

TITLE II.

Elections.

CHAPTER 5

GENERAL PROVISIONS; BALLOT FORM

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SUBCHAPTER I

GENERAL PROVISIONS

5.01 Scope. (1) CONSTRUCTION OF TITLE II. Title II shall give effect to the will of the electors, if that can be ascertained from the proceedings, notwithstanding informality or failure to fully comply with some of its provisions.

(2) GENERAL PROVISIONS OF ELECTION LAWS APPLY. The general provisions of Title II apply to all elections.

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

(4) TIE VOTE. (a) If 2 or more candidates for the same office receive the greatest, but equal number of votes, the winner shall be chosen by lot in the presence of the election officials then present.

(b) If, in a primary, 2 or more candidates receive an equal but not the greatest number of

votes so that only one of those candidates with equal votes may advance to the final election, the choice shall similarly be made by drawing lots.

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

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

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

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

5.02 Definitions. In Title II, unless the context requires otherwise:

- (1) "Board" means the elections board.
- (2) "County clerk" includes the executive secretary of the county board of election commissioners and their authorized representatives.
- (3) "Educational officer" means the state superintendent and school board members.
- (4) "Election" means all primaries and elections.
- (5) "General election" means the election held in even-numbered years on the Tuesday after the first Monday in November to elect United States senators, representatives in congress, electors of president and vice president, state senators, members of the assembly, state officers and county officers other than supervisors and county executives required to be elected in that year.
- (6) "Governing body" means the city council, town board or village board, and also includes the municipal board of election commissioners insofar as the powers are given to them.
- (7) "Judge" means a court of appeals judge or a judge of a circuit court.
- (8) "Justice" means a justice of the supreme court.
- (10) "Municipal clerk" means the city clerk, town clerk, village clerk and the executive secretary of the city election commission and their authorized representatives. Where applicable, "municipal clerk" also includes the clerk of a school district.
- (11) "Municipality" means city, town or village.
- (13) "Political party" or "party" means a state committee registered under s. 11.05 organized exclusively for political purposes, recognized by the national organization of the party, if any, under whose name candidates appear on a ballot at any election, and all county, congressional, legislative, local and other affiliated committees authorized to operate under the same name, except that the term does not include committees organized under s. 8.17 and assigned responsibilities under s. 7.30, with respect to such activities only.
- (14) "Poll list" means the list which is compiled by election officials on election day showing the names and addresses of electors who actually cast votes in an election.

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

(16) "Primary" means a primary election.

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

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

(19) "Special election" means any election, other than those described in subs. (2) to (5) to fill vacancies or for other designated purposes.

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

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

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

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

(25) "Ward" means a town, village or city subdivision created for the convenience of the electors therein and to facilitate the division of such municipalities into election districts of substantially equal population numbers along common boundaries observing the community of interest of existing neighborhoods and other settlements.

History: 1971 c. 211; 1971 c. 304 ss. 2, 29 (2); 1973 c. 280, 334; 1975 c. 93; 1977 c. 107, 187, 394; 1977 c. 427 ss. 3 to 14; 1977 c. 449.

5.05 Elections board; powers and duties.

(1) **GENERAL AUTHORITY.** The elections board shall have the responsibility for the administration of this title and other laws relating to elections and election campaigns. Pursuant to such responsibility, the board may:

(a) Employ under the classified service an executive secretary and legal counsel.

(b) In the discharge of its duties and upon notice to the party or parties being investigated, subpoena and bring before it any person in the state and require the production of any papers,

books or other records relevant to an investigation. Upon showing of probable cause to believe there is a violation of ch. 11, a circuit court may by order permit the inspection and copying of the accounts and the depositor's and loan records at any state or national bank, trust company, credit union, savings bank, or state or federal savings and loan association doing business in the state to obtain evidence of any such violation. In the discharge of its duties, the board may cause the deposition of witnesses to be taken in the manner prescribed for taking depositions in civil actions in circuit court.

(c) Bring civil actions to require forfeitures for any violation of ch. 11 under s. 11.60, and sue for injunctive relief under s. 11.66 to compel compliance with ch. 11. Actions brought by the board may concern only violations with respect to reports or statements required by law to be filed with it, and other violations arising under elections for state office or statewide referenda. Pursuant to such authority, the board is authorized to compromise and settle any civil action or potential action brought or authorized to be brought by it under ch. 11 which, in the opinion of the board, constitutes a minor violation, a violation caused by excusable neglect, or which for other good cause shown, should not in the public interest be prosecuted under such chapter. Notwithstanding s. 288.06, an action or proposed action authorized under this paragraph may be settled for such sum as may be agreed between the parties. Actions by the board shall be brought in the circuit court for the county wherein the violation is alleged to occur. The board shall file a report of all civil actions brought by it and the disposition of those actions to the appropriate standing committees of each house of the legislature, as determined by the presiding officer, on March 1 and September 1 of each year.

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

(3) INVESTIGATIONS. (a) The board shall upon complaint by any person or on its own motion investigate violations of the elections laws and shall notify the district attorney of the proper county or the attorney general where appropriate of any facts within its knowledge or

evidence in its possession which may be grounds for civil action or criminal prosecution.

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

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

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

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

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

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

(8) VOTER REGISTRATION BULLETINS. The board shall publish a concise bulletin written so as to be easily understood by the general public, for use by electors, explaining the law with respect to voter registration. Bulletins shall be

distributed by the board to local clerks and made available to the public free of charge.

(9) PRIOR APPROVAL OF RULES REQUIRED. This subsection does not apply to emergency rules adopted under s. 227.027.

(a) Role of legislative council. Prior to any public hearing on a proposed rule under chs. 5 to 12, or if no public hearing is required, prior to notification of the standing committees, the board shall submit the proposed rule to the legislative council for review. The legislative council shall act as a clearing house for rule drafting and cooperate with the board and the revisor to:

1. Review the statutory authority under which the board intends to adopt the rule. The legislative council shall notify the board, the joint committee for the review of administrative rules and the appropriate standing committee when the statutory authority is eliminated or significantly changed by repeal, amendment, court decision or for any other reason.

2. Ensure that the procedures for the promulgation of a rule required by this subsection and ch. 227 are followed.

3. Review proposed rules for form, style and placement in the administrative code.

4. Review proposed rules to avoid conflict with or duplication of existing rules.

5. Review proposed rules to provide adequate references to relevant statutes, related rules and forms.

6. Streamline and simplify the rule-making process.

7. Review proposed rules for clarity, grammar and punctuation and to ensure plain language.

8. Review proposed rules to determine potential conflicts and to make comparisons with federal regulations.

(b) Legislative council to assist standing committees. The legislative council shall work with and assist the appropriate standing committees throughout the rule-making process. The legislative council may issue recommendations concerning any proposed rule which the board submits under this section.

(c) Notification of standing committees. The board shall notify appropriate standing committees when proposed rules under this section are in final draft form by submitting a notice to the presiding officer in each house. Each presiding officer shall refer the notice to one standing committee. The board may withdraw a proposed rule by notifying the presiding officer in each house of the legislature of its intention not to promulgate the rule.

(d) Form of notice. The notice shall include the proposed rule in a form complying with s. 227.024 (1).

(e) Standing committee review. 1. A committee may be convened upon the call of its chairperson or a majority of its members to review a proposed rule. A committee may meet separately or jointly with the other committee to which the notice is referred, direct the board to attend the meeting and hold public hearings to review the proposed rule.

2. The standing committee review period lasts for 30 days after the notice is submitted and if within the 30-day period a standing committee directs the board to meet with it to review the proposed rule, the standing committee review period is extended for 30 days from the date of that request.

3. The board may not promulgate a proposed rule during the standing committee review period unless both committees approve the rule prior to the expiration of that period.

4. Either standing committee may disapprove the proposed rule or part of a proposed rule by taking action in executive session to disapprove the rule within the standing committee review period. If both committees fail to take this action, the proposed rule is not disapproved and the board may promulgate the rule.

(f) Joint committee for the review of administrative rules. 1. If either standing committee disapproves a proposed rule or part of a proposed rule, the proposed rule or its part shall be referred to the joint committee for the review of administrative rules.

2. The joint committee review period lasts for 30 days after the proposed rule is referred and the joint committee shall meet and take action in executive session during that period.

3. The board may not promulgate a proposed rule or its part which is disapproved by a standing committee unless the proposed rule is approved by the joint committee for the review of administrative rules or until the bill in subd. 5 fails of enactment. The board may promulgate portions of the rule which were not suspended, if the committee disapproved only parts of the rules.

4. The joint committee for the review of administrative rules may reverse the standing committee disapproval by taking action to approve the rule within the joint committee review period. The joint committee may uphold the standing committee disapproval by taking action to disapprove the rule within the joint committee review period. The joint committee may remand the proposed rule to the board for further consideration or public hearings or both. If the joint committee disapproves a proposed rule, the board may not promulgate the proposed rule until the bill in subd. 5 fails of enactment.

5. When the joint committee for the review of administrative rules disapproves a proposed

rule or portion of the proposed rule, the committee shall as soon as possible place before the legislature, a bill to support the disapproval. If such bill is defeated, or fails of enactment in any other manner, the proposed rule or portion of the proposed rule may be promulgated. If the bill becomes law, the proposed rule or portion of the proposed rule, may not be promulgated unless a properly enacted law specifically authorizes the adoption of that rule.

History: 1973 c. 334; 1975 c. 85, 93, 199; 1977 c. 29; 1977 c. 196 s. 131; 1977 c. 418, 427, 447.

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

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

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

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

History: 1975 c. 85; 1977 c. 427.

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

History: 1977 c. 427.

5.10 Presidential electors. Although the names of the electors do not appear on the ballot and no reference is made to them, a vote for the president and vice president named on the ballot is a vote for the electors of the candidates by whose names the mark appears. Under Title II, all references to the presidential election, the marking of the ballot and the canvassing of votes for president, or for president and vice

president, mean a vote for them through their pledged presidential electors.

History: 1973 c. 334 s. 2; 1977 c. 26.

5.15 Division of municipalities into wards. Within 90 days after the population count by rural enumeration district or urban city block, established in the decennial federal census of population, becomes available in printed form from the federal government or is published for distribution by an agency of this state, the governing body of every municipality with a population of 1,000 or more shall adjust its ward lines according to the schedule shown in sub. (2). Each ward shall consist of whole census enumeration districts or, where block statistics are available for urban blocks, of whole urban blocks. To suit the convenience of the voters residing therein, each ward shall be kept as compact as practicable.

(1) The division of a municipality into wards shall be made by the common council for each city, by the village board for each village, and by the town board for each town. Passage of a division order or resolution requires the affirmative vote of a majority of the members of the respective governing body.

(2) If the population of a rural enumeration district or urban block exceeds the maximum population otherwise specified in this subsection, such enumeration district or block shall be constituted a ward by itself.

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

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

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

(d) In any city, village or town in which the population is at least 1,000 but less than 10,000, each ward shall contain not less than 300 nor more than 1,000 inhabitants.

(e) No city, village or town in which the population is less than 1,000 is required to be divided into wards under this section.

(3) If any municipality fails to comply with this section, any voter residing in the municipality may submit to the circuit court for the municipality within 2 weeks from the expiration of the 90-day period under this section a proposed plan for the division of the municipality into wards in compliance with this section. If the circuit court finds that the existing division of the municipality into wards fails to comply with this section, it shall review the plan submitted by the

petitioner and may promulgate it, or any other plan in compliance with this section, as a temporary ward plan for the affected municipality to remain in effect until superseded by a ward plan adopted by the governing body in compliance with this section.

(4) (a) The division order or resolution shall list the wards by number and designate the polling place for each ward.

(b) The resolution or order shall be filed with the proper municipal clerk, who shall transmit a copy to the county clerk within 5 days.

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

(6) (a) Following any municipality-wide special federal census of population, the governing body of the municipality in which the special census was held may change the ward boundaries in compliance with sub. (2). The governing body shall file a copy of the order or resolution under sub. (4).

(b) No later than 60 days before an election the governing body of any municipality may by resolution combine 2 or more wards for voting purposes to facilitate using a common polling place. A copy of the resolution shall be filed in the same manner as for changes in ward boundaries under sub. (4) (b). The resolution shall remain in effect for each election until modified or rescinded, or until a new division is made following the next census.

(7) When part of a town is annexed to a city or village, the town board, without regard to the time provisions of sub. (3), may redistrict the remaining wards in that town in compliance with sub. (2). A copy of the order or resolution shall be filed under sub. (4).

History: 1971 c. 304 ss. 3 to 5, 29 (2); 1977 c. 26, 418, 427, 449.

5.18 Compulsory division into wards. (1)

When division into wards becomes imperative under s. 5.15 and the governing body obliged to act fails or refuses to do so, any elector of the municipality may apply to the proper circuit court or its presiding judge for an order compelling division. After reasonable notice to the governing body proceeded against, the court or judge may order division when it appears necessary.

(2) Failure to comply with the order in the specified time, unless stayed or superseded, is criminal contempt.

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

History: 1971 c. 304 s. 29 (2).

5.25 Polling places. All elections under Title II shall be held at the polling places provided

in this section. So far as practicable, the places chosen shall be public buildings.

(1) In 1st class cities, polling shall be at the places established by the board of election commissioners at any public schools and other public buildings which shall be made available without charge and at any fully or partially tax exempt nonsectarian private buildings offered without charge. In all other cities and villages, polling shall be at the places ordered by the governing body, at least 30 days before the election.

(2) In towns, polling shall be at the place where the last town meeting was held unless changed at that meeting or ordered by the supervisors under s. 60.07. The place for the annual town meeting held on the first Tuesday in April shall be similarly regulated.

(3) Wherever the inspectors do not receive ballots at the door to a polling place under s. 6.82 (1), the polling place shall have at least one entrance which is accessible to persons in wheelchairs.

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

History: 1975 c. 275; 1977 c. 427.

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

(2) **VOIING BOOTHS.** There shall be one voting booth for every 200 electors who voted at the last general election. The booths shall be constructed at least 24 inches on a side, have a shelf to write on and be sufficiently enclosed to assure privacy for the elector and anyone lawfully assisting the elector while marking the elector's ballot.

(3) **BALLOT BOXES.** Where the voting procedure makes them necessary, there shall be a separate ballot box for each form of ballot at each polling place. There must be a suitable lock and key for each, and an opening no larger than is sufficient to receive a single folded ballot.

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

(5) **ACTIVITIES RESTRICTED.** No polling place may be situated so as to interfere with or

distract election officials from carrying out their duties. The municipal clerk and election inspectors shall prevent interference with and distraction of electors at polling places.

History: 1975 c. 85, 199; 1977 c. 427.

5.37 Voting machine requirements. (1)

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

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

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

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

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

History: 1971 c. 304 s. 29 (1), (2); 1977 c. 107, 427.

State action in presidential candidate selection. 1976 WLR 1269.

5.40 Voting machines shall be used. (1)

The common council of every city and the trustees of every village with a population of 10,000 or more shall require the use of voting machines.

Any other municipal governing body may adopt and purchase voting machines for use in the various wards.

(2) Only voting machines complying with s. 5.37 shall be used in any election in this state.

(3) Notwithstanding sub. (1), the use of voting machines shall be optional with the municipality for any territory of low population annexed to a city or village across the boundary of a legislative district, but shall again be mandatory as soon as the best evidence suggests that the population residing in the territory so annexed exceeds the minimum population for a ward as specified under s. 5.15 (2).

History: 1971 c. 304 s. 29 (2); 1973 c. 112; 1977 c. 427.

SUBCHAPTER II

BALLOT FORM

5.51 General provisions. (1) All ballots shall be of sufficient width and length to provide space for all matter required to be printed on them.

(2) The paper used for ballots shall be 35 pounds per ream for sheets 24 inches by 36 inches. If a different size sheet is used, the weight per ream shall be proportioned accordingly, but shall meet this standard.

(3) All ballot columns shall be separated by lines at least one-eighth inch in width.

(4) No pasters shall be placed on a ballot by election officials except under s. 7.35 (3). Any other pasters applied by them shall not be counted.

(5) Sample ballots shall be printed on a different color paper than the official ballots, and need not have the indorsement and certificate.

(6) All candidates' names for the same office shall be printed on the ballot in the same size and style of type.

Revisor's Note, 1977: The elections board has the duty to prepare and revise the official ballot forms under s. 7.08 (1) (a). Please contact the elections board for the latest forms.

5.53 Voting machine ballots. (1) The ballots shall be placed on or in the machine, under s. 5.64 and may be arranged in either vertical or horizontal rows.

(2) Where the provisions require separate ballots, the names or questions shall be placed in separate rows upon the machines so they are voted on separately.

5.54 Notice to electors. Every paper ballot shall bear the following information on the face: "NOTICE TO ELECTORS: This ballot is invalid unless initialed by 2 election officials serving as ballot clerks. If cast as an absentee

ballot, the ballot must bear the initials of the municipal clerk.”

History: 1977 c. 427.

5.55 Ballot Identification. On every paper ballot shall be printed “Official Ballot” or “Official Ballot for” followed by the designation of the polling place for which the ballot has been prepared, the date of the election, and the official indorsement and blank certificates. The number of the ward or aldermanic district, if any, and the name of the municipality may be omitted in printing and stamped or written on the ballots at the option of the county clerk. Stamped or written information may be placed at any location on the ballot which is clearly visible. Other information and initials shall appear on the back and outside of the ballot. Each ballot shall be prepared in substantially the following form:

OFFICIAL BALLOT
FOR

.... Ward (if any), Aldermanic district (if any),
City (Village or town) of,
.... 19...

Ballot Clerks

Absent Elector’s Ballot issued by
.... Municipal Clerk

[I] [We] certify that the within ballot was marked by [me] [us] for an elector incapable under the law of marking the ballot and as directed by the elector.

.... (Signature of assisting elector)
.... (Signature of official) (Title)
.... (Signature of official) (Title)

I certify that the within ballot was marked by me at the request of an absentee elector incapable under the law of marking the ballot and as directed by the elector.

.... (Signature of officer authorized to administer oaths)
.... (Title)

History: 1971 c. 304 s. 29 (1), (2); 1975 c. 421; 1977 c. 427.

5.58 Spring primary ballots. At spring primary elections the following ballots, when necessary, shall be provided for each ward. Only nonpartisan candidates nominated for office by nomination papers shall have their names placed on the official spring primary ballot under the proper office designation, but the ballots shall allow room for write-in candidates.

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

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

(c) Towns and villages holding a primary under s. 8.05 shall arrange the ballot in substantially the same form as provided in s. 5.60 (5) and (6) and annexed ballot 8 as appropriate.

(2) JUDICIARY; STATE SUPERINTENDENT OF PUBLIC INSTRUCTION; COUNTY EXECUTIVE; AND COUNTY SUPERVISORS. (a) There shall be one separate ballot for state superintendent, judicial officers, county executive under ss. 59.031 and 59.032 and county supervisor. In counties over 500,000 population the ballot also shall include those offices under s. 8.11 (2) and (2m). The arrangement of names for state superintendent, justice, court of appeals judge and circuit court judge shall be determined by the board under s. 5.60. Arrangement of judicial candidates, and candidates for county executive and county supervisor within a county shall be arranged by the county clerk, or by the executive secretary of the county board of election commissioners under s. 5.60. The ballot shall be in substantially the same form as annexed ballot “E” but titled, “Official Ballot for Judicial, State Superintendent of Public Instruction, County Executive and County Supervisor Primary”, except that in counties having a population of 500,000 or more, it shall be titled “Official Ballot for County Officers, Judicial, State Superintendent of Public Instruction and School Board Primary”.

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

NOTE: Sub. (2) is shown as affected by chs. 187, 272, 445 and 449, laws of 1977 as directed by s. 13.93 (2) (c).

(3) NAMES ON SPRING BALLOT. Only 2 candidates for state superintendent, for any judicial office, and in cities of the 1st class only 2 candidates for any at-large seat and any combined aldermanic district seat as are to be elected to the board of school directors, and in counties over 500,000 population only 2 candidates for a

member of the county board of supervisors in each district, and twice as many candidates as are to be elected members of the board of education or other elective officers receiving the highest number of votes at the primary shall be nominees for the office at the spring election. Only their names shall appear on the official spring ballot.

History: 1971 c. 304 ss. 6 to 8, 29 (2); 1973 c. 134, 243; 1973 c. 334 s. 57 (2); 1973 c. 340; 1975 c. 93; 1977 c. 187, 272, 445, 449.

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

(1) JUDICIARY; STATE SUPERINTENDENT OF PUBLIC INSTRUCTION; COUNTY EXECUTIVE AND COUNTY SUPERVISORS. There shall be one separate ballot for the county executive under ss. 59.031 and 59.032, county supervisors, judicial officers and the state superintendent of public instruction. Arrangement of the county executive and county supervisors within a county shall be arranged by the county clerk, or by the executive secretary of the county election commission under this section.

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

(b) The board shall certify the candidates' names and designate the official ballot arrangement for candidates for justice, court of appeals judge, circuit judge and state superintendent. The arrangement of names of all candidates on the ballot whose nomination papers are filed with the board shall be determined by the board by the drawing of lots on the day following the deadline for filing nomination papers.

(c) The county clerk or board of election commissioners shall determine the official ballot order for judicial office candidates not determined by the board, using the same method of determining arrangement of names on the ballot as that used by the board under par. (b).

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

(3) CITY. There shall be a separate ballot giving the names of all candidates for city and school offices, except under sub. (4), printed in substantially the same form as annexed ballot "B". City election ballots may vary in form to

conform to the law under which an election is held.

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

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

(4) CITY SCHOOL. (a) There shall be a separate ballot for city school officers when so required. Officers elected under s. 120.44 (2) (a) may be placed on the same ballot as other city officers.

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

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

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

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

(6) TOWN. There shall be a separate ballot giving the names of all candidates for town offices, except the superintendent of highways, in substantially the same form as annexed Ballot 6A or 6B. Ballot 6A is for the election of one supervisor and 6B is for the election of the 2 supervisors jointly. On Ballot 6B all supervisor candidates shall be listed together and the voting instructions shall state "Vote for Two". Towns now electing their supervisors jointly shall continue to do so until the method outlined for Ballot 6A is adopted at the annual town meeting. The names of candidates whose nomination papers are filed at the town level shall be arranged by using the same method as that used by the board under sub. (1) (b).

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

(8) BALLOTS FOR PRESIDENTIAL VOTE. There shall be a separate ballot for each party qualified under s. 5.62, listing the names of all potential candidates of that party determined under s. 8.12 and affording, in addition, an opportunity

to the voter to nominate another potential candidate by write-in vote or to vote against the choices offered on the ballot. The order of such presidential candidates shall be determined by lot by or under the supervision of the board. Each voter shall be given the ballots of all the parties participating in the presidential preference vote, but may vote on one ballot only.

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

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

**OFFICIAL BALLOT
PRESIDENTIAL PREFERENCE VOTE**
.... Party

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

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

Vote against all of the names printed on this ballot, thus in fact expressing your preference for an uninstructed delegation from Wisconsin to the national convention of the party (in that case, make a cross or other similar mark in the space following "None of the names shown"); or

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

- OLE CARLSON..... ()
- AMOS DUNCAN..... ()
- JAMES UNDERWOOD..... ()
- None of the names shown..... ()
- Write-in candidate ()

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

**OFFICIAL BALLOT
PRESIDENTIAL PREFERENCE VOTE**
.... Party

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

Express your preference for the person whose name is printed on this ballot (in that case, make a cross or other similar mark in the space marked "YES" following that person's name); or

Vote against the person whose name is printed on this ballot, thus in fact expressing your preference for an uninstructed delegation from Wisconsin to the national convention of the party (in that case, make a cross or other similar mark in the space marked "NO" following that person's name); or

Write in the name of another person to become the presidential candidate of the

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

- JOHN DOE YES ... ()
- NO ... ()

Write-in candidate ()

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

**OFFICIAL BALLOT
PRESIDENTIAL PREFERENCE VOTE**
.... Party

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

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

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

Uninstructed delegation..... ()

Write-in candidate ()

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

(d) After preparing his ballot, the elector shall detach it from the remaining ballots and shall fold it so that its face will be concealed. The printed indorsements and signatures or initials on the back of the ballot will then be visible. The remaining ballots shall be folded in like manner by the elector. The elector shall, without leaving the polling place, deliver in person the ballot on which he has expressed his presidential preference, and the remaining ballots, to one of the inspectors for deposit in the proper ballot boxes.

(e) Immediately after the canvass the inspectors shall, without examination, destroy the ballots deposited in the blank ballot box.

(9) REFERENDA BALLOT. The referenda ballot used at the spring election shall be the same as that used at the general election under s. 5.64 (2).

History: 1971 c. 304 ss. 9 to 11, 29 (2); 1971 c. 336; 1973 c. 134; 1973 c. 334 s. 57; 1975 c. 93; 1977 c. 187, 427, 445, 449.

5.62 September primary ballots. At September primaries, where necessary, the following ballot shall be provided for each ward, in substantially the same form as annexed Ballot 1.

(1) (a) There shall be an Australian ballot made up of the several party tickets with each party entitled to participate in the primary having its own ballot, and the independent candidates for state office shall have a separate ballot for all such candidates as under s. 5.64 (1) (e). The several ballots shall be secured together at the bottom. The party ballot of the party receiving the most votes for governor at the last general election shall be on top with the other parties arranged in an order based on their vote for governor at the last general election. The ballot listing the independent candidates shall be placed at the bottom.

(b) Every political organization listed as independent and every recognized political party listed on the official ballot at the last general election that received at least one percent of the total votes cast for any statewide office, including presidential elector, which was contested at that election shall have a separate primary ballot and separate column on the general election ballot. The chairman and secretary of the organization which was "independent" at the last election shall certify to the board their party name, which shall not duplicate the name of an existing party.

(2) Any political organization may be represented by a separate ballot if, not later than June 1 in the year of a September primary, it files with the board a petition so requesting, signed either by electors equal to one-sixth of the total vote cast for governor in each of at least 10 counties at the last election or one-sixth of the electors in any senate, assembly or congressional district. When their candidates fulfill the nomination paper requirements, they shall appear on a separate ballot within the district or state.

(3) The board shall designate the official primary ballot arrangement for state offices by using the same procedure as for supreme court justice candidates under s. 5.60 (1) (b); congressional and state senate candidates by using the same procedure as for circuit court judges under s. 5.60 (1) (b) by numbering the assembly districts and parts of assembly districts within each congressional or senate district; and assembly candidates, by similarly numbering and arranging by population the counties within an assembly district. Independent candidates for state office shall be listed for each office in

an order drawn by lot by or under the supervision of the board. The candidates shall then be listed under s. 5.60 (1) (b).

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

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

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

(5) At the September primary, an elector may vote for the candidates of only one party, or the elector may vote for any of the independent candidates for state office listed; but the elector may not vote for more than one candidate for a single office.

History: 1971 c. 304 ss. 12, 29 (2); 1971 c. 336; 1973 c. 334 s. 57; 1975 c. 93; 1977 c. 107, 427.

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

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

(1) **OFFICIAL BALLOT.** There shall be a separate ballot giving the names of all candidates for state, congressional, legislative and county offices in substantially the same form as annexed Ballot "A".

(a) The ballot shall be labeled "Official Ballot" in lettering at least three-eighths of an inch high. Directly underneath in plain, legible type, shall be the following voting instructions: "If you desire to vote a straight party ticket for all state, congressional, legislative and county offices, place a cross (X) or other mark in the circle under the party designation at the top of the party column. If you desire to vote for individual candidates, place a cross (X) or other mark in the square to the right of each candidate you wish to vote for or write the name of your preference in the space provided".

(b) Below the voting instructions the ballot shall be divided into vertical columns. The regular party tickets nominated by conventions, constituted and authorized committees, or primaries, shall be printed each in a separate column under the party designation. The columns shall be arranged from left to right according to rank, with the party receiving the most votes in the last gubernatorial election placed first. To the right of the party columns shall be the necessary number of columns for independents.

(c) The party designation shall be printed at the top of each column and under it shall appear a circle at least three-eighths of an inch in diameter for electors wishing to vote a straight party ticket. Within each column only candidates nominated by the party designated at the head of the column shall appear.

(d) The offices shall be consecutively arranged vertically beginning at the top with state offices, then congressional offices, legislative offices and ending with county offices.

(e) Within each column, each space shall state the office to be voted for directly above the candidate's first and last name. The candidate's name shall be placed in the party column by which nominated or if independent, in a column designated independent and all candidates for the same office shall appear on or between the same horizontal lines on the ballot. Independent candidates for the same office shall be listed in an order drawn by lot by or under supervision of the board. To the right of each candidate's name, in each column, shall be a square for the elector to place his or her cross (X) or other mark.

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

(2) REFERENDUM BALLOT. There shall be a separate ballot when any proposed constitutional amendment or any other measure or question is submitted to a vote of the people. The ballot shall give a concise statement of each question in accordance with the act or resolution directing submission in substantially the same form as annexed Ballot "D". This ballot form shall be used at all elections when questions are submitted to a vote of the people.

(a) The ballot shall be titled "Official Referendum Ballot" in lettering at least three-eighths of an inch high. Directly underneath in plain,

legible type shall be the following voting instructions: "If you desire to vote on any question, place a cross (X) or other mark in the square beneath the question after 'yes' if in favor of the question, or place a cross (X) or other mark in the square after 'no' if opposed to the question".

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

(c) In addition to the official referendum ballot described in pars. (a) and (b), there shall be the following official referendum ballots, substantially in the forms annexed.

1. Form D1 under ss. 67.05, 67.13 and 67.14.
2. Form D2 under s. 66.054 (5) (c).
3. Form D3 under s. 66.054 (5) (c).
4. Form D4 under s. 176.38 (3).
5. Form D5 under s. 8.05 (3) (f).

(3) PRESIDENTIAL BALLOTS. There shall be a separate ballot when the president and vice president of the United States are to be elected containing the names of all candidates for the offices in substantially the same form as annexed Ballot "C".

(a) The ballot shall be titled "Official Presidential Ballot" in lettering at least three-eighths of an inch high. Directly underneath in plain, legible type shall be the following voting instructions: "Place a cross (X) or other mark in the square opposite the names of the candidates for whose electors you desire to vote or write in the name of a candidate for either president or vice president, or both, in the space provided. Vote in ONE square only". The electors of the candidates need not be listed on the ballot but a vote for the candidates for president and vice president is a vote for them through their named presidential electors.

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

History: 1971 c. 304 s. 29 (2); 1977 c. 26, 427.

Revisor's Note, 1977: The elections board has the duty to prepare and revise the official ballot forms under s. 7.08 (1) (a). Please contact the elections board for the latest forms.

5.66 Number of ballots. (1) For local elections, where necessary, municipal clerks shall

have sufficient ballots printed to assure all electors or voting machines a ballot. For all other elections the municipal clerks shall certify to their county clerk, on the first day of the month preceding the month in which the primary is held, the approximate number of electors in the district. The county clerk shall total these estimates and order a sufficient supply to assure ballots for every elector.

(2) A sufficient number of sample ballots shall be printed. Voting machine sample ballots shall be a reduced size diagram of the face of the voting machine with all candidates, issues and voting instructions as they will appear on the official ballot. The county clerk shall distribute the samples approximately as follows: 45% shall be kept in the office and distributed to electors requesting them; 45% shall be sent to the municipalities for distribution to the electors; 10% shall be sent to the polling places in proportion to the number certified in sub. (1) and made available to electors at the polls on election day.

5.68 Cost of elections. (1) All costs for ballots, supplies, machines and any other material necessary in preparing or conducting any election shall be paid for by the governing body whose officer or commission is responsible under ch. 7 to provide them.

(2) When voting machines are used, the ballots for all county offices and offices higher than county level shall be printed and paid for by the county wherein used. When the voting machine ballot includes a school district ballot, that ballot shall be paid for by the municipality in the

school district with the highest equalized valuation. When voting machine ballots include 2 or more levels of government, the cost of printing shall be prorated between the units of government sharing the ballot. Referenda ballots shall be similarly printed and paid for.

5.70 Printers' fees. (1) The county clerk shall award the printing of ballots to the lowest responsible bidder upon the accepted bidder's filing with the clerk a bond in the penal sum of at least twice the amount of the accepted bid. The bond shall be signed by one or more sureties and conditioned upon the bidder's faithful performance of all conditions imposed upon him by the clerk. The clerk shall keep all printing proposals in his office. The county clerk may reject all bids. If bids are not received for voting machine ballots the county clerk may enter into contracts for the printing of the same.

(2) The city board of election commissioners in cities having a population of more than 500,000 may similarly provide for the printing of registration lists.

History: 1977 c. 394 s. 53; 1977 c. 427.

5.75 Correcting ballot errors. Whenever an affidavit is filed by any elector alleging error or omission in the printing of the ballots, the proper circuit court or its presiding judge, by order, may summarily require a county or municipal clerk to correct the error, or show cause why it should not be corrected and, by order, after the hearing have the correction made.