

been fixed so it will apply to any primary rather than just the September primary.

Sub. (2) is based on ss. 5.11 (5) (3rd sentence), 6.26 (2) and 11.09 (4). The provision of s. 6.26 (2) limiting the number of sample ballots has been changed. The provisions of s. 11.09 (4) pertaining to sample ballots for municipalities over 200,000 population using voting machines was incorporated into this section and several provisions were changed for uniformity. [Bill 755-A]

To meet the requirements of 6.26, Stats. 1917, a newly incorporated village containing parts of 2 assembly districts must be furnished by the county clerk with ballots for the election or primary for both districts in proportion to the number of votes in each district. 7 Atty. Gen. 436.

**5.68 History:** 1965 c. 666; Stats. 1965 s. 5.68.

**Legislative Council Note, 1965:** Sub. (1) is a combination of ss. 6.25 (5), 6.26 (2) (last sentence), 6.46 (1st sentence, in part), 6.82, 8.05 (2nd sentence), 10.38, 10.48 (1) (1st sentence, in part), 10.53 (4) all relating to payment of election costs. S. 6.79 is also included.

Sub. (2) is based on ss. 6.21 (4) (last part) and 11.09 (1) (b). It also now specifically provides for school districts. [Bill 755-A]

**5.70 History:** 1965 c. 666; Stats. 1965 s. 5.70; 1969 c. 419.

**Legislative Council Note, 1965:** Sub. (1) is a restatement of s. 6.25 (1) (after the 1st semicolon), except the provision for 2 sureties has been changed.

Sub. (2) is based on s. 10.14 but makes some changes for uniformity. [Bill 755-A]

**5.75 History:** 1965 c. 666; Stats. 1965 s. 5.75.

**Legislative Council Note, 1965:** This is a restatement of s. 6.43. [Bill 755-A]

## CHAPTER 6.

### The Electors.

**6.02 History:** 1965 c. 666; Stats. 1965 s. 6.02; 1967 c. 28.

**Legislative Council Note, 1965:** Subs. (1) and (2) are based on s. 6.01 (1). Sub. (3) is new. It is intended to prevent confusion which exists due to change of address on election day. This does not disenfranchise an otherwise qualified elector. [Bill 755-A]

On electors see notes to sec. 1, art. III.

A child born at Washington, D. C., to a U. S. government employe who was a resident of this state and who has throughout the intervening years maintained his residence in this state, takes the domicile and residence of said parent, and said child, although still living in Washington, D. C., with said parent, upon whom she is dependent, upon reaching her majority and until she intentionally acquires residence elsewhere, is a resident of this state for voting purposes by virtue of 6.01, Stats. 1937. 28 Atty. Gen. 208.

**6.03 History:** 1965 c. 666; Stats. 1965 s. 6.03.

**Legislative Council Note, 1965:** Sub. (1) (intro. par.) is a combination of ss. 6.01 (3) (in part) and 6.54 (in part). Both provisions are made general. Par. (a) is a restatement of s.

6.54 (in part). Par. (b) is a restatement of s. 6.01 (3) but incorporates treason and felony from Article III, s. 6 of the Wisconsin constitution.

Sub. (2) is a restatement of s. 6.01 (2). [Bill 755-A]

**6.05 History:** 1965 c. 666; Stats. 1965 s. 6.05.

**Legislative Council Note, 1965:** This is a restatement of ss. 6.185 (5) and 10.16 (1) with some clarifications. [Bill 755-A]

**6.10 History:** 1965 c. 666; Stats. 1965 s. 6.10.

**Legislative Council Note, 1965:** This section is mainly derived from s. 6.51, but it does not attempt to combine the residence requirements with the questions to be submitted to challenged electors at the polls. This section establishes the residence requirements. S. 6.92 in this bill sets forth the questions to be submitted to challenged electors at the polls.

The intro. par. is a restatement of s. 6.51 (intro. par.) except as noted above. S. 10.47 (last sentence) pertaining to residence is deleted since this section includes these provisions.

Sub. (1) is a restatement of s. 6.51 (2).

Sub. (2) is a restatement of s. 6.51 (7) and (8).

Sub. (3) is based on s. 6.51 (12) (2nd sentence). Changes were made to be consistent with s. 6.02 in this bill.

Sub. (4) is based on s. 6.51 (12) (1st sentence) and (13), except that obsolete provisions were deleted.

Sub. (5) is a restatement of s. 6.51 (3). Because of the conflict between that provision and s. 6.51 (6), the latter subsection is deleted.

Sub. (6) is a restatement of s. 6.51 (1).

Sub. (7) is a combination of ss. 6.51 (11) (1st sentence) and (14) and are made uniform. S. 6.02 (2), providing contradictory provisions, is deleted.

Sub. (8) is a restatement of s. 6.51 (4).

Sub. (9) is a restatement of s. 6.51 (11) (2nd sentence).

Sub. (10) is a restatement of s. 6.51 (5) and (10).

Sub. (11) is a restatement of s. 6.51 (9). [Bill 755-A]

A person out of the state a large portion of the time, but whose absences are temporary, and always with the intention of returning, is a qualified elector within the meaning of sec. 69, Stats. 1898. *Hughes v. State*, 109 W 397, 85 NW 333.

Evidence that a voter was in the election district only temporarily and that he intended to leave as soon as he finished certain work that he was doing shows that he is not a resident of such district within the meaning of sec. 69, Stats. 1898. *State ex rel. Hallam v. Lally*, 134 W 253, 114 NW 447.

Members of a logging crew went to work on a logging job intending to remain no longer than the job lasted. They were citizens of the state, had no other place they claimed as a home, were unmarried, and ate, slept and kept their clothing at the camp. But, under sec. 69, Stats. 1898, they did not gain a residence nor the right to vote in the town. *State ex rel. Small v. Bosacki*, 154 W 475, 143 NW 175.

Attendance at an institution of learning for the sole purpose of acquiring an education is not of itself sufficient, under 6.51, Stats. 1915,

to establish the student's residence and entitle him to vote at that place. *Seibold v. Wahl*, 164 W 82, 159 NW 546.

Attendance at the state university for the sole purpose of getting an education, although that is for a temporary purpose, may be accompanied by other facts making the student, under 6.51, Stats. 1915, a resident of and a voter in the city of Madison. *Ashbahr v. Wahl*, 164 W 89, 159 NW 549.

A student came to Madison to attend the university law school. He registered from another place in the state where his parents lived and where he spent his last vacation. He had taught school several years in another city away from his parents' home and had voted there. His expenses were paid partly by his own earnings and partly by borrowing from his father whom he was obligated to repay. Under 6.51, Stats. 1915, he was entitled to vote in Madison and his attendance at a Chicago law school for part of a year did not break the continuity of his residence in Madison. *Gross v. Wahl*, 164 W 91, 159 NW 549.

A student who came to Madison solely to attend the state university, registering from a foreign state, where his parents reside and where he spends a part of his vacations, and whose expenses are partially paid by his father, is not a resident of Madison, within the meaning of 6.51, Stats. 1915, and hence not entitled to vote there. *Wadsworth v. Wahl*, 164 W 93, 159 NW 550.

The provisions of 6.51, Stats. 1937, governing the determination of residence as a qualification to vote are declaratory of the common law. In *re Burke*, 229 W 545, 282 NW 598.

The term "residence" does not mean continuous physical location but is used in the broad sense of domicile. 1902 Atty. Gen. 80.

A self-supporting teacher living in a city where she is under a 2-year contract to teach, who is entirely independent of her parents, who intends to remain in such city following her profession, who has resided in the state and the voting precinct the required length of time, and who possesses all other requisites for voting, is a qualified elector of such city. 11 Atty. Gen. 503.

As a general rule persons enrolled in CCC camps do not gain voting residence where they are stationed. 25 Atty. Gen. 543.

Members of "transient" camp do not acquire residence for voting purposes in voting district where camp is located. 25 Atty. Gen. 590.

Sec. 1, art. I, of the constitution and 6.51, Stats. 1937, preclude a patient at a state institution for the insane from acquiring residence for voting purposes in the town where the institution is located, regardless of whether the patient has been committed to the institution or is a voluntary patient. 27 Atty. Gen. 294.

Voting residence requirement of workers who have come into a county to work on Badger Ordnance Plant is discussed in 31 Atty. Gen. 136.

Residence for voting purposes and for tax situs of income is discussed in 32 Atty. Gen. 92.

**6.15 History:** 1965 c. 666; Stats. 1965 s. 6.15; 1967 c. 28; 1969 c. 419.

**Legislative Council Note, 1965:** Sub. (1) is a restatement of s. 9.045.

Sub. (2) (intro. par.) is a restatement of s. 9.046 (intro. par.). Par. (a) is based on s. 9.046 (1) (a). The county clerk is removed as a person to whom application can be made. The request can now also be made in writing and the affidavit signed by a person authorized to administer oaths. Par. (b) is new. It is intended to serve notice to the elector's state of prior residence that he is voting in Wisconsin and therefore should not be allowed to vote there. Par. (c) is a restatement of s. 9.046 (1) (b) but the form prescribed by the secretary of state is included in the text of the statute.

Sub. (3) (a) is a restatement of s. 9.046 (2) (a) and (b). Par. (b) is a restatement of s. 9.046 (2) (c). Par. (c) is a restatement of s. 9.046 (3).

Sub. (4) (a) is a restatement of s. 9.046 (4) (a). Par. (b) is a restatement of s. 9.046 (4) (b) (1st part). Par. (c) is a restatement of s. 9.046 (4) (b) (middle part). Par. (d) is a restatement of s. 9.046 (4) (b) (remainder). Par. (e) is a restatement of s. 9.046 (4) (c).

Sub. (5) is a restatement of s. 9.046 (5).

Sub. (6) is a restatement of s. 9.046 (6). [Bill 755-A]

**6.18 History:** 1965 c. 666; Stats. 1965 s. 6.15; 1967 c. 28.

**Legislative Council Note, 1965:** This section, in part, is a restatement of s. 9.047. The form is new. It is intended to provide safeguards against double voting consistent with the degree of protection provided in other sections in this bill. [Bill 755-A]

**6.20 History:** 1965 c. 666; Stats. 1965 s. 6.20.

**Legislative Council Note, 1965:** Sub. (1) is a restatement of s. 11.54 (1) (1st sentence, 1st part).

Sub. (2) is a restatement of s. 11.64. [Bill 755-A]

In passing on statutes regulating absentee voting, the court should look to the whole and every part of the election laws, the intent of the entire plan, the reasons and spirit for their adoption, and should try to give effect to every portion thereof. *Sommerfeld v. Board of Canvassers*, 269 W 299, 69 NW (2d) 235.

See note to sec. 1, art. XIII, citing 6 Atty. Gen. 744.

Orthodox Hebrews, whose religious beliefs prevent their voting on a date within Passover season, may vote under absent voting statutes (11.54-11.68, Stats. 1935). 25 Atty. Gen. 225.

**6.22 History:** 1965 c. 666; Stats. 1965 s. 6.22.

**Legislative Council Note, 1965:** Sub (1) is a restatement of s. 11.70 (1).

Sub. (2) is a restatement of ss. 11.54 (2), except the reference to women's auxiliary groups is deleted since they are included in sub. (1) (a), and 11.70 (5) (2nd sentence).

Sub. (3) is a restatement of s. 11.70 (2).

Sub. (4) is a restatement of ss. 11.70 (4) and (5) (last sentence), except it allows for the clerk's signature although his name may also be on one of the ballots as a candidate. This is an administrative necessity.

Sub. (5) is a restatement of s. 11.70 (5) (1st and 3rd sentences).

Sub. (6) is a restatement of s. 11.70 (3).

Sub. (7) is a restatement of s. 11.70 (6). [Bill 755-A]

**6.26 History:** 1965 c. 666; Stats. 1965 s. 6.26.

**Legislative Council Note, 1965:** This section is a restatement of ss. 6.15, 6.185 (1), 10.03 and 10.08. [Bill 755-A]

Municipal clerks, except in Milwaukee, may employ such temporary employes as are authorized by the municipal legislative body for house-to-house canvass to register voters. 49 Atty. Gen. 151.

**6.27 History:** 1965 c. 666; Stats. 1965 s. 6.27; 1969 c. 419.

**Legislative Council Note, 1965:** Sub. (1) is based on s. 6.14 (1) (1st 2 sentences).

Sub. (2) is based on s. 6.14 (2).

Sub. (3) is based on s. 6.14 (1) (last sentence) and s. 6.14 (3). In s. 6.14 (3) a petition could make registration necessary. The provision is changed to be consistent procedurally with sub. (4) which pertains to the abolition of registration.

Sub. (4) (a) is a restatement of s. 6.14 (4) (1st 2 sentences), except the number of days and percentage are changed to be uniform with sub. (3). Par. (b) is based on s. 6.14 (4) (last sentence), but the notice requirement is made uniform.

Sub. (5) (a) is a restatement of s. 6.14 (5) (1st sentence). Par. (b) is a restatement of s. 6.14 (5) (last sentence). [Bill 755-A]

The provision of 6.14, Stats. 1927, that "such registration shall be applicable to all elections and all primaries" applies only to cities, towns and villages of 5,000 or more. 16 Atty. Gen. 790.

**6.28 History:** 1965 c. 666; Stats. 1965 s. 6.28.

**Legislative Council Note, 1965:** Sub. (1) makes the registration deadline uniform. It is based on ss. 6.17 (1) (1st sentence), 6.185 (4) (c) and 10.15 (1) (a) (1st sentence, last part and 3rd sentence).

Sub. (2) is based on s. 6.17 (1) (2nd sentence), but is changed to permit registration at the 1st election rather than just a primary. The 2nd sentence is a restatement of s. 6.17 (1) (last sentence). [Bill 755-A]

**6.30 History:** 1965 c. 666; Stats. 1965 s. 6.30.

**Legislative Council Note, 1965:** Sub. (1) is a restatement of s. 6.17 (2) (a).

Sub. (2) is a restatement of ss. 6.17 (2) (b), 6.185 (4) (d) and 10.15 (1) (b).

Sub. (3) (intro. par.) is a restatement of ss. 6.17 (5) (intro. sent.), 6.185 (10) (intro. sentence), and 10.15 (3) (intro. sentence). Par. (a) is a restatement of ss. 6.17 (5) (2nd sentence, 1st part), 6.185 (10) (2nd sentence, 1st part), 10.15 (3) (2nd sentence, 1st part). Par. (b) is a restatement of ss. 6.17 (5) (2nd sentence, in part, and 3rd sentence), 6.185 (10) (2nd sentence, in part, and 3rd sentence), and 10.15 (3) (2nd sentence, in part, and 3rd sentence). Par. (c) is a restatement of ss. 6.17 (5) (last sentence), 6.185 (10) (last sentence) and 10.15 (3) (last sentence). [Bill 755-A]

**6.33 History:** 1965 c. 666; Stats. 1965 s. 6.33; 1967 c. 28.

**Legislative Council Note, 1965:** Sub. (1) is a restatement of combined ss. 6.16 (1), 6.185 (2) (in part), and 10.10 (in part).

Sub. (2) is a restatement of s. 6.16 (2) but occupation has been deleted and birth date has

been added. Sub. (3) is a restatement of ss. 6.17 (4) and 10.10 (2nd sentence), except the requirement of s. 6.17 (4) that a Mrs. or Miss shall precede women electors' names was deleted. [Bill 755-A]

**6.35 History:** 1965 c. 666; Stats. 1965 s. 6.35.

**Legislative Council Note, 1965:** Sub. (1) is based on ss. 6.16 (3), 6.185 (3) and 10.12 (in part), except the detailed provisions for arrangement have been changed to local discretion and the obsolete portions of s. 6.185 (3) have been deleted.

Sub. (2) is a restatement of s. 6.16 (4) (in part).

Sub. (3) is a restatement of ss. 6.16 (4) (in part), 6.16 (5) (last sentence) and 10.16 (2). [Bill 755-A]

**6.36 History:** 1965 c. 666; Stats. 1965 s. 6.36.

**Legislative Council Note, 1965:** Sub. (1) is based on s. 10.12 (1) (1st part), but has been broadened to become state-wide and reflects present practice.

Sub. (2) is a restatement of ss. 6.16 (6) (1st sentence, last part and last sentence, in part), 6.185 (7) (b) (last sentence, in part) and 10.18 (2) (last sentence, in part).

Sub. (3) combines several sections making the necessary changes to provide uniformity. The subsection is based on s. 6.16 (5) (except last sentence) and (6) (1st sentence, 1st part, and 2nd sentence). The requirement of s. 6.16 (5) and (6) (2nd sentence) providing the original registry be sent to the polls is changed to a more general provision to reflect present practice in many municipalities and to accommodate the exception of s. 10.18 (2) where copies are used. The official registry still provides the final authority whenever a question arises, whether or not it is delivered to the polls. S. 6.185 (7) (b) (1st sentence) and s. 10.18 (2) are included and the number of registry lists are reduced for uniformity, but this only establishes a minimum and does not prevent sending more. [Bill 755-A]

**6.40 History:** 1965 c. 666; Stats. 1965 s. 6.40.

**Legislative Council Note, 1965:** Sub. (1) (a) is a restatement of ss. 6.17 (6) and 10.15 (2). Par. (b) is based on s. 6.17 (3). The provision is expanded from the present requirement of notice if registered elsewhere in Wisconsin. The provision is state-wide and the time for forwarding the forms is 3 days instead of 24 hours.

Sub. (2) is a restatement of s. 6.17 (7) but applies state-wide.

Sub. (3) is a restatement of s. 6.17 (8). [Bill 755-A]

**6.45 History:** 1965 c. 666; Stats. 1965 s. 6.45.

**Legislative Council Note, 1965:** This section is a combination of ss. 6.16 (8), 6.18 (7), 6.185 (7) (a), 10.13, 10.18 (1) and 10.21 (1st part) without substantive change except for the deletion of the number of copies and posting of ss. 10.13 and 10.18. [Bill 755-A]

**6.48 History:** 1965 c. 666; Stats. 1965 s. 6.48.

**Legislative Council Note, 1965:** Sub. (1) (a) is based on ss. 6.18 (4) (1st 2 sentences), 10.20 (1st sentence) and 10.21 (in part) with some modification and clarification. The provision

is applicable state-wide. The requirement that 2 electors sign oaths in ss. 10.21 and 6.185 (4) (a) is changed so one person signing an affidavit is sufficient, but the reasons for the challenge must be given. Par. (b) is based on ss. 6.185 (4) (a) (in part) and 10.15 (1) (a) (in part) but is made state-wide. Par. (c) is a restatement of s. 6.18 (4) (last sentence).

Sub. (2) (a) is a restatement of s. 10.20 (2nd sentence). Par. (b) is based on ss. 10.20 (last part) and 10.21 (last part). The change is that under sub. (1) of this bill, the objections can be heard and resolved by the executive secretary of the board of election commissioners of the city if the challenged elector so wishes. [Bill 755-A]

**6.50 History:** 1965 c. 666; Stats. 1965 s. 6.50.

**Legislative Council Note, 1965:** Sub. (1) (a) is a restatement of s. 10.15 (1) (a) (1st sentence, in part, and 2nd sentence). The provision that canceled registration cards may be destroyed after 4 years is new. Par. (b) is based on s. 10.15 (1) (a) (1st sentence, in part), but the reinstatement provision is new to the extent that it is clearly stated rather than implied. Par. (c) is a restatement of s. 10.15 (1) (a) (5th sentence).

Sub. (2) includes all municipalities of the state having registration, except the city of Milwaukee. Sub. (2) (a) is based on s. 6.18 (1) (a), but the registry list revision is changed from every 2 years to after every presidential election for the 2 years preceding. Par. (b) is a restatement of s. 6.18 (1) (b). Par. (c) is a restatement of s. 6.18 (5). Par. (d) is based on ss. 6.18 (2) and 6.185 (4) (a) (1st part). Par. (e) is a restatement of s. 6.50 (3). Par. (f) is a restatement of ss. 6.18 (6), 6.185 (4) (b) (last sentence), except the canceled registration card can now be destroyed after 4 years. Par. (g) is based on s. 6.185 (4) (b) (1st sentence) and is made state-wide and reflects present practice. [Bill 755-A]

**6.55 History:** 1965 c. 666; Stats. 1965 s. 6.55.

**Legislative Council Note, 1965:** Sub. (1) is a restatement of ss. 6.185 (6) (a), 6.44 (1) (intro. par.) (2nd sentence), 10.17 (1) (1st sentence) and 10.19.

Sub. (2) (a) is based on ss. 6.185 (6) (b) (1st and 5th sentences), 6.44 (2) (1st 4 and last sentences) and 10.17 (1) (2nd, 3rd and last sentences). The provision that the registering elector sign an affidavit is changed to a sworn acknowledgment. The deadline is clarified. The 2nd sentence of s. 6.185 (6) (b) is deleted since there can be no registration on the day of an election. Par. (b) is a restatement of s. 6.44 (3). Par. (c) is a restatement of s. 6.44 (1) (a). Par. (d) is a combination of ss. 6.44 (1) (b), 6.185 (6) (b) (last sentence) and 10.17 (2) without substantive change. Par. (e) is a restatement of s. 6.44 (4). Par. (f) is based on ss. 6.185 (6) (c), 6.44 (4a) and 10.17 (1a), but the provision permitting a change of address on election day is deleted. Either the change of address is made before 5 p.m. the day before the election, or the elector must vote in his old precinct.

Sub. (3) is a restatement of ss. 6.185 (6) (b) (3rd and 4th sentences), 6.44 (2) (5th and 6th sentences) and 10.17 (1) (4th and 5th sentences). [Bill 755-A]

An unregistered elector must present proper affidavits showing the facts which entitle him to vote as required by sec. 61, Stats. 1898, and defects in the substance of such affidavits render them wholly insufficient in law. State ex rel. O'Neill v. Trask, 135 W 333, 115 NW 823.

An inspector of elections who has taken and filed the oath of office may administer oaths required by 6.44 (2), Stats. 1923. 13 Atty. Gen. 72.

**6.56 History:** 1965 c. 666; Stats. 1965 s. 6.56.

**Legislative Council Note, 1965:** This section is based on s. 10.17 (3) but now applies state-wide. The judicial election provision is deleted here as this is adequately covered under the general registration provisions. The duty of the supplemental list is placed on the municipal clerk rather than the inspectors. [Bill 755-A]

**6.76 History:** 1965 c. 666; Stats. 1965 s. 6.76.

**Legislative Council Note, 1965:** This section is a restatement of s. 6.047 (except last sentence). [Bill 755-A]

**6.77 History:** 1965 c. 666; Stats. 1965 s. 6.77.

**Legislative Council Note, 1965:** Sub. (1) is a restatement of s. 6.02 (1) (1st sentence, in part).

Sub. (2) is based on s. 6.02 (3), but the provision that the annexation must be 10 days before the election is deleted for clarification. The cross reference makes it possible for electors of an annexed territory to register at the 1st election after annexation if they did not have registration before annexation but do after annexation. [Bill 755-A]

**6.78 History:** 1965 c. 666; Stats. 1965 s. 6.78; 1967 c. 133.

**Legislative Council Note, 1965:** Sub. (1) is based on ss. 6.35 (1) (1st 2 sentences) and 10.36 (2) but the opening and closing of the polls are made uniform for 1st, 2nd and 3rd class cities.

Sub. (2) is based on ss. 6.35 (1) (3rd sentence), (2) and (3) and 10.36 (2). The hours are more uniform. The publication provision is changed and decreased from 3 to 2. Posting is covered in ch. 10.

Sub. (3) is a restatement of s. 6.35 (1) (last sentence). [Bill 755-A]

Sec. 7.96, R. S. 1878, relating to poll hours for town meetings, has no application to adjourned or special town meetings held for deliberative purposes only and for the transaction of business which does not require a vote by ballot. State ex rel. Rochester v. Racine County, 70 W 543, 36 NW 399.

Where the inspectors not only violated the general election law in opening and closing the polls, but destroyed the ballots cast during the first half hour after the opening and then closed the polls for a half hour, the election was void. State ex rel. Smith v. Drake, 83 W 257, 53 NW 496.

**6.79 History:** 1965 c. 666; Stats. 1965 s. 6.79.

**Legislative Council Note, 1965:** The intro. par. is based on ss. 6.45 (1) (1st part), 6.49 (1st part), 6.16 (7) (1st part), 6.185 (7) (b) (2nd sentence, in part) and 10.18 (2) (2nd sentence, 1st part). Any 2 election officials are permitted to maintain the poll lists. The reference to the lists is general to include the entire state.

Sub. (1) is a restatement of ss. 6.45 (1) (last

part) and 6.49 (1st sentence).

Sub. (2) is a restatement of ss. 6.16 (7) (1st sentence, last part), 6.185 (7) (b) (2nd sentence), 10.18 (2) (2nd sentence, in part), except that ss. 6.185 (7) (b) and 10.18 (2) referred to a certification slip which is deleted as unnecessary. S. 6.44 (1) (1st sentence) is also included.

Sub. (3) is a restatement of s. 6.49 (next to last sentence).

Sub. (4) is a restatement of ss. 6.16 (7) (last sentence), 6.45 (2) and 6.49 (last sentence). [Bill 755-A]

**6.80 History:** 1965 c. 666; Stats. 1965 s. 6.80.

**Legislative Council Note, 1965:** This section incorporates s. 5.14 (4) which makes a cross-reference to s. 6.37 and both are included throughout sub. (2).

Sub. (1) is a restatement of s. 6.38 (1st sentence, in part).

Sub. (2) (a) is a restatement of ss. 5.14 (4), 6.25 (3) (last part) and 6.37 (1st 2 sentences). Par. (b) is a restatement of s. 6.37 (3rd sentence) with some clarification. Par. (c) is a restatement of s. 6.38 (last sentence). Par. (d) is a restatement of s. 6.37 (last sentence) with some clarification. Par. (e) is based on ss. 5.14 (5), (6) and (7) and 5.39 (4) and (5). The destruction of ballots is changed from immediately after the canvass to provide local discretion to prevent possible mixing of the official and blank ballots.

Sub. (3) (a) combines the provisions of ss. 6.38 (1st sentence, last part) and 11.06 (5) (1st sentence). The provisions are made uniform and broadened to apply to paper ballots and machine voting. Par. (b) is a restatement of s. 11.06 (5), but is broadened to include paper ballot voting. [Bill 755-A]

**6.82 History:** 1965 c. 666; Stats. 1965 s. 6.82.

**Legislative Council Note, 1965:** Sub. (1) is a restatement of s. 6.40, except there is added the safeguard that the 2 inspectors assisting the disabled elector be of different political parties.

Sub. (2) (a) is a restatement of s. 6.39 (1) (1st sentence). Par. (b) is a restatement of s. 6.39 (1) (last 2 sentences). Par. (c) is a restatement of s. 6.39 (2) (1st 2 sentences). Par. (d) is a restatement of s. 6.39 (2) (4th sentence). Par. (e) is a restatement of s. 6.39 (2) (last sentence) with clarification. S. 6.39 (2) (3rd sentence) pertaining to a blind person having his ballot inspected by someone else is deleted. [Bill 755-A]

**6.85 History:** 1965 c. 666; Stats. 1965 s. 6.85; 1967 c. 140, 207.

**Legislative Council Note, 1965:** This section is a restatement of s. 6.54 (1) (last part) but also provides for electors who move. [Bill 755-A]

An absentee ballot personally cast by an employe in the office of city clerk who had no grounds for using an absentee ballot, but who had executed the required affidavit stating that she had such grounds, is nevertheless deemed to have been properly cast so as to be counted as a vote. *Schmidt v. Board of Canvassers*, 18 W (2d) 316, 118 NW (2d) 154.

Absentee voting is a privilege, not an absolute right. Where explicit language does not

call for strict compliance, statutory provisions relating to absentee voting are held directory and strict compliance therewith not required. *Clapp v. Joint School Dist.* 21 W (2d) 473, 124 NW (2d) 678.

An election official may not permit ballots to be taken away from a polling place to be marked for voting by electors. 18 Atty. Gen. 218.

**6.86 History:** 1965 c. 666; Stats. 1965 s. 6.86; 1967 c. 140.

**Legislative Council Note, 1965:** This section is based on ss. 11.55 and 11.56. The county clerk is eliminated as an official for issuing absentee ballots since he does not have the necessary information to decide whether the applicant is a qualified elector. The beginning date for application is advanced. Specific hour deadlines are established. [Bill 755-A]

**6.87 History:** 1965 c. 666; Stats. 1965 s. 6.87; 1967 c. 140; 1969 c. 419.

**Legislative Council Note, 1965:** Sub. (1) is a restatement of s. 11.57 (1st sentence, in part), and includes the new deadlines as changed under s. 6.86 in this bill.

Sub. (2) is based on s. 11.58 (1), but permits certification before 2 witnesses as an alternative to an affidavit and provides that neither the witnesses nor the official oath administrator, other than the municipal clerk, shall be a candidate on one of the ballots involved.

Sub. (3) is a restatement of s. 11.57 (1st sentence, last part), but it adds a provision as to where the ballots shall be sent.

Sub. (4) is a restatement of s. 11.59, except it provides for 2 witnesses and provides the witnesses or oath administrator, unless he is the municipal clerk, shall not be candidates.

Sub. (5) is a restatement of s. 11.58 (2), except it provides as above, that they shall not be candidates.

Sub. (6) is in part based on s. 11.57 (last sentence). The subsection also provides clarification as to when the ballot must be received by the municipal clerk.

Sub. (7) is new. It penalizes a candidate for witnessing the certificate or notarizing the affidavit of an absentee elector. [Bill 755-A]

The provision of 11.59, Stats. 1953, that the envelope containing the ballot of an absent voter "shall be mailed by such voter, postage prepaid, to the officer issuing the ballot, or if more convenient it may be delivered in person," is construed as being directory only, so that a delivery of an absentee ballot by agent is a substantial and sufficient compliance therewith. *Sommerfeld v. Board of Canvassers*, 269 W 299, 69 NW (2d) 235.

The provision of 11.57, Stats. 1957, that any absentee ballot not mailed to the applicant or delivered personally to the applicant at the office of the municipal clerk shall not be counted is mandatory and not merely directory, and is applicable in recount proceedings, so as to require that an absentee ballot personally delivered by the clerk at the home of the applicant shall not be counted. (*Sommerfeld v. Board of Canvassers*, 269 W 299, distinguished.) In re Recount Proceedings, 2 W (2d) 229, 85 NW (2d) 775.

In view of 6.50, 6.66 (1), and 11.63, Stats. 1957, if absentee ballots are improperly delivered in contravention of 11.57, the board of canvassers is under duty to invalidate and not include such ballots in the total count on a recount, whether or not they are challenged at the election. In re Recount Proceedings, 2 W (2d) 229, 85 NW (2d) 775.

Where certain absentee ballots were returned to the city clerk without bearing the notary's or other qualified officer's signature on the absentee-ballot envelope as provided by 11.59, Stats. 1957, there was no substantial compliance whether those provisions be deemed mandatory or directory, and hence such defective absentee ballots should have been rejected. (Sommerfeld v. Board of Canvassers, 269 W 299, distinguished.) Kaufmann v. LaCrosse City Board of Canvassers, 8 W (2d) 182, 98 NW (2d) 422.

Although 11.58 and 11.59, Stats. 1961, are deemed to be directory and not mandatory, nevertheless there must be substantial compliance with such statutory provisions. Where certain voters came to the city hall and each there received an absentee ballot from an employe in the city clerk's office but thereafter none of the required formalities were complied with, but everything concerning these absentee ballots was done at the city hall and in good faith by these voters, their absentee ballots should be considered as having sufficiently complied with the statutory requirement so as to be considered properly cast and so as to be properly counted. (Kaufmann v. LaCrosse City Board of Canvassers, 8 W (2d) 182, distinguished.) Schmidt v. Board of Canvassers, 18 W (2d) 316, 118 NW (2d) 154.

**6.88 History:** 1965 c. 666; Stats. 1965 s. 6.88; 1969 c. 419, 420.

**Legislative Council Note, 1965:** Sub. (1) is a restatement of s. 11.60, except reference to the county clerk is deleted.

Sub. (2) is a restatement of s. 11.61, except reference to the county clerk is deleted and therefore also deleted is the provision for mailing after the ballots are delivered to the inspectors. The receipt requirement is deleted. "Election officials" rather than "inspectors" is used for uniformity in this bill.

Sub. (3) (a) is a restatement of s. 11.62 (1st 3 sentences) but provides for witnesses. Par. (b) is a restatement of s. 11.62 (4th and 5th sentences), but includes the provision for 2 witnesses. The provision of s. 11.64 pertaining to the death of an elector voting under this section is repeated here. Par. (c) is a restatement of s. 11.62 (last sentence). [Bill 755-A]

**Editor's Note:** In connection with ch. 420, Laws 1969, see Gradinjan v. Boho, 29 W (2d) 674, 139 NW (2d) 557.

**6.89 History:** 1965 c. 666; Stats. 1965 s. 6.89.

**Legislative Council Note, 1965:** This section is a restatement of s. 11.605. [Bill 755-A]

**6.92 History:** 1965 c. 666; Stats. 1965 s. 6.92; 1967 c. 28.

**Legislative Council Note, 1965:** This section is a restatement of s. 6.50 except in the intro. par. in this section the words "for cause" are

added and a provision is made in sub. (3) (e) in this section for electors who move after registration closes so that they may still vote in their old precinct even though it is no longer their residence. [Bill 755-A]

**6.93 History:** 1965 c. 666; Stats. 1965 s. 6.93.

**Legislative Council Note, 1965:** This section is a restatement of s. 11.63. [Bill 755-A]

**6.94 History:** 1965 c. 666; Stats. 1965 s. 6.94; 1967 c. 28.

**Legislative Council Note, 1965:** This section is a restatement of s. 6.53, except it provides for electors moving after registration closes. [Bill 755-A]

If a challenged person takes the oath prescribed and answers the questions put, no matter how false such answers, nor how clearly they show that he is not entitled to vote, the inspectors must then, if he insists upon voting, tender him the oath prescribed in ch. 7, R. S. 1858, and if he takes it, receive his vote. Gillespie v. Palmer, 20 W 544.

**6.95 History:** 1965 c. 666; Stats. 1965 s. 6.95.

**Legislative Council Note, 1965:** This is based on s. 6.52. The provision for areas where voting machines are used is new to the statutes, but is the present practice in many areas. [Bill 755-A]

## CHAPTER 7.

### Election Officials, Boards, Observers; Selection and Duties, Canvassing.

**7.03 History:** 1965 c. 666; Stats. 1965 s. 7.03.

**Legislative Council Note, 1965:** This is s. 6.325 with 2 exceptions: (1) The present provision is "under this chapter." As there are duties in other chapters, this change was made. (2) Section 11.10 (1) (last sentence after the last comma) provides for voting machine custodians to be paid the same as inspectors and is therefore included here.

Sections 6.185 (9) and 10.27 were deleted as unnecessary. [Bill 755-A]

**7.08 History:** 1965 c. 666; Stats. 1965 s. 7.08; 1969 c. 136, 154.

**Legislative Council Note, 1965:** The intro. par. is new. It is intended to give a reference to 2 significant duties of the secretary of state provided for elsewhere in Title II.

Sub. (1) (a) is a restatement of s. 5.40 and the last 2 sentences of s. 6.77. Par. (b) is a restatement of the first 4 sentences of s. 6.77 except the "20 days prior" provision is changed to specific dates to provide more time for the county clerks. The delivery for the September primary will usually be 32 days and the general election will always be 25 days.

Sub. (1) (c) is new. There is no present statutory provision for checking voting machines to see that they fulfill statutory requirements, although it is apparently believed by some that the secretary of state is supposed to do this. To make certain that some procedure is established to see that the statutory requirements are complied with, this section is drafted in language broad enough to provide for the checking by the secretary of state of any "apparatus" used in an election.