

CHAPTER 7

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

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SELECTION AND DUTIES

7.03 Compensation of election officials and trainees. A reasonable compensation of not less than \$5 per day shall be paid to each inspector, voting machine custodian, automatic tabulating equipment technician, member of a board of canvassers, messenger and tabulator who is employed and performing duties under chs. 5 to 12. Alternatively, such officials may be paid by the hour at a proportionate rate for each hour actually worked. Special registration deputies appointed under s. 6.55 (6) may be paid or unpaid at the option of the municipality. Officials and trainees who attend training sessions under s. 7.15 (1) (e) or 7.25 (5) may also be compensated for such attendance at municipal option. The amount of compensation, when authorized or required, shall be fixed by the appropriate county board of supervisors or municipal governing body. The board shall fix the amount to be paid any person employed to perform duties for the state. If such employment is necessitated to perform duties which are the responsibility of a county or municipality, the board shall charge the expense to such unit of government.

History: 1973 c. 334 s. 57; 1977 c. 394, 427; 1979 c. 89, 260, 311, 355; 1983 a. 484

7.08 Elections board. In addition to its duties for ballot arrangement under ch. 5 and date and notice requirements under ch. 10, the board shall:

(1) **ELECTION FORMS, BLANKS, VOTING APPARATUS.** (a) Prepare all official ballot forms necessary under chs. 5 to 12 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 by the board for public use and distribution and the prescribed forms shall be substantially followed in all elections under chs. 5 to 12.

(b) Prepare and provide upon request the necessary blanks and ballot bags to make the canvass, returns, statements and tally sheet statements for all elections for national, state and county offices and statewide referenda, and all other materials as it 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 board is required to furnish only a standard form tally sheet and canvass sheet statement under this paragraph.

(c) Prescribe forms required by ss. 6.24 (3) and (4), 6.30 (3) and (4), 6.33 (1), 6.40 (1) (b), 6.55 (2) and (3), 6.79 (5) and 6.86 (2) and (3). All such forms shall contain a statement of the penalty applicable to false or fraudulent registration or voting through use of the form. Forms are not required to be furnished by the board.

(d) Promulgate rules for the administration of the statutory requirements for voting machines and electronic voting systems and any other voting apparatus which may be introduced in this state for use at elections. Pursuant

to such responsibility, the board may obtain assistance from competent persons to check the machines, systems and apparatus and approve for use those types meeting the statutory requirements and shall establish reasonable compensation for persons performing duties under this paragraph.

(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 its office for which electors in that county may vote. The list shall designate the order of arrangement and contain each candidate's first name, middle initial or initials and last name, unless the candidate on his or her nomination papers or declaration of candidacy specifies that the middle initial be deleted, that a full middle name or former legal surname be substituted for the middle initial or that an initial be substituted for the candidate's first name, but no other abbreviations, nicknames or titles are permitted. The list shall also include each candidate's residence and post-office address; the office for which the person is a candidate; and, the party or principle the candidate represents, if any, in 5 words or less. Names of candidates nominated under s. 7.38 (3) or 8.35 shall be certified by the board upon filing of the necessary papers with it. At any time prior to an election, the board may transmit an amended certification if a candidate dies or is determined not to qualify for ballot placement.

(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.

(c) As soon as possible after the canvass of the spring and September primary votes, but no later than the first Tuesday in March and the Thursday after the 4th Tuesday in September, transmit to the state treasurer a certified list of all eligible candidates for state office who have filed applications under s. 11.50 (2) and whom the board determines to be eligible to receive payments from the Wisconsin election campaign fund. The list shall contain each candidate's name, the mailing address indicated upon the candidate's registration form, the office for which the individual is a candidate and the party or principle which he or she represents, if any.

(cm) As soon as possible after the canvass of a special primary, or the date that the primary

would be held, if required, transmit to the state treasurer a certified list of all eligible candidates for state office who have filed applications under s. 11.50 (2) and whom the board determines to be eligible to receive a grant from the Wisconsin election campaign fund prior to the election. The board shall also transmit a similar list of candidates, if any, who have filed applications under s. 11.50 (2) and whom the board determines to be eligible to receive a grant under s. 11.50 (1) (a) 2 after the special election. The list shall contain each candidate's name, the mailing address indicated upon the candidate's registration form, the office for which the individual is a candidate and the party or principle which he or she represents, if any.

(3) **ELECTION MANUAL.** Prepare and publish separate from the election laws an election manual written so as to be easily understood by the general public explaining the duties of the election officials, together with notes and references to the statutes as it deems advisable. The manual shall be furnished by the board free to election officials and others in such manner as it deems most likely to promote the public welfare. The election manual shall:

(a) Be compiled by the board, with the advice of the elections advisory council.

(b) Emphasize the fact that election officials should help, not hinder, electors in exercising their voting rights.

(c) Be subject to periodic review and revision when necessary.

(4) **ELECTION LAWS.** Prepare and publish the election laws. The board shall furnish the election laws free to election officials, and to members of the public upon request to the extent that extra copies are available.

History: 1971 c. 242; 1973 c. 334 s. 6, 57; 1975 c. 85, 93, 94, 199; 1977 c. 29, 107, 394, 427; 1979 c. 89, 177, 260, 311; 1981 c. 377; 1983 a. 51, 484.

Sub. (2) (a) does not prohibit use by candidate of both complete first and middle name. *Fine v. Elections Board*, 95 W (2d) 162, 289 NW (2d) 823 (1980)

7.10 County clerks. (1) ELECTION SUPPLIES AND BALLOTS. (a) Each county clerk shall provide ballots for every election in the county for all national, state and county offices, including metropolitan sewerage commission elections under s. 66.23 (11) (am) and for state and county referenda. The official and sample ballots shall be prepared in substantially the same form as those prescribed by the board under s. 7.08 (1) (a).

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

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supplies shall be enclosed in the sealed package containing the official ballots and delivered to the municipal clerk for each ward.

(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 board. Names certified by the board 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 board 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 election. Election blanks prepared by the board shall be distributed at the same time. If the board transmits an amended certification under s. 7.08 (2) (a) or a court orders a ballot error to be corrected under s. 5.72 (3) after ballots have been distributed, the county clerk shall distribute corrected ballots to the municipal clerks as soon as possible.

(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 ward 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 board.

History: 1971 c. 304 s. 29 (2); 1973 c. 280; 1973 c. 334 s. 57; 1977 c. 394 s. 53; 1977 c. 427; 1979 c. 221, 260, 311, 355; 1981 c. 377; 1983 a. 484.

7.11 Menominee county; town elections. The clerk shall prepare a ballot distinguishing between supervisors elected at large and by ward in any county having only one town with a part of the county board members elected by wards.

History: 1971 c. 304 s. 29 (2); 1973 c. 334

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) Distribute ballots and provide 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, advise them of changes in laws, rules and procedures affecting the performance of their duties, and administer examinations as authorized under s. 7.30 (2) (c). The clerk shall assure that officials who serve at polling places where an electronic voting system is used are familiar with the system and competent to instruct electors in its proper use. The clerk shall inspect systematically and thoroughly the conduct of elections in the municipality so that elections are honestly, efficiently and uniformly conducted.

(f) Discharge election officials 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.

(j) Send an absentee ballot automatically to each person making an authorized request therefor in accordance with s. 6.86 (2).

(k) Reassign inspectors appointed to serve at one polling place to another polling place within the municipality whenever necessary to assure adequate staffing at all polling places. No such reassignment may have the effect of eliminating representation at a polling place by one of the political parties entitled to nominate inspectors under s. 7.30 (2) (a).

(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 prepare their own official and sample ballots. Official ballots not utilized as absentee 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 prepare their own ballots whenever voting machines or electronic voting systems are used in elections where candidates for both local offices and national, state or

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county offices 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 or ordinance to a vote of the electors or whenever a proper recall petition and certificate are filed under s. 9.10, the municipal clerk shall issue a call for the election and prepare and distribute ballots as required in the authorization of submission or as provided in s. 9.10. The ballot for any referendum shall conform to s. 5.64 (2). If there is already an official municipal referendum ballot for the election, the question or ordinance may appear on the same ballot.

(3) BALLOT SUPPLY; SAMPLE BALLOTS. (a) Where voting machines are used or where electronic voting systems are employed, the municipal clerk shall provide at least 2 duplicate sample ballots for each ward in diagram form showing the board or screen inside each voting machine or the front of each ballot as it will appear in the voting machines or booths on election day.

(b) Sample ballots, voting machine ballots and ballot labels for electronic voting systems, whenever the labels are affixed to the voting devices, shall be furnished to the officials in the ward or election district at least one day before each election.

(4) RECORDING ELECTORS. After each election where 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 form of the elector. Municipalities employing data processing may, in lieu of this requirement, record voting information in such a manner that it is readily available for retrieval by computer.

(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. (a) The municipal clerk shall provide substitute paper 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. The municipal clerk may also provide substitute paper ballots, together with ballot boxes and voting booths, whenever a voting machine or electronic voting system is rendered inoperable by a malfunction which

occurs within 24 hours of the time set for opening of the polls. Paper ballots may be cast only in accordance with the procedures prescribed in ss. 6.80 (2) and 7.37 (4).

(b) Upon receiving the substitute paper ballots accompanied by a statement made under oath by the municipal clerk that the ballots have been prepared and furnished by the clerk to replace the original ballots which are not available, or to substitute for a voting machine or electronic voting system which has been rendered inoperable by a malfunction which occurred within 24 hours of the time set for opening of the polls, the election officials shall use the substitute ballots in the same manner as if they had been original ballots.

(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 requirements for election notices or the correct fees to be paid for them, the municipal clerk may consult the board.

History: 1971 c. 304 s. 29 (2); 1973 c. 334 s. 57; 1975 c. 85 ss. 50, 65; 1975 c. 275, 422; 1977 c. 283; 1977 c. 394 s. 54; 1977 c. 427, 447; 1979 c. 260, 311; 1981 c. 391; 1983 a. 484

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 of election commissioners shall consist of 3 members, each member being chosen from lists of at least 3 names each, selected and approved by the county committee of the 2 political parties receiving the most votes for governor in the county in the case of the county board of election commissioners, and receiving the most votes for governor in the city in the case of the city board of election commissioners, in the last general election. The county executive, for the county board of election commissioners, shall select from the list 2 persons from the majority party and one person from the next highest party in the county. The mayor, for the city board of election commissioners, shall select from the list 2 persons from the majority party and one person from the next highest party in the city.

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

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

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(5) Each board of election commissioners 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: 1973 c. 334; 1975 c. 124; 1983 a. 484 s. 172 (1).

7.21 Election commissioners, duties and regulations. (1) All duties and provisions of chs. 5 to 12 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 board of election commissioners or its executive secretary, unless specially retained or assigned in this section or s. 7.22.

(2) The board of election commissioners 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 board of election commissioners, 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 board of election commissioners is authorized to employ additional clerical assistants to carry out its necessary duties. The assistants' salaries shall be fixed by the governing body of the municipality or county.

(4) The board of election commissioners 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, cooperate with the board of election commissioners, provide storage space for the election equipment and supplies and assist with the moving and conducting of the elections as necessary.

History: 1973 c. 334; 1979 c. 89; 1983 a. 36; 1983 a. 484 s. 172 (1), (2).

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

(2) All expenses shall be paid upon order of the municipal board of election commissioners, 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 municipal board of election commissioners 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 municipal board of election commissioners 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 municipal board of election commissioners deems proper.

(5) The chief of police shall station a police officer at polling places designated by the municipal board of election commissioners for each election.

History: 1973 c. 334; 1977 c. 51; 1983 a. 484 s. 172 (1).

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 voting machines may be cleared and reactivated 14 days after any primary and 21 days after any other election.

(c) Registration cards which are canceled under s. 6.50 (7) may be destroyed 4 years after cancellation.

(d) Except as provided in s. 11.21 (11) (a), financial reports may be destroyed 6 years after the date of receipt. Financial registration statements may be destroyed 6 years after termination of registration.

(e) Registration and poll lists may be destroyed 90 days after the 2nd spring or general election following the primary or election at which they were created.

(f) Applications for ballots or registration, or other records and papers requisite to voting at any federal election, other than registration cards, may be destroyed after 22 months.

(g) Detachable recording units and compartments for use with electronic voting machines may be cleared or erased 30 days after any election.

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(h) Ballots may be destroyed 30 days after any election.

(i) Official canvasses may be destroyed 10 years after the election to which they relate.

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

(2) If there is a demand for a recount, notice of an election contest or any contest or litigation pending with respect to an election, materials may be destroyed and recorders, units or compartments may be cleared or erased only by order of the judge in whose court litigation is pending or if no litigation is pending, by order of any circuit judge for the affected jurisdiction. Upon petition of the attorney general or a district attorney or U.S. attorney for the affected jurisdiction, a circuit judge for the affected jurisdiction may order that specified materials not be destroyed or that specified recorders, units or compartments not be cleared or erased as otherwise authorized under this subsection until the court so permits. The governor may by order permit the clearing of voting machine recorders on machines needed to conduct a special election prior to the time authorized under this subsection, unless there is a demand for recount, notice of an election contest or a contest or litigation pending, or a court of record orders that the recorders not be cleared.

History: 1973 c. 334; 1975 c. 85, 200; 1977 c. 394 s. 53; 1977 c. 427; 1979 c. 260 ss. 42, 94; 1979 c. 311, 328; 1983 a 484 ss. 60 to 63, 174

7.24 Title to election materials. The filing of a nomination paper, ballot application, financial report, affidavit, or other form or statement with the appropriate official or agency responsible for accepting such materials under chs. 5 to 12 irrevocably transfers the legal title to such official or agency, regardless of the sufficiency of the filing. The official or agency shall retain all election materials until destruction or other disposition is authorized under s. 7.23.

History: 1975 c. 93; 1979 c. 89

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 ward. 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 or insert, set, adjust, put in order and deliver the machines

with all necessary furniture and appliances to the rooms where the election will be held for each ward 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 ward, 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. Officials and trainees may be compensated for attendance. 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 ward 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 ballots on the machines with the sample ballots furnished by the municipal clerk to ensure 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 shall be conspicuously posted by the inspectors 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: 1971 c. 304 s. 29 (2); 1977 c. 427; 1979 c. 311

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7.30 Appointment of election officials. (1) NUMBER. There shall be 7 inspectors for each polling place at each election held under chs. 5 to 12. Where voting machines are used, the number of inspectors may be reduced to 5. Additional inspectors may be appointed whenever more than one voting machine is used or polling places are combined under s. 5.15 (6) (b). A municipal governing body may provide by ordinance for the selection of alternate officials or the selection of 2 sets of officials to work at different times on election day. Additional officials shall be appointed in such a manner that the total number of officials is an odd number and the predominant party under sub. (2) is represented by one more official than the other party.

(2) QUALIFICATIONS AND PROCEDURE. (a) Except as authorized in s. 7.15 (1) (k), each inspector shall be a qualified elector in the ward for which the polling place is established. Special registration deputies appointed under s. 6.55 (6) and election officials serving more than one ward or when necessary to fill a vacancy under par. (b) need not be a resident of that ward, but shall be a resident of the municipality. Special registration deputies may be appointed to serve more than one polling place. All officials shall be able to read and write the English language, be capable, be of good understanding, and may not be a candidate, other than for party committeeman, to be voted for at an election at which they serve. In 1st class cities, they may hold no public office other than notary public. Except as authorized under sub. (4) (c), all officials other than special registration deputies shall be affiliated with one of the 2 recognized political parties which received the largest number of votes for president, or governor in nonpresidential general election years, in the ward or combination of wards served by the polling place at the last election. The party which received the largest number of votes is entitled to 4 inspectors for each polling place. The party receiving the next largest number of votes is entitled to 3 inspectors for each polling place. The same election officials may serve the electors of more than one ward where wards are combined under s. 5.15 (6) (b). If a municipality is not divided into wards, the ward requirements in this paragraph apply to the municipality at large.

(b) When a vacancy occurs, the appointment shall be filled by the municipal clerk from the remaining names on the lists submitted under sub. (4) or from additional names submitted by the chairman of the county party committee of the appropriate party under sub. (4). If the vacancy is due to candidacy, sickness or any other temporary cause, the appointment shall

be a temporary appointment and effective only for that election. The same qualifications shall be required, but vacancies may be filled in cases of emergency or because of time limitations by a person from another aldermanic district or ward within the municipality 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 and employ tabulators for any election. Such authorization applies to the elections specified in the resolution, and if not specified, applies until the authorization is modified or revoked.

(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 no later than their last regular meeting in December of each even-numbered year the necessary election officials for each election ward. If no regular meeting is scheduled, the mayor, president or chairman shall call a special meeting for the purpose no later than December 31.

(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 aldermanic district committeemen under s. 8.17 of each of the 2 dominant recognized political parties shall submit a certified list no later than November 30 of each even-numbered year containing the names of at least twice as many electors as there are inspectors from that party for each of the voting wards in the aldermanic district. The board of election commissioners shall appoint, no later than December 31 of even-numbered years, at least 5 inspectors for each ward, and may designate such alternates for each ward as it deems advisable.

2. In municipalities other than cities and villages located in counties having a population of more than 500,000, the committees organized under s. 8.17 from each of the 2 dominant parties under sub. (2) shall submit a list containing at least twice as many names as there are needed appointees from that party. The list

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shall be submitted by the chairman of each of the 2 committees to the mayor, president or chairman of the municipality. If committees are organized in subdivisions of a city, the list shall be submitted through the chairman of the city committee. If there is no municipal committee, the list shall be submitted by the chairman of the county or legislative district committee. Except as provided in par. (c), only those persons submitted by the chairman of each committee under s. 8.17 may act as election officials. The list shall contain the signature of the chairman and secretary of the submitting committee. In cities or villages located in counties having a population of more than 500,000, other than cities where there is a board of election commissioners, the aldermanic district or village committeeman or committeewoman for the ward or wards where each polling place is located, if there is one, shall submit a list containing at least twice as many names as there are needed appointees from the party represented by the committeeman or committeewoman. If there is no aldermanic district or village committeeman or committeewoman, nominations shall proceed in the same manner as in municipalities located in counties having a population of 500,000 or less. The list shall be submitted to the mayor or president. Except as provided in par. (c), only those persons submitted by the aldermanic district or village committeeman or committeewoman, if there is one, may act as election officials. The list shall contain the signature of the aldermanic district or village committeeman or committeewoman. 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) For so long as qualified nominees are made available by the political parties under this section, appointments may be made only from the lists of submitted nominees. If the lists are not submitted by November 30 of the year in which appointments are to be made, the board of election commissioners shall appoint, or the mayor, president or chairman of a municipality shall nominate qualified persons whose names have not been submitted. If an insufficient number of qualified nominees appears on the lists as of November 30, the board of election commissioners shall similarly appoint, or the mayor, president or chairman shall similarly nominate sufficient qualified persons to fill

the remaining vacancies. If an official is appointed whose name was not submitted on the lists, the official shall be affiliated with or designated by the appointing authority to represent one of the 2 parties that are entitled to submit lists. An official who is affiliated with one party may not be designated to represent a different party, unless the municipal clerk first makes a good faith effort to appoint an official who is affiliated with the represented party.

(d) A party committee or aldermanic district or village committeeman or committeewoman under s. 8.17 may submit additional names for inclusion in its list of nominations under this section at any time. Whenever there are no available names on any list, the board of election commissioners or the mayor, president or chairman of the municipality shall so notify the chairman of the appropriate party committee or the appropriate aldermanic district or village committeeman or committeewoman under s. 8.17. However, an appointment need at no time be delayed because of the lack of availability of party nominees.

(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 ward during their term of office.

(b) Prior to the first election following the appointment of the inspectors, the inspectors at each polling place shall elect one of their number to act as chief inspector. The chief inspector shall hold the position for the remainder of the term, except that whenever wards are combined or separated under s. 5.15 (6) (b), the inspectors shall elect a new chief inspector. If a vacancy occurs in the position of chief inspector, the municipal clerk shall appoint one of the other inspectors to fill the vacancy.

(c) If any election official lacks the qualifications set forth in this section, fails to attend training sessions required under s. 7.15 (1) (e) unless excused therefrom, is guilty of neglecting his or her official duties or commits official misconduct, the municipal clerk or board of election commissioners shall summarily remove

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the official from office and the vacancy shall be filled under sub. (2) (b).

History: 1971 c. 242; 1971 c. 304 s. 29 (1), (2); 1971 c. 336; 1973 c. 280, 334; 1975 c. 93, 101; 1977 c. 394, 427, 447; 1979 c. 89, 260, 355; 1983 a. 183, 484, 538.

7.31 Appointment of election officials where no party is organized. (2) The county chairman may submit nominations for the appointment of election officials in accordance with s. 7.30 on behalf of any party which is not organized in a county or municipality for so long as the party does not organize under s. 8.17. Nominees submitted under this section shall have the same qualifications and shall be treated in the same manner as other nominees under s. 7.30. The nomination and appointment procedure specified in s. 7.30 applies to appointments made under this section.

History: 1979 c. 260; 1983 a. 484.

7.32 Change of election official numbers. Notwithstanding s. 7.30 (1), the governing body of any municipality may by ordinance or resolution reduce the number of election officials and modify or rescind any similar previous action.

History: 1977 c. 427; 1979 c. 260 s. 46; 1983 a. 484.

7.33 Compulsory service. (1) 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.

(2) Every employer, including the state and political subdivisions thereof, shall grant to each employe who is appointed to serve as an election official a leave of absence for the entire 24-hour period of each election day in which the official serves in his or her official capacity. An employe who serves as an election official shall provide his or her employer with at least 7 days' notice of application for a leave. No penalty, other than a deduction for time lost, may be imposed upon an employe who requests a leave under this subsection. The municipal clerk shall verify appointments upon request of any employer.

History: 1977 c. 398; 1979 c. 260 s. 44.

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. The inspectors shall make a proclamation of the move and a law enforcement officer or other proper person designated by the municipal clerk 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 the inspectors shall immediately proceed with the election.

(2) 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. They shall enforce s. 5.35 (5) and prevent electioneering from taking place in violation of s. 12.03. If any person refuses to obey the lawful commands of an inspector, or is disorderly in the presence or hearing of the inspectors, interrupts or disturbs the proceedings, they may order any law enforcement officer to remove the person from the voting area or to take the person into custody.

(3) 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.

(4) GENERAL. At polling places which utilize paper ballots or electronic voting systems in which ballots are distributed to electors, 2 inspectors shall be assigned to take charge of the official ballots. They shall write their initials on the back of each ballot and deliver to each elector as he or she enters the voting booth one ballot properly endorsed by each of them. Where paper ballots are used, the inspectors shall fold each ballot in the proper manner to be deposited before delivering it to the elector. If asked, inspectors may instruct any elector as to the proper manner of marking, punching or labeling the ballot, but they may not give advice, suggestions, express any preferences or make any requests as to the person for whom, the question on which or the ballot on which the elector shall vote.

(5) IMPROPER CONDUCT. Any election official who intentionally fails to properly endorse a ballot or who intentionally gives an elector a ballot not properly endorsed shall be removed as an election official.

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(6) **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 (2), the inspectors shall properly paste them on the official ballots before indorsement.

(7) **REGISTRATION AND POLL LISTS.** Two inspectors shall be assigned to have charge of the registration or poll lists at each election.

(8) **ELECTRONIC VOTING SYSTEMS.** Prior to the opening of the polling place, wherever electronic voting systems employing voting devices are used, the inspectors shall place the voting devices in position for voting and examine them to see that they are in proper working order and that they have the correct ballot labels by comparing them with the sample ballots.

(9) **POSTING SAMPLE BALLOTS.** Two sample ballots sent by the municipal clerk shall be posted by the inspectors near the entrance to the polling place for public inspection throughout the day.

(10) **CHALLENGED ELECTORS.** If any person is challenged for cause, the inspectors shall proceed under ss. 6.92 and 6.925 and with the aid of other provisions of ch. 6 as appear applicable, shall resolve the challenge.

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

(12) **CANVASSERS.** The election inspectors shall constitute the board of canvassers of their polling place and in that capacity shall perform the duties under s. 7.51, except as otherwise designated by the municipal clerk under ss. 5.85 and 5.86.

History: 1971 c. 304 s. 29 (2); 1975 c. 85; 1977 c. 427; 1979 c. 260, 311, 355; 1981 c. 391; 1983 a. 484 ss. 68, 69, 71 to 73, 172 (3).

7.38 Political party election functions. (1)

OBSERVERS. (a) For every polling place, each recognized political party may appoint 2 party observers and an alternate for each, as observers of the election proceedings and the canvassing of the votes. The appointments may be made by the county committee of the party that nominated the candidates. Party appointments shall be filled by the chairman of the party. Except at primary elections, observers appointed by a party shall serve as observers for all candidates appearing on the ballot or in the column of that party. Candidates at partisan primary elections, independent candidates at partisan elections and candidates at nonpartisan elections may similarly appoint one observer for each polling place to represent them.

(b) The board may by rule prescribe procedures and standards whereby nonpartisan and

bipartisan organizations of electors not affiliated with any candidate may be authorized to appoint observers under this subsection.

(c) 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 ward to which appointed, and the name of the alternate appointee, in case the original appointee is absent.

(d) 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.

(e) Observers of election proceedings, as a matter of right, shall be so positioned at the polls by the chief inspector as to reasonably be enabled to closely observe proceedings and hear instructions given to voters.

(2) **SAMPLE BALLOTS.** Any individual, committee or candidate, at their own expense, subject to limitations upon contributions and disbursements under ch. 11, may print a supply of sample ballots, provided they bear on their face the information required by s. 11.30 (2) and they contain all the names shown on the official ballot.

(3) **VACANCIES AFTER NOMINATION.** (a) Except as provided in par. (d), after the death of a candidate nominated for a partisan office, either in a primary or when no primary is required under s. 8.50 (3) (b), the vacancy may be filled by the candidate's political party. In the case of county offices, the vacancy shall be filled by the chairman of the county committee. If no county committee exists, the vacancy shall be filled by the chairman of the state committee. For other offices, the vacancy shall be filled by the chairman of the state committee. The appropriate chairman shall file with the official or agency with whom nomination papers are filed for the office a certificate signed, certified and sworn to the same as an original nomination paper. The certificate shall state the cause of the vacancy, the name of the new nominee and the office for which the nomination is made. A political party may not nominate a candidate for an office for which no person representing that party has filed nomination papers and a declaration of candidacy.

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

(c) If the vacancy occurs after ballots have been printed in any county or municipality, the chairman of the committee filling the vacancy

shall supply the municipal clerk with pasters containing the name of the new nominee only. The pasters may be no larger than the space provided on the ballot for the original candidate's name and office.

(d) There can be no vacancy in nomination prior to a party primary, except when no primary is required under s. 8.50 (3) (b).

(e) In the event of failure to file the name of a current state chairman, as required under s. 8.17 (12), the board may not recognize the state committee for the purpose of filling vacancies under par. (a).

History: 1971 c. 304 s. 29 (2); 1973 c. 334; 1975 c. 93, 200; 1977 c. 340, 427; 1979 c. 311; 1983 a. 484

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 or she is entitled to cast at any election, all the elector's votes for that office or measure are invalid and the elector is deemed to have voted for none of them, except as provided in sub. (2) (d).

(c) If an elector casts more than one vote for the same candidate for the same office, the first vote is valid and the remaining votes are invalid.

(d) Whenever an electronic voting system is used at a polling place in a partisan primary, and the same ballot is utilized to cast votes for candidates of more than one recognized political party, if an elector makes a mark or punch or affixes a ballot label or paster opposite candidates of more than one recognized political party or opposite a candidate in the independent candidates' column and a candidate of a recognized political party, no votes cast by the elector for any candidate for partisan office are valid, but votes for other candidates and votes on ballot questions, if any, shall be counted if otherwise valid.

(2) ASCERTAINMENT OF INTENT. All ballots cast at an election which bear the initials of 2 inspectors 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 other provisions of chs. 5 to 12. To determine intent:

(a) At a general election, if the elector places a mark, symbol or label or punches a hole 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 whose names appear in the marked, labeled or punched column except as otherwise provided in this paragraph. If a name is stricken, it is not a vote for that candidate. If a name is written in, it is a vote for the write-in candidate. If a sticker is attached it is a vote for the candidate whose name appears on the sticker. If in some other column there is a mark, label or punch in the square to the right of a specific candidate's name or at the place designated on the ballot for marking, labeling or punching a vote for a specific candidate for the same office, it is a vote for that specific candidate and no vote may be counted for the candidate for the same office in the column marked, labeled or punched for a straight party vote.

(b) A ballot cast without any marks, labels or punches may not be counted. A ballot without a mark, label or punch at the top of a party column may be counted only for persons for whom marks, labels or punches are applicable.

(c) If an elector marks his ballot with a cross (X), or any other marks, as I, 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.

(cm) Any apparent erasure of a mark next to the name of a candidate may not be counted as a vote for that candidate if the elector makes another mark next to the name of one or more different candidates for the same office and counting of the mark would result in an excess number of votes cast for the office.

(d) If an elector writes a person's name in the proper space for write-in candidates for an office, it is a vote for the person written in for the office indicated, even if the elector fails to strike the name appearing in the same column for the same office, or places a mark, punch or label by the same or any other name for the same office, or omits placing a mark, punch or label to the right of the name written in. If an elector is permitted to vote for more than one candidate for the same office in an election and casts one or more write-in votes which, when added to the votes cast for candidates whose names appear on the ballot, exceed the number of votes authorized to be cast for the office, the write-in votes shall be counted and the votes for candidates whose names appear on the ballot may not be counted, unless there are more write-in votes than votes authorized to be cast, in which case no votes may be counted for the office.

(e) No ballot shall be regarded as defective due to misspelling a candidate's name, or by

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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 applied to the ballot lists a candidate's name and the office which the candidate seeks, it is a vote for the name appearing on the sticker even if the sticker does not contain a box or the elector omits the cross to the right of the name, or makes a cross in another column for a candidate for the same office, or if a sticker is pasted somewhere else on the face of the ballot than the proper location, but if the sticker is pasted over the space for voting a straight party ballot or over any name printed on the ballot, it may not be counted as a vote. Only stickers appearing on the face of the ballot may be counted.

(g) In partisan primaries, if an elector writes in the name of an individual on a ballot other than the one on which that individual's name is shown as a candidate, the write-in vote may not be counted.

(h) In the general election or a partisan special election, a write-in vote may not be counted for any candidate if the candidate's name appears on the official ballot, except a write-in vote cast for the same office under which the candidate's name appears if the name is clearly spelled and no other similar name appears on the ballot for any office.

(i) The failure by an elector to write in the name of a candidate for the office of vice president of the United States on the general election ballot does not invalidate the elector's vote for any candidate whose name is written in for the office of president of the United States. The failure of an elector to write in the name of a candidate for the office of president of the United States on the general election ballot invalidates the elector's vote for any candidate whose name is written in for the office of vice president of the United States. The failure of an elector to write in the names of candidates for the offices of governor and lieutenant governor on the general election ballot invalidates the elector's vote for any candidate whose name is written in for the office of governor or lieutenant governor alone.

History: 1977 c. 107, 272, 427; 1979 c. 89, 311, 328; 1981 c. 377 ss 20, 22; 1981 c. 391; 1983 a. 183; 1983 a. 484 ss 75, 172 (3).

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. In any municipality where an electronic voting system is used, the municipal governing body may, by

ordinance, provide or authorize the municipal clerk to provide for the adjournment of the canvass to one or more central counting locations for specified polling places in the manner prescribed in subch. III of ch. 5. No central counting location may be used to count votes at a polling place where an electronic voting system is not employed. The canvass, whether conducted at the polling place or at the central counting location, shall continue without adjournment until the canvass is completed and the return statements are made. The inspectors shall first compare the poll or registration lists, correcting any mistakes until the poll or registration lists agree and verify their correctness by each signing their name thereto.

(a) Where ballots are distributed to electors, the inspectors 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. The inspectors shall then proceed under par. (ag).

(ag) 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 so marked, preserved and not counted. Whenever the number of ballots exceeds the number of voting electors as indicated on the poll or registration list, the inspectors shall place all ballots face up to check for blank ballots. In this paragraph, "blank ballot" means a ballot on which no votes are cast for any office or question. Any blank ballots shall be so marked, laid aside and carefully preserved. If the number of ballots still exceeds the number of voting electors, the board of canvassers shall place all ballots face down and proceed to check for the initials. Any ballot not bearing the initials of 2 inspectors or any absentee ballot not bearing the initials of the municipal clerk shall be so marked, laid aside and preserved. During the count the inspectors shall count those ballots cast by challenged electors and marked "Objected to" the same as the other ballots. The inspectors shall keep a written statement, in duplicate, of the number of defective and objected to ballots. The officials shall certify that the statement is correct, sign it, and attach it to the canvass statements.

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(ar) If, after any ballots have been destroyed or laid aside, the number of ballots still exceeds the total number of electors recorded on the registration or poll list, the inspectors shall separate the absentee ballots from the other ballots. If there is an excess number of absentee ballots, the absentee ballots shall be placed in the ballot box and one of the inspectors shall publicly and without examination draw therefrom by chance the number of ballots equal to the excess number of absentee ballots. If there is an excess number of other ballots, those ballots shall be placed in the ballot box and one of the inspectors shall publicly and without examination draw therefrom by chance the number of ballots equal to the excess number of those ballots. All ballots so removed shall be specially marked as having been removed by the canvassers on original canvass due to an excess number of ballots and carefully preserved. When the number of ballots and total shown on the poll or registration list agree, the inspectors shall return all ballots to be counted to the ballot box and shall turn the ballot box in such manner as to thoroughly mix the ballots. The inspectors shall then open, count and record the number of votes. When the ballots are counted, they shall be separated into piles for ballots similarly voted. Objections may be made to placement of ballots in the piles at the time the separation is made.

(aw) If corrected ballots are distributed under s. 5.72 (3) or 7.10 (3), only the votes cast on the corrected ballots may be counted for any office or referendum in which the original ballots differ from the corrected ballots.

(b) Immediately after the polls close, where voting machines are used, the inspectors shall open the registering or recording compartments or remove the record of the votes cast and shall canvass, record, announce and return on the tally 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 is 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.

(c) Where a voting machine is used which produces a written record of the total votes cast for each candidate or referendum, the written record shall be presumed correct without refer-

ence to the total shown on the recorder in making its original statement, unless an error in the record is clearly apparent or unless a candidate at the election, or in the canvass of a referendum an elector who voted at the referendum, requests that the machine be viewed.

(3) SECURING THE BALLOTS. (a) The inspectors shall place together all ballots counted by them which relate to any national, state or county office or any state, county or vocational district referendum 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" shall then be secured by the inspectors in the container provided in such a manner that the container cannot be opened without breaking the seals or locks, or destroying the container. The inspectors shall deliver the ballots to the municipal clerk in the bag or container provided or a bag or container similar to that provided at the same time as the other election materials under s. 7.08 (1) (b).

(b) For ballots which relate only to municipal or school district offices or referenda, 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 or school district clerk. The clerk shall retain the ballots until destruction is authorized under s. 7.23.

(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. Challenged ballots shall be counted the same as other ballots. Upon completion of the canvass, the inspectors shall return the ballots in an envelope endorsed "Irregular Ballots". The record of write-in votes cast on the machines shall be placed in an envelope marked "Write-In Votes". The inspectors shall return the irregular ballots and write-in votes along with any printed voting record produced by the voting machines to the clerk under par. (a) or (b) or to the board of election commissioners. The inspectors shall place the envelopes and printed voting record in a properly sealed bag or container, indicating the ward of wards and county.

(d) All absentee certificate-affidavit envelopes which have been opened shall be returned by the inspectors to the municipal clerk in a securely sealed carrier envelope which is clearly

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marked "used absentee certificate-affidavit envelopes". Except when the ballots are used in a municipal or school district election only, the municipal clerk shall transmit the used envelopes to the county 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 excess by which the number of ballots exceeds the number of electors voting as shown by the poll or registration list, if any, and shall state the number of the last elector as shown by the registration or poll lists. At least 3 inspectors, including at least one official representing each political party, 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 chief inspector, or one of the inspectors appointed by him or her, immediately after the votes are tabulated or counted at each election, shall report the returns of the election to the municipal clerk or to the school district clerk for school district elections in common, union high and unified districts. The clerk shall then make the returns 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. Each tally sheet shall record the returns for each office or referendum by ward, unless combined returns are authorized in accordance with s. 5.15 (6) (b) in which case the tally sheet shall record the returns for each group of combined wards. After recording the votes, the inspectors shall seal one tally sheet statement and registration or poll list for delivery to the county clerk, unless the election relates only to municipal and school district offices or referenda. The inspectors shall also seal one tally sheet statement and registration or poll list for delivery to the municipal clerk. For school district elections in common, union high and unified school districts, the inspectors shall seal one tally sheet statement and registration or poll list for delivery to the school district clerk in lieu of the municipal clerk. The inspec-

tors shall immediately deliver all ballots, statements, lists and envelopes to the municipal clerk or school district clerk, as appropriate. The municipal clerk shall deliver the ballots, statements, lists and envelopes for his or her municipality relating to any county, vocational district, state or national election to the county clerk by 2 p.m. on the day following each such election. The person delivering the returns shall be paid out of the municipal treasury.

(6) ELECTRONIC VOTING SYSTEMS. The procedure for canvassing of votes cast at polling places utilizing an electronic voting system in which ballots are distributed to electors shall follow the procedure for canvassing paper ballots insofar as applicable, and the procedure for canvassing of votes cast at polling places utilizing an electronic voting machine shall follow the procedure for canvassing of mechanical voting machines insofar as applicable, except as otherwise provided in ss. 5.85 to 5.89.

History: 1971 c. 304 s. 29 (2); 1977 c. 29; 1977 c. 394 s. 53; 1977 c. 427, 447; 1979 c. 260 ss. 36, 48; 1979 c. 311; 1981 c. 4, 391; 1983 a. 183, 442; 1983 a. 484 ss. 76, 77, 172 (3); 1983 a. 538.

7.53 Municipal canvass. (1) MUNICIPALITIES WITH ONE POLLING PLACE. Where the municipality constitutes one ward or combines all wards to utilize a single polling place under s. 5.15 (6) (b), the canvass shall be conducted publicly under s. 7.51 and the inspectors shall act as the municipal board of canvassers. 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, the names of the persons declared by the inspectors to have won nomination or election to each office and the number of votes cast for and against each referendum.

(2) MUNICIPALITIES WITH 2 OR MORE WARDS. (a) Except as provided in par. (c), the municipal board of canvassers for municipal elections in each municipality utilizing more than one polling place shall be composed of the municipal clerk and 2 other reputable citizens appointed by the clerk prior to the date of the election being canvassed. If the municipal clerk is a candidate at the election being canvassed, the other 2 members shall designate a 3rd member to serve in lieu of the clerk for that election.

(c) In cities of more than 500,000 population, the board of election commissioners shall act as the board of canvassers.

(cm) If one or more temporary vacancies on the municipal board of canvassers reduces the number of members to less than 3, the municipal clerk shall appoint a member to fill each vacancy, except in cities of more than 500,000 population. In cities of more than 500,000

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population, the executive secretary of the board of election commissioners shall serve as a member of the board of canvassers to fill a temporary vacancy on that board. No vacancy may be filled on a board of canvassers during the pendency of a canvass or recanvass.

(d) The municipal board of canvassers shall publicly canvass the returns of every municipal election. The canvass shall begin within 24 hours after the polls close. At the spring election, the board of canvassers shall publicly declare the results on or before the 2nd Tuesday in April. The board of canvassers shall prepare a statement showing the results of each election for any municipal office and each municipal referendum. After each primary for municipal offices, the board of canvassers shall prepare a statement certifying the names of those persons who have won nomination to office. After each other election for a municipal office and each municipal referendum, the board of canvassers shall prepare a determination showing the names of the persons who are elected to each municipal office and the results of each municipal referendum. The board of canvassers shall file each statement and determination in the office of the municipal clerk or board of election commissioners.

(3) **SCHOOL DISTRICT ELECTIONS.** In city school districts and school districts organized under ch. 119, the municipal board of canvassers shall determine the results of school district elections and referenda and shall file a written statement and determination of the results for each election and referendum in the office of the city clerk or board of election commissioners. In other school districts, the school district clerk shall prepare a written statement and determination of the results of each election and referendum and shall file them in the school district office. The board of election commissioners, city clerk or school district clerk shall certify nominations after each primary and shall issue certificates of election to persons who are elected to the board of school directors or school board after each election in the manner provided in sub. (4).

(4) **CERTIFICATE OF ELECTION.** As soon as the deadline for filing a petition for a recount has passed, the municipal clerk shall issue promptly a certificate of election to each person elected to any office. When a valid petition for a recount is filed, the municipal clerk shall not issue the certificate of election for the office in question until the recount has been completed and the time allowed for filing an appeal has passed.

History: 1971 c. 304 s. 29 (2); 1977 c. 290, 427, 447; 1979 c. 260; 1981 c. 314; 1983 a. 183, 484.

7.54 Contested elections. In all contested election cases, the contesting parties 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 board of canvassers or court deciding the contest. The ballots and related materials may be opened only in open session of the board of canvassers or in open court and in the presence of the official having custody of them.

History: 1983 a. 484.

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

(2) **COUNTY BOARD OF CANVASSERS.** The county clerk and 2 reputable citizens previously chosen by the clerk constitute the county board of canvassers. One member of the board of canvassers 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 or her duties, the chairperson of the county board of supervisors or a reputable citizen appointed by the chairperson shall perform the county clerk's duties, and is subject to the same punishments for violations. No person may serve on the county board of canvassers if the person is a candidate for an office to be canvassed by that 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 ward 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 of canvassers may adjourn not longer than one day at a time nor more than 2 days in all.

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(4) **STATEMENTS AND DETERMINATIONS.** (a) The board of canvassers shall make separate duplicate statements showing the numbers of votes cast for the offices of president and vice president; state officials; U.S. senators and representatives in congress; state legislators; justice; court of appeals judge; circuit judges; and metropolitan sewerage commissioners, if the commissioners are elected under s. 66.23 (11) (am). The board of canvassers shall also prepare a statement showing the results of any county, vocational district or statewide referendum. 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; the number of votes cast for each person; and the number of votes cast for and against any referendum question. One copy of the statement shall be used to report to the elections board or vocational district board and the other statement shall be filed in the office of the county clerk or board of election commissioners.

(b) The board of canvassers 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. The board of canvassers shall likewise prepare a written determination showing the results of any county referendum. Following any primary election, the board of canvassers shall prepare a statement certifying the names of all persons who have won nomination to any county office. The board of canvassers shall file all statements and determinations in the office of the county clerk or board of election commissioners.

(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 shall include the post-office address and party designation.

(5) **REPORTING.** Immediately following the canvass the county clerk shall send the elections board, by certified mail with return receipt requested, a certified copy of each statement of the county board of canvassers for president

and vice president, state officials, senators and representatives in congress, state legislators, justice, court of appeals judge, circuit judge and metropolitan sewerage commissioners, if the commissioners are elected under s. 66.23 (11) (am). The statement shall record the returns for each office or referendum by ward, unless combined returns are authorized under s. 5.15 (6) (b) in which case the statement shall record the returns for each group of combined wards. Following primaries the county clerk shall enclose on blanks furnished by the elections board the names, party or principle designation, if any, and number of votes received by each candidate recorded in the same manner. The county clerk shall transmit the certified statement to the elections board no later than 7 days after each primary and no later than 13 days after any other election. The board of canvassers shall transmit a certified copy of each statement for any vocational district referendum to the secretary of the district board of vocational, technical and adult education.

(6) **CERTIFICATE OF ELECTION.** Immediately after expiration of the time allowed to file a petition for a recount the county clerk shall issue a certificate of election to each person having the largest number of votes for any county office. The certificate notice shall state the amount of the required official bond, if any. 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 and the time allowed for filing an appeal has passed.

(7) **OFFICIAL CANVASS RECORD.** After the certificates of election have been prepared under sub. (6), the county clerk shall retain one copy of the official canvass for county offices and referenda in his or her office for public inspection.

(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: 1971 c. 304 s. 29 (2); 1973 c. 334 ss. 14, 57; 1975 c. 93, 199; 1977 c. 187, 427, 449; 1979 c. 221, 260, 355; 1981 c. 4; 1983 a. 442, 484, 538

7.70 State canvass. (1) RECORDING AND PRESERVING RETURNS. (a) Upon receipt of the certified statements from the county clerks, the elections board 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 elections board may require the clerk to do so immediately and if not received within 7 days after a primary, or

within 14 days after any other election, the elections board 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 elections board may return it to the county clerk for correction.

(3) CANVASSING. (a) The board of state canvassers shall meet publicly at the state capitol or at the office of the elections board 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 18 days after any special election to canvass the returns and determine the election results.

(b) The board of state canvassers 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 ward in the county, the board of state canvassers 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 elections board.

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

(d) When the certified statements and returns are received, the board of state 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 and vice 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, state treasurer, attorney general, and state superintendent; for U.S. senator; representative in congress for each congressional district; the state legislature; justice; court of appeals judge; circuit judge; metropolitan sewerage commission, if the commissioners are elected under s. 66 23 (11) (am); and for any referenda questions submitted by the legislature.

(e) The board of state canvassers shall make a special statement to the elections board as soon as possible after the canvass certifying:

1. After each September primary, the name of each candidate not defeated in the primary who receives at least 6% of the total vote cast for all candidates on all ballots at the primary for each separate state office, and the percentage of the total vote received by that candidate. Such percentage shall be calculated within each district in the case of legislative candidates.

2. After the general election, the name of each political party which receives at least one percent of the vote cast in such election for any statewide office.

(f) 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.

(g) The board of state canvassers shall certify the statements to be correct and shall determine which persons, by the largest number of votes, have been elected to the various offices. They shall likewise determine the outcome of any referenda questions. Following each primary election, the board of state canvassers shall prepare a statement certifying the names of those persons who have won nomination to any state or national office. Except for the primary election statements, each statement shall have the certificate of determination attached to it and shall be delivered to the elections board.

(h) Whenever a referendum question submitted to a vote of the people is approved, the elections board shall record it and the secretary of state shall 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 or other statewide validating or ratifying referendum question which is approved by the people does not expressly state the date of effectiveness, it shall become effective at the time the board of state canvassers certifies that the amendment or referendum question is approved.

(i) The board of state canvassers 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 board of state canvassers 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

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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 board of state canvassers or a messenger sent by it to obtain a correction.

(5) CERTIFICATES OF ELECTION. (a) The elections board shall record in its office each certified statement and determination made by the board of state canvassers. Immediately after the expiration of the time allowed to file a petition for recount, it shall make and transmit to each person declared elected a certificate of election under the seal of the elections board. It shall also prepare similar certificates, attested by the executive secretary of the elections board, addressed to the U.S. house of representatives, stating the names of those persons elected as representatives to the congress from this state. In the case of U.S. senators, the board shall prepare a certificate of election for the governor's signature, and the governor shall sign and affix the great seal of the state and transmit the certificate to the president of the U.S. senate. The certificate shall be countersigned by the secretary of state. If a person elected was elected to fill a vacancy, the certificate shall so state. When a valid petition for recount is filed, the elections board may not certify a nomination or issue a certificate of election or determination until the recount has been completed and the time allowed for filing an appeal has passed.

(b) For presidential electors, the elections board shall prepare a certificate showing the determination of the results of the canvass and the names of the persons elected, and the governor shall sign, affix the great seal of the state and transmit the certificate by registered mail to the U.S. administrator of general services. The governor shall also prepare 6 duplicate originals

of such certificate and deliver them to one of the presidential electors on or before the first Monday after the 2nd Wednesday in December.

History: 1971 c. 304 s. 29 (2); 1973 c. 334 ss. 15, 57; 1975 c. 93, 199; 1977 c. 107, 187, 427, 449; 1979 c. 221, 260, 328; 1983 a. 484

7.75 Presidential electors meeting. (1) 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.

(2) The presidential electors, when convened, shall vote by ballot for that person for president and that person for vice president who are, respectively, the candidates of the political party which nominated them under s. 8.18, the candidates whose names appeared on the nomination papers filed under s. 8.20, or the candidate or candidates who filed their names under s. 8.185 (2), except that at least one of the persons for whom the electors vote may not be an inhabitant of this state. A presidential elector is not required to vote for a candidate who is deceased at the time of the meeting.

History: 1979 c. 246.

7.80 Notice of election. Personal service or service by first class mail of a certificate of election is official notification for all legal purposes to any person of his or her election to office.

History: 1977 c. 427