

Elections in Wisconsin: June 2005 through June 2007 spring primary, September primary, spring, general, and special election statistics

1929 Assembly



ELECTIONS IN WISCONSIN

I. The Wisconsin Electorate

History of the Suffrage. When Wisconsin became a state in 1848, suffrage (the right to vote) was restricted to white or Indian males who were citizens of the United States or white male immigrants in the process of being naturalized. To be eligible to vote, these men had to be at least 21 years of age and Wisconsin residents for at least one year preceding the election. Wisconsin extended suffrage to male “colored persons” in a constitutional referendum held in November 1849. In 1908, the Wisconsin Constitution was amended to require that voters had to be citizens of the United States. Women’s suffrage came with the 19th Amendment to the U.S. Constitution in 1920. (Wisconsin was one of the first states in the nation to ratify this amendment, on June 10, 1919.) The most recent major suffrage change was to lower the voting age from 21 to 18 years of age. This was accomplished by the 26th Amendment to the U.S. Constitution, which was ratified by the states in July 1971.

Size of the Electorate. Based on information compiled by Wisconsin county clerks, it is estimated that in November 2004 there were about 4,119,000 potential voters 18 years of age and older. An estimated 73% of eligible voters cast 3,003,034 ballots in the 2004 presidential election (second only to Minnesota in voter turnout).

Age and Residence Requirements. The right to vote in Wisconsin state and local elections is granted to U.S. citizens who are age 18 or older and have resided in the election district or ward for 10 days prior to the election. Residence for purposes of voting is statutorily defined as “the place where the person’s habitation is fixed, without any present intent to move, and to which, when absent, the person intends to return.”

Voter Registration. Beginning with the 2006 spring primary, with limited exceptions, voter registration is required for all voters prior to voting. Voters registering in Wisconsin do not have to record a political party affiliation.

State law permits registration on election day at the proper polling place, and it also provides for advance registration by mail or in person with the municipal clerk, the county clerk, or the city board of election commissioners in the case of residents of the City of Milwaukee. Municipal officials may designate other locations, such as fire stations or libraries for registration, or conduct door-to-door registration drives. In addition, high school students and staff may register at public high schools or, in some cases, private high schools designated by the municipal clerk.

II. A Capsule View of Elections

The Wisconsin Statutes, Chapters 5 through 12, provide for four regularly scheduled elections: the spring primary, the spring election, the September primary, and the general election in November.

The spring primary on the third Tuesday in February of each year is followed by the spring election on the first Tuesday in April. The September primary is held on the second Tuesday in September in even-numbered years. It is followed by the general election on the first Tuesday after the first Monday in November.

Nonpartisan officials are chosen in the spring. These include the state superintendent of public instruction, judicial officers, county board members, county executives, and municipal and school district officers.

Partisan officials, chosen in the fall, include all other county administrative officials, members of the legislature, state constitutional officers (except for the state superintendent), and members of the U.S. Congress. Not all of these offices are filled at each election because their terms vary from two to six years.

In presidential election years, the presidential preference primary vote is held at the spring primary in February, and the vote for U.S. President occurs at the general election in November. In some elections, referendum questions allow Wisconsin voters to advise the state legislature or local government on matters of public policy or to ratify a proposed law, ordinance, or amendment to the Wisconsin Constitution.

Primary Elections

Until 1905, Wisconsin candidates for public office were selected through caucuses or conventions composed of delegates, eligible voters, or members of a political party. Since then, candidates have been chosen in primary elections, but the nominating caucus remains an optional method of selecting candidates for town and village offices. Aspirants must file a declaration of candidacy to run in a primary election, and they usually are required to file nomination papers signed by a specified number of persons eligible to vote in the jurisdiction or district in which they seek office.

Nonpartisan February Spring Primary. A nonpartisan primary election must be held in February if three or more candidates run for one of the offices on the April ballot and no caucus is held to nominate candidates. The two persons receiving the highest number of votes for the specific office in the primary are nominated to run as finalists in the nonpartisan election.

Partisan September Primary. The purpose of the September partisan primary is to select a party's nominees for the general election in November. In a partisan primary, the voter may vote on the ballot of only one political party (unlike the general election where it is possible to select any party's candidate for a particular office). Some voters express frustration that their choices are limited because they are not permitted to vote for candidates of more than one party. It is important to remember that the primary is a nominating device for the political parties; its purpose is to nominate the candidates that one political party will support against the nominees of the other parties in the general election.

Most states have a closed primary system that requires voters to publicly declare their party affiliation before they can receive the primary ballot of that party. Wisconsin's "open primary" law does not require voters to make a public declaration of their party preference. Instead, the voter is given the primary ballots of all parties but, once inside the voting booth, may cast only one party's ballot.

Candidates must appear on the primary ballot, even if unopposed, in order to be nominated by their respective parties. The candidate receiving the largest number of party votes for an office becomes the party's nominee in the November election. (In the case of a special election, which is held at a time other than the general election to fill a vacated partisan office, a primary is not held if there is no more than one candidate for a party's nomination.)

Elections

Nonpartisan April Spring Election. The officials chosen in the spring nonpartisan election are the state superintendent of public instruction; judicial officers; county executive (if the county elects one); county supervisor; town, village, and city officers; and school board members. Because the terms of office vary, not all offices are filled each year. The only nonpartisan officers elected on a statewide basis are the state superintendent of public instruction and justices of the supreme court; all others are elected from the county, circuit, district, or municipality represented.

The governor is authorized to fill vacancies that occur in nonpartisan state elective offices by appointment. Gubernatorial appointments strongly influence the composition of the Wisconsin judiciary, because many of the state's justices and judges who are appointed to the bench are later elected to office by the voters.

Partisan November General Election. In November, Wisconsin voters select their federal, state, and county partisan officials on a ballot listing the winners of the September primary election plus "independent" candidates who are either unaffiliated or affiliated with minor parties that are not recognized for separate ballot status. "Write-in" votes may be cast for persons whose names do not appear on the ballot.

The general election ballot includes a broad range of offices. The constitutional offices of governor, lieutenant governor, secretary of state, state treasurer, and attorney general are filled through a statewide vote. These officers are elected for 4-year terms in the even-numbered years that alternate with the U.S. presidential election.

Candidates for congressional representative and for representative to the state assembly are included on every general election ballot, because the terms for these offices are two years. Wisconsin's 33 state senators are elected for 4-year terms, with the odd-numbered senate districts

electing their senators in the years when a gubernatorial election is held and even-numbered senate districts electing their senators in the presidential election years. U.S. senators, who serve 6-year terms, are also chosen at the appropriate general election.

The state's 72 counties elect certain partisan officers for 2-year terms at each general election. Clerks of circuit court, coroners, and sheriffs are elected at the general election in which the governor is also elected, while county clerks, district attorneys, registers of deeds, surveyors, and treasurers are elected at the general election in which the president is elected. State law requires all counties either to elect a coroner or appoint a medical examiner. The post of surveyor may be filled by election or appointment at the county's option. (Milwaukee County is required by law to appoint its medical examiner and surveyor.)

Vacancies in the offices of U.S. Senator, U.S. Congressional representative, state senator, and representative to the assembly may be filled only by special election, but vacancies in state constitutional offices and most county offices are filled through appointment by the governor. The exception is that the lieutenant governor constitutionally succeeds the governor in case of a vacancy in that office.

Presidential Preference Vote

Wisconsin conducts its presidential preference vote on the third Tuesday in February of each presidential election year, in conjunction with the nonpartisan spring primary. 1985 Wisconsin Act 304 gave political parties complete freedom to select delegates for their national conventions on any basis they choose, so the vote has no binding effect. It does, however, indicate voter preferences.

A committee, composed of officials of the recognized parties, meets on the second Tuesday in December of the year prior to the presidential preference vote in February to certify to the state Elections Board the list of names to be placed on the ballot. (If a party's candidate for governor or president received at least 1% of the vote in the previous election, or if petitions requesting recognition for a party and signed by a number of qualified electors specified by law are filed with the board, the party is considered a "recognized party".) The committee lists the names of all nationally advocated or recognized candidates of the recognized parties and such other names as it chooses. The committee includes each party's state chairperson (or designee), one national committeeman and one committeewoman (designated by the party's state chairperson), the president and the minority leader of the senate (or designees), and the speaker and minority leader of the assembly (or designees). An additional member is elected by the committee to serve as chairperson.

Any person named by the committee as a potential presidential candidate may withdraw from the ballot by filing a disclaimer with the Elections Board. Persons not named may have their names placed on the ballot by filing a nomination petition signed by a specified number of qualified electors.

Presidential Elections

Presidential Electors. On the first Tuesday in October in each presidential election year, the five partisan constitutional state officers, all hold-over senators, and the senate and assembly candidates nominated by each political party at the September primary election meet at the State Capitol to select a slate of presidential electors, who will cast Wisconsin's official ballots for the offices of U.S. President and Vice President. A party selects one elector from each of the Wisconsin congressional districts and two electors at large, and then certifies its list of electors to the Elections Board. After the November presidential election, the party that receives a plurality of the votes statewide sends its electors to the State Capitol on the first Monday after the second Wednesday in December to perform their duties as Wisconsin's electors. They compose Wisconsin's delegation to the Electoral College – the group of 538 electors nationwide who actually cast the votes for president and vice president.

Referendum and Recall

Referendum. A "referendum" is simply a question referred to the people for determination through a vote. On the state level, Wisconsin provides for four types of referenda: 1) amendments

to the state constitution, 2) measures extending the right of suffrage, 3) ratification of legislation prior to its becoming law, and 4) advisory questions.

The procedure for amending the Wisconsin Constitution requires that two consecutive legislatures must adopt an identically worded amendment proposal and a majority of the voters must ratify the change at a subsequent election.

An advisory referendum gives the legislature a means of asking the voters their opinion on legislative policy. Advisory referenda are usually submitted to the electorate at the April or November elections. Wisconsin county boards may submit advisory or ratifying referenda to county voters. Municipalities also are permitted and sometimes required to submit referendum questions relating to village and city charter ordinances and certain other subjects.

Recall. The Wisconsin Constitution and statutes provide for the removal of elected officers through a process of petition and special election, known as “recall”. Officials may be recalled after serving the first year of a term, and no reason need be given for the recall in the case of a state, congressional, legislative, state judicial, or county officer. A petition seeking recall of a city, village, town, or school district official must contain a statement of a reason for the recall. The reason must be related to the official responsibilities of the office, but the petitioners need not provide supporting evidence for the reason.

A petition for the recall of an officer must be signed by electors equal to at least 25% of the vote cast in the district or territory served by the official during the last gubernatorial election. Following the filing of a successful recall petition, an election is held to fill the office. A recall primary is required whenever two or more persons compete for a nonpartisan office or whenever more than one person competes for the nomination of a political party for a partisan office. Unless the official facing recall resigns, he or she is listed on the recall ballot along with the other candidates who have been nominated.

Prior to 1977, the recall was seldom used. In August of that year, five La Crosse school board members were recalled, and in the following month a county judge was recalled for the first time in Wisconsin history. Attempts to recall state legislators are rare, but on June 4, 1996, a state senator became the first state legislator to be recalled. Since 1996 only one other legislator has been recalled, a state senator defeated in a special recall primary on October 21, 2003.

Mechanics of the Election Process

Certifying candidates, registering voters, and recording and reporting millions of votes is a complex process governed by state law. The state Elections Board determines the format for all national and state ballots, certifies to each county clerk the list of candidates for national and state office, and performs other duties pertaining to elections. Legislation passed in 2007 creates a Government Accountability Board that will replace both the Ethics Board and the Elections Board. The newly created Elections Division within the Government Accountability Board will start taking over responsibility for the administration of election laws sometime after August 31, 2007.

County clerks prepare the ballots for federal, state, and county elections and distribute them to the municipal clerks, except when municipalities use voting machines or electronic voting systems. The law requires every city, village, and town having a population of 7,500 or more to use mechanical voting machines or an electronic voting system, unless otherwise permitted by the state Elections Board. If electronic voting machines are used, they must generate a complete, permanent record showing all votes cast by each voter, which can be verified by the voter.

Municipal clerks supervise registration and elections in their municipalities. In cities or counties with more than 500,000 population, election duties are performed by a city board of election commissioners and a county board of election commissioners. (This provision currently applies only to the City of Milwaukee and Milwaukee County.)

Registration and Voting

The first step in casting a Wisconsin ballot usually is to register to vote. The voter must provide information on name, residence, citizenship, date of birth, age, the voter’s driver’s license number or last 4 digits of the voter’s social security number, if any, length of residence in the ward or elec-

tion district, and whether the applicant has been convicted of a felony for which he or she has not been pardoned, and whether the applicant lost his or her right to vote or is currently registered to vote at any other location. Most voter registration information is open to public inspection, but victims of domestic abuse, sexual assault, or stalking can request that their registration information be kept confidential. A voter's registration is considered permanent unless the person changes his or her residence, in which case it is necessary to transfer registration to the new residence. Municipalities, however, must cancel the registration of a person who, though eligible, does not vote during a 4-year period and does not respond to a written request to apply for continued registration.

A voter who is unable or unwilling to come to the polling place on election day may vote by absentee ballot. An absentee ballot may be cast by mail or in person at the municipal clerk's office. Every request for an absentee ballot must be made in writing.

On election day, there are usually seven inspectors (election officials) for each polling place. The number may vary, but no polling place may have fewer than three. Any member of the public may be present in any polling place for the purpose of observation and the major parties often designate official polling place observers.

III. Campaign Finance Regulation

Early Reforms. Wisconsin's first attempt to regulate election practices (Chapter 358, Laws of 1897) was passed to stymie the crudest forms of corrupt practices, such as bribery, illegal voting, election fraud, and related corruption. It also required the filing of financial statements that were open to the public.

The current ban on campaign contributions by corporations dates back to 1905 (Chapter 492). Corporations are still prohibited from donating to candidates, political parties, or committees. (Labor organizations were also banned from making such contributions by Chapter 135, Laws of 1935, but the prohibition was repealed by Chapter 429, Laws of 1959.)

The "Corrupt Practices Act" of 1911 (Chapter 650) strengthened and expanded the earlier laws. Central to the act were tightening disclosure provisions. Candidates were required to report all sources of their funding, and they were barred from trading favors, monetary or otherwise, in return for financial support.

1974 Campaign Finance Reforms. The legislature passed sweeping campaign finance reform in Chapter 334, Laws of 1973, which created the current statutory "Chapter 11 – Campaign Finance". The law regulated campaign contributions and expenditures and required central filing of financial reports. It also created the state Elections Board, with representation from the three branches of government and the major political parties, to administer and enforce both election and campaign finance laws. Candidates, individuals, committees, and groups involved in campaigns for state offices and statewide referenda must file detailed campaign finance reports with the board, which supervises the auditing of the reports. The board investigates election law violations and must notify the district attorney, attorney general, or the governor of any facts or evidence that might be grounds for civil action or criminal prosecution. Wisconsin's candidates for federal office are regulated by federal campaign finance laws, but the state board does receive copies of their finance reports. (County and municipal clerks maintain financial statements for campaigns in their respective jurisdictions.)

Regulation of Contributions

Wisconsin regulates campaign finance according to function – contribution or expenditure – with separate dollar limits and reporting requirements.

Contributions are moneys donated directly either to individual candidates or to political committees, with the recipients determining how the money will be spent. The state determines the contribution limits in the case of state or local offices, but candidates running for federal office are subject to the limits set by federal campaign finance laws.

Contributions by candidates from their own personal funds or by individuals and groups acting independently of the candidate cannot be limited because they are considered to be free expression and are protected by the First Amendment. However, independent individuals and groups are required to file reports disclosing the contributions they receive and the expenditures they make.

Individuals. States are free to set their own limits on contributions to candidates for state or local office. Limitations usually pertain to the type of office. Wisconsin also limits the overall amount a single individual is allowed to contribute to all candidates in a calendar year.

Other than a candidate's own contributions to the campaign, no individual may contribute more than the amounts specified to the following candidates or any individuals or independent groups supporting them: constitutional officer (governor, lieutenant governor, secretary of state, state treasurer, attorney general, or superintendent of public instruction) or supreme court justice – \$10,000; state senator – \$1,000; representative to the assembly – \$500; and all other state and local candidates – a maximum of \$250 to \$3,000 depending upon the office. Furthermore, no individual may make contributions to a combination of candidates or registered groups that exceed a total of \$10,000 in any calendar year.

Committees. Wisconsin limits campaign contributions made by political committees. Different limits apply in terms of the amounts a particular type of committee may donate and the amounts a candidate may receive from committees. Committees subject to contribution limits include: 1) the *political action committee (PAC)*, which may be created by but operate separately from a private interest group (such as a trade association or a union) to raise and spend money to elect or defeat particular candidates; 2) the *political party committee*, organized by a formal political party; 3) the *legislative campaign committees*, organized by the respective political parties within the State Senate or the State Assembly; and 4) the candidate's *personal campaign committee*. Any committee that contributes directly to a particular candidate's campaign is subject to specific contribution limits, which vary according to the type of committee and the type of elective office. However, legislative campaign committees and political party committees are allowed to use contributions for party building activities or administrative expenses. PACs may contribute to the political parties and legislative campaign committees in which case the PAC per-candidate limitations do not apply (although other limitations remain applicable).

No committee, other than a political party or legislative campaign committee, may make contributions to a candidate for statewide constitutional office or justice of the supreme court that exceed 4% of the candidate's statutory expenditure level. (Similar limits on contributions apply to candidates for other state and local offices.)

Regulation of Expenditures

Expenditures by the Candidate. Candidates may make campaign expenditures from their own personal funds and the moneys received as contributions from individuals and registered committees, plus any public funding they are awarded. There are no limits on the amount the candidates can spend on their own campaigns, unless they voluntarily accept public funding. There were attempts at the federal and state level in the early 1970s to limit candidates' personal expenditures, but the U.S. Supreme Court in *Buckley v. Valeo* held that this type of financing was protected by the U.S. Constitution as an exercise of free speech.

Expenditures by Independent Committees. Committees are considered to be making independent expenditures if they do not donate to a candidate's campaign organization and they do not coordinate their efforts with a candidate. Independent committees are permitted to spend unlimited amounts promoting or opposing a candidate, but in Wisconsin they are required to file a statement declaring that the money will be spent without consultation or coordination with the candidate. (If the candidate is knowingly involved in the expenditure, the money is viewed as a contribution, and the contributor must adhere to contribution limits.)

Expenditures by Political Party Committees. When a political party makes an expenditure to support its candidate, the expenditure is normally counted as a contribution to that candidate. Candidates are subject to aggregate limitations on the amount they may receive from parties and other committees. In *Colorado Republican Federal Campaign Committee et al. v. Federal Election Commission*, 518 U.S. 604 (1996), the U.S. Supreme Court held, however, that political party committees may make unlimited independent expenditures as long as they are not acting in consultation or coordination with a candidate.

Reporting Requirements

Registration and Reporting. Campaign finance laws are designed to track the flow of dollars received and spent by the candidates. Expenditures from the campaign depository may not be

made anonymously, nor may contributions or expenditures be made in a fictitious name. Any anonymous contribution of more than \$10 must be donated to a charity or the common school fund.

Generally, all candidates for state office, the four types of committees listed above, and other committees that make contributions or expenditures expressly supporting or opposing state candidates must register and file campaign finance reports with the state Elections Board. These reports must include: the name, address, and total contributions of each contributor who donates more than \$20 in a calendar year and give the occupation and principal place of employment of each contributor who makes cumulative contributions of over \$100 in a calendar year. Reports must also itemize all contributions, loans, expenditures, or obligations in excess of \$20.

Each candidate must appoint one campaign treasurer and designate one campaign depository, such as a numbered bank account, before receiving any contributions or making any expenditures. The candidate and campaign treasurer are then required to file a registration statement regardless of the amount of money they expect to receive or dispense. Unless exempted from reporting, the candidate, or the treasurer acting on the candidate's behalf, must file periodic financial reports. The candidate is considered personally responsible for the accuracy of these reports.

Political party committees or other groups that make or accept contributions or make expenditures amounting to more than \$25 per year, and individuals (other than candidates) who accept contributions or make expenditures amounting to more than \$25 per year must file registration statements. These statements include such information as the name and address of the registrant, the officers, the campaign depository, and the candidate or referendum question they support or oppose.

Since July 1, 1999, registrants with the state Elections Board who have accepted contributions totaling more than \$20,000 within a campaign or biennial period have been required to file their reports electronically. These reports may be viewed on the Internet.

Nonresident committees, groups, or individuals making contributions or expenditures in this state must also file their names and addresses and those of a designated agent in the state with the secretary of state and must also file regular reports, unless a reporting exemption applies.

Disclosure. Candidates and political committees that are subject to state reporting requirements must identify themselves on any mass media communications, such as billboards, handbills, and radio or TV advertisements. This disclosure must contain the words "paid for" followed by the name of the organization responsible for the communication.

IV. Public Campaign Financing

Chapter 107, Laws of 1977, created the Wisconsin Election Campaign Fund in the state treasury as a mechanism for publicly funding campaigns. Under the state's public financing law, each individual who files a state income tax return may specify that \$1 shall be set aside for the election fund without increasing the person's tax liability or reducing any refund due. (The \$1 contributions are derived from an appropriation created by the legislature to support the campaign fund.)

The public campaign fund is available to candidates for statewide executive and judicial offices, as well as legislative candidates, for use after the primary, provided, in the case of candidates for partisan office, that they obtain a specified number of primary votes and raise a specified amount of private contributions from individuals in amounts limited to \$100 or less per individual.

To receive public funding, candidates must agree to accept spending limits and limit personal contributions to their own campaigns. These restrictions are lifted if the candidate's opponent qualifies for a grant but does not accept it and refuses to file a sworn statement affirming adherence to the limits. Money from the campaign fund can be used only for media advertising, printing, graphic arts or advertising services, office supplies, or postage. Other campaign expenses must be financed with contributions from individuals, political parties, PACs, or other committees. Because the spending limits imposed as a condition of acceptance of public funding are low and the amount of money generated for distribution from the fund at any given election is limited, participation in public funding has become rare in competitive races.
