

TITLE II.

Elections.

CHAPTER 5

GENERAL PROVISIONS, SCOPE, DEFINITIONS

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5.01 Scope. (1) CONSTRUCTION OF TITLE II. Title II shall give effect to the will of the electors, if that can be ascertained from the proceedings, notwithstanding informality or failure to fully comply with some of its provisions.

(2) GENERAL PROVISIONS OF ELECTION LAWS APPLY. The general provisions of Title II apply to all elections.

(3) PLURALITY SHALL ELECT. In every election to choose any officer, each elector shall have one vote for each office unless clearly indicated otherwise. The person receiving the greatest number of legal votes for the office shall be declared elected, and the canvassers shall so determine and certify.

(4) TIE VOTE. (a) If 2 or more candidates for the same office receive the greatest, but equal number of votes, the winner shall be chosen by lot in the presence of the election officials then present.

(b) If, in a primary, 2 or more candidates receive an equal but not the greatest number of votes so that only one of those candidates with equal votes may advance to the final election, the choice shall similarly be made by drawing lots.

(c) The candidates may, if all those tied for the same office are present, draw for themselves. Upon refusal or absence of any of the candidates,

the election officials shall appoint a competent person to draw, and upon the results declare and certify the winner.

(5) ELECTION OF GOVERNOR AND LIEUTENANT GOVERNOR. (a) In every general election to choose the governor and the lieutenant governor, each elector shall have a single vote applicable to both offices. The persons receiving the greatest number of legal votes cast jointly for them for governor and lieutenant governor shall be declared elected, and the canvassers shall so determine and certify.

(b) In case 2 or more slates have an equal and the highest number of votes for governor and lieutenant governor, the 2 houses of the legislature shall at the next annual session choose by joint ballot one of the slates so having an equal and the highest number of votes for governor and lieutenant governor.

Where there is substantial compliance with, but a deviation from a provision in an election statute, thereby giving rise to the question of whether the requirement is directory or mandatory, the supreme court in a long line of cases has consistently construed the provision as directory in keeping with (1), which requires that the election laws shall be so construed as to give effect to the will of the electors *Lanser v. Koconis*, 62 W (2d) 86, 214 NW (2d) 425.

5.02 Definitions. In Title II, unless the context requires otherwise:

(1) (a) "Election" means all primaries and elections.

(b) "Primary" means a primary election.

(2) "Spring primary" means the nonpartisan primary held the 3rd Tuesday in February to nominate candidates to be voted for at the spring election.

(3) "Spring election" means the election held on the first Tuesday in April to elect judicial, educational and municipal officers, nonpartisan county officers and to express preferences for the person to be the presidential candidate for each party.

(4) "September primary" means the primary held the 2nd Tuesday in September to nominate candidates to be voted for at the general election.

(5) "General election" means the election held in even-numbered years on the Tuesday after the first Monday in November to elect United States senators, representatives in congress, electors of president and vice president, state senators, members of the assembly, state officers and county officers other than supervisors and county executives required to be elected in that year.

(6) (a) "Special primary" means the primary held 4 weeks before 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.

(b) "Special election" means any election, other than those described in subs. (2) to (5) to fill vacancies or for other designated purposes.

(7) (a) "Justice" means a justice of the supreme court.

(b) "Judge" means a judge of a circuit or county court.

(c) "State superintendent" means the state superintendent of public instruction.

(d) "Educational officer" means the state superintendent and school board members.

(8) "Ward" means a town, village or city subdivision created for the convenience of the electors therein and to facilitate the division of such municipalities into election districts of substantially equal population numbers along common boundaries observing the community of interest of existing neighborhoods and other settlements. All electors within a ward vote at the same polling place.

(9) (a) "Municipality" means city, town or village.

(b) "Governing body" means the city council, town board or village board, and also includes the municipal board of election commissioners insofar as the powers are given to them.

(c) "Municipal clerk" means the city clerk, town clerk, village clerk and the executive secretary of the city election commission and their authorized representatives. Where applicable, "municipal clerk" also includes the clerk of a school district.

(10) "County clerk" includes the executive secretary of the county board of election commissioners and their authorized representatives.

(11) "Polling place" means the actual location wherein the elector receives and marks his ballot. The electors of more than one ward may vote at the same polling place.

(12) "Political party" or "party" means a state committee registered under s. 11.05 organized exclusively for political purposes, recognized by the national organization of the party, if any, under whose name candidates appear on a ballot at any election, and all county, congressional, legislative, local and other affiliated committees authorized to operate under the same name, except that the term does not include committees organized under s. 8.17 and assigned responsibilities under s. 7.30, with respect to such activities only.

(13) "Board" means the elections board.

History: 1971 c. 211; 1971 c. 304 ss. 2, 29 (2); 1973 c. 280, 334; 1975 c. 93.

5.05 Elections board; powers and duties.

(1) The elections board shall have the responsibility for the administration of this title and other laws relating to elections and election campaigns. Pursuant to such responsibility, the board may:

(a) Employ under the classified service an executive secretary and legal counsel.

(b) In the discharge of its duties and upon notice to the party or parties being investigated, subpoena and bring before it any person in the state and require the production of any papers, books or other records relevant to an investigation. Upon showing of probable cause to believe there is a violation of ch. 11, a circuit court may by order permit the inspection and copying of the accounts and the depositor's and loan records at any state or national bank, trust company, credit union, savings bank, or state or federal savings and loan association doing business in the state to obtain evidence of any such violation. In the discharge of its duties, the board may cause the deposition of witnesses to be taken in the manner prescribed for taking depositions in civil actions in circuit court.

(c) Bring civil actions to require forfeitures for any violation of ch. 11 under s. 11.60, and sue for injunctive relief under s. 11.66 to compel compliance with ch. 11. Actions brought by the board may concern only violations with respect

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to reports or statements required by law to be filed with it, and other violations arising under elections for state office or statewide referenda. Pursuant to such authority, the board is authorized to compromise and settle any civil action brought by it under ch. 11 which, in the opinion of the board, constitutes a minor violation, a violation caused by excusable neglect, or which for other good cause shown, should not in the public interest be prosecuted under such chapter. Notwithstanding s. 288.06, an action may be settled for such sum as may be agreed between the parties. Actions by the board shall be brought in the circuit court for the county wherein the violation is alleged to occur. The board shall file a report of all civil actions brought by it under this paragraph and the disposition of those actions to the appropriate standing committees of each house of the legislature, as determined by the presiding officer, on March 1 and September 1 of each year.

(2) The board shall cause to have made an examination of all reports and statements which are required to be filed with it under ch. 11. The board shall make official note in the file of a candidate, committee, group or individual under ch. 11 of any error or other discrepancy and shall inform the person submitting the report or statement.

(3) The board shall upon complaint by any person or on its own motion investigate violations of the elections laws and shall notify the district attorney of the proper county or the attorney general where appropriate of any facts within its knowledge or evidence in its possession which may be grounds for civil action or criminal prosecution. No investigation is required of any petition or complaint which is not verified. The board may summarily dismiss any complaint which it finds to be without merit.

(4) All employes of the board shall be nonpartisan.

(5) In lieu of the report otherwise required under s. 15.04 (4), the board shall compile and submit to the governor and the legislature each October an annual report for the fiscal year ending on June 30 which shall include the information under s. 11.21 (7).

(6) Any interested person may make written request to the board to issue a formal opinion with respect to the person's authority or responsibilities under this title. The board shall within 15 days advise the person requesting an opinion whether or not a formal opinion will be issued. If a formal opinion will be issued, it shall be issued within 30 days of the request. No person acting in good faith upon a formal opinion issued to the person by the board shall be subject to civil or criminal prosecution for so acting, if

the material facts are as stated in the opinion request. Nothing in this subsection requires the issuance of an opinion by the board, nor precludes it from issuing an opinion or ruling in any other manner.

(7) The board shall conduct regular training sessions at various locations in the state for county and municipal clerks and election officials. Such sessions shall be designed to explain the election laws and the forms and rules of the board, to promote uniform procedures and to assure that officials are made aware of the integrity and importance of the vote of each citizen.

(8) The board shall publish a concise bulletin written so as to be easily understood by the general public, for use by electors, explaining the law with respect to voter registration. Bulletins shall be distributed by the board to local clerks and made available to the public free of charge.

History: 1973 c. 334; 1975 c. 85, 93, 199

5.08 Elections advisory council. (1) The elections advisory council shall promote communication and cooperation between local election officials and the board and shall attempt to assure uniform, equitable and efficient procedures in the administration of the law, consistent with legislative purpose.

(2) The council shall recommend material to be covered in training sessions provided by the board under s. 5.05 (7) and make suggestions for improvements in such sessions.

(3) Before directing the printing, publication or major revision of any form, manual, bulletin or other publication, the board shall refer the matter to the council for comments and suggestions.

(4) The council shall recommend technical revisions and procedural improvements in the law and its administration for the consideration of the board. Any recommendations which require legislative action shall, upon approval by the board, be forwarded to the legislature for consideration.

History: 1975 c. 85

5.10 Presidential electors. Although the names of the electors do not appear on the ballot and no reference is made to them, a vote for the president and vice president named on the ballot is a vote for the electors of the candidates by whose name the mark appears. Under Title II, all references to the presidential election, the marking of the ballot and the canvassing of votes for president, or for president and vice president, mean a vote for them through their pledged presidential electors.

History: 1973 c. 334 s. 2

5.15 Division of municipalities into wards.

Within 90 days after the population count by rural enumeration district or urban city block, established in the decennial federal census of population, becomes available in printed form from the federal government or is published for distribution by an agency of this state, the governing body of every municipality with a population of 1,000 or more shall adjust its ward lines according to the schedule shown in sub. (2). Each ward shall consist of whole census enumeration districts or, where block statistics are available for urban blocks, of whole urban blocks. To suit the convenience of the voters residing therein, each ward shall be kept as compact as practicable.

(1) The division of a municipality into wards shall be made by the common council for each city, by the village board for each village, and by the town board for each town. Passage of a division order or resolution requires the affirmative vote of a majority of the members of the respective governing body.

(2) If the population of a rural enumeration district or urban block exceeds the maximum population otherwise specified in this subsection, such enumeration district or block shall be constituted a ward by itself.

(a) In any city in which the population exceeds 150,000, each ward shall contain not less than 1,000 nor more than 4,000 inhabitants.

(b) In any city in which the population is at least 39,000 but less than 150,000, each ward shall contain not less than 800 nor more than 3,200 inhabitants.

(c) In any city, village or town in which the population is at least 10,000 but less than 39,000, each ward shall contain not less than 600 nor more than 2,100 inhabitants.

(d) In any city, village or town in which the population is at least 1,000 but less than 10,000, each ward shall contain not less than 300 nor more than 1,000 inhabitants.

(e) No city, village or town in which the population is less than 1,000 is required to be divided into wards under this section.

(3) If any municipality fails to comply with this section, any voter residing in such municipality may submit to the circuit court for such municipality within 2 weeks from the expiration of the 90-day period under this section a proposed plan for the division of the municipality into wards in compliance with this section. In any circuit court having more than one branch, the petition shall be filed in branch 1. If the circuit court finds that the existing division of the municipality into wards fails to comply with this section, it shall review the plan submitted by the petitioner and may promulgate it, or any other plan in compliance with this

section, as a temporary ward plan for the affected municipality to remain in effect until superseded by a ward plan enacted by the respective governing board in compliance with this section.

(4) (a) The division order or resolution shall list the wards by number and designate the polling place in each ward.

(b) The resolution or order shall be filed with the proper municipal clerk, who shall transmit a copy to the county clerk within 5 days.

(5) When a town is divided into wards, the annual town meeting and special town elections shall be held at the first ward.

(6) (a) Following any municipality-wide special federal census of population, the governing body of the municipality in which the special census was held may change the ward boundaries in compliance with sub. (2). The governing body shall file a copy of the order or resolution under sub. (4).

(b) At least 60 days before an election the proper officers of any municipality may unite 2 or more wards to facilitate using a voting machine. Notice shall be given in the same manner as for other changes in ward boundaries.

(7) When part of a town is annexed to a city or village, the town board, without regard to the time provisions of sub. (3), may redistrict the remaining wards in that town in compliance with sub. (2). A copy of the order or resolution shall be filed under sub. (4).

History: 1971 c. 304 ss. 3 to 5, 29 (2).

5.18 Compulsory division into wards. (1)

When division into wards becomes imperative under s. 5.15 and the governing body obliged to act fails or refuses to do so, any elector of the municipality may apply to the proper circuit court or its presiding judge for an order compelling division. After reasonable notice to the governing body proceeded against, the court or judge may order division when it appears necessary.

(2) Failure to comply with the order in the specified time, unless stayed or superseded, is criminal contempt.

(3) Until divided, all elections are held in the established wards.

History: 1971 c. 304 s. 29 (2).

5.25 Polling places. All elections under Title II shall be held at the polling places provided in this section. So far as practicable, the places chosen shall be public buildings.

(1) In 1st class cities, polling shall be at the places established by the board of election commissioners at any public schools and other public buildings which shall be made available without charge and at any fully or partially tax

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exempt nonsectarian private buildings offered without charge. In all other cities and villages, polling shall be at the places ordered by the governing body, at least 30 days before the election.

(2) In towns, polling shall be at the place where the last town meeting was held unless changed at that meeting or ordered by the supervisors under s. 60.07. The place for the annual town meeting held on the first Tuesday in April shall be similarly regulated.

(3) Wherever the inspectors do not receive ballots at the door to a polling place under s. 6.82 (1), the polling place shall have at least one entrance which is accessible to persons in wheelchairs.

History: 1975 c. 275

5.35 Polling place requirements. (1) NATIONAL FLAG. On election days, every polling place shall properly display the national flag during all hours the polls are open.

(2) VOTING BOOTHS. There shall be one voting booth for every 100 electors who voted at the last general election. The booths shall be constructed at least 24 inches on a side, have a shelf to write on and be sufficiently enclosed to assure privacy for the elector and anyone lawfully assisting the elector while marking the ballot. The booths shall be placed apart from other activities in the polling place. Only the proper observers, election officials, persons assisting voters under s. 6.82 (2) and electors receiving, preparing or depositing their ballot shall be in the voting area.

(3) BALLOT BOXES. Where the voting procedure makes them necessary, there shall be a separate ballot box for each form of ballot at each polling place. There must be a suitable lock and key for each, and an opening no larger than is sufficient to receive a single folded ballot.

History: 1975 c. 85, 199

5.37 Voting machine requirements. (1) Voting machines shall give every elector a reasonable opportunity to vote for any person for any office and on any proposition he is entitled to vote on, assure privacy to the elector so no one will know how he is voting or has voted, preclude the electors from voting for persons or propositions upon which they are not entitled to vote and from voting more than once for the same office or on the same proposition. Voting machines shall be constructed to lock so they cannot be manipulated, tampered with, or show the number of votes registered for any candidate or proposition while voting is in progress. The machines shall provide a method for electors to vote a straight party ticket, shall permit voting a split ticket and shall record each vote cast.

(2) When 2 or more wards or aldermanic districts are joined to use a voting machine, under s. 5.15 (6) (b), the machine shall be constructed to allow the electors to vote for all nominated candidates and issues for their aldermanic district or ward, but for no other.

(3) For presidential electors one device may be provided to vote for all of one party's electoral candidates at the same time. The device shall be opposite or adjacent to the ballot containing the names of the party's candidates for president and vice president.

(4) Voting machines may be used at primary elections when they comply with subs. (1) and (2) and the following provisions: All candidate's names entitled to appear on the ballots at the primary shall appear on the machine; the elector cannot vote for candidates of more than one party, whenever the restriction applies; the elector may secretly select the party for which he wishes to vote; the elector may vote for as many candidates for each office as he is lawfully entitled to vote for, but no more.

(5) Polling places may have more than one voting machine. The voting machines shall be apart from other activities in the polling place with their exteriors in full view of the election officials. Only the proper observers, election officials and one elector at a time for each machine shall be in the voting area.

History: 1971 c. 304 s. 29 (1), (2)

5.40 Voting machines shall be used. (1) The common council of every city and the trustees of every village with a population of 10,000 or more shall require the use of voting machines by the September 1966 primary. Any other municipal governing body may adopt and purchase voting machines for use in the various wards.

(2) Only voting machines complying with s. 5.37 shall be used in any election in this state.

(3) Notwithstanding sub. (1), the use of voting machines shall be optional with the municipality for any territory of low population annexed to a city or village across the boundary of a legislative district, but shall again be mandatory as soon as the best evidence suggests that the population residing in the territory so annexed exceeds the minimum population for a ward as specified under s. 5.15 (2).

History: 1971 c. 304 s. 29 (2); 1973 c. 112

BALLOT FORM

5.51 General provisions. (1) All ballots shall be of sufficient width and length to provide space for all matter required to be printed on them.

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(2) The paper used for ballots shall be 35 pounds per ream for sheets 24 inches by 36 inches. If a different size sheet is used, the weight per ream shall be proportioned accordingly, but shall meet this standard.

(3) All ballot columns shall be separated by lines at least one-eighth inch in width.

(4) No pasters shall be placed on a ballot by election officials except under s. 7.35 (3). Any other pasters applied by them shall not be counted.

(5) Sample ballots shall be printed on a different color paper than the official ballots, and need not have the indorsement and certificate.

(6) All candidates' names for the same office shall be printed on the ballot in the same size and style of type.

Revisor's Note, 1975: The elections board has the duty to prepare and revise the official ballot forms under s. 7.08 (1) (a). At the time of preparation of this volume, the ballots were in the process of being revised. Please contact the elections board for the latest forms.

5.53 Voting machine ballots. (1) The ballots shall be placed on or in the machine, under s. 5.64 and may be arranged in either vertical or horizontal rows.

(2) Where the provisions require separate ballots, the names or questions shall be placed in separate rows upon the machines so they are voted on separately.

5.55 Backs of ballots. On the back and outside of every paper ballot shall be printed "Official ... Ballot" or "Official ... Ballot for ..." followed by the designation of the polling place for which the ballot has been prepared, the date of the election, and the official indorsement and blank certificates in substantially the following form:

OFFICIAL ... BALLOT
FOR
... Ward, ... Aldermanic district,
City (Village or town) of ...,
... 19...
Ballot Clerks

Absent Elector's Ballot issued by
... Municipal Clerk

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

... Of Election
... Of Election

I certify that the within ballot was marked by me at the request of an absentee elector incapable under the law of marking the ballot and as directed by the elector.

... (Signature of officer authorized to administer oaths)
... (Title)

History: 1971 c. 304 s. 29 (1), (2); 1975 c. 421.

5.58 Spring primary ballots. At spring primary elections the following ballots, when necessary, shall be provided for each ward. Only nonpartisan candidates nominated for office by nomination papers shall have their names placed on the official spring primary ballot under the proper office designation, but the ballots shall allow room for write-in candidates.

(1) MUNICIPAL; COUNTY SUPERVISOR BALLOTS. There shall be separate ballots for municipal and county primaries.

(a) For all cities the official spring primary ballot shall be arranged by the municipal clerk, using the same method as that used by the board under s. 5.60 (1) (b).

(c) Towns and villages holding a primary under s. 8.05 shall arrange the ballot in substantially the same form as provided in s. 5.60 (5) and (6) and annexed ballot 8 as appropriate.

(2) JUDICIARY; STATE SUPERINTENDENT OF PUBLIC INSTRUCTION; COUNTY EXECUTIVE; AND COUNTY SUPERVISORS. (a) There shall be one separate ballot for state superintendent, judicial officers, county executive under ss. 59.031 and 59.032 and county supervisors. In counties over 500,000 population the ballot also shall include those offices under s. 8.11 (2). The arrangement of names for state superintendent, justices, circuit court judge, and for county judge where the district comprises more than one county, shall be determined by the board under s. 5.60. Arrangement of judicial candidates, county executive and county supervisors within a county shall be arranged by the county clerk, or by the executive secretary of the county election commission under s. 5.60. The ballot shall be in substantially the same form as annexed ballot "E" but titled, "Official Ballot for Judicial, State Superintendent of Public Instruction, County Executive and County Supervisor Primary", except that in counties having a population of 500,000 or more, it shall be titled "Official Ballot for County Officers, Judicial, State Superintendent of Public Instruction and School Board Primary".

(b) The candidates for the offices shall be designated on the ballot as follows: "For Justice

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of the Supreme Court", "For State Superintendent", "For Circuit Judge Br.", "For County Judge Br.", and others as the situation requires.

(3) NAMES ON SPRING BALLOT. Only 2 candidates for state superintendent, for any judicial office, and in counties over 500,000 population only 2 candidates for a member of the county board of supervisors in each district, and twice as many candidates as are to be elected members of the board of school directors, the board of education or other elective officers receiving the highest number of votes at the primary shall be nominees for the office at the spring election and only their names shall appear on the official spring ballot.

History: 1971 c. 304 ss. 6 to 8, 29 (2); 1973 c. 134, 243; 1973 c. 334 s. 57 (2); 1973 c. 340; 1975 c. 93

5.60 Spring election ballots. At spring elections the following ballots, when necessary, shall be provided for each ward.

(1) JUDICIARY; STATE SUPERINTENDENT OF PUBLIC INSTRUCTION; COUNTY EXECUTIVE AND COUNTY SUPERVISORS. There shall be one separate ballot for the county executive under ss. 59.031 and 59.032, county supervisors, judicial officers and the state superintendent of public instruction. Arrangement of the county executive and county supervisors within a county shall be arranged by the county clerk, or by the executive secretary of the county election commission under this section.

(a) The names of candidates for the same office shall be placed in the same column. No party designation shall appear on the official ballot.

(b) The board shall certify the candidates' names and designate the official ballot arrangement for candidates for supreme court justice, circuit court judge, county judge when the district comprises more than one county and state superintendent. The arrangement of names of all candidates on the ballot whose nomination papers are filed with the board shall be determined by the board by the drawing of lots on the day following the deadline for filing nomination papers.

(c) The county clerk or board of election commissioners shall determine the official ballot order for judicial office candidates not determined by the board, using the same method of determining arrangement of names on the ballot as that used by the board under par. (b).

(d) When 2 or more judges of the same court are to be elected, the official ballot shall contain the names of all candidates, shall state the number of judges to be elected and the number of candidates for whom each elector may vote.

Each candidacy shall show the branch being filled.

(3) CITY. There shall be a separate ballot giving the names of all candidates for city and school offices, except under sub. (4), printed in substantially the same form as annexed ballot "B". City election ballots may vary in form to conform to the law under which an election is held.

(a) No party designation shall appear on the official ballot.

(b) The city clerk or executive secretary of the city election commission shall arrange the official city ballot under s. 5.62 (4).

(4) CITY SCHOOL. There shall be a separate ballot for city school officers when so required. Officers elected under s. 120.44 (2) (a) may be placed on the same ballot as other city officers.

(5) VILLAGE. There shall be a separate ballot giving the names of all candidates for village offices.

(a) The offices to be filled shall be arranged on the official ballot in the order they are named in the statutes creating them. Where there is more than one ward, candidates shall be arranged by using the same method as that used by the board under sub. (1) (b). Sufficient space shall be left under each office for write-in candidates.

(b) Only persons nominated under s. 8.05 shall be placed on the official ballots. If no nominations are made, the spaces for this office shall be left blank.

(6) TOWN. There shall be a separate ballot giving the names of all candidates for town offices, except the superintendent of highways, in substantially the same form as annexed Ballot 6A or 6B. Ballot 6A is for the election of one supervisor and 6B is for the election of the 2 supervisors jointly. On Ballot 6B all supervisor candidates shall be listed together and the voting instructions shall state "Vote for Two". Towns now electing their supervisors jointly shall continue to do so until the method outlined for Ballot 6A is adopted at the annual town meeting. The names of candidates whose nomination papers are filed at the town level shall be arranged by using the same method as that used by the board under sub. (1) (b).

(7) REFERENDUM BALLOTS. There shall be a separate ballot setting forth all propositions requiring a vote in the form and manner provided by s. 5.64.

(8) BALLOTS FOR PRESIDENTIAL VOTE. There shall be a separate ballot for each party qualified under s. 5.62, listing the names of all potential candidates of that party determined under s. 8.12 and affording, in addition, an opportunity to the voter to nominate another potential candidate by write-in vote or to vote against the

with the board a petition so requesting, signed either by electors equal to one-sixth of the total vote cast for governor in each of at least 10 counties at the last election or one-sixth of the electors in any senate, assembly or congressional district. When their candidates fulfill the nomination paper requirements, they shall appear on a separate ballot within the district or state.

(3) The board shall designate the official primary ballot arrangement for state offices by using the same procedure as for supreme court justice candidates under s. 5.60 (1) (b); congressional and state senate candidates by using the same procedure as for circuit court judges under s. 5.60 (1) (b) by numbering the assembly districts and parts of assembly districts within each congressional or senate district; and assembly candidates, by similarly numbering and arranging by population the counties within an assembly district. The candidates shall then be listed under s. 5.60 (1) (b).

(4) The county clerk or county board of election commissioners shall designate the official primary ballot arrangement for all candidates filing nomination papers in that office.

(a) Within a county the county clerk shall arrange the names of all candidates filing nomination papers with his office using the same method as that used by the board under s. 5.60 (1) (b).

(b) The county board of election commissioners in counties having a population of 500,000 or more shall prepare the official primary ballot. The commissioners shall arrange the names of all candidates for each office whose nomination papers are filed at the county level, using the same method as that used by the board under s. 5.60 (1) (b).

History: 1971 c. 304 ss. 12, 29 (2); 1971 c. 336; 1973 c. 334 s. 57; 1975 c. 93

Filing of a proper petition by the requisite number of electors in a senate, assembly or congressional district will qualify the political organization referred to in said petition as a party entitled to a separate ballot within the specific district only for all the state, congressional, legislative and county offices for which an elector of such district may vote. The petition may be circulated commencing after any November general election and ending on the June 1 immediately prior to the next succeeding September primary. A petition filed February, 1972, signed by the electors of an assembly district, would not qualify filing political organization for a separate ballot at the presidential preference primary to be held at the April, 1972, spring election. 61 Atty. Gen. 41

5.64 General election ballots. At general elections the following ballots, when necessary, shall be provided for each ward.

(1) **OFFICIAL BALLOT.** There shall be a separate ballot giving the names of all candidates for state, congressional, legislative and county offices in substantially the same form as annexed Ballot "A"

(a) The ballot shall be labeled "Official Ballot" in lettering at least three-eighths of an inch high. Directly underneath in plain, legible type, shall be the following voting instructions: "If you desire to vote a straight party ticket for all state, congressional, legislative and county offices, place a cross (X) or other mark in the circle under the party designation at the top of the party column. If you desire to vote for individual candidates, place a cross (X) or other mark in the square to the right of each candidate you wish to vote for or write the name of your preference in the space provided".

(b) Below the voting instructions the ballot shall be divided into vertical columns. The regular party tickets nominated by conventions, constituted and authorized committees, or primaries, shall be printed each in a separate column under the party designation. The columns shall be arranged from left to right according to rank, with the party receiving the most votes in the last gubernatorial election placed first. To the right of the party columns shall be the necessary number of columns for independents.

(c) The party designation shall be printed at the top of each column and under it shall appear a circle at least three-eighths of an inch in diameter for electors wishing to vote a straight party ticket. Within each column only candidates nominated by the party designated at the head of the column shall appear.

(d) The offices shall be consecutively arranged vertically beginning at the top with state offices, then congressional offices, legislative offices and ending with county offices.

(e) Within each column, each space shall state the office to be voted for directly above the candidate's first and last name. The candidate's name shall be placed in the party column by which nominated or if independent, in a column designated independent and all candidates for the same office shall appear on or between the same horizontal lines on the ballot. To the right of each candidate's name, in each column, shall be a square for the elector to place his cross (X) or other mark.

(f) In the case of balloting for the office of governor and lieutenant governor, the names of the candidates shall be placed in the party column by which nominated or if independent, in a column designated independent. To the right of the names of the set of candidates for governor and lieutenant governor, in each column shall be one square for the elector to cast his ballot jointly for both offices.

(2) **REFERENDUM BALLOT.** There shall be a separate ballot when any proposed constitutional amendment or any other measure or question is submitted to a vote of the people. The ballot shall

give a concise statement of each question in accordance with the act or resolution directing submission in substantially the same form as annexed Ballot "D". This ballot form shall be used at all elections when questions are submitted to a vote of the people.

(a) The ballot shall be titled "Official Referendum Ballot" in lettering at least three-eighths of an inch high. Directly underneath in plain, legible type shall be the following voting instructions: "If you desire to vote on any question, place a cross (X) or other mark in the square beneath the question after 'yes' if in favor of the question, or place a cross (X) or other mark in the square after 'no' if opposed to the question".

(b) Under voting instructions shall be the concise statement of the question submitted. Directly under each question shall appear the words "yes" and "no" with a square to the right of each word.

(c) In addition to the official referendum ballot described in pars. (a) and (b), there shall be the following official referendum ballots, substantially in the forms annexed.

1. Form D1 under ss. 67.05, 67.13 and 67.14.
2. Form D2 under s. 66.054 (5) (c).
3. Form D3 under s. 66.054 (5) (c).
4. Form D4 under s. 176.38 (3).
5. Form D5 under s. 8.05 (3) (f).

(3) **PRESIDENTIAL BALLOTS.** There shall be a separate ballot when the president and vice president of the United States are to be elected containing the names of all candidates for the offices in substantially the same form as annexed Ballot "C".

(a) The ballot shall be titled "Official Presidential Ballot" in lettering at least three-eighths of an inch high. Directly underneath in plain, legible type shall be the following voting instructions: "Place a cross (X) or other mark in the square opposite the name of the candidate for whose electors you desire to vote or write in the name of a candidate in the space provided. Vote in ONE square only". The electors of the candidate need not be listed on the ballot but a vote for the candidates for president and vice president is a vote for them through their named presidential electors.

(b) The party candidates shall be arranged consecutively from top to bottom based on the number of votes received by their party's candidate for governor at the last election beginning with the party that received the most votes. The independent president-vice president candidates shall be listed alphabetically according to the presidential candidates, following under the party candidates. Following under the independent candidates, a space shall be left for

writing in the names of a candidate for president and vice president.

History: 1971 c. 304 s. 29 (2).

Revisor's Note, 1975: The elections board has the duty to prepare and revise the official ballot forms under s. 7.08 (1) (a). At the time of preparation of this volume, the ballots were in the process of being revised. Please contact the elections board for the latest forms.

5.66 Number of ballots. (1) For local elections, where necessary, municipal clerks shall have sufficient ballots printed to assure all electors or voting machines a ballot. For all other elections the municipal clerks shall certify to their county clerk, on the first day of the month preceding the month in which the primary is held, the approximate number of electors in the district. The county clerk shall total these estimates and order a sufficient supply to assure ballots for every elector.

(2) A sufficient number of sample ballots shall be printed. Voting machine sample ballots shall be a reduced size diagram of the face of the voting machine with all candidates, issues and voting instructions as they will appear on the official ballot. The county clerk shall distribute the samples approximately as follows: 45% shall be kept in the office and distributed to electors requesting them; 45% shall be sent to the municipalities for distribution to the electors; 10% shall be sent to the polling places in proportion to the number certified in sub. (1) and made available to electors at the polls on election day.

5.68 Cost of elections. (1) All costs for ballots, supplies, machines and any other material necessary in preparing or conducting any election shall be paid for by the governing body whose officer or commission is responsible under ch. 7 to provide them.

(2) When voting machines are used, the ballots for all county offices and offices higher than county level shall be printed and paid for by the county wherein used. When the voting machine ballot includes a school district ballot, that ballot shall be paid for by the municipality in the school district with the highest equalized valuation. When voting machine ballots include 2 or more levels of government, the cost of printing shall be prorated between the units of government sharing the ballot. Referenda ballots shall be similarly printed and paid for.

5.70 Printers' fees. (1) The county clerk shall award the printing of ballots to the lowest responsible bidder upon the accepted bidder's filing with the clerk a bond in the penal sum of at least twice the amount of the accepted bid. The bond shall be signed by one or more sureties and

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conditioned upon the bidder's faithful performance of all conditions imposed upon him by the clerk. The clerk shall keep all printing proposals in his office. The county clerk may reject all bids. If bids are not received for voting machine ballots the county clerk may enter into contracts for the printing of the same.

(2) The city board of election commissioners in counties having a population of 500,000 or more may similarly provide for the printing of registry lists.

5.75 Correcting ballot errors. Whenever an affidavit is filed by any elector alleging error or omission in the printing of the ballots, the proper circuit court or its presiding judge, by order, may summarily require a county or municipal clerk to correct the error, or show cause why it should not be corrected and, by order, after the hearing have the correction made.