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CHAPTER 340

1977 Senate Bill 287

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CHAPTER 340, Laws of 1977

AN ACT to amend 7.38 (3) (a), 8.05 (1) (a), (3) (a) and (4) (b), 8.10 (2), 8.35 (title) and (2), 8.50 (2) (b), (3) (a) and (4) (f), 10.06 (1) (a) to (c), (2) (a) and (3) (a) and 120.06 (6) and (7) (a); and to repeal and recreate 8.35 (1) of the statutes, relating to dates for election notices, circulation and filing of nomination papers and certain related events and functions in connection with the spring primary and election.

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

SECTION 1. 7.38 (3) (a) of the statutes is amended to read:

7.38 (3) (a) Whenever a vacancy occurs after a primary due to ~~declination, death, or any other cause~~ of a candidate, the vacancy may be filled by the nominee's political party. In the case of candidates for county offices, the vacancy shall be filled by the chairman of the county party. For other offices, the vacancy shall be filled by the chairman of the state party, except as provided in s. 8.17 (5) (g). If no county party exists, the vacancy shall be filled by the chairman of the state party. The chairman shall file with the proper official a certificate signed, certified and sworn to the same as an original certificate. The certificate shall state the cause of the vacancy, the name of the new nominee and the office for which nominated. A political party may not nominate a candidate for an office for which no person representing that party has filed nomination papers and a declaration of acceptance.

SECTION 1m. 8.05 (1) (a), (3) (a) and (4) (b) of the statutes are amended to read:

8.05 (1) (a) When nomination papers are not used, there shall be a caucus to nominate candidates. The governing body shall between December ~~15~~ 1 and January ~~15~~ 1 decide the date of the caucus. The date of the caucus may be established between the ~~last first~~ last first Tuesday in January and the ~~3rd last~~ 3rd last Tuesday in ~~February~~ January. When possible, preference should be given to having the caucus on the ~~3rd last~~ 3rd last Tuesday in ~~February~~ January. If a primary is held on the day of the caucus, the caucus shall be held after the polls close.

(3) (a) In lieu of sub. (1), the electors either by referendum or at the town meeting may provide for nomination of elective town office candidates at a nonpartisan primary conducted as provided in sub. (5). The nomination papers shall be signed by not less than 20 nor more than 100 electors of the town. The nomination papers shall be circulated not sooner than December ~~15~~ 1 preceding the election and shall be filed with the town clerk not later than 5 p.m. the ~~3rd~~ first Tuesday in January, or the next day if Tuesday is a holiday.

(4) (b) Nomination papers shall be signed by not less than 20 nor more than 100 electors of the village. The papers shall be circulated not sooner than December ~~15~~ 1 preceding the election and shall be filed with the village clerk not later than 5 p.m. the ~~3rd~~ first Tuesday in January, or the next day if Tuesday is a holiday.

SECTION 2. 8.10 (2) of the statutes is amended to read:

8.10 (2) Nomination papers for offices to be filled at the spring election shall be circulated not sooner than December ~~15~~ 1 preceding the election and shall be filed not

later than 5 p.m. on the ~~3rd~~ first Tuesday in January, or the next day if Tuesday is a holiday.

SECTION 2e. 8.35 (title) of the statutes is amended to read:

8.35 (title) Vacancies after nomination.

SECTION 2m. 8.35 (1) of the statutes is repealed and recreated to read:

8.35 (1) Any person who files nomination papers and a declaration of acceptance may not decline nomination. The name of such candidate shall appear upon the ballot except in case of death of the person. A candidate who is nominated by write-in votes is deemed to decline nomination if he or she fails to file a declaration of acceptance within the time prescribed under s. 8.16 (2).

SECTION 2s. 8.35 (2) of the statutes is amended to read:

8.35 (2) If a vacancy occurs after nomination due to ~~declination, death, or any other cause of a candidate,~~ the vacancy may be filled for partisan offices by the chairman of the committee of the proper political party under s. 7.38 (3), or the personal campaign committee, if any, in the case of independent candidates, except as provided in s. 8.17 (5) (g). Similar vacancies for municipal and nonpartisan county offices may be filled within 2 days by the personal campaign committee or, if the candidate had none, by the governing body of the municipality or county. Within 2 days after notification of the nomination, the new nominee shall file a declaration of acceptance and registration statement under s. 11.05 (2g) or (2r). Upon failure to file such declaration or statement, the official or agency with whom such papers are filed may refuse to place the candidate's name on the ballot. If the ballots have been printed, the committees or body filling the vacancy shall supply pasters as under s. 7.38 (3) (c).

SECTION 3. 8.50 (2) (b), (3) (a) and (4) (f) of the statutes are amended to read:

8.50 (2) (b) The primary shall be on the day 4 weeks before the day of the special election except when the special election is held on the same day as the general election the special primary shall be held on the same day as the general primary or if the special election is held concurrently with the spring election, the primary shall be held concurrently with the spring primary. Notwithstanding par. (a), if a special election is held concurrently with the spring election, the date for the special election shall be not less than ~~69~~ 107 nor more than ~~84~~ 122 days from the date of the order.

(3) (a) Nomination papers shall be circulated no sooner than the day the order for the special election is filed and shall be filed not later than 5 p.m. ~~48~~ 21 days before the day of the special primary, except when a special election is held concurrently with the spring election, nomination papers shall be filed no later than the date provided in s. 8.10 (2).

(4) (f) A vacancy in the office of judge or justice occurring on or before December ~~31~~ 12 shall be filled, if a judge, at the succeeding spring election; or, if a justice, at the first judicial election when no other justice is to be elected. A vacancy in the office of judge occurring after December ~~31~~ 12 shall be filled at the judicial election the next year. A vacancy in the office of justice shall be filled at the next judicial election if no other justice is to be elected.

SECTION 4. 10.06 (1) (a) to (c), (2) (a) and (3) (a) of the statutes are amended to read:

10.06 (1) (a) On or before ~~December 4~~ November 15 preceding a spring election the board shall send a type A notice to each county clerk.

(b) On the 2nd last Tuesday in ~~December~~ November the board shall publish one type A notice of the coming spring election. Publication shall be on the next day if Tuesday is a holiday.

(c) As soon as possible after the deadline for filing nomination papers for the spring election, but no later than the ~~Thursday after the 3rd~~ 2nd Tuesday in January, the board shall send a type B notice certifying the list of candidates to each county clerk if a primary is required.

(2) (a) On the ~~first and 2nd~~ 3rd and 4th Tuesdays in ~~December~~ November preceding a spring election each county clerk shall publish a type A notice based on the relevant portions of the notice received from the board and incorporating any county offices. Publication shall be on the next day if Tuesday is a holiday.

(3) (a) On the ~~2nd 4th~~ Tuesday in ~~December~~ November preceding a spring municipal election the municipal clerk shall publish one type A notice for municipal offices. Publication shall be on the following day if Tuesday is a holiday.

SECTION 5. 120.06 (6) and (7) (a) of the statutes are amended to read:

120.06 (6) No later than the ~~3rd~~ first Tuesday in December prior to the spring election, the school district clerk shall publish a class 1 notice, under ch. 985, of the school district election stating the time, place and manner of filing declarations of candidacy for the school board. No later than 5 p.m. on the ~~2nd~~ first Tuesday in January prior to the spring election, or on the next day if Tuesday is a holiday, qualified elector may file a written declaration of candidacy with the school district clerk at the place specified in the notice stating that he or she is a qualified elector. In the case of a 3-member apportioned or numbered school board the qualified elector also shall state the office, apportioned area or numbered seat for which the elector is a candidate.

(7) (a) Immediately upon the expiration of the time for filing declarations of candidacy, but no later than 5 p.m. on the ~~3rd~~ 2nd Tuesday in January, or the next day if Tuesday is a holiday, the school district clerk shall verify the declarations of candidacy. Once filed, a declaration may not be withdrawn.
