

the certificate holder. State ex rel. Jones v. Oates, 86 W 634, 57 NW 1112.

Where a county canvass of the result of the primary has been had and the certificate issued to the person receiving the highest votes he is entitled to have his name placed upon the official ballot unless his right thereto is denied after a proper contest. The voluntary action of the canvassing board in making a new canvass and rescinding the former action cannot affect the right of the person holding the certificate to his place upon the ballot. State ex rel. Rinder v. Goff, 129 W 668, 109 NW 628.

Where the certificate of the county canvassers shows a certain number of votes for a candidate and the tabular exhibit can be reconciled with it, it will be presumed that the canvassers obtained corrected returns and that the certificate is correct. State ex rel. Kustermann v. Board of State Canvassers, 145 W 294, 130 NW 489.

Where two candidates for the assembly receive the same number of votes, the assembly itself must determine who was elected. The determination of the county board of canvassers would be only prima facie evidence of the election of either candidate. 1904 Atty. Gen. 92, 117.

"Scattering" votes are legal votes and are to be counted in determining if a candidate has received a majority of all votes cast for an office. 21 Atty. Gen. 420.

A county clerk is ineligible to act as a member of board of county canvassers when said county clerk is candidate in election for office for which returns are to be canvassed by said board. The county clerk selects board of county canvassers even though he is ineligible to act as member of said board. 21 Atty. Gen. 809.

Canvassers' determination for publication under 6.64, Stats. 1931, may be a summarized report. 21 Atty. Gen. 897.

7.70 History: 1965 c. 666; Stats. 1965 s. 7.70; 1967 c. 261; 1969 c. 276 ss. 1, 581 (4).

Legislative Council Note, 1965: Sub. (1) (a) is a restatement of s. 6.70 (1). Par. (b) is a restatement of s. 6.70 (2), but the deadline for receipt of materials from the county clerk is reduced from 30 to 15 days and 8 days so the deadline occurs before the state board of canvassers meet under sub. (3).

Sub. (2) (a) is a restatement of s. 6.69 (1st sentence). Par. (b) is a restatement of s. 6.69 (2nd sentence).

Sub. (3) (a) combines ss. 5.15 (1), 5.16, 6.71 (1) and 8.05 (last sentence). The dates are fixed and uniformity provided. Par. (b) is a restatement of s. 6.71 (2). Par. (c) is a restatement of s. 6.71 (3). Par. (d) is a restatement of s. 6.71 (4) and incorporates ss. 6.71 (7) (in part) and 8.05 (last sentence, in part). Par. (e) is a restatement of s. 6.71 (5). Par. (f) is a restatement of s. 6.71 (6) and incorporates s. 6.71 (7) (in part). Par. (g) is a restatement of ss. 6.10 (1) (b) (last sentence) and 6.71 (8). Par. (h) is based on s. 6.73 with clarification as to accepting corrected statements.

Sub. (5) (a) is a restatement of s. 6.72. Par. (b) is a restatement of s. 9.05. [Bill 755-A]

Duties of state canvassers are ministerial; they cannot take proof as to frauds. Attorney

General ex rel. Bashford v. Barstow, 4 W 567; State ex rel. McDill v. Board of State Canvassers, 36 W 498.

Returns which are void on their face must be rejected. State ex rel. McDill v. Board of State Canvassers, 36 W 498.

The state board of canvassers has no power to go behind the returns furnished it by the county canvassers. State ex rel. Kustermann v. Board of State Canvassers, 145 W 294, 130 NW 489.

Under 6.73, Stats. 1913, the state board of canvassers must make its decision from the county returns mentioned in 6.67 (1) and from such returns only. State ex rel. Husting v. Board of State Canvassers, 159 W 216, 150 NW 542.

The adjournment provision of the statute is directory, and the board may continue to a completion of its work but must not in any event delay by adjournments or otherwise so as to prevent an elected officer from beginning his term at the opening of the political year. State ex rel. Husting v. Board of State Canvassers, 159 W 216, 150 NW 542.

See note to sec. 24, art. VII, citing 57 Atty. Gen. 236.

7.75 History: 1965 c. 666; Stats. 1965 s. 7.75.

Legislative Council Note, 1965: This section is a restatement of s. 9.06. [Bill 755-A]

CHAPTER 8.

Nominations, Primaries, Elections.

8.01 History: 1965 c. 666; Stats. 1965 s. 8.01.

Legislative Council Note, 1965: This is a restatement of s. 5.02. [Bill 755-A]

8.02 History: 1965 c. 666; Stats. 1965 s. 8.02.

Legislative Council Note, 1965: This section is based on s. 5.05 (4), but the time for circulation has been changed from 60 days to a date specific which will result in a shorter period of time for circulation. This change conforms with other sections in this bill. [Bill 755-A]

8.03 History: 1965 c. 666; Stats. 1965 s. 8.03; 1967 c. 311.

Legislative Council Note, 1965: This section is a restatement of the combined provisions of ss. 5.14 (2) and 6.23 (12). [Bill 755-A]

8.04 History: 1965 c. 666; Stats. 1965 s. 8.04.

8.05 History: 1965 c. 666; Stats. 1965 s. 8.05; 1969 c. 137, 419.

Legislative Council Note, 1965: Sub. (1) (a) is based on s. 5.27 (1) (1st 2 sentences). The date for the caucus has been made earlier in some instances to facilitate county clerks in obtaining the necessary information. The other dates have been established to facilitate execution of the provisions. Par. (b) is a restatement of s. 5.27 (1) (3rd and 4th sentences). Par. (c) is based on s. 5.27 (1) (5th to 8th sentences) with clarification. Par. (d) is a restatement of s. 5.27 (1) (9th sentence). Par. (e) is a restatement of s. 5.27 (1) (10th and 11th sentences). Par. (f) is a restatement of s. 5.27 (1) (12th sentence). Par. (g) is a restatement of s. 5.27 (1) (13th sentence). Par. (h)

is a restatement of s. 5.27 (1) (14th and 15th sentences). Par. (i) is a restatement of s. 5.27 (1) (16th and 17th sentences). Par. (j) is a restatement of s. 5.27 (1) (18th sentence). When a caucus is held the provision for filing nomination papers after the caucus was deleted. The necessity for the clerks to have more time was a major factor in this change.

Sub. (3) (a) is based on s. 5.27 (4) (a) (1st, 2nd in part, and 3rd sentences). The number of nomination paper signers has been fixed as has the date for circulation of nomination papers for uniformity with other provisions in this bill. The restriction to towns over 2,500 population or in counties with 1st or 2nd class cities has been deleted. All towns are allowed to hold a primary if they so wish. Par. (b) is a restatement of s. 5.27 (4) (a) (2nd sentence in part). Par. (c) is a restatement of s. 5.27 (4) (a) (last sentence). Par. (d) is based on s. 5.27 (4) (d), but the number of petition signers has been established rather than using a percentage. Par. (e) is based on s. 5.27 (4) (g), but the filing deadline has an established date and newspaper notification is provided with posting still possible under s. 10.05 in this bill. Par. (f) is a restatement of s. 5.27 (4) (e). Par. (g) is a restatement of s. 5.27 (4) (f).

Sub. (4) (a) is based on s. 5.27 (6) (1st part), but is amended so the governing body as well as the charter ordinance can provide for a primary. Par. (b) is based on s. 5.27 (6) (1st sentence, last part), but the number of nomination paper signers and dates for circulation thereof have been made uniform with other provisions in this bill. Par. (c) is a restatement of s. 5.27 (6) (1st sentence in part). Par. (d) is a restatement of s. 5.27 (6) (last sentence).

Sub. (5) is a clarification of s. 5.27 (7) without substantive change.

Sub. (6) is a restatement of s. 5.27 (5). [Bill 755-A]

The statutes provide for only one caucus to nominate town officers. 3 Atty. Gen. 298.

The village caucus has no power to consolidate the offices of president and supervisor. 12 Atty. Gen. 224.

The town caucus has no power to declare a vacancy in a town office. 12 Atty. Gen. 233.

The statute, 5.27, Stats. 1949, provides alternative and independent methods of nomination. 40 Atty. Gen. 113.

8.06 History: 1965 c. 666; Stats. 1965 s. 8.06; 1969 c. 419.

Legislative Council Note, 1965: This section is a restatement of s. 10.54. [Bill 755-A]

8.10 History: 1965 c. 666; Stats. 1965 s. 8.10; 1969 c. 419.

Legislative Council Note, 1965: Sub. (1) is based on s. 5.22. The primary date is changed from 4 weeks before the spring election to the first Tuesday in March.

Sub. (2) is based on s. 5.23 (1st sentence), but the amount of time for circulating nomination papers is reduced. At present, circulation of nomination papers begins in late November for the spring elections. This change reflects present practice to wait until after the Christmas holidays to begin campaigning and is also intended to create more elector inter-

est by creating closer continuity for each election's activities.

Sub. (3), while based on s. 5.23 (in part), is changed from percentages of the vote for governor at the last election to established categories taking into consideration the various population figures for the different sized areas involved and includes provisions for county supervisors.

Sub. (4) is a restatement of s. 5.23 (last sentence).

Sub. (5) is a restatement of s. 5.23 (next to last sentence), except it must be a sworn declaration. [Bill 755-A]

Under sec. 30, Stats. 1898, ditto marks can be used in signing nomination papers, to show the residence of the signer. State ex rel. Dithmar v. Bunnell, 131 W 193, 110 NW 177.

Nomination papers for circuit judge need not be circulated in every county. It is sufficient if they contain the required percentage of the last vote for governor in the circuit. 10 Atty. Gen. 198.

Nomination papers of a candidate for the office of supervisor in a city must have the number of signers required by law, in his ward; for the office of mayor, in one ward or in several wards; and one nomination paper for the latter office, if it contains the requisite number of signatures, is sufficient. The nomination papers containing the signatures in excess of the maximum allowed should not be filed by the clerk; the fact that such excess of signatures was obtained does not prevent placing the candidate's name on the ballot. 12 Atty. Gen. 122.

Nomination papers should be circulated for the April election and not for the March primary, as holding of the primary is contingent and uncertain. 38 Atty. Gen. 648.

Candidates for any office to be voted for wholly within one county should file nomination papers with the county clerk. 41 Atty. Gen. 11.

8.11 History: 1965 c. 666; Stats. 1965 s. 8.11; 1967 c. 290.

Legislative Council Note, 1965: Sub. (1) (a) is a restatement of s. 5.24 (1) (a) (1st part). Par. (b) combines s. 5.24 (1) (b) and (c) and makes them uniform. Par. (c) is a restatement of s. 5.24 (1) (a) (1st sentence, last part). Par. (d) is a restatement of s. 5.24 (1) (a) (2nd sentence).

Sub. (2) is based on s. 5.24 (2) (1st part) with clarification and deletion of all references to towns as there aren't any towns in Milwaukee county.

Sub. (3) is based on s. 5.24 (2) (in part) with clarification.

Sub. (4) is a restatement of s. 5.24 (1) (a) (last sentence) and (2) (last part). [Bill 755-A]

8.12 History: 1965 c. 666; Stats. 1965 s. 8.12; 1967 c. 90; 1967 c. 228 ss. 2, 7; 1969 c. 419.

8.13 History: 1965 c. 666; Stats. 1965 s. 8.13.

Legislative Council Note, 1965: This section is a restatement of s. 5.245. [Bill 755-A]

8.15 History: 1965 c. 666; Stats. 1965 s. 8.15; 1969 c. 241; 1969 c. 392 s. 85; 1969 c. 419.

Legislative Council Note, 1965: Sub. (1) is based on s. 5.05 (1) (1st part) for the deadline.

The earliest date for circulation is changed for uniformity within this bill.

Sub. (2) is a restatement of s. 5.05 (3) (1st sentence).

Sub. (3) is a restatement of ss. 5.05 (5) (a) and 5.38 (2) (in part).

Sub. (4) (a) is a restatement of s. 5.05 (5) (b) (1st part). Par. (b) is a restatement of s. 5.05 (5) (b) (last part).

Sub. (5) is a restatement of s. 5.05 (1) (last part).

Sub. (6), while based on s. 5.05 (6) and (10), eliminates the percentage of vote for governor requirement and the multiple-county requirement and establishes categories for uniformity within this bill.

Sub. (7) is a restatement of s. 5.05 (7).

Sub. (8) is based on s. 5.05 (8). [Bill 755-A]

A candidate did not file his nomination papers in the office of the secretary of state, or present them for filing, until after 5 p.m. central standard time on the last day allowed for filing them, or arrive at such office in time for filing them at or before 5 p.m. on such date. They were correctly rejected by the secretary of state as not being filed within the time designated by 5.05, Stats. 1949. The time limit set by the legislature for the filing of nomination papers must be strictly observed. *State ex rel. Stearns v. Zimmerman*, 257 W 443, 43 NW (2d) 681.

A candidate for whom nomination papers are filed, and who has filed a declaration of acceptance, may decline the nomination, and have his name omitted from the primary ballot. 3 Atty. Gen. 342.

Unless the date of signing follows the signature to a nomination paper, the name cannot be counted. 4 Atty. Gen. 232.

The declaration to be filed under (5) (b), Stats. 1917, must be that of the candidate, not one made by a third party for him. 7 Atty. Gen. 432.

The statement at the top of nomination papers for a county officer must give the precinct of the signers, and so must the affidavit attached thereto. 7 Atty. Gen. 454.

Where the affidavit appended to a nomination paper materially fails to comply with (5) (b), Stats. 1919, the nomination paper is defective and should be disregarded; only nomination papers fair on their face should be recognized. 9 Atty. Gen. 383.

Electors may not, by telephone, authorize placing their names upon nomination papers. The affidavit appended to nomination papers must be made by an elector who knows the facts therein stated, of his own knowledge. 9 Atty. Gen. 385.

Where the affidavit appended to a nomination paper shows that the signers are electors of the county and residents of the precinct named therein, the error in failing to state that they are electors of the precinct may be disregarded. An unsigned affidavit appended to a nomination paper is invalid, but the signature may be supplied though the time for filing papers has expired. Affidavits upon nomination papers may be on the back as well as on the face of the papers. 11 Atty. Gen. 592.

It is not lawful for the county clerk to permit the filing of additional nomination papers after the time limited therefor has

expired, nor to place the name of a candidate nominated thereby on the official primary ballot; should he do so, he would be criminally liable. The county clerk should reject excess nomination papers. The election of a candidate who has not complied with the statute, in filing nomination papers, would not be invalid on that ground. 11 Atty. Gen. 598.

A county clerk is prohibited from placing on an official primary ballot the name of any candidate who fails to file with his nomination papers a declaration that he will qualify as such officer if nominated and elected, as required by 5.05 (5) (b), Stats. 1923. 13 Atty. Gen. 427.

An affidavit to a nomination paper which does not recite that affiant knows that elector lives in precinct stated may be amended to conform to fact if such be fact. 23 Atty. Gen. 596.

The declaration provided for in 5.05 (5) (b), Stats. 1933, is not limited by the statute to a declaration by the candidate that he will qualify if nominated and elected on any particular ticket. 23 Atty. Gen. 725.

A candidate for precinct committeeman must file nomination papers under 5.05 (5) (b), Stats. 1935. 25 Atty. Gen. 508.

An affidavit to a nomination paper may be amended after filing to conform to facts where the paper has been circulated by county and sworn to by precinct. 25 Atty. Gen. 511.

A person who has the personal qualifications to vote may sign nomination papers even though he is not registered. 35 Atty. Gen. 82.

Where variance exists between names of a national and a state political party, both of which support the candidacy of the same individuals for the offices of president and vice-president, the secretary of state may place such nominees on state party ticket regardless of party name variance. 37 Atty. Gen. 413.

A person making affidavit at foot of nomination papers as required by 5.05 (5) (b), Stats. 1947, need not himself have circulated the papers if he has the requisite knowledge called for by that statute. Such knowledge may be gained through any source which would satisfy a reasonable person as worthy of belief. A person circulating the paper may be a minor, but person making affidavit must be an elector. 37 Atty. Gen. 431.

8.16 History: 1965 c. 666; Stats. 1965 s. 8.16; 1967 c. 261.

Legislative Council Note, 1965: Sub. (1) is based on s. 5.17 with several changes. The party candidates for an office do not need to aggregate 5% of the average vote for governor at the last 2 general elections. The party candidate receiving the most votes will be that party's candidate without regard to the number of votes. The write-in candidate is required to receive 5% of the vote cast for governor at the last election rather than 10% of the average vote for governor at the last 2 general elections.

Sub. (2) is new. It establishes a statutory procedure for obtaining the party candidates for president and their electors. [Bill 755-A]

From the statement filed by the board of county canvassers the county clerk is to determine the names of those who are entitled to a place upon the official ballot, and in this

respect he is governed by the provisions of 5.17, Stats. 1915. 5 Atty. Gen. 680.

A Democrat duly nominated for office as a Republican candidate has the right to have his name placed on the Republican ballot as such candidate. 7 Atty. Gen. 542.

Incorrect nomination date in declaration filed pursuant to 5.17 (3), Stats. 1935, does not invalidate same. 25 Atty. Gen. 632.

8.17 History: 1965 c. 666; Stats. 1965 s. 8.17.

Legislative Council Note, 1965: Sub. (1) is based on s. 5.35 (2) (1st sentence). The provision for 1st class cities is changed to a population basis and the provision for towns in Milwaukee county is deleted as unnecessary.

Sub. (2) is based on s. 5.35 (2) (2nd and 3rd sentences). The dates for circulation and the number of signers of nomination papers are changed for uniformity in this bill.

Sub. (3) (a) is new. It is intended to prevent the existing problems created by providing write-ins. Often one or 2 votes is sufficient to win. There is no provision at present to assure that the write-in is a member of the party. Further, it is usually difficult and sometimes impossible to know who the person written-in is, especially when there is more than one person of the same name in the precinct, ward or village. Par. (b) is a restatement of s. 5.35 (2) (last sentence).

Sub. (4) (a) is based on s. 5.35 (1) (a) (1st sentence), but the provision for write-ins is deleted. Par. (b) is based on s. 5.35 (1) (b) and (3), but is changed for uniformity in this section. The provision for the inclusion of address is deleted as this information will be on the nomination papers filed with the county clerk. The breaking of tie votes in Milwaukee county is new but necessary, since in that county, committeemen are elected by wards and villages, not precincts. Par. (c) is a restatement of s. 5.35 (4).

Sub. (5) (a) is based on s. 5.35 (6) without substantive change. Par. (b) is based on s. 5.35 (7), but also establishes a date within which the first meeting must be set. Par. (c) (intro. par.) is a restatement of s. 5.35 (8) (1st sentence, 1st part). Subds. 1 and 2 are a restatement of s. 5.35 (8) (1st sentence, last part). Par. (d) is based on s. 5.35 (9) (3rd sentence, 1st part), with clarification. Par. (e) is a restatement of s. 5.35 (12). Par. (f) is a restatement of s. 5.35 (13). Par. (g) is a restatement of s. 5.35 (11). Par. (h) is new. It is necessary to fill vacancies whenever nomination papers are not filed for committeeman from a precinct, ward or village where there is to be a committeeman. Par. (i) is a restatement of s. 5.35 (10).

Sub. (6) is based on s. 5.35 (5), (8) (last part), and (9) (1st part), except that instead of being required, these several organizational levels of party organization are made permissive. [Bill 755-A]

Limitation of time in statute governing meetings of party city committee and party county committee is not mandatory but directory; if such meetings are called at later time organization may be had and officers may be elected. 21 Atty. Gen. 1068.

Whether county and city committees of the Democratic party may create regulations as to membership of party is a question for the par-

ty to determine and is not governed by statute. Party committee has no power to change term of office of committeeman. 25 Atty. Gen. 221.

8.18 History: 1965 c. 666; Stats. 1965 s. 8.18.

Legislative Council Note, 1965: Sub. (1) is based on s. 5.36 (1) (1st sentence), but the date has been fixed at approximately the same date as the present provision.

Sub. (2) (a) is a restatement of s. 5.36 (1) (2nd and last sentences). Par. (b) is a restatement of s. 5.36 (1) (3rd sentence). Par. (c) is a restatement of s. 5.36 (1) (4th and 5th sentences). Par. (d) is a restatement of s. 5.36 (1) (6th sentence).

Sub. (3) is based on s. 5.36 (2), but the date for filing has been reduced from 30 to 10 days, as 30 days is unduly long. [Bill 755-A]

8.185 History: 1969 c. 421; Stats. 1969 s. 8.185.

8.19 History: 1965 c. 666; Stats. 1965 s. 8.19.

Legislative Council Note, 1965: Sub. (1) is a restatement of s. 5.36 (3) (in part).

Sub. (2) is a restatement of s. 5.36 (3) (in part).

Sub. (3) is a restatement of s. 5.13 (4). [Bill 755-A]

8.20 History: 1965 c. 666; Stats. 1965 s. 8.20; 1967 c. 261; 1969 c. 2; 1969 c. 392 s. 85; 1969 c. 419.

Legislative Council Note, 1965: Sub. (1) is a restatement of s. 5.19 (1).

Sub. (2) is based on s. 5.19 (2), but the requirement that he state his business or vocation is deleted for uniformity.

Sub. (3) is a restatement of s. 5.19 (3).

Sub. (4) is based on s. 5.19 (4), but the percentage figures are changed to number categories for uniformity; the designated areas from which the signatures must be obtained is deleted; and, par. (f) is added for clarification.

Sub. (5) is based on s. 5.19 (5), but its provisions are made uniform with other sections in this bill.

Sub. (6) is a restatement of s. 5.19 (4) (last sentence).

Sub. (7) is a restatement of s. 5.19 (6) (1st sentence).

Sub. (8) is based on s. 5.19 (6) (last sentence), but is changed as necessary for uniformity in this bill.

Sub. (9) is a restatement of s. 6.23 (2) (last sentence), (9) (last sentence) and (13). [Bill 755-A]

The placing of ditto marks below the business or residence of a previous signer on a nomination paper is a substantial compliance with the statutory requirement that each signer shall add to his signature his business and residence. State ex rel. Dithmar v. Bunnell, 131 W 198, 110 NW 177.

8.20 (6), Stats. 1967, requires that declarations of acceptance and qualification be filed with the secretary of state, not only by presidential electors who are "candidates", but also by the independent nominees for President and Vice-President to whom they are pledged who are also deemed "candidates" for the purpose of meeting the requirements of the sta-

tute. State ex rel. Lemieux v. Zimmerman, 40 W (2d) 1, 161 NW (2d) 129.

Nomination papers not verified by affidavit as to post-office address and date of signing are irregular and invalid and should not be filed. 1 Atty. Gen. 275; 3 Atty. Gen. 373.

Where a county clerk has received and filed nomination papers, even though the affidavit appended thereto is of questionable validity, he should not leave the name of the person so nominated off the ballot. 6 Atty. Gen. 156.

Independent nominations for President and Vice-President may be made by securing the signatures of not less than 3,000 nor more than 5,000 electors on nomination papers containing the names of the 2 candidates and 12 electors, at least 10 of whom reside in the 10 congressional districts. 57 Atty. Gen. 6.

8.25 History: R. S. 1849 c. 6 ss. 85, 87; R. S. 1858 c. 7 ss. 97, 99; 1862 c. 65; R. S. 1878 s. 128; 1881 c. 300 s. 1; Ann. Stats. 1889 ss. 128, 1792a; Stats. 1898 s. 128; 1911 c. 484; 1917 c. 622 s. 2; Stats. 1917 ss. 14.01, 14.02; 1965 c. 666; Stats. 1965 ss. 8.25, 14.01, 14.02; 1969 c. 241 ss. 3, 33; 1969 c. 276 ss. 7, 605; Stats. 1969 s. 8.25.

Legislative Council Note, 1965: Sub. (1) is a restatement of s. 9.04.

Sub. (2) is a restatement of s. 9.02 (1).

Sub. (3) is a restatement of s. 9.01. [Bill 755-A]

On the term of governor see note to sec. 1, art. V; and on election of governor and lieutenant governor see notes to sec. 3, art. V.

The custom of officers to begin their terms upon noon of the day fixed by statute is recognized as having the force of law. State ex rel. Emberson v. Byrne, 98 W 16, 73 NW 320.

8.30 History: 1965 c. 666; Stats. 1965 s. 8.30.

Legislative Council Note, 1965: This section is a restatement of the combined provisions of ss. 5.30, 10.29 (in part), 10.33 (6) and 10.64 (last part). [Bill 755-A]

Editor's Note: In opinions rendered before the enactment of ch. 349, Laws 1949, the attorneys general ruled that the county clerk acts in a ministerial capacity in respect to nomination papers and that he should put on the official ballot the names of all candidates who file nomination papers regular on their face; the citations are 5 Atty. Gen. 626 and 9 Atty. Gen. 385.

8.35 History: 1965 c. 666; Stats. 1965 s. 8.35; 1969 c. 392 s. 86.

Legislative Council Note, 1965: Sub. (1) combines ss. 5.18 (1st part) and 5.265 (1st part) and makes changes as necessary to provide uniformity.

Sub. (2) combines ss. 5.18 (in part) and 5.265 (last part), but permits a personal campaign committee to appoint only for nonpartisan offices.

Sub. (3) is a restatement of s. 5.18 (next to last sentence). [Bill 755-A]

Under 5.28, Stats. 1941, where a nominee, who was one of 2 selected at a primary, died 11 days before the election for the office of municipal judge, having no personal campaign committee, and where the county board made a nomination to fill the vacancy and filed the certificate thereof at the earliest possible date after the vacancy occurred, such nomination

was valid and effective. Petition of Leuch, 244 W 305, 12 NW (2d) 61.

When one who has secured enough signers to nomination papers to entitle him to have his name printed on the party primary ballot withdraws, no vacancy is created within the meaning of 5.18, Stats. 1917. 7 Atty. Gen. 478.

8.50 History: 1965 c. 666; Stats. 1965 s. 8.50; 1967 c. 261; 1969 c. 2, 355; 1969 c. 392 s. 86.

Legislative Council Note, 1965: The intro. par. combines ss. 5.29 (1) (last sentence), 7.01 (1) and 7.06 (3rd sentence) but is made general to include judicial offices, and the deadline for special elections before a general election has been changed from 60 days to September 1.

Sub. (1) (a) is based on s. 7.04 (1) and (3). The notice will no longer be given by the sheriff when a special election is held for county clerk as there will always be someone more familiar with the procedure in the county clerk's office. Par. (b) is based on ss. 5.29 (2), 7.03 and 7.05 (1st part). The notices have been made uniform with the notice provisions of ch. 10 in this bill and the posting requirement has been deleted. Par. (c) is based on s. 7.04 (2) (1st part), but adds other provisions of a type A notice under ch. 10 in this bill. Par. (d) is based on ss. 5.29 (4) and 7.05 (last sentence). The date when the secretary of state shall send the certified lists is changed from 18 to 15 days. The notice provisions are clarified and made uniform with ch. 10 in this bill.

Sub. (2) (a) is a restatement of s. 7.04 (2) (last part). Par. (b) is a restatement of s. 5.29 (1) (1st sentence, last part).

Sub. (3) (a) is a restatement of s. 5.29 (3) for the deadline. The beginning circulation date is new. Par. (b) is a restatement of s. 5.29 (5).

Sub. (4) (a) is a restatement of s. 7.01 (2a). Par. (b) is based on s. 7.01 (2), but the dates have been established so they can be more readily ascertained. Par. (c) is based on s. 7.01 (5). The dates have been established and the provisions clarified. Par. (d) is based on s. 7.01 (4), but the latest a special election can be held preceding a general election was changed from 60 days to September 1. Par. (e) is a restatement of s. 7.01 (3). Par. (f) is based on s. 8.02 (2) with established dates and clarification. Par. (g) combines ss. 7.02 (intro. par.), (1) and 7.06 (last sentence) without substantive change. Par. (h) is a restatement of s. 7.02 (2). Par. (i) is a restatement of s. 7.02 (3). [Bill 755-A]

Editor's Note: Antecedent statutes governing the holding of special elections to fill vacancies in elective offices were considered in the following cases (among others): Doberstein v. Dahl, 181 W 491, 195 NW 416; and Hauerwas v. Zimmerman, 230 W 449, 284 NW 51. See also 7 Atty. Gen. 399 and 41 Atty. Gen. 313.

CHAPTER 9.

Post Election Actions; Direct Legislation.

9.01 History: 1965 c. 666; Stats. 1965 s. 9.01.

Legislative Council Note, 1965: Sub. (1) (a) is a restatement of s. 6.66 (1) (1st sentence and 2nd sentence, in part). Par. (b) is in part