

CHAPTER 10

ELECTION NOTICES

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NOTE: 2005 Wis. Act 451, which made major revisions to the election laws, including to Chapter 10, contains an extensive prefatory note explaining the changes.

Cross-reference: See definitions in s. 5.02.

10.01 Election notice form. (1) The form of the various election notices shall be prescribed by the commission to standardize election notices. To accomplish this purpose, the commission shall make rules and draft whatever forms it considers necessary. Notification or certification lists of candidates or referenda questions sent to the county clerks shall prescribe the form in which the county clerks shall publish the relevant portions of the notice and any additional county offices and referenda questions. The commission shall also prescribe the provisions for municipal notices which shall be sent to each county clerk who shall immediately forward them to each municipal clerk.

(2) For election purposes there shall be 5 basic types of notices, modified as necessary to apply to the various elections, which shall be published in substantially the same form as prescribed by the commission. The 5 types of notices are:

(a) Type A — The type A notice shall be entitled “Notice of Election”. The notice shall list the date of the election. For an election to fill any office, the notice shall list each office to be filled and the incumbent for each; the length of the term of each office and the expiration date of the term; and the beginning date for circulating, the place and deadline for filing declarations of candidacy and nomination papers, where required, for each office listed and the date of the primary election, if required. If a redistricting since the most recent election makes the description of the incumbent’s office of limited usefulness, the notice may contain supplementary information describing the territory in which an election is to be held. For an election at which a referendum is held, the notice shall contain the text of the question and a statement specifying where a copy of the resolution directing submission of the question may be obtained. Whenever an election is noticed to be held within a district, the notice shall contain a statement specifying where information concerning district boundaries may be obtained. The type A notice shall be published once by the county clerk of each county for each national, state or county election, and once by the clerk of each municipality or special purpose district for each municipal or special purpose district election, at the times designated in s. 10.06.

(b) Type B — The type B notice shall include the relevant facsimile ballots and the relevant portions of voting instructions to electors under s. 10.02 for each office or referendum and shall specify the date of the election. In counties or municipalities where an electronic voting system in which ballots are distributed to electors is used, the notice shall include the information specified in s. 5.94. The type B notice shall be published once by the county clerks, and for primaries and other elections in municipalities or special purpose districts, once by the clerk of the municipality or special purpose district on the day preceding each primary and other election.

(c) Type C — The type C notice shall be entitled “Notice of Referendum”. The notice shall be given whenever a referendum is held. The notice shall contain the date of the referendum, the entire text of the question and the proposed enactment, if any, as well as an explanatory statement of the effect of either a “yes” or

“no” vote. For state questions, the statement shall be prepared by the attorney general. For county questions, the statement shall be prepared by the corporation counsel. For other questions, the statement shall be prepared by the attorney for the jurisdiction in which the question is submitted. County clerks and, for questions submitted by municipalities or special purpose districts, the clerk of the municipality or special purpose district shall publish the type C notice once at the same time that the type B notice is published. The type C notice shall be printed in the newspaper as close as possible to that portion of the type B notice showing the facsimile referendum ballot.

(d) Type D — The type D notice shall state the hours the polls will be open and the polling places to be utilized at the election or shall include a concise statement of how polling place information may be obtained. In cities over 500,000 population, the board of election commissioners shall determine the form of the notice. In other municipalities and special purpose districts, the clerk of the municipality or special purpose district shall give the polling place information in the manner the governing body of the municipality or special purpose district decides will most effectively inform the electors. The type D notice shall be published by the municipal clerk or board of election commissioners of each municipality once on the day before each spring primary and election, each special national, state, county or municipal election at which the electors of that municipality are entitled to vote and each partisan primary and general election. The clerk of each special purpose district which calls a special election shall publish a type D notice on the day before the election, and the day before the special primary, if any, except as authorized in s. 8.55 (3).

(e) Type E — The type E notice shall state the qualifications for absentee voting, the procedures for obtaining an absentee ballot in the case of registered and unregistered voters, the places and the deadlines for application and return of application, including any alternate site under s. 6.855, and the office hours during which an elector may cast an absentee ballot in the municipal clerk’s office or at an alternate site under s. 6.855. The municipal clerk shall publish a type E notice on the 4th Tuesday preceding each spring primary and election, on the 4th Tuesday preceding each partisan primary and general election, on the 4th Tuesday preceding the primary for each special national, state, county or municipal election if any, on the 4th Tuesday preceding a special county or municipal referendum, and on the 3rd Tuesday preceding each special national, state, county or municipal election to fill an office which is not held concurrently with the spring or general election. The clerk of each special purpose district which calls a special election shall publish a type E notice on the 4th Tuesday preceding the primary for the special election, if any, on the 4th Tuesday preceding a special referendum, and on the 3rd Tuesday preceding a special election for an office which is not held concurrently with the spring or general election except as authorized in s. 8.55 (3).

History: 1973 c. 334 s. 57; 1975 c. 275; 1979 c. 260, 311; 1983 a. 484; 1985 a. 304; 1987 a. 391; 1989 a. 31; 2001 a. 16; 2005 a. 451; 2011 a. 75; 2015 a. 118 s. 266 (10).

10.02 Type B notice content. (1) Before any election an appropriate type B notice shall be published in substantially the form prescribed by the commission at the times prescribed in s.

10.06. The type B notice shall include the following relevant sections and be within the guidelines established in this section.

(2) (a) The headline or caption, the introductory paragraph and the voting instructions shall be printed once at the beginning of the notice followed by a facsimile of each ballot to be used at the election. The headline or caption shall be conspicuously displayed, but the caption together with the necessary spacing above and below shall not exceed 1 1/4 inches in depth. The introductory paragraph and voting instructions shall be set solid in the type of the regular reading matter of the newspaper but no smaller than 5 1/2–point nor larger than 10–point type.

(b) Following the introductory paragraph, but preceding the facsimile ballot notice, shall appear the statement of information to electors in the form prescribed in sub. (3).

(c) The facsimile ballots shall follow the voting instructions. The size and style of type and the general display of the facsimile ballots shall be prescribed by the commission and shall conform to the form prescribed by the commission under s. 7.08 (1) (a). The party columns shall not exceed 2–1/6 inches in width and the ballot size may be reduced. Voting machine facsimile ballots shall show a reduced diagram of the front of the voting machine and instructions to electors on how to vote on the machine. If the ballots in the wards or election districts within a county or municipality are identical but for the names of different candidates, districts or seats, the facsimile ballot may show the ballot for one ward or election district, accompanied by a list of candidates, districts and seats to be voted upon in the other wards or election districts.

(3) The notice shall contain the following:

FACSIMILE BALLOT NOTICE
OF ELECTION

Office of [County] [Municipal] Clerk.

To the Electors of [County] [Municipality]:

Notice is hereby given of a election to be held in the several wards in the [county] [municipality] of, on the day of, (year), at which the officers named below shall be chosen. The names of the candidates for each office to be voted for, whose nominations have been certified to or filed in this office, are given under the title of the office and under the appropriate party or other designation, each in its proper column, together with the questions submitted to a vote, in the sample ballot below.

INFORMATION TO ELECTORS

Except where a different statement is prescribed by the commission for use in whole or in part by municipalities using electronic voting systems under s. 5.95, the voting instructions shall be given substantially as follows:

(a) Upon entering the polling place and before being permitted to vote, an elector shall state his or her name and address. If an elector is not registered to vote, an elector may register to vote at the polling place serving his or her residence if the elector presents proof of identification in a form specified by law unless the elector is exempted from this requirement, and, if the document presented does not constitute proof of residence, the elector provides proof of residence. Where ballots are distributed to electors, the initials of 2 inspectors must appear on the ballot. Upon being permitted to vote, the elector shall retire alone to a voting booth or machine and cast his or her ballot, except that an elector who is a parent or guardian may be accompanied by the elector's minor child or minor ward. An election official may inform the elector of the proper manner for casting a vote, but the official may not in any manner advise or indicate a particular voting choice.

(b) 1. The elector shall make a cross (X) next to or separately depress the levers or buttons next to each candidate's name for whom he or she intends to vote, or shall insert or write in the name of a candidate.

2. At a partisan primary, the elector shall select the party ballot of his or her choice and shall make a cross (X) next to or depress the lever or button next to the candidate's name for each office for

whom the elector intends to vote, or shall insert or write in the name of the elector's choice for a candidate.

3. When casting a presidential preference vote, the elector shall select the party ballot of his or her choice and make a cross (X) next to or depress the button or lever next to the candidate's name for whom he or she intends to vote or shall, in the alternative, make a cross (X) next to or depress the button or lever next to the words "Uninstructed delegation", or shall write in the name of his or her choice for a candidate.

4. At a nonpartisan primary, the elector shall make a cross (X) next to or depress the button or lever next to the candidate's name for each office for whom he or she intends to vote, or insert or write in the name of his or her choice for a candidate.

(c) In presidential elections, the elector shall make a cross (X) next to or depress the button or lever next to the set of candidates for president and vice president for whom he or she intends to vote. A vote for candidates for president and vice president is a vote for the presidential electors of those candidates.

(d) On referenda questions, the elector shall make a cross (X) next to or depress the button or lever next to the answer which he or she intends to give.

(e) The vote should not be cast in any other manner. If the elector spoils a ballot, he or she shall return it to an election official who shall issue another in its place, but not more than 3 ballots shall be issued to any one elector. If the ballot has not been initialed by 2 inspectors or is defective in any other way, the elector shall return it to the election official, who shall issue a proper ballot in its place. Not more than 5 minutes' time shall be allowed inside a voting booth or machine. Unofficial ballots or a memorandum to assist the elector in marking his or her ballot may be taken into the booth and copied. The sample ballot shall not be shown to anyone so as to reveal how the ballot is marked.

(f) After an official paper ballot is marked, it shall be folded so the inside marks do not show but so the printed endorsements and inspectors' initials on the outside do show. After casting his or her vote, the elector shall leave the voting machine or booth, and where paper ballots are distributed to the electors, deposit his or her folded ballot in the ballot box or deliver it to an inspector for deposit in the box, and shall leave the polling place promptly.

(g) An elector may select an individual to assist in casting his or her vote if the elector declares to the presiding official that he or she is unable to read, has difficulty reading, writing or understanding English or that due to disability is unable to cast his or her ballot. The selected individual rendering assistance may not be the elector's employer or an agent of that employer or an officer or agent of a labor organization which represents the elector.

(h) The following is a facsimile of the official ballot: (insert facsimile of ballot)

..... (County Clerk)

(Municipal Clerk)

History: 1971 c. 304 s. 29 (2); 1973 c. 334 s. 57; 1975 c. 85, 199; 1977 c. 107, 427, 447; 1979 c. 311; 1981 c. 377; 1983 a. 484 ss. 119, 172 (3); 1985 a. 304; 1989 a. 31; 1997 a. 250; 1999 a. 182; 2003 a. 265; 2005 a. 451; 2011 a. 23, 32; 2015 a. 118 s. 266 (10).

10.03 Cross–references required. Whenever possible the complete election notice shall appear on a single page of the newspaper. If this is impracticable, a footnote in 12–point caps shall indicate the page where the notice is continued. At the top of each succeeding page, or column of the notice, shall appear in 12–point caps and figures the notation, "For information to Electors and other facsimile ballots, see page".

History: 1993 a. 213.

10.04 Newspaper selection and fees. (1) Election notices required by law to be published may be published only in newspapers qualified under ch. 985.

(2) (a) County clerks shall publish election notices in all newspapers published within the county that qualify under ch. 985 unless the county board provides otherwise by resolution.

(b) The board of election commissioners or governing body of a municipality may authorize by resolution the publication of election notices in more than one newspaper. The resolution may name the newspapers in which all election notices shall appear.

(3) (a) Whenever, in chs. 5 to 12, provision is made for the publication of a notice on a specific date and a weekly newspaper is chosen, the notice shall appear in that newspaper's closest preceding issue. Whenever, in chs. 5 to 12, provision is made for the publication of a notice on the day before an election and the county or municipal clerk who is responsible for publishing the notice determines that, due to the method of delivering newspapers in the municipality, more effective notice will be provided by publication at an earlier date, the municipal clerk may publish the notice not earlier than 3 days before the election.

(b) Whenever, in chs. 5 to 12, provision is made for publication of an election notice by more than one insertion, this may be done (in counties over 200,000 population) by publication in one or more newspapers on the dates prescribed or in different newspapers at least equal in number to the number of insertions required. When different newspapers are used, the publications shall always be in each newspaper's latest issue preceding the last given date for publishing that notice.

(4) Compensation for publishing all notices may not exceed that authorized for legal notices under s. 985.08.

History: 1977 c. 427; 1979 c. 89; 1985 a. 304.

10.05 Posting of notice. Unless specifically designated elsewhere, this section applies to villages, towns and school districts. Whenever a notice is required to be published, a village, town or school district may post 3 notices in lieu of publication under ch. 985 whenever there is not a newspaper published within the village, town or school district or whenever the governing body of the village, town or school district chooses to post in order to supplement notice provided in a newspaper. Whenever the manner of giving notice is changed by the governing body, the body shall give notice of the change in the manner used before the change. Whenever posting is used, the notices shall be posted no later than the day prescribed by law for publication, or if that day falls within the week preceding the election to be noticed, at least one week before the election. All notices given for the same election shall be given in the same manner.

History: 1987 a. 391.

10.06 Basic election notices. (1) ELECTIONS COMMISSION.

(a) On or before November 15 preceding a spring election the commission shall send a type A notice to each county clerk.

(c) As soon as possible after the deadline for filing nomination papers for the spring election, but no later than the 2nd Tuesday in January, the commission shall send a type B notice certifying the list of candidates to each county clerk if a primary is required.

(e) As soon as possible following the state canvass of the spring primary vote, but no later than the first Tuesday in March, the commission shall send a type B notice certifying to each county clerk the list of candidates for the spring election. When no state spring primary is held, this notice shall be sent under par. (c). When there is a referendum, the commission shall send type A and C notices certifying each question to the county clerks as soon as possible, but no later than the first Tuesday in March.

(f) On or before the 3rd Tuesday in March preceding a partisan primary and general election the commission shall send a type A notice to each county clerk.

(h) As soon as possible after the deadline for determining ballot arrangement for the partisan primary on June 10, the commission shall send a type B notice to each county clerk certifying the list of candidates for the partisan primary.

(i) As soon as possible after the state canvass, but no later than the 4th Tuesday in August, the commission shall send a type B

notice certifying the list of candidates and type A and C notices certifying each question for any referendum to each county clerk for the general election.

(2) COUNTY CLERKS. (a) On the 4th Tuesday in November preceding a spring election each county clerk shall publish a type A notice based on the notice received from the commission for all state offices to be filled at the election by any electors voting in the county and a similar notice incorporating any county offices.

(b) Upon receipt of the type B notice from the commission preceding the spring election each county clerk shall add any county offices, prepare the ballots, and send notice to each municipal clerk of the spring primary. When there is no state spring primary within the county, but there is to be a county spring primary, the county clerk shall prepare the ballots and send notice to each municipal clerk.

(d) On the Monday preceding the spring primary, when held, the county clerk shall publish a type B notice.

(e) Upon receipt of the type B notice from the commission each county clerk shall add any county offices and referenda, prepare the ballots and send notice to each municipal clerk of the coming spring election.

(f) On the 4th Tuesday preceding the spring election, the county clerk shall publish a type A notice of any state or county referendum to be held at the election.

(g) On the Monday preceding the spring election, the county clerk shall publish a type B notice containing the same information prescribed in par. (a). In a year in which the presidential preference primary is held, the county clerk shall also publish notice of the presidential preference primary. In addition, the county clerk shall publish a type C notice on the Monday preceding the spring election for all state and county referenda to be voted upon by electors of the county.

(gm) On the first Tuesday in April the county clerk shall send notice of the coming partisan primary and general election to each municipal clerk.

(h) On the 2nd Tuesday in April preceding a partisan primary and general election, the county clerk shall publish a type A notice based on the notice received from the commission for all national and state offices to be filled at the election by any electors voting in the county and incorporating county offices.

(j) On the Monday preceding the partisan primary the county clerk shall publish a type B notice.

(k) Upon receipt of the type B notice from the commission preceding the general election, the county clerk shall add county offices and referenda, if any, and send notice to each municipal clerk of the coming general election and prepare the ballots.

(L) On the 4th Tuesday preceding the general election, the county clerk shall publish a type A notice of any state or county referendum to be held at the election.

(m) On the Monday preceding the general election the county clerk shall publish a type B notice containing the same information prescribed in par. (h). In addition, the county clerk shall publish a type C notice on the Monday preceding the general election for all state and county referenda to be voted upon by electors of the county.

(n) On the 4th Tuesday preceding any special primary or election for national, state or county office, or any special county referendum, the county clerk shall publish a type A notice. On the day preceding any special primary or election for national, state or county office, the county clerk shall publish a type B notice. On the day preceding a special county referendum, the county clerk shall publish type B and C notices for the referendum.

(3) MUNICIPAL CLERKS. (a) On the 4th Tuesday in November preceding a spring municipal election the municipal clerk shall publish one type A notice for municipal offices. Publication shall be on the following day if Tuesday is a holiday.

(am) As soon as possible following the deadline for filing nomination papers for any municipal election when there is to be

an election for a county or state office or a county or statewide referendum, but no later than 3 days after such deadline, the municipal clerk of each municipality in which voting machines or ballots containing the names of candidates for both local offices and national, state or county offices are used shall certify the list of candidates for municipal office to the county clerk if a primary is required, unless the municipality prepares its own ballots under s. 7.15 (2) (c).

(as) On the 4th Tuesday preceding the spring primary, when held, the municipal clerk shall publish a type E notice. In cities and villages, the municipal clerk shall publish a type A notice on the 4th Tuesday preceding the spring primary of any direct legislation questions to be voted on at the primary.

(b) If there is to be a municipal primary, the municipal clerk shall publish a type B notice on the Monday before the primary election. In cities and villages, the municipal clerk shall publish a type C notice on the Monday before the primary election of any direct legislation questions to be voted on at the primary.

(bm) As soon as possible following the municipal canvass of the primary vote or the qualification of the candidates under s. 8.05 (1) (j) when a municipal caucus is held, if there is to be an election for a county or state office or a county or statewide referendum, but no later than 3 days after such date, the municipal clerk of each municipality in which voting machines or ballots containing the names of candidates for both local offices and national, state or county offices are used shall certify the list of candidates for municipal office and municipal referenda appearing on the ballot to the county clerk, unless the municipality prepares its own ballots under s. 7.15 (2) (c).

(bs) On the 4th Tuesday preceding the spring election, the municipal clerk shall publish a type E notice. If there are municipal referenda, the municipal clerk shall publish a type A notice of the referenda at the same time.

(c) On the Monday before the spring election, the municipal clerk shall publish a type B notice and a type D notice. If there are municipal referenda, the municipal clerk shall publish a type C notice at the same time.

(cm) On the 4th Tuesday preceding the partisan primary and general election, when held, the municipal clerk shall publish a type E notice. If there are municipal referenda, the municipal clerk shall publish a type A notice of the referenda at the same time.

(d) On the Monday preceding the general election, the municipal clerk shall publish a type D notice. If there are municipal referenda, the municipal clerk shall publish type B and C notices at the same time.

(e) When electronic or mechanical voting machines or electronic voting systems in which ballots are distributed to electors are used in a municipality at a municipal election, the municipal clerk shall publish a type B notice on the Monday before the election. The notice shall include all offices and questions to be voted on at the election. The cost of this notice shall be shared under s. 5.68 (2) and (3).

(f) At least 40 days prior to any special primary or election for municipal office, the municipal clerk shall publish a type A notice. On the 4th Tuesday prior to any special primary for national, state, county or municipal office, the municipal clerk shall publish a type E notice. On the 3rd Tuesday prior to any special election for national, state, county or municipal office which is not held concurrently with the spring or general election, the municipal clerk shall publish a type E notice. On the 4th Tuesday prior to any special county referendum, the municipal clerk shall publish a type

E notice. On the 4th Tuesday prior to any special municipal referendum, the municipal clerk shall publish type A and E notices. On the day preceding any special primary or election for municipal office, or any special municipal referendum, the municipal clerk shall publish a type B notice. The municipal clerk shall publish a type C notice on the day preceding a special municipal referendum. On the day preceding any special primary or election for national, state, county or municipal office, or a special county or municipal referendum, the municipal clerk shall publish a type D notice.

(4) OTHER CLERKS. (a) Unless otherwise provided, on the 4th Tuesday in November preceding an election for any office other than a national, state, county or municipal office, the clerk of the jurisdiction in which the election is held shall publish a type A notice.

(b) Unless otherwise provided, at least 40 days prior to any special primary or election for any office other than a national, state, county or municipal office, the clerk of the jurisdiction which calls the primary or election shall publish a type A notice.

(c) On the 4th Tuesday prior to any referendum other than a county or municipal referendum, the clerk of the jurisdiction which calls the referendum shall publish a type A notice.

(d) On the 4th Tuesday prior to any special primary for any office other than a national, state, county or municipal office, the clerk of the jurisdiction which calls the election for which the primary is held shall publish a type E notice.

(e) On the 3rd Tuesday prior to any special election for an office other than a national, state, county or municipal office which is not held concurrently with the spring or general election, the clerk of the jurisdiction which calls the election shall publish a type E notice.

(f) On the 4th Tuesday prior to any special referendum other than a county or municipal referendum, the clerk of the jurisdiction which calls the referendum shall publish a type E notice.

(g) On the day preceding any primary or election for any office other than a national, state, county or municipal office, the clerk of the jurisdiction in which the primary or election is held shall publish a type B notice.

(h) On the day preceding any special primary or election for any office other than a national, state, county or municipal office, the clerk of the jurisdiction which calls the election shall publish a type D notice.

(i) On the day preceding any referendum other than a state, county or municipal referendum, the clerk of the jurisdiction which calls the referendum shall publish type B, C and D notices.

History: 1973 c. 280; 1973 c. 334 s. 57; 1975 c. 275, 422; 1977 c. 107, 340, 427; 1979 c. 260, 311; 1983 a. 484; 1985 a. 304, 332; 1987 a. 391; 1989 a. 273; 1995 a. 16 s. 2; 1999 a. 182; 2001 a. 16, 109; 2003 a. 24; 2007 a. 1; 2011 a. 32, 45, 75; 2013 a. 165; 2015 a. 118 ss. 120, 266 (10).

10.07 Combination of notices; cost. (1) Except as provided in sub. (2) in the case of voting machine ballots, whenever any county clerk or municipal or school district clerks within the same county are directed to publish any notice or portion of a notice under this chapter on the same date in the same newspaper, the text of which is identical, the clerks may publish one notice only. The cost of publication of such notice or the portion of the notice required shall be apportioned equally between the county and each municipality or school district sharing in its publication.

(2) When a voting machine ballot or ballot to be used with an electronic voting system includes 2 or more levels of government, the cost of giving the type B notice shall be prorated under s. 5.68 (3).

History: 1977 c. 427; 1979 c. 311; 1985 a. 304 ss. 130m, 156.