

CHAPTER 163

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CHAPTER 163

AN ACT to repeal 40.27 (1) to (10); to amend 40.025 (6), 40.095 (3) (d) and (e), 40.22 (3), 40.25 and 40.805; and to create 40.27 (1) to (6) of the statutes, relating to the manner of electing school district officers.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 40.025 (6) of the statutes is amended to read:

40.025 (6) The city clerk shall arrange for the election of a board of education pursuant to s. 40.803 for any new district created which is to operate under s. 40.80. In creating any other new district, a reorganization order may direct the election of officers by the election procedure in s. 40.27 * * * (2) and (3). The clerk of the town, village or city in which the greatest number of electors reside shall act as clerk of the election and declarations of candidacy shall be filed with him. He shall cause notice of the election to be given as provided by the statutes which govern municipal elections. Such clerk shall have charge of the election and provide all necessary materials and equipment to conduct the same in a manner similar to that used for conducting municipal elections. The cost of conducting such election shall become a charge upon the new school district, and the board of such new district, upon taking office, shall pay all costs of such election upon claims duly filed.

SECTION 2. 40.095 (3) (d) and (e) of the statutes are amended to read:

40.095 (3) (d) Board members shall be elected for terms of 3 years. The order creating the unified school district shall designate the date of the first election, which shall be subsequent to the effective date of the order. The terms of office for the first election of officers shall be determined as provided in s. 40.26 (3) (c) and (d). In all subsequent elections the board members shall be elected * * * *on the first Tuesday in April*, by ballot, and nominated * * * *by the submission of declarations of candidacy*. The school board election shall be held as provided by s. 40.27 * * * (3). Declarations of intent for the first election shall be filed with the clerk of the most populous municipality included or partially included in the district. Such clerk shall give notice of the first election of such school board members of the district; thereafter all declarations * * * shall be filed with the clerk of the unified school district. *After the establishment of the board, all newly elected members shall take office July 1 following the election.*

(e) All vacancies shall be filled as provided by s. 17.26 (2). Such appointees shall serve only until *the July 1 after the vacancy is filled in the next spring election and the successor qualifies.*

SECTION 3. 40.22 (3) of the statutes is amended to read:

40.22 (3) * * * *In case of a 3-man board, elect a director, treasurer and clerk, by ballot as provided in s. 40.27 (1); a * * * plurality of the votes shall be necessary for a choice.*

SECTION 4. 40.25 of the statutes is amended to read:

40.25 The officers of the common school district shall be a director, treasurer and clerk. They shall be electors of the district, and shall hold their respective offices for 3 years and until their successors have been

elected or appointed and qualified. At the first election of officers, the clerk shall be chosen for a term to expire * * * *immediately after the annual meeting next following the meeting at which elected*, and the treasurer for a term to expire one year later, and the director for a term to expire 2 years later than that of the clerk. *All officers shall take office thereafter after the annual meeting or as soon thereafter as conditions permit.* The officers elected shall be notified thereof by the clerk of the meeting *at once if elected at such annual meeting or on the day of the annual meeting or within 5 days thereafter if elected at the spring election.* A person elected and notified shall, within 10 days after his election, execute and file the official oath. The director, treasurer and clerk shall constitute the board of the district, unless the board is enlarged according to s. 40.025 (3) or 40.26.

SECTION 5. 40.27 (1) to (10) of the statutes are repealed.

SECTION 6. 40.27 (1) to (6) of the statutes are created to read:

40.27 ELECTION OF BOARD MEMBERS. (1) ELECTION AT ANNUAL DISTRICT MEETING. (a) *Applies to certain districts only.* If the school district board members are elected at the annual district meeting, this subsection shall apply.

(b) *Notice of election.* The notice of the annual meeting shall be made in accordance with s. 40.20 and shall incorporate a list of the district officials to be elected.

(c) *Presiding officers.* The incumbent director, or in his absence, the clerk, shall preside until a chairman and someone to act in the absence of the clerk have been elected. The chairman shall appoint the necessary tellers to assure the expeditious and accurate handling of the ballots.

(d) *Nominations.* Any qualified elector may, at least 20 days before the annual meeting, file a written declaration of intent to be a candidate for an office in the school district with the school district clerk setting forth that he is a qualified elector. In the case of a 3-man board he shall also state the office for which he is a candidate. At the time of the annual district meeting, the clerk shall submit to the qualified electors a list of those persons who have filed declarations of candidacy together with the positions for which they filed. The chairman shall then receive nominations from the floor.

(e) *Preliminary vote.* If at the conclusion of the nominations there are more than 4 candidates for any office on a 3-man board or more than 3 times the number of candidates than there are positions to be filled, on a larger board, then a preliminary vote by ballot shall be taken so as to eliminate, in case the election is for an office on a 3-man board, all but the 3 candidates receiving the highest number of votes or, in case the election is for membership on a larger board, so as to eliminate all but the candidates receiving the largest number of votes and numbering 3 times the positions to be filled on the board and only the candidates who have survived this preliminary vote shall be eligible for the formal election.

(f) *Voting.* The chairman shall indicate clearly the names of the candidates in the formal voting and call for the election by ballot to fill the positions. If the electors select board members only, they shall vote simultaneously for all positions to be filled. Voting shall be by ballot.

(g) *Announcing results.* The chairman shall announce the results and the officers elected shall be notified as provided in s. 40.25.

(2) SCHOOL BOARD ELECTION ON DAY OF ANNUAL MEETING. (a) *How determined.* 100 electors but not less than a number equal to at least 3 per cent of the number of heads of families in the district, as enumerated in the last school census, may file, with the district clerk of any school district electing members of the board at the annual meeting, a petition requesting that such board members be elected at an election on the day of the annual meeting.

(b) *When to file.* Such petition shall be filed at least 60 days prior to the annual district meeting.

(c) *Notice of election.* If such petition is filed in proper form, the district clerk shall incorporate in his notice of the annual district meeting a statement that beginning with the impending election an election of school board members shall be held on the day of the annual meeting thereafter. He shall post notices of the filing of such petition in 4 public places in the school district and publish them in a newspaper having general circulation in the district within 15 days after filing of the petition. Such notice shall indicate that such election shall be held annually thereafter and state when the polls shall be open on the annual meeting day and designate a single convenient place of voting.

(d) *Polling hours.* The polls shall be open from 1 p.m. to 8 p.m.

(e) *Declaration.* At the time of publishing the notice of election the clerk shall post in 4 public places in the district and publish in a newspaper having general circulation in the district a notice stating clearly the conditions which must be met for filing a declaration of candidacy. At least 20 days prior to the date of the annual meeting any qualified elector of the district may file a written declaration of candidacy at such election with the district clerk stating that he is a qualified elector. In the case of a 3-man board he shall also state the office for which he is a candidate.

(f) *Ballots.* The board shall provide and the clerk shall prepare an official ballot which shall conform as nearly as may be to the ballot provided in s. 10.52. It shall list the offices to be filled and the candidates who filed a valid declaration of candidacy and shall provide for write-in votes. The order in which the names of candidates are to be printed on such ballot shall be determined by drawing lots at 8 p.m. on the day following the last day for filing written declarations of candidacy, by or under the supervision of the officer with whom such declaration is filed. Suitable ballot boxes shall be provided by the board.

(g) *Inspectors.* The board may act as inspectors of such elections, but may appoint 2 to 4 persons to serve in lieu of board members as inspectors of such elections, and the board shall appoint 2 clerks who shall make and keep duplicate lists of the electors voting at such election. The inspectors and clerks shall be paid as provided in s. 6.325. In counties having a population of 500,000 or more the board may appoint 5 or more persons who shall act as inspectors, clerks and tellers who shall be paid as provided in s. 6.325.

(h) *Counting ballots.* Immediately after the polls are closed the ballots shall be counted and the results declared.

(3) SCHOOL BOARD ELECTION ON FIRST TUESDAY IN APRIL. (a) *Districts eligible.* Any school district may vote to hold the election of school board members on the first Tuesday in April.

(b) *Petition.* 100 electors but not less than a number of electors equal to at least 3 per cent of the number of heads of families in the district as enumerated in the last school census who reside in a district which elects its school board at the annual meeting or on the day of the annual meeting may, at least 60 days prior to the meeting date, petition the district clerk requesting that board members be elected at the regular election on the first Tuesday in April.

(c) *Notice of referendum election.* If such petition is filed in proper form, the district clerk shall incorporate in his notice of the annual meeting or the election to be held on the day of the annual meeting, a notice of an election to determine if the district officers shall be elected on the first Tuesday in April. If a majority of those voting on the question at the annual meeting or the election held on the day of the annual meeting vote favorably, beginning in the following year the district officers shall be elected on the first Tuesday in April until the electors determine otherwise.

(d) *Notice to municipal officials.* If the petition is approved the district clerk shall forthwith notify the municipal clerk of each municipality in which any territory of the district lies that thereafter district officers will be elected on the first Tuesday in April.

(e) *Declaration of intent to be candidate.* Any qualified elector desiring to be a candidate for district office shall file a written declaration of candidacy with the district clerk not less than 45 days prior to the first Tuesday in April setting forth that he is a qualified elector and in the case of a 3-man board, he shall state the office for which he is a candidate.

(f) *Primary election.* At the expiration of the deadline for the filing of declarations, the district board shall forthwith verify the declarations, and if there are more than twice as many candidates for any office as there are positions to be filled, the board may require a primary election for such positions which election shall be held 4 weeks prior to the general election in April.

(g) *Notice of election.* The district clerk shall notify each municipal clerk in which any part of the school district lies of the impending primary election if one is to be held and of the general election, shall furnish them with copies of the notice and shall provide them with an adequate supply of ballots for both the primary election and the general election.

(h) *Polling hours.* If the election is conducted in conjunction with a town, village or city election, the municipal election hours shall apply. In all other cases the board shall set the hours.

(i) *Polling places.* The election shall be held at the polls normally used for state, local and judicial elections.

(j) *Term.* The term of office of officers elected on the first Tuesday in April shall begin after the annual meeting following the election or if no annual meeting is held, on the next July 1.

(4) GENERAL PROVISIONS. (a) *Plurality.* A plurality shall elect.

(b) *Registration.* If registration is required in any town, village or city, part or all of which is within a school district, the same requirement shall also apply to the electors for school district officers within such town, village or city electing such officers on the first Tuesday in April and provision shall be made for identifying the electors of the municipality eligible to vote at such election and the preceding primary if one is held on school matters.

(c) *Absentee voting.* Except in elections conducted at the annual district meeting, the provisions of ss. 11.54 to 11.68 relating to absentee voting shall apply.

(d) *Conduct of the election.* 1. All declarations of candidacy shall be filed with the appropriate school district clerk except as provided in s. 40.095 (3) (d).

2. The school district clerk shall prepare and distribute all notices of school district elections.

3. The school district clerk shall prepare and have printed all ballots for the election of school district officers.

4. School district primary elections held in March and elections for school officials held on the first Tuesday in April shall be conducted by the election officials for state and local elections, but if no municipal, state or judicial election is held on that day, the costs shall be charged back to the school district.

(e) *Voting machines.* Except in school district elections held at the annual meeting, voting machines may be used in any towns, villages or cities or parts thereof constituting any part of a school district conducting an election.

(f) *Vacancies.* This section shall apply to all elections to fill vacancies as provided by s. 17.26.

(g) *Election at large.* All school district officers designated by this section shall be elected by the people of the entire district.

(h) *Abandoning option.* A school district which has exercised the options under sub. (2) or (3) may (by the same procedure) subsequently exercise any option under sub. (1), (2) or (3) which it is permitted to use.

(i) *Preservation of ballots.* All ballots, as soon as counted, shall be sealed in the ballot box and kept for 60 days by an inspector who was not a candidate at the election. In the case of elections at the annual meeting, the ballot slips shall be retained by the clerk for 60 days.

(j) *Contested elections.* Recounts shall be conducted under the direction of the school board using the procedure followed under general election laws as nearly as possible.

(k) *Challenges.* The privilege of voting may be challenged as provided in s. 6.50 or 40.20 (6).

(L) *Polling places.* The election shall be held by ballot in the place fixed for holding the annual district meeting except:

1. If the petition to hold such election or a separate petition requests more than one polling place, the board shall provide polling places equal to the number requested but not more than the number of election precincts in the district or of which the district is a part.

2. The board may establish such additional polling places as it deems necessary and may establish polling places outside the district.

3. In any election held in conjunction with a state, local or judicial election, the polling places for the latter shall be the polling places for the former.

(5) *CITY SCHOOL SYSTEM.* This section does not apply to the elections conducted under s. 40.803 for city school systems.

(6) *DATES TERMS BEGIN.* The terms of all school board members, except those appointed temporarily, to fill unexpired terms shall commence as follows provided they have taken the oath as provided by s. 40.25:

(a) In a city school system on July 1;

(b) In a unified school district on July 1;

(c) In a union high school district on the day after the annual meeting as provided in s. 40.25;

(d) In a common school district on the day after the annual meeting as provided in s. 40.25.

SECTION 7. 40.805 of the statutes is amended to read:

40.805 If any city of the second class by referendum as provided for in this chapter votes to adopt the elective system of selecting and appointing members of the board of education, a special election for members of such board shall be held within 30 days at a date to be determined by the city council. A call for such special election shall be issued by the council in accordance with law. The members of the board of education chosen in such special election shall take office on the second Monday following such election. The 2 persons receiving the highest number of votes shall hold office until their successors elected 3 years after the preceding spring election have qualified; and the 2 persons receiving the next highest number of votes shall hold office until their successors elected 2 years after the next preceding spring election have qualified; and the 3 persons receiving the next highest number of votes shall hold office until their successors elected one year after the preceding spring election have qualified. *Thereafter all board members elected at the spring election shall take office on the following July 1.*

SECTION 8. The reference to subsection "(1)" in section 40.27 (11) (a) of the statutes is changed to subsection "(2)". The revisor of statutes shall show the change in printing the statutes.

Approved July 10, 1963.