

CHAPTER 6.

ELECTORS AND GENERAL ELECTIONS.

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6.01 Qualifications of electors. (1) Every citizen of the United States of the age of twenty-one years or upwards, who shall have resided in the state one year next preceding any election, and in the election district, or precinct where he offers to vote, ten days, shall be deemed an eligible elector.

(2) No person who shall have made or become interested, directly or indirectly, in any bet or wager depending upon the result of any election at which he shall offer to vote shall be permitted to vote at such election.

(3) Any person who shall have been convicted of bribery shall be excluded from the right of suffrage unless restored to civil rights. [1931 c. 368; 1935 c. 261]

6.015 Women to have equal rights. (1) Women shall have the same rights and privileges under the law as men in the exercise of suffrage, freedom of contract, choice of residence for voting purposes, jury service, holding office, holding and conveying property, care and custody of children, and in all other respects. The various courts, executive and administrative officers shall construe the statutes where the masculine gender is used to include the feminine gender unless such construction will deny to females the special protection and privileges which they now enjoy for the general welfare. The courts,

executive and administrative officers shall make all necessary rules and provisions to carry out the intent and purposes of this statute.

(2) Any woman drawn to serve as a juror upon her request to the presiding judge or magistrate, before the commencement of the trial or hearing, shall be excused from the panel or venire.

Note: The wife may maintain an action against her husband on a tort liability. *Pontaine v. Pontaine*, 205 W 570, 238 NW 410.

The relation of a married woman and her husband as to contracts with others for their services are the same as though unmarried. *Estate of Nitka*, 208 W 181, 242 NW 504.

The statute of limitations does not run on the debts of the husband to his wife. *Campbell v. Mickelson*, 227 W 429, 279 NW 73.

This statute means what it says and that is that women shall be as free as men to make personal contracts. Therefore, a post-nuptial agreement dividing property between husband and wife and providing for relinquishment of inheritance rights was valid. In *re Cortte's Estate*, 230 W 103, 283 NW 336.

A wife has the same right of action that a husband has to recover damages for criminal conversation, in view of this section, declaring that women shall have the same rights under the law as men. *Woodman v. Goodrich*, 234 W 565, 291 NW 768.

A wife bringing an action for personal injuries could recover for nursing and medical expenses which she had agreed to pay, as against the contention that these constituted an obligation of the husband, since, under this section, a married woman is free to make her own personal contracts. *Baum v. Bahn Frel Mut. B. & L. Ass'n*, 237 W 117, 295 NW 14.

6.017 Milwaukee county, definitions. As to any county having a population of three hundred thousand or more, the term "election district" shall mean a town, village or ward of any city therein, and the terms "election precinct" or "precinct" shall mean one of the parts into which an election district in said county is divided for the convenience of the voters.

6.02 Place for voting. (1) No elector shall vote except in the town, ward, village or election district in which he has his voting residence except as provided in subsection (1) of section 6.04 and section 6.045; provided, that all persons residing upon Indian lands within any county of the state, not embraced in any organized election district, and qualified to exercise the right of suffrage, shall be entitled to vote at the polls which may be held nearest their residence for state, United States or county officers; but no person shall vote for county officers out of the county in which he resides.

(2) The legal voting place of every elector who shall lodge in any hospital, school, or other building which is partly in one election district and partly in another, or whose residence is so divided by election district lines, shall be at the voting place nearest to the place where such voter so lodges or resides.

(3) Whenever territory shall be annexed to any city, town or village and such annexation shall become effective on election day, or at any time within ten days prior to any election or primary, the electors who would have been entitled to vote in such territory, had no annexation taken place, shall be entitled to vote in the city, town or village to which such territory is annexed. [1933 c. 433 s. 3; 1935 c. 175, 421 s. 3; 1935 c. 553]

6.03 Time of general election. The general elections prescribed in the constitution shall be held in the several towns, wards, villages and election districts on the Tuesday next succeeding the first Monday in November in the year 1898, and biennially thereafter, at which time shall be chosen such United States senators, representatives in congress, electors of president and vice president, state senators, members of assembly, state officers and county officers as are by law to be elected in such year.

6.04 Place for holding elections. All elections under chapters 5, 6, 7, 8, 9 and 10 shall be held:

(1) In cities at the place or places to be ordered by the common councils thereof, respectively, at least four months before such election, unless otherwise provided by law.

(2) In villages, at the place in each election district thereof to be ordered by the trustees at least four months before such election, unless otherwise provided by law.

(3) In each town, at the place where the last town meeting was held, or at such other place as shall have been ordered by such meeting or by the supervisors, when they establish more than one election district as hereinafter provided; but the first election after the organization of a new town shall be at the place directed in the act, order or proceeding by which it was organized.

(4) Each governing body shall divide the municipality into voting precincts, where such division is necessary, with due regard to the election requirements. Precincts shall be compact and contiguous, and shall be arranged, if practicable, so that some public building may be conveniently used as a polling place for the voters. The governing body, except in cities having a board of election commissioners, shall fix the places for the conduct of elections, which shall be located, so far as practicable, in public buildings. [1933 c. 433 s. 3, 4]

6.045 Polling places in fourth class cities. (1) The common council of any city of the fourth class may provide a polling place or polling places for the entire city at its city hall or in some other building centrally located.

(2) One set of ballot boxes for each ward shall be provided, but one or more sets of election officials may serve for the whole city as determined by the governing body. The ballot boxes shall be numbered according to wards. The ballots of the voters of each ward shall be deposited in the box provided for such ward and the election officials shall make separate returns for each ward.

(3) Such central polling places shall be so provided and designated not later than ten days before the election at which they are to be used, and when so provided all primaries and elections in such city shall be held in the place or places designated. [1931 c. 253; 1933 c. 433 s. 2, 3]

6.05 Division and consolidation of election districts. (1) Election districts as established may be divided into 2 or more districts in towns when the supervisors shall deem it for the convenience of the voters, and shall be divided when 50 or more electors thereof shall petition the board in writing therefor; and such division shall be made in wards, villages or towns when it shall appear that 600 or more votes were cast in any such district therein at any election, except in wards, villages or towns where voting is done exclusively by voting machines; provided, however, that no division shall be made in any town containing less than 50 sections of land unless it shall appear that 400 or more votes were cast in such town at the last preceding general election.

(2) Such division shall be made at least 4 months prior to the next succeeding general election, except in cases covered by subsection (8), and shall be so made that the districts shall be composed of compact, contiguous territory, no one of which shall contain over 500 voters, except that in cities of the first class such districts may contain 800 registered voters. In towns no district shall contain more than 60 per cent of the voters therein, except that if such division results in 3 or more districts, then no district shall contain more than 40 per cent of the voters therein nor less than 20 per cent. The order or resolution making such division shall be filed with the proper city, village or town clerk, who shall within 5 days after such filing transmit a copy thereof to the county clerk, and in towns and villages the clerks thereof shall post copies of such order or resolution in 5 public places therein.

(3) The order or resolution shall designate the districts by numbers, and the place where the election in each shall be held, which place shall be fixed with a view to the convenience of the largest number of voters.

(4) The order dividing a town into districts shall designate the persons who shall act as election officers, if present in the district or districts thereby created.

(5) The persons so designated shall possess the qualifications hereinafter prescribed, and represent the political parties in accordance with the provisions of this chapter respecting the officers of election in cities and villages. One of the persons named as inspectors for each district shall be designated as chairman.

(6) When a town is thus divided into election districts, the annual town business meeting and special town elections shall be held at election district number one; and all annual town, judicial and other elections shall be held at the districts as divided.

(7) It shall be competent for town boards, village trustees or common councils to change the boundaries of election districts without creating new districts, or to consolidate two or more districts within the same town, village or city, subject to the foregoing conditions as to time, compactness of territory, filing of a copy of the order or resolution and posting copies thereof.

(8) Whenever a part of any town is annexed to a city or village, the town board may redistrict the election precincts in such town, without regard to provisions of subsection (2) as to the time when such division shall be made, but subject to the requirements as to compactness of territory, filing of a copy of the order or resolution and posting copies thereof.

(9) Any action heretofore taken by a town board in redistricting election precincts as provided in subsection (8) of this section is hereby validated. [1941 c. 31, 169]

6.06 Compulsory division of election districts. If the council or board whose duty to make a division shall have become imperative under section 6.05 shall fail or refuse so to do as therein specified, any voter of such city, town or village may apply to the proper circuit court or the presiding judge thereof for an order compelling such division. Such court or judge may, after reasonable notice has been given to the council or board proceeded against, order such division if it appear that it has become the duty thereof to make the same. Failure to obey such order within the time specified, unless the same be stayed or superseded, shall be deemed a criminal contempt. Until divided all elections shall be held in the districts as previously established.

6.07 Alteration of election districts in Indian reservations. (1) Existing election districts located within the boundaries of Indian reservations are continued until altered as provided by law.

(2) The county board of any county containing any such reservation in whole or in part may, by recorded resolution, consolidate election districts already existing therein, or detach territory from one such district and attach it to another; and may in like manner create one or more new election districts by setting off for that purpose territory within the reservation and within the county not previously included in any such district, or by dividing a district already existing, or by making such new district to consist partly of territory not previously organized and partly of territory set off from existing districts. No new district shall be created containing less than fifty resident citizens of the United States who are electors of the state of Wisconsin. Such new districts may be organized as provided by section 6.08.

6.08 Organization of election districts in Indian reservations. The election districts newly created under section 6.07 shall be organized and election officers therein shall be appointed and elected as provided by this section:

(1) Twenty-five qualified electors, residents of any such district, may file with the county judge of the county in which such district is situated a petition asking for the appointment of qualified electors of the district, naming therein at least twice the number required for appointment, as election officers of such district. Thereupon such county judge by recorded order shall appoint from the persons so recommended three election inspectors, two election clerks and two ballot clerks who shall, after qualifying, hold their respective offices until their successors are duly elected and have qualified. No more than two inspectors and one each of the election or ballot clerks shall belong to the same political party. Said county judge shall immediately file in the office of the county clerk, a certified copy of such order and deliver to each appointee or mail to him at his usual post-office address a written notice of such appointment.

(2) At the first general election held after such appointments and biennially thereafter the qualified electors of said district shall elect, in the manner town officers are elected in towns, three election inspectors, two election clerks and two ballot clerks who shall be qualified electors of such district. A certificate of their election, signed by the inspectors and clerks of the election, shall be filed in the office of the county clerk within thirty days after such election and a duplicate thereof delivered to, or left at the residence of, the officers so elected within twenty days after such election. Such officers shall hold their respective offices for the term of two years and until their successors shall be elected and qualified, and such term shall begin on the first day of January next following their election.

(3) Every officer so elected shall, before the commencement of his term of office, file in the office of the county clerk of the county in which his district is located, his oath of office as prescribed in section 6.34; and every such officer chosen to fill a vacancy shall take such oath before entering upon the discharge of his duties, and file the same in writing with the county clerk within twenty days thereafter.

(4) Such election officers shall have all the powers, rights and privileges, perform all the duties and be subject to all the penalties, including those of boards of canvassers, of like election officers in towns. The officers appointed by the county judge shall, at least four weeks before the date of the first caucus, primary election or general election at which the electors of such district are entitled to vote, fix the polling place of such district, which shall be as centrally and conveniently located as practicable, publish notice of such place in at least one weekly newspaper published in the county wherein said district is located, and post copies of such notice in at least four of the most public places in such district. They shall also provide suitable election booths.

(5) All laws relating to the right of electors to hold caucuses and primary elections and be represented at conventions, as preliminaries to the elections at which the voters provided for by this section are entitled to vote, and all laws relating to the conduct of elections, the filling of vacancies, the compensation of election officers, the ballots, the manner of voting, the canvass and return of votes, which are applicable to election districts in general, shall be applicable to all election districts authorized by this section, so far as such laws are not in conflict with this section. [1933 c. 433 s. 2]

6.09 Adjournment of election to another place. Whenever it shall become impossible or inconvenient to hold an election at the place designated therefor, the board of inspectors, after having assembled at, or as near as practicable to, such place, and before receiving any votes, may adjourn to the nearest convenient place for holding the election, and at such adjourned place shall forthwith proceed with the election. Upon such adjournment said board shall cause proclamation thereof to be made, and shall station a constable or other proper person at the place where the adjournment was made to notify all electors arriving at such place of the adjournment and the place to which it was made.

6.10 Election notice by secretary of state. (1) The secretary of state, not later than the fifteenth day of September in each year in which state officers, United States sen-

ators, representatives in congress, members of the assembly and state senators are to be elected for a full term of office, or in which electors of president and vice president are to be elected, shall make out a notice in writing stating that at the next general election to be held on the Tuesday next succeeding the first Monday in November following the officers aforesaid, or so many of such officers as are then to be chosen, are to be elected, and specifying in the case of such representatives and senators the respective districts in which they are to be elected; and whenever officers are to be chosen to fill vacancies, the names of the last incumbents of said offices and the date of expiration of terms for which they were elected shall be given; and also any constitutional amendment or other question to be submitted to the electors of the state for a popular vote. The secretary of state shall append to each such constitutional amendment or other question to be submitted to the people a brief statement of the change that will be made in the constitution or the existing laws if such amendment or other question so submitted shall be ratified or approved by the people at such election. Such statement shall contain no argument for or against any such amendment or other question so submitted. The said secretary shall publish a copy of such notice in the official state paper once in each week from not later than the last Friday of September until the election to which it refers.

(2) The secretary of state shall not later than the fifteenth day of September transmit by mail a like notice to the county clerk of each county, specifying the said officers to be voted for in said county.

6.11 Election notice by county clerk. (1) The county clerk thereupon shall forthwith prepare under his signature and seal a notice containing so much of the notice of the secretary of state as may be applicable to his county, including constitutional amendments or other questions, together with a statement of the several county officers to be elected by the voters of his county and cause the same to be published as provided in section 6.82. Commencing not later than the last Friday of September, such notice shall be published once each week until election. In all counties having a population of five hundred thousand or more and commencing not later than the second Friday of October, such notice shall be published once each week for two consecutive weeks.

(2) The county clerk shall transmit not later than the second Friday of October, 2 or more copies of such notice to every town, city and village clerk of his county. [1933 c. 205; 1939 c. 269, 452; 1941 c. 192]

Note: Legal notices required by (1) are published in newspapers selected by county clerk unless county board, by proper resolution, decides to publish same in more than two newspapers. 25 Atty. Gen. 120.

6.12 [Repealed by 1939 c. 269]

6.13 General registration statutes not applicable to Milwaukee. The provisions of sections 6.15, 6.16, 6.17 and 6.18, respecting the registration of electors, shall not apply in counties having a population of three hundred thousand or more.

6.14 Registration of electors. (1) In every city, village, and town having a population of five thousand or more, exclusive of the inmates of any state penal institution or insane hospital, and in every city, village and town of less than five thousand population in counties having a population of three hundred thousand or more, a registry of electors shall be made in every election district thereof. Such registration shall be applicable to all elections and all primaries. Until the population of any city, village or town has been determined by a United States census no registry shall be made therein, except as otherwise provided in this section.

(2) In any city, village or town having a population of less than five thousand, according to the last United States census, the common council, board of trustees, or board of supervisors, as the case may be, may, by ordinance authorize and require registration for all elections in such city, village or town, and may rescind its own action in like manner.

(3) In any city, village or town of less than five thousand population and in every city, village or town whose population has never been determined by a United States census, fifteen per cent of the number of voters voting at the last general election for governor, may file with the city, village or town clerk at least sixty days before any election, a petition demanding a registry of electors in such city, village or town and thereupon registration shall be made in the manner provided by law.

(4) When registration is ordered or directed as provided in subsection (2) or (3) of this section, it shall be applicable to all elections held in the municipality concerned and may be abolished and made inapplicable by a referendum vote as provided herein. The vote shall be taken at the municipal, judicial or general election next held in such city, village or town, after filing a verified petition in the office of the clerk not less than forty days before such election, signed by electors therein equal in number to ten per cent of the number of votes cast therein for governor at the last general election, praying for the submission to said electors of the question of the abolishing of the provisions aforesaid. The

taking of such vote shall be noticed in any such city in the manner noticed, and in any such town or village by posting notices in at least three public places in the town or village not less than ten days before the election.

(5) Whenever registration is established or abolished under subsections (2), (3) or (4) of this section the city, village or town clerk shall forthwith certify such action to the county clerk and to the secretary of state. A list of all such cities, towns and villages, of less than five thousand population, shall be printed in the election pamphlet. [1931 c. 55, 253; 1933 c. 433 s. 1, 2, 3; 1935 c. 406; 1939 c. 513 s. 2]

6.15 Registrars. The clerk of each municipality in which registration is applicable under section 6.14 shall have full charge and control of the registration of voters within the municipality for which he is elected or appointed. The clerk and all employees in his office are authorized to execute such affidavits as may be required by sections 6.16, 6.17 and 6.18.

6.16 Registration. (1) FORMS. The clerk shall provide a sufficient number of blank forms for the registration of electors (hereafter called affidavits of registration), which shall consist of loose-leaf sheets printed on paper of durable quality, and shall be made in duplicate.

(2) FORMS. The form of the registration affidavit shall be substantially as follows:

			Residence.		
Last name	First name	Middle name	Street.	No.	Ward and Precinct.
Occupation .....			.....	.....	.....
Birthplace .....			.....	.....	.....
If naturalized: Name of Court .....			.....	.....	.....
Place .....			.....	.....	.....
Date .....			.....	.....	.....
Through whom naturalized:			.....	.....	.....
Husband			.....	.....	.....
Father Name .....			.....	.....	.....

AFFIDAVIT OF REGISTRATION.

STATE OF WISCONSIN, County of

I hereby swear (or affirm) that I am a citizen of the United States, that on the day of the next election I shall be at least twenty-one years of age, and shall have resided in the state of Wisconsin for one year next preceding said election, and in the election district ten days, and that I am legally qualified to vote.

Subscribed and sworn before me this day of

Signature of registration officer

Signature of voter

VOTING RECORD.

Stamp or write the date of each election at which the elector votes on the first vacant space

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(3) NUMERICAL ORDER OF REGISTRATIONS. The original affidavits of registration shall be filed by precincts, arranged in numerical order of houses located on each street separately, commencing with the lowest and ending with the highest number within the precinct, and the affidavits of all electors registered from the same address shall be arranged in alphabetical order. The streets shall be arranged in successive geographical order from east to west and north to south.

(4) ALPHABETICAL REGISTRATION. The duplicate affidavits shall be filed in exact alphabetical order for the entire municipality without regard to precincts and shall be kept in the office of the clerk.

(5) CUSTODY OF REGISTER, USE AT POLLS. The original affidavits shall constitute the official register of the respective precincts, and before being turned over to the election inspectors for use at the polls shall be securely bound in suitable binders. The official precinct register shall be sent by the clerk to the inspectors of election for use at the polls at each election or primary, and shall be consulted whenever necessary or proper. In case of any discrepancy between the official register and the registry lists provided for in this section, the official register shall be controlling. The official register shall, with all convenient dispatch and within two days, be returned to the clerk of the municipality.

(6) COPIES OF REGISTER, RECORDING VOTERS, RETURNS. After the close of registration prior to any election or primary the clerk shall prepare one original typewritten copy and at least two carbon copies of the list of registered electors for each precinct of the municipality, which registry lists shall contain the full name and address of each registered elector and shall be arranged in the same order as the register of electors. The original copy and one carbon copy shall be furnished to the election inspectors of each election district for use at the polls. The registry lists shall contain a blank column for the entry of the serial numbers of the electors when they vote, blank spaces to enter the names of electors who vote by affidavit, and also a form of certificate setting forth that each list is a true and complete combined check and poll list of the respective precincts, which form shall be filled in and signed by the three inspectors of election in each precinct; such combined check and poll lists, duly verified, to be returned as provided by law.

(7) POLL LIST. Two election officers of each election precinct shall have charge of the registry lists and shall write after the name of each voter the serial number of his vote as the same is polled, beginning with the number one, and these lists so kept shall be in lieu of the poll list required by sections 6.45 and 6.49. The names of all qualified electors who vote by affidavit as provided by section 6.44 shall be added to said list.

(8) PUBLIC RECORD. Additional copies of the registry lists shall be open to public inspection at the office of the city clerk as soon as they are completed.

(10) RECORDING VOTERS. After each election or primary the clerk of the municipality shall make a record of each elector who has voted at that election or primary by stamping or writing the date of the election or primary in the appropriate space on the original registration affidavit of the elector. [1933 c. 433 s. 1]

6.17 Registration. (1) APPLICATIONS TO REGISTER, FINAL DAY. The clerk of the municipality shall receive applications for registration at his office during regular office hours throughout the year, and at such other places and at such times as he may deem advisable, except that registration for any election or primary shall be closed at the close of office hours ten days next preceding the election or primary. At the first primary election conducted after the taking effect of sections 6.15 to 6.18, any qualified voter shall be permitted to register at the polls on the day of election and vote at such election. Such registration shall be conducted by the regular election officers, or in the discretion of the city council, by a special registration deputy appointed by the city clerk for each precinct.

(2) PERSONAL APPLICATION. Applications for registration shall be made in person by the elector who shall be required to sign the original and duplicate affidavits.

(3) REGISTERED APPLICANT. If any elector applying for registration is already registered in another municipality within the state of Wisconsin he shall so state this fact to the registration officer and shall sign an authorization to cancel the previous registration on a form substantially as follows:

I hereby authorize the cancellation of my previous registration at the following address

Signature

Present address

The clerk shall cause all such authorizations to be mailed to the proper registration officer not later than twenty-four hours following the close of registration prior to any election or primary.

(4) ENTRIES ON REGISTER. The registration officer shall make proper entries upon the affidavit of registration after due inquiry of the applicant for registration. Before the first name of a woman elector he shall enter Mrs. or Miss, as the case may be.

(5) ABSENT ELECTOR. Any elector who is more than fifty miles away from his legal residence may be registered prior to the close of registration before any election or primary in the following manner: He shall secure from the clerk of the municipality blank registration affidavits with suitable instructions, and shall appear before a notary public or other officer legally authorized to administer oaths, and have the original and duplicate

registration affidavits properly made out and signed by the elector. The notary public or other officer administering the oath shall sign his name on the line for the signature of the registration officer and affix his seal thereto. The original and duplicate shall be returned to the clerk of the municipality, and shall reach him not later than the close of office hours on the last day of registration prior to the election or primary in order for the elector to be registered for that election or primary.

(6) TRANSFERS. Any registered elector may upon change of residence within the municipality cause his registration to be transferred to his new address by sending to the clerk a signed request, stating his present address and the address from which he was last registered, or by applying in person for a transfer. The clerk shall strike through the last address, ward and precinct number and record the new address, ward and precinct number on the original and duplicate affidavits, and shall place the original affidavit in proper precinct register.

(7) TRANSFERS. The clerk may transfer the registration of any elector upon the receipt of reliable information that such elector has changed his residence, but in such cases he shall mail to the elector a form notice of the transfer, as a means of avoiding errors and informing the elector that he is duly registered from the new address. It shall be the duty of the clerk and gas service in such municipality during the preceding month. From such list the clerk shall transfer the registration of electors who have changed their residence within the municipality.

(8) REGISTRATION CARDS. A registration card shall be delivered to each elector making application to vote by affidavit, who shall properly fill out such card and submit the same to the clerk before a certificate is supplied pursuant to subsection (3) of section 6.44. Each clerk shall include in subsequent registry lists the names of persons who file such cards, provided such persons are then entitled to be placed on the registry list. [1931 c. 112; 1933 c. 433 s. 1, 4]

6.18 Register of electors. (1) REVISION. The clerk shall revise and correct the registration records as follows:

(a) Following every general November election in even-numbered years he shall examine the registration records and shall cancel the registration of all voters who have not voted within a period of two years. Provided, that each such voter shall be sent a notice through the mails substantially as follows:

NOTICE OF SUSPENSION OF REGISTRATION.

You are hereby notified that your registration will be canceled according to state law, for failure to vote within a two-year period, unless you apply for reinstatement within thirty days. You may reinstate your registration by signing the statement below and returning it to this office or by applying in person.

APPLICATION FOR REINSTATEMENT OF REGISTRATION.

I hereby certify that I still reside at the address from which I am registered and apply for reinstatement of registration.

Signed

Present address

After the expiration of thirty days the clerk shall cancel the registration of all electors thus notified who have not applied for reinstatement. A proper entry shall be made on the voting record of the affidavit of registration of all electors whose registration is reinstated. Any elector whose registration has been canceled may be registered again by making a new application for registration to the clerk of the municipality.

(2) VITAL STATISTICS. At suitable intervals and at least once a month the clerk shall secure from the local register of vital statistics a list of all persons over twenty-one years of age who have died, and shall compare this list with the registration lists and cancel the registration of all deceased electors.

(3) CANCELLATIONS. Upon the receipt of an authorization of cancellation of registration from the elector the clerk shall cancel said registration.

(4) CHALLENGES OF REGISTRATION. Any elector of the municipality may challenge the registration of any registered elector by submitting to the clerk a written affidavit that such elector is not qualified to vote, which affidavit shall specify the grounds upon which the challenged elector is disqualified. Upon receipt of such affidavit the clerk shall mail to the challenged elector at his registered address a notification of the challenge. If the challenged elector fail to appear before the clerk within one week and answer the questions and take the oath required of persons challenged on the same grounds at election, the clerk shall cancel his registration.

(5) REMOVALS CHECKED. Upon receipt of reliable information that a registered elector has moved away from the municipality, the clerk shall notify such elector through the

mail at his registered address, stating the source of the information, and if the elector does not apply for continuation of registration within thirty days, his registration shall be canceled.

(6) **ENTRY OF CANCELLATIONS.** When a registration is canceled the clerk shall cause to be made a proper entry upon both the original and duplicate affidavits of registration, indicating the date, the cause for cancellation, and the initials of the person making the cancellation. The original canceled affidavit shall be permanently filed in the office of the clerk.

(7) **REGISTER PUBLIC.** The registration records shall be open for public inspection, and any citizen may make or cause to be made a copy of the registration lists under rules and regulations prescribed by the clerk.

6.185 Permanent registration, cities. (1) Except in cities of the first class, the clerk of each municipality in which registration is applicable under section 6.14 in counties having three hundred thousand or more inhabitants, shall have full charge and control of the registration of voters within the municipality for which he is elected or appointed, and registration shall be made as herein provided.

(2) The clerk shall prepare a sufficient supply of registration cards, in form as near as may be practical as provided in section 10.10 of the statutes, as shall be directed by resolution adopted by the governing board of such municipality. Such cards shall be furnished by the clerk to any person applying for them, either in person or by mail.

(3) The clerk shall, as soon as convenient after this section takes effect, fill in the spaces provided in such cards, from the poll list kept at the last preceding general or municipal election, the last printed registration lists, together with the name of every person known by the clerk to be an elector of the municipality. As soon as the clerk shall have completed filling the blanks in such registration cards, he shall file the same in his office, and arrange the names of the voters in each precinct in alphabetical order or by streets. Such registration cards when so filed shall be the official registry for each precinct subject to be revised and corrected by the clerk as herein provided.

(4) The clerk shall revise and correct the first registration as prepared by him:

(a) By striking therefrom the name of any person known by him to have died or removed from the district where he is registered, or who shall be proved, by the oath of two electors of the district, to be not entitled to vote therein at the next ensuing election or primary election, unless such person shall appear, and if challenged, shall make affidavit stating his name and the period of his continuous residence in the election district, and his place of residence therein, and in case he is of foreign birth, stating when he came to the United States and to this state, and the time and place when he became a citizen of the United States, and that he is entitled to vote at the election or primary;

(b) By filing the name of every elector entitled to vote in that district at the next election or primary who shall file a registration card such as hereinbefore provided for properly filled in and sworn to before said clerk. In every case of a name stricken from the registration the reason therefor shall be stated in writing on the registration card. All such cards shall be filed in a separate index and kept for a period of three years.

(c) The clerk of the municipality shall receive applications for registration at his office during regular office hours throughout the year, and at such other places and at such times as he may deem advisable, except that registration for any election or primary shall be closed at the close of office hours 10 days next preceding the election or primary.

(5) Any person who is not twenty-two years of age before the date when the registration is required to be corrected, and who will, if he lives until the day of the election, attain the age of twenty-one years on or before such day, shall have his name included in such registration if he be otherwise qualified to be an elector.

(6) (a) After such registration shall have been fully completed, as herein provided, no votes shall be received in any primary or election in such municipality if the name of the person offering to vote be not registered, except as provided in subsection (4) and as hereinafter provided in this subsection.

(b) Any person who has not previously filed a registration card, but who is a qualified elector in the precinct where he offers to vote, shall, nevertheless, be entitled to vote at such primary or election, providing he shall deliver to the inspectors of election a registration card properly filled out and sworn to by himself, or, if he cannot obtain such a card, an affidavit stating the same facts as provided on said card; and, provided that his oath or affidavit is substantiated by the affidavit of two freeholders, electors in such precinct, corroborating all the material statements therein. The clerk shall provide a sufficient number of registration cards with the required affidavit forms printed thereon and shall distribute them to the election inspectors at the booth; and the inspectors shall deliver at least one card to each voter making application therefor. No compensation shall be paid or received for taking or certifying any affidavit required. No freeholder shall be

competent to make at any one election or primary corroborating affidavits for more than five voters. All such registration cards and affidavits shall be sworn to in the office of the clerk before some official authorized by law of this state to administer oaths, or before the clerk. Said clerk shall include in subsequent printed registration lists the names of the persons who filed such cards, providing such persons are then entitled to be placed in the official registration.

(c) No such affidavit shall be made on the day on which the polls are open, except for changes of address by registered voters.

(7) (a) After the last Tuesday preceding a primary, the clerk shall forthwith cause to be printed from the official registration cards, for use at the primary and the election, respectively, sufficient printed lists of such complete and corrected registration for each precinct, and shall cause at least six copies to be posted forthwith in separate places in said precinct.

(b) Six copies of such printed precinct registry shall be furnished to each inspector for each primary and election, of which two shall be used as check lists and in lieu of poll lists, at the primary and at the election. To this end, two inspectors at each precinct at each primary and election shall write after the name of each voter the serial number of his vote as the same is polled, and shall hand to each voter suitable certification slips, numbered serially, to be furnished by the clerk for this purpose. A special blank column shall be provided on the final printed registration list for this purpose; also a form of certificate, setting forth that each list is a true and complete combined check and poll list of the respective precincts, which shall be filled in and signed by the three inspectors of election in each precinct; such combined check and poll list, duly verified, to be returned as provided by law.

(8) The clerk shall obtain at least two competitive bids for the printing of the blank registration cards and the printed registration lists, and shall award the contract therefor to the lowest competent and responsible bidder. The clerk shall certify the expense of the printing of such cards and lists to the governing board of the municipality, who shall audit and pay the same out of the general fund.

(9) The clerk shall receive such sum for compensation as registration clerk as the governing board of each municipality may fix, to be paid out of the general fund. [1933 c. 355; 1939 c. 279; 1941 c. 291]

Note: Registration cards may be supplied to electors. When filed with clerk of municipality they must be sworn to before clerk. When presented to election inspectors cards need not be sworn to before clerk, but oath of elector must be substantiated by affidavit of two freeholders. 20 Atty. Gen. 371.

6.19 Certification of nominees and constitutional amendments by secretary of state.

(1) Not less than twenty-five days before any April or November election the secretary of state shall transmit to each county clerk a certified list containing the name, description and post-office address of each person nominated for any office for whom any of the electors of such county are entitled to vote at such election, together with a designation of the office for which each is a candidate, and the party or principle each represents, if any, whose nominations are on file in his office. Names of candidates nominated pursuant to section 5.28 shall be certified forthwith upon the filing of nominations with the secretary of state.

(2) In certifying the names of candidates for the office of justice of the supreme court, judge of the circuit court, state superintendent, and delegates to national party conventions, the secretary of state shall designate the order in which the names of candidates shall be printed upon the official ballot in each assembly district.

(3) For the purpose of determining the order in which the names of candidates for justice of the supreme court, state superintendent, and delegates at large to national party conventions shall be placed upon the official ballot, the secretary of state shall number the assembly districts consecutively from one to one hundred in the order of their population, according to the last preceding census, beginning with the district having the largest population, which shall be numbered one.

(4) In determining the order in which the names of candidates for circuit judge and district delegates to national conventions shall be placed upon the ballot, the secretary of state shall number the assembly districts or parts of a district within the judicial circuit or congressional district consecutively from one upwards, in the order of their population, according to the last preceding census, beginning with the district having the largest population, which shall be numbered one.

(5) The secretary of state shall arrange the surnames of the candidates for each office alphabetically for the first assembly district; thereafter for each succeeding district the name appearing first for each office in the last preceding district shall be placed last.

(6) Whenever a constitutional amendment or other question is required to be submitted to a vote of the people, the secretary of state shall, not less than twenty-five days prior

to the election at which such amendment or question is required to be submitted, transmit by mail a certified copy thereof to each county clerk in the state.

6.20 Judicial and school election; rotation of names. (1) For the purpose of determining the order in which the names of candidates for county judge shall be placed on the official ballot, the county clerk shall prepare a list of the election precincts in his county by arranging the various towns, cities, and villages of the county in alphabetical order and the wards or precincts of each city, village, or town in numerical order under the name of such city, village, or town.

(2) For the purpose of determining the order in which the names of candidates for county superintendent of schools shall be placed on the official ballot, the county clerk shall prepare a list of the precincts in each superintendent district in his county by arranging the various towns, cities, and villages of the district in alphabetical order and the wards or precincts of each city, village, or town in numerical order under the name of such city, village, or town.

(3) The county clerk shall arrange the surnames of all candidates for county judge and superintendent of schools alphabetically for the first precinct in the list, and thereafter, in each succeeding precinct, the name appearing first for each office in the last preceding precinct shall be placed last.

6.21 Publication of official ballot. (1) Before an election to fill any public office or at which a constitutional or other question is submitted, the county or city clerk of each county or city shall cause to be published a facsimile of the official ballot the size of which shall not be less than one-third the area of the actual ballot.

(2) Said publication shall be preceded with a notice of the time and place of holding the election, together with information to the voter for marking his ballot, which notice and information shall be substantially in the form provided in section 6.22, to be varied and modified according to the nature of the election.

(3) (a) Such publication shall be made twice in daily or weekly newspapers in counties or cities having such, one of which publications in daily papers shall be on the publication day preceding the election and the other publication one week previously, and when published in a weekly paper the dates shall be designated by the county clerk.

(b) In all counties having a population of five hundred thousand or more such publication shall be made once in daily or weekly newspapers in counties or cities having such, which publication in daily papers shall be on the publication day preceding the election, and when published in a weekly paper the date shall be designated by the county clerk.

(c) In any county where voting machines are used exclusively in one or more towns, cities or villages, publication of the facsimile of the official voting machine ballot shall be made once in one or more daily or weekly newspapers published in the town, city or village using such voting machines, if a newspaper be published therein, otherwise in a newspaper of general circulation therein. The newspapers and dates of publication shall be designated by the county clerk.

(4) Such facsimile ballot notice, when published in a city using voting machines, shall include a sample ballot in the form of a diagram showing the face of the machine with the official ballot thereon, together with instructions to the voter for the proper operation of the machine. If such ballot includes offices to be voted for, other than offices of the town, city or village, the cost of publication of such facsimile ballot shall be prorated between the county and the town, city or village in proportion to the amount of space used for each type of office. In such case the county clerk shall provide for the form of the ballot, placing thereon such town, city or village offices and the names of persons to be voted for according to information which shall be supplied him by the clerk of the town, city or village. The county clerk shall order the printing of such ballot and shall bill the town, city or village for its proper proportionate share of such cost.

(5) Lists of delegates to national conventions and lists of presidential electors shall be published once each week for two consecutive weeks in manner provided in subsection (4) of section 5.08. [1935 c. 421 s. 3; 1939 c. 452; 1941 c. 6]

6.22 Form of facsimile ballot notice; information to voters; publication and fee. (1) In making publication of a facsimile ballot notice, the county clerk shall precede the same with a statement substantially in the following form:

FACSIMILE BALLOT NOTICE OF ELECTION

Office of County Clerk.

To the Electors of County:

Notice is hereby given that a election is to be held in the several towns, wards, villages, and election precincts in the county of, on the day of, 19. ., at which the officers named below are to 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 question submitted to a vote, in the sample ballot below.

INFORMATION TO VOTERS

The following instructions are given for the information and guidance of voters:

(a) A voter upon entering the polling place and giving his name and residence, will receive a ballot from the ballot clerk which must have indorsed thereon the names or initials of both ballot clerks, and no other ballot can be used. Upon receiving his ballot, the voter must retire alone to a booth or compartment and prepare the same for voting. A ballot clerk may inform the voter as to the proper manner of marking a ballot, but he must not advise or indicate in any manner whom to vote for.

(b) If a voter wishes to vote for all the candidates nominated by any party he shall make a cross or other mark under the party designation printed at the top of the ballot in the circle made for that purpose. A ballot so marked and having no other mark will be counted for all the candidates of that party in the column underneath, unless the names of some of the candidates of the party have been erased or a name shall be written in or a cross mark be placed in the square at the right of the name or names of candidates in another column. If the voter does not wish to vote for all the candidates nominated by one party, he shall mark his ballot by making a cross or mark in the square at the right of the name of the candidate for whom he intends to vote, or by inserting or writing in the name of the candidate.

(c) A voter may vote for an entire group of candidates for presidential electors by making a cross (X) or mark in the circle (O) under the party designation at the head of the party column, or he may vote for the candidates for presidential electors by making a cross (X) or mark in the square at the right of the name of each candidate for elector for whom he wishes to vote. If a voter does not wish to vote for any one or more candidates for presidential electors in the group, he may erase the name of such candidate or candidates and may write in the space provided therefor, the name or names of the person or persons for whom he desires to vote, and the cross (X) or mark in the circle (O) at the head of the party column shall count as a vote for each of the candidates in such column. If a voter does not wish to vote for any candidates for president or vice president or for any presidential electors, whose names appear upon the ballot, he may insert or write in the names of the candidates for president and vice president, and presidential electors to a number equal to the number of electors to be elected, in the appropriate spaces in the blank column at the right of the ballot.

(d) A voter may vote upon a question submitted to a vote of the people by making a cross (X) or mark in the square at the right of the answer which he intends to give.

(e) The ballot should not be marked in any other manner. If the ballot be spoiled, it must be returned to the ballot clerk, who must issue another in its stead, but not more than three in all shall be issued to any one voter. Five minutes' time is allowed in booth to mark ballot. Unofficial ballots or memorandum to assist the voter in marking his ballot can be taken into the booth, and may be used to copy from. The ballot must not be shown so that any person can see how it has been marked by the voter.

(f) After it is marked it should be folded so that the inside cannot be seen, but so that the printed indorsements and signatures of the ballot clerks on the outside may be seen. Then the voter should pass out of the booth or compartment, give his name to the inspector in charge of the ballot box, hand him his ballot to be placed in the box, and pass out of the voting place.

(g) A voter, who declares to the presiding officer that he is unable to read, or that by reason of physical disability he is unable to mark his ballot, can have assistance of two election officers in marking same, to be chosen by the voter; and if he declares that he is totally blind, he may be assisted by any person chosen by him from among the legal voters of the county. The presiding officer may administer an oath in his discretion, as to such person's disability.

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

....., County Clerk.

(2) (a) The headline, or caption, of said facsimile ballot notice shall be conspicuously displayed, but in no case shall said caption, together with the necessary spacing above and below, occupy more than one and one-fourth inches in depth. The reading matter of said notice shall be set solid in the type of the regular reading matter of the paper making the publication but not in smaller than six point nor larger than ten point type. The size and style of type and the general display of facsimile ballots shall conform as nearly as may be to those of the sample ballots printed in the statutes; provided, that party columns shall not exceed two and one-sixth inches in width. The fee for such publication shall be paid for by the square.

(b) The caption, introductory paragraph and information to voters shall be printed but once in any such notice and shall be followed by a facsimile of each of the ballots to be used at such election. Whenever possible the complete notice shall appear on a single page of the newspaper. If this be impracticable, a footnote, in twelve point caps, shall indicate on what page the notice is continued. At the top of each succeeding page, or column of the said notice, shall appear, in twelve point caps and figures, the notation: "For information to voters and for other facsimile ballots, see page . . ."

(3) No other or further publication of notice provided for by this and the preceding section shall be required to be made by any county or city clerk, except that in cities, the clerk shall at the foot of such notice, specify the place of voting in such election precinct, and the hours of opening and closing the polls.

6.23 Separate precinct ballot; form. (1) There shall be printed and provided for use in each precinct at general elections a separate ballot upon which shall be printed the names, including given and surnames, of all candidates for state, congressional, legislative and county offices.

(2) The several regular party tickets nominated by conventions or by regularly constituted and authorized committees or primaries shall be printed each in a separate column under the appropriate party designation, the columns to be arranged alphabetically, from left to right, according to the first letter of the party name, thus democratic party, labor party, prohibition party, republican party. To the right hand of the party columns shall be one or more columns for independent nominations.

(3) All columns are to be separated by heavy black lines not less than one-eighth of an inch wide.

(4) In each column shall be placed the name of each office to be voted for and directly under the name of each such office shall appear the name, both given and surname, of the person nominated as a candidate for such office. The name of the candidate shall in all cases be placed in the column designated by the party name of that party by which such candidate was nominated; and if the person be an independent candidate, his name shall be placed in its proper place in the column or columns designated independent, together with his party designation as given in his nomination papers. The names of all candidates shall be so placed in the various party designated columns so that names of the same office and the candidates for such office shall appear on or between the same horizontal lines of the ballot. After and to the right of the name of each candidate for a state or county office and within each party designated column there shall be a square, in which the voter may designate by a cross or other mark his choice for each office.

(5) In no case shall a county clerk place the name of any person upon such ballot as a candidate for the office of county superintendent of schools unless such person shall have filed in such clerk's office at least twenty-five days before the day of election at which such superintendent is to be elected, proof of having successfully taught in one or more of the public schools of this state, for a period of eight months, and a copy of a certificate entitling him to teach in any such school, or of a certificate known as a county superintendent's certificate.

(6) All offices to be filled, together with the names of the persons who are candidates for such offices, shall be arranged within the columns in the following order: First, state offices; second, congressional offices; third, legislative offices; fourth, county offices.

(7) At the top of each ballot shall be placed in letters of not less than three-eighths of an inch in length the words: "Official Ballot." Underneath the words "Official Ballot," and in plain, legible type shall appear the following instructions to voters: "If you desire to vote an entire party ticket for state, congressional, legislative and county offices, make a cross (X) or other mark in the circle (O) under the party designation at the head of the ballot. If you desire to vote for particular persons without regard to party, mark in the square at the right of the name of the candidate for whom you desire to vote, if it be there, or write any name that you wish to vote for, in the proper place." There shall be a space at the top of each column in which shall be placed the party designation and under the party designation a circle (O) of three-eighths of an inch in diameter formed by black lines in which the voter by his mark may declare that he votes for all the names printed in that column except such as are erased or written over or otherwise marked as hereinafter specified, and under such party designation shall appear the names of all candidates for state, congressional, legislative and county offices.

(8) Whenever a proposed amendment to the constitution, or any measure or other question shall be submitted to a vote of the people, a concise statement of the nature thereof shall be printed in accordance with the act or resolution directing its submission upon a separate ballot provided for that purpose, and underneath the question as thus stated shall appear the words "yes" and "no," and after and to the right of each of said words there shall be a square. At the top of said ballot shall be printed in letters of not less than

three-eighths of an inch in length the words: "Official Referendum Ballot." Underneath said words, and in plain, legible type shall appear the following instructions to voters: "If you desire to vote for any question, make a cross (X) or other mark in the square after the word 'yes,' underneath such question; if you desire to vote against any question make a cross (X) or other mark in the square after the word 'no,' underneath such question." This form of ballot shall be used at all elections at which questions are submitted to the people.

(9) In each year in which there is to be elected a president and vice president of the United States, there shall be printed and provided for use in each precinct at the general election a separate ballot, to be designated "Presidential Ballot," which shall be substantially in the form annexed, marked "C."

(10) (a) At the top of each presidential ballot shall be placed in letters of not less than three-eighths of an inch in length the words "Official Presidential Ballot." Underneath the words "Official Presidential Ballot" and in plain, legible type shall appear the following instruction to voters: "Make a cross (X) or other mark in the square opposite the names of the candidates for whose electors you desire to vote. Vote in ONE square only."

(11) No pasting names over a ticket or over any names thereon shall be allowed and no name so pasted shall be counted except as provided in section 5.28.

(12) When any person is nominated for the same office, by more than one party or primary, his name shall be placed upon the ticket under the designation of the party which first nominated him, or if he was nominated by more than one party or primary at the same time, he shall, within the time fixed by law for filing certificates of nomination, filed with the office with whom his certificate of nomination is required to be filed, a written election indicating the party designation under which he desires his name to be printed on the ballot, and it shall be so printed. If he shall refuse or neglect to so file such an election, the officer with whom the certificate of nomination is required to be filed, shall place his name under the designation of either of the parties by which he was nominated, but under no other designation whatsoever.

(13) The names of persons nominated by paper nominations shall be placed in the one or more columns designated independent; provided, that the name of the same individual shall not be placed on the ticket under the head of independent nominations if his name already appears under a party designation.

(14) On the back and outside of every ballot shall be printed the words, "Official Ballot for" followed by the designation of the polling place for which the ballot is prepared and the date of the election, the official indorsement and blank certificates in the following forms: I certify that the within ballot was marked by me for an elector incapable under the law of marking his own ballot, and as directed by him.

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 of Election.

 of Election.

(15) No party designation shall be placed upon the official ballots for any school or judicial officer. The names of candidates for the same office shall be placed in the same column.

(16) Ballots for judicial, school and city elections shall be printed upon the quality of white print paper hereinbefore specified, and shall be of sufficient size to afford space for the names of the several candidates for any office in the column under the proper office designation. The names of candidates for judicial offices and school superintendent shall be printed on the same ballot in substantially the annexed form marked "E." Such ballots shall have similar matter printed on the back and outside as other official ballots are required to have.

(17) (a) The ballot provided for in subsection (1) of this section and the official city ballot shall be upon white print paper, the presidential ballot upon light blue print paper, and the referendum ballot upon pink print paper, and shall be substantially as in the annexed forms marked respectively "A," "B," "C" and "D;" provided that ballots for city elections may be varied in form to conform to the law under which such election is held.

(b) All ballots shall be of sufficient width and length to afford space for all matter required to be printed thereon and shall be printed on paper weighing thirty-five pounds per ream of sheets twenty-four by thirty-six inches; if a different sized sheet is used the weight per ream shall be proportioned as above.

(c) No sample ballot shall be printed upon paper of the color provided for any official ballot.

(18) A separate ballot box shall be provided for each form of ballot.

(19) All provisions of the statutes relating to the preparation, printing, distributing, voting, counting and returning of ballots used at general elections for state and county officers shall, as far as applicable and not inconsistent herewith, apply to all of the ballots herein provided for. [1933 c. 159 s. 1; 1933 c. 284]

Note: Substantial compliance in form of ballot with (17) (a) is sufficient and neither election nor elector's vote is rendered nugatory by failure to follow precisely form prescribed. 24 Atty. Gen. 348.

Where there is similarity between given names and surname of two candidates for election both given names and the surname of each candidate should be used on ballots. 25 Atty. Gen. 513.

6.24 Nonpartisan elections. No candidate for any judicial, school, member of county board in counties having a population of two hundred fifty thousand or more, or elective city office shall be elected upon any party ticket, nor shall any designation of party or principle represented be printed on the ballot used at the election of any such candidate. The statement "a nonpartisan judiciary" or "a nonpartisan superintendency," or "a nonpartisan administration" shall not be deemed a designation of party or principle within the meaning of this section. The election of members of such county boards, except as provided by subsection (5) of section 17.21 in cases of vacancy, shall be held and conducted in the manner provided for the election of judicial officers, except police justices or justices of the peace in counties 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.

6.245 Recall of elective officers. (1) The qualified electors of the state or of any county or of any congressional, judicial or legislative district may petition for the recall of any elective officer after the first year of the term for which he was elected, by filing a petition with the officer with whom the petition for nomination to such office in the primary election is filed, demanding the recall of such officer. Such petition shall contain a specific statement of the grounds upon which the removal is sought and shall be signed by electors equal in number to at least twenty-five per cent of the vote cast for the office of governor at the last preceding election, in the state, county or district from which such officer is to be recalled.

(2) The preparation of such petition shall be governed, as to the use of more than a single piece of paper, the dates of signatures, the places of residence and business of signers and the verification thereof, by the provisions of section 5.26, relating to nomination papers, so far as applicable. After the petition has been filed, no name shall be erased or removed therefrom; and no signature shall be valid or be counted unless its date is less than sixty days preceding the date of such filing.

(3) Within three days next following the offering of any such petition for filing, the officer to whom such petition has been offered shall determine by careful examination the sufficiency or insufficiency of such petition and state his findings in a certificate attached thereto. If the petition be found insufficient, the particulars of such insufficiency shall be set forth in the certificate; and the petition may thereupon be amended within five days next following the making of such certificate, by the addition of signatures or otherwise. Within two days next following the offering of such amended petition for filing, such filing officer shall determine by careful examination the sufficiency or insufficiency of the amended petition and state his findings in a certificate attached thereto. Forthwith upon finding sufficiency in such original or amended petition, such officer shall file the same and call a special election to be held not less than forty nor more than forty-five days from such filing.

(4) The name of the officer against whom the recall petition is filed shall go on the ticket as a candidate at such special election without nomination unless he resigns within ten days after the original filing of such petition. There shall be no primary election but other candidates for such office may be nominated in the manner as is provided by law in primary elections and have their names placed on the ticket at such special election. The time for filing such nomination papers shall be governed so far as applicable by subsection (6) of section 5.26.

(5) The officer against whom such petition has been filed shall continue to perform the duties of his office until the result of such special election shall have been officially declared. At such special election the candidate who shall receive the highest number of votes shall be deemed elected for the remainder of the term. If the incumbent receives the highest number of votes he shall continue in office. If another receives the highest number of votes he shall, if he shall qualify within ten days after receiving notification of his election, become the successor of the incumbent.

(6) After one such petition and special election, no further recall petition shall be filed against the same officer during the term for which he was elected.

(7) The purpose of this section is to facilitate the operation of section 12, article XIII, of the constitution. [1933 c. 44 s. 1]

6.25 Printing of ballots by county clerk. (1) Except as in this chapter otherwise provided, it shall be the duty of each county clerk to provide printed ballots for every election for public officers to be voted for in his county and to cause to be printed in the appropriate ballot the name of every candidate whose name has been duly certified to or filed with him; such county clerk shall let to the lowest bidder within such county the printing of all ballots and shall keep all proposals for such printing in his office; provided, such accepted bidder file with such clerk a bond in a penal sum of at least twice the sum of the accepted bid, signed by two sureties and conditioned for the faithful performance on the part of the accepted bidder of all the conditions duly imposed on him by such clerk at the time of receiving proposals for such printing, and provided such county clerk shall have power to reject all bids if deemed excessive and to contract for such printing outside of such county.

(2) Ballots not provided by the county clerk shall not be cast or counted in any election, excepting as provided in subsection (6) of section 6.29.

(3) But any voter may write upon his ballot the name of any person for whom he desires to vote for any office, in such place or so designated as to indicate the office, and such vote shall be counted the same as if printed upon the ballot and marked by the voter; and any voter may take with him into the polling place any printed or written memorandum or paper to assist him in marking or preparing his ballot, except as hereinafter otherwise provided.

(4) Ballots shall be set up and proof be in possession of the county clerk at least eighteen days before any judicial or general election, and subject to inspection by the candidates and their agents. If any mistake be discovered in printing or arrangement, it shall be the duty of the clerk to correct the same before ballots are printed.

(5) In all general elections, including judicial elections, such ballots shall be printed and distributed solely at the expense of the county.

6.26 Number and style of ballots; sample ballots. (1) Not later than the first day of August in every even-numbered year, each town, city and village clerk, shall certify to the county clerk the approximate number of voters in his district.

(2) There shall be printed, in the manner hereinbefore provided, a sufficient number of ballots to provide for each voter as indicated in the reports filed pursuant to subsection (1). At the time the official ballots are printed, unofficial sample ballots shall be printed upon tinted or colored paper, and in the same form as the official ballots, to an amount not exceeding one-fourth of the official ballots for the county and forty-five per cent of the sample ballots shall be held by such clerk at his office and shall be distributed to voters upon application therefor. Forty-five per cent of the sample ballots shall be distributed among the city, village and town clerks and ten per cent of the sample ballots shall be sent to the election booths in proportion to the number of voters as indicated in the report filed in accordance with the provisions of subsection (1), to be there distributed by the inspectors of election to voters upon application therefor. Such ballots shall be paid for in the same manner that the official ballots shall be paid for, without additional charge for composition. [1933 c. 39; 1939 c. 269]

6.27 Party committees may order sample ballots. Any political committee may at its own expense order a larger supply of sample ballots than is required by section 6.26.

6.28 Election supplies. Each county clerk shall cause to be printed in the same manner and at the same time that official ballots are printed a sufficient number of poll lists and other supplies required by law for the conduct of elections, for each precinct in the county. Official oaths of the inspectors, clerks of election and ballot clerks shall be printed in said poll lists. Such poll lists and election supplies shall be delivered by such clerks when the official ballots for each precinct are delivered in the sealed package containing the official ballots.

6.29 Distribution of official ballots. (1) Each county clerk shall send the ballots printed pursuant to his order as provided by law to the proper town, village and city clerks in his county, so as to be received by them at least seven days previous to the opening of the polls on the day of election. Five per cent of the ballots for each precinct shall be retained by the county clerk and another five per cent shall be sent to the clerk in separate packages to enable him to meet applications for ballots from absent voters, pursuant to sections 11.54 and 11.63, and the remainder in separate sealed packages with marks on the outside of each clearly designating the polling place for which they are intended and the number of ballots of each kind inclosed.

(2) Each town, village and city clerk shall send to the proper boards of inspectors in his town, village or city, before the day of election, the unbroken packages of ballots so received by him from the county clerk.

(3) Each town, village and city clerk, and each presiding or senior election officer, on receiving any package as aforesaid from a county or city clerk shall return to the sender

a receipt therefor, and keep a record of the time when, and the manner in which, the several packages were received by him.

(4) The receipts aforesaid shall be preserved by city and county clerks for the period of one year, after which they may be destroyed.

(5) In case the ballots to be furnished to any city, village, town or voting place shall fail for any reason to be duly delivered, or in case after delivery they shall be destroyed, lost or stolen, it shall be the duty of the clerk of such city, village or town to cause other ballots to be prepared in printing or writing, substantially in the form of the original ballots; and upon receipt of such other ballots, accompanied by a statement under oath by such clerk, that the same have been so prepared and furnished by him to replace the original ballots not delivered or so destroyed, lost or stolen, the election officers shall cause the substituted ballots to be used in lieu of the original ballots.

(6) If from any cause the ballots are not ready for distribution at any polling place as provided by law, or if the supply shall be exhausted before the polls are closed, facsimile unofficial ballots may be used, but the voter using it must, before voting, present it unmarked to the ballot clerks, have their signatures or initials indorsed thereon, and then he shall prepare it for voting.

6.30 Construction of polling booths. All officers upon whom is imposed by law the duty of designating polling places shall, under the penalties elsewhere prescribed, provide and maintain in each polling place designated by them a sufficient number of places or compartments, at least twenty-four inches wide and deep, with shelves for writing, which shall be furnished with such supplies and conveniences as shall enable voters to conveniently prepare their ballots, and each compartment shall be furnished with a door, screen or curtain of cloth so hung as to completely conceal the voter and any one who may lawfully assist him from observation while marking and preparing his ballot, and said room shall have a guard rail so constructed that only persons within said rail can approach within five feet of the ballot boxes or such places or compartments. The number of such places, shelves or compartments shall not be less than one for every fifty electors who voted at the last preceding general election in the district. No person except the officers of election, other than voters engaged in receiving, preparing or depositing ballots, shall be permitted to be within said rail. The expense of providing and maintaining such places, shelves, compartments, doors, screens or curtains and guard rails shall be provided for in the same manner as other election expenses.

6.31 Party representatives at polling places. Two party agents or representatives, and a substitute or alternate for each, may be appointed for each polling place to act as challenger for each political party and its candidates and to observe the proceedings of election officers. Such appointments may be made by the county or other proper local committee of the party making such nominations. Candidates nominated by nomination papers and candidates for city offices, may themselves make such appointments. Each such appointment shall be in writing under the hand of the person making it, specifying the name and residence of the appointee, election district for which he is appointed, and the name of some substitute to be appointed in case of his failure to serve or absence from the polling place, and be filed with the clerk of the city, town or village at least three days before election. The clerk shall thereupon issue a permit, upon a printed slip or card, to such appointee, which shall be his warrant of authority to be present during the election and to be inside the railed inclosure during the counting of the ballots. If any person so appointed as agent fails to serve or shall be absent for any part of election day, the clerk may issue a permit to the substitute or alternate, who may act instead of such absentee or person failing to serve.

Note: Each political party is entitled to two watchers at polls; they are not prohibited from keeping their own lists of electors, checking off names as voting progresses or from passing on this information to others, who will use it in inducing tardy electors to vote. 25 Atty. Gen. 637.

6.32 Election inspectors and clerks. (1) Except as otherwise provided, there shall be three inspectors, two clerks of election and two ballot clerks at each poll at every election held under the provisions of this title, each of whom shall be a qualified elector in the election district, except for election boards serving more than one precinct pursuant to section 6.045, and said electors shall be able to read and write the English language understandingly and not a candidate to be voted for at such election. Provided, however, that at polls where voting machines are used ballot clerks shall not be employed. Not more than two of such inspectors, nor one of said clerks of election, nor one of said ballot clerks, shall be members of the same political party, but each one of said officers shall be a member of one of the two political parties which cast the largest vote in the district at the last preceding general election, the party which cast the largest vote being entitled to two inspectors, one clerk and one ballot clerk, and the party receiving the next largest

vote being entitled to the remainder of said officers. The basis for such division shall be the vote of each party for its presidential elector receiving the largest vote, or for its candidate for governor, at the last preceding general election.

(1a) The governing body of any city, village or town may, not less than sixty days prior to any election, reduce the number of election officials for any election, and may provide for a redistribution of the duties among the remaining officials.

(2) In towns the supervisors shall be inspectors of election when they belong to the political parties described in subsection (1). Whenever they all belong to the same political party, the supervisor last named in the clerk's certificate of election recorded in the town clerk's office shall be ineligible and shall not act; but an inspector from the electors present, possessing the qualifications aforesaid, and belonging to the other of the two political parties mentioned, shall be chosen in his place by the viva voce vote of the electors present at the polling place at the opening of the polls. The town clerk, if present, shall be one of the clerks of election, and the inspectors shall, before opening the polls, appoint another and also two ballot clerks. If the town clerk be absent, the inspectors shall appoint two clerks of election.

(2a) Whenever it appears that any member of the board of supervisors or the town clerk of a town will for any reason be ineligible to act as an inspector of election at any election, such board shall appoint a qualified elector of the town to fill such vacancy, and shall file with the town clerk at least five days prior to such election the name of such person so appointed.

(3) When a town is divided into two or more election districts as provided in this chapter, the persons named in the order of division shall be election officers at the first election in the district or districts created by such order, and shall hold their offices until their successors are appointed and qualified. The boards of such towns shall, not later than the second Tuesday of August in each year when a general election is to be held, appoint by an order in writing, which shall be filed with the town clerk, officers of election for each election district therein, other than the first; the persons so appointed shall hold their offices until their successors are appointed and qualified.

(4) (a) The mayor of every city, except cities having one hundred thousand or more inhabitants, shall nominate to the common council thereof, and the president of every village shall nominate to the village board of trustees thereof, at the first regular meeting of such council and of such board in February of each year in which a general election is to be held, and if no such meeting is held, then at a special meeting, which he shall call for such purpose on the last Tuesday of said month, three persons for inspectors of election, two for clerks of election, and two for ballot clerks, in each election district therein.

(b) Such inspectors, clerks and ballot clerks shall be chosen from a list submitted to the mayor of the city, or to the president of the village, for that purpose by the regular county committee or city committee of the aforesaid two parties. Such list shall be submitted by the chairman from each ward to the city or county committee, and only such persons so selected by the chairman from each ward shall act as such inspectors, which list shall bear the signature of the chairman and secretary of said county or city committee.

(c) Such common council or board of trustees shall immediately approve or disapprove such nominations. If they disapprove as to any such nominee, the mayor or president shall immediately nominate another person, qualified as aforesaid, from the list of the two committees representing the two parties which cast the largest vote in said district in the last general election, and the mayor or village president shall continue to do so until the requisite number shall have been nominated and confirmed at such meeting.

(d) The persons so appointed inspectors, clerks and ballot clerks shall hold their offices for two years and until their successors are appointed and qualified, and shall act as such officers at every primary, general, municipal and special election following their appointment held within their respective districts during such term.

(e) The chairman of any town, when eligible to act as inspector, shall be chairman of the inspectors of such town. When the town chairman is ineligible, the inspectors shall appoint one of their number as chairman. Also, the inspectors provided by subsections (3) and (4) of this section and by section 6.08 shall appoint one of their number as chairman. No ballot clerks shall be appointed in election districts in which voting machines are used.

(f) If at any election there shall be a vacancy at the polls caused by the candidacy, sickness, or from any other cause, of any election official required to be in attendance at a polling place, such vacancy shall be filled by temporary appointment by the city or village clerk of the city or village in which the polling place is located, from a list of eligible persons submitted by the county party committee of each of the two predominant political parties in the case of villages, and the city party committee in the case of cities. In the event that no such list is submitted such clerk may appoint any elector in the voting district. Such emergency appointment shall be for the day only.

(g) Within five days after the appointment and confirmation of inspectors of election, clerks of election and ballot clerks in cities or villages, the clerk of each city or village shall transmit a notice thereof to each such appointee. Such inspectors of election, clerks of election and ballot clerks shall, within ten days after the mailing of such notice, file with the clerk of such city or village an oath of office substantially in the following form:

I, A. B., of election in the of county of do hereby solemnly swear (or affirm) that I will support the constitution of the United States and the constitution of the state of Wisconsin and will perform the duties of of election according to law and will studiously endeavor to prevent all fraud and deceit in conducting the same. So help me God.

Subscribed and sworn to before me this day of, A. D. 19. . . .

And no other or further oath of office shall be required of said officers during the term for which he was elected.

Any person appointed to fill a vacancy on such board of inspectors, ballot clerks or poll clerks, shall before entering upon the duties of his office take and subscribe an oath of office similar in form to the above and any inspector of election who has taken and filed an oath of office may administer said oath. Any inspector having taken and filed the oath of office as above prescribed may administer any oath required by law in conducting registrations or elections.

(h) The council of a city or the village board of a village may require that all persons named on the list pursuant to paragraph (b) of this subsection shall establish their ability to read and write the English language, with a general knowledge of election laws. Examinations to determine whether parties named as election officials meet the qualifications may be conducted by the clerk, board of election commissioners or such other officer as the council or village board shall designate.

(5) Whenever a list required by paragraph (b) of subsection (4) of section 6.32 shall not have been submitted prior to the end of January in even-numbered years, then appointments may be made until such list is submitted, and pursuant to paragraph (f) of subsection (4) of section 6.32, regardless of any such list. [1931 c. 205; 1933 c. 433 s. 3, 4; 1935 c. 360; 1937 c. 423; 1939 c. 225, 269; 1941 c. 291]

Note: The basis of making appointments following a general election in a presidential year is the vote for presidential electors and the basis to be used following a general election in a nonpresidential year is the vote of each party for its candidate for governor. State ex rel. Milwaukee Co. Rep. Comm. v. Ames, 227 W 643, 278 NW 273.

Inspector of election may sign affidavit for prospective voter as a freeholder, and such act does not disqualify him from challenging voter nor from passing upon challenge of others. 21 Atty. Gen. 335.

Election officials appointed under this section are not to be changed during their terms on ground that there has been change as to majority parties during intervening general election. Those who have duly qualified at time of their appointment are not disqualified on ground of change in

politics. In case of vacancies election officials are to be appointed on basis of last preceding general election. 24 Atty. Gen. 44.

Action taken by governing body of city, village or town under (1a) applies only to forthcoming election. 24 Atty. Gen. 348.

Election officials, (4) (b) are chosen from list submitted by ward chairman to city or county committee, and such list shall bear signature of chairman and secretary of county or city committee. 25 Atty. Gen. 221.

Persons who seek election as party precinct committeemen are "candidates" and may not serve as election officials under (1). 25 Atty. Gen. 536.

Under (1) three election inspectors must be chosen notwithstanding provisions of (1a). 21 Atty. Gen. 252 is reaffirmed so far as it is now applicable. 27 Atty. Gen. 27.

6.325 Compensation of election officers. A reasonable compensation shall be paid to inspectors and clerks of election, and to ballot clerks, county canvassers and messengers employed and performing duties under the provisions of this chapter, to be fixed by the town, village or county board or common council, and paid from the treasury of the town, village, county or city by which employed. Every messenger sent by the governor, secretary of state or state board of canvassers shall be paid out of the state treasury a reasonable compensation to be fixed by the secretary of state, and charged to the proper appropriation for the state officer or board dispatching such messenger. [1933 c. 433 s. 2]

6.33 [Renumbered section 6.08 by 1933 c. 433 s. 2]

6.34 District board of canvassers. The inspectors of election shall constitute the board of canvassers of their respective cities, villages, wards or election districts. Previous to receiving any ballot the inspectors, clerks of election and ballot clerks shall severally take an oath or affirmation to support the constitution of the United States, the constitution of the state of Wisconsin, and to perform the duties of inspectors (clerks or ballot clerks, as the case may be) of election according to law, and to studiously endeavor to prevent all fraud, deceit or abuse in conducting the same. Said oath or affirmation shall be in writing, be subscribed by the person taking the same, and annexed to, and returned with, the poll list to the county clerk.

6.35 Opening and closing of polls. (1) In all cities of ten thousand inhabitants and over, except in first class cities, not counting inmates of any state penal institution or insane hospital therein situated, the polls at the general election shall be opened at six o'clock in the morning and closed at eight o'clock in the evening, except that in any city of the second or third class the governing body may by ordinance determine that the polls shall be opened not later than seven o'clock in the morning and closed at seven o'clock in the evening. In cities of the first class the polls shall be opened at seven o'clock in the morning and closed at eight o'clock in the evening. In cities of the fourth class and in villages the polls at said election shall be opened at nine o'clock in the morning and closed at five-thirty o'clock in the evening. Any voter awaiting his turn to vote, whether within the polling booth or in the line outside the booth at the time of the closing of the polls, shall be permitted to vote.

(2) In cities of the fourth class and in villages the city council or village board may extend the time during which said polls shall remain open to an hour not earlier than six o'clock in the morning, nor later than eight o'clock in the evening. Such change in time shall have been given at least thirty days before the election by publication in a newspaper, if there be one in the town, city or village, once a week for three successive weeks, and if there be none, by posting such notice in three public places therein.

(3) In towns, the polls shall be opened at nine o'clock in the morning and closed at five-thirty o'clock in the evening, except that the town board may extend the time during which said polls shall remain open to an hour not earlier than six o'clock in the morning, nor later than eight o'clock in the evening. Notice of such change shall be given as provided in subsection (2). [1931 c. 253; 1933 c. 433 s. 1, 3; 1935 c. 120; 1937 c. 65; 1939 c. 227, 269, 464]

Note: This section applies to spring elections in towns. 25 Atty. Gen. 214.

6.36 Ballot clerks. (1) The ballot clerks shall only serve on election day. It shall be their duty to take charge of the official ballots, write their names or initials upon the back of each ballot, fold it in proper manner to be deposited, and deliver to each voter as he enters the booth one ballot duly folded and indorsed. They may, if requested by any voter, instruct him as to the proper manner of marking his ballot, but shall give no advice nor suggestions, nor express any preference, nor make any requests as to the person or ticket the voter shall vote for.

(2) Any election official who shall fail to properly write his name or initials upon a ballot or who shall deliver to any voter a ballot not properly indorsed as required by subsection (1) of this section shall be disqualified from acting as such official and shall be punished by a fine of five dollars. [1937 c. 50; 1941 c. 11]

6.37 Method of voting. On receiving his ballot the elector shall forthwith, and without leaving the polling place, retire alone to one of the booths or compartments to prepare the same. An elector may use or copy an unofficial sample ballot which may have been marked in advance of his entering the polling place, but he shall not use or bring into such place any such ballot printed upon paper of the color or quality required to be used for printing official ballots. After preparing his ballot, the elector shall fold it so that its face will be concealed and so that the printed indorsement and signatures or initials of the ballot clerks thereon may be seen. He shall then vote forthwith and before leaving the polling place.

6.38 Exclusive individual use of election compartment. No more than one person shall be permitted to occupy any shelf or compartment at one time, except when assistance may be required for marking a ballot, and not longer than five minutes when other shelves or compartments are occupied. It shall be the duty of the presiding election officer for the time being to enforce the observance of this provision, and to prevent any person from taking any notice how another person marks his ballot, and to prevent to assist as provided in section 6.40. Any voter who shall, by accident or mistake, spoil or erroneously prepare his ballot may, on returning the same, receive another; but not to exceed three in all.

6.39 Aid in marking ballot. (1) Any voter who declares to the presiding election officer that he is such, that he cannot read or write, or that by physical disability, other than total blindness, he is unable to mark his ballot, shall be informed that he may have assistance, and when such assistance shall be requested, two of the inspectors, clerks or ballot clerks shall be selected by such voter to assist him in marking his ballot, which inspectors, clerks or ballot clerks shall not be of the same political party, and such officer selected to assist shall certify on the outside of the ballot that it was marked with their assistance, and shall thereafter give no information regarding the same. In case the voter is totally blind or his vision is so impaired he cannot read the ballot he may be assisted by

any person chosen by him from among the legal voters of the county in which the voting precinct is located. Such person so selected by any such voter shall retire to the booth or compartment with the elector, and shall read to him the names of all the candidates on the ballot for each office, and ask him, "Which one do you vote for?" and the ballot shall be marked according to his expressed preference, and such person so selected to assist shall thereafter give no information regarding the same.

(2) The presiding officer at the election may, in his discretion, require such declaration of disability to be made by the voter under oath, and may administer such oath. Intoxication shall not be regarded as a physical disability, and no intoxicated person shall for that reason be entitled to assistance in marking his ballot. After a ballot has been marked for a voter he shall not show it to any person, except that it may be submitted to another election officer, or if a blind man, to such person as he may select to ascertain if it has been marked as he desired. The clerk shall enter upon the poll list after the name of any elector who had assistance in marking his ballot a memorandum stating that the ballot was marked by two inspectors, clerks or ballot clerks, or by a person selected by a blind man. The provisions of this section shall apply to the marking of ballots upon which any question is submitted to a vote of the people. [1931 c. 88]

6.40 Receipt of ballot at door. If it shall be announced to the inspectors of any precinct that a voter is at the door who is unable to enter the polling place without assistance, they may, in their discretion, appoint one of their number to take an official ballot and go to the entrance of such place and present it to such physically disabled person, and assist him in marking it, if such person desires him to do so. When the ballot shall have been marked it shall be folded and immediately taken into the polling place, whereupon the inspector shall distinctly announce that he holds in his hand "a ballot offered by (naming the person), a person who is physically disabled from entering the room without assistance." He shall then ask, "Does any one object to the reception of this ballot?" If no objections are offered the ballot shall be deposited in the box, and a minute shall be made on the poll book by the clerks of election thus: "Ballot received at the door." In case objection is made to the reception of the ballot by any qualified elector present the inspectors shall decide upon the objection, and if they deem it well founded shall destroy the ballot; otherwise it shall be deposited; if the ballot is destroyed the inspectors shall immediately notify the voter of the fact.

6.41 Signature of ballot clerks on ballots. Any person who shall knowingly deposit a ballot in the ballot box upon which ballot the names or initials of the ballot clerks, or those of the issuing town, city, village or county clerk, do not appear shall be punished as provided in section 353.27, and in the canvass of the votes any ballot which is not indorsed by the signatures or autograph initials of such clerks shall be void, not counted, and be treated and preserved as a defective ballot. [1941 c. 11]

6.42 Ascertainment of intent of voter. All ballots cast at any election shall be counted for the persons for whom they were intended, so far as such intent can be ascertained therefrom. In determining the intent the following rules shall be observed:

(1) If the elector shall place on his ballot at a general election a cross mark or other equivalent mark or symbol under a party designation, at the head of the column, in or near the space indicated for that purpose, he shall be deemed to have voted for all the candidates whose names appear in the column under such mark, unless some name or names shall be erased, or some name shall be written in, or unless in some other column he shall have placed a mark in the square at the right of the name of some other candidate for the same office.

(2) At all elections, whether general or other, when the voter shall place a mark against two or more names for the same office, when only one candidate is to be chosen for the office, he shall be deemed to have voted for none of them, and the ballot shall not be counted for either candidate therefor.

(3) If an elector shall mark his ballot with a cross mark (X), or any other marks, as
|, A, V, O, /, √, +,

within the square after, at the right of the name of any candidate, or at any place within the space in which the name appears indicating an intent to vote for such person, it shall be deemed a sufficient vote for the candidate whose name it is opposite.

(4) When the elector shall have written the name of a person in the proper place for writing the same he shall be deemed to have voted for that person, although he shall have omitted to erase the name printed in the same column for the same office, or shall have made a mark against the same or against any other name for the same office, or omitted to mark against the name written.

(5) A ballot put in without any marks shall not be counted and a ballot not marked at the top shall be counted only for the persons for whom the marks therein are applicable.

(6) In counting presidential ballots, votes shall be counted as having been cast for the electors of the candidates after whose names the voter has made the mark indicating his choice thereof.

Note: Where the official and sample ballots in a town election were exhausted and ballots from the previous year were altered to correspond with the official ballot with the acquiescence of the candidates such ballots were valid. In re Burke, 229 W 545, 282 NW 598.

name of one candidate and with a cipher opposite the other candidate's name was properly counted for date. In re Burke, the first mentioned candidate gave elector right to vote for two candidates, he may vote for one only. 229 W 545, 282 NW 598. 27 Atty. Gen. 302.

A ballot marked with a cross opposite the

6.43 Court order to correct errors in ballots and notices.

Whenever it shall appear by affidavit that an error or omission has occurred in the publication of the names, description of the candidates, or in the printing of the ballots, the circuit court of the proper county, require the county or city clerk to correct such error, or to show cause why it should not be corrected, and by order cause such correction to be forthwith made after such hearing.

6.44 Checking registry list; swearing in voters. (1) In precincts where registration is required, on any election or primary day, the inspectors shall designate one or more election officials, at the opening of the polls, who shall check the name of every elector voting in such district whose name is on the registry and enter thereafter his voting number. Any person whose name is not on the registry, but who is an eligible voter therein shall, nevertheless, be entitled to vote at such election upon compliance with the following provisions, and not otherwise, namely:

(a) He shall at the time he requests his ballot, deliver to the inspectors a certificate that he has filed an affidavit as provided in subsection (2) of this section.

(b) The inspectors shall keep a list of the names and residences of the electors voting whose names are not on said completed registry attach such list to the registry, and return it, together with all such certificates, to the proper town, city or village clerk, or the election commission in cities of the first class.

(2) Every qualified elector who has failed to register as provided by law may at any time after the close of registration deliver to the clerk of the municipality, or his authorized deputy, his affidavit in which he shall state that he is a resident of the election precinct in which he offers to vote, naming the same, that he is entitled to vote therein, that he has resided in said election precinct ten days next preceding said election, giving the street and number of his residence, that he is a citizen of the United States, that he is twenty-one years of age, and that he has resided in the state one year next preceding said election. In cities of the first class said affidavit shall be delivered to the duly authorized representative of the election commission. Said affidavit shall be substantiated by the affidavit of two freeholders, electors in such precinct, corroborating all the material statements therein. Such affidavits of freeholders and electors shall be signed in the presence of the city clerk or election commission or duly authorized representative thereof. No compensation shall be paid or received for taking or certifying any such affidavit. No one freeholder shall be competent to make at any one election, corroborating affidavits for more than five voters. All such affidavits shall be sworn to before some officer authorized by the laws of this state to administer oaths.

(3) Upon the filing of the affidavits required by this section, the election official shall issue a certificate addressed to the inspectors of the proper precinct directing that such elector be permitted to cast his ballot. Such certificate shall be numbered serially, made in duplicate and one copy preserved in the office of the clerk of the municipality, or the election commission in cities of the first class.

(4) Upon his own initiative the clerk of the municipality, or the secretary of the election commission in cities of the first class, may, or, upon petition of five qualified electors, shall refer any affidavits filed under this section to the chief of police, or corresponding peace officer, for verification.

(4a) No such affidavit shall be made on the day on which the polls are open, except for changes of address by registered voters.

(5) Any person who shall violate any of the provisions of this section, or who shall falsify any affidavit filed pursuant to this section, shall, upon conviction thereof, be punished by a fine of not less than twenty-five nor more than two hundred dollars, or by imprisonment in the county jail for not more than six months, or by both such fine and imprisonment. Each violation of this section shall constitute a separate and distinct offense. [1933 c. 355; 1933 c. 433 s. 1, 3, 4; 1935 c. 421; 1939 c. 279]

6.45 Poll lists; keeping and disposition. (1) The clerks of election shall keep two poll lists on which shall be entered the full name and post-office address of each person voting at such election in the order in which their ballots are cast; and on request of the

inspectors each elector shall state his full name and post-office address before the ballot shall be received.

(2) When any person shall have taken the oath provided in section 6.44 before voting, the clerk shall write at the end of such person's name on the poll list the word "Sworn."

(3) On the day following the election, one of said poll lists and one copy of the registry so kept and checked shall be attached together and filed in the office of the proper town, city or village clerk, and one of said poll lists and copy of the registry shall, with all convenient dispatch and within two days after the election, be returned to the county clerk with the returns of the election.

6.46 Ballot boxes; construction. There shall be provided and kept by the clerk of each town, city or village, at the expense thereof, suitable ballot boxes for each poll therein, with a suitable lock and key to each, and there shall be one opening through the lid of each such box of no larger size than shall be sufficient to admit a single closed ballot.

6.47 Opening and closing of ballot boxes. The inspectors of election, or one of them, immediately before proclamation is made of the opening of the polls, shall open the ballot boxes in the presence of the people there assembled, and turn them upside down, so as to empty them of everything that may be in them, and lock them; and they shall not be reopened until the close of the polls for the purpose of counting the ballots therein.

6.48 Method of voting. Each elector, having prepared his ballot as hereinbefore provided, shall, publicly at the poll where he offers to vote, deliver in person to one of the inspectors a single official ballot, and the inspector receiving the same shall, without opening it or permitting it to be opened or examined, deposit it in the box.

6.49 Preparation of poll lists. At every poll where a registry of electors is required, every elector at the time of offering his ballot shall truly state the street and number of the house or tenement, if numbered, or other location, in which he resides, and the clerks of election shall truly enter in the appropriate column of the poll lists, opposite his name, the street and number or other location of such house or tenement, or the name of the hotel or boarding house, and if such house or tenement be not numbered the clerks shall enter "Not Numbered." If any elector offering to vote at any such poll shall refuse to make such statement, his ballot shall not be received. The clerks shall also enter upon the poll lists, opposite the name of every elector so voting whose name was not duly registered, the words, "Not Registered."

6.50 Challenges. Each inspector shall, and any elector of the county may, challenge every person offering to vote whom he shall know or suspect not to be duly qualified as an elector. If such a person is challenged as unqualified, one of the inspectors shall tender to him the following oath or affirmation: You do solemnly swear (or affirm) that you will fully and truly answer all such questions as shall be put to you touching your place of residence and qualifications as an elector of this election; and shall thereupon put questions as follows:

(1) If a person be challenged as unqualified on the ground that he is not a citizen: Are you a citizen of the United States?

(2) If the person be challenged as unqualified on the ground that he has not resided in this state for one year immediately preceding the election:

(a) How long have you resided in this state immediately preceding this election?

(b) Have you been absent from this state within the year immediately preceding this election? If yes, then—

(c) When you left, did you leave for a temporary purpose, with the design of returning, or for the purpose of remaining away?

(d) What state or territory did you regard as your home while absent?

(e) Did you, while absent, vote in any other state or territory?

(3) If the person be challenged as unqualified on the ground that he is not a resident of the election district where he offers his vote:

(a) When did you last come into this election district?

(b) Did you come for a temporary purpose merely, or for the purpose of making it your home?

(c) Did you come into this election district for the purpose of voting therein?

(d) Have you now and have you had for the last ten days a voting residence in this election district? If so, what is the particular description, name and location of your residence?

(e) Have you registered to vote at this election at any other place within this state?

(f) If single, do you board for part of the week, month or year with your parents?

(g) If you have no parents, or are self-supporting, have you registered to vote in this election district?

(h) Will you file your next income tax return with the assessor of incomes for this county as a resident of this election district?

(4) If the person be challenged as unqualified on the ground that he is not twenty-one years of age: Are you twenty-one years of age to the best of your knowledge and belief?

(5) If the person be challenged as unqualified on the ground that he has made or become directly or indirectly interested in any bet or wager depending upon the result of such election:

(a) Have you made in any manner any bet or wager depending upon the result of this election, or on the election of any person for whom votes may be cast at this election?

(b) Are you in any manner, directly or indirectly, interested in any bet or wager depending in any way whatever upon the result of this election?

(6) If the person be challenged as unqualified on the ground that he has been convicted of treason, felony or bribery and not subsequently restored to civil rights:

(a) Have you ever been tried or convicted in this state of any crime? If yes, then—

(b) Of what crime, when and in what court were you so convicted?

(c) Have you in any manner since such conviction been restored to civil rights, and if yes, how?

(7) If the person be challenged as unqualified on the ground that he has been engaged, directly or indirectly, in a duel, either as principal or accessory:

(a) Have you ever been engaged in any duel, directly or indirectly, either as principal or as a second, or in counseling or aiding either principal or second in a duel? And if yes, then—

(b) When and where, and had you before that time been an inhabitant of this state?

(9) The inspectors, or one of them, shall put such other questions to the person challenged as may be necessary to test his qualifications as an elector at such election. [1935 c. 175]

6.51 Rules for determining residence of elector. In determining the question of residence as a qualification to vote, the following rules, so far as applicable, shall govern, and if a person offering to vote be challenged as unqualified on the ground of residence, the inspectors shall admonish him of such rules, and put to him such further questions as shall be proper to elicit the facts in respect thereto, namely:

(1) As prescribed in the constitution, no person shall be deemed to have lost his residence in this state by reason of his absence on business of the United States or this state; and no soldier, seaman or marine in the army or navy of the United States shall be deemed a resident of this state in consequence of being stationed within the same.

(2) That place shall be considered and held to be the residence of a person in which his habitation is fixed, without any present intention of removing therefrom, and to which, whenever he is absent, he has the intention of returning.

(3) A person shall not be considered or held to have lost his residence who shall leave his home and go into another state or county, town or ward of this state for temporary purposes merely, with an intention of returning.

(4) A person shall not be considered to have gained a residence in any town, ward or village of this state into which he shall have come for temporary purposes merely.

(5) If a person remove to another state with an intention to make it his permanent residence, he shall be considered and held to have lost his residence in this state.

(6) If a person remove to another state with the intention of remaining there for an indefinite time and as a place of present residence, he shall be considered and held to have lost his residence in this state, notwithstanding he may entertain an intention to return at some future period.

(7) The place where a married man's family resides shall generally be considered and held to be his residence; but if it is a place of temporary establishment for his family, or for transient objects, it shall be otherwise.

(8) If a married man has his family fixed in one place and does his business in another, the former shall be considered and held to be his residence.

(9) The mere intention to acquire a new residence, without removal, shall avail nothing; neither shall removal without intention.

(10) If a person shall go into another state and while there exercise the right of a citizen by voting, he shall be considered and held to have lost his residence in this state.

(11) No person shall be deemed to have gained a voting residence in any town, city or village in this state by remaining therein as an inmate of any county home or other charitable institution; provided that his right as a qualified elector to vote in the town, city or village of his fixed place of residence, prior to his becoming an inmate of such institution, shall not be abridged. Nor shall any other eligible elector, receiving poor or unemployment relief, be denied his right to vote in any town, ward or village in which he has gained a voting residence, notwithstanding his legal settlement for poor relief may be elsewhere.

(12) If an unmarried person sleeps in one ward and boards in another, the place where he sleeps shall be considered his residence. Any registered voter who shall remove from one precinct to another in the same ward or town between the last registration day and election day shall, upon presentation of affidavits from the inspectors of the precinct from which he removes, showing registration in such precinct, be considered a resident of the precinct to which he has moved and shall be entitled to vote therein.

(13) If an unmarried person be employed on a railroad, boat or stage line or is a student or teacher and boards at different places for part of the week, month or year, if one of those places be with his parents, that place shall be considered his residence unless he has, by registering to vote elsewhere or by the performance of some other kindred act, elected some other place as his residence. If he has no parents and has not registered at any other place, he shall be asked: Do you consider this your place of residence, and have you so considered it for the past ten days in preference to any other place? If he answers in the affirmative he shall be entitled to all the privileges and be subject to all of the duties of other citizens in such place in the matter of voting, jury service, poll taxes and assessments for taxes.

(14) Each guest of any national or state home for soldiers in this state, or of any old peoples' home supported as a benevolence, shall be deemed to reside in the town, city or village, in which said home shall be located, and in the election district in which he shall sleep, unless such guest shall elect to treat his fixed place of residence, prior to his becoming a guest of such home, as his place of voting residence. [1935 c. 175]

Note: The statutes governing the determination of residence as a qualification to vote are declaratory of the common law. In re Burke, 229 W 545, 282 NW 598.

Constitution gives right to vote upon residence of one year in state and ten days in election district. Legislature cannot change or add to these provisions. Therefore, 6.51 (11), Stats. 1931 is of very doubtful constitutionality. Election officials must receive vote, although voter is challenged, if he answers statutory questions and takes elector's oath, even though his answers appear to disqualify him. For refusal to receive vote election officials are criminally liable (348.232) and are disqualified for five years from serving as election officials (348.241), and they are personally liable in damages to elector for refusal to receive legal vote. 21 Atty. Gen. 880.

As general rule persons enrolled in CCC camps do not gain voting residence where they are stationed. 25 Atty. Gen. 543.

Members of "transient" camp do not acquire residence for voting purposes in voting district where camp is located. 25 Atty. Gen. 590.

Sec. 1, art. I, Const., and 6.51 (4) preclude patient at state institution for insane from acquiring residence for voting purposes in town where institution is located, regardless of whether patient has been committed to institution or is voluntary patient. 27 Atty. Gen. 294.

Child born at Washington, D. C., to federal employe who was resident of this state and who has throughout intervening years maintained his residence in this state, takes domicile and residence of said parent, and said child, although still living in Washington, D. C., with said parent, upon whom she is dependent, upon reaching her majority and until she intentionally acquires residence elsewhere, is resident of this state for voting purposes. 28 Atty. Gen. 208.

6.52 Marking ballot of challenged voter. Whenever the right of any person offering to vote is challenged for any cause recognized by law, if the inspectors shall determine to receive his vote, after the provisions of law are complied with, they shall, before depositing his ballot in the box, write or cause to be written upon the back of such ballot the number of such challenged person upon the tally sheet or voting list kept at such election.

6.53 Oath to challenged voter. If the person challenged shall refuse to answer fully any questions so as aforesaid put to him, the inspectors shall reject his vote. If the challenge be not withdrawn after the person offering to vote shall have answered such questions, one of the inspectors shall then tender to him the following oath or affirmation: You do solemnly swear (or affirm, as the case may be) that you are twenty-one years of age; that you are a citizen of the United States; that you have resided in this state one year next preceding this election; that you are now a resident of this election district and have been for the last ten days; that you have not voted at this election, and that you have not made any bet or wager or become directly or indirectly interested in any bet or wager depending upon the result of this election, and that you are not on any other ground disqualified to vote at this election. If the person challenged shall refuse to take such oath or affirmation his vote shall be rejected; but if he shall then take such oath his vote shall be received; provided, that the requirements of law respecting registration, when applicable, have been complied with by such person.

6.54 Qualifications of voters. The inspectors shall reject the vote of any person under guardianship, non compos mentis or insane.

6.55 [Repealed by 1923 c. 79 s. 1]

6.56 Preservation of order. The inspectors shall possess full authority to maintain order and to enforce obedience to their lawful commands during an election and during the canvass of votes. If any person shall refuse to obey their lawful commands or by disorderly conduct in their presence or hearing interrupt or disturb their proceedings, they may order any constable or other person to take him into custody during the election.

6.57 Canvass of votes at elections. As soon as the poll of finally closed the inspectors shall proceed immediately to canvass publicly, in the presence of all persons desiring to attend the same, the votes received at such poll, and continue without adjournment until the canvass is completed and the statements hereinafter required are made. They shall commence by a comparison of the poll lists and the correction of any mistakes therein, until they shall be found or made to agree. The box shall then be opened and the ballots therein taken out and counted by the inspectors, unopened, except so far as to ascertain whether each ballot is single; and if two or more ballots be found so folded together as to present the appearance of a single ballot, they shall be laid aside until the count of the ballots is completed; and if, upon a comparison of the count and the appearance of such ballots, a majority of the inspectors shall be of opinion that the ballots thus folded together were voted by one elector they shall be destroyed. If together are destroyed, the whole number of votes shown by the poll lists, they shall be replaced in the box, and one of the inspectors shall publicly draw therefrom by chance, and without examination thereof, and destroy so many ballots unopened as shall be equal to such excess. The number of ballots agreeing, or so as aforesaid being made to agree, with the poll lists, the inspectors shall then proceed to open and count and ascertain the number of votes.

6.58 Announcement of results of canvass; statement. The completed, the inspectors shall then publicly announce the result thereof, canvass being completed, specifying the whole number of votes cast for each office and each person to fill the same respectively, and for and against each proposition voted for, and immediately complete the inspectors' statement in duplicate, which shall be combined with the tally sheet setting forth therein, in words at length as well as figures, the whole number of votes given for each office at such election, the names of all persons for whom votes were given as shown upon the ballots, the number of votes so given for each person, and the number of votes given for and against each proposition voted for, if any, at such election, and the number of the last voter as shown by the poll list, which statements they shall certify to be correct, and subscribe with their names. The clerks of election, except in cities of the first class, shall also certify to the correctness of the tally sheets.

6.59 Returns of election. The chairman of the inspectors or one of them appointed by him shall immediately after each general election, deliver to the clerk of the town, city or village one of said tally sheet statements and poll lists, to be filed and preserved in his office, and shall, with all convenient dispatch and within two days after such election, deliver to, or send by registered letter from the nearest post office, the other tally sheet statement and one poll list to the county clerk, they having been by the inspectors carefully sealed up, with the oaths of the inspectors and clerks affixed, in an envelope properly directed to such clerk. The person delivering or sending such returns shall receive as compensation therefor, fifty cents, together with postage and registration fees paid by him, to be paid out of the town, city or village treasury.

6.595 Election returns, reporting. The chairman of the inspectors, or one of them appointed by such chairman, shall immediately after the votes are tabulated or counted at each general or primary election report the returns of such election to the county clerk or county election commissioner, who shall immediately upon the receipt thereof make the same public, provided that no such report shall be made by means of a telephone in counties having a population of 500,000 or more. Such county clerk or election commissioner shall keep his or its office open for such purpose and shall post all returns received in the same order that the names of the candidates and special questions appear on the ballot. [1933 c. 56; 1935 c. 296; 1941 c. 10]

Note: Expense incurred by inspectors for making preliminary return to county clerk of election under this section falls on town, city or village on behalf of which inspector acts. 22 Atty. Gen. 1035. Returns of delegate and judicial elections must be reported in same manner as returns in general or primary elections under this section. 25 Atty. Gen. 230.

6.60 Ballots, return, custody; financial statements; destruction. (1) If any of the ballots cast at any elections are found to be so defective that the inspectors cannot determine with reasonable certainty for whom they were cast, and if any were cast by any person who shall have been challenged, and if any shall be decided by a majority of the inspectors to be or not to be defective, the inspectors shall make a statement in writing, in duplicate, certified to be correct and signed by them, of the number of such ballots, and attach such statement to the statements of the canvass.

(2) No ballot shall be regarded as defective by reason of the misspelling of a candidate's name, or by abbreviation, addition, omission or use of the wrong initial of such name, but every ballot shall be counted for the candidate for whom it was evidently intended, if the intention of the voter can be clearly ascertained from the ballot itself.

(3) Before separating, the inspectors shall fold in two folds and string closely upon a single piece of flexible wire, all ballots which shall have been counted by them, except those marked "Objected To," unite the ends of such wire in a firm knot, seal the knot in such manner that it cannot be untied without breaking the seal, inclose the ballots so strung in a secure canvas covering and securely tie and seal such canvas covering with official wax impression seals, to be provided, by the inspectors in such manner that it cannot be opened without breaking the seals, and return said ballots, together with the ballots marked "Defective or Objected to" in such sealed canvas covering to the county clerk, and such officer shall carefully preserve said ballots for sixty days, and at the expiration of that time shall destroy them by burning without previously opening the package. Such ballots shall be destroyed in the presence of the official custodian thereof and two electors of approved integrity and good reputation and members respectively of the two leading political parties. The said electors shall be designated by the county judge of the county in which such ballots are kept.

(4) If any contest of the election of any officer voted for at such election shall be pending at the expiration of said time, the said ballots shall not be destroyed until such contest is finally determined. In all cases of contested elections the parties contesting the same shall have the right to have said ballots opened, and to have all errors of the inspectors in counting or refusing to count any ballot, corrected by the court or body trying such contest, but such ballots shall be opened only in open court or in open session of such body and in the presence of the officer having the custody thereof.

(5) The inspectors for city, town and village elections, after counting the ballots, shall return them to the ballot boxes, lock the boxes, paste paper over the slots, sign their names to such paper and deliver the ballot boxes so locked, pasted and subscribed, with the keys thereof, to the city, town or village clerk, who shall keep such ballots for sixty days, or until they are destroyed as provided by law. When canvas bags are provided by proper authority ballots may be preserved therein, properly sealed, instead of in ballot boxes.

(6) Financial statements filed with the clerk of the city, village or town pursuant to chapter 12 may be destroyed six years after the election unless written notice has been filed with such clerk of the fact that an action is pending in court involving said statements. [1935 c. 33, 181; 1939 c. 269]

Note: This section is directory, and although the ballots may not have been returned in strict conformity to the statute they may be recounted by the canvassing

board, provided the ballots have not been tampered with and there is no reason to suspect fraud. State ex rel. Graves v. Wiegand 212 W 286, 249 NW 537.

6.61 Board of county canvassers. On the Tuesday next succeeding the election, or at any time sooner if all the returns are sooner received, the county clerk shall take to his assistance from among the following-named officers of the county, to wit, the county judge, register of deeds, justices of the peace, or other reputable citizens and electors to be chosen from lists to be submitted for that purpose by the regular county or city committees of the 3 political parties which cast the largest vote in such district at the last preceding general election. Such list shall be submitted by the chairman from each ward to the city or county committee and shall bear the signature of the chairman and secretary of the city or county committee, 2 associate canvassers, one of whom shall not be of the same political party as such clerk, and who shall constitute with such clerk a board of county canvassers; and in case all the above-named officers should belong to the same political party, then said clerk shall select from the opposite political party some reputable citizen and elector to act as the third member of said board. In case of vacancy in the office of county clerk, or when from absence, sickness or other inability such clerk cannot perform the duties enjoined upon him, the clerk of the circuit court, or if there be no such clerk, or he be unable to perform such duties, then any of the above-named officers or persons shall perform the duties required of the county clerk by this and the following sections, and be subject to the same punishment for violation thereof. No person shall be selected or shall serve as a member of the board of county canvassers who shall have been a candidate in the election for an office for which returns are to be canvassed by said board. [1931 c. 19; 1941 c. 91]

Note: County clerk is ineligible to act as member of board of county canvassers when said county clerk is candidate in election for office for which returns are to be canvassed by said board. County clerk selects board of county canvassers even though he is ineligible to act as member of said board. 21 Atty. Gen. 309.

Salaried county officers appointed by county clerk to act on board of canvassers are entitled to compensation allowed by § 325. Clerk is not entitled to extra compensation for his work on said board. 24 Atty. Gen. 493.

6.62 Missing and informal returns. If on the day appointed for the county canvass there shall fail to be an attendance of three canvassers, the clerk shall procure a full attendance of such canvassers, and may therefor adjourn the canvass one day, when the

canvass shall proceed. On the assembling of the board they shall open and examine the returns, and if from any town, ward, election district or poll of the county no returns shall have been received, they shall forthwith dispatch a messenger therefor, and the person having them in charge shall deliver such returns to said messenger; and if, on examination of any returns received, they shall be found so informal or incomplete that the board cannot intelligently canvass them, they shall dispatch a messenger with such returns to the inspectors who made them with a written specification of the informalities or defects, and command them to forthwith complete the same in the manner required by law and deliver them to said messenger, which such inspectors shall do. Every such messenger shall safely keep all such returns, exhibit them to no person except the inspectors, and deliver them to the county clerk with all convenient dispatch. For such purposes the board may adjourn as may be necessary, not more than four days at one time nor more than eight days in all.

6.63 County canvass; statement. The returns having been obtained as hereinbefore provided, the board shall proceed thereupon to make out a separate statement, written in words at length, containing the whole number of votes given in such county for each state officer voted for; another for United States senator and for representative in congress, to which shall be added the votes for legislators when district is comprised of more than one county, setting forth the names as returned of all the persons to whom such votes were given and the number of votes given to each; another similar statement of the votes given for electors of president and vice president; another of the votes given for county officers, and another of the votes given for senators and members of the assembly, when the county constitutes one or more senate or assembly districts, specifying the number of votes for each person for senator and member of assembly in each such district respectively. They shall append to each such statement as part thereof a succinct tabular exhibit, in figures, of the votes cast at each election poll in the county for each office and person entering into the canvass embraced in such statement, whether canvassed or not, and if any votes were rejected shall specify the reasons therefor. Each statement shall be certified as correct and attested by the signatures of the said canvassers, and filed and recorded in the office of the county clerk.

6.64 County canvass; certification; publication. (1) They shall then determine the persons who have been, by the greatest number of votes, elected to the several county offices and members of the senate and assembly, when the county constitutes one or more senate or assembly districts. Their determination shall be reduced to writing, setting forth the whole number of votes given for each office and the number of votes received by each candidate; provided, however, that the names of persons not regularly nominated, receiving a comparatively small number of votes, may be omitted, and their votes designated as scattering votes. Each determination shall be certified by them as correct and be annexed to the statement of votes given for such offices respectively, and, for legislators, shall give post-office address and party designation and be filed and recorded with the same; provided, however, that in any case, if any two or more candidates for the same county office shall have received the greatest and an equal number of votes, the board of canvassers shall determine the choice by lot, which lots shall be drawn by the persons receiving the equal number of votes; or in the absence of one or both of such persons or their refusal to draw by lot, the board of canvassers shall appoint a competent person to draw the same for them and declare and certify the same accordingly.

(2) Such determination shall be published in one or more newspapers of the county which the canvassers shall designate. If the canvassers decide to have said publication in more than one newspaper in said county, they shall designate at least one professing the political faith of the party which received the highest number of votes at the last general election in said county, and at least one professing the political faith of the party which received the next highest number of votes at the last general election. The papers so designated shall be paid by the county.

Note: "Scattering" votes are legal votes and to be counted in determining if candidate has received majority of all votes cast for office. 21 Atty. Gen. 420. Canvassers' determination under (2) may be summarized report. 21 Atty. Gen. 897.

6.65 Certificates of election. The county clerk shall immediately after the expiration of the time allowed for the filing of a petition for a recount make out, in pursuance of the determination of such board, a certificate of election for each person having the greatest number of votes for any county office, or for member of the senate or assembly when the county constitutes one or more senate or assembly districts, and deliver the same personally to such person, such notice shall also state the amount of the official bond, if any, required to be given by such person. Personal service of such notice shall be deemed for all statutory and legal purposes official notification to such person of his election to such office. In the event of the filing of a petition for a recount, the certificate of election affected shall not be issued until the recount shall have been completed.

6.66 Recount proceedings. (1) Whenever any candidate, or any elector who voted upon any constitutional amendment or upon any proposition, voted for at any election, within three days after the last day of the meeting of the board of county canvassers, or, in case of an annual, special or referendum election in any city, town or village, within ten days after the result of such election is declared, shall file with the county clerk or with the city, town or village clerk, as the case may be, a verified petition setting forth that he was a candidate for a specified office or that he voted upon any such constitutional amendment or proposition at said election, and that he is informed and believes that a mistake or fraud has been committed in specified precincts in the counting or return of the votes cast for the office for which he was a candidate, or upon the matter voted upon, or specifying any other defect, irregularity or illegality in the conduct of said election, said board of county, city, town or village canvassers, as the case may be, shall reconvene on the day following the filing of such petition and proceed to ascertain and determine the facts alleged in said petition and make correction accordingly and recount the ballots in every precinct so specified in accordance therewith. Such petition shall first be served, as a summons is served in a court of record, upon all opposing candidates and if such petition pertains to a constitutional amendment or proposition voted upon, the petition need be served upon no one other than the said clerk. Such petition and proof of service thereof shall be filed with the said clerk, together with a fee of two dollars for each precinct in which a recount of the ballots is demanded in such petition. The petitioner and all opposing candidates or persons interested therein shall be entitled to be present in person and by counsel and observe the proceedings. County clerks shall immediately notify the secretary of state upon commencement of recount proceedings affecting candidates in districts comprised of more than one county.

(1a) Whenever a petition for a recount of part of the precincts within an election district has been filed as provided in subsection (1), the opposing candidate or in case of a constitutional amendment or other proposition, any elector, under like provisions and in like manner, may file a petition within five days after the last day of the regular meeting of the board of canvassers for a further recount of the votes cast in any or all of the balance of the precincts in such election district, and the proper board of canvassers shall reconvene on the day following the filing of such petition and proceed to ascertain the facts alleged in said petition and make correction accordingly and recount the ballots in every precinct so specified in accordance therewith.

(2) Each member of said board of canvassers, for the purposes mentioned in this section, shall have power to administer oaths, certify to official acts and issue subpoenas. The fees of witnesses shall be paid by the county.

(3) Within five days after the determination of said board, any candidate, or any elector who voted upon such constitutional amendment or proposition, as the case may be, aggrieved thereby may appeal therefrom to the circuit court of said county, by serving a notice in writing to that effect upon such other candidates or persons who filed written notices of appearance with said board. Such notice shall be filed with the clerk of the circuit court, together with an undertaking by the appellant, with surety and in an amount to be approved by the clerk of said court or the judge thereof, conditioned for the payment of all costs taxed against said appellant. The circuit judge shall forthwith issue an order directing the clerk of said county, or of said city, town or village, to transmit to the clerk of said court forthwith all ballots, papers and records affecting such appeal and fixing a time and place for hearing thereon, in open court or at chambers, or before a referee, not later than five days from the making of such order. Such order shall be served upon the county clerk, or the city, town or village clerk, as the case may be, and all such other candidates or persons who have appeared before said board. A reference may be ordered upon any or all questions. At the time and place so fixed the matter shall be summarily heard and determined and the costs taxed as in other civil actions.

(4) Nothing in this section shall be construed to abrogate any right or remedy that any candidate may now have affecting the trying of title to office. [1933 c. 159 s. 2; 1939 c. 452]

Note: The method prescribed in (1) for serving the petition for a recount characterizes the service of papers and notice in taking the matter from the board into the circuit court. The effect of any other construction would be to make this law less efficient than the legislature intended it to be. *State ex rel. Thieme v. Gregory*, 202 W 326, 232 NW 546.

Where senatorial district is comprised of three counties, candidate for senator may file petition for recount not later than three days after last board of canvassers has completed its canvass. Failure to file proof of service of petition on opposing candidate is not fatal if statute is otherwise complied with. 25 Atty. Gen. 634.

6.67 Returns to secretary of state. (1) The county clerk shall, within seventeen days after any general election, transmit to the secretary of state a list of the names of persons elected in the county as members of the senate and assembly and county officers at

such election, and a certified copy of each statement of the county board of canvassers of the votes given for electors of president and vice president, state officers, senators and representatives in congress, state senator and member of assembly, where the senate and assembly district embraces more than one county. The names of persons not regularly nominated receiving a comparatively small number of votes may be omitted from the returns of the county clerk and their votes returned as scattering votes.

(2) The county clerk shall furnish to the secretary of state on blanks furnished by the secretary of state for that purpose, the names and party designations of all candidates for nomination at the primary, and the votes received by each by voting precincts and the names and party designations of all candidates for office at the general election as well as those candidates for office at the spring election, which appear upon ballots furnished by the county or state.

6.68 Canvass of votes on referendum propositions. Whenever any constitutional amendment shall have been submitted to the people, or any other question or proposition shall be submitted by the legislature to a vote of the people, the votes for and against such amendment, question or proposition shall be taken, canvassed, certified and recorded, and certified copies of the statement thereof shall be made and transmitted by each county clerk to the secretary of state in the manner the votes for state officers are to be taken, canvassed, certified and recorded and statements thereof are to be certified and transmitted.

6.69 State board of canvassers. The secretary of state, treasurer and attorney-general shall constitute the board of state canvassers, two of whom shall be a quorum for the transaction of business, and, if one only of said officers attend on the day appointed for a meeting of such board, the clerk of the supreme court, on being notified by the officer so attending, shall attend without delay with such officer and with him shall form the board. When a member of said board is a candidate for an office as to which the votes are to be canvassed by him, the chief justice, upon the request of any opposing candidate, shall designate some other state officer, or a judge of the circuit court, who shall act in his stead at the session of the board at which the votes given for such member are to be canvassed.

6.70 Recording and preservation of returns by secretary of state. (1) Upon receipt of the certified statements from the county clerks of the votes given in the several counties, the secretary of state shall record the results of such election by counties and file and carefully preserve such statements.

(2) If any county clerk shall fail or neglect to forward any such statement, the secretary of state may require him to do so forthwith, and if not received or obtained within thirty days after an election, the secretary of state may dispatch a special messenger to obtain the same. Whenever it shall appear upon the face of any such statement that an error has been made in reporting or computing the vote of any candidate, the secretary of state may return the same to the county clerk for correction.

6.71 State canvass of election returns; determination; certification of results. (1) The state board of canvassers shall meet at the office of the secretary of state on or before the first day of December succeeding a general election and within twenty-five days after a special election, for the purpose of canvassing the returns and determining the results of such elections.

(2) Such board shall examine such certified statements of the county canvassers, and if it shall appear that any material mistake has been made in the computation of votes given for any person, or that the canvassers in any county have omitted to canvass the votes or any thereof cast at any poll therein, the board may dispatch a messenger to the clerk of such county with their requirement in writing to him to certify the facts concerning such mistake, or the reason why such votes were not canvassed; and the clerk to whom any such requirement is delivered shall forthwith make true and full answer thereto, under his hand and the county seal, and deliver the same to such messenger, who shall deliver it with all convenient dispatch to the secretary of state.

(3) The said board may adjourn as may be necessary, not more than ten days in all.

(4) Upon the certified statements and returns so received the board shall proceed to examine and make a statement of the whole number of votes given at any such election for each elector of president and vice president, in every year in which there is a presidential election; a statement for each of the offices of governor, lieutenant governor, secretary of state, treasurer, attorney-general, or any other state officer, if any there shall be, or United States senator; a statement of the votes given for representative in congress in each congressional district; a statement of the votes given for state senator in congress in each congressional district embracing more than one county; and a statement of the votes given for member of assembly in each assembly district embracing more than one county.

(5) Such statements shall show the names of the persons to whom such votes shall have been given for either of the said offices, the whole number of votes given to each and

distinguishing the several districts and counties in which they were given. Provided, however, that the names of persons not regularly nominated receiving a comparatively small number of votes may be omitted and their votes designated therein as scattering votes.

(6) Said board shall certify such statements to be correct and shall thereupon determine what persons have been, by the greatest number of votes, duly elected to such offices, or either of them, and shall attach to each statement a certificate of their determination and deliver the same to the secretary of state.

(7) Whenever a proposed constitutional amendment or other question shall have been submitted to a vote of the people at any such election, the votes cast for or against such amendment or question shall be canvassed, certified and recorded at the time and in the manner hereinbefore provided. Said board shall at the same time prepare and certify a statement of the whole number of votes given for and against such amendment or question, and shall thereupon determine whether or not such amendment or question has been approved, ratified or adopted by a majority of the electors voting thereon.

(8) If it shall appear that such amendment or question has been approved, ratified or adopted, the secretary of state shall make a record thereof and cause such record to be bound in the volume containing the original enrolled laws passed at the next succeeding session of the legislature, and cause such record to be published with the laws thereof.

6.72 Certificates of election. Said secretary shall record in his office each certified statement and determination so made by said board, and forthwith make and transmit to each of the persons thereby declared to be elected, a certificate of his election under the lesser seal, and cause a copy of such certified statements and determinations to be published in a newspaper printed at the seat of government. He shall also prepare a like certificate or certificates, attested by him as secretary of state, and addressed, respectively, to the United States senate and to the house of representatives in that congress for which any person shall have been chosen, of the due election of such person as a United States senator or as a representative of this state in congress, as the case may be, and transmit the same to the respective house at the first meeting thereof; and if any of the persons so chosen at such election shall have been elected to supply a vacancy in the office of such United States senator or representative it shall be mentioned in such certificate.

6.73 State canvassers to disregard irregular returns. The board of state canvassers shall canvass only the regular returns made by the county boards of canvassers, as provided in this chapter, and shall in no case canvass or count any additional or supplemental returns or statements made by any such board or by any other board or person whatever; nor shall the board of state canvassers canvass or count any statement or return of the result of any canvass which shall have been made by any county board of canvassers at any other time than that mentioned in this chapter. This section shall not apply to any return made subsequent to a recount pursuant to section 6.66, but such return shall be accepted in lieu of any prior return from the same county for the same office.

6.74 Civil process not to be served on election day. During the day on which any general, special, town or charter election shall be held no civil process shall be served on any elector, entitled to vote at such election, in the precinct in which he is entitled to vote or while going to or returning therefrom.

6.75 Plurality shall elect, regardless of informalities. In every election for the choice of any officer, unless otherwise provided by law, each elector shall have one vote and no more; and the person appearing satisfactorily to have received the highest number of legal votes for any office shall be deemed to have been duly elected to that office, and the canvassers shall so determine and certify. The legality of such votes so appearing, failures to fully comply with the law respecting noticing or conducting the election or canvassing or returning the vote, shall be disregarded.

6.76 [*Renumbered section 6.325 by 1933 c. 433 s. 2*]

6.77 Election blanks prepared by secretary of state. The secretary of state shall make out all necessary blanks, returns and statements to carry out the provisions of law for making the canvass, returns and statements, of all state, congressional, legislative and county elections, general, special and judicial, including tally sheet statements, and affidavits of nonregistered voters and freeholders corroborating the same. Such blanks shall contain the necessary certificates of the inspectors and canvassers, with proper notes to the same explanatory of their use and referring to the statutes. Said blanks for use at the September primary and at the November election shall be forwarded to the county clerks of the several counties not less than twenty days prior to the date thereof in each year in which any such primary or election shall be held. Provided, that said secretary shall be required to furnish tally sheet statements of the standard form only for any city or county. The secretary of state shall from time to time correct the forms for all official ballots to harmonize them with recent legislation and with the current official status of the

several political parties. Samples of all such ballots shall be printed in the statutes.

[1939 c. 172]
 Note: For official referendum ballot forms, "Da," "Dd," "De," and "Df", prescribed by the secretary of state see end of this chapter.

6.78 Distribution of election blanks. Such blanks shall be distributed to the proper town, city or village clerks or inspectors in each county by the county clerks not later than the time when official ballots are distributed and may be sent by mail when practicable. Such clerks shall furnish the inspectors of elections in their respective towns, villages and election districts with such registry blanks at or before the time fixed for the first meeting for registry, and the other blanks before the opening of the polls on the day of election, and such clerks and inspectors shall use such blanks when furnished; but no election or election returns shall be invalidated in consequence of failure to use such blanks.

6.79 National flag over election places. The town board, village board and common council of the several towns, villages and cities of the state shall place and display the national flag on suitable staff over every voting place during all the hours that the polls are open on the day of the general election, and may so display it on other election days and on registration days. The expense of such flag and the erection, care and maintenance of the same shall be a charge against such town, village or city and be audited and paid as other election expenses.

6.80 Application of general election laws. As far as practicable and not otherwise provided by law the provisions of this chapter shall be applied to primary elections to town, village and city elections, and to referendum votes respecting the incurring of municipal indebtedness, the issue of municipal bonds, the acquisition of utilities, the recall or removal of public officers, direct legislation in cities and counties, constitutional amendments and all other subjects. And in taking all such referendum votes the ballot used shall conform as far as practicable to the provisions of section 6.23.

6.81 Election manual. There shall be prepared and published by the secretary of state separate from the election laws an election manual explanatory of the duties of election officials and the qualifications and privileges of electors, together with such notes and references to the statutes as he shall deem advisable to be furnished free to election officials and others in such manner as he shall judge most likely to promote the public welfare.

6.82 Election notices, supplies. (1) COSTS, BY WHOM PAID. All costs for ballots, blanks and other supplies to be used at any primary or election, all publication fees, and all expenses necessarily incurred in the preparation for or in conducting any primary or election shall be paid out of the treasury of the town, city, village, county or state, as the case may be.

(2) PUBLICATION. All primary or election notices or certificates of election, required by law to be published, shall be published in from one to four newspapers of general circulation published within the county or city. In counties of over two hundred and fifty thousand population, one of such newspapers shall represent the two hundred and fifty cast the largest vote in such county or city at the preceding general election, and one of such newspapers shall represent the political party that cast the next largest vote in such county or city at the preceding general election. In no case shall any such notice be published in more than two newspapers unless authorized by a resolution adopted by the county board or city council, which resolution may designate by name the newspapers in which all such notices shall appear, and shall be in force until rescinded by like action. Provided, that in counties having one or more daily newspapers, at least one of such publications shall be made in a daily newspaper that has been published continuously for two years.

(3) PRINTER'S FEES. Compensation for publishing all notices and certificates relative to primaries and elections, unless otherwise provided, shall be paid for by the folio and the fees shall be graduated according to circulation as set forth herein.

Circulation	First insertion per square or folio	Subsequent insertions per square or folio
(a) 2,000 or less.....	\$.80	
(b) 2,001 to 4,000.....	.90	\$.50
(c) Over 4,000.....	1.00	.60
(d) To newspapers published in cities of the first class	Commercial rates	.70
		Commercial rates

In making claim for compensation, except in cities of the first class, newspapers of over two thousand circulation, shall furnish an affidavit showing total paid circulation.

(4) DOUBTS RESOLVED. When in doubt as to the compliance of any election notice with the specifications of the statutes, or as to the correct fees to be paid therefor, the county clerk may consult the secretary of state who shall refer such question to the director of purchases for official determination.

(5) "SQUARE," "FOLIO" DEFINED. For any primary or election notice, the word "square" shall be construed to mean one inch in length of a column and not more than a newspaper column in width. The word "folio" shall mean the same as elsewhere defined in these statutes. Any fraction of a square or folio shall be paid for as a full square.

(6) SHERIFF, WHEN TO ACT. Whenever the office of county clerk is vacant and there shall be no person authorized to perform his duties, the sheriff shall make out and transmit to town, city and village clerks any primary or election notice, required to be issued, and shall publish the same as may be required by law. [1931 c. 45 s. 1]

6.83 Obsolete documents; destruction by county clerk. Whenever it shall be found necessary to destroy useless documents in order to secure vault space for county records, the county clerk of any county may, from time to time, in his discretion, dispose of any of the following named records: Statements of election returns and poll lists, when over six years old. [1931 c. 466]

OFFICIAL REFERENDUM BALLOTS, FORMS

Revisor's Note: The following forms designated "Da," "Dd," "De," and "Df" were prepared by the secretary of state and are printed pursuant to section 6.77:

"Da" OFFICIAL REFERENDUM BALLOT

If you desire to vote for the approval of the resolution set forth below, make a cross (X) or other mark in the square after the words "For Bonds", following such resolution; if you desire to vote for disapproval of said resolution, make a cross (X) or other mark in the square after the words "Against Bonds", following such resolution.

RESOLUTION

[Here insert copy of initial resolution of the county, city, town, village or school district board when, under section 67.05, or other statutory provision, it is so required. The question printed below should be changed to meet the requirements in each case.]

Shall the foregoing resolution of the County Board, providing for the issue of Highway Bonds be adopted?

For Bonds [] Against Bonds []

[Pink print paper, 6.23 (8), 67.05 (2), (4), (6), (6a), (d).]

"Da"

OFFICIAL REFERENDUM BALLOT FOR

.....Precinct,Ward, City (Village or Town) of..... 19.....

Ballot Clerks.

Absent Voter's Ballot issued by

County Clerk City Clerk Village Clerk Town Clerk

We certify that the within ballot was marked by us for an elector incapable under the law of marking his own ballot and as directed by him.

.....of Election.of Election.

"Dd"

OFFICIAL REFERENDUM BALLOT

If you desire to vote for any question, make a cross (X) or other mark in the square after the word "Yes", underneath such question; if you desire to vote against any question, make a cross (X) or other mark in the square after the word "No", underneath such question.

Shall Class "B" license (taverns, hotels, restaurants, clubs, societies, lodges, fair associations, etc.) be issued for the retail sale of beer for consumption on or off the premises where sold?

Yes [] No []

[Yellow print paper--9"x6". 66.05 (10) (d) 3., Chap. 426, 1939.]

"Dd"

OFFICIAL REFERENDUM BALLOT FOR

.....Precinct,Ward, City (Village or Town) of..... 19.....

Ballot Clerks.

Absent Voter's Ballot issued by

City Clerk Village Clerk Town Clerk

We certify that the within ballot was marked by us for an elector incapable under the law of marking his own ballot and as directed by him.

.....of Election.of Election.

"De"

OFFICIAL REFERENDUM BALLOT

If you desire to vote for any question, make a cross (X) or other mark in the square after the word "Yes", underneath such question; if you desire to vote against any question, make a cross (X) or other mark in the square after the word "No", underneath such question.

Shall Class "A" license (stores, etc.) be issued for the retail sale of beer in original packages to be consumed away from the premises where sold?

Yes [] No []

[Light green print paper--9"x6". 66.05 (10) (d) 3., Chap. 426, 1939.]

"De"

OFFICIAL REFERENDUM BALLOT FOR

.....Precinct,Ward, City (Village or Town) of..... 19.....

Ballot Clerks.

Absent Voter's Ballot issued by
..... { City Clerk
Village Clerk
Town Clerk

We certify that the within ballot was marked by us for an elector incapable under the law of marking his own ballot and as directed by him.

.....
..... of Election.
.....
..... of Election.

"D"
OFFICIAL REFERENDUM BALLOT

If you desire to vote for any question, make a cross (X) or other mark in the square after the word "For" underneath such question; if you desire to vote against any question, make a cross (X) or other mark in the square after the word "Against" underneath such question.

Shall any person be licensed to deal or traffic in intoxicating liquors as a beverage in the { Town
City
Village } of Waukesha?
For license Against license

Shall municipal liquor stores for the sale, dealing and traffic in original packages or containing more than one wine gallon at any time, and to be consumed off the store premises, be established, maintained and operated

and control of the { under the management
city council
village board
town board }?
For Liquor Store
[Pink print paper "DP" 9" x 6". 176.39.]

OFFICIAL REFERENDUM BALLOT

..... Precinct
City (Village or Town) Ward,
..... 19 of

Absent Voter's Ballot issued by
..... Ballot Clerks.

We certify that the within ballot was marked by us for an elector incapable under the law of marking his own ballot and as directed by him.

.....
..... of Election.
.....
..... of Election.