

## CHAPTER 7

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

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#### SELECTION AND DUTIES

**7.03 Compensation of election officials.** A reasonable compensation of not less than \$5 per day shall be paid to each election clerk, ballot clerk, inspector, voting machine custodian, member of a board of canvassers and messenger employed and performing duties under this title. The amount of compensation shall be fixed by the appropriate governing body. The secretary of state shall fix the amount to be paid any person employed to perform duties for the state and charge the expenditures to the appropriation of the hiring official or board.

**History:** 1965 c. 666.

**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 No. 755-A)

**7.08 Secretary of state.** In addition to his duties for ballot arrangement under ch. 5 and date and notice requirements under ch. 10, the secretary of state shall:

(1) **ELECTION FORMS, BLANKS, VOTING APPARATUS.** (a) Prepare all official ballot forms necessary under this title and revise the official ballot forms to harmonize with legislation and the current official status of the political parties whenever necessary. Samples of the official ballots shall be published with this title for public use and distribution and the prescribed forms shall be substantially followed in all elections under this title.

(b) Prepare and provide the necessary blanks to make the canvass, returns, statements and tally sheet statements for all state, congressional, legislative and county elections

whether general, special or judicial, and all materials as he deems necessary. The blanks shall contain the necessary certificates of the inspectors and canvassers with notes explaining their use and statutory basis. Blanks for use at the September primary shall be forwarded to the county clerks not later than the 2nd Friday in August. Blanks for the general election shall be forwarded to the county clerks not later than the 2nd Friday in October. The secretary of state is required to furnish only the standard form tally sheet statement to any city or county.

(c) With the approval of the attorney general, promulgate rules for the administration of the statutory requirements for voting machines and any other voting apparatus which may be introduced in this state for use at elections. He may obtain assistance from competent persons to check the machines and apparatus and approve for use those meeting the statutory requirements and shall establish reasonable compensation for persons performing duties under this subsection.

(2) **CERTIFIED LISTS.** (a) As soon as possible after the closing date for filing nomination papers or after the canvass of the primary vote, but no later than the deadlines established in s. 10.06 transmit to each county clerk a certified list of all candidates on file in his office for which electors in that county may vote. The list shall designate the order of arrangement and contain each candidate's name in any combination of initials or familiar and common abbreviations for the first and middle names plus the last name, but no nicknames or titles; his residence and post-office address; the office for which he is a candidate; and, the party or principle he represents, if any. Names of candidates nominated

under s. 7.38 (3) or 8.35 shall be certified by the secretary of state upon filing of the necessary papers with him.

(b) The certified list of candidates for president and vice president nominated at a national convention by a party entitled to a September primary ballot or for whom electors have been nominated under s. 8.20 shall be sent as soon as possible after the closing date for filing nomination papers, but no later than the deadlines established in s. 10.06.

(3) ELECTION MANUAL. Prepare and publish separate from the election laws an election manual explaining the duties of the election officials and the qualifications and privileges of electors, together with notes and references to the statutes as he deems advisable. The manual shall be furnished free to election officials and others in such manner as he deems most likely to promote the public welfare.

(4) QUESTION REFERRAL. Refer any questions submitted under s. 7.10 (4) or 7.15 (8) to the attorney general or department of administration for official determination.

**History:** 1965 c. 666.

**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.

Sub. (2) (a) is a combination of ss. 6.19 (1), 5.08 (1) and 5.25 (4) except the date provisions. Par. (b) is new in part. It establishes statutory procedure for placing presidential candidates on the ballot.

Sub. (3) is a restatement of s. 6.81.

Sub. (4) covers that part of s. 6.82 (4) giving the secretary of state the right to refer questions. The attorney general is added since he could more appropriately answer certain questions than the department of administration. (Bill No. 755-A)

**7.10 County clerks.** (1) ELECTION SUPPLIES AND BALLOTS. (a) Each county clerk shall provide printed ballots for every election in his county for all offices of county level or above. The official and sample ballots shall be printed in substantially the same form as those annexed to ch. 5.

(b) The county clerk shall supply sufficient registry list blanks for municipalities that do not have elector registration and other election supplies. The registry list blanks shall contain the forms for the official oaths of the election

officials. The registry list blanks and other election supplies shall be enclosed in the sealed package containing the official ballots and delivered to the municipal clerk for each precinct.

(c) With county board approval any county clerk may purchase or print the official forms of nomination papers for distribution to any person at cost or free.

(2) PREPARING BALLOTS. The county clerk shall prepare copy for the official ballots immediately upon receipt of the certified list of candidates' names from the secretary of state. Names certified by the secretary of state shall be arranged in the order certified. The county clerk shall place the names of all candidates filed in his office or certified to him by the secretary of state on the proper ballots under the appropriate office and party titles.

(3) TIME SCHEDULE. (a) The county clerk shall distribute the ballots to the municipal clerks 3 weeks before any primary or general election. He shall distribute the ballots for the spring election so they are received by the municipal clerks at least 10 days before the election. Election blanks prepared by the secretary of state shall be distributed at the same time.

(b) The county clerk shall distribute an adequate supply of separately wrapped official ballots to each municipal clerk so the municipal clerk may supply ballots to absent elector applicants. The remaining ballots shall be sent in separately sealed packages clearly designating the precinct for which each is intended and the approximate number of ballots of each kind enclosed.

(4) RESOLVING NOTICE DOUBTS. When in doubt as to compliance with the statutory requirements for election notices or the correct fees to be paid for them, the county clerk may consult the secretary of state.

**History:** 1965 c. 666.

**Legislative Council Note, 1965:** The purpose of this section is to set forth the duties of the county clerk. Sub. (1) (a) is a combination of ss. 5.11 (5) (1st sentence), 6.25 (1) (1st part of 1st sentence) and 11.09 (1) (a) as it applies to county clerks. The last sentence of par. (a) is s. 5.70 (1) (1st sentence) without substantive change. Par. (b) is s. 6.28 (1) without substantive change. Par. (c) is a restatement of s. 6.28 (2).

Sub. (2) is a combination of ss. 6.25 (1) (1st sentence, in part) and 5.11 (1).

Sub. (3) (a) is a restatement of ss. 5.11 (5) (last sentence), 6.29 (1) (1st sentence) and 6.78 (1st sentence). Par. (b) is based on s. 6.29 (1) (2nd sentence to the end of the subsection), but does not provide that 5% of the ballots shall be kept separate for absentee electors.

Sub. (4) restates that part of s. 6.82 (4) pertaining to the county clerk.

The duty assigned to the county clerk by s. 6.29 (4) pertaining to the filing of a receipt has been deleted to bring the statutes in line with present practice in many areas of the state, but this bill does not prevent the county clerk from still requesting receipts.

Also deleted is the duty presently assigned to the sheriff when there is no person authorized to act for the county clerk under s. 6.82 (6). There is always a deputy clerk or someone in the clerk's office who, although not so authorized, can fulfill the duties better than a sheriff who would be relatively unfamiliar with the election statutes and procedure. (Bill No. 755-A)

**7.11 Menominee county; town elections.**

The clerk shall prepare a ballot distinguishing between supervisors elected at large and by precinct in any county having only one town with a part of the board members elected by precincts.

**History:** 1965 c. 666.

**Legislative Council Note, 1965:** This is a restatement of s. 10.525 pertaining only to Menominee county. (Bill No. 755-A)

**7.15 Municipal clerks.** (1) SUPERVISE REGISTRATION AND ELECTIONS. Each municipal clerk has charge and supervision of elections and registration in the municipality. He shall perform the following duties and any others which may be necessary to properly conduct elections or registration:

- (a) Equip polling places.
- (b) Provide for the purchase and maintenance of election equipment.
- (c) Provide ballots and other supplies for conducting elections. Materials received from the county clerk shall be delivered with the ballots before the polls open.
- (d) Prepare the necessary notices and publications in connection with the conduct of elections or registrations.
- (e) Instruct election officials in their duties, calling them together whenever advisable, and inspect systematically and thoroughly the conduct of elections in the municipality so that elections are honestly, efficiently and uniformly conducted.
- (f) May discharge an election official for improper conduct or wilful neglect of duties.
- (g) Report suspected election frauds, irregularities or violations of which he has knowledge to the district attorney.
- (h) Review, examine and certify the sufficiency and validity of petitions and nomination papers.
- (i) Direct how and when to destroy the contents of the blank ballot boxes and unused election materials.

(2) MUNICIPAL ELECTION DUTIES. (a) In municipal elections, the municipal clerks shall perform the duties prescribed for county clerks by s. 7.10.

(b) Cities over 500,000 population may print their own official and sample ballots. The ballots shall be printed so they are ready at least 2 days before the election.

(c) With the consent of the county clerk, municipalities may print their own ballots

whenever voting machines are used in non-partisan elections where both local and judicial candidates appear on the ballot. This paragraph does not apply to cities under par. (b).

(d) Whenever by ordinance or resolution the governing body of any municipality submits any question, ordinance or proposed recall from office to a vote of the electors, the municipal clerk shall issue a call for the election and prepare and distribute ballots as required in the authorization of submission. The ballot shall conform to s. 5.64 (2). If there is already an official ballot for the election, the question, ordinance or recall may be printed at the bottom of the ballot.

(3) VOTING MACHINE DUTIES. (a) Where voting machines are used, the municipal clerk shall provide at least 2 duplicate sample ballots for each voting precinct in diagram form showing the front of the machine as it will appear in the voting booths on election day.

(b) Machine and sample ballots shall be furnished to the precinct officials at least one day before the election.

(4) RECORDING ELECTORS. After each election where registration other than permanent registration is used, the municipal clerk shall make a record of each elector who has voted at the election by stamping or writing the date of the election in the appropriate space on the original registration affidavit of the elector.

(5) RECORD OF BALLOTS RECEIVED. Each municipal clerk shall keep a record of when and in what condition the packages containing the ballots were received from the county clerk. The municipal clerk shall deliver to the proper officials the unopened packages of ballots the day before the election.

(6) SUBSTITUTE BALLOTS. The municipal clerk shall provide substitute ballots in substantially the form of the original ballots whenever the necessary original ballots are not delivered to the municipality, are destroyed, are lost or stolen after delivery, are not ready for distribution or the supply is exhausted during polling hours. Upon receiving the substitute ballots accompanied by a statement made under oath by the municipal clerk that the ballots have been prepared and furnished by him to replace the original ballots which are not available, the election officials shall use the substitute ballots the same as if originals.

(7) REQUEST CANVASS ASSISTANCE. The municipal clerk may request all election officials to assist the inspectors in canvassing the votes received at the respective polling places.

(8) RESOLVING NOTICE DOUBTS. When in doubt as to compliance with the statutory re-

quirements for election notices or the correct fees to be paid for them, the municipal clerk may consult the secretary of state.

**History:** 1965 c. 666.

**Legislative Council Note, 1965:** The purpose of this section is to set forth the duties of the municipal clerks. As previously noted, the executive secretary of the municipal board of election commissioners by definition is now responsible for the municipal clerk's duties.

In sub. (1), pars. (a) to (f) are a restatement of ss. 6.46 (1st sentence in part), 10.30 (in part) and 10.33 (in part) and other scattered provisions. As par. (f) will now include Milwaukee, the provision will empower the executive secretary of the election commission to remove precinct officials, whereas s. 10.04 (7) gives this power to the entire board. The change was justified because such removals are usually of an emergency nature and should not be restricted to the entire board. The intro. par. and pars. (g) and (h) are a restatement of the remainder of ss. 10.29 and 10.33 except that s. 10.29 requires the board of election commissioners to furnish printed instructions. The secretary of state is now required to supply manuals for election officials which, if properly issued, are passed on down to the precinct officials. Also, the separate specifications for Milwaukee wherever possible have either been deleted or made state-wide. The exclusion, however, does not prevent Milwaukee from printing any such manual which they may consider helpful to the election officials, in fulfilling their duties. Par. (c) is a combination of parts of ss. 6.78, 10.48, 10.56 and 11.09. Section 6.78 provides for the passing on of the election blanks received by the clerk to the precinct officials and provides for their use. That portion regarding their use which also stated that failure to do so would not invalidate the election was deleted because there is a substantial compliance provision in ch. 5 in this bill. Section 10.48 states village clerks shall print official and sample ballots. Section 10.56 (1) makes a cross reference to s. 10.48 and assigns the duties therein to the town clerks. The 2nd sentence of sub. (1) (c) covers the provision of s. 10.56 (3). Section 11.09 (1) (a) pertaining to ballots for voting machines assigns the duty in part to the city clerks and city board of election commissioners and (6) states that the necessary blanks and materials shall be supplied. As established, the executive secretary of the board of election commissioners will be primarily responsible. Par. (i) is new. It is necessary to assign this duty to the municipal clerk here for uniformity in this bill. The change was made to prevent the possible mix-up of official and blank ballots, should the blanks be destroyed at the precinct level while the official ballots are also there.

In sub. (2), par. (a) is based upon s. 10.38 except that part providing that cities over 200,000 may print their own ballots. The executive secretary of the board of election commissioners is made responsible for this provision. Par. (b) is a restatement of the remainder of s. 10.38, except the population figure was changed from 200,000. Par. (c) is a restatement of s. 11.09 (1) (b) (last sentence), except that the executive secretary of the county board of election commissioners will issue the consent. Par. (d) is based on s. 10.40 (2) although it presently pertains only to cities.

In sub. (3), par. (a) is a restatement of s. 11.09 (3) (1st sentence). Par. (b) is a restatement of s. 11.09 (5) (2nd sentence).

Sub. (4) is a restatement of s. 6.16 (10).

Sub. (5) is a restatement of s. 6.29 (2) and (3) except that the provision for the municipal clerk to send a receipt to the county clerk has been deleted to reflect present practice. This does not prevent the county clerk from requesting a receipt.

Sub. (6) is a restatement of s. 6.29 (5) and (6).

Sub. (7) pertaining to requesting election officials to assist with the canvass is based upon s. 10.04 (5) (last sentence) but has been made state-wide.

Sub. (8) is based on s. 6.82 (4) which provides only for the county clerk. This change reflects present practice. (Bill No. 755-A)

#### 7.20 Board of election commissioners. (1)

A municipal board of election commissioners and a county board of election commissioners shall be established in every city and county over 500,000 population.

(2) Each board shall consist of 3 members, each member being chosen from lists of at least 3 names each, selected and approved jointly by each party's county statutory committee and the county voluntary committee of the 2 parties receiving the most votes for governor in the last general election. The county executive for the county election board, and the mayor for the city election board, shall select from the lists 2 persons from the majority party and one person from the next highest party.

(3) The persons chosen shall be qualified electors and residents of the state and county and, for the city election board, of the city.

(4) Before beginning their duties as election commissioners each appointee shall take and file the official oath.

(5) Each board shall choose its own chairman. An act of a majority of the board is an act of the board.

(6) The election commissioners shall not hold any other public office and are ineligible for any appointive or elective public office, except the office of notary public, during their term.

(7) The term of office shall be 4 years, and until successors have been commissioned and qualified, beginning on July 1 each year following a presidential election. Successors shall be appointed the same way.

**History:** 1965 c. 666.

**Legislative Council Note, 1965:** This section combines the provisions of ss. 10.01 and 10.63. The population figure has been changed. The provision of s. 10.63 permitting service on both boards was deleted as the provision of s. 10.01 forbids it. The county executive has been included in sub. (2). The majority provision of ss. 10.28 and 10.66 (3rd sentence) has been included in sub. (5). (Bill No. 755-A)

#### 7.21 Election commissioners, duties and regulations. (1)

All duties and provisions of Title II for elections assigned to the municipal or county clerk, the municipal or county board of canvassers, or the municipal or county governing body shall be carried out by the proper election board or its executive secretary, unless specially retained or assigned in this section or s. 7.22.

(2) The board may hire an executive secretary who shall perform whatever duties the board assigns to him. The common council for cities and the county board for counties shall determine the salary. If the same person serves as executive secretary for both a city and county election board, he shall receive

only one salary, the city and county each paying half. Appointment and removal shall be subject to civil service standards.

(3) The election board is authorized to employ additional clerical assistants to carry out their necessary duties. Their salaries shall be fixed by the governing body of the municipality or county.

(4) The election board may procure a seal to authenticate official papers and documents.

(5) The city council and county board shall provide office space in the city hall and county courthouse, respectively, pay all the necessary expenses, co-operate with the board, provide storage space for the election equipment and supplies and assist with the moving and conducting of the elections as necessary.

**History:** 1965 c. 666.

**Legislative Council Note, 1965:** Sub. (1) is based on ss. 10.02 (1) (last part), 10.23 (1st part and last sentence), 10.25 (1) and (2), 10.64 (1st sentence) and 10.66 (last sentence). The basic provisions for the city and county board of election commissioners have been combined.

Sub. (2) is based on ss. 10.02 (1) (1st part), 10.64 (2nd sentence) and 10.65. The provision for sharing salaries between the city and county when a person serves on both boards has been deleted since s. 7.20 in this bill no longer provides for serving on both boards.

Sub. (3) is a restatement of ss. 10.02 (3) and 10.66 (1st sentence, last part).

Sub. (4) is a restatement of ss. 10.02 (2) and 10.66 (1st sentence, 1st part).

Sub. (5) is based on ss. 10.02 (4) (in part), 10.23 (in part), 10.31, 10.66 (2nd sentence) and 10.68. (Bill No. 755-A)

**7.22 Municipal election board.** (1) The common council shall determine the salaries of the election commissioners and shall include sufficient funds in its budget to allow the municipal election board to fulfill its duties.

(2) All expenses shall be paid upon order of the election board, signed by the chairman and executive secretary and countersigned by the city comptroller. The orders, made payable to persons in whose favor issued, shall be the vouchers for the city treasurer for the payment of the orders.

(3) The election board shall prepare and furnish copies of all registrations, books, maps, instructions and blanks pertaining to the rules for registration and conducting elections for the use and guidance of the election officials.

(4) The election board shall compile and publish a biennial report, containing election statistics and returns of all primaries and elections held within their city and county. Copies of the same shall be distributed to persons in such quantities as the board deems proper.

(5) The chief of police shall station at least one policeman at each polling place for every election.

**History:** 1965 c. 666.

**Legislative Council Note, 1965:** Sub. (1) is a restatement of ss. 10.02 (4) (1st sentence, last part)

and 10.26.

Sub. (2) is a restatement of s. 10.02 (4) (last 2 sentences).

Sub. (3) is a restatement of s. 10.02 (1) (in part). Sub. (4) is based on s. 10.02 (5), but the report is changed from annual to biennial.

Sub. (5) is a restatement of s. 10.23 (3rd sentence). (Bill No. 755-A)

**7.23 Destruction of election materials.**

(1) All materials and supplies associated with an election, except as provided in sub. (2), may be destroyed according to the following schedule:

(a) Any unused materials after an election and the contents of the blank ballot box after a primary may be destroyed at a time and in a manner designated by the appropriate clerk.

(b) Voting machine recorders essential for proper operation of the voting machine may be reactivated 14 days after the primary.

(c) Canceled registration cards may be destroyed after 4 years.

(d) Financial statements may be destroyed after 6 years.

(e) All other materials and supplies associated with an election may be destroyed 90 days after the election.

(2) If any contest of the election is pending at the expiration of the time, the relevant material shall not be destroyed until the contest is finally determined. In all contested election cases, the contesting parties shall have the right to have the ballots opened and to have all errors of the inspectors, either in counting or refusing to count any ballot, corrected by the court or body trying the contest. The ballots shall be opened only in open court or in open session of the body and in the presence of the official having custody over them.

**History:** 1965 c. 666.

**Legislative Council Note, 1965:** Sub. (1) is based on ss. 5.05 (9) (in part), 6.60 (3) (last part), 6.60 (5) (last part), 6.60 (6), 6.83, 10.385 and 11.13 (1st sentence, last part and 3rd sentence). The necessary changes have been made to establish a definite and logical order for the destruction of election materials. S. 11.17 (2) is included.

Sub. (2) is a restatement of ss. 5.05 (9) (in part) and 6.60 (4). (Bill No. 755-A)

**7.25 Voting machine officials duties.** (1)

The municipal clerk of each municipality in which voting machines are used is responsible for the proper ballot being placed on each machine, the sample ballots, setting, adjusting, and putting the machine in order to use in voting when delivered to the precinct. For the purpose of labeling, setting, adjusting and putting the voting machines in order, one or more competent voting machine custodians may be employed.

(2) Under the direction of the municipal clerk, the custodian shall label, set, adjust, put in order and deliver the machines with all nec-

essary furniture and appliances to the rooms where the election will be held in each precinct at least one hour before the time set for opening the polls on election day.

(3) In preparing a voting machine for an election according to the directions furnished, the custodian shall arrange the machine and ballot so both will meet all the requirements for voting and counting the election in the manner provided for in machine construction.

(4) When a voting machine is properly prepared for an election and delivered to the election precinct, it shall be locked and sealed against any movement and the officials or governing body shall provide proper protection to prevent tampering with the machines. The custodians preparing the machines shall deliver the keys for the machines to the municipal clerk together with a written report of each machine's condition.

(5) Before an election each election official serving at a polling place where voting machines are used shall be instructed in their use and their duties in connection with them by the municipal clerk who shall call as many meetings to give instructions to the election officials as are necessary. Each election official who is qualified to perform his duties shall receive at least \$1 for each meeting at which he received instructions and shall be paid in the same manner and at the same time as are those who serve on election day. Any person who does not understand the machines shall not be paid nor be allowed to serve.

(6) (a) Where voting machines are used, the election officials for each precinct shall meet at their proper polling place at least 15 minutes before the time set for opening of the polls to arrange the voting machines and furniture to properly conduct the election.

(b) Before opening the polls, they shall compare the ballot labels on the machines with the sample ballots furnished to insure that the names, numbers and letters thereon agree; examine the seal on each machine to see that it has not been broken; and examine the counter on each machine to see that each registers 000. If any counter on any machine does not register 000, the counter number and the number showing on the counter shall be recorded, signed by all the election officials and a copy conspicuously posted at the polling place during polling hours.

(c) After the inspection under par. (b), on the blanks furnished, they shall certify the condition of each voting machine and its counters. Each form shall be signed by each election official. After the election, one copy

of each machine's certification shall be delivered with each copy of the election returns.

**History:** 1965 c. 666.

**Legislative Council Note, 1965:** Sub. (1) is a restatement of s. 11.10 (1) (in part), except that the municipal clerk instead of the governing body is responsible for fulfilling the duty.

Sub. (2) is a restatement of s. 11.10 (2) except that the municipal clerk has been substituted for the governing body.

Sub. (3) is a restatement of s. 11.10 (3).

Sub. (4) is a restatement of s. 11.10 (4).

Sub. (5) is a combination of ss. 11.10 (5) and 11.11 (1). The instructions were made the responsibility of the municipal clerk instead of the custodian and the certificate for completion of the instructions was deleted.

Sub. (6) (a) is a restatement of s. 11.11 (2). Par. (b) is a restatement of s. 11.11 (3). Par. (c) is a restatement of s. 11.11 (4). (Bill No. 755-A)

**7.30 Inspectors, clerks, tabulators.** (1) NUMBER. There shall be 3 inspectors, 2 election clerks, and 2 ballot clerks at each polling place at each election held under Title II. Where voting machines are used, the ballot clerks shall be dispensed with, and, if more than one voting machine is used, additional inspectors may be appointed from the predominant party at the preceding general election. Election clerks are not required in municipalities with an election board in counties over 500,000 population.

(2) QUALIFICATIONS AND PROCEDURE. (a) Each inspector and clerk shall be a qualified elector in the precinct, but election officials serving more than one precinct or when necessary to fill a vacancy under par. (b) need not be a resident of the precinct. They shall be able to read and write the English language, be capable, be of good understanding, and shall not be a candidate, other than for ward or precinct committeeman, to be voted for at that election. In 1st class cities they shall hold no public office other than notary public. All officials shall be affiliated with one of the 2 political parties which received the largest number of votes for president, or governor in nonpresidential general election years, in the precinct at the last election. The party which received the largest number of votes shall be entitled to 2 inspectors, one clerk and one ballot clerk for each precinct. The party receiving the next largest number of votes shall be entitled to one inspector, one clerk and one ballot clerk for each precinct.

(b) When a vacancy occurs, the appointment shall be filled by the municipal clerk from the remaining names on the submitted lists or from names submitted by the county party committee. If the vacancy is due to the candidacy, sickness or from any other cause, the appointment shall be a temporary appointment and effective only for that election. The same qualifications shall be required, but va-

cancies may be filled in cases of emergency or because of time limitations by a person from an adjoining ward so the proper balance of party representation is maintained.

(c) The governing body of any municipality may require all persons named on the party lists for election officials to prove their ability to read and write English and to have a general knowledge of the election laws. Examinations may be given to prove the qualifications can be met.

(3) **TABULATORS.** (a) Not less than 30 days before any election the governing body of any municipality, by resolution, may authorize the municipal clerk to select tabulators at a compensation fixed by the governing body.

(b) The tabulators shall assist and be under the direction of the election inspectors after the close of the polls.

(4) **APPOINTMENTS.** (a) Except in cities where there is a board of election commissioners, the mayor, president or chairman of each municipality shall nominate to the governing body at their first regular meeting in February of each odd-numbered year the necessary election officials for each election precinct. If no regular meeting is scheduled, he shall call a special meeting for the purpose on the last Tuesday in February.

(b) The 2 dominant parties, under sub. (2), are each responsible for submitting a list of names from which the appointees shall be chosen.

1. In cities where there is a board of election commissioners, the elected ward committeemen of each of the 2 dominant parties shall submit a certified list containing the names of at least 5 times as many electors as there are voting precincts in a ward. The board of election commissioners shall appoint, during February of odd-numbered years, three-fifths of the list as inspectors and two-fifths as ballot clerks giving the first choices and alternates for each.

2. In municipalities other than 1st and 2nd class cities the party committees shall submit a list containing at least twice as many names as there are needed appointees from that party. The lists in 2nd class cities need not contain twice the number of names as appointees. The lists shall be submitted through the ward or town chairman of the 2 regular party committees to their county, city, ward or precinct committee to the mayor, president or chairman of the municipality. Only those persons selected by the chairman of each ward or town committee shall act as election officials. The list shall contain the signature of

the chairman and secretary of the submitting county, city, town or precinct committee. Upon submission of each nominee's name, the governing body shall approve or disapprove the nomination. If any nominees are disapproved, the mayor, president or chairman of the municipality shall immediately nominate another person from the appropriate lists submitted and continue until the necessary number of election officials from each party is achieved at that meeting.

(c) If the lists are not submitted by December 15 of the year prior to the time for appointment, the board shall appoint, and the mayor, president or chairman of a municipality shall nominate as appears appropriate.

(5) **OATH OF OFFICE.** Within 5 days after appointment of the election officials the municipal clerk shall give each appointee notice. The appointees shall file the official oath with the municipal clerk within 10 days after the mailing of the notice. Appointees to fill vacancies or any other election official who has not filed the oath, before receiving any ballots, shall sign the oath and return it to the municipal clerk. An inspector, after taking the oath, may administer any oath required to conduct an election.

(6) **OFFICE TENURE.** (a) The appointed election officials shall hold office for 2 years and until their successors are appointed and qualified. They shall serve at every election held in their precinct during their term of office.

(b) At the first election following their appointment, the inspectors shall elect one of their number as chairman of the inspectors. The chairman shall hold the position for the remainder of the term. If a vacancy occurs in the chairman position, the inspectors shall elect one of their number to serve as chairman until the vacancy is removed.

(c) If any election official lacks the qualifications set forth in this section, is guilty of neglecting his official duties or commits official misconduct he shall be summarily removed from office and the vacancy shall be filled under sub. (2) (b).

**History:** 1965 c. 666.

**Legislative Council Note, 1965:** Sub. (1) is based on ss. 6.05 (5), 6.32 (1) (1st sentence, 1st part and 2nd sentence), 10.04 (intro. par., in part) and (5) (1st sentence), 11.06 (2) and (3) without substantive change.

Sub. (2) (a) is based on ss. 6.32 (1) (remainder) and 10.04 (4) (a) but the provisions have been made uniform. The provision that an election official may be a precinct committeeman candidate is new. Par. (b) combines ss. 6.32 (4) (f) and 10.04 (6) and makes the provisions uniform. Par. (c) is a restatement of s. 6.32 (4) (h).

Sub. (3) is based on s. 6.32 (3), but the time limitation has been changed from 60 to 30 days.

Sub. (4) (a) is a restatement of s. 6.32 (4) (a) (except last sentence). Par. (b) 1 is based on ss.

6.32 (4) (a) (last sentence, in part), 10.04 (intro. par.), (1), (2) and (3) without substantive change as incorporated into this section of the bill although the date for selection has been clarified. Par. (b) 2 is based on s. 6.32 (4) (a) (last sentence), (b) (in part) and (c), but the provisions for all municipalities other than for the city of Milwaukee have been made uniform. Par. (c) is a restatement of ss. 6.32 (4) (b) (3rd sentence), (5) and 10.04 (8) with a uniform date.

Sub. (5) is based on ss. 6.32 (4) (g), 6.34 (except 1st sentence), 10.04 (4) (c) with changes made for clarification and uniformity. The form of oath has been deleted since the official oath includes the necessary provisions and all oaths are filed with the municipal clerk.

Sub. (6) (a) is a restatement of ss. 6.32 (4) (d) and 10.04 (4) (b). Par. (b) is a restatement of s. 6.32 (4) (e) with state-wide application. Par. (c) is a restatement of ss. 10.04 (7) and 10.33 (4a). (Bill No. 755-A)

**7.31 Compulsory service.** Service as an election official under this chapter shall be mandatory upon all qualified electors appointed, during the full 2-year term, after which they shall be exempt from further service as an election official, under this chapter, until 3 terms of 2 years each have elapsed. Municipal clerks may grant exemptions from service at any time.

History: 1965 c. 666.

Legislative Council Note, 1965: This section is based on s. 10.07 with state-wide application. (Bill No. 755-A)

**7.32 Jury duty exemption.** Any person appointed an election official shall be exempt from jury duty only on election days.

History: 1965 c. 666.

Legislative Council Note, 1965: This section is based on s. 10.22 but the provision has been made state-wide and the exemption has been restricted. (Bill No. 755-A)

**7.33 Change of election official numbers and power.** By ordinance or resolution, the governing body of any municipality may reduce the number of election officials, provide a redistribution of duties among the remaining officials, and modify or rescind any similar previous action.

History: 1965 c. 666.

Legislative Council Note, 1965: This is a restatement of s. 6.32 (1a) but the deadline has been deleted. (Bill No. 755-A)

**7.35 Ballot clerk duties.** (1) GENERAL. Ballot clerks serve only on election days when paper ballots are used. They shall take charge of the official ballots, write their initials on the back of each ballot, fold it in the proper manner to be deposited and deliver to each elector as he enters the voting booth one ballot properly folded and indorsed by 2 ballot clerks. If asked, ballot clerks may instruct any elector as to the proper manner of marking the ballot, but shall not give advice, suggestions, express any preferences or make any requests as to the person for whom or the ballot on which the elector shall vote.

(2) IMPROPER CONDUCT. Any election official who intentionally fails to properly indorse a ballot or who gives an elector a ballot not properly indorsed shall be disqualified from acting as an election official and fined \$5.

(3) ATTACH PASTERS. Whenever a vacancy occurs in a nomination after the ballots have been printed and pasters are provided under s. 7.38 (3) or 8.35, the ballot clerks shall properly paste them on the official ballots before indorsement.

History: 1965 c. 666.

Legislative Council Note, 1965: Sub. (1) is a restatement of s. 6.36 (1). The provision of s. 10.48 (1) (last sentence) permitting one indorsement when allowed by law was deleted, but will be permitted where specifically provided.

Sub. (2) is a restatement of s. 6.36 (2), but the word intentionally is new.

Sub. (3) is a restatement of s. 5.18 (4th sentence, last part). (Bill No. 755-A)

**7.36 Election clerk duties.** (1) Election clerks, under ch. 6, shall have charge of the registry lists at each election. In 1st class cities, this duty shall be assigned to the inspectors.

(2) Except in cities of the 1st class, the election clerks also shall certify to the correctness of the tally sheets, under s. 7.51 (4) when they assist in the canvass.

History: 1965 c. 666.

Legislative Council Note, 1965: Sub. (1) notes their principal duty which is described in detail in ch. 6 in this bill.

Sub. (2) is a restatement of s. 6.58 (last sentence). (Bill No. 755-A)

**7.37 Inspectors duties.** (1) ADJOURN TO ANOTHER LOCATION. Whenever it becomes impossible or inconvenient to hold an election at the designated location, the inspectors, after assembling at or as near the designated polling place as practicable and before receiving any votes, may adjourn to the nearest convenient place for holding the election. A proclamation of the move shall be made and a constable or other proper person shall be stationed at or as near as possible to the place where the adjournment was made, to notify all electors of the place to which the election adjourned. At the new location they shall immediately proceed with the election.

(2) CHECK BALLOT BOXES. Immediately before the proclamation that the polls are open the election inspectors shall open each ballot box in the presence of the people assembled there, turn the boxes upside down so as to empty them of everything that may be inside and then lock them. The ballot boxes shall remain locked and shall not be reopened until the polls close for the purpose of counting the ballots therein.

(3) PRESERVE ORDER. The inspectors shall

possess full authority to maintain order and to enforce obedience to their lawful commands during the election and the canvass of the votes. They shall permit only one person in a voting booth at a time and shall prevent any person from taking notice of how another person has voted, except when assistance is given under s. 6.82. If any person refuses to obey the lawful commands, or is disorderly in the presence or hearing of the inspectors, interrupts or disturbs the proceedings, they may order any constable or other proper person to remove him from the premises or take him into custody during the election.

(4) **POSTING SAMPLE BALLOTS.** Where voting machines are used, 2 sample ballots sent by the municipal clerk shall be posted by the inspectors near the entrance to the polling location for public inspection throughout the day.

(5) **CHALLENGED ELECTORS.** If any person is challenged for cause, the inspectors shall ask questions under s. 6.92 and with the aid of other provisions of ch. 6 as appear applicable, shall resolve the challenge.

(6) **SPOILED BALLOTS.** Any spoiled ballot returned to an inspector under s. 6.80 (2) (c) shall be immediately destroyed by one of the inspectors.

(7) **CANVASSERS.** The election inspectors shall constitute the board of canvassers of their respective precinct and in that capacity shall perform the duties under s. 7.51.

**History:** 1965 c. 666.

**Legislative Council Note, 1965:** Sub. (1) is a restatement of s. 6.09.

Sub. (2) is a restatement of s. 6.47.

Sub. (3) is a restatement of ss. 6.38 (2nd sentence) and 6.56.

Sub. (4) is a restatement of s. 11.09 (3) (last sentence).

Sub. (5) notes a duty given in detail in ch. 6 in this bill.

Sub. (6) is new. It is intended to prevent confusion and the possibility of double counting of the same person's vote.

Sub. (7) is a restatement of s. 6.34 (1st sentence) with clarification. (Bill No. 755-A)

### **7.38 Political party election functions.**

(1) **OBSERVERS.** (a) For every election precinct each political party may appoint 2 party observers and an alternate for each, as observers of the election proceedings and the canvassing of the ballots. The appointments may be made by the local committee of the party that nominated the candidates. Candidates nominated by nomination papers or candidates for city offices may similarly appoint observers.

(b) Each appointment shall be filed with the proper municipal clerk at least 4 days before the election, and signed by the person making them. The file copy shall specify the

name and residence of the appointee, the election precinct to which appointed, and the name of the alternate appointee, in case the original appointee is absent.

(c) Upon filing, the clerk shall issue permits to the appointees giving authority to be present during the election and counting of the ballots. Upon request, the clerk shall issue a permit to the alternate appointee when an original appointee fails to serve for all or a part of the day.

(2) **SAMPLE BALLOTS.** Any committee or candidate, at their own expense, may print a supply of sample ballots, provided they bear on their face the authorization required by s. 12.16.

(3) **VACANCIES AFTER NOMINATION.** (a) Whenever a vacancy occurs after a primary due to declination, death, or any other cause, the vacancy may be filled by the nominee's party committee. The committee's chairman and secretary shall file with the proper official a certificate signed, certified and sworn to, the same as an original certificate. The certificate shall state the cause of the vacancy, the name of the new nominee and the office for which nominated.

(b) The certificate shall be filed within 4 days of the date of the vacancy and shall have the same effect as an original certificate.

(c) If the vacancy occurs after the ballots have been printed, the chairman of the committee filling the vacancy shall supply the ballot clerks with pasters containing the name of the new nominee only.

(d) There can be no vacancy in nomination prior to a party primary.

**History:** 1965 c. 666.

**Legislative Council Note, 1965:** Sub. (1) is based on s. 6.31. The deadline is changed from 3 to 4 days so it will be a Friday.

Sub. (2) is a restatement of s. 6.27.

Sub. (3) is a restatement of s. 5.18 (in part). (Bill No. 755-A)

### **CANVASS OF RETURNS AND CERTIFICATION**

**7.50 Elector intent.** (1) **REQUIREMENTS AND RESTRICTIONS.** (a) Except as provided in s. 7.15 (6), only ballots provided by the person authorized to have them printed shall be cast and counted in any election.

(b) When an elector casts more votes for any office or measure than he is entitled to cast at any election, all his votes for that office or measure shall be rejected and he shall be deemed to have voted for none of them.

(2) **ASCERTAINMENT OF INTENT.** All ballots cast at an election shall be counted for the person or referendum question for whom or for which they were intended, so far as the electors' intent can be ascertained from the

ballots notwithstanding informality or failure to fully comply with the provisions of Title II. To determine intent:

(a) At a general election, if the elector places a mark or symbol under a party designation at the head of a column in or near the space indicated for that purpose, it is a vote for all the candidates who names appear in the marked column except as otherwise provided in this paragraph. If a name is stricken, it shall not be a vote for that candidate. If a name is written in, it shall be a vote for the write-in candidate. If a sticker is attached it shall be a vote for the candidate on the sticker. If in some other column there is a mark in the square to the right of a specific candidate's name for the same office, it shall be a vote for that specific candidate and no vote shall be counted for the candidate for the same office in the column marked for a straight party vote.

(b) A ballot cast without any marks shall not be counted. A ballot without a mark at the top of a party column shall be counted only for persons for whom marks are applicable.

(c) If an elector marks his ballot with a cross (X), or any other marks, as |, A, V, O, /, √, +, within the square to the right of a candidate's name, or any place within the space in which the name appears, indicating an intent to vote for that candidate, it is a vote for the candidate whose name it is opposite.

(d) When an elector writes a person's name in the proper space for write-ins for that office, it is a vote for the person written in, even if the elector fails to strike the name printed in the same column for the same office, or makes a mark by the same or any other name for the same office, or omits the mark to the right of the name written in.

(e) No ballot shall be regarded as defective due to misspelling a candidate's name, or by abbreviation, addition, omission or use of a wrong initial in the name. Every ballot shall be counted for the candidate for whom it was intended, if the elector's intent can be ascertained from the ballot itself.

(f) If a sticker is applied, it is a vote for the name appearing on the sticker even if the elector omits the mark to the right of the name, or makes a mark in another column for a candidate for the same office, but pasting of names over the space for voting a straight party ballot or over any name printed on the ballot shall not be allowed and any name so pasted shall not be counted. If the sticker on its face lists the office, the candidate's name

for that office and has a box with a cross (X) to the right of the candidate's name, it shall be a vote for that named person for that named office even if the sticker is pasted somewhere else on the face of the ballot or the elector makes a mark for another candidate for the same office. The sticker shall be no larger than the space provided for the office for which it is intended. If the sticker does not contain a box with a cross (X), it shall be counted, but only stickers appearing on the face of the ballot are valid and counted.

(g) In partisan primaries, if an elector writes in the name of a person who is a candidate for the same office on a ballot other than the one on which the elector writes the name, the vote shall not be counted for that person for either party. Only those votes for a candidate of the party upon whose ballot his name is written or write-ins not appearing on another ballot shall be counted for the person as a candidate of that party.

(h) Where voting machines are used, write-in votes shall not be counted for any person for any party, if the person's name appears on the printed ballot labels of that party. To vote for any person as the candidate of any party when that person's name does not appear on the printed ballot label of that party, the elector shall write the name of the person in the irregular ballot device designating the party for which he desires such person to be the nominee.

**History:** 1965 c. 666.

**Legislative Council Note, 1965:** Sub. (1) (a) is based on s. 6.25 (2), but has been made general so it applies to all elections. Par. (b) is a restatement of ss. 5.39 (6) and 6.42 (2).

Sub. (2) (intro. par.) is based on s. 6.42 (intro. par.) but includes referenda questions and repeats a part of the substantial compliance clause of s. 5.01 (1) in this bill. Par. (a) is a restatement of s. 6.42 (1) with clarification and provision is made for stickers. Par. (b) is a restatement of s. 6.42 (5). Par. (c) is a restatement of s. 6.42 (3). Par. (d) is a restatement of ss. 6.25 (3) (1st part) and 6.42 (4). Par. (e) is a restatement of s. 6.60 (2). Par. (f) is new. Par. (g) is a restatement of s. 5.14 (1), but clarified. Par. (h) is a restatement of s. 11.16. (Bill No. 755-A)

Where a voter had attempted to blot out his "X" mark and had not indicated a vote for the other candidate, the court could hold that he intended not to vote for the candidate. *Schmidt v. West Bend Board of Canvassers*, 18 W (2d) 316, 118 NW (2d) 154.

Discussion of statutes regulating the interpretation of the intent of voters in marking ballots under party and by individual names. 52 Atty. Gen. 51.

**7.51 Local board of canvassers.** (1) CANVASSING. Immediately after the polls close the inspectors shall proceed to canvass publicly all votes received at that polling place. The canvass shall continue, without adjournment, until the canvass is completed and the return statements are made. The inspectors shall first compare the registry lists, correcting any

mistakes until the registry lists agree and verify their correctness by each signing their name thereto.

(a) Where paper ballots are used, they shall then open the ballot box and remove and count the number of ballots therein without examination except as is necessary to ascertain that each is a single ballot. If 2 or more ballots are folded together so as to appear as a single ballot, they shall be laid aside until the count is completed; and if, after a comparison of the count and the appearance of the ballots it appears to a majority of the inspectors that the ballots folded together were voted by the same person they shall be destroyed. If, after any ballots folded together have been destroyed, the number of ballots exceeds the total number of electors recorded on the registry lists the ballots shall be placed in the ballot box and one of the inspectors shall publicly draw therefrom by chance, and without examination, destroy the number of ballots equal to the excess number. When the number of ballots and total shown on the registry lists agree, the inspectors shall open, count and record the number of votes.

(b) Immediately after the polls close, where voting machines are used, they shall open the registering or recording compartments and canvass, record, announce and return on the provided return sheets and certificates furnished. In recording the votes registered on any counter which, before the opening of the polls, did not register 000, the inspectors shall upon the return sheets subtract the number registered before the polls opened from the number registered when the polls closed. The difference between the 2 numbers shall be the correct vote for the candidate whose name was represented by the counter, except if the number registered on the counter when the polls closed is smaller than the number registered thereon when the polls opened, the number 1,000 shall be added to the number registered when the polls closed, before the subtraction is made.

(2) DEFECTIVE AND IRREGULAR BALLOTS. When, during the counting of the ballots cast at an election, the inspectors find a ballot which is so defective that it cannot be determined with reasonable certainty for whom it was cast, a majority of the inspectors shall determine whether the ballot is defective, and if so, it shall be marked and not counted. During the count the inspectors shall place those ballots cast by challenged electors and marked "Objected to" apart from the other ballots and shall keep a written statement, in duplicate, of the number of defective and ob-

jected to ballots. The officials shall certify that the statement is correct, sign it, and attach it to the canvass statements.

(3) SECURING THE BALLOTS. (a) The inspectors shall place together all ballots counted by them, except those marked "Objected to" and secure them together so that they cannot be untied or tampered with without breaking the seal. The secured ballots together with any ballots marked "Defective" or "Objected to" shall then be secured by the inspectors in the container provided in such a manner that the containers cannot be opened without breaking the seals or locks. The ballots returned to the county clerk shall be delivered in the canvas bag provided at the same time as the other elections materials under sub. (1).

(b) For municipal elections the inspectors in lieu of par. (a), after counting the ballots shall return them to the proper ballot boxes lock the boxes, paste paper over the slots, sign their names to the paper and deliver them and the keys therefor to the municipal clerk.

(c) Where voting machines are used, as soon as the count is complete and fully recorded, the inspectors shall seal, close and lock the machine, or remove the record so it cannot be voted on or tampered with. They shall then proceed to separately canvass and return as for paper ballots, any write-in votes, absentee ballots or challenged ballots which shall be designated irregular ballots. Upon completion of the canvass, the inspectors shall return them in a properly sealed container indorsed "Irregular Ballots" indicating the precinct and county. The irregular ballots along with any tally sheets taken from the machines shall be returned to the proper clerk.

(4) ANNOUNCE AND REPORT. (a) When the canvass is complete, the inspectors shall publicly announce the results from the tally sheets. They shall state the total number of votes cast for each office and for each person receiving votes for that office and shall state the vote for and against each proposition voted on. They shall immediately complete the inspectors' statements in duplicate, which shall be combined with the tally sheet setting forth in written words as well as figures, the total number of votes for each office, the names of all persons receiving votes, the number of votes each person received, and the number of votes for and against any proposition at the election. They shall state the number of the last elector as shown by the registry lists. The inspectors shall then certify to the correctness of the statements and sign their names. All other election officials assisting with the canvass

shall also certify to the correctness of the tally sheets.

(b) The inspectors' chairman, or one of the inspectors appointed by him, immediately after the votes are tabulated or counted at each election, shall report the returns of the election to the proper clerk who shall then make it public.

(5) RETURNS. The inspectors shall make full and accurate return of the votes cast for each candidate and proposition on blanks provided for the purpose. After recording the votes, one tally sheet statement and registry list shall be properly sealed for delivery to the county clerk and one tally sheet statement and registry list shall be properly sealed for the municipal clerk. The envelopes and all ballots and materials shall be delivered immediately to the municipal clerk. The municipal clerk shall deliver the appropriate election materials for his municipality to the county clerk by 2 p.m. the day following each election. The person delivering the returns shall be paid out of the municipal treasury as each governing body determines.

History: 1965 c. 666.

Legislative Council Note, 1965: In sub. (1), the intro. par. is a restatement of ss. 6.57 (1st sentence) and 10.57 and incorporates ss. 5.15 (1), 6.16 (6) (last part), 6.185 (7) (b) (last part) and 10.18 (2) (last part). Par. (a) is a restatement of s. 6.57 (except the 1st sentence). Par. (b) is a restatement of s. 11.12 (2).

Sub. (2) is a restatement of s. 6.60 (1).

Sub. (3) (a) is based on s. 6.60 (3) (1st part). Some detail has been deleted to reflect present practice without sacrificing security. Par. (b) is a restatement of s. 6.60 (5) (1st part). Par. (c) is based on ss. 11.13 (1st sentence, 1st part and 2nd and last sentences) and 11.65 (last sentence), but clarified and provision made for canvassing challenged elector ballots.

Sub. (4) (a) is based on s. 6.58, but has been changed so all election officials taking part in the canvass certify to its correctness. Par. (b) is based on s. 6.595 (1st sentence), but includes the municipal as well as county clerks and is applicable state-wide.

Sub. (5) is based on s. 6.59 and incorporates the provisions of ss. 5.15 (2), 5.26 (1), 6.45 (3), 10.49 (last sentence) and 10.59. The inspectors return all materials to the municipal clerk immediately upon completion of their canvass rather than up until 2 p. m. the following day. The municipal clerk rather than the inspectors is responsible for delivery to the county clerk. This is present practice in many areas. The special provision for paying the person delivering the town's ballots to the county clerk was deleted for uniformity. (Bill No. 755-A)

**7.53 Municipal canvass.** (1) MUNICIPALITIES WITH ONE PRECINCT. Where the municipality constitutes one precinct, the canvass shall be conducted publicly under s. 7.51. Upon completion of the canvass and ascertainment of the results by the inspectors, the clerk shall publicly read to the meeting the names of the persons voted for, the number of votes for each person for each office, and the persons' names declared to be duly elected by the inspectors to each office. The public reading

shall be sufficient notice to every person elected of his election.

(2) MUNICIPALITIES WITH 2 OR MORE PRECINCTS. The governing body in every municipality comprised of 2 or more election precincts shall canvass publicly the returns of every local election. The canvass shall begin within 24 hours after the polls close. When annual elections are held, the results shall be declared on or before the 2nd Tuesday of April in each year. In cities of the 1st class, the board of election commissioners shall perform these duties.

(3) MUNICIPAL CLERK, DUTY. The canvass of returns for other than municipal offices shall be made under ss. 7.60 and 7.70. The municipal clerk shall deliver the appropriate election materials for his municipality by 2 p.m. the day following each election.

(4) CERTIFICATE OF ELECTION. The municipal clerk shall issue promptly a certificate of election to each person elected to any office.

History: 1965 c. 666.

Legislative Council Note, 1965: Sub. (1) is based on ss. 5.15 (1) and 10.58, but is broadened from only towns to include all municipalities with one precinct.

Sub. (2) combines ss. 5.15 (1), 5.26 (2), 10.25 (in part), 10.42 and 10.62 and makes the provisions uniform for all municipalities with more than one precinct.

Sub. (3) is based on s. 5.26 (3), but incorporates the provision of s. 5.51 in this bill whereby the municipal clerk, rather than the inspectors, has the responsibility of delivering the relevant materials to the county clerk.

Sub. (4) is a restatement of s. 10.37 (last sentence). (Bill No. 755-A)

**7.60 County canvass.** (1) KEEP OFFICE OPEN. On election night the county clerk shall keep his office open to receive reports from the precinct inspectors and shall post all returns.

(2) COUNTY BOARD OF CANVASSERS. The county clerk and 2 reputable citizens previously chosen by him shall constitute the county board of canvassers. One member of the board shall belong to a political party other than the clerk's. If the county clerk's office is vacant, or if the clerk cannot perform his duties, the county judge or a reputable citizen appointed by him shall perform the county clerk's duties, and shall be subject to the same punishments for violations. No person shall serve on the county board of canvassers when he is a candidate for an office to be canvassed by the board. If lists of candidates for the county board of canvassers are submitted to the county clerk by political party county committees, the lists shall consist of at least 3 names and the clerk shall choose the board members from the lists. Where there is a

county board of election commissioners, it shall perform these duties.

(3) **CANVASSING.** Not later than 9 a.m. on the Thursday after each election the county board of canvassers shall open and publicly examine the returns. If returns have not been received from any election district or precinct in the county, they shall dispatch a messenger and the person having them shall deliver the returns to the messenger. If, on examination, any of the returns received are so informal or incomplete that the board cannot intelligently canvass them, they shall dispatch a messenger to deliver the returns back to the inspectors with written specifications of the informalities and defects and command them to immediately complete the forms in the manner required and deliver them to the messenger. Every messenger shall safely keep all returns, show them to no one but the inspectors and deliver them to the county clerk with all possible dispatch. To acquire the necessary full returns the board may adjourn not longer than one day at a time nor more than 2 days in all.

(4) **STATEMENTS AND DETERMINATIONS.** (a) The board shall make separate duplicate statements for the president; the state officials; the United States senators and representatives in congress; the state legislators when the district consists of more than one county; and judicial offices when the district or circuit consists of more than one county. Each statement shall state in numbers written out the total number of votes cast in the county for each office; the names of all persons for whom the votes were cast, as returned; and the number of votes cast for each. One statement shall be used to report to the secretary of state under sub. (5) and the other statement shall be filed in the office of the county clerk.

(b) The board shall then prepare a written determination, in duplicate where necessary, giving those persons receiving the highest number of votes and therefore elected, to any county office, to the state legislature when the county consists of one or more districts, and to any judicial office when the county consists of one or more circuits.

(c) In preparing the statements and determinations, persons not regularly nominated and receiving a comparatively small number of votes may be omitted and their votes designated as scattering votes. Appended to each statement and determination shall be a tabulation of the votes cast at each polling place in the county for each office and person entering into the canvass and listed in the statement, whether canvassed or not, as well as the total votes cast for each person and each office. If

any votes were rejected, the reasons shall be specified.

(d) Each statement and determination issued under pars. (a) and (b) shall be certified as correct and attested to by each canvasser's signature. For state legislators, the statement or determination shall include the post-office address and party designation.

(5) **REPORTING.** Immediately following the canvass the county clerk shall send the secretary of state, by registered mail, a list of the names of persons elected in the county as members of the senate, assembly and county officers as required by sub. (4) (b). A certified copy of each statement of the county board of canvassers for president, state officials, senators and representatives in congress, and candidates for the state legislature when the district includes more than one county as required by sub. (4) (a) shall also be enclosed. Following primaries the county clerk shall enclose on blanks furnished by the secretary of state, the names, party designation, if any, and number of votes received by each candidate by voting precincts.

(6) **CERTIFICATE OF ELECTION.** Immediately after expiration of the time allowed to file a recount the county clerk shall issue a certificate of election to each person having the largest number of votes for any county office, for the state legislature when the county constitutes one or more than one district or for the judicial offices when the county consists of one or more than one judicial circuit. The certificate notice shall state the amount of the required official bond, if any. Personal service of the notice for all statutory and legal purposes is official notification to a person of his election to the office. When a petition for a recount is filed, the county clerk shall not issue the certificate of election for the office in question until the recount has been completed.

(7) **PUBLICATION.** After the certificates of election have been prepared under sub. (6), the county clerk shall publish the results for those offices in one or more newspapers in the county. The papers designated shall be paid by the county.

(8) **REFERENDA.** Whenever a question is submitted to the people by the state legislature, the vote for and against shall be canvassed, certified and recorded and statements certified and delivered the same as for state officials.

**History:** 1965 c. 666.

**Legislative Council Note, 1965:** Sub. (1) is a restatement of s. 6.595 (last sentence).

Sub. (2) is a restatement of s. 6.61 and incorporates s. 5.15 (3).

Sub. (3) is a restatement of s. 6.62 and incorporates ss. 5.15 (1) and (4) (1st sentence) and 8.05 (in part).

Sub. (4) (a) is a restatement of s. 6.63 (1st sentence) with clarification and incorporates s. 8.05 (in part) and makes it uniform. Par. (b) is a restatement of s. 6.64 (1st sentence and 2nd sentence, in part) and incorporates s. 8.05 (in part) and makes it uniform. Par. (c) combines ss. 6.63 (2nd sentence), 6.64 (2nd sentence, in part) and 6.67 (1) (last sentence). Par. (d) is a restatement of ss. 6.63 (last sentence) and 6.64 (3rd sentence, in part).

Sub. (5) combines ss. 5.15 (4) (in part), (5) and (6) and 6.67 (1) (except last sentence) and (2).

Sub. (6) is based on s. 6.65, but the requirement that it be delivered in person was deleted as unnecessary. The subsection incorporates s. 8.05 (in part) and makes it uniform.

Sub. (7) is based on s. 6.64 (2), but the detail as to newspapers of different political faiths was deleted.

Sub. (8) is a restatement of s. 6.68. (Bill No. 755-A)

**7.70 State canvass.** (1) RECORDING AND PRESERVING RETURNS. (a) Upon receipt of the certified statements from the county clerks, the secretary of state shall record the election results by counties and file and carefully preserve the statements.

(b) If any county clerk fails or neglects to forward any statements, the secretary of state may require him to do so immediately and if not received within 8 days after a spring or special primary, or within 15 days after any other election, the secretary of state may dispatch a special messenger to obtain them. Whenever it appears upon the face of any statement that an error has been made in reporting or computing, the secretary of state may return it to the county clerk for correction.

(2) MEMBERS. (a) The secretary of state, treasurer and attorney general shall constitute the state board of canvassers. Two members constitute a quorum. If only one member attends the meeting, the clerk of the supreme court shall attend without delay upon notification by the attending member and shall form the board.

(b) When a member of the state board is also a candidate for an office to be canvassed by the state board, upon the request of any opposing candidate, the chief justice shall designate some other state officer or circuit court judge, who shall serve at the board session when votes for the regular member are canvassed.

(3) CANVASSING. (a) The state board of canvassers shall meet publicly at the office of the secretary of state on or before the 2nd Thursday following a spring primary, the 15th day of May following a spring election, the 3rd Thursday following a September primary, the first day of December following a general election, the 2nd Thursday following a special primary, or within 25 days after any special

election to canvass the returns and determine the election results.

(b) The board shall examine the certified statements of the county canvassers. If it appears any material mistake has been made in the computation of votes for any person, or any county canvassers failed to canvass the votes or omitted votes from any precinct in the county, the board may dispatch a messenger to that county clerk with their written requirement to the county clerk to certify the facts concerning the mistake or the reason why the votes were not canvassed. A clerk to whom the written requirement is delivered shall immediately make a true and full answer, sign it, affix the county seal and deliver it to the messenger. The messenger shall deliver it with all possible dispatch to the secretary of state.

(c) The state board of canvassers may adjourn as necessary but not more than 10 days in all.

(d) When the certified statements and returns are received, the state board of canvassers shall proceed to examine and make a statement of the total number of votes cast at any election for the offices involved in the election for president; a statement for each of the offices of governor, lieutenant governor, secretary of state, treasurer, attorney general, state superintendent or any other state office; for United States senator; for representative in congress for each congressional district; for any office for the state legislature when the district includes more than one county; justice; circuit judge and county judge when the circuit or district consists of more than one county; and any referenda questions submitted by the legislature.

Note: Chapter 261, laws of 1967, amended sub. (3) (d), effective January 1, 1970, to read:

"(d) When the certified statements and returns are received, the state board of canvassers shall proceed to examine and make a statement of the total number of votes cast at any election for the offices involved in the election for president; a statement for each of the offices of governor, lieutenant governor, if a primary, and a joint statement for the offices of governor and lieutenant governor, if a general election; a statement for each of the offices of secretary of state, treasurer, attorney general, state superintendent or any other state office; for U. S. senator; for representative in congress for each congressional district; for any office for the state legislature when the district includes more than one county; justice; circuit judge and county judge when the circuit or district consists of more than one county; and any referenda questions submitted by the legislature."

(e) The statements shall show the persons' names receiving votes, and any referenda questions; the whole number of votes given to each; and an individual listing by the districts or counties in which they were given. The names of persons not regularly nominated who

received only a comparatively small number of votes may be omitted and their votes designated as scattering votes.

(f) The board shall certify the statements to be correct and shall determine what persons, by the largest number of votes, have been elected to the various offices. They shall likewise determine the outcome of any referenda questions. Each statement shall have the certificate of determination attached to it and shall be delivered to the secretary of state.

(g) Whenever a referendum question submitted to a vote of the people is approved, the secretary of state shall record it and have the record bound in the volume containing the original enrolled laws passed at the next succeeding session of the legislature and have the record published with the laws thereof. Whenever a constitutional amendment does not expressly state the date of effectiveness, it shall become effective the day the certificate of the board of state canvassers shows the result of the vote cast for the constitutional amendment.

(h) The board shall canvass only regular returns made by the county board of canvassers and shall not count or canvass any additional or supplemental returns or statements made by the county board or any other board or person. The state board shall not count or canvass any statement or return which has been made by the county board of canvassers at any other time than that provided in s. 7.60. This provision does not apply to any return made subsequent to a recount under s. 9.01, when the return is accepted in lieu of any prior return from the same county for the same office; or to a statement given to the state board or a messenger sent by them to obtain a correction.

(5) CERTIFICATES OF ELECTION. (a) The secretary of state shall record in his office each certified statement and determination made by the state board. He shall make and transmit to each person declared elected, a certificate of his election under the lesser seal and cause a copy of the certified statements and determinations to be published once in a newspaper

under ch. 985. He shall also prepare similar certificates, attested by him as secretary of state, addressed to the respective United States senate and house of representatives, stating the names of those persons elected to the congress from this state and the house to which elected. If a person elected was elected to fill a vacancy, the certificate shall so state.

(b) For presidential electors, the secretary of state shall prepare 3 lists of the names of the presidential electors, have the governor sign, affix the great seal of the state and deliver the signed certificates to one of the presidential electors on or before the first Monday after the 2nd Wednesday in December.

**History:** 1965 c. 666; 1967 c. 261.

**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 No. 755-A)

**7.75 Presidential electors meeting.** The electors for president and vice president shall meet at the state capitol following the presidential election at 12:00 noon the first Monday after the 2nd Wednesday in December. If there is a vacancy in the office of an elector due to death, refusal to act, failure to attend or other cause, the electors present shall immediately proceed to fill by ballot, by a plurality of votes, the electoral college vacancy. When all electors are present, or the vacancies filled, they shall perform their required duties under the constitution and laws of the United States.

**History:** 1965 c. 666.

**Legislative Council Note, 1965:** This section is a restatement of s. 9.06. (Bill No. 755-A)