

CHAPTER 8.

ELECTION OF JUSTICES, JUDGES AND SCHOOL SUPERINTENDENTS.

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8.01 Definitions. In sections 8.02 to 8.05, inclusive, the word "justice" means a justice of the supreme court, "judge" means a judge of a circuit, county, superior, municipal, district or civil court, and "superintendent" means the state superintendent of public instruction and a county or district superintendent of schools.

8.02 Election of justices, judges and superintendents. (1) Every election for justice, judge or superintendent shall be held on the first Tuesday of April. The regular election for justice, judge or superintendent shall be held on the first Tuesday of April next prior to the expiration of the term.

(2) The election to fill a vacancy in the office of justice or judge shall not be held at the time of holding the regular election for the same office. If the vacancy occurs forty days or more before the first Tuesday in April, in the case of a judge, such election shall be held on the first Tuesday of the succeeding April, and in case of a justice, at the first judicial election when no other justice is to be elected. In either case, if the vacancy occurs within forty days prior to the first Tuesday of April, the election to fill the vacancy shall not be held until the judicial election of the next year. [1939 c. 2, 130]

Note: The contention that section 8.02, Stats. 1937, requires that an election be held on successive Tuesdays in April in the same year in which the election for the full term is held to fill all vacancies in offices cannot be sustained. The first succeeding Tuesday intended was the first Tuesday of the April of the next year. *Hauerwas v. Zimmerman*, 230 W 449, 284 NW 51.

8.03 Notice of election. The secretary of state shall give to county clerks at least twenty-five days' notice of the election of justice, judge, or superintendent, and the county clerk shall give not less than twenty days' notice of any such election to be held within his county.

8.04 Judicial elections in the second circuit. When two or more judges of the same court are to be elected on the same day the notice shall state the names of the judges whose successors are to be elected and the number of the branch presided over by each. One ballot box shall be used and the official ballot shall contain the names of all candidates for such successions, shall state the number of judges to be elected and the number of candidates for whom each elector may vote, and shall designate each candidacy as "For Circuit Judge to succeed , Branch No." Each elector may vote for one candidate for each branch or judge of the court required to be filled, and the person receiving the highest number of votes for judge of either of such branches shall be declared elected.

8.05 Conduct of judicial elections. Elections for justice, judge and superintendent shall be noticed, held, conducted and the results canvassed and returned in the same manner as general elections. The ballots shall be printed, furnished and distributed by the county clerks, at the expense of the county, as other ballots and so prepared as to indicate the candidates to be voted for and the respective office for which each is intended as a ballot, substantially in the form prescribed in subsection (16) of section 6.23. All votes given for any such officer shall be put in a ballot box, separate from that used for any other election on the same day. The polls of election for such officers shall open and close at the same time that the polls are opened and closed for the election of other officers who are voted for at the same time and place, or if no other officers are then being voted for they shall open and close at the same time at which they would be opened and closed, in the locality in which they are located, at any general election. Within a like time as prescribed for the county canvass after a general election, a board of county canvassers shall be convened, who shall canvass the statements received from the several polls in the county and make a statement thereof, and return the same as at a general election, and they shall determine who are elected to such offices within the county, except for circuit judge, and the county clerk shall give to each such successful candidate a certificate of election. The board of state canvassers shall be convened on or before the fifteenth day of May, to canvass the statements of votes received for justice, circuit judge, or state superintendent in like manner, and shall have the powers and perform the duties in relation thereto, so far as applicable, as prescribed in respect to the canvass for state officers. And all the provisions of law respecting the qualifications of voters, the conduct of elections and the canvass and return of votes at general elections, except as otherwise provided, shall be applicable to elections held under this chapter.