

CHAPTER 12.

CORRUPT PRACTICES RELATING TO ELECTIONS.

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12.01 Definition of terms. The following words and phrases as used in this chapter shall be construed as follows:

(1) Any act shall be deemed to have been done for "political purposes" when the act is of a nature, is done with the intent, or is done in such a way, as to influence or tend to influence, directly or indirectly, voting at any election or primary, or on account of any person having voted, or refrained from voting, or being about to vote or refrain from voting at any election or primary.

(2) The term "candidate" shall mean and include every person for whom it is contemplated or desired that votes may be cast at any election or primary, and who either tacitly or expressly consents to be so considered, except candidates for president and vice president of the United States.

(3) The term "disbursement" shall mean and include every act by or through which any money, property, office or position or other thing of value passes or is directly or indirectly conveyed, given, provided, paid, expended, promised, pledged, contributed or lent, and also any money, property, office or position or other thing of value so given, provided, paid, expended, promised, pledged, contributed or lent.

(4) The term "filing officer," when used with reference to any candidate, shall be construed to mean the officer who is authorized by law to issue a certificate of nomination or election to such candidate, if he be successful. If there be no officer authorized to issue such certificate of nomination or election, then such term shall be construed to mean the clerk of the town, city or village in which such candidate resides. [1935 c. 308; 1937 c. 101]

Note: Candidate for precinct committee-man must file financial statements. 25 Atty. Gen. 508. Distribution of blotters bearing campaign material is probably not in violation of (3) and 12.07. 25 Atty. Gen. 518.

12.02 Acceptance of unlawful political disbursements. (1) No person shall receive or accept any money, property or other thing of value, or any promise or pledge thereof, constituting a disbursement made for political purposes contrary to law.

(2) In any prosecution for the violation of this section, it shall be a defense if the accused person shall prove that he had neither knowledge that such disbursement constituted a disbursement made for political purposes contrary to law, nor any reasonable cause to believe that it constituted such disbursement.

12.03 Disbursements by candidates, how made. No candidate shall make any disbursement for political purposes except under his personal direction which for every purpose shall be considered his act, through a party committee, or through a personal campaign committee, whose authority to act shall be filed, as provided in section 12.04.

12.04 Appointment of personal campaign committee; presumption of authority. Any candidate may select a single personal campaign committee to consist of one or more persons. Before any personal campaign committee shall make any disbursement in be-

half of any candidate, or shall incur any obligation, express or implied, to make any disbursement in his behalf, it shall file with the filing officer of such candidate, a written statement, signed by such candidate, setting forth that such personal campaign committee has been appointed and giving the name and address of each member thereof, and the name and address of the secretary thereof. If such campaign committee consists of only one person, such person shall be deemed the secretary thereof. Any candidate may revoke the selection of any member of such personal campaign committee by a revocation in writing which, with proof of personal service on the member whose selection is so revoked, shall be filed with the filing officer of such candidate. Such candidate may fill the vacancy thus created in the manner in which an original appointment is made. In civil actions and proceedings brought under this chapter, the acts of every member of such personal campaign committee shall be 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, and that, in the exercise of reasonable care and diligence, he could not have had knowledge of and opportunity to disapprove the same.

12.05 [*Repealed by 1917 c. 566 s. 9*]

12.06 Legal disbursements by candidates. (1) No candidate shall make any disbursement for political purposes except:

(a) For his own personal hotel and traveling expenses and for postage, telegraph and telephone expenses.

(b) For payments which he may make to the state pursuant to law.

(c) For contributions to his duly registered personal campaign committee.

(d) For contributions to his party committee.

(e) For necessary expenses, incident to the furnishing of and printing political advertising upon paper book matches and the distribution thereof.

(f) For the purposes enumerated in section 12.07, when such candidate has no personal campaign committee, but not otherwise.

(2) After the primary, no candidate for election to the United States senate shall make any disbursement in behalf of his candidacy, except contributions to his party committees, for his own actual necessary personal traveling expenses, and for postage, telephone and telegraph expenses, and for payments which he may make to the state pursuant to law. [*1937 c. 101*]

12.07 Legal disbursements by committees. No party committee nor personal campaign committee shall make any disbursement except:

(1) For maintenance of headquarters and for hall rentals, incident to the holding of public meetings.

(2) For necessary stationery, postage and clerical assistance to be employed for the candidate at his headquarters or at the headquarters of the personal campaign committee, incident to the writing, addressing and mailing of letters and campaign literature.

(3) For necessary expenses, incident to the furnishing and printing of badges, banners and other insignia, to the printing and posting of handbills, posters, lithographs and other campaign literature, and the distribution thereof through the mails or otherwise.

(4) For campaign advertising in newspapers, periodicals or magazines, as provided in this chapter.

(5) For wages and actual necessary personal expenses of public speakers.

(6) For traveling expenses of members of party committees or personal campaign committees.

(7) For necessary expenses, incident to the furnishing of and printing political advertising upon paper book matches and the distribution thereof. [*1937 c. 101*]

12.08 Time for presentation and payment of bills. Every person who shall have any bill, charge or claim upon or against any personal campaign committee, any party committee or any candidate, for any disbursement made, services rendered, or thing of value furnished, for political purposes, or incurred in any manner in relation to any primary or election, shall render in writing to such committee or candidate such bill, charge or claim within ten days after the day of the election or primary in connection with which such bill, charge or claim was incurred. No candidate and no personal campaign or party committee shall pay any bill, charge or claim so incurred prior to any primary or election, which is not so presented within ten days after such primary or election.

12.09 Receipts and disbursements by candidates and committees. (1) Every candidate, the secretary of every personal campaign committee and the secretary of every party committee shall before five o'clock in the afternoon of the Tuesday preceding any primary or election and on the Saturday following any election or primary, file a financial statement verified upon the oath of such candidate or upon the oath of the secretary of such

committee, as the case may be, which statement shall cover all transactions not accounted for and reported upon in statements theretofore filed. Each statement after the first shall contain a summary of all preceding statements, and summarize all items theretofore reported under the provisions of each subdivision of subsection (3) of this section. The mailing of such statement within the required time, under registered mail addressed to the proper filing office, shall be sufficient proof of filing of such statement.

(2) The statement of every candidate and the statement of his personal campaign committee shall be filed with the filing officer of such candidate. The statement of every state central committee and of every congressional committee shall be filed with the secretary of state. The statement of every party committee for a state senatorial district, or for an assembly district, shall be filed with the filing officer of the candidate for state senator or assemblyman in such district. The statement of every other party committee shall be filed in the office of the county clerk of the county for which or for a subdivision of which it is the party committee.

(3) Each such statement shall give in full detail:

(a) Every sum of money and all property, and every other thing of value, over five dollars in amount or value, received by such candidate or committee during such period from any source whatsoever which he uses or has used, or it is at liberty to use for political purposes, together with the name of every person from which each was received, the specific purpose for which each was received, and the date when each was received, together with the total amount received from all sources in any amounts or manner whatsoever.

(b) Every promise or pledge of money, property or other thing of value, over five dollars in amount or value, received by such candidate or committee during such period the proceeds of which he uses or has used, or it is at liberty to use for political purposes, together with the names of the persons by whom each was promised or pledged, the specific purposes for which each was promised or pledged, and the date when each was so promised or pledged, together with the total amount promised or pledged from all sources in any amounts or manner whatsoever.

(c) Every disbursement over five dollars in amount or value made by such candidate or committee for political purposes during such period, together with the name of every person to whom the disbursement is made, the specific purpose for which each was made, and the date when each was made, together with the total amount of disbursements made in any amounts or manner whatsoever.

(d) Every obligation, express or implied, to make any disbursement, over five dollars in amount or value, incurred by such candidate or committee for political purposes during such period, together with the names of the person or persons to or with whom each such obligation has been incurred, the specific purpose for which each was made, and the date when each was incurred, together with the total amount of such obligations made in any amounts or manner whatsoever.

(e) In the event there are no receipts, disbursements or obligations, candidates and committees shall file statements at the usual time to that effect.

(4) (a) Blanks for all statements required by this section shall be prepared by the secretary of state and copies thereof, together with either a copy of this chapter, or a copy of the election laws, shall be furnished by the secretary of state and the county clerk in their respective filing districts to the secretary of every personal campaign committee and to the secretary of every party committee and to every candidate upon the filing of nomination papers, and to all other persons required by law to file such statements who may apply therefor.

(b) The secretary of state, county clerk or other filing officer with whom the expense account of any committee or candidate for public office is required by any law of this state to be filed, shall, at least ten days before any election or primary notify such candidate or committee of the dates fixed by law for filing said statements and shall inclose the necessary blanks. He shall also notify such committee or candidate of failure to comply with such law immediately upon the expiration of the time fixed by any law of this state for the filing of the same, and shall inclose blank forms for the affidavit and order of court required under section 12.10 of the statutes. If the delinquent statement is not received within ten days from the last day allowed for filing under section 12.10, the filing officer shall notify the district attorney of the county where such candidate or secretary of committee resides of the fact of his failure to file, and said district attorney shall thereupon prosecute such candidate or secretary.

(5) (a) Any corporation, association, organization, committee or group, which in this state advocates, indorses or opposes any political party, faction or group, or any candidate

for any state or federal office, including the offices of president and vice president of the United States, or any constitutional amendment or measures to be voted on by the people, or which through paid advertisements advocates or opposes any governmental action, measure or policy, shall before making any expenditures or receiving contributions for such purposes, file a verified statement giving its name, the name and address of each of its officers, and in general terms the nature of its organization, the sources of its income and the purposes for which it expects to make expenditures or receive contributions. Such statement shall be filed with the secretary of state, if it proposes to make expenditures in more than one county or in advocacy or opposition to any candidate or measure voted upon in or affecting more than one county; and in other cases it shall be filed with the county clerk.

(b) Such corporations, associations, organizations, committees or groups shall also file with the secretary of state or the county clerk, as the case may be, a verified statement setting forth in detail the names of all contributors of five dollars or more to any fund raised or money expended for the political purposes mentioned in paragraph (a) of this subsection, and the total of all contributions for such purposes, whether more or less than five dollars, together with an itemized statement of all expenditures and all liabilities incurred. Such statements shall be filed on the second Saturday preceding any election or primary in which such corporation, association, organization, committee or group has made any expenditures or received any contributions for political purposes, and a final statement shall be filed within three weeks after such election or primary. A similar statement shall be filed on the second Saturday in July of each year, if expenditures have been made or liabilities incurred for political purposes since the last preceding annual statement aggregating five hundred dollars or more.

(c) The statement and reports required by this subsection shall be made by the president or other chief executive officer and the secretary or other recording officer on behalf of such corporation, association, organization, committee or group. [1933 c. 433 s. 3]

12.10 Candidate neglecting to file accounts omitted from ballot. The name of a candidate chosen at a primary or otherwise shall not be certified or printed on the official ballot for the ensuing elections, unless there has been filed by or on behalf of said candidate and by his personal campaign committee, if any, the statements of accounts and expenses relating to nominations required by this chapter up to the time for such certification. The foregoing shall not prevent the placing of the name of a candidate upon the official ballot if such statement shall be filed at least sixty days before the primary, or within seven days after the latest time otherwise provided by law, accompanied by an order approving such filing, which is hereby authorized to be made by the presiding judge of any court of record of this state, upon his being satisfied of the truth of an affidavit made by the candidate or by a member of his personal or campaign committee, in his behalf and duly authorized by him, setting forth the facts with regard to the omission to file such statement and showing that such omission was not intentional, which affidavit shall accompany such order and both be filed with such statement. On the petition of any elector entitled to vote for or against such candidate such order may be reviewed and set aside in a proceeding as provided in section 12.22.

12.11 Accounts of political disbursements by persons other than candidates or committees. (1) Every person other than a candidate or a personal campaign or party committee, who shall within any twelve months, make any disbursements for any political purpose, exceeding in the aggregate fifty dollars in amount and value, shall file within forty-eight hours after making any disbursement, causing the aggregate of such disbursements to reach such amount, a sworn statement thereof with the clerk of the county where-in he resides.

(2) Such statement shall give in full detail, with date, every item of money, property or other thing of value constituting any part of such disbursements, the exact means by which and the manner in which each such disbursement is made, and the name and address of every person to whom each was made, and the specific purpose for which each was made.

12.12 Solicitation of contributions from candidates or committees; publication of pledges. (1) No person, firm, corporation, association or committee therefor or member thereof, shall demand, solicit, take, invite or receive from any candidate, from any personal campaign committee or member thereof, or from any party committee or member thereof, any payment or contribution or obligation, express or implied, for payment or contribution of money or thing of value for any religious, charitable or fraternal cause or organization, except for personal campaign committees or regular party committees.

(2) No such candidate, committee or member thereof, shall make or promise or intimate that he will or may make such payment or contribution in the future.

(3) Nothing herein contained shall prohibit the payment of the regular subscription or contribution by any person to an organization of which he is a member, or to which he may have been a regular contributor, prior to his candidacy or membership on such committee, nor the ordinary contributions at a regular church service.

12.13 Disbursements on primary or election days. No person nor personal campaign or party committee shall pay or incur any obligation, express or implied, to pay, any sum of money or thing of value whatever, for services to be performed on the day of any primary or election, in behalf of any candidate, party or measure, to be voted upon at said primary or election; or for any political service performed on such day, or for any loss of time or damage suffered by attendance at the polls at the primary or election, or in registering for voting, or for the expense of transportation of any voter to or from the polls on such day.

12.14 Campaign matter or political advertisements in newspapers. (1) No publisher of a newspaper or other periodical shall insert, either in the advertising column of such newspaper or periodical or elsewhere therein, any matter paid for or to be paid for which is intended or tends to influence, directly or indirectly, any voting at any election or primary, unless at the head of said matter is printed in pica capital letters the words "Paid Advertisement," and unless there is also a statement at the head of said matter of the amount paid or to be paid therefor, the name, given and surname, and address of the candidate in whose behalf the matter is inserted, and of any other person, if any, authorizing the publication, and the name, given and surname, of the author thereof.

(2) Every person occupying any office or position under the constitution or laws of this state, or under any ordinance of any town or municipality therein, or under the constitution or laws of the United States, the annual income of which shall exceed three hundred dollars, and every candidate, every member of any personal campaign or party committee, who shall either in his own name, or in the name of any other person, own any financial interest in, any newspaper or periodical, circulating in part or in whole in Wisconsin, shall, before such newspaper or periodical shall print any matter otherwise than as is provided in subsection (1) hereof, which is intended or tends to influence, directly or indirectly, any voting at any election or primary in this state, file in the office of the county clerk of the county in which he resides a verified declaration, stating definitely the newspaper or periodical in which or over which he has such financial interest or control, and the exact nature and extent of such interest or control. The editor, manager or other person controlling the publication of any such newspaper or article, who shall print or cause to be printed any such matter contrary to the provisions of this chapter, prior to the filing of such verified declaration from every person required by this subsection to file such declaration, shall be deemed guilty of a violation hereof. [1935 c. 122]

12.15 Compensation to newspapers for political service. No owner, publisher, editor, reporter, agent or employe of any newspaper or other periodical, shall, directly or indirectly, solicit, receive or accept any payment, promise or compensation, nor shall any person pay or promise to pay, or in any manner compensate any such owner, publisher, editor, reporter, agent or employe, directly or indirectly, for influencing or attempting to influence through any printed matter in such newspaper any voting at any election or primary through any means whatsoever, except through the matter inserted in such newspaper or periodical as "paid advertisement," and so designated as provided by law.

12.16 Campaign literature must disclose author and candidate. No person shall publish, issue or circulate or cause to be published, issued or circulated otherwise than in a newspaper, as provided in subsection (1), of section 12.14, any literature or any publication tending to influence voting at any election or primary, which fails to bear on the face thereof the name, given and surname, and address of the author, the name, given and surname, and address of the candidate in whose behalf the same is published, issued or circulated, and the name, given and surname, and address of any other person causing the same to be published, issued or circulated. [1935 c. 122]

Note: Printing of sample ballot by citizens' committee of village without author's name and its distribution to certain workers at polls, purpose of which was to gain votes for candidate for village president not nominated at primary and to have his name written on official ballot, said sample being designed and intended only for use of worker and to be given to voter only upon request,

is not violation of corrupt practices act, especially in view of fact that authors and object of distribution of sample ballot were well known in village. 25 Atty. Gen. 310. Printing of handbills without author's name by printer who does not aid in circulating them does not violate chapter 12. 25 Atty. Gen. 312.

12.17 False statements affecting candidates. No person, firm or corporation shall knowingly make or publish, or cause to be made or published, any false statement in relation to any candidate, which statement is intended or tends to affect any voting at any primary or election.

Note: A complaint for ouster of a person from office on the ground that during the campaign for the office he made false statements concerning another candidate in viola-

tion of this section must set out such statement at least in substance. State ex rel. Ham-pel v. Mitten, 227 W 598, 278 NW 431.

12.18 Offers of public or private employment. No person shall, in order to aid or promote his nomination or election, directly or indirectly, himself or through any other person, appoint or promise to appoint any person, or secure or promise to secure or aid in securing the appointment, nomination or election of any person to any public or private position or employment, or to any position of honor, trust or emolument. Nothing herein contained, however, shall prevent a candidate from stating publicly his preference for or support of any other candidate for any office to be voted for at the same primary or election; nor prevent a candidate, for any office in which the person elected will be charged with the duty of participating in the election or the nomination of any person as a candidate for any office, from publicly stating or pledging his preference for or support of any person for such office or nomination.

12.19 Threats of loss of employment. No person being an employer or acting for or in behalf of any employer shall give, distribute or cause to be given or distributed to any of his employes, any printed or written matter containing any threat, notice or information, that in case any particular ticket of a political party or organization or candidate shall be elected, or any measure referred to a vote of the people, shall be adopted, work in his place or establishment will cease, in whole or in part, or his place or establishment be closed up, or the salaries or wages of his workmen or employes be reduced, or other threats, expressed or implied, intended or calculated to influence the political opinions or actions of his workmen or employes.

12.20 Limitation of expenditures by candidates. (1) No disbursement shall be made and no obligation, express or implied, to make such disbursement, shall be incurred by or on behalf of any candidate for any office under the constitution or laws of this state, or under the ordinance of any town or municipality of this state in his campaign for nomination, which shall be in excess of the amounts herein specified, and in his campaign for election be in excess of one-half the amounts herein specified, namely:

- (a) For United States senator, five thousand dollars.
- (b) For representative in congress, seventeen hundred and fifty dollars.
- (c) For governor, four thousand dollars. For judge of the supreme court or state superintendent of schools, three thousand dollars.
- (d) For other state officers, fifteen hundred dollars.
- (e) For state senator, four hundred dollars.
- (f) For member of assembly, one hundred fifty dollars.
- (g) For presidential elector at large, five hundred dollars, and for presidential elector for any congressional district, one hundred dollars.
- (h) For any county, city, village or town officer, for any judge or for any officer not hereinbefore mentioned, who, if nominated and elected, would receive a salary, a sum not exceeding one-third of the salary to which such person would, if elected, be entitled during the first year of his incumbency of such office. If such person when nominated and elected, would not receive a salary, a sum not exceeding one-third of the compensation which his predecessor received during the first year of such predecessor's incumbency. If such officer, when nominated and elected, would not receive a salary and if such officer had no predecessor, and in all cases not specifically provided for, twenty-five dollars and no more.

(2) Any candidate may delegate to his personal campaign committee or to any party committee of his party, in writing duly subscribed by him, the expenditure of any portion of the total disbursements which are authorized to be incurred by him or on his behalf, by the provisions of this section, but the total of all disbursements by himself, by his personal campaign committee in his behalf, by all party committees in his behalf, or otherwise made in his behalf, shall not exceed in the aggregate the amounts in this section specified, except as provided in section 12.21.

Note: Where election for unexpired term and election for full term are same time, candidate who is running for both short and long terms must file separate expense statement for each candidacy and may disburse

for each candidacy the amount specified by (1) (b). 19 Atty. Gen. 443.

Amount candidate for circuit judge may expend in campaign for election is governed by (1) (h). 28 Atty. Gen. 479.

12.21 Limitation of expenditures by committees. (1) No disbursement shall be made and no obligation, express or implied, to make such disbursement, shall be incurred by or on behalf of any party committee, or by or on behalf of any personal campaign committee, exceeding in the aggregate the total amounts theretofore delegated to such committee in writing, duly subscribed as provided in section 12.20.

(2) The state central committee of any political party entitled by law to have the names of its candidates placed upon the official ballot in a general election may, however, in addition to the disbursements and obligations to make disbursements provided for in subsection (1) hereof, make further disbursements in connection with any general election, not exceeding in the aggregate the sum of ten thousand dollars, and every disbursement in excess of that amount is forbidden.

12.22 Special proceedings and counsel to prosecute violations. (1) If any elector of the state shall have within his possession information that any provision of this chapter, has been violated by any candidate for which such elector had the right to vote, or by any personal campaign committee of such candidate, or any member thereof, he may, by verified petition apply to the county judge of the county in which such violation has occurred, to the attorney-general of the state, or to the governor of the state, for leave to bring a special proceeding to investigate and determine whether or not there has been such violation by such candidate or by such committee or member thereof, and for appointment of special counsel to conduct such proceeding in behalf of the state.

(2) If it shall appear from such petition or otherwise that such candidate, committee or member thereof has violated any provision of this chapter, and that sufficient evidence is obtainable to show that there is probable cause to believe that such proceeding may be successfully maintained, then such judge or attorney-general or governor, as the case may be, shall grant leave to bring such proceeding and shall appoint special counsel to conduct such proceeding.

(3) If such leave be granted and such counsel appointed such elector may, by a special proceeding brought in the circuit court in the name of the state upon the relation of such elector, investigate, and said court shall determine whether or not such candidate, committee or member thereof, has violated any provision of this chapter; but nothing contained in this chapter shall be considered as limiting in any way the effect, or as preventing the operation, of any other existing remedy.

Note: State is not liable for witness fees under this section. 25 Atty. Gen. 516.

12.23 Process; pleadings; trial; evidence; costs. (1) In such proceeding the complaint shall be served with the summons, and shall set forth the name of the person whose election is contested, and the grounds of the contest in detail, and shall not thereafter be amended except by leave of the court. The summons and complaint in the proceeding shall be filed within five days after service thereof.

(2) The answer to the complaint shall be served and filed within ten days after the service of the summons and complaint. Any allegation of new matter in the answer shall be deemed controverted by the adverse party without reply, and thereupon said proceeding shall be at issue and stand ready for trial upon five days' notice of trial.

(3) All such proceedings shall have precedence over any civil cause of a different nature pending in such court, and the same shall be tried and determined the same as civil actions are tried and determined.

(4) If more than one proceeding is pending or the election of more than one person is investigated and contested, the court may, in its discretion, order the proceedings consolidated and heard together and may equitably apportion costs and disbursements.

(5) The parties to such proceedings may invoke the provisions of sections 325.14 and 326.12, but two days' notice of the taking of the deposition of any witness shall be sufficient notice thereof.

(6) In all such proceedings either party shall have the right of change of venue, as provided by law in civil actions, but application for such change must be made within five days after service of summons and complaint, and the order for such change shall be made within three days after the making of such application and the papers transmitted forthwith, and any neglect of the moving party to procure such transmission within such time shall be a waiver of his right to such change of venue.

(7) If judgment is in favor of the plaintiff the relator may recover his taxable costs and disbursements against the person whose right to the office is contested, but no judgment for costs shall be awarded against the relator, unless it shall appear that such proceeding has been instituted otherwise than in good faith. All costs and disbursements in such cases shall be in the discretion of the court.

12.24 Judgment or findings; appeal; forfeiture of office. (1) If the court shall find that the candidate whose right to any office is being investigated, or his personal campaign committee or any member thereof has violated any provision of this chapter, in the conduct of the campaign for nomination or election, and if such candidate is not one mentioned in subsection (2) hereof, judgment shall be entered declaring void the election of such candidate to the office for which he was a candidate, and ousting and excluding him from such office and declaring the office vacant. The vacancy thus created shall be filled in the

manner provided by law, but no person found to have violated any provision of this chapter shall be eligible to fill any office or to become a candidate for any office, candidates for which have been voted for at the primary or election in connection with which such violation occurred.

(2) If such proceeding has been brought to investigate the right of a candidate for member of the state senate or state assembly or for senator or representative in congress, and the court shall find that such candidate or any member of his personal campaign committee has violated any provision of this chapter, in the conduct of the campaign for nomination or election, the court shall draw its findings to such effect and shall forthwith, without final adjudication, certify his findings to the secretary of state, to be by him transmitted to the presiding officer of the legislative body, as a member of which such person is a candidate.

(3) Appeals may be taken from the determination of the court in such proceeding in the same manner as appeals may be taken as provided by law in civil actions, but the party appealing shall in no case be entitled to or obtain a stay of proceedings. No injunction shall issue in any such proceeding suspending or staying any procedure therein or connected therewith, except upon application to the court or the presiding judge thereof, upon notice to all parties and after hearing.

(4) No judgment entered as provided for herein shall be any bar to or affect in any way any criminal prosecution of any candidate or other person.

Note: For interpretation of conflict between 5.01 and 12.24, see annotation to 5.01, citing *State ex rel. Pelishek v. Washburn*, 223 W 595, 270 NW 541.

The distribution by a candidate of mirrors and match containers upon which political advertising was printed is a violation of the

corrupt practices act and upon proof thereof judgment should be entered declaring the election void and excluding the candidate from office and declaring the office vacant. *State ex rel. Orvis v. Evans*, 229 W 304, 282 NW 14.

12.25 Special counsel in supreme court. (1) If the judgment of the trial court is appealed from in such proceeding, the county judge, the attorney-general or the governor, who made the appointment of special counsel for the trial court, shall authorize such counsel so appointed, or some other person to appear as special counsel in the supreme court in such matter.

(2) The special counsel provided for by this chapter shall receive a reasonable compensation for his services, not to exceed, however, twenty-five dollars per day for the time actually spent in conducting the proceedings in the trial court or upon appeal, and not to exceed ten dollars per day for the time necessarily expended in preparation therefor. Such compensation shall be audited by the secretary of state, and paid out of the state treasury upon a voucher and upon the certificate of the officer appointing such counsel to the effect that such appointment has been duly made, that the person so appointed has faithfully performed the duties imposed upon him, and that the number of days stated in such voucher have been consumed in conducting such litigation and in preparation therefor. Such compensation shall be charged to the legal expense appropriation provided in subsection (2) of section 20.08.

12.26 Privilege of witness limited. No person shall be excused from testifying in such proceeding, or in any proceeding for violation of or growing out of the provisions of this chapter, on the ground that his testimony may expose him to prosecution for any crime, misdemeanor or forfeiture. But no person shall be prosecuted, or subjected to any penalty or forfeiture, except forfeiture of nomination or of election to office, for or on account of any transaction, matter or thing concerning which he may testify or produce evidence, documentary or otherwise, in such proceeding or examination, except a prosecution for perjury committed in giving such testimony.

12.27 [*Renumbered section 12.09 sub. (4) par. (b) by 1921 c. 161 s. 3*]

12.28 Supplemental judgment of forfeiture of office on prosecution for violation.

(1) If the successful candidate for any office under the constitution or laws of this state, or under any ordinance of any town or municipality therein, other than the office of state senator or member of assembly, shall, in a criminal action, be adjudged guilty of any violation of this chapter committed during his candidacy or election, the court shall, after entering such judgment, enter a supplemental judgment declaring a forfeiture of the defendant's right to the office and transmit to the filing officer of such candidate a transcript of such supplemental judgment. Such candidate shall not thereafter succeed to the office if his term shall not yet have begun, and the office shall become vacant if his term shall have begun and it shall be filled in the manner provided by law.

(2) If any person shall, in a criminal action, be adjudged guilty of any violation of this chapter, committed while he was a member of the personal campaign committee of the successful candidate for any such office, the court entering such judgment shall im-

mediately thereafter enter a supplemental judgment declaring a forfeiture of the candidate's right to the office and transmit to the filing officer of such candidate a transcript of such supplemental judgment. Such candidate shall not thereafter succeed to the office if his term shall not yet have begun, and the office shall become vacant if his term shall have begun and it shall be filled in the manner provided by law.

(3) If any person shall, in a criminal action, be adjudicated guilty of any violation of this chapter, committed while he was a candidate for the office of state senator, member of the assembly, United States senator or representative in congress, or while he was a member of the personal campaign committee of any such candidate, the court, after entering such adjudication of guilty, shall forthwith transmit to the presiding officer of the legislative body for membership in which such officer was a candidate when such violation occurred, a certificate setting forth such adjudication of guilty.

12.29 Candidate may employ counsel. Nothing contained in this chapter shall prevent any candidate from employing counsel to represent him in any action or proceeding, affecting his rights as a candidate, nor from paying all costs and disbursements necessarily incident thereto. No sum so paid or incurred shall be deemed a part of the campaign expenses of any such candidate.