

pose of developing hydraulic power and generating hydroelectric energy for sale or service to the public is not furnishing the citizens of this state with adequate service at a reasonable rate, shall have power under chapter 87 of the statutes, to declare any or all contracts entered into by said grantee for the sale of hydroelectric power outside this state null and void insofar as such contracts interfere with such service or rate and upon a hearing and investigation and finding that convenience and necessity require the sale of any or all such power within this state.

Section 1596—25. The state or any party to a proceeding before the commission hereunder shall be entitled to review in the circuit court for Dane county, any order, finding or determination of the commission under sections 1596—1 to 1596—26, inclusive, of the statutes, and all of the provisions of sections 1797m—1 to 1797m—109, inclusive, of the statutes, relating to the review of orders or findings made by the commission so far as applicable, shall apply to the review herein provided for, including the right of appeal to the supreme court; provided, that, upon a hearing on such appeal, the findings and determination of the commission shall be received as prima facie evidence of the facts therein found.

Section 1596—26. The provisions of this act are not intended to and shall not affect in any manner any pending litigation or any of the issues thereof involving or relating to any dam owned by any municipality in this state by virtue of a franchise heretofore granted to such municipality therefor by this state, or the rights of the respective parties to such litigation in and to said dam or any interest thereof therein.

SECTION 4. This act shall take effect upon passage and publication.

Approved July 8, 1915.

No. 77, S.]

[Published July 12, 1915.

CHAPTER 381.

AN ACT to create a new chapter of the statutes containing a revision and amendments of all statutes relating to the nomination of candidates for public office.

The people of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

SECTION 1. All of the sections of the statutes renumbered or newly created by the following sections 5.01 to and including section 5.35 are placed in a new chapter to be numbered and designated as follows:

CHAPTER 5

NOMINATION OF CANDIDATES FOR OFFICE

PRIMARY NOMINATIONS

SECTION 2. Section 11—1 of the statutes is renumbered to be section 5.01 and is amended by striking out the word “act” in the first sentence and in paragraph (1), and by inserting in each place thereof the word “title”. Paragraph 3 of said section is amended to read: (3) The word “election,” a general or * * * *municipal* election, as distinguished from a primary election.

Paragraph 6 of said section is amended to read: (6) * * * *This title shall be construed so as to give effect to the will of the electors, if that can be ascertained from the proceedings, notwithstanding informality or failure to comply with some of its provisions.*

SECTION 3. Section 11—2 of the statutes is renumbered to be section 5.02 and is amended by striking from paragraph (1) the word “act” and by inserting in place thereof the word “chapter”; also by striking from paragraph (2) the words “existing statutes” and by inserting in place thereof the words “this chapter”; also by striking out the whole of paragraph (5); also by revising paragraph (4) to read: (4) Except as otherwise specially provided in this chapter there shall be no nomination by primary election of any candidate for the office of state superintendent, or county or district superintendent of schools, or member of a county board of education, or other board of education by whatever name designated, or for any school district or judicial office.

SECTION 4. Section 11—3 of the statutes is renumbered to be section 5.03.

SECTION 5. Section 11—4 of the statutes is renumbered to be section 5.04 and subsection 4 thereof is amended to read: (4) * * * *The city clerk of any city holding a primary to select nonpartisan candidates for city offices shall cause a similar notice thereof to be published once, and to be posted in three public places in each precinct therein, not more than twenty nor less than ten days before such primary.*

SECTION 6. Section 11—5 of the statutes is renumbered to be section 5.05 and is amended by striking from the first sentence thereof the word “act” and by inserting in place thereof the word “chapter”. Said section is further amended by prefixing the subsection designation (4) to the second paragraph or

subdivision of subsection 3; and also by striking out the subsection designations "4" and "5" and substituting in place thereof, respectively, the subsection designations (5) and (6). That part of said section 11—5 constituting a form for nomination papers, exclusive of the tabulation for the same, is amended to read:

"I, the undersigned, a qualified elector of (the . . . precinct of the town of : . . .) or (the . . . * * * . . . ward of the city of . . .), county of . . . and state of Wisconsin, and a member of the . . . party, hereby nominate, who resides (at No. . . ., on . . . street, city of . . .) or (in the town of . . .), in the county of . . . as a candidate for the office of (here specify the office) . . ., to be voted for at the primary to be held on the first Tuesday in September, 19. ., as representing the principles of said party, and I further declare that I intend to support the candidate named herein."

Said section 11—5 is further amended by striking from paragraph (b) of subsection 4 thereof the word "precinct," and by inserting in place thereof the words "ward, town, village".

SECTION 7. A part of section 35—20 and section 35—21 of the statutes are renumbered and amended to read: 5.06 Papers for the nomination of any candidate for any *city* office * * * *shall be signed* by voters equal in number to not less than two per cent of those who voted for the candidate receiving the highest number of votes for such office at the last preceding * * * *city* election, and * * * *shall be filed* * * * *not less than fifteen days before the primary*. No * * * elector shall sign such papers for more candidates for each office than there are persons to be elected to such office.

SECTION 8. Section 11—6 of the statutes is renumbered to be section 5.07 and is amended by striking from paragraph (1) the words "circuit judges"; also by striking from paragraph (4) the word "act" and by inserting in place thereof the word "chapter"; also by striking from said paragraph (4) the words and figures "section 11—5 of this act" and by inserting in place thereof the words and figures: "subsection 6 of section 5.05".

SECTION 9. Section 11—7 of the statutes is renumbered to be section 5.08. Subsection (1) of said section is amended by inserting the word "September" between the words "any" and "primary" and by striking out the words "preceding a general election."

SECTION 10. Section 11—8 of the statutes is renumbered to be section 5.09, and is amended by striking from subsection (1)

thereof the word "act" and by inserting in place thereof the word "chapter."

SECTION 11. Section 11—9, the first sentence of section 35—22 and the first sentence of section 35—23, of the statutes, are renumbered and amended to read: 5.10 (1) An official ballot for *September primaries* shall be printed and provided for use at each voting precinct in substantially the form provided herein and annexed hereto. * * * . The names of all candidates for the respective offices for whom the nomination papers prescribed shall have been duly filed, shall be printed thereon.

(2) The name of each *nonpartisan* candidate * * * placed in nomination for a city primary as provided by section 5.06, and no others, shall be printed under a designation of the office for which he is named on the official ballot * * * used at such primary, which * * * ballot shall be so arranged as to admit of any other person being voted for by the elector if he so desires * * * .

SECTION 12. Section 11—10 of the statutes, as amended by chapter 92 of the laws of 1915, is renumbered to be section 5.11; and said section, as so amended, is further amended by striking out the last sentence of subsection (1) thereof; and said section, as so amended, is further amended by adding thereto a new subsection (6) to read: (5.11) (6) The order in which the names of nonpartisan candidates shall be printed on the ballot at city primaries shall be determined by drawing lots by or under the supervision of the city clerk at his office, at twelve o'clock on the Monday first succeeding the last day for filing such papers.

SECTION 13. Section 11—11 of the statutes is renumbered to be section 5.12 and subsection (2) thereof is amended by striking out the figures and words, "11—7 of the statutes" and by inserting in place thereof the following figures: "5.08"; also by striking therefrom the word "which"; also by striking therefrom the figures and words "37 of the statutes" and by inserting in place thereof the following figures: "6.22."

SECTION 14. Section 11—12, except subsections 1, 2, 3, 12, 13 and 14 thereof, is renumbered to be section 5.13. Said subsection 4 is amended by adding thereto as the first word thereof the word "At", and subsections 4, 5, 6, 7, 8, 9, 10 and 11 of said section are renumbered to be, respectively, subsections (1), (2), (3), (4), (5), (6), (7) and (8). Said subsection 3 is repealed and said subsection 8 is amended by striking therefrom the figures 51 and by inserting in place thereof the figures 6.37.

SECTION 15. Subsections (12), (13) and (14) of section 11

—12 of the statutes are transferred to chapter 11 and renumbered to be respectively sections 11.15, 11.16 and 11.17; and said subsection (12) is amended by striking out the figures “44—3” and by inserting in place thereof the figures “11.03”; and said subsection (14) is further amended to read: 11.17 All laws * * * relating to the use of voting machines at elections, and all penalties prescribed for violations of such laws shall apply to the use of voting machines at primary elections in so far as such laws are not in conflict with * * * *section 11.15*. Provided, however, that any voting machine used at a primary election, which has been sealed, closed or locked as prescribed in section * * * *11.13* of the statutes, may be opened seven days after such sealing, closing or locking.

SECTION 16. Section 11—13 of the statutes is renumbered to be section 5.14. Subsection (1) thereof is amended by striking therefrom the word “city” and by adding thereto the following new sentence: “When such vacancies occur in cities, other nominations may be made as provided in section 5.26”. Subsection 2 of section 11—13 is amended by striking therefrom the figures and words “11—16 of the statutes” and by inserting in place thereof the figures “5.15”.

SECTION 17. Section 11—16 of the statutes is renumbered to be section 5.15.

SECTION 18. Section 11—17, enacted by chapter 92 of the laws of 1915, is renumbered to be section 5.16 and is amended by striking therefrom the figures “93”, and by inserting in place thereof the figures “6.69”; also by striking out the figures “94, 94a, 94b and 94e”, and by inserting in place thereof the figures “6.70, 6.71, 6.72 and 6.73.”

SECTION 19. Section 11—18 of the statutes as amended by chapter 92 of the laws of 1915 is renumbered to be section 5.17. Subsection 3 of said section is amended by striking therefrom wherever they appear, the figures “11—5” and by inserting in each place thereof the following: “5.05”; also by striking therefrom wherever they appear the figures “11—6,” and by inserting in each place thereof the following: “5.07.” And said section is further amended by adding thereto a new subsection to read: (4) The persons, equal in number to twice the number of persons to be elected to any office, receiving the highest vote for such office at any city primary, shall be the nominees for such office, and their names, and no others, shall be placed upon the official ballot at the ensuing city election in such city.

SECTION 20. Section 11—20 of the statutes is renumbered to be section 5.18 and subsection 1 thereof is amended to read: (1)

The canvass of the returns of a city primary shall be made by the * * * *same board or body of officers that is empowered to canvass the returns of the city election.*

Subsection 2 of said section 11—20 is amended by striking therefrom the following words and figures “82 and 83, statutes of 1898,” and by inserting in place thereof the figures and word “6.62 and 6.63.”

Subsection 3 of said section 11—20 is amended to read: (3) They shall make and certify * * * returns as to the votes cast for the candidates and forthwith * * * file * * * *the same* with the city clerk * * * .

Subsection 4 of said section 11—20 is amended to read: (4) So far as applicable and not otherwise provided herein, the provisions of this * * * *chapter* shall apply to all city primaries; provided that * * * the official ballot *shall be* printed at least four days before the day of holding such primaries.

SECTION 21. Section 11—21 of the statutes is renumbered to be section 5.19. Subsection 2 of said section is amended by striking therefrom the word “act” and by inserting in place thereof the word “chapter.” Subsection 5 of said section is amended by striking therefrom the last sentence thereof, to wit: “The chairman of the precinct committees now in existence in any city shall constitute the city committee thereof, and it shall be the duty of the chairman of each party county committee to call a meeting of said chairmen at least sixty days prior to the next ensuing municipal election for the purpose of organization as aforesaid.” Subsection 10 of said section is amended by striking therefrom the last sentence thereof, to wit: “The various officers and committees now in existence shall exercise the powers and perform the duties herein prescribed until their successors are chosen in accordance with this act.”

SECTION 22. Section 11—22 of the statutes is renumbered to be section 5.20.

SECTION 23. Section 11—23 is renumbered to be section 5.21, and is amended to read: 5.21 (1) In every case of a tie vote, the tie shall forthwith be determined by lot by the canvassers.

(2) It shall be the duty of the secretary of state to prepare all forms necessary to carry out the provisions of this act, which forms shall be substantially followed in all primaries held in pursuance thereof. Such * * * *forms* shall be printed with copies of this * * * *chapter* for public use and distribution.

(3) Every day on which a September primary shall be held shall be a legal holiday; and in every city of the first class the afternoon of every city primary day shall be a half-holiday.

SECTION 24. Subsection 1 of section 11—24 and section 4479 of the statutes are consolidated and revised to read: Section 4479. No person shall, directly or indirectly, himself or through another, give, or promise or offer to give, or with knowledge of the same permit to be given, promised or offered, to any elector or other person any money or thing of value of any pecuniary advantage or benefit, for the purpose of inducing or influencing such elector or other person to vote for him or for any specified person at any convention or meeting or primary held for the purpose of nominating a candidate or candidates to be voted for at an election, as a nominee of such convention or meeting or primary and a candidate to be voted for at such election; nor make any such gift, promise or offer to any elector or other person for the purpose of inducing or influencing such elector or other person to sign any nomination paper for the placing of any specified name upon any primary ballot; nor ask, solicit or receive any money, thing of value or pecuniary advantage from any candidate or other person as a consideration or inducement for his vote at any such convention or meeting or primary; or for his signature to any such nomination paper; nor knowingly cause a nomination paper or papers to be signed in his behalf by more than the maximum number of qualified electors provided for his district by subdivision (5) of section 5.05. Every person violating any provision of this section shall be punished, upon conviction thereof, by imprisonment in the county jail not more than one year or by fine not exceeding \$500.

SECTION 25. Section 4542c of the statutes is repealed. Subsections 2, 3 and 4 of section 11—24 of the statutes are revised and renumbered to read: Section 4542c. 1. Any act concerning or affecting caucuses or elections which has been declared by these statutes to be an offense shall also be the same offense when the same act concerns or relates to primaries, and shall be punished in the same form and manner and to the same extent.

2. Any person who forges any name of an apparent signer or witness to a nomination paper is guilty of forgery, and on conviction thereof shall be punished accordingly.

3. Any person who, being in possession of nomination papers entitled by law to be filed, wrongfully either suppresses, neglects or fails to cause the same to be filed at the proper time in the proper office shall upon conviction thereof be punished by imprisonment in the county jail not to exceed six months, or by

fine not to exceed five hundred dollars, or by both such fine and imprisonment, in the discretion of the court.

SECTION 26. Section 11—25m is renumbered to be section 1564m.

SECTION 27. Section 11—26 of the statutes is renumbered to be section 5.22 and subsection (6) thereof is amended by striking therefrom the figures 11—5 and 11—6 and by inserting in place thereof, respectively, the figures 5.05 and 5.07.

SECTION 28. Section 11—27 of the statutes is renumbered to be section 5.23; and subsection 1 of said section is amended by striking out the following figures and words “11—5 and 11—6 of the statutes” and by inserting in place thereof the following: 5.05 and 5.07.

SECTION 29. Section 11—28 of the statutes, as amended by chapter 92 of the laws of 1915, is renumbered to be section 5.24; and is further amended by striking from subsection (7) the figures “11—9,” and by inserting in place thereof the figures “5.10.”

SECTION 30. Section 29 of the statutes, except subsection 6 thereof, is renumbered to be section 5.25 and subsection (1) thereof is amended by striking out the figures and letter “94n” and by inserting in place thereof the figures “7.04.” And subsection 5 of said section is amended to read: (5) Except as otherwise provided * * * and except when inconsistent herewith the provisions of * * * this chapter * * * respecting * * * September primaries * * * are applicable * * * to all primaries held under this section.

OTHER NOMINATIONS.

SECTION 31. Section 30 of the statutes is renumbered to be section 5.26, and subsections (2), (4) and (6) thereof are amended to read: (5.26) (2) *Except as otherwise provided in subsection (8)* such nominations shall be made by nomination papers, containing the name of the candidate, the office for which he is nominated, his business or vocation, residence, post-office address, and except as otherwise provided by law the party or principle he represents, if any, expressed in not more than five words.

(4) Such nomination papers shall be signed, if for a candidate to be voted for throughout the state, by at least one thousand voters thereof; if for a candidate to be voted for throughout a county, district, or other division less than the state, or within a city or ward, by at least three per centum *and not more*

*than five per centum of the whole number of * * * electors * * * voting therein for governor at the last preceding general election, but in no case by less than fifteen voters. Provided, however, that for candidates mentioned in subsection (8), such nomination papers shall be signed by at least one per centum and not more than three percentum of such electors.*

(6) Such nomination papers shall be filed as follows: For candidates to be voted for throughout the state or any division or district embracing more than one county, in the office of the secretary of state, not more than forty nor less than * * * *twenty* days before the election for which the nominations are made; for candidates to be voted for wholly within one county, in the office of the county clerk, not more than forty nor less than * * * *twenty* days before such election; for candidates to be voted for wholly within one city in the office of the city clerk, not more than fifteen nor less than * * * *seven* days before such election. *Provided that nomination papers proposing candidates for judicial offices or for school board directors in the cases provided for in subsection (8), shall be filed not more than forty nor less than twenty days before the primary therein provided for.*

Said section 30 is further amended by striking from subsection 7 thereof the last sentence, to wit: "All nomination papers heretofore filed and in the custody of any such officer shall be destroyed forthwith."

Said section 30 is further amended by adding thereto a new subsection to read: (5.26) (8) (a) Whenever such nomination papers propose three or more candidates for any judicial office, except the office of police justice or justice of the peace, in any county having a population of three hundred thousand or more and containing an entire judicial circuit for which more than one circuit judge is provided by law, or propose eleven or more candidates for members of the board of school directors in any city of the first class, neither of the persons whose name is so presented shall become nominated as a candidate until nominated at a primary election held two weeks prior to the first Tuesday in April in the year in which such office is required to be filled by election.

(b) The nomination papers proposing said three or more candidates, or proposing said eleven or more candidates, whether complying in all respects with the provisions of section 5.05 or not, shall be used for the purpose of preparing the ballots for such primary election and for no other purpose. The order in which the names of candidates so presented shall be printed on

such ballots shall be determined by drawing lots at twelve o'clock, noon, on the day immediately following the last day for filing nomination papers, by or under the supervision of the county clerk at his office, in a case of candidates for a judicial office, and by or under the supervision of the city clerk at his office, in a case of candidates for members of a school board. The candidates for any such office shall be designated upon the primary ballot as follows: "For Circuit Judge (to succeed. . . . Branch Number. . . .)"; "For Civil Judge (to succeed. . . . Branch Number. . . .)"; "For County Judge"; "For Members of the board of school directors," etc., as the case may be. The two candidates for any judicial office and the ten candidates for members of the board of school directors receiving the highest number of votes cast at such primary shall be the nominees for such office, and their names, and none other, shall be placed on the official ballot at the ensuing judicial and school election.

(c) Except as otherwise provided in this section the general law relating to nomination of candidates at September primaries shall apply to nomination of judicial candidates under this section, and the general law relating to nomination of candidates at city primaries shall apply to nomination of school directors pursuant to this section.

SECTION 32. Subsection 6 of section 29 and subsection 1 of section 35—30 of the statutes are consolidated, renumbered and revised to read: 5.27 Every candidate for any elective town or village office shall be nominated as provided in this section:

(1) The qualified electors of the town or village may assemble in caucus not less than nine days prior to the day of the election, and on demand of any such elector present they shall by ballot select such candidate and elect a caucus committee of three of their number, who shall give at least five days' notice, fixing the time and place, of the next caucus to be held in such town or village. The two candidates for each office at such caucus who receive the greatest number of votes shall be certified by the chairman and clerk of the caucus to the town or village clerk and the names of such candidates shall be placed upon the official ballot by the town or village clerk, unless the candidates receiving the second largest number of votes shall notify in writing the town or village clerk not later than two days after such caucus that his name be not placed upon the ballot.

(2) Or such candidate may be nominated by nomination papers signed by electors of such town or village equal in number to ten per cent of all the votes cast in such town or village for

all candidates for governor at the last preceding general election. Such nomination papers shall conform to the provisions of subsections (2) and (5) of section 5.26 and shall be filed in the office of the town or village clerk at least seven days before the election.

MISCELLANEOUS PROVISIONS.

SECTION 33. Section 34 of the statutes is renumbered to be section 5.28.

SECTION 34. Subsection 1 and paragraph (g) of subsection 2 of section 11—12, subsection 1 of section 11—14, subsection 1 of section 11—16, section 11—25 and section 35—24 of the statutes are consolidated and revised to read: 5.29 (1) Except as otherwise specially provided all the provisions of chapter 6 of the statutes, relating to the qualification or registration of electors, notices of or pertaining to elections, poll lists, party challengers and challenges, officers and their duties, hours when the polls are to be opened and closed, canvass and return of votes, the solicitation of voters at the polls or to any other step or proceedings in preparation for or in the conduct of elections, are applicable to primaries in so far as they are consistent with this chapter.

(2) The provisions of section 6.66 shall apply to primaries except that the notices to candidates shall be served on opposing candidates for the same party nomination, only.

SECTION 35. Title II of the statutes is amended to read:

TITLE II.

ELECTIONS, * * *

SECTION 36. This act shall take effect upon passage and publication.

Approved July 8, 1915.