state, territory or possession, the District of Columbia and any political subdivision thereof, when a gift is made exclusively for public purposes; but does not include any private organization conducting activities for political purposes.

(3) "Clearly identified", when used with reference to a communication in support of or in opposition to a candidate, means:

(a) The candidate's name appears;

(b) A photograph or drawing of the candidate appears; or

(c) The identity of the candidate is apparent by unambiguous reference.

(4) "Committee" or "political committee" means any person other than an individual and any combination of 2 or more persons, permanent or temporary, which makes or accepts contributions or makes disbursements, whether or not engaged in activities which are exclusively political, except that a "committee" does not include a political "group" under this chapter.

(5) "Communications media" means newspapers, periodicals, commercial billboards and radio and television stations, including community antenna television stations.

(5m) "Conduit" means an individual who or an organization which receives a contribution of money and transfers the contribution to another individual or organization without

exercising discretion as to the amount which is transferred and the individual to whom or organization to which the transfer is made.

(6) (a) "Contribution" means:

1. A gift, subscription, loan, advance, or deposit of money or anything of value (except a loan of money by a commercial lending institution made by the institution in accordance with applicable laws and regulations in the ordinary course of business), made for political purposes. In this subdivision "anything of value" means a thing of merchantable value.

2. A transfer of personalty, including but not limited to campaign materials and supplies, valued at the replacement cost at the time of transfer.

3. A contract, promise or agreement, if legally enforceable, to make a gift, subscription, loan, advance, or deposit of money or anything of value (except a loan of money by a commercial lending institution in accordance with applicable laws and regulations in the ordinary course of business) for a political purpose.

4. A transfer of funds between candidates, committees, individuals or groups subject to a filing requirement under this chapter.

5. The purchase of a ticket for a meal, rally or other fund-raising event for a purpose under subd. 1, whether or not actually utilized.

6. The distribution of any publication or advertising matter for any purpose under subd. 1 other than by a registrant under s. 11.05, or as provided in s. 11.29.

7. A gift, subscription, loan, advance, or deposit of money or anything of value (except a loan of money by a commercial lending institution made by the institution in accordance with applicable laws and regulations in the ordinary course of business), or a contract, promise or agreement, if legally enforceable, to make the same, made by a committee for a purpose authorized under s. 11.25 (2) (b), or by an individual for a purpose authorized under s. 11.25 (2) (b) if deposited in a campaign depository account.

(b) Notwithstanding the foregoing meanings of "contribution", the term does not include:

1. Services for a political purpose by an individual on behalf of a registrant under s. 11.05 who is not compensated specifically for such services;

2. The use of real or personal property and the cost of invitations, food, and beverages, voluntarily provided by an individual to a candidate in rendering voluntary personal services on the individual's residential premises for a purpose under par. (a) 1 if no funds are raised with the knowledge of the host;

3. Any unreimbursed payment for travel expenses made by an individual who on his or her own behalf volunteers the individual's personal services for political purposes;

4. The costs of preparation and transmission of personal correspondence, provided such material is not reproduced by machine for distribution; or

5. Compensation or fringe benefits provided as a result of employment by an employer to regular employes or pensioners who are not compensated specifically for services performed for a political purpose, and not in excess of that provided to other regular employes or pensioners of like status.

6. The reuse of surplus materials or utilization of unused surplus materials not exceeding \$400 in value at the time of original receipt, in the aggregate, acquired in connection with a previous campaign for or against the same candidate, candidates, party or referendum in connection with which the materials are utilized, if utilized by the same registrant

previously acquiring the materials and previously reported by that registrant as a contribution under s. 11.06.

(c) Notwithstanding par. (a), when a committee or group not organized exclusively for political purposes receives a gift, subscription, loan, advance or deposit of anything of value and does not utilize it for political purposes, it is not a "contribution".

(7) (a) "Disbursement" means:

1. A purchase, payment, distribution, loan, advance, deposit, or gift of money or anything of value (except a loan of money by a commercial lending institution made by the institution in accordance with applicable laws and regulations in the ordinary course of business), made for political purposes. In this subdivision, "anything of value" means a thing of merchantable value.

2. A transfer of personalty, including but not limited to campaign materials and supplies, valued at the replacement cost at the time of transfer.

3. A contract, promise, or agreement, if legally enforceable, to make a purchase, payment, distribution, loan, advance, deposit or gift of money or anything of value (except a loan of money by a commercial lending institution in accordance with applicable laws and regulations in the ordinary course of business) for a political purpose.

4. An expenditure authorized under s. 11.25 (2) (b) made from a campaign depository account.

(b) Notwithstanding the foregoing meanings of "disbursement", the term does not include:

1. The use of real or personal property and the cost of invitations, food, and beverages, voluntarily provided by an individual to a candidate in rendering voluntary personal services on the individual's residential premises for a purpose under par. (a) 1 if no funds are raised with the knowledge of the host;

2. Any unreimbursed payment for travel expenses made by an individual who on his or her own behalf volunteers the individual's personal services for political purposes;

3. The costs of preparation and transmission of personal correspondence, provided such material is not reproduced by machine for distribution;

4. Compensation or fringe benefits provided as a result of employment by an employer to regular employes or pensioners who are not compensated specifically for services performed for a political purpose, and not in excess of that provided to other regular employes or pensioners of like status.

5. The reuse of surplus materials or utilization of unused surplus materials not exceeding \$400 in value at the time of original receipt, in the aggregate, acquired in connection with a previous campaign for or against the same candidate, candidates, party or referendum in connection with which the materials are utilized, if utilized by the same registrant previously acquiring the materials and previously reported by that registrant as a disbursement under s. 11.06.

(8) "Filing officer" means the official or agency determined in accordance with s. 11.02.

(9) "Filing requirement" means the continuing duty to file reports of contributions, disbursements or incurred obligations with the appropriate filing officer.

(10) "Group" or "political group" means any person other than an individual and any combination of 2 or more persons, permanent or temporary, which makes or accepts contributions or makes disbursements for the purpose of influencing the outcome of any referendum whether or not engaged in activities which are exclusively political.

(11) "Incurred obligation" means every express obligation to make any contribution or disbursement including every



loan, guarantee of a loan or other obligation or payment for any goods, or for any services which have been performed or are to be performed in the future, incurred by a candidate, committee, individual or group for political purposes.

(12) "Intentionally" has the meaning given under s. 939.23.

(12a) "Legislative campaign committee" means a committee which does not file an oath under s. 11.06 (7) organized in either house of the legislature to support candidates of a political party for legislative office.

(15) "Personal campaign committee" means a committee which is formed or operating for the purpose of influencing the election or reelection of a candidate, which acts with the cooperation of or upon consultation with the candidate or the candidate's agent or which is operating in concert with or pursuant to the authorization, request or suggestion of the candidate or the candidate's agent.

(16) An act is for "political purposes" when it is done for the purpose of influencing the election or nomination for election of any individual to state or local office, for the purpose of influencing the recall from or retention in office of an individual holding a state or local office, for the purpose of payment of expenses incurred as a result of a recount at an election, or for the purpose of influencing a particular vote at a referendum. In the case of a candidate, or a committee or group which is organized primarily for the purpose of influencing the election or nomination for election of any individual to state or local office, for the purpose of influencing the recall from or retention in office of an individual holding a state or local office, or for the purpose of influencing a particular vote at a referendum, all administrative and overhead expenses for the maintenance of an office or staff which are used principally for any such purpose are deemed to be for a political purpose.

(a) Acts which are for "political purposes" include but are not limited to:

1. The making of a communication which expressly advocates the election, defeat, recall or retention of a clearly identified candidate or a particular vote at a referendum.

2. The conduct of or attempting to influence an endorsement or nomination to be made at a convention of political party members or supporters concerning, in whole or in part, any campaign for state or local office.

(b) A "political purpose" does not include expenditures made for the purpose of supporting or defending a person who is being investigated for, charged with or convicted of a criminal violation of state or federal law, or an agent or dependent of such a person.

(18m) "Registrant" means an individual or organization registered under s. 11.05 with a filing officer.

(19) "Salary" means the highest salary to which any candidate for a particular office would, if elected, be entitled during the first year of incumbency.

History: 1973 c. 334; 1975 c. 93, 199; 1977 c. 187, 427; 1979 c. 260, 263; 1979 c. 328 ss. 12 to 28, 146; 1979 c. 355 s. 31; 1983 a. 484, 491; 1985 a. 303; 1987 a. 370, 391; 1989 a. 192.

Subs. (9) and (16), 1975 stats., [now subs. (10) and (16)] are constitutional only if narrowly construed to apply only to acts of express advocacy of the election or defeat of an identified candidate or referendum result. 65 Atty. Gen. 145.

**11.02 Determination of filing officer.** Except where the filing of duplicate reports or statements is specifically required by law, each person, committee or group subject to s. 11.05 shall have one filing officer. Such officer shall be determined as follows:

(1) The "filing officer" for each candidate for state office and for each committee which or individual who is acting in support of or in opposition to any candidate for state office is the board.

(2) The "filing officer" for each committee which or individual who is acting in support of or in opposition to any candidates for state and local offices is the board.

(3) The "filing officer" for each candidate for local office and for each committee which or individual who is acting in support of or in opposition to any candidate for local office, but not any candidate for state office, is the clerk of the most populous jurisdiction for which any candidate who is supported or opposed seeks office.

(3m) The "filing officer" for an individual who or committee which supports or opposes an effort to circulate and file a petition to recall an individual who holds an office is the filing officer for candidates for that office.

(4) The "filing officer" for each group which or individual who is acting in support of or in opposition to any statewide referendum is the board.

(5) The "filing officer" for each group which or individual who is acting in support of or in opposition to any statewide and local referenda is the board.

(6) The "filing officer" for each group which or individual who is acting in support of or in opposition to any local referendum, but not any statewide referendum, is the clerk of the most populous jurisdiction in which any referendum being supported or opposed is conducted.

(7) If the jurisdiction under sub. (3) or (6) is a school district, the appropriate clerk is the school district clerk.

History: 1975 c. 93; 1983 a. 491; 1985 a. 225, 303.

**11.03 Nonapplicability.** (1) Elections for the positions of presidential elector, convention delegate and party committeeman are not subject to ss. 11.05 to 11.23 and 11.26 to 11.29.

(2) Except as otherwise expressly provided, this chapter does not apply to any candidate for national office acting exclusively in support of the candidate's own campaign, with respect to such activities only.

(3) Except as otherwise expressly provided, this chapter does not apply to any individual or committee acting exclusively in support of or in opposition to a) candidates for national office; or b) other individuals and committees exclusively supporting or opposing candidates for national office.

History: 1973 c. 334; 1975 c. 93, 199; 1979 c. 328; 1983 a. 27.

**11.04 Registration and voting drives.** Except as provided in s. 11.25 (2) (b), ss. 11.05 to 11.23 and 11.26 do not apply to nonpartisan campaigns to increase voter registration or participation at any election that are not directed at supporting or opposing any specific candidate, political party, or referendum.

History: 1973 c. 334; 1979 c. 328.

**11.05 Registration of political committees, groups and individuals.** (1) COMMITTEES AND GROUPS. Except as provided in s. 9.10 (2) (d), every committee other than a personal campaign committee, and every political group subject to registration under s. 11.23 which makes or accepts contributions, incurs obligations or makes disbursements in a calendar year in an aggregate amount in excess of \$25 shall file a statement with the appropriate filing officer giving the information required by sub. (3). In the case of any committee other than a personal campaign committee, the statement shall be filed by the treasurer. A personal campaign committee shall register under sub. (2g) or (2r).

(2) INDIVIDUALS. Except as provided in s. 9.10 (2) (d), every individual, other than a candidate or agent of a candidate, who accepts contributions, incurs obligations, or makes disbursements in a calendar year in an aggregate amount in excess of \$25 shall file a statement with the appropriate filing officer giving the information required by sub. (3). An

individual who guarantees a loan on which an individual, committee or group subject to a registration requirement defaults is not subject to registration under this subsection solely as a result of such default.

**(2g) CANDIDATES AND PERSONAL CAMPAIGN COMMITTEES.** Every candidate as defined in s. 11.01 (1) shall file a registration statement with the appropriate filing officer giving the information required by sub. (3). If a candidate appoints another person as campaign treasurer the candidate's registration statement shall be cosigned by the candidate and the candidate's appointed treasurer. A candidate who receives no contributions and makes no disbursements shall file such statement as provided in s. 11.10 (1) but need not appoint a campaign treasurer or designate a campaign depository account until the first contribution is received or disbursement made.

**(2r) GENERAL REPORTING EXEMPTIONS.** Any person, committee or group, other than a committee or individual required to file an oath under s. 11.06 (7), who or which does not anticipate accepting contributions, making disbursements or incurring obligations in an aggregate amount in excess of \$1,000 in a calendar year and does not anticipate accepting any contribution or contributions from a single source, other than contributions made by a candidate to his or her own campaign, exceeding \$100 in that year may indicate on its registration statement that the person, committee or group will not accept contributions, incur obligations or make disbursements in the aggregate in excess of \$1,000 in any calendar year and will not accept any contribution or contributions from a single source, other than contributions made by a candidate to his or her own campaign, exceeding \$100 in such year. Any registrant making such an indication is not subject to any filing requirement if the statement is true. The registrant need not file a termination report. A registrant not making such an indication on a registration statement is subject to a filing requirement. The indication may be revoked and the registrant is then subject to a filing requirement as of the date of revocation, or the date that aggregate contributions, disbursements or obligations for the calendar year exceed \$1,000, or the date on which the registrant accepts any contribution or contributions exceeding \$100 from a single source, other than contributions made by a candidate to his or her own campaign, during that year, whichever is earlier. If the revocation is not timely, the registrant violates s. 11.27 (1).

**(3) REQUIRED INFORMATION.** The statement of registration shall include, where applicable:

(a) The name and mailing address of the committee, group or individual.

(c) In the case of a committee, a statement as to whether the committee is a personal campaign committee, a political party committee, a legislative campaign committee, a support committee or a special interest committee.

(e) The name and mailing address of the campaign treasurer and any other custodian of books and accounts. Unless otherwise directed by the registrant on the registration form and except as otherwise provided in this chapter or any rule of the board, all mailings which are required by law or by rule of the board shall be sent to the treasurer at the treasurer's address indicated upon the form.

(f) The name, mailing address, and position of other principal officers, including officers and members of the finance committee, if any.

(h) The nature of any referendum which is supported or opposed.

(L) The name and address of the campaign depository account and of any other institution where funds are kept and

the account number of the depository account and of each additional account and safety deposit box used.

(n) In the case of a labor organization, separate segregated fund under s. 11.38 (1) (a) 2 or conduit established by a labor organization, a statement as to whether the organization is incorporated, and if so, the date of incorporation and whether or not such incorporation is under ch. 181.

(o) In the case of a legislative campaign committee, a statement signed by the leader of the party in the house for which the committee is established attesting to the fact that the committee is the only authorized legislative campaign committee for that party in that house.

(p) In the case of a support committee, a statement signed by the individual on whose behalf the committee intends to operate affirming that the committee is the only committee authorized to operate on his or her behalf, unless the committee files a statement under s. 11.06 (7).

**(3m) VACANCIES IN NOMINATION.** Any personal campaign committee of an independent candidate for partisan office or a candidate for nonpartisan county or municipal office may file with its registration statement a list of the members of the committee, in addition to those specified in sub. (3) (e) and (f), who shall be recognized by the official or agency with whom the candidate's nomination papers are filed for the purpose of filling a vacancy in nomination in the event of the candidate's death. The board shall provide a place on the statement for such designations.

**(4) REFERENDUM REGISTRATION.** Every committee under this chapter which in addition operates as a political group must register under this section as a group. Every group which in addition operates as a political committee must register under this section as a committee. Except in the case of a personal campaign committee, an organization which operates as both a committee and a group and which has the same filing officer for both operations may file a single registration statement under this section.

**(5) CHANGE OF INFORMATION.** Any change in information previously submitted in a statement of registration shall be reported by the registrant to the appropriate filing officer within 10 days following the change. This period does not apply in case of change of an indication made under sub. (2r), which shall be reported no later than the date that a registrant is subject to a filing requirement under sub. (2r). Any such change may be reported only by the individual or by the officer who has succeeded to the position of an individual who signed the original statement; but in the case of a personal campaign committee, a candidate or campaign treasurer may report a change in the statement except as provided in s. 11.10 (2), and in the case of any other committee or group, the chief executive officer or treasurer indicated on the statement may report a change. If a preexisting support committee is adopted by a candidate as his or her personal campaign committee, the candidate shall file an amendment to the committee's statement under this subsection indicating that all information contained in the statement is true, correct and complete.

**(5m) CERTIFICATION.** Every statement and every change made in a statement filed under this section shall contain a certification signed by the individual filing the statement that all information contained in the statement is true, correct and complete.

**(6) CONTRIBUTION OR DISBURSEMENT PROHIBITED.** Except as provided in subs. (7) and (13), no person, committee or group subject to a registration requirement may make any contribution or disbursement from property or funds received prior to the date of registration under this section.

(7) **CHANGE IN STATUS OF NEW REGISTRANT.** Notwithstanding sub. (6), any individual or organization who or which has received property or funds which were not intended for political purposes in connection with an election for state or local office at the time of receipt may make contributions or disbursements from such property or funds in connection with an election for state or local office if the individual or organization complies with applicable provisions of sub. (1), (2) or (2g) as soon as such intent changes. For purposes of s. 11.06 (1), all property or funds which are in a registrant's possession on the date of registration under this section shall be treated as received on the date that such intent changes so that the property or funds are to be used for political purposes in connection with an election for state or local office.

(8) **CERTAIN INTRA-REGISTRANT TRANSFERS EXEMPT.** If an organization which is not organized exclusively for political purposes makes a contribution from its own property or funds to a committee or group, affiliated with the organization, which is organized exclusively for political purposes, and the contributing organization receives no contribution from a single source in excess of \$20 in the aggregate during any calendar year, and it makes no contributions or disbursements and incurs no obligations other than to make the transactions specified in this subsection, then no registration requirement applies to the contributing organization.

(9) **CONDUITS.** (a) For purposes of this chapter, every individual who and every committee or group which deposits a contribution in an account at a financial institution as defined in s. 705.01 (3) is considered to receive and accept the contribution.

(b) An individual who or a committee or group which receives a contribution of money and transfers the contribution to another individual, committee or group while acting as a conduit is not subject to registration under this section unless the individual, committee or group transfers the contribution to a candidate or a personal campaign, legislative campaign, political party or support committee.

(10) **CERTAIN ACTIVITY BY SPOUSES EXEMPT.** For purposes of compliance with the registration requirements of this section a husband and wife acting jointly for political purposes shall be considered an "individual" rather than a "committee".

(11) **EXEMPTION FOR INDIRECT POLITICAL ACTIVITY.** If any individual makes only those disbursements and incurs only those obligations which are exempted from reporting under s. 11.06 (2), or if any committee or group makes no contributions, and makes only those disbursements and incurs only those obligations which are exempted from reporting under s. 11.06 (2), then no registration requirement under this section applies to that individual, committee or group.

(12) **TIME OF REGISTRATION; ACCEPTANCE OF UNLAWFUL CONTRIBUTIONS.** (a) Except as authorized under sub. (13), a candidate shall comply with sub. (2g) no later than the time that he or she becomes a candidate as defined in s. 11.01. Except as authorized in sub. (13), no candidate or agent of a candidate may accept any contribution or contributions at any time when the candidate is not registered under this section.

(b) Except as authorized under sub. (13), a committee, group or individual other than a candidate or agent of a candidate shall comply with sub. (1) or (2) no later than the 5th business day commencing after receipt of the first contribution by such committee, group or individual, and before making any disbursement. No committee, group or individual, other than a candidate or agent of a candidate, may accept any contribution or contributions exceeding \$25 in the aggregate during a calendar year at any time when the

committee, group or individual is not registered under this section except within the initial 5-day period authorized by this paragraph.

(13) **BANK ACCOUNT AND POSTAL BOX; EXEMPTION.** An individual, committee or group does not violate this section by accepting a contribution and making a disbursement in the amount required to rent a postal box, or in the minimum amount required by a bank or trust company to open a checking account, prior to the time of registration, if the disbursement is properly reported on the first report submitted under s. 11.20 after the date that the individual, committee or group is registered, whenever a reporting requirement applies to the registrant.

*History:* 1973 c. 334; 1975 c. 93, 199, 200; 1977 c. 427; 1979 c. 328; 1979 c. 355 a. 241; 1981 c. 314 s. 146; 1983 a. 484; 1985 a. 303 ss. 7 to 15r, 86; 1987 a. 370, 391, 403; 1989 a. 192.

**11.06 Financial report information; application; funding procedure.** (1) **CONTENTS OF REPORT.** Except as provided in subs. (2), (3) and (3m) and ss. 11.05 (2r) and 11.19 (2), each registrant under s. 11.05 shall make full reports, upon a form prescribed by the board and signed by the appropriate individual under sub. (5), of all contributions received, contributions or disbursements made, and obligations incurred. Each report shall contain the following information, covering the period since the last date covered on the previous report, unless otherwise provided:

(a) An itemized statement giving the date, full name and street address of each contributor who has made a contribution in excess of \$20, or whose contribution if \$20 or less aggregates more than \$20 for the calendar year, together with the amount of the contribution and the cumulative total contributions made by that contributor for the calendar year.

(b) The occupation and name and address of the principal place of employment, if any, of each individual contributor whose cumulative contributions for the calendar year are in excess of \$100.

(c) The name and address of each registrant from which a transfer of funds was received or to which a transfer of funds was made, together with the date and amount of such transfer, and the cumulative total for the calendar year.

(d) An itemized statement of other income in excess of \$20, including interest, returns on investments, rebates and refunds received.

(e) An itemized statement of contributions over \$20 from a single source donated to a charitable organization or to the common school fund, with the full name and mailing address of the donee.

(f) An itemized statement of each loan of money made to the registrant for a political purpose in an aggregate amount or value in excess of \$20, together with the full name and mailing address of the lender; a statement of whether the lender is a commercial lending institution; the date and amount of the loan; the full name and mailing address of each guarantor, if any; the original amount guaranteed by each guarantor; and the balance of the amount guaranteed by each guarantor at the end of the reporting period.

(g) An itemized statement of every disbursement exceeding \$20 in amount or value, together with the name and address of the person to whom the disbursement was made, and the date and specific purpose for which the disbursement was made.

(h) An itemized statement of every obligation exceeding \$20 in amount or value, together with the name of the person or business with whom the obligation was incurred, and the date and the specific purpose for which each such obligation was incurred.

(i) A statement of totals during the reporting period of contributions received and disbursements made, including transfers made to and received from other registrants, other income, loans, and contributions donated as provided in par. (e).

(j) In the case of a committee or individual filing an oath under sub. (7), a separate schedule showing for each disbursement which is made independently of a candidate, other than a contribution made to that candidate, the name of the candidate or candidates on whose behalf or in opposition to whom the disbursement is made, indicating whether the purpose is support or opposition.

(jm) A copy of any separate schedule prepared or received pursuant to an escrow agreement under s. 11.16 (5). A candidate or personal campaign committee receiving contributions under such an agreement and attaching a separate schedule under this paragraph may indicate the percentage of the total contributions received, disbursements made and exclusions claimed under s. 11.31 (6) without itemization, except that amounts received from any contributor pursuant to the agreement who makes any separate contribution to the candidate or personal campaign committee during the calendar year of receipt as indicated in the schedule shall be aggregated and itemized if required under par. (a) or (b).

(k) A statement of the balance of obligations incurred as of the end of the reporting period.

(L) A statement of cumulative totals for the calendar year of contributions made, contributions received, and disbursements made, including transfers of funds made to or received from other registrants.

(m) A statement of the cash balance on hand at the beginning and end of the reporting period.

(1m) **SURPLUS CAMPAIGN MATERIALS.** Notwithstanding sub. (1) (a) and (g), a registrant need not provide an itemized statement of a contribution or disbursement of surplus materials acquired in connection with a previous campaign of the registrant for or against the same candidate, candidates, party or referendum in connection with which the materials are utilized, if the materials were previously reported as a contribution or disbursement by that registrant.

(2) **DISCLOSURE OF CERTAIN INDIRECT DISBURSEMENTS.** Notwithstanding sub. (1), if a disbursement is made or obligation incurred by an individual other than a candidate or by a committee or group which is not primarily organized for political purposes, and the disbursement does not constitute a contribution to any candidate or other individual, committee or group, the disbursement or obligation is required to be reported only if the purpose is to expressly advocate the election or defeat of a clearly identified candidate or the adoption or rejection of a referendum. The exemption provided by this subsection shall in no case be construed to apply to a political party, legislative campaign, personal campaign or support committee.

(3) **NONRESIDENT REPORTING.** (a) In this subsection, "non-resident registrant" means a registrant who or which does not maintain an office or street address within this state.

(b) Notwithstanding sub. (1), a nonresident registrant shall report on a form prescribed by the board the applicable information under sub. (1) concerning:

1. Contributions, including transfers and loans, and other income received from sources in this state.
2. Disbursements made and obligations incurred with respect to an election for state or local office in this state.

(c) If a nonresident registrant is registered for campaign finance reporting purposes with the federal elections commission or with the filing officer or agency of another state, the registrant shall indicate on the report the name and address of

each filing officer or agency with which a copy of its campaign finance reports is filed.

(3m) **FEDERAL CANDIDATE COMMITTEE REPORTING.** (a) In this subsection, "federal candidate committee" means an authorized committee of a candidate for the U.S. senate or house of representatives from this state designated by the candidate under 2 USC 432 (e).

(b) As provided in s. 11.05 (1) and (2g), a federal candidate committee shall file a registration statement with the appropriate filing officer if required by s. 11.05 (1) or (2g).

(c) Notwithstanding sub. (1), a federal candidate committee need not file any reports with the appropriate filing officer under s. 11.20 for any period covered in a report filed with the federal election commission if the board receives a copy of that report.

(3r) **STATE-FEDERAL POLITICAL PARTY REPORTING.** (a) In this subsection, "federal account committee" means a committee of a state political party organization which makes contributions to candidates for national office and is registered with the federal election commission.

(b) As provided in s. 11.05 (1), a federal account committee shall file a registration statement with the appropriate filing officer if required by s. 11.05 (1).

(c) Notwithstanding sub. (1), a federal account committee which makes contributions to a state political party committee need not file reports with the appropriate filing officer under s. 11.20 for any period covered in a report filed with the federal election commission if the board receives a copy of that report and the federal account committee makes no contributions to any other committee which or individual who is required to register under s. 11.05 (1), (2) or (2g).

(3w) **NATIONAL POLITICAL PARTY REPORTING.** (a) In this subsection, "national political party committee" means a national committee as defined in 2 USC 431 (14).

(b) As provided in s. 11.05 (1), a national political party committee shall file a registration statement with the appropriate filing officer if required by s. 11.05 (1).

(c) Notwithstanding sub. (1), a national political party committee need not file reports with the appropriate filing officer under s. 11.20 for any period covered in a report filed with the federal election commission.

(4) **WHEN TRANSACTIONS REPORTABLE.** (a) A contribution is received by a candidate for purposes of this chapter when it is under the control of the candidate or campaign treasurer, or such person accepts the benefit thereof. A contribution is received by an individual, group or committee, other than a personal campaign committee, when it is under the control of the individual or the committee or group treasurer, or such person accepts the benefit thereof.

(b) Unless it is returned or donated within 15 days of receipt, a contribution must be reported as received and accepted on the date received. This subsection applies notwithstanding the fact that the contribution is not deposited in the campaign depository account by the closing date for the reporting period as provided in s. 11.20 (8).

(c) All contributions received by any person acting as an agent of a candidate or treasurer shall be reported by such person to the candidate or treasurer within 15 days of receipt. In the case of a contribution of money, the agent shall transmit the contribution to the candidate or treasurer within 15 days of receipt.

(d) A contribution, disbursement or obligation made or incurred to or for the benefit of a candidate is reportable by the candidate or the candidate's personal campaign committee if it is made or incurred with the authorization, direction or control of or otherwise by prearrangement with the candidate or the candidate's agent.

(e) Notwithstanding pars. (a) to (c), receipt of contributions by registrants under s. 11.05 (7) shall be treated as received in accordance with that subsection.

(5) **REPORT MUST BE COMPLETE.** A registered individual or treasurer of a group or committee shall make a good faith effort to obtain all required information. The first report shall commence no later than the date that the first contribution is received and accepted or the first disbursement is made. Each report shall be filed with the appropriate filing officer on the dates designated in s. 11.20. The individual or the treasurer of the group or committee shall certify to the correctness of each report. In the case of a candidate, the candidate or treasurer shall certify to the correctness of each report. If a treasurer is unavailable, any person designated as a custodian under s. 11.05 (3) (e) may certify to the correctness of a report.

(6) **PURPOSE OF DISBURSEMENTS.** An individual, group or committee which is registered under s. 11.05 may make disbursements for any lawful political purpose.

(7) **OATH FOR INDEPENDENT DISBURSEMENTS.** (a) Every committee, other than a personal campaign committee, which and every individual, other than a candidate who desires to make disbursements during any calendar year, which are to be used to advocate the election or defeat of any clearly identified candidate or candidates in any election shall before making any disbursement, except within the amount authorized under s. 11.05 (1) or (2), file with the registration statement under s. 11.05 a statement under oath affirming that the committee or individual does not act in cooperation or consultation with any candidate or agent or authorized committee of a candidate who is supported, that the committee or individual does not act in concert with, or at the request or suggestion of, any candidate or any agent or authorized committee of a candidate who is supported, that the committee or individual does not act in cooperation or consultation with any candidate or agent or authorized committee of a candidate who benefits from a disbursement made in opposition to a candidate, and that the committee or individual does not act in concert with, or at the request or suggestion of, any candidate or agent or authorized committee of a candidate who benefits from a disbursement made in opposition to a candidate. A committee which or individual who acts independently of one or more candidates or agents or authorized committees of candidates and also in cooperation or upon consultation with, in concert with, or at the request or suggestion of one or more candidates or agents or authorized committees of candidates shall indicate in the oath the names of the candidate or candidates to which it applies.

(b) A committee or individual required to file an oath under this subsection shall file the oath at the time of registration under s. 11.05 or the time the committee or individual becomes subject to this subsection, whichever is later. The committee or individual shall file an amendment to the oath whenever there is a change in the candidate or candidates to whom it applies. A committee or individual shall refile the oath for each calendar year in which the committee or individual proposes to make disbursements specified in this subsection, no later than January 31 of that calendar year.

(c) Any individual who or committee which falsely makes an oath under par. (a), or any individual, committee or agent of an individual or committee who or which carries on any activities with intent to violate an oath under par. (a) is guilty of a violation of this chapter.

(7m) **INDEPENDENT DISBURSEMENTS; CHANGE IN STATUS.** (a) If a committee which was registered under s. 11.05 as a political party committee or legislative campaign committee supporting candidates of a political party files an oath under

sub. (7) affirming that it does not act in cooperation or consultation with any candidate who is nominated to appear on the party ballot of the party at a general or special election, that the committee does not act in concert with, or at the request or suggestion of, such a candidate, that the committee does not act in cooperation or consultation with such a candidate or agent or authorized committee of such a candidate who benefits from a disbursement made in opposition to another candidate, and that the committee does not act in concert with, or at the request or suggestion of, such a candidate or agent or authorized committee of such a candidate who benefits from a disbursement made in opposition to another candidate, the committee filing the oath may not make any contributions in support of any candidate of the party at the general or special election or in opposition to any such candidate's opponents exceeding the amounts specified in s. 11.26 (2), except as authorized in par. (c).

(b) If the committee has already made contributions in excess of the amounts specified in s. 11.26 (2) at the time it files an oath under sub. (7), each candidate to whom contributions are made shall promptly return a sufficient amount of contributions to bring the committee in compliance with this subsection and the committee may not make any additional contributions in violation of this subsection.

(c) A committee filing an oath under sub. (7) which desires to change its status to a political party committee or legislative campaign committee may do so as of December 31 of any even-numbered year. Section 11.26 does not apply to contributions received by such a committee prior to the date of the change. Such a committee may change its status at other times only by filing a termination statement under s. 11.19 (1) and reregistering as a newly organized committee under s. 11.05.

(8) **RETURN OF CONTRIBUTIONS.** A registrant may return a contribution at any time, before or after acceptance. If a contribution is accepted contrary to law, the subsequent return does not constitute a defense to a violation.

(9) **SHORT FORM.** The board shall prescribe a simplified, short form for compliance with this section by a registrant who has not engaged in any financial transaction since the last date included on the registrant's preceding financial report.

(10) **REFERENDUM REPORTING SEPARATED.** If a committee which operates as a political group has filed a single registration statement, any report of that committee which concerns activities being carried on as a political group under this chapter shall contain separate itemization of such activities, whenever itemization is required.

(11) **REPORTING OF CONDUIT CONTRIBUTIONS.** (a) A conduit transferring a contribution of money shall, in writing, identify itself to the transferee as a conduit and report to the transferee of each contribution transferred by it the information about the original contributor required for reporting purposes under sub. (1) (a) and (b) at the time the contribution is transferred. The conduit shall include the information in its report under s. 11.12 (5) or 11.20 for the date on which the contribution is received and transferred.

(b) Each filing officer shall place a copy of any report received under par. (a) in the file of the conduit and the file of the transferee.

(c) A contribution of money received from a conduit, accompanied by the information required under par. (a), is considered to be a contribution from the original contributor.

(12) **VALUATION OF OPINION POLL OR VOTER SURVEY RESULTS.** (a) In this subsection:

1. "Election period" means the period between December 1 and the date of the spring election, the period between June

1 and the day of the general election in any even-numbered year or the period between the first day for circulation of nomination papers and the day of a special election for any state office.

2. "Initial recipient" means the individual who or committee which commissions a public opinion poll or voter survey.

3. "Results" means computer output or a written or verbal analysis of polling or survey data.

4. "Voter survey" includes the acquisition of information which identifies voter attitudes concerning candidates or issues.

(b) If a candidate or committee receives a contribution consisting of the results of an opinion poll or voter survey during the first 15 days after the results are received by the initial recipient, or if a candidate or committee receives a contribution consisting of the results of an opinion poll or voter survey for which the initial recipient received the results during an election period, the contribution shall be valued for purposes of sub. (1) at the full share of the overall cost of the poll or survey which is allocable to each candidate, including a candidate for national office, receiving the results.

(c) If the results are received 16 to 60 days following receipt by the initial recipient, and if the initial recipient did not receive the results during an election period, the contribution shall be valued at 50% of the amount allocated to an initial recipient of the same results.

(d) If the results are received 61 to 180 days after receipt by the initial recipient, and if the initial recipient did not receive the results during an election period, the contribution shall be valued at 5% of the amount allocated to an initial recipient of the same results.

(e) If the results are received more than 180 days after receipt by the initial recipient, and if the initial recipient did not receive the results during an election period, no amount need be allocated.

(f) If the results of an opinion poll or voter survey are contributed to more than one recipient, the value of the poll or survey, as adjusted under pars. (c) to (e), shall be apportioned to each recipient receiving the results by one of the methods specified in this paragraph selected by the contributor. Each recipient shall report one of the following, in accordance with instructions received from the contributor:

1. That share of the overall cost of the poll or survey which is allocable to the recipient, based upon the cost allocation formula of the polling or survey firm from which the results are purchased. Under this method the size of the sample, the population of the area in which the recipient conducts political activities, the number of computer column codes, the extent of computer tabulations, and the extent of written analysis and verbal consultation, if applicable, may be used to determine the shares.

2. An amount computed by dividing the overall cost of the poll or survey equally among recipients receiving the results.

3. A proportion of the overall cost of the poll or survey equal to the proportion that the number of question results received by the recipient bears to the total number of question results received by all recipients.

(g) If the contributor makes a subsequent contribution of the results of an opinion poll or voter survey after initial apportionment of the value under par. (f), the contributor shall report to the recipient a value for the contribution determined in good faith, considering the value to other recipients, as adjusted under pars. (c) to (e). In such case, the total value of the contributor's aggregate contributions may exceed the original cost of the poll or survey.

(h) A contributor of opinion poll or voter survey results shall maintain records sufficient to support the valuation of

the contribution and shall inform the recipient of the value of the contribution.

History: 1973 c. 334; 1975 c. 93 ss. 47 to 53, 119 (2); 1975 c. 199; 1979 c. 263, 328; 1985 a. 303; 1987 a. 370; 1989 a. 192.

Board should not exercise power of administrative review of minor party exemptions based on reasonable probability of such parties' contributors being subjected to threats, harassment or reprisals. 65 Atty. Gen. 145.

Minor political party that historically has been object of harassment by government officials and private parties cannot be required to disclose identities of contributors and recipients of campaign disbursements. *Brown v. Socialist Workers '74 Campaign Comm.* 459 US 87 (1982).

Reporting requirements of (1) may not constitutionally be applied to Socialist Workers' Party contributors. *Wis. Soc. Wkrs. 1976 Campaign Committee v. McCann*, 433 F Supp. 540.

**11.07 Designation of agent by nonresident individuals, committees and groups.** (1) Every nonresident committee or group making contributions and every nonresident individual, committee or group making disbursements exceeding \$25 cumulatively in a calendar year within this state shall file name, mailing and street address and the name and the mailing and street address of a designated agent within the state with the office of the secretary of state. An agent may be any adult individual who is a resident of this state. After any change in the name or address of such agent the new address or name of the successor agent shall be filed within 30 days. Service of process in any proceeding under this chapter or ch. 12, or service of any other notice or demand may be made upon such agent.

(2) During any period within which any individual or organization under sub. (1) fails to appoint or maintain in this state a registered agent, or whenever any such registered agent cannot with reasonable diligence be found at the street address listed on the registration, the secretary of state shall be an agent and representative of such individual or organization upon whom any process, notice or demand may be served. Service on the secretary of state of any such process, notice or demand against any such individual or organization shall be made by delivering to and leaving with the secretary of state, or with any clerk having charge of the secretary's office, duplicate copies of such process, notice or demand. If any process, notice or demand is served on the secretary of state, he or she shall immediately cause one of such copies to be forwarded by registered mail, addressed to such individual, committee or group at its mailing address as the same appears in the records of the secretary of state. The time within which the defendant may demur or answer does not start to run until 10 days after the date of such mailing.

(3) The secretary of state shall keep a record of all processes, notices and demands served upon the secretary of state under this section, which shows the date and hour of service and the date of mailing. The certificate of the secretary of state that a summons and complaint or notice of object of action or any notice or demand required or permitted by law was served upon the secretary of state and that the same was mailed by the secretary of state as required by law, shall be evidence of service upon the secretary of state. If the address of the individual, committee or group is not known or readily ascertainable, mailing is dispensed with, and a copy of the process shall then be published as a class 1 notice, under ch. 985, in the county wherein the last-known registered agent was located and, if unknown, in Dane county.

(4) Nothing in this section limits or affects the right to serve any process, notice or demand required or permitted by law to be served upon a nonresident individual or organization in any other manner permitted by law.

(5) Any campaign treasurer or individual who knowingly receives a contribution made by an unregistered nonresident in violation of this section may not use or expend such contribution but shall immediately return it to the source or at the option of the campaign treasurer or individual, donate

the contribution to a charitable organization or to the common school fund.

(6) For purposes of this section, a nonresident individual or organization is one who or which does not maintain an office or street address within the state.

History: 1973 c. 334; 1975 c. 93, 199; 1991 a. 316.

**11.08 Reports by party committees.** Every committee of a political party which is required to file statements and reports under this chapter shall file all statements and reports with the board. A state committee of a political party may be designated by a congressional, legislative, county or local party committee as its reporting agent for purposes of this chapter, but such designation does not permit combination of reports. If any committee is so designated, the treasurer of the state committee shall so inform the board.

History: 1973 c. 334; 1975 c. 93; 1979 c. 328.

**11.09 Duplicate reports required in certain cases. (3)** Each registrant whose filing officer is the board, who or which makes disbursements in connection with elections for offices which serve or referenda which affect only one county or portion thereof, except a candidate, personal campaign committee, political party committee or other committee making disbursements in support of or in opposition to a candidate for state senator, representative to the assembly, court of appeals judge or circuit judge, shall file a duplicate original of each financial report filed with the board with the county clerk or board of election commissioners of the county in which the elections in which the registrant participates are held. Such reports shall be filed no later than the dates specified under s. 11.20 (2) and (4) for the filing of each report with the board.

(4) In every case where a duplicate report is filed by the board or by any person under sub. (3), the board shall transmit a certified duplicate copy of the registration statement to each county clerk or board of election commissioners with whom a duplicate report is filed.

History: 1973 c. 334; 1975 c. 93, 199; 1979 c. 32, 328; 1983 a. 27; 1985 a. 303.

**11.10 Campaign treasurers and campaign depositories.**

(1) Each candidate in an election shall appoint one campaign treasurer. Except as provided in s. 11.14 (3), each candidate shall designate one campaign depository account within 5 business days after the candidate receives his or her first contribution and before the candidate makes or authorizes any disbursement in behalf of his or her candidacy. If a candidate adopts a preexisting support committee as his or her personal campaign committee, the candidate shall make such designation within 5 business days of adoption. The person designated as campaign treasurer shall be the treasurer of the candidate's personal campaign committee, if any. The candidate may appoint himself or herself or any other elector as campaign treasurer. A registration statement under s. 11.05 (2g) or (2r) must be filed jointly by every candidate and his or her campaign treasurer. The candidate does not qualify for ballot placement until this requirement is met. Except as authorized under s. 11.06 (5), the campaign treasurer or candidate shall certify as to the correctness of each report required to be filed, and the candidate bears the responsibility for the accuracy of each report for purposes of civil liability under this chapter, whether or not the candidate certifies it personally.

(2) A candidate may remove a campaign treasurer at any time. In case of the death, resignation or removal of a campaign treasurer, the candidate shall designate a successor and shall file the successor's name and address with the appropriate filing officer as provided in s. 11.05 (5). Until the

successor's name and address is filed, the candidate shall be deemed his or her own campaign treasurer.

(3) Every committee shall appoint a treasurer. Every individual under s. 11.06 (7) shall be deemed his or her own treasurer. No disbursement may be made or obligation incurred by or on behalf of a committee without the authorization of the treasurer or designated agents. No contribution may be accepted and no disbursement may be made or obligation incurred by any committee at a time when there is a vacancy in the office of treasurer.

(4) No candidate may establish more than one personal campaign committee. Such committee may have subcommittees provided that all subcommittees have the same treasurer, who shall be the candidate's campaign treasurer. The treasurer shall deposit all funds received in the campaign depository account. Any committee which is organized or acts with the cooperation of or upon consultation with a candidate or agent or authorized committee of a candidate, or which acts in concert with or at the request or suggestion of a candidate or agent or authorized committee of a candidate is deemed a subcommittee of the candidate's personal campaign committee.

(5) Candidates for governor and lieutenant governor of the same political party may receive contributions and make disbursements for both candidates from either depository.

History: 1973 c. 334; 1975 c. 93, 199, 200; 1979 c. 328; 1985 a. 303 ss. 22, 86.

**11.12 Campaign contributions and disbursements; reports. (1)**

(a) No contribution may be made or received and no disbursement may be made or obligation incurred by a person or committee, except within the amount authorized under s. 11.05 (1) and (2), in support of or in opposition to any specific candidate or candidates in an election, other than through the campaign treasurer of the candidate or the candidate's opponent, or by or through an individual or committee registered under s. 11.05 and filing a statement under s. 11.06 (7).

(b) The requirement of par. (a) may not be construed to apply to a contribution which is made to a continuing political party or ongoing committee, other than a personal campaign committee, provided that the contribution is not made in contravention of s. 11.16 (4) or 11.24.

(c) Where a disbursement is made in support of more than one candidate, the disbursement shall be apportioned reasonably among the candidates.

(d) Paragraph (a) does not apply to disbursements and obligations which are exempted from reporting under s. 11.06 (2).

(2) Any anonymous contribution exceeding \$10 received by a campaign or committee treasurer or by an individual under s. 11.06 (7) may not be used or expended. The contribution shall be donated to the common school fund or to any charitable organization at the option of the treasurer.

(3) All contributions, disbursements and incurred obligations exceeding \$10 shall be recorded by the campaign or committee treasurer or the individual under s. 11.06 (7). He or she shall maintain such records in an organized and legible manner, for not less than 3 years after the date of an election in which the registrant participates. If a report is submitted under s. 11.19 (1), the records may be transferred to a continuing committee or to the appropriate filing officer for retention. Records shall include the information required under s. 11.06 (1).

(4) Each registrant shall report contributions, disbursements and incurred obligations in accordance with s. 11.20. Except as permitted under s. 11.06 (2), (3) and (3m), each

report shall contain the information which is required under s. 11.06 (1).

(5) If any contribution or contributions of \$500 or more cumulatively are received by a candidate for state office or by a committee or individual from a single contributor later than 15 days prior to a primary or election such that it is not included in the preprimary or preelection report submitted under s. 11.20 (3), the treasurer of the committee or the individual receiving the contribution shall within 24 hours of receipt inform the appropriate filing officer of the information required under s. 11.06 (1) in such manner as the board may prescribe. The information shall also be included in the treasurer's or individual's next regular report. For purposes of the reporting requirement under this subsection, only contributions received during the period beginning with the day after the last date covered on the preprimary or preelection report, and ending with the day before the primary or election need be reported.

(6) If any disbursement of more than \$20 cumulatively is made to advocate the election or defeat of a clearly identified candidate by an individual or committee later than 15 days prior to a primary or election in which the candidate's name appears on the ballot without cooperation or consultation with a candidate or agent or authorized committee of a candidate who is supported or opposed, and not in concert with or at the request or suggestion of such a candidate, agent or committee, the individual or treasurer of the committee shall, within 24 hours of making the disbursement, inform the appropriate filing officer of the information required under s. 11.06 (1) in such manner as the board may prescribe. The information shall also be included in the next regular report of the individual or committee under s. 11.20. For purposes of this subsection, disbursements cumulate beginning with the day after the last date covered on the preprimary or preelection report and ending with the day before the primary or election. Upon receipt of a report under this subsection, the filing officer shall, within 24 hours of receipt, mail a copy of the report to all candidates for any office in support of or opposition to one of whom a disbursement identified in the report is made.

History: 1973 c. 334; 1975 c. 93 ss. 59, 60, 119 (2); 1975 c. 199; 1979 c. 328 ss. 53, 69 to 71, 146; 1985 a. 303; 1987 a. 370.

**11.14 Deposit of contributions.** (1) Except as authorized in sub. (3) and as required by s. 11.16 (5), all funds received by a campaign or committee treasurer, group treasurer, candidate or other individual shall be deposited in a single separate campaign depository account designated in accordance with s. 11.16 (3). Except as authorized in sub. (3), the depository account shall be established by every candidate no later than the time prescribed in s. 11.10 (1), and by every other individual or treasurer no later than the 5th business day after becoming subject to a registration requirement under s. 11.05 and before making any disbursement. The depository account may be established with any financial institution as defined in s. 705.01 (3) which is authorized to transact business in this state. The individual or treasurer shall deposit all funds received in the campaign depository account no later than the 5th business day commencing after receipt. This subsection does not apply to a contributor committee or group which is exempt from registration under s. 11.05 (8).

(2) After deposit in the campaign depository account, funds may be transferred by the individual or treasurer to any other account which is identified under s. 11.05 (3) (L). Funds deposited in other accounts may not be directly disbursed but shall be returned to the depository account for purposes of disbursement. Disbursements shall be made only in accordance with s. 11.16 (3).

(3) Notwithstanding sub. (1), any candidate who serves as his or her own campaign treasurer and who is authorized to make and makes an indication on his or her registration statement under s. 11.05 (2r) that he or she will not accept contributions, make disbursements or incur obligations in an aggregate amount exceeding \$1,000 in a calendar year, and will not accept any contribution or contributions from a single source, other than contributions made by the candidate to his or her own campaign, exceeding \$100 in a calendar year, may designate a single personal account as his or her campaign depository account, and may intermingle personal and other funds with campaign funds. If a separate depository account is later established by the candidate, the candidate shall transfer all campaign funds in the personal account to the new depository account. Disbursements made from such personal account need not be identified in accordance with s. 11.16 (3).

History: 1973 c. 334; 1975 c. 93; 1979 c. 328; 1985 a. 303.

**11.16 Campaign contributions and disbursements; restrictions.** (1) **AUTHORIZATION; LIABILITY.** (a) No disbursement may be made or obligation incurred by a candidate, or by any other person or committee to advocate the election or defeat of a clearly identified candidate, other than an individual who, or a committee which, has registered under s. 11.05 and filed an oath under s. 11.06 (7), except by the campaign treasurer of the candidate or other agent designated by the candidate and acting under his or her authority.

(b) The treasurer of each committee and each individual who proposes to make a disbursement to advocate the election or defeat of a clearly identified candidate shall notify the treasurer or other agent designated under par. (a) of the candidate who is supported or whose opponent is opposed and obtain the authorization of the treasurer prior to making the disbursement. This paragraph does not apply to an individual or committee filing an oath under s. 11.06 (7) with respect to the candidate who is supported or opposed.

(c) In the event that an obligation is incurred or disbursement made by the campaign treasurer or other authorized agent of the candidate, the action is imputable to the candidate for purposes of civil liability under this chapter.

(d) This subsection does not apply to disbursements and obligations which are exempted from reporting under s. 11.06 (2).

(2) **LIMITATION ON CASH CONTRIBUTIONS.** Every contribution of money exceeding \$50 shall be made by negotiable instrument or evidenced by an itemized credit card receipt bearing on the face the name of the remitter. No treasurer may accept a contribution made in violation of this subsection. The treasurer shall promptly return the contribution, or donate it to the common school fund or to a charitable organization in the event that the donor cannot be identified.

(3) **FORM OF DISBURSEMENTS.** Every disbursement which is made by a registered individual or treasurer from the campaign depository account shall be made by negotiable instrument. Such instrument shall bear on the face the full name of the candidate, committee, individual or group as it appears on the registration statement filed under s. 11.05 and where necessary, such additional words as are sufficient to clearly indicate the political nature of the registrant or account of the registrant. The name of a political party shall include the word "party". The instrument of each committee registered with the board and designated under s. 11.05 (3) (c) as a special interest committee shall bear the identification number assigned under s. 11.21 (12) on the face of the instrument.



(4) **EARMARKING.** (a) The treasurer of a personal campaign committee may agree with a prospective contributor that a contribution is received to be utilized for a specific purpose not prohibited by law. Such purpose may not include a disbursement in support of or in opposition to another candidate or the transfer to an individual or committee acting in support of or in opposition to another candidate, except as authorized in an escrow agreement under s. 11.16 (5).

(b) When a contribution is made to a political party or to an individual or committee other than a candidate or the candidate's personal campaign committee, the purpose may not be specified, except that if a contribution is received pursuant to an escrow agreement for transfer to a candidate in accordance with sub. (5), the contributor may specify the recipient of the contribution and if a contribution is received by a support committee established for adoption by a candidate in accordance with ss. 11.10 (1) and 11.18, the contributor may specify that the contribution shall be utilized for support of the candidate being supported by the committee.

(c) Except for transfers of membership-related moneys between committees of the same political party and transfers made pursuant to escrow agreements authorized under sub. (5), no committee may act as a conduit for the earmarked contributions of others. Transfers of membership-related moneys between political party committees shall be treated in the same manner as other transfers.

(5) **ESCROW AGREEMENTS.** Any personal campaign committee, political party committee or legislative campaign committee may, pursuant to a written escrow agreement with more than one candidate, solicit contributions for and conduct a joint fund raising effort or program on behalf of more than one named candidate. The agreement shall specify the percentage of the proceeds to be distributed to each candidate by the committee conducting the effort or program. The committee shall include this information in all solicitations for the effort or program. All contributions received and disbursements made by the committee in connection with the effort or program shall be received and disbursed through a separate depository account under s. 11.14 (1) that is identified in the agreement. For purposes of s. 11.06 (1), the committee conducting the effort or program shall prepare a schedule in the form prescribed by the board supplying all required information under s. 11.06 (1) and items qualifying for exclusion under s. 11.31 (6) for the effort or program, and shall transmit a copy of the schedule to each candidate who receives any of the proceeds within the period prescribed in s. 11.06 (4) (c).

History: 1973 c. 334; 1975 c. 93, 199; 1979 c. 328; 1985 a. 303.

**11.17 Treatment of loan guarantees.** (1) If any person guarantees a loan to a registrant made for a political purpose, the person makes a contribution to the registrant and the registrant incurs an obligation to the guarantor. If more than one person guarantees the same loan, the guarantors make contributions to the registrant and the registrant incurs obligations to the guarantors in equal shares, in the proportion that the number of guarantors bears to the total amount guaranteed, unless a different share is specified in the loan instrument.

(2) If a registrant reduces the unpaid balance of a loan to the registrant made for a political purpose by making a repayment to the lender or reimburses a guarantor from whom the lender has collected upon a guarantee, the amount of the guarantor's contribution and the amount of the obligation incurred by the registrant are reduced by the amount of the repayment or reimbursement. If more than one guarantor guarantees the same loan, the amounts of the guarantors' contributions and the amounts of the obligations

incurred by the registrant are reduced in equal shares, in the proportion that the number of guarantors bears to the amount repaid or reimbursed, unless a different share is specified in the loan instrument.

(3) If a registrant defaults on a loan that is guaranteed, and the lender collects the amount guaranteed from the guarantor, the guarantor makes a contribution to the registrant and the registrant incurs an obligation to the guarantor in an amount equal to the amount collected by the lender from the guarantor. If more than one guarantor guarantees the same loan, the guarantors make contributions to the registrant and the registrant incurs obligations to the guarantors in equal shares, in the proportion that the number of guarantors bears to the total amount of the unpaid balance, unless a different share is specified in the loan instrument. If a registrant reports a contribution or incurred obligation in the form of a guarantee under s. 11.06 (1) at the time the guarantee is made, the registrant need not report the same contribution or incurred obligation at the time of a default and collection upon a guarantee.

(4) If a candidate secures a loan for both a political and a nonpolitical purpose, this chapter applies only to the portion of the loan made for a political purpose.

History: 1979 c. 328; 1987 a. 370.

**11.18 Support committee.** (1) A committee may be organized to support the prospective candidacy of an individual. No such committee authorized under s. 11.05 (3) (p) may be organized during a period in which the individual on whose behalf the committee is organized is registered as a candidate or has a personal campaign committee registered on his or her behalf.

(2) A committee organized under sub. (1) shall register under s. 11.05 as a support committee.

(3) A support committee authorized under s. 11.05 (3) (p) may not act on behalf of more than one individual but may make a contribution to another committee. No more than one support committee authorized under s. 11.05 (3) (p) may be organized on behalf of the same individual. Any subcommittee of a support committee authorized under s. 11.05 (3) (p) shall be authorized by the individual on whose behalf the subcommittee acts. Any committee which is organized or acts with the cooperation of or upon consultation with a support committee or the individual on whose behalf a support committee is organized or which acts in concert with or at the request or suggestion of a support committee or the individual on whose behalf a support committee is organized is deemed a subcommittee of the support committee.

(4) Notwithstanding s. 11.12 (1), a support committee may make direct disbursements from its campaign depository account to pay for the expenses incurred for a political purpose to support the prospective candidacy of an individual on whose behalf it is organized during a period in which the committee is permitted to operate under sub. (1).

(5) Except as provided in s. 11.25 (2) (b), no support committee authorized under s. 11.05 (3) (p) may utilize a contribution for a purpose not authorized under sub. (1).

(6) If an individual on whose behalf a support committee is authorized to operate under s. 11.05 (3) (p) becomes a candidate, the committee shall be adopted by the candidate as his or her personal campaign committee. A support committee which files a statement under s. 11.06 (7) may not be adopted by a candidate as a personal campaign committee.

History: 1985 a. 303.

**11.19 Dissolution of registrants; termination reports.** (1) Whenever any registrant disbands or determines that obligations will no longer be incurred, and contributions will no

longer be received nor disbursements made during a calendar year, and the registrant has no outstanding incurred obligations, the registrant shall file a termination report with the appropriate filing officer. Such report shall indicate a cash balance on hand of zero at the end of the reporting period and shall indicate the disposition of residual funds. Residual funds may be used for any political purpose not prohibited by law, returned to the donors in an amount not exceeding the original contribution, or donated to a charitable organization or the common school fund. The report shall be filed and certified as were previous reports, and shall contain the information required by s. 11.06 (1). If a termination report or suspension report under sub. (2) is not filed, the registrant shall continue to file periodic reports with the appropriate filing officer, no later than the dates specified in s. 11.20. This subsection does not apply to any registrant making an indication under s. 11.05 (2r).

(2) Notwithstanding sub. (1), any registrant who or which determines that obligations will no longer be incurred, contributions will no longer be made or received or disbursements made during a calendar year in an aggregate amount of more than \$1,000 may file a suspension report with the appropriate filing officer. The report shall be filed and certified as were previous reports and shall contain the information required under s. 11.06 (1). Upon receipt of a properly executed report, the registrant shall be granted a suspension of the filing requirement under s. 11.20 (9) by the appropriate filing officer. Such suspension is effective only for the calendar year in which it is granted, unless the registrant alters its status before the end of such year or files a termination report under sub. (1).

(3) In no case may a candidate or personal campaign committee file a termination or suspension report covering any period ending sooner than the date of the election in which the candidate or committee is participating.

(4) If a registrant files a termination report under sub. (1) or (2) and within 60 days thereafter receives and accepts unanticipated contributions, the registrant may file an amended termination report. An amended report supersedes the previous report. The individual who certifies to the accuracy of the report shall also certify to a statement that the amended report is filed on account of the receipt of unanticipated contributions and the failure to file a correct termination report was not intentional.

History: 1973 c. 334; 1975 c. 93; 1979 c. 328; 1985 a. 303.

**11.20 Filing requirements.** (1) All reports required by s. 11.06 which relate to activities which promote or oppose candidates for state office or statewide referenda and all reports under s. 11.08 shall be filed with the board. All reports required by s. 11.06 which relate to activities which promote or oppose candidates for local office or local referenda shall be filed with the appropriate filing officer under s. 11.02, except reports filed under s. 11.08.

(2) Preprimary and preelection reports under s. 11.06 (1) shall be received by the appropriate filing officer no earlier than 14 days and no later than 8 days preceding the primary and the election.

(2m) Election reports under s. 11.12 shall be received by the appropriate filing officer no earlier than 23 days and no later than 30 days after each special election, unless a continuing report is required to be filed under sub. (4) on or before the 30th day after the special election.

(3) (a) A candidate or personal campaign committee of a candidate at a primary shall file a preprimary and preelection report. If a candidate for a nonpartisan state office at an election is not required to participate in a primary, the

candidate or personal campaign committee of the candidate shall file a preprimary report at the time prescribed in sub. (2) preceding the date specified in s. 5.02 (20) or (22) for the holding of the primary, were it to be required.

(b) A candidate or personal campaign committee of a candidate at an election shall file a preelection report.

(bm) A candidate or personal campaign committee of a candidate at a special election shall file a postelection report whenever the report is required to be filed under sub. (2m).

(c) A registered committee or individual other than a candidate or personal campaign committee making or accepting contributions, making disbursements or incurring obligations in support of or in opposition to one or more candidates for office at a primary, or supporting or opposing other committees or individuals who are engaging in such activities, shall file a preprimary and preelection report.

(d) A registered committee or individual other than a candidate or personal campaign committee making or accepting contributions, making disbursements or incurring obligations in support of or in opposition to one or more candidates for office at an election, or supporting or opposing other committees or individuals who are engaging in such activities, shall file a preelection report.

(f) A contribution, disbursement or obligation in support of or in opposition to a candidate at a primary which is made, accepted or incurred during the period covered by the preprimary report is considered to be made, accepted or incurred in support of or in opposition to that candidate at the primary, regardless of whether the candidate is opposed at the primary.

(g) A contribution, disbursement or obligation in support of or in opposition to a candidate at an election which is made, accepted or incurred during the period covered by the preelection report is considered to be made, accepted or incurred in support of or in opposition to that candidate at the election, regardless of whether the candidate is opposed at the election.

(h) A registrant who or which makes, accepts or incurs a contribution, disbursement or obligation in support of or in opposition to a candidate at a primary during the period covered by the preprimary report shall file both the preprimary and preelection reports, regardless of whether the registrant engages in such activity during the period covered by the preelection report.

(i) Notwithstanding pars. (c) and (d), a registrant other than a candidate, personal campaign committee or political party committee who or which makes, accepts or incurs a contribution, disbursement or obligation in support of or in opposition to a candidate at a primary during the period covered by the preelection report, but does not engage in such activity during the period covered by the preprimary report, is not required to file a preprimary report.

(j) Notwithstanding pars. (c) and (d), a registrant other than a candidate, personal campaign committee or political party committee who or which makes, accepts or incurs a contribution, disbursement or obligation in support of or in opposition to a candidate at an election during the period covered by the report which follows the preelection report, but does not engage in such activity during the period covered by the preelection report, is not required to file a preelection report.

(k) A registered group or individual making or accepting contributions, making disbursements or incurring obligations in support of or in opposition to a referendum appearing on a primary ballot shall file a preprimary and preelection report.

(L) A registered group or individual making or accepting contributions, making disbursements or incurring obligations in support of or in opposition to a referendum appearing on an election ballot shall file a preelection report.

(4) Continuing reports under s. 11.06 (1) by committees or individuals supporting or opposing candidates for office, including committees of a political party, and by individuals or groups supporting or opposing a referendum shall be received by the appropriate filing officer no earlier than January 1 and no later than January 31; and no earlier than July 1 and no later than July 20.

(4m) An individual who or committee which supports or opposes an effort to circulate and file a petition to recall an officer shall file a report with the appropriate filing officer no later than 30 days after registration of the petitioner for recall of the officer under s. 9.10 (2) (d), if the petition has not been offered for filing within 5 days of that date, and no later than 5 days after a petition is offered for filing demanding the recall of the officer.

(5g) Notwithstanding sub. (3), a personal campaign committee which is not formed to support or oppose a candidate in a partisan primary or election need only comply with sub. (3) for purposes of a partisan primary and election if it makes a disbursement for the purpose of influencing the outcome of that primary or election in a form other than a contribution which is reported by the recipient.

(5r) Notwithstanding sub. (3), a personal campaign committee which is not formed to support or oppose a candidate in a nonpartisan primary or election need only comply with sub. (3) for the purposes of a nonpartisan primary or election if it makes a disbursement for the purpose of influencing the outcome of that primary or election in a form other than a contribution which is reported by the recipient.

(7) In the event that any report is required to be filed under this section on a nonbusiness day, it may be filed on the next business day thereafter.

(8) Reports filed under subs. (2), (4) and (4m) shall include all contributions received and transactions made as of the end of:

(a) The 15th day preceding the primary or election in the case of the preprimary and preelection report;

(b) December 31 in the case of the continuing report required by January 31; and

(c) June 30 in the case of the continuing report required by July 20.

(d) Five days preceding the deadline for filing of the report in the case of the report required under sub. (4m).

(e) The 22nd day following the special election in the case of the postelection report required under sub. (2m).

(9) Except as provided in ss. 11.05 (2r) and 11.19 (2), the duty to file reports under this section continues until a termination report is filed in accordance with s. 11.19.

(10) (a) Where a requirement is imposed under this section for the filing of a financial report which is to be received by the appropriate filing officer no later than a certain date, the requirement may be satisfied either by actual receipt of the report by the prescribed time for filing at the office of the filing officer, or by filing a report with the U.S. postal service by first class mail with sufficient prepaid postage, addressed to the appropriate filing officer, no later than the date provided by law for receipt of such report.

(b) In any case where the postal service is employed by a person subject to a filing requirement as the agent for transmittal of a report, the burden is upon such person to show that a report has been filed with the postal service.

(c) It is presumed until the contrary is established that the date shown by the postal service cancellation mark on the

envelope containing the report is the date that it was deposited in the mail.

(11) All reports required by this chapter shall be open to public inspection.

(12) If a candidate is unopposed in a primary or election, the obligation to file the reports required by this chapter does not cease. Except as provided in ss. 11.05 (2r) and 11.19 (2), a registrant who makes or receives no contributions, makes no disbursements or incurs no obligations shall so report on the dates designated in subs. (2) and (4).

(13) In the event of failure of a candidate or treasurer to file a report or statement required by this chapter by the time prescribed by law, action may be commenced against the candidate, the campaign treasurer, or the candidate's personal campaign committee, if any, or any combination of them.

History: 1973 c. 334; 1975 c. 93, 199; 1979 c. 328 ss. 58, 82 to 92, 146; 1981 c. 314 s. 146; 1983 a. 183, 491, 538; 1985 a. 303 ss. 32m to 37, 88; 1987 a. 370; 1989 a. 192.

**11.21 Duties of the elections board.** The board shall:

(1) Prescribe forms for making the reports, statements and notices required by this chapter. The board shall furnish forms for making reports or statements without charge to all persons who are required to file reports or statements with the board, and shall distribute or arrange for the distribution of all forms for use by other filing officers.

(2) Furnish to each registrant prescribed forms for the making of reports and statements. Forms shall be sent by 1st class mail not earlier than 21 days and not later than 14 days prior to the applicable filing deadline under s. 11.20, and addressed to the attention of the treasurer or other person indicated on the registration statement. Forms need not be sent to a registrant who has made an indication that aggregate contributions, disbursements and obligations will not exceed the amount specified under s. 11.05 (2r) or to a registrant who has been granted a suspension under s. 11.19 (2). Whenever any notice of filing requirements under this chapter is sent to a candidate's campaign treasurer, the board shall also send a notice to the candidate if he or she has appointed a separate treasurer. Failure to receive any form or notice does not exempt a registrant from compliance with this chapter.

(3) Prepare and publish for the use of persons required to file reports and statements under this chapter a manual setting forth simply and concisely recommended uniform methods of bookkeeping and reporting. The board shall furnish a copy of the manual without charge, upon request, to all persons who are required to file reports or statements with the board, and shall distribute or arrange for the distribution of copies of the manual for use by other filing officers.

(4) Develop a filing, coding, and cross-indexing system consonant with the purposes of this chapter.

(5) Make the reports and statements filed with it available for public inspection and copying, commencing as soon as practicable but not later than the end of the 2nd day following the day during which they are received, and permit copying of any report or statement by hand or by duplicating machine at cost, as requested by any person. No information copied from such reports and statements may be sold or utilized by any person for the purpose of soliciting contributions from individuals identified in the reports or statements or for any commercial purpose.

(6) Compile and maintain a current list of all reports and statements or parts thereof pertaining to each candidate, individual, committee or group.

(7) Include in its biennial report under s. 5.05 (5) compilations of any of the following in its discretion:

(a) Total reported contributions, disbursements and incurred obligations for all candidates, individuals, committees and groups during the biennium.

(b) Total amounts expended according to such categories as it may determine and separated according to candidate, political party, and nonparty disbursements.

(c) Total amounts expended for influencing nominations and elections stated separately whenever separate information is reported.

(d) Total amounts contributed according to such categories of amounts as it determines for candidates, individuals, committees and groups.

(e) Aggregate amounts contributed by any contributors shown to have contributed more than \$100.

(8) Prepare and publish from time to time special reports comparing the various totals and categories of contributions and disbursements made with respect to preceding elections.

(9) Place a copy of any separate schedule under s. 11.06 (1) (j) received with the financial report of an individual or committee filing an oath under s. 11.06 (7) in the file of each candidate to whom it relates.

(10) Make available a list of delinquents for public inspection.

(11) Receive and maintain in an orderly manner all reports and statements required to be filed with the state under the federal election campaign act, and in addition shall:

(a) Preserve such reports and statements for a period of 6 years from date of receipt.

(b) Notwithstanding sub. (5), make each report and statement transmitted to it under the federal election campaign act available for public inspection and copying during regular office hours, commencing as soon as practicable but not later than 48 hours from the time of receipt.

(c) Compile and maintain a current list of all reports and statements or parts thereof pertaining to each candidate who is required to file a report or statement under such act.

(d) Promptly compile and release for public inspection a list of all reports received from candidates for national office and from committees supporting or opposing such candidates which are required to be filed with the state under the federal election campaign act, as soon as possible after each deadline for receipt of such reports as provided by federal law.

(12) Assign an identification number to each registrant for whom the board acts as a filing officer under s. 11.02.

(13) Determine whether each financial report or statement required to be filed under this chapter has been filed in the form and by the time prescribed by law, and whether it conforms on its face to the requirements of this chapter. The board shall immediately send to any registrant who is delinquent in filing, or who has filed otherwise than in the proper form, a notice that the registrant has failed to comply with this chapter. Whenever a candidate has appointed another person as campaign treasurer, the board shall send the notice to both persons.

(14) Prepare, publish and periodically revise as necessary a manual simply and concisely describing the filing and registration requirements established in this chapter in detail, as well as other major provisions of this chapter and ch. 12. The board shall furnish a copy of the manual without charge, upon request, to all persons who are required to file reports or statements with the board, and shall distribute or arrange for the distribution of copies of the manual for use by other filing officers.

(15) Inform each candidate who files an application to become eligible to receive a grant from the Wisconsin election campaign fund of the dollar amount of the applicable dis-

bursement limitation under s. 11.31 which applies to the office for which such person is a candidate. Failure to receive the notice required by this subsection does not constitute a defense to a violation of s. 11.27 (1) or 11.31.

History: 1973 c. 334; 1975 c. 93 ss. 73 to 78, 119 (2); 1977 c. 107; 1979 c. 260, 328; 1981 c. 390 s. 252; 1983 a. 27, 538; 1985 a. 303; 1987 a. 370; 1989 a. 192.

**11.22 Duties of local filing officer.** Each filing officer, other than the board, shall:

(1) Obtain the forms and manuals prescribed by the board under s. 11.21 (1), (3) and (14) and election laws provided by the board under s. 7.08 (4). The officer shall furnish forms without charge to all persons who are required to file reports or statements with the officer, and shall furnish copies of manuals without charge, upon request, to all persons who are required to file reports or statements with the officer. The officer shall distribute copies of the election laws received from the board to election officials without charge. The officer shall furnish copies of manuals and election laws to other persons at cost.

(2) Develop a filing, coding and cross-indexing system consonant with the purposes of this chapter.

(3) Furnish to each registrant prescribed forms for the making of reports and statements. Forms shall be sent by 1st class mail not earlier than 21 days and not later than 14 days prior to the applicable filing deadline under s. 11.20 and addressed to the attention of the treasurer or other person indicated on the registration statement. Forms need not be sent to a registrant who has made an indication that aggregate contributions, disbursements and obligations will not exceed the amount specified under s. 11.05 (2r) or to a registrant who has been granted a suspension under s. 11.19 (2). Whenever any notice of the filing requirements under this chapter is sent to a candidate's campaign treasurer, the filing officer shall also send a notice to the candidate if he or she has appointed a separate treasurer. Failure to receive any form or notice does not exempt a registrant from compliance with this chapter.

(4) Notify the district attorney, or the attorney general where appropriate under ss. 11.60 (4) and 11.61 (2), in writing, of any facts within the filing officer's knowledge or evidence in the officer's possession, including errors or discrepancies in reports or statements and delinquencies in filing which may be grounds for civil action or criminal prosecution. The filing officer shall transmit a copy of such notification to the board. The district attorney or the attorney general shall advise the filing officer in writing at the end of each 30-day period of the status of such matter until the time of disposition. The district attorney or attorney general shall transmit a copy of each such notice to the board.

(5) Make available a list of delinquents for public inspection.

(6) Compile and maintain a current list of all reports and statements or parts thereof pertaining to each candidate, individual, committee or group.

(8) Make the reports and statements filed with the filing officer available for public inspection and copying, commencing as soon as practicable but not later than the end of the 2nd day following the day during which they are received, and permit copying of any report or statement by hand or by duplicating machine at cost, as requested by any person. No information copied from such reports and statements may be sold or utilized by any person for the purpose of soliciting contributions from individuals identified in the reports or statements or for any commercial purpose.

(9) Determine whether each financial report or statement required to be filed under this chapter has been filed in the

form and by the time prescribed by law, and whether it conforms on its face to the requirements of this chapter. The officer shall immediately send to any registrant who is delinquent in filing, or who has filed otherwise than in the proper form, a notice that the registrant has failed to comply with this chapter. Whenever a candidate has appointed another person as campaign treasurer, the filing officer shall send the notice to both persons.

(10) Place a copy of any separate schedule under s. 11.06 (1) (j) received with the financial report of an individual or committee filing an oath under s. 11.06 (7) in the file of each candidate to whom it relates.

*History:* 1973 c. 334; 1975 c. 41; 1975 c. 93 ss. 80 to 86, 119 (2); 1975 c. 199; 1979 c. 328; 1983 a. 27; 1985 a. 303; 1987 a. 370; 1989 a. 192.

**11.23 Political groups and individuals; referendum questions.** (1) Any group or individual may promote or oppose a particular vote at any referendum in this state. Before making disbursements, receiving contributions or incurring obligations in excess of \$25 in the aggregate in a calendar year for such purposes, the group or individual shall file a registration statement under s. 11.05 (1), (2) or (2r). In the case of a group the name and mailing address of each of its officers shall be given in the statement. Every group and every individual under this section shall designate a campaign depository account under s. 11.14. Every group shall appoint a treasurer, who may delegate authority but is jointly responsible for the actions of his or her authorized designee for purposes of civil liability under this chapter. The appropriate filing officer shall be notified by a group of any change in its treasurer within 10 days of the change under s. 11.05 (5). The treasurer of a group shall certify the correctness of each statement or report submitted by it under this chapter.

(2) Any anonymous contribution exceeding \$10 received by an individual or group treasurer may not be used or expended. The contribution shall be donated to the common school fund or to any charitable organization at the option of the treasurer.

(3) All contributions, disbursements and incurred obligations exceeding \$10 shall be recorded by the group treasurer or the individual. He or she shall maintain such records in an organized and legible manner, for not less than 3 years after the date of a referendum in which the group or individual participates. If a report is submitted under s. 11.19 (1), the records may be transferred to a continuing group or to the appropriate filing officer for retention. Records shall include the information required under s. 11.06 (1).

(4) Each group or individual shall file periodic reports as provided in ss. 11.06, 11.19 and 11.20. Every individual acting for the purpose of influencing the outcome of a referendum shall be deemed his or her own treasurer. No disbursement may be made or obligation incurred by or on behalf of a group without the authorization of the treasurer or the treasurer's designated agents. No contribution may be accepted and no disbursement may be made or obligation incurred by any group at a time when there is a vacancy in the office of treasurer.

(5) If a group which operates as a political committee has filed a single registration statement, any report of that group which concerns activities being carried on as a political committee under this chapter shall contain a separate itemization of such activities, whenever itemization is required.

(6) If any contribution or contributions of \$500 or more cumulatively are received by a group or individual supporting or opposing the adoption of a referendum question from a single contributor later than 15 days prior to an election such that it is not included in the preprimary or preelection report

submitted under s. 11.20 (3), the treasurer of the group or the individual receiving the contribution shall within 24 hours of receipt inform the appropriate filing officer of the information required under s. 11.06 (1) in such manner as the board may prescribe. The information shall also be included in the treasurer's or individual's next regular report. For purposes of the reporting requirement under this subsection, only contributions received during the period beginning with the day after the last date covered on the preelection report, and ending with the day before the election need be reported.

*History:* 1973 c. 334; 1975 c. 93 ss. 87, 119 (1), (2); 1975 c. 199; 1979 c. 328 ss. 103, 146; 1985 a. 303 ss. 43, 86; 1985 a. 332 a. 253; 1987 a. 370.

If narrowly construed to apply only to financial transactions directly related to express advocacy of a particular result in a referendum, this section is constitutional. 65 Atty. Gen. 145.

School board which informs electorate of facts pertinent to subject of school district referendum need not register or file campaign financing reports under ch. 11, 68 Atty. Gen. 167.

Limitations on contributions to committees formed to support or oppose referendum discussed. *Citizens Against Rent Control v. Berkeley*, 454 US 290 (1981).

**11.24 Unlawful political contributions.** (1) No person may, directly or indirectly, make any contribution other than from funds or property belonging to the contributor. No person may, directly or indirectly, furnish funds or property to another person for the purpose of making a contribution in other than the person's own name. No person may intentionally accept or receive any contribution made in violation of this subsection.

(1m) A conduit making a contribution of money in the manner prescribed in s. 11.06 (1) (a) does not violate sub. (1).

(2) No person may intentionally accept or receive any contribution made in violation of this chapter.

*History:* 1973 c. 334; 1985 a. 303; 1989 a. 192; 1991 a. 316.

"Unit of prosecution" under (1) is every transfer of funds to another person accompanied by the false listing of any single contributor. See note to 11.38, citing *State v. Dreske*, 88 W (2d) 60, 276 NW (2d) 324 (Cl. App. 1979).

**11.25 Unlawful political disbursements and obligations.** (1) No person, committee or group may intentionally receive or accept any thing of value, or any promise or pledge thereof, constituting a disbursement made or obligation incurred for political purposes contrary to law.

(2) (a) No person, committee or group may make or authorize a disbursement or the incurrence of an obligation from moneys solicited for political purposes for a purpose which is other than political, except as specifically authorized by law.

(b) Notwithstanding par. (a), a registrant may accept contributions and make disbursements from a campaign depository account for the purpose of making expenditures in connection with a campaign for national office; for payment of civil penalties incurred by the registrant under this chapter; or for payment of the expenses of nonpartisan campaigns to increase voter registration or participation. Notwithstanding par. (a), a personal campaign committee or support committee may accept contributions and make disbursements from a campaign depository account for payment of inaugural expenses of an individual who is elected to state or local office. If such expenses are paid from contributions made to the campaign depository account, they are reportable under s. 11.06 (1) as disbursements. Otherwise, such expenses are not reportable under s. 11.06 (1). If contributions from the campaign depository account are used for such expenses, they are subject to s. 11.26.

(3) No moneys solicited for political purposes and reported under this chapter may be invested for the purpose of producing income unless the investment is in direct obligations of the United States and of agencies and corporations wholly owned by the United States, commercial paper maturing within one year from the date of investment, preferred

shares of a corporation, an interest-bearing account at any financial institution as defined in s. 705.01 (3) or securities of an investment company registered under the federal investment company act of 1940 (15 USC 80a) and registered for public offer and sale in this state of the type commonly referred to as a "money market fund".

**History:** 1973 c. 334; 1975 c. 93; 1979 c. 328; 1981 c. 20; 1983 a. 27, 183; 1985 a. 303 ss. 43a, 86; 1987 a. 370.

**11.26 Limitation on contributions.** (1) No individual may make any contribution or contributions to a candidate for election or nomination to any of the following offices and to any individual or committee under s. 11.06 (7) acting solely in support of such a candidate or solely in opposition to the candidate's opponent to the extent of more than a total of the amounts specified per candidate:

(a) Candidates for governor, lieutenant governor, secretary of state, state treasurer, attorney general, state superintendent of public instruction or justice, \$10,000.

(b) Candidates for state senator, \$1,000.

(c) Candidates for representative to the assembly, \$500.

(cc) Candidates for court of appeals judge in districts which contain a county having a population of more than 500,000, \$3,000.

(cg) Candidates for court of appeals judge in other districts, \$2,500.

(cn) Candidates for circuit judge in circuits having a population of more than 300,000, or candidates for district attorney in prosecutorial units having a population of more than 300,000, \$3,000.

(cw) Candidates for circuit judge in other circuits or candidates for district attorney in other prosecutorial units, \$1,000.

(d) Candidates for local offices, an amount equal to the greater of 1) \$250; or 2) one cent times the number of inhabitants of the jurisdiction or district, according to the latest federal census or the census information on which the district is based, as certified by the appropriate filing officer, but not more than \$3,000.

(2) No committee other than a political party committee or legislative campaign committee may make any contribution or contributions to a candidate for election or nomination to any of the following offices and to any individual or committee under s. 11.06 (7) acting solely in support of such a candidate or solely in opposition to the candidate's opponent to the extent of more than a total of the amounts specified per candidate:

(a) Candidates for governor, lieutenant governor, secretary of state, state treasurer, attorney general, state superintendent or justice, 4% of the value of the disbursement level specified in the schedule under s. 11.31 (1).

(b) Candidates for state senator, \$1,000.

(c) Candidates for representative to the assembly, \$500.

(cc) Candidates for court of appeals judge in districts which contain a county having a population of more than 500,000, \$3,000.

(cg) Candidates for court of appeals judge in other districts, \$2,500.

(cn) Candidates for circuit judge in circuits having a population of more than 300,000, or candidates for district attorney in prosecutorial units having a population of more than 300,000, \$3,000.

(cw) Candidates for circuit judge in other circuits or candidates for district attorney in other prosecutorial units, \$1,000.

(e) Candidates for local offices, an amount equal to the greater of 1) \$200; or 2) three-fourths of one cent times the number of inhabitants of the jurisdiction or district, accord-

ing to the latest federal census or the census information on which the district is based, as certified by the appropriate filing officer, but not more than \$2,500.

(3) The contribution limitations of subs. (1) and (2) apply cumulatively to the entire primary and election campaign in which a candidate participates, whether or not there is a contested primary election. The total limitation may be apportioned in any manner desired between the primary and election. All moneys cumulate regardless of the time of contribution.

(4) No individual may make any contribution or contributions to all candidates for state and local offices and to any individuals who or committees which are subject to a registration requirement under s. 11.05, including legislative campaign committees and committees of a political party, to the extent of more than a total of \$10,000 in any calendar year.

(5) The contribution limits provided in subs. (1) and (4) do not apply to a candidate who makes any contribution or contributions to his or her own campaign for office from the candidate's personal funds or property or the personal funds or property which are owned jointly or as marital property with the candidate's spouse, with respect to any contribution or contributions made to that candidate's campaign only. A candidate's personal contributions shall be deposited in his or her campaign depository account and reported in the normal manner.

(6) When a candidate adopts a preexisting support committee as his or her personal campaign committee, the support committee is deemed to have been the same committee as the candidate's personal campaign committee for purposes of the application of subs. (1), (2) and (9). The limitations prescribed in subs. (2) and (9) do not apply to the transfer of contributions which is made at the time of such adoption, but do apply to the contributions which have been made by any other committee to the support committee at the time of adoption.

(8) (a) No political party as defined in s. 5.02 (13) may receive more than a total of \$150,000 in value of its contributions in any biennium from all other committees, excluding contributions from legislative campaign committees and transfers between party committees of the party. In this paragraph, a biennium commences with January 1 of each odd-numbered year and ends with December 31 of each even-numbered year.

(b) No such political party may receive more than a total of \$6,000 in value of its contributions in any calendar year from any specific committee or its subunits or affiliates, excluding legislative campaign and political party committees.

(c) No committee, other than a political party or legislative campaign committee, may make any contribution or contributions, directly or indirectly, to a political party under s. 5.02 (13) in a calendar year exceeding a total value of \$6,000.

(9) (a) No individual who is a candidate for state or local office may receive and accept more than 65% of the value of the total disbursement level determined under s. 11.31 for the office for which he or she is a candidate during any primary and election campaign combined from all committees subject to a filing requirement, including political party and legislative campaign committees.

(b) No individual who is a candidate for state or local office may receive and accept more than 45% of the value of the total disbursement level determined under s. 11.31 for the office for which he or she is a candidate during any primary and election campaign combined from all committees other than political party and legislative campaign committees subject to a filing requirement.

(c) For purposes of pars. (a) and (b), a "committee" includes the Wisconsin election campaign fund.

(10) No candidate for state office who files a sworn statement and application to receive a grant from the Wisconsin election campaign fund may make contributions of more than 200% of the amounts specified in sub. (1) to the candidate's own campaign from the candidate's personal funds or property or the personal funds or property which are owned jointly or as marital property with the candidate's spouse, unless the board determines that the candidate is not eligible to receive a grant, the candidate withdraws his or her application under s. 11.50 (2) (h), or s. 11.50 (2) (i) applies. For purposes of this subsection, any contribution received by a candidate or his or her personal campaign committee from a committee which is registered with the federal elections commission as the authorized committee of the candidate under 2 USC 432 (e) shall be treated as a contribution made by the candidate to his or her own campaign. The contribution limit of sub. (4) applies to amounts contributed by such a candidate personally to the candidate's own campaign and to other campaigns, except that a candidate may exceed the limitation if authorized under this subsection to contribute more than the amount specified to the candidate's own campaign, up to the amount of the limitation.

(11) Excess contributions shall be returned to the donor or treated in accordance with s. 11.12 (2) or 11.23 (2), at the option of the treasurer.

(12) In computing the limitations under this section, any transfer of funds between the candidates for governor and lieutenant governor of the same political party in the general election may be excluded.

(12m) For purposes of this section, a contribution of money received from a conduit identified in the manner prescribed in s. 11.06 (11) (a) shall be considered a contribution received from the original contributor.

(13) Except as provided in sub. (9), contributions received from the Wisconsin election campaign fund are not subject to limitation by this section.

(13m) Contributions utilized for the following purposes are not subject to limitation by this section:

(a) For the purpose of payment of legal fees and other expenses incurred as a result of a recount at an election.

(b) For the purpose of payment of legal fees and other expenses incurred in connection with the circulation, offer to file or filing, or with the response to the circulation, offer to file or filing, of a petition to recall an officer prior to the time a recall primary or election is ordered, or after that time if incurred in contesting or defending the order.

(14) No candidate or committee may receive and accept any contribution or contributions made in violation of this section.

(15) The fact that 2 or more committees, other than personal campaign committees, utilize common policies and practices concerning the endorsement of candidates or agree to make contributions only to such endorsed candidates does not affect the right of each committee independently to make contributions up to the amount specified under sub. (2).

(16) Contributions constituting surplus materials acquired in connection with a previous campaign of a candidate are not subject to limitation by this section, if the materials were previously reported as a contribution by that candidate.

(17) (a) For purposes of application of the limitations imposed in subs. (1), (2), (9) and (10), the "campaign" of a candidate begins and ends at the times specified in this subsection.

(b) In the case of a candidate who has not been a candidate in a previous election for which he or she continues to be

registered under s. 11.05, the "campaign" of the candidate begins when the candidate or the candidate's personal campaign committee is required to file a registration statement with the appropriate filing officer.

(c) In the case of a candidate who has been a candidate in a previous election for which he or she continues to be registered under s. 11.05, the "campaign" of the candidate begins on the day after the closing date for the period covered by the first financial report filed by or on behalf of the candidate subsequent to the date of the previous election, or if the candidate has incurred obligations from a previous campaign, the date on which the candidate receives sufficient contributions to retire those obligations, whichever is later, except that the "campaign" of a candidate at a special election begins when the candidate or the candidate's personal campaign committee is required to file or change the information on a registration statement as a result of the candidacy.

(d) In the case of any candidate at the spring primary or election or the September primary or general election, the "campaign" of the candidate ends on June 30 or December 31 following the date on which the election or primary is held in which the candidate is elected or defeated, or the date on which the candidate receives sufficient contributions to retire any obligations incurred in connection with that contest, whichever is later. In the case of any candidate at a special primary or election, the "campaign" of the candidate ends on the last day of the month following the month in which the primary or election is held in which the candidate is elected or defeated, or the date on which the candidate receives sufficient contributions to retire any obligations incurred in connection with that contest, whichever is later.

(e) The campaign of a candidate in a future election who has incurred obligations from a previous campaign may begin before the candidate receives sufficient contributions to retire all obligations incurred in connection with the previous campaign, but may not begin before the day after the closing date for the period covered by the first financial report filed by or on behalf of the candidate subsequent to the date of the previous election except as provided for a special election under par. (c).

(f) Notwithstanding pars. (b) to (d), contributions for inaugural expenses paid by a candidate, personal campaign committee or support committee authorized under s. 11.05 (3) (p) from a campaign depository account are subject to the limitations of this section, but the registrant paying the expenses may elect to charge the contributions to a present or possible future campaign of the individual in connection with whose inauguration the expenses are paid.

*History:* 1973 c. 334; 1975 c. 93 ss. 89 to 95, 119 (1); 1975 c. 200; 1977 c. 107, 187; 1977 c. 427 s. 132; 1979 c. 263, 328; 1979 c. 355 s. 32; 1983 a. 183, 186; 1985 a. 303 ss. 44 to 55m, 86; 1987 a. 27, 370; 1989 a. 31, 192.

**NOTE:** 1985 Wis. Act 303, s. 1, states legislative intent regarding political party and legislative campaign committees' independent expenditures.

Sub. (9) (a) does not violate first amendment or equal protection; it is narrowly tailored to accomplish legislative goal while allowing significant political expression. *Gard v. State Elections Board*, 156 W (2d) 28, 456 NW (2d) 809 (1990).

Constitutionality of various provisions discussed. 65 Atty. Gen. 237.

**11.265 Legislative campaign committees.** (1) No more than one legislative campaign committee may be established by the members of one political party in each house of the legislature.

(2) A legislative campaign committee may accept no contributions and make no contributions or disbursements exceeding the amounts authorized for a political party under this chapter.

(3) Amounts contributed by a legislative campaign committee to a political party are not subject to limitation by this chapter.

History: 1979 c. 328; 1985 a. 303.

**11.27 False reports and statements.** (1) No person may prepare or submit a false report or statement to a filing officer under this chapter.

(2) In civil actions under this chapter, the acts of every member of a personal campaign committee are presumed to be with the knowledge and approval of the candidate, until it has been clearly proved that the candidate did not have knowledge of and approve the same.

History: 1973 c. 334; 1979 c. 328.

**11.29 Communications for political purposes.** (1) Nothing in this chapter restricts any corporation, cooperative or voluntary association other than a political party or personal campaign committee from making disbursements for the purpose of communicating only with its members, shareholders or subscribers to the exclusion of all other persons, with respect to endorsements of candidates, positions on a referendum or explanation of its views or interests, without reporting such activity. No such corporation, cooperative or voluntary association may solicit contributions from persons who are not members, shareholders or subscribers to be used for such purposes.

(2) Notwithstanding s. 11.12 (1), a political party committee may make single communications to its members at periodic intervals with respect to an explanation of its views or interests, a position on a referendum to be submitted to the voters, or endorsement of an entire slate of candidates at any jurisdictional level or levels. Such activity shall be reported by the party committee.

(3) No communications medium may be utilized for communications authorized under this section unless the medium is restricted solely to members, shareholders or subscribers.

(4) For purposes of this section, the members of a local or regional cooperative are deemed to be members of a state cooperative if the local or regional cooperative is a member of the state cooperative.

History: 1973 c. 334; 1975 c. 93 s. 119 (1); 1979 c. 328.

**11.30 Identification of political contributions, disbursements and communications.** (1) No disbursement may be made or obligation incurred anonymously, and no contribution or disbursement may be made or obligation incurred in a fictitious name or by one person or organization in the name of another for any political purpose.

(2) (a) The source of every printed advertisement, billboard, handbill, sample ballot, television or radio advertisement or other communication which is paid for by or through any contribution, disbursement or incurred obligation shall clearly appear thereon. This paragraph does not apply to communications for which reporting is not required under s. 11.06 (2).

(b) Every such communication the cost of which is paid for or reimbursed by a committee or group, or for which a committee or group assumes responsibility, whether by the acceptance of a contribution or by the making of a disbursement, shall be identified by the words "Paid for by" followed by the name of the committee or group making the payment or reimbursement or assuming responsibility for the communication and the name of the treasurer or other authorized agent of such committee or group.

(c) Every such communication which is directly paid for or reimbursed by an individual, including a candidate without a personal campaign committee who is serving as his or her

own treasurer, or for which an individual assumes responsibility, whether by the acceptance of a contribution or by the making of a disbursement, shall be identified by the words "Paid for by" followed by the name of the candidate or other individual making the payment or reimbursement or assuming responsibility for the communication. No abbreviation may be used in identifying the name of a committee or group under this paragraph.

(d) In addition to the requirements of pars. (a) to (c), a committee or individual required to file an oath under s. 11.06 (7) shall also in every communication in support of or in opposition to any clearly identified candidate or candidates include the words "Not authorized by any candidate or candidate's agent or committee".

(e) Communications under this section by a personal campaign committee may identify the committee or any bona fide subcommittee thereof.

(em) The source of each printed advertisement, billboard, handbill, paid television or radio advertisement or other communication made for the purpose of influencing the recall from or retention in office of an individual holding a state or local office shall clearly appear thereon in the manner prescribed in pars. (b) and (c).

(f) This subsection does not apply to the preparation and transmittal of personal correspondence or the production, wearing or display of a single personal item which is not reproduced or manufactured by machine or other equipment for sale or distribution to more than one individual.

(fm) This subsection does not apply to communications printed on pins, buttons, pens, balloons, nail files and similar small items on which the information required by this subsection cannot be conveniently printed. The board may, by rule, specify small items not mentioned in this paragraph to which this subsection shall not apply.

(g) This subsection does not apply to nonadvertising material contained in a regularly published newsletter by an organization which is expressing its political views with respect to elections which are of concern to its membership, provided that distribution of such newsletter is restricted to such membership.

(h) Notwithstanding par. (a), the attributions required by this subsection in written communications shall be readable, legible and readily accessible.

(hm) Notwithstanding pars. (a) to (c), any communication making a solicitation on behalf of more than one candidate for a joint fund raising effort or program pursuant to an escrow agreement under s. 11.16 (5) may omit the names of the candidates or personal campaign committees assuming responsibility for the communication if the communication discloses that a joint fund raising effort or program is being conducted on behalf of named candidates.

(i) No person may publish or disseminate, or cause to be published or disseminated any communication in violation of this subsection. A communications medium which in good faith relies on the representations of any person who places an advertisement with such medium as to the applicability of this subsection to such person does not violate this paragraph as a result of publication or dissemination of that advertisement based on such representations, provided that the representations are reasonable.

(3) (a) This subsection applies to the following persons who own any financial interest in a newspaper or periodical circulating in this state or in any radio or television station located in this state:

1. Every person occupying any office or position with an annual compensation over \$300, under the constitution or



laws of the United States or of this state or under an ordinance of any municipality of this state.

2. Every candidate or member of any committee or group under this chapter.

3. Every individual registered under s. 11.05.

(b) Any person named in par. (a) is guilty of a violation of this chapter unless, before using the communications medium for political purposes other than as provided for in sub. (2), there is filed with the board a verified declaration specifically stating the communications medium in which the person has financial interest or over which the person has control and the exact nature and extent of the interest or control.

(4) No owner or other person with a financial interest in a communications medium may utilize such medium in support of or in opposition to a candidate or referendum except as provided in this chapter. This chapter shall not be construed to restrict fair coverage of bona fide news stories, interviews with candidates and other politically active individuals, editorial comment or endorsement. Such activities need not be reported as a contribution or disbursement.

(5) Whenever any person receives payment from another person, in cash or in-kind, for the direct or indirect cost of conducting a poll concerning support or opposition to a candidate, political party or referendum, the person conducting the poll shall, upon request of any person who is polled, disclose the name and address of the person making payment for the poll and, in the case of a registrant under s. 11.05, the name of the treasurer of the person making payment.

**History:** 1973 c. 334; 1975 c. 93, 199, 224, 422; 1979 c. 328; 1983 s. 491; 1985 s. 303; 1987 s. 370; 1989 s. 192; 1991 s. 316.

### 11.31 Disbursement levels and limitations; calculation.

(1) **SCHEDULE.** The following levels of disbursements are established with reference to the candidates listed below. Except as provided in sub. (2), such levels do not operate to restrict the total amount of disbursements which are made or authorized to be made by any candidate in any primary or other election.

(a) Candidates for governor, \$1,078,200.

(b) Candidates for lieutenant governor, \$323,475.

(c) Candidates for attorney general, \$539,000.

(d) Candidates for secretary of state, state treasurer, justice or state superintendent, \$215,625.

(dm) Candidates for court of appeals judge, \$86,250.

(e) Candidates for state senator, \$34,500 total in the primary and election, with disbursements not exceeding \$21,575 for either the primary or the election.

(f) Candidates for representative to the assembly, \$17,250 total in the primary and election, with disbursements not exceeding \$10,775 for either the primary or the election.

(fm) Candidates for circuit judge, \$86,250.

(fs) Candidates for district attorney in any prosecutorial unit with a population of 500,000 or less, \$86,250.

(g) In any jurisdiction or district, other than a judicial district or circuit, with a population of 500,000 or more according to the most recent federal census covering the entire jurisdiction or district:

1. For the following countywide offices:

a. Candidates for county executive, \$269,500.

b. Candidates for district attorney, \$161,725.

c. Candidates for county supervisor, \$17,250.

2. Candidates for any countywide elective office not specified in par. (dm) or (fm) or subd. 1, \$107,825.

3. For the following offices in cities of the 1st class:

a. Candidates for mayor, \$269,550.

b. Candidates for city attorney, \$161,725.

c. Candidates for any other city-wide office, \$107,825.

d. Candidates for alderman, \$17,250.

(h) Candidates for any local office, who are elected from a jurisdiction or district with less than 500,000 inhabitants according to the latest federal census or census information on which the district is based, as certified by the appropriate filing officer, an amount equal to the greater of 1) \$1,075; or 2) 53.91% of the annual salary for the office sought, rounded to the nearest multiple of \$25; or 3) 32.35 cents per inhabitant of the jurisdiction or district, but in no event more than \$43,125.

(2) **LIMITATION IMPOSED.** No candidate for state office at a spring or general election who files a sworn statement and application to receive a grant from the Wisconsin election campaign fund may make or authorize total disbursements from the campaign treasury in any campaign to the extent of more than the amount prescribed in sub. (1), unless the board determines that the candidate is not eligible to receive a grant, the candidate withdraws his or her application under s. 11.50 (2) (h), or s. 11.50 (2) (i) applies. No candidate for state office at a special election who files a sworn statement and application to receive a grant from the Wisconsin election campaign fund may make or authorize total disbursements from the campaign treasury in any campaign to the extent of more than the amount prescribed under sub. (1) for the preceding spring or general election for the same office, unless the board determines that the candidate is not eligible to receive a grant, the candidate withdraws his or her application under s. 11.50 (2) (h), or s. 11.50 (2) (i) applies.

(2m) **VOLUNTARY LIMITATION.** Any candidate to whom sub. (2) and s. 11.26 (10) do not apply may file an affidavit with his or her filing officer affirming that he or she has adhered and will adhere to the limitations imposed under sub. (2) and s. 11.26 during the entire campaign. These limitations apply unless the candidate withdraws the affidavit by notifying his or her filing officer in writing no later than the 7th day after the date of the primary in which the person filing the affidavit is a candidate, or the 7th day after the date that the primary would be held, if no primary is required.

(3) **GUBERNATORIAL CAMPAIGNS.** For purposes of compliance with the limitations imposed under sub. (2), candidates for governor and lieutenant governor of the same political party who both accept grants from the Wisconsin election campaign fund may agree to combine disbursement levels under sub. (1) (a) and (b) and reallocate the total level between them. The candidates shall each inform the board of any such agreement.

(3m) **UNOPPOSED CANDIDATES; EXCEPTION.** Notwithstanding subs. (1) and (2), if all candidates for state senator or representative to the assembly in a legislative district who are certified under s. 7.08 (2) (a) to appear on the September primary ballot of all parties recognized under s. 5.62 (1) (b) or (2) have no opponent who is certified to appear on the same primary ballot, or if no primary is required for all candidates of parties recognized under s. 5.62 (1) (b) or (2) for state senator or representative to the assembly in a legislative district who are certified under s. 8.50 (1) (d) to appear on a special partisan election ballot, then the separate limitation specified in sub. (1) for disbursements during the primary and election period does not apply to candidates for that office in that primary and election, and the candidates are bound only by the total limitations specified for the primary and election.

(4) **ALLOCATION.** Except as provided in sub. (3m), whenever a separate disbursement level is specified for a primary and election under sub. (1), a candidate who disburses less than the authorized level in the primary may not reallocate the balance to increase the level in the election. Whenever a separate disbursement level is not specified for a primary and

election under sub. (1), a candidate may allocate disbursements between the primary and election campaign within the total level of disbursements specified in sub. (1) in any proportion desired, and may carry over unexpended contributions from a primary campaign to an election campaign.

(5) **SEPARATION OF PERIODS.** A disbursement is made for the purposes of the election under this section when a person or committee contracts for goods to be delivered or services to be performed after the date of the primary, regardless of the time at which the contract is entered into by the contracting person or committee.

(6) **EXCLUSIONS.** In computing the limitations under this section an individual or campaign treasurer may exclude any contributions returned to the contributor; any loan repayments made; any inaugural expenses paid from the campaign depository account under s. 11.25 (2) (b); any expenses incurred as a result of a recount; all federal, state or local taxes paid; any reimbursement made to a candidate for the candidate's travel expenses; the gross receipts from the sale at an auction of any materials contributed to a candidate and reported by the candidate as a disbursement at the time the contribution is made; all refunds or deposits paid; and the cost of facilities rental, entertainment expense, food and beverages (including the preparation and service thereof if contracted to an outside agency), if utilized for a meal, sale, rally or similar fund raising effort or program which is intended for political purposes. Any such exclusion claimed shall be reported to the appropriate filing officer in such form as the board may require.

(7) **CAMPAIGN DEFINED.** (a) For purposes of this section, the "campaign" of a candidate extends from July 1 preceding the date on which the spring primary or election occurs or January 1 preceding the date on which the September primary or general election occurs for the office which the candidate seeks, or from the date of the candidate's public announcement, whichever is earlier, through the last day of the month following the month in which the election or primary is held.

(b) Disbursements which are made before a campaign period for goods to be delivered or services to be rendered in connection with the campaign are charged against the disbursement limitation for that campaign.

(c) Disbursements which are made after a campaign to retire a debt incurred in relation to a campaign are charged against the disbursement limitation for that campaign.

(d) Disbursements which are made outside a campaign period and to which par. (b) or (c) does not apply are not subject to any disbursement limitation. Such disbursements are subject to s. 11.25 (2).

(8) **CERTAIN CONTRIBUTIONS EXCLUDED.** The limitations imposed under this section do not apply to a gift of anything of value constituting a contribution made directly to a registrant by another, but the limitations shall apply to such gift when it is received and accepted by the recipient or if received in the form of money, when disbursed.

(10) **SURPLUS MATERIALS EXCLUDED.** Disbursements constituting surplus materials acquired in connection with a previous campaign of a candidate are not subject to limitation by this section, if the materials were previously reported as a disbursement by that candidate.

*History:* 1973 c. 334; 1975 c. 93 ss. 97 to 102, 119 (1), (2); 1975 c. 199, 422; 1977 c. 107, 187, 272, 449; 1979 c. 263, 328; 1981 c. 314; 1983 a. 51; 1985 a. 182 s. 57; 1985 a. 303; 1985 a. 332 s. 251 (1); 1987 a. 370; 1989 a. 192.

**11.32 Compensation for political advertisements.** (1) No owner, agent or employe of any communications medium may solicit, receive or accept any payment, promise or compensation, nor may any person pay, promise to pay or

compensate such person, for the purpose of influencing voting at any election through any broadcast or printed matter unless designated as a paid advertisement under s. 11.30.

(2) No person publishing a newspaper or periodical or operating a radio or television station may receive rates for publishing or broadcasting advertising for political purposes in excess of the rate regularly charged for commercial advertising of a similar character and classification. No person, committee or group placing such advertising may pay any rate or charge in excess of the regularly charged rate.

*History:* 1973 c. 334.

**11.33 Use of government materials by candidates.** (1) (a) No person elected to state or local office who becomes a candidate for national, state or local office may use public funds for the cost of materials or distribution for 50 or more pieces of substantially identical material distributed after:

1. In the case of a candidate who is nominated by nomination papers, the first day authorized by law for circulation of nomination papers as a candidate.

2. In the case of a candidate who is nominated at a primary election by write-in votes, the date the board of canvassers issues its determination that the person is nominated.

3. In the case of a candidate who is nominated at a caucus, the date of the caucus.

4. In the case of any other candidate who is nominated solely by filing a declaration of candidacy, the first day of the month preceding the month which includes the last day for filing the declaration.

(b) This subsection applies until after the date of the election or after the date of the primary election if the person appears as a candidate on a primary election ballot and is not nominated at the primary election.

(2) This section does not apply to use of public funds for the costs of the following, when not done for a political purpose:

(a) Answers to communications of constituents.

(c) Actions taken by a state or local government administrative officer pursuant to a specific law, ordinance or resolution which authorizes or directs the actions to be taken.

(d) Communications not exceeding 500 pieces by members of the legislature relating solely to the subject matter of a special session or extraordinary session, made during the period between the date that the session is called or scheduled and 14 days after adjournment of the session.

(3) Except as provided in sub. (2), it is not a defense to a violation of sub. (1) that a person was not acting with a political purpose. This subsection applies irrespective of the distributor's intentions as to political office, the content of the materials, the manner of distribution, the pattern and frequency of distribution and the value of the distributed materials.

*History:* 1973 c. 334; 1975 c. 369; 1979 c. 328; 1983 a. 27; 1985 a. 303, 332; 1987 a. 370.

This section applies to persons elected to state office who are seeking reelection or election to a different office and to the use of public funds for political purposes. 69 Atty. Gen. 259.

**11.34 Solicitation of contributions from candidates restricted.** (1) No person may demand, solicit, take, invite or receive from a candidate any gift of any thing of value for a religious, charitable or fraternal cause or for any organization other than a political committee or group. No candidate may make, intimate or promise such a gift.

(2) This section does not apply to payment of a regular subscription or contribution by a person to an organization of which the person is a member or to which the person may

have been a regular contributor prior to the person's candidacy or to ordinary contributions at a regular church service.

**History:** 1973 c. 334; 1985 a. 303; 1991 a. 316.

**11.36 Political solicitation involving public officials and employes restricted.** (1) No person may solicit or receive from any state officer or employe any contribution or service for any political purpose while the officer or employe is on state time or is engaged in his or her official duties, except that an elected state official may solicit and receive services not constituting a contribution from a state officer or employe with respect to a referendum only. Agreement to perform services authorized under this subsection may not be a condition of employment for any state officer or employe.

(2) No person may solicit or receive from any officer or employe of a political subdivision of this state any contribution or service for any political purpose during established hours of employment or while the officer or employe is engaged in his or her official duties.

(3) Every person who has charge or control in a building, office or room occupied for any purpose by this state or any political subdivision thereof shall prohibit the entry of any person into that building, office or room for the purpose of making or receiving a contribution.

(4) No person may enter or remain in any building, office or room occupied for any purpose by the state or any political subdivision thereof or send or direct a letter or other notice thereto for the purpose of requesting or collecting a contribution.

(5) In this section, "political purpose" includes an act done for the purpose of influencing the election or nomination for election of a person to national office, and "contribution" includes an act done for that purpose.

(6) This section does not apply to response by a legal custodian or subordinate of the custodian to a request to locate, reproduce or inspect a record under s. 19.35, if the request is processed in the same manner as the custodian or subordinate responds to other requests to locate, reproduce or inspect a record under s. 19.35.

**History:** 1973 c. 334; 1979 c. 328, 355; 1985 a. 303; 1987 a. 370.

**11.37 Travel by public officers.** (1) No person may use any vehicle or aircraft owned by the state or by any local governmental unit for any trip which is exclusively for the purposes of campaigning in support of or in opposition to any candidate for national, state or local office, unless use of the vehicle or aircraft is required for purposes of security protection provided by the state or local governmental unit.

(2) No person may use any vehicle or aircraft owned by the state or by any local governmental unit for purposes which include campaigning in support of or in opposition to any candidate for national, state or local office, unless the person pays to the state or local governmental unit a fee which is comparable to the commercial market rate for the use of a similar vehicle or aircraft and for any services provided by the state or local governmental unit to operate the vehicle or aircraft. If a trip is made in part for a public purpose and in part for the purpose of campaigning, the person shall pay for the portion of the trip attributable to campaigning, but in no case less than 50% of the cost of the trip. The portion of the trip attributable to campaigning shall be determined by dividing the number of appearances made for campaign purposes by the total number of appearances. Fees payable to the state shall be prescribed by the secretary of administration and shall be deposited in the account under s. 20.855 (6) (h).

Fees payable to a local governmental unit shall be prescribed by the governing body of the governmental unit.

**History:** 1973 c. 334; 1979 c. 221, 328, 355; 1983 a. 27 a. 2202 (57); 1985 a. 303.

**11.38 Contributions and disbursements by corporations and cooperatives.** (1) (a) 1. No foreign or domestic corporation, or association organized under ch. 185, may make any contribution or disbursement, directly or indirectly, either independently or through any political party, committee, group, candidate or individual for any purpose other than to promote or defeat a referendum.

2. Notwithstanding subd. 1, any such corporation or association may establish and administer a separate segregated fund and solicit contributions from individuals to the fund to be utilized by such corporation or association, for the purpose of supporting or opposing any candidate for state or local office but the corporation or association may not make any contribution to the fund. The fund shall appoint a treasurer and shall register as a political committee under s. 11.05. A parent corporation or association engaging solely in this activity is not subject to registration under s. 11.05, but shall register and file special reports on forms prescribed by the board disclosing its administrative and solicitation expenses on behalf of such fund. A corporation not domiciled in this state need report only its expenses for administration and solicitation of contributions in this state together with a statement indicating where information concerning other administration and solicitation expenses of its fund may be obtained. The reports shall be filed with the filing officer for the fund specified in s. 11.02 in the manner in which continuing reports are filed under s. 11.20 (4) and (8).

3. No corporation or association specified in subd. 1 may expend more than a combined total of \$500 annually for solicitation of contributions to a fund established under subd. 2 or to a conduit.

(b) No political party, committee, group, candidate or individual may accept any contribution or disbursement made to or on behalf of such individual or entity which is prohibited by this section.

(2) (a) This section does not affect the right of any individual to support candidates and purposes of the individual's own choosing or the individual's right to subscribe to a regularly published organization newspaper.

(b) This section does not prohibit the publication of periodicals by a corporation or a cooperative in the regular course of its affairs which advise the members, shareholders or subscribers of the disadvantages or advantages to their interests of the election to office of persons espousing certain measures, without reporting such activity.

(c) This section does not apply to any labor organization which is incorporated under ch. 181 prior to January 1, 1978.

(3) A violation of this section by an officer or employe of a corporation is prima facie evidence of a violation by the corporation.

(4) Any corporation which violates this section shall forfeit double the amount of any penalty assessed under s. 11.60 (3).

(5) An action against a corporation pursuant to a violation of this section may be brought either in the circuit court for the county in which the registered office or principal place of business of the corporation is located, or in the circuit court for the county in which the violation is alleged to have occurred. The proceedings may be brought by the district attorney of either such county, by the attorney general or by the board.

(6) Any individual or campaign treasurer who receives funds in violation of this section shall promptly return such funds to the contributor or donate the funds to the common

school fund or a charitable organization, at the treasurer's option.

(7) This section may not be construed to authorize any national bank or any corporation organized by authority of any law of congress to make a contribution or expenditure as defined by federal law in connection with any election to state or local office which is prohibited by federal law.

(8) (a) A corporation or association organized under ch. 185 which accepts contributions or makes disbursements for the purpose of influencing the outcome of a referendum is a political group and shall comply with s. 11.23 and other applicable provisions of this chapter.

(b) Except as authorized in s. 11.05 (12) (b) and (13), prior to making any disbursement on behalf of a political group which is promoting or opposing a particular vote at a referendum and prior to accepting any contribution or making any disbursement to promote or oppose a particular vote at a referendum, a corporation or association organized under ch. 185 shall register with the appropriate filing officer specified in s. 11.02 and appoint a treasurer. The registration form of the corporation or association under s. 11.05 shall designate an account separate from all other corporation or association accounts as a campaign depository account, through which all moneys received or expended for the adoption or rejection of the referendum shall pass. The corporation or association shall file periodic reports under s. 11.20 providing the information required under s. 11.06 (1).

(c) Expenditures by a corporation or association to establish and administer a campaign depository account of a political group need not be made through the depository account and need not be reported.

*History:* 1973 c. 334; 1975 c. 93; 1977 c. 427; 1979 c. 328; 1985 a. 303 ss. 71, 72, 86; 1987 a. 370; 1991 a. 316.

Individual illegally furnishing funds from a corporate account may be convicted under 11.24 (1). *State v. Dreske*, 88 W (2d) 60, 276 NW (2d) 324 (CL App. 1979).

This section's prohibition against corporate political contributions and disbursements is broad and probably would bar, in most cases, purchases of advertising by a corporation in a political party publication. 65 Atty. Gen. 10. See note to Art. I, sec. 3, citing 68 Atty. Gen. 64.

**11.40 Special privileges from public utilities. (1)** In this section:

(a) "Public utility" means any corporation, company, individual or association which furnishes products or services to the public, and which is regulated under ch. 195 or 196, including but not limited to, railroads, telecommunications or telegraph companies and any company furnishing or producing heat, light, power or water.

(b) "Special privilege" or "privilege" means any thing of value not available to the general public. The term does not include compensation or fringe benefits provided as a result of employment by a public utility to regular employees or pensioners who are not compensated specifically for services performed for a political purpose, and not in excess of that provided to other regular employees or pensioners of like status.

(2) No public utility or anyone connected therewith may offer or give any special privilege to any candidate for public office or any committee or its members or employees, or any individual under s. 11.06 (7), or to any 3rd party at the request of or for the advantage of any of them.

(3) No candidate for public office or any committee or member or employe thereof or any individual under s. 11.06 (7) may ask for or accept any special privilege from any public utility.

(4) This section does not apply to notaries public or to regular public utility employees or pensioners who are candidates for or hold public offices for which the annual compensation is not more than \$300 so long as the privilege does not

exceed those extended to other regular employees or pensioners of the utility.

*History:* 1973 c. 334; 1975 c. 93; 1977 c. 29 s. 1656 (43); 1979 c. 328; 1985 a. 297 s. 76.

**11.50 Wisconsin election campaign fund. (1) DEFINITIONS.** For the purposes of this section:

(a) "Eligible candidate" means:

1. With respect to a spring or general election, any individual who is certified under s. 7.08 (2) (a) as a candidate in the spring election for justice or state superintendent, or an individual who receives at least 6% of the vote cast for all candidates on all ballots for any state office, except district attorney, for which the individual is a candidate at the September primary and who is certified under s. 7.08 (2) (a) as a candidate for that office in the general election, or an individual who has been lawfully appointed and certified to replace either such individual on the ballot at the spring or general election; and who has qualified for a grant under sub. (2).

2. With respect to a special election, an individual who is certified under s. 8.50 (1) (d) as a candidate in a special election for state superintendent, or an individual who is certified under s. 8.50 (1) (d) as a candidate in a special election for any state office, except district attorney, on the ballot or column of a party whose candidate for the same office at the preceding general election received at least 6% of the vote cast for all candidates on all ballots for the office, or an individual who has been lawfully appointed and certified to replace either such individual on the ballot at a special election, or an individual who receives at least 6% of the vote cast for all candidates on all ballots for any state office, except district attorney, at a partisan special election; and who qualifies for a grant under sub. (2). Where the boundaries of a district in which an individual seeks office have been changed since the preceding general election such that it is not possible to calculate the exact number of votes that are needed by that individual to qualify as an eligible candidate prior to an election under this subdivision, the number of votes cast for all candidates for the office at the preceding general election in each ward, combination of wards or municipality which is wholly contained within the boundaries of the newly formed district shall be calculated. If the candidate of the political party on whose ballot or column the individual appears in the newly formed district obtained at least 6% of the number of votes calculated, the individual is deemed to qualify as an eligible candidate prior to the election under this subdivision.

(b) "Fund" means the Wisconsin election campaign fund.

(c) "Grant" means a contribution received from the fund.

(d) "Printing services" means printing, imprinting, lithographing, photolithographing, rotogravure, gravure, letterpress, mimeographing, stenciling, photostating, multilithing, multigraphing, steel die engraving, silkscreening or by any other means reproducing or manufacturing political advertisements or campaign devices of any kind, including but not limited to campaign literature, billboard advertising, special clothing, buttons, pens, stickers, banners and streamers, in support of or in opposition to any candidate, political party or referendum, whether or not a charge is assessed for the materials or services, except materials or services provided by a candidate or individual, committee or group subject to a filing requirement under this chapter.

(2) PARTICIPATION; APPLICATION. (a) Any individual who desires to qualify as an eligible candidate may file an application with the board requesting approval to participate in the fund. The application shall be filed no later than the applicable deadline for filing nomination papers under s. 8.10 (2) (a), 8.15 (1), 8.20 (8) (a) or 8.50 (3) (a), no later than 4:30 p.m. on

the 7th day after the primary or date on which the primary would be held if required in the case of write-in candidates, or no later than 4:30 p.m. on the 7th day after appointment in the case of candidates appointed to fill vacancies. The application shall contain a sworn statement that the candidate and his or her authorized agents have complied with the contribution limitations prescribed in s. 11.26 and the disbursement limitations prescribed under s. 11.31 at all times to which such limitations have applied to his or her candidacy and will continue to comply with the limitations at all times to which the limitations apply to his or her candidacy for the office in contest, unless the board determines that the candidate is not eligible to receive a grant, the candidate withdraws his or her application under par. (h), or par. (i) applies.

(b) The board shall approve the application of an eligible candidate for participation if:

1. The application is timely;
2. The candidate is certified under s. 7.08 (2) (a) or 8.50 (1) (d) to appear upon the spring or general election or a special election ballot;
3. The candidate has an opponent who is certified for placement on the election ballot as a candidate for the same office;
4. The financial reports filed by or on behalf of the candidate as of the date of the spring or September primary, or the date that the special primary is or would be held, if required, indicate that his or her statement filed with the application under par. (a) is true; and

5. The financial reports filed by or on behalf of the candidate as of the date of the spring or September primary, or the date that the special primary is or would be held, if required, indicate that the candidate has received at least the amount provided in this subdivision, from contributions of money, other than loans, made by individuals, which have been received during the period ending on the date of the spring primary and July 1 preceding such date in the case of candidates at the spring election, or the date of the September primary and January 1 preceding such date in the case of candidates at the general election, or the date that a special primary will or would be held, if required, and 90 days preceding such date or the date a special election is ordered, whichever is earlier, in the case of special election candidates, which contributions are in the aggregate amount of \$100 or less, and which are fully identified and itemized as to the exact source thereof. A contribution received from a conduit which is identified by the conduit as originating from an individual shall be considered a contribution made by the individual. Only the first \$100 of an aggregate contribution of more than \$100 may be counted toward the required percentage. For a candidate at the spring or general election for an office identified in s. 11.26 (1) (a) or a candidate at a special election, the required amount to qualify for a grant is 5% of the candidate's authorized disbursement limitation under s. 11.31. For any other candidate at the general election, the required amount to qualify for a grant is 10% of the candidate's authorized disbursement limitation under s. 11.31.

(c) If a candidate has not filed financial reports as of the date of the spring primary, September primary, special primary, or date that the special primary would be held, if required, which indicate that he or she has met the qualification under par. (b) 5, the candidate may file a special report with the board. Such report shall be filed not later than the 7th day after the primary, or 7th day after the date the primary would be held, if required, and shall include such supplementary information as to sources of contributions which may be necessary to complete the candidate's qualification. The special report shall cover the period from the day

after the last date covered on the candidate's most recent report, or from the date on which the first contribution was received or the first disbursement was made, whichever is earlier, if the candidate has not previously filed a report, to the date of such report. All information included on the special report shall also be included in the candidate's next report under s. 11.20.

(d) For purposes of qualification under par. (b) 4 and 5, the financial reports of a former candidate are considered to be same as if filed by the candidate who is lawfully appointed to replace such candidate whenever a vacancy after nomination occurs.

(e) Whenever a candidate who files nomination papers is unopposed on the deadline for filing such papers but is later opposed by a write-in candidate who qualifies for ballot placement, the application deadline under par. (a) is the same for the candidate who files nomination papers as for his or her opponent.

(f) The board shall inform each candidate in writing of the approval or disapproval of the candidate's application, as promptly as possible after the date of the spring primary, September primary, special primary, or date that the primary would be held, if required. With respect to a candidate at a special election who applies for a postelection grant under sub. (1) (a) 2, the board shall inform the candidate in writing of the conditional approval or disapproval of the candidate's application at the same time.

(g) A candidate who voluntarily files an application to receive a grant in accordance with this subsection accepts and agrees to comply with the contribution limitations prescribed in s. 11.26 and the disbursement limitations imposed under s. 11.31 as binding upon himself or herself and his or her agents during the campaign as defined in s. 11.31 (7), as a precondition to receipt of a grant under this section, unless the board determines that the candidate is not eligible to receive a grant, the candidate withdraws the application under par. (h), or par. (i) applies.

(h) An eligible candidate who files an application under par. (a) may file a written withdrawal of the application. A withdrawal of an application may be filed with the board no later than the 7th day after the day of the primary in which the person withdrawing the application is a candidate or the 7th day after the date that the primary would be held, if required. If an application is withdrawn in accordance with this paragraph, the person withdrawing the application is no longer bound by the statement filed under par. (a) after the date of the withdrawal.

(i) Notwithstanding par. (g), if an eligible candidate at the spring election or a special nonpartisan election who accepts a grant is opposed by one or more candidates in the election, or if an eligible candidate at the general election or a special partisan election who accepts a grant is opposed by one or more candidates in the election who receive at least 6% of the vote cast for all candidates for the same office on all ballots at the September primary or a special partisan primary if a primary was held, and in either case if any such opponent of the eligible candidate does not accept a grant under this section in whole or in part, the eligible candidate is not bound by the pledge made in his or her application to adhere to the contribution limitations prescribed in s. 11.26 and the disbursement limitation prescribed under s. 11.31, unless each such opponent files an affidavit of voluntary compliance under s. 11.31 (2m).

(3) **NONPARTISAN CANDIDATES.** (a) Annually on August 15, all moneys appropriated to the fund shall be apportioned as follows by the state treasurer:

1. If an election for state superintendent is scheduled in the following year, 8% of the fund shall be placed in a superintendency account. From this account, an equal amount shall be disbursed to the campaign depository account of each eligible candidate by the state treasurer.

2. If an election for justice is scheduled in the following year, 8% of the fund shall be placed in a supreme court account. From this account, an equal amount shall be disbursed to the campaign depository account of each eligible candidate by the state treasurer.

3. The balance shall be apportioned under sub. (4).

(b) If a vacancy occurs in the office of state superintendent or justice after August 15 in any year and an election is scheduled to fill the vacancy at the spring election in the following year, the state treasurer shall transfer an amount not exceeding 8% of the moneys transferred to the fund on the preceding August 15 to the account for the office in which the vacancy occurs, such moneys to be drawn from any account within the accounts created under sub. (4) in the amount or amounts specified by the board.

(4) **PARTISAN AND SPECIAL ELECTION CANDIDATES.** After apportionment under sub. (3), the remaining moneys shall constitute the partisan campaign account.

(a) In the partisan campaign account, 25% of the moneys shall be apportioned into an executive campaign account and 75% of the moneys shall be apportioned into a legislative and special election campaign account.

(b) The executive campaign account shall be divided into accounts for each executive office as provided in this paragraph. The apportionment of moneys in the executive campaign account shall be made as follows:

1. Sixty-seven percent to be apportioned between all eligible candidates for governor.

2. Eight percent to be apportioned between all eligible candidates for lieutenant governor.

3. Seventeen percent to be apportioned between all eligible candidates for attorney general.

4. Four percent to be apportioned between all eligible candidates for state treasurer.

5. Four percent to be apportioned between all eligible candidates for secretary of state.

(c) The legislative and special election campaign account shall be divided into a senate campaign account to receive 25% of the moneys, and an assembly campaign account to receive 75% of the moneys. Each account shall then be apportioned between all eligible candidates for the same office in the entire state. No apportionment shall be made by legislative district.

(cm) Each eligible candidate for the same office at a special election shall receive an equal amount, which amount shall be equivalent to the maximum grant which was payable to any candidate for that office at the most recent spring or general election. The amount shall be drawn from the senate campaign account and the assembly campaign account in the same proportions as the balance in each account bears to the total balance in both accounts at the time that payments are made. Whenever there are insufficient moneys in the senate campaign account and the assembly campaign account to make the payments required by this paragraph, payments shall be appropriately reduced or discontinued by the board.

(d) Within the accounts established under this subsection for each office at each general election, the entire amount of all available moneys shall be apportioned equally to all eligible candidates.

(5) **TIME OF DISBURSEMENT.** The state treasurer shall make the disbursements to the campaign depository account of each eligible candidate under subs. (3) and (4) by the end of

the 3rd business day following notice from the board under s. 7.08 (2) (c) or (cm). Eligible candidates for governor and lieutenant governor of the same political party may combine accounts if desired.

(6) **EXCESS MONEYS.** If the amounts which are to be apportioned to each eligible candidate under subs. (3) and (4) are more than the amount which a candidate may accept under sub. (9), or more than the amount which a candidate elects to accept under sub. (10), the excess moneys shall be retained in the fund.

(7) **UTILIZATION.** Grants distributed under this section may be utilized only for deposit in a campaign depository account under s. 11.10. Grants may be expended only for one or more of the following:

(a) Purchase of services from a communications medium.

(b) Printing, graphic arts or advertising services.

(c) Office supplies.

(d) Postage.

(8) **LAPSING GRANTS.** All grants disbursed under sub. (5) remain the property of the state until disbursed or encumbered for a lawful purpose. All grant moneys that are unspent and unencumbered by a candidate on the day after the election in which the candidate participates shall revert to the state. All deposits and refunds derived from grant moneys that are received by a candidate at any time after the day of the election in which the candidate participates shall revert to the state. All reversions shall be returned to the board by the candidate and shall be deposited in the fund.

(9) **LIMITATION ON GRANTS.** The total grant available to an eligible candidate may not exceed that amount which, when added to all other contributions accepted from sources other than individuals, political party committees and legislative campaign committees, is equal to 45% of the disbursement level specified for the applicable office under s. 11.31. The board shall scrutinize accounts and reports and records kept under this chapter to assure that applicable limitations under ss. 11.26 (9) and 11.31 are not exceeded and any violation is reported. No candidate or campaign treasurer may accept grants exceeding the amount authorized by this subsection.

(10) **VOLUNTARY LIMITATION.** Any eligible candidate may by written request limit his or her participation in the fund to a lesser amount than that authorized under sub. (9).

(10m) **RETURN OF GRANTS.** An individual who receives a grant prior to an election in which he or she is a candidate and who desires to return any portion of the grant shall return that portion no later than the 2nd Tuesday in October preceding a general election, the 4th Tuesday preceding a spring election or the 3rd Tuesday preceding a special election. A candidate who returns all or any portion of a grant under this subsection remains bound by the candidate's statement filed under sub. (2) (a).

(11) **USE RESTRICTED.** (a) No grant may be utilized in any primary.

(b) No person may expend, authorize the expenditure of or incur any obligation to expend a grant for any purpose other than to advance the candidacy by lawful means of the specific candidate or candidates who qualify for the grant.

(c) No person may expend, authorize the expenditure of or incur any obligation to expend a grant except for a purpose authorized by sub. (7).

(d) No person may expend, authorize the expenditure of or incur any obligation to expend a grant or other contribution after the date of any election where the moneys contained in such contribution are returnable to the state under sub. (8).

(e) No candidate may expend, authorize the expenditure of or incur any obligation to expend any grant if he or she violates the pledge required under sub. (2) (a) as a precondition.

tion to receipt of a grant, except as authorized in sub. (2) (h) or (i).

(f) No person may prepare or transmit to a registrant under this chapter or to the board any evidence which purports to demonstrate the amount or purpose for which a grant has been used if such evidence specifies an amount or purpose for which a payment is received other than the true amount or purpose.

(g) If any person violates pars. (a) to (f), such person shall be liable to the state in a civil action brought by the board for conversion, for treble the amount of the moneys wrongfully expended, and in addition is subject to penalties as provided in ss. 11.60 and 11.61.

**(12) PROOF OF PAYMENT.** No later than the next due date for continuing reports under s. 11.20 (4) which occurs at least 30 days after an election in which a candidate receives a grant, or no later than 30 days after each special election in which a candidate receives a grant, whichever is earlier, the candidate or his or her campaign treasurer shall deliver or transmit to the board by 1st class mail, sufficient proof of payment for all disbursements made from grants distributed under this section. This subsection does not restrict the authority of the board to audit records under ss. 5.05 (2) and 13.94 (1) (k).

**(13) DONATIONS TO FUND.** Any committee or other person may make an unrestricted contribution to the fund by gift, bequest or devise.

*History:* 1977 c. 107, 272; 1979 c. 328; 1983 a. 51; 1983 a. 484 s. 174; 1985 a. 303 ss. 73 to 79, 86; 1987 a. 370, 391, 403; 1989 a. 31; 1989 a. 192 s. 75.

This section's limits on primary election campaign expenditures are constitutional. 67 Atty. Gen. 321.

**11.60 Civil penalties.** (1) Any person, including any committee or group, who violates this chapter may be required to forfeit not more than \$500 for each violation.

(2) In addition to the penalty under sub. (1), any person, including any committee or group, who is delinquent in filing a report required by this chapter may be required to forfeit not more than \$50 or one percent of the annual salary of the office for which the candidate is being supported or opposed, whichever is greater, for each day of delinquency.

(3) Notwithstanding sub. (1), any person, including any committee or group, who makes any contribution in violation of this chapter may be required to forfeit treble the amount of the contribution or portion thereof which is illegally contributed.

(4) Actions under this section arising out of an election for state office or a statewide referendum may be brought by the board or by the district attorney of the county where the violation is alleged to have occurred, except as specified in s. 11.38. Actions under this section arising out of an election for local office or local referendum may be brought by the district attorney of the county where the violation is alleged to have occurred. If a violation concerns a district attorney or circuit judge or candidate for such offices, the action shall be brought by the attorney general. If a violation concerns the attorney general or a candidate for such office, the governor may appoint special counsel under s. 14.11 (2) to bring suit in behalf of the state. The counsel shall be independent of the attorney general and need not be a state employe at the time of appointment.

(5) Any elector may file a verified petition with the board or the appropriate district attorney or both where the authority is concurrent under sub. (4), requesting that civil action under this chapter be brought against any person, committee or group. The petition shall allege such facts as are within the

knowledge of the petitioner to show probable cause that a violation of this chapter has occurred.

*History:* 1973 c. 334; 1977 c. 449; 1979 c. 328; 1985 a. 303.

This is a civil penalty section even though some violations of it involve intent. *State v. Dreske*, 88 W (2d) 60, 276 NW (2d) 324 (Ct. App. 1979).

In forfeiture action against committee, assets of committee, but not of members, are reachable. *Elections Board v. Ward*, 105 W (2d) 543, 314 NW (2d) 120 (1982).

**11.61 Criminal penalties; prosecution.** (1) (a) Whoever intentionally violates s. 11.05 (1), (2), (2g) or (2r), 11.07 (1) or (5), 11.10 (1), 11.12 (5), 11.23 (6) or 11.24 (1) may be fined not more than \$10,000 or imprisoned not more than 3 years or both.

(b) Whoever intentionally violates s. 11.25, 11.26, 11.27 (1), 11.30 (1) or 11.38 where the intentional violation does not involve a specific figure, or where the intentional violation concerns a figure which exceeds \$100 in amount or value may be fined not more than \$10,000 or imprisoned not more than 3 years or both.

(c) Whoever intentionally violates any provision of this chapter other than those provided in par. (a) and whoever intentionally violates any provision under par. (b) where the intentional violation concerns a specific figure which does not exceed \$100 in amount or value may be fined not more than \$1,000 or imprisoned not more than 6 months or both.

(2) Except as provided in s. 11.38 (5), all prosecutions under this section shall be conducted by the district attorney of the county where the violation is alleged to have occurred. If the district attorney refuses to act upon a sworn complaint, or fails to act upon such a complaint within 60 days of the date on which the complaint is received, the attorney general may then conduct the prosecution under this section. If a violation concerns a district attorney or circuit judge or candidate for such offices, the prosecution shall be conducted by the attorney general. If a violation concerns the attorney general or a candidate for such office, the governor may appoint a special prosecutor under s. 14.11 (2) to conduct the prosecution in behalf of the state. The prosecutor shall be independent of the attorney general and need not be a state employe at the time of appointment.

(3) (a) If a successful candidate for public office, other than a candidate for the legislature, is adjudged guilty in a criminal action of any violation of this chapter under sub. (1) (a) or (b), or of any violation of ch. 12 under s. 12.60 (1) (a) committed during his or her candidacy, the court shall after entering judgment enter a supplemental judgment declaring a forfeiture of the candidate's right to office. The supplemental judgment shall be transmitted to the officer or agency authorized to issue the certificate of nomination or election to the office for which the person convicted is a candidate. If the candidate's term has not yet begun, the candidate shall not thereafter succeed to office. If the candidate's term has begun, the office shall become vacant. The office shall then be filled in the manner provided by law.

(b) If a successful candidate for the legislature is adjudged guilty in a criminal action of any violation of this chapter under sub. (1) (a) or (b), or of any violation of ch. 12 under s. 12.60 (1) (a) committed during his or her candidacy, the court shall after entering judgment certify its findings to the presiding officer of the house of the legislature to which the candidate was elected.

*History:* 1973 c. 334; 1975 c. 93 ss. 117, 119 (1); 1977 c. 449; 1979 c. 328; 1983 a. 484; 1985 a. 303.

Sub. (1) (a) does not require state to prove that defendant had actual knowledge of violated statute. *State v. Dreske*, 88 W (2d) 60, 276 NW (2d) 324 (Ct. App. 1979).

See note to 903.03, citing *Dreske v. Wis. Dept. of Health and Soc. Serv.* 483 F Supp. 783 (1980).

**11.64 Defense fund authorized. (1)** Any candidate or public official who is being investigated for, charged with or convicted of a criminal violation of this chapter or ch. 12, or whose agent is so investigated, charged or convicted, may establish a defense fund for expenditures supporting or defending the candidate or agent, or any dependent of the candidate or agent, while that person is being investigated for, or while the person is charged with or convicted of a criminal violation of this chapter or ch. 12.

**(2)** No person may utilize a contribution received from a contributor to a campaign fund for a purpose for which a defense fund is authorized under sub. (1) unless the authorization of the contributor is obtained. Notwithstanding s. 11.25 (2) (a), any contributor may authorize the transfer of all or part of a contribution from a campaign fund to a defense fund.

**History:** 1973 c. 334; 1975 c. 93; 1987 a. 370.

**11.66 Elector may compel compliance.** Any elector may sue for injunctive relief to compel compliance with this chapter. Before commencing any action concerning a state office or statewide referendum, an elector shall file a verified complaint with the board alleging such facts as are within his or her knowledge to show probable cause to believe that a violation has occurred or is proposed to occur. If the board fails to commence an action within 10 days of the filing of the complaint, the elector may commence an action. Separate from any other bond which may be required by the court, the elector may be required to post a surety bond in an amount determined by the court sufficient to cover the actual costs, including reasonable attorney's fees, of both parties. If the elector's action is not successful, he or she shall pay the costs of the action.

**History:** 1973 c. 334; 1979 c. 328; 1983 a. 484.



## CHAPTER 12

## PROHIBITED ELECTION PRACTICES

12.01	Definitions.	12.08	Denial of government benefits.
12.02	Construction.	12.09	Election threats.
12.03	Election day campaigning restricted.	12.11	Election bribery.
12.04	Communication of political messages.	12.13	Election fraud.
12.05	False statements affecting candidates.	12.60	Penalties.
12.07	Election restrictions on employers.		

**12.01 Definitions.** The definitions given under s. 11.01 apply to this chapter, except that a "candidate" includes candidates for national office.

*History:* 1973 c. 334; 1975 c. 93; 1977 c. 427; 1979 c. 89; 1983 a. 484.

**12.02 Construction.** In this chapter, criminal intent shall be construed in accordance with s. 939.23.

*History:* 1977 c. 427.

**12.03 Election day campaigning restricted.** (1) No election official may engage in electioneering on election day.

(2) No person may engage in electioneering during polling hours on election day within 500 feet of an entrance to a building containing a polling place.

(3) A municipal clerk, election inspector or law enforcement officer may remove posters or other advertising which is placed in violation of this section.

(4) In this section, "electioneering" means any activity which is intended to influence voting at an election.

*History:* 1973 c. 334; 1977 c. 427; 1979 c. 89; 1983 a. 484.  
Violators may not be deprived of the right to vote, although penalties may follow. Constitutional issues discussed. 61 Atty. Gen. 441.

**12.04 Communication of political messages.** (1) In this section:

(a) "Election campaign period" means:

1. In the case of an election for office, the period beginning on the first day for circulation of nomination papers by candidates, or the first day on which candidates would circulate nomination papers were papers to be required, and ending on the day of the election.

2. In the case of a referendum, the period beginning on the day on which the question to be voted upon is submitted to the electorate and ending on the day on which the referendum is held.

(b) "Political message" means a message intended for a political purpose or a message which pertains to an issue of public policy of possible concern to the electorate, but does not include a message intended solely for a commercial purpose.

(c) "Residential property" means property occupied or suitable to be occupied for residential purposes and property abutting that property for which the owner or renter is responsible for the maintenance or care. If property is utilized for both residential and nonresidential purposes, "residential property" means only the portion of the property occupied or suitable to be occupied for residential purposes.

(2) Except as provided in s. 12.03 or as restricted under sub. (4), any individual may place a sign containing a political message upon residential property owned or occupied by that individual during an election campaign period.

(3) Except as provided in sub. (4), no county or municipality may regulate the size, shape, placement or content of any sign containing a political message placed upon residential property during an election campaign period.

(4) (a) A county or municipality may regulate the size, shape or placement of any sign if such regulation is necessary to ensure traffic or pedestrian safety. A county or municipality may regulate the size, shape or placement of any sign having an electrical, mechanical or audio auxiliary.

(b) In addition to regulation under par. (a), a 1st, 2nd or 3rd class city may regulate the size, shape or placement of a sign exceeding 11 square feet in area. This paragraph does not apply to a sign which is affixed to a permanent structure and does not extend beyond the perimeter of the structure, if the sign does not obstruct a window, door, fire escape, ventilation shaft or other area which is required by an applicable building code to remain unobstructed.

(5) (a) The renter of residential property may exercise the same right as the owner to place a sign upon the property under sub. (2) in any area of the property occupied exclusively by the renter. The terms of a lease or other agreement under which residential property is occupied shall control in determining whether property is occupied exclusively by a renter.

(b) The owner of residential property may exercise the right granted under sub. (2) in any portion of the property not occupied exclusively by a renter.

(6) This section does not apply to signs prohibited from being erected under s. 84.30.

*History:* 1985 a. 198.

**12.05 False statements affecting candidates.** No person may knowingly make or publish, or cause to be made or published, a false representation pertaining to a candidate which is intended or tends to affect voting at an election.

*History:* 1973 c. 334.

Violation of 12.05 does not constitute defamation per se. *Tatur v. Solrud*, 167 W (2d) 266, 481 NW (2d) 657 (Cl. App. 1992).

**12.07 Election restrictions on employers.** (1) No person may refuse an employe the privilege of time off for voting under s. 6.76 or subject an employe to a penalty therefor.

(2) No employer may refuse to allow an employe to serve as an election official or make any threats or offer any inducements of any kind to the employe for the purpose of preventing the employe from so serving.

(3) No employer or agent of an employer may distribute to any employe printed matter containing any threat, notice or information that if a particular ticket of a political party or organization or candidate is elected or any referendum question is adopted or rejected, work in the employer's place or establishment will cease, in whole or in part, or the place or establishment will be closed, or the salaries or wages of the employes will be reduced, or other threats intended to influence the political opinions or actions of the employes.

(4) No person may, directly or indirectly, cause any person to make a contribution or provide any service or other thing of value to or for the benefit of a candidate, political party or registrant under s. 11.05, with the purpose of influencing the

election or nomination of a candidate to national, state or local office or the passage or defeat of a referendum by means of the denial or the threat of denial of any employment, position, work or promotion, or any compensation or other benefit of such employment, position or work, or by means of discharge, demotion or disciplinary action or the threat to impose a discharge, demotion or disciplinary action. This subsection does not apply to employment by a candidate, political party or other registrant under s. 11.05 in connection with a campaign or political party activities.

History: 1973 c. 334; 1983 a. 484; 1991 a. 316.

**12.08 Denial of government benefits.** No person may, directly or indirectly, cause any person to make a contribution or provide any service or other thing of value to or for the benefit of a candidate, political party or registrant under s. 11.05, with the purpose of influencing the election or nomination of a candidate to national, state or local office or the passage or defeat of a referendum by means of the denial or threat of denial of any payment or other benefit of a program established or funded in whole or in part by this state or any local governmental unit of this state, or a program which has applied for funding by this state or any local governmental unit of this state.

History: 1983 a. 484; 1985 a. 304.

**12.09 Election threats.** No person may personally or through an agent make use of or threaten to make use of force, violence or restraint in order to induce or compel any person to vote or refrain from voting at an election; or, by abduction, duress or any fraudulent device or contrivance, impede or prevent the free exercise of the franchise at an election; or by any act compel, induce or prevail upon an elector either to vote or refrain from voting at any election for or against a particular candidate or referendum.

History: 1973 c. 334; 1991 a. 316.

**12.11 Election bribery.** (1) Any person who does any of the following violates this chapter:

(a) Offers, gives, lends or promises to give or lend, or endeavors to procure, any thing of value, or any office or employment or any privilege or immunity to, or for, any elector, or to or for any other person, in order to induce any elector to:

1. Go to or refrain from going to the polls.
2. Vote or refrain from voting.
3. Vote or refrain from voting for or against a particular person.
4. Vote or refrain from voting for or against a particular referendum; or on account of any elector having done any of the above.

(b) Receives, agrees or contracts to receive or accept any money, gift, loan, valuable consideration, office or employment personally or for any other person, in consideration that the person or any elector will, so act or has so acted.

(c) Advances, pays or causes to be paid any money to or for the use of any person with the intent that such money or any part thereof will be used to bribe electors at any election.

(2) This section applies to any convention or meeting held for the purpose of nominating any candidate for any election, and to the signing of any nomination paper.

(3) (a) This section does not prohibit a candidate from publicly stating his or her preference for or support of any other candidate for any office to be voted for at the same election. A candidate for an office in which the person elected is charged with the duty of participating in the election or nomination of any person as a candidate for office is not prohibited from publicly stating or pledging his or her

preference for or support of any person for such office or nomination.

(b) This section does not apply to money paid or agreed to be paid for or on account of authorized legal expenses which were legitimately incurred at or concerning any election.

(c) This section does not apply where an employer agrees that all or part of election day be given to its employes as a paid holiday, provided that such policy is made uniformly applicable to all similarly situated employes.

(d) This section does not prohibit any person from using his or her own vehicle to transport electors to or from the polls without charge.

(e) This section does not apply to any promise by a candidate to reduce public expenditures or taxes.

(4) The term "any thing of value" as used in this section includes any amount of money, or any object which has utility independent of any political message it contains and the value of which exceeds \$1. The prohibitions of this section apply to the distribution of material printed at public expense and available for free distribution if such materials are accompanied by a political message.

History: 1973 c. 334; 1975 c. 93; 1983 a. 484; 1991 a. 316.  
Candidate's promise to reduce salary if elected was not corrupt campaign act; free speech rights were implicated. *Brown v. Hartlage*, 456 US 45 (1982).

**12.13 Election fraud.** (1) ELECTORS. Whoever intentionally does any of the following violates this chapter:

(a) Votes at any election or meeting if that person does not have the necessary elector qualifications and residence requirements.

(b) Falsely procures registration or makes false statements to the municipal clerk, board of election commissioners or any other election official whether or not under oath.

(c) Registers as an elector in more than one place for the same election.

(d) Impersonates a registered elector or poses as another person for the purpose of voting at an election.

(e) Votes more than once in the same election.

(f) Shows his or her marked or punched ballot to any person or places a mark upon the ballot so it is identifiable as his or her ballot.

(g) Procures an official ballot and neglects or refuses to cast or return it. This paragraph does not apply to persons who have applied for and received absentee ballots.

(h) Procures, assists or advises someone to do any of the acts prohibited by this subsection.

(2) ELECTION OFFICIALS. (a) The wilful neglect or refusal by an election official to perform any of the duties prescribed under chs. 5 to 12 is a violation of this chapter.

(b) No election official may:

1. Observe how an elector has marked a ballot unless the official is requested to assist the elector; intentionally permit anyone not authorized to assist in the marking of a ballot to observe how a person is voting or has voted; or disclose to anyone how an elector voted other than as is necessary in the course of judicial proceedings.

2. Illegally issue, write, change or alter a ballot on election day.

3. Permit registration or receipt of a vote from a person who the official knows is not a legally qualified elector or who has refused after being challenged to make the oath or to properly answer the necessary questions pertaining to the requisite requirements and residence; or put into the ballot box a ballot other than the official's own or other one lawfully received.

4. Intentionally assist or cause to be made a false statement, canvass, certificate or return of the votes cast at any election.

5. Wilfully alter or destroy a poll or registration list.

6. Intentionally permit or cause a voting machine, voting device or automatic tabulating equipment to fail to correctly register or record a vote cast thereon or inserted therein, or tamper with or disarrange the machine, device or equipment or any part or appliance thereof; cause or consent to the machine, device or automatic tabulating equipment being used for voting at an election with knowledge that it is out of order or is not perfectly set and adjusted so that it will correctly register or record all votes cast thereon or inserted therein; with the purpose of defrauding or deceiving any elector, cause doubt for what party, candidate or proposition a vote will be cast or cause the vote for one party, candidate or proposition to be cast so it appears to be cast for another; or remove, change or mutilate a ballot on a voting machine, device or a ballot to be inserted into automatic tabulating equipment, or do any similar act contrary to chs. 5 to 12.

6m. Obtain an absentee ballot for voting in a nursing home or qualified retirement home or qualified community-based residential facility under s. 6.875 (6) and fail to return the ballot to the issuing officer.

7. In the course of the person's official duties or on account of the person's official position, intentionally violate or intentionally cause any other person to violate any provision of chs. 5 to 12 for which no other penalty is expressly prescribed.

**(3) PROHIBITED ACTS.** No person may:

(a) Falsify any information in respect to or fraudulently deface or destroy a certificate of nomination, nomination paper, declaration of candidacy or petition for an election, including a recall petition or petition for a referendum; or file or receive for filing a certificate of nomination, nomination paper, declaration of candidacy or any such petition, knowing any part is falsely made.

(am) Fail to file an amended declaration of candidacy as provided in s. 8.21 with respect to a change in information filed in an original declaration within 3 days of the time the amended declaration becomes due for filing; or file a false declaration of candidacy or amended declaration of candidacy. This paragraph applies only to candidates for state or local office.

(b) Wrongfully suppress, neglect or fail to file nomination papers in the person's possession at the proper time and in the proper office; suppress a certificate of nomination which is duly filed.

(c) Wilfully or negligently fail to deliver, after having undertaken to do so, official ballots prepared for an election to the proper person, or prevent their delivery within the required time, or destroy or conceal the ballots.

(d) Remove or destroy any of the supplies or conveniences placed in compartments or polling booths.

(e) Prepare or cause to be prepared an official ballot with intent to change the result of the election as to any candidate or referendum; prepare an official ballot which is premarked or prepunched or which has an unauthorized sticker affixed prior to delivery to an elector; or deliver to an elector an official ballot bearing a mark or punch opposite the name of a candidate or referendum question that might be counted as a vote for or against a candidate or question.

(f) Before or during any election, tamper with voting machines, voting devices or automatic tabulating equipment readied for voting or the counting of votes; disarrange, deface, injure or impair any such machine, device or equipment; or mutilate, injure or destroy a ballot placed or displayed on a voting machine or device, or to be placed or displayed on any such machine, device or automatic tabulat-

ing equipment or any other appliance used in connection with the machine, device or equipment.

(g) Falsify any statement relating to voter registration under chs. 5 to 12.

(h) Deface, destroy or remove any legally placed election campaign advertising poster with intent to disrupt the campaign advertising efforts of any candidate, or of any committee, group or individual under ch. 11, or alter the information printed thereon so as to change the meaning thereof to the disadvantage of the candidate or cause espoused. Nothing in this paragraph restricts the right of any owner or occupant of any real property, or the owner or operator of any motor vehicle, to remove campaign advertising posters from such property or vehicle.

(i) Falsely make any statement for the purpose of obtaining or voting an absentee ballot under ss. 6.85 to 6.87.

(j) When called upon to assist an elector who cannot read or write, has difficulty in reading, writing or understanding English, or is unable to mark or punch a ballot or depress a lever or button on a voting machine, inform the elector that a ballot contains names or words different than are printed or displayed on the ballot with the intent of inducing the elector to vote contrary to his or her inclination, intentionally fail to cast a vote in accordance with the elector's instructions or reveal the elector's vote to any 3rd person.

(k) Forge or falsely make the official indorsement on a ballot or knowingly deposit a ballot in the ballot box upon which the names or initials of the ballot clerks, or those of issuing clerks do not appear.

(L) When not authorized, during or after an election, break open or violate the seals or locks on a ballot box containing ballots of that election or obtain unlawful possession of a ballot box with official ballots; conceal, withhold or destroy ballots or ballot boxes; wilfully, fraudulently or forcibly add to or diminish the number of ballots legally deposited in a ballot box; or aid or abet any person in doing any of the acts prohibited by this paragraph.

(m) Fraudulently change a ballot of an elector so the elector is prevented from voting for whom the elector intended.

(n) Receive a ballot from or give a ballot to a person other than the election official in charge.

(o) Vote or offer to vote a ballot except as has been received from one of the inspectors.

(p) Receive a completed ballot from a voter unless qualified to do so.

(q) Solicit a person to show how his or her vote is cast.

(r) Remove a ballot from a polling place before the polls are closed.

(s) Solicit another elector to offer assistance under s. 6.82 (2) or 6.87 (5), except in the case of an elector who is blind or visually impaired to the extent that the elector cannot read a ballot.

(t) Obtain an absentee ballot as the agent of another elector under s. 6.86 (3) and fail or refuse to deliver it to such elector.

(u) Present false identification for the purpose of inducing an election official to permit the person to vote.

(v) Corroborate any information offered by a proposed elector for the purpose of permitting the person to register to vote or to vote, knowing such information to be false.

(w) Falsify a ballot application under s. 6.18.

(x) Refuse to obey a lawful order of an inspector made for the purpose of enforcing the election laws; engage in disorderly behavior at or near a polling place; or interrupt or disturb the voting or canvassing proceedings.

(y) After an election, break the locks or seals or reset the counters on a voting machine except in the course of official

duties carried out at the time and in the manner prescribed by law; or disable a voting machine so as to prevent an accurate count of the votes from being obtained; or open the registering or recording compartments of a machine with intent to do any such act.

(z) Tamper with automatic tabulating equipment or any record of votes cast or computer program which is to be used in connection with such equipment to count or recount votes at any election so as to prevent or attempt to prevent an accurate count of the votes from being obtained.

(4) **NURSING AND RETIREMENT HOME AND COMMUNITY-BASED RESIDENTIAL FACILITY VOTING.** No employe of a nursing home or qualified retirement home or qualified community-based residential facility, as defined in s. 6.875 (1) (as), may disclose the designated time arranged for absentee voting by occupants of the home or community-based residential facility under s. 6.875 (6) to any person other than an occupant of the home or qualified community-based residential facility or a relative of an occupant, as defined in s. 6.875 (1), who requests to be so informed.

*History:* 1973 c. 334; 1975 c. 85, 93, 199; 1977 c. 427, 447; 1979 c. 89, 249, 260, 311, 357; 1983 a. 183 a. 45; 1983 a. 192 s. 304; 1983 a. 484 ss. 135, 172 (3), 174; 1983 a. 491; 1985 a. 304; 1987 a. 391; 1989 a. 192; 1991 a. 316.

*See note to 9.01, citing Appeal From Recount in Election Contest, 105 W (2d) 468, 313 NW (2d) 869 (Ct. App. 1981).*

**12.60 Penalties.** (1) (a) Whoever violates s. 12.09, 12.11 or 12.13 (1), (2) or (3) (a), (e), (f), (j), (k), (L), (m), (y) or (z) may be fined not more than \$10,000 or imprisoned not more than 3 years in the Wisconsin state prisons or both.

(b) Whoever violates s. 12.03, 12.05, 12.07, 12.08 or 12.13 (3) (b), (c), (d), (g), (i) or (n) to (x) may be fined not more than \$1,000, or imprisoned not more than 6 months or both.

(c) Whoever violates s. 12.13 (3) (am) or (4) may be required to forfeit not more than \$500.

(d) Whoever violates s. 12.13 (3) (h) may be required to forfeit not more than \$100.

(2) (a) If a successful candidate for public office, other than a candidate for the legislature or a candidate for national office, is adjudged guilty in a criminal action of any violation of this chapter under sub. (1) (a) committed during his or her candidacy, the court shall after entering judgment enter a supplemental judgment declaring a forfeiture of the candidate's right to office. The supplemental judgment shall be transmitted to the officer or agency authorized to issue the certificate of nomination or election to the office for which the person convicted is a candidate. If the candidate's term has begun, the office shall become vacant. The office shall then be filled in the manner provided by law.

(b) If a successful candidate for the legislature or U.S. congress is adjudged guilty in a criminal action of any violation of this chapter under sub. (1) (a) committed during his or her candidacy, the court shall after entering judgment certify its findings to the presiding officer of the legislative body to which the candidate was elected.

(3) Any election official who is convicted of any violation of this chapter shall, in addition to the punishment otherwise provided, be disqualified to act as an election official for a term of 5 years from the time of conviction.

(4) Prosecutions under this chapter shall be conducted in accordance with s. 11.61 (2).

*History:* 1973 c. 334; 1975 c. 85; 1977 c. 418 a. 924 (18) (e); 1977 c. 427; 1979 c. 249, 311, 328; 1983 a. 484; 1985 a. 304.