

CHAPTER 8

NOMINATIONS, PRIMARIES, ELECTIONS

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8.01 Method of nomination. Candidates for elective office shall be nominated according to this chapter.

8.02 Nomination paper circulation date. Whenever a specific date is not given to begin circulation of nomination papers, the first day for circulation shall be the first day of the month one month prior to the month in which the filing deadline is scheduled. Signatures shall not be counted if signed and dated prior to the first day for circulation.

8.03 Multiple nominations. (1) The name of any person nominated to the same office by more than one party or primary or nominated for more than one partisan or state nonpartisan office shall appear under the party first nominating him or her or under the office to which he or she was first nominated. If the double nomination is simultaneous, the person nominated, before the deadline for filing nomination papers shall file a written statement with the same person with whom he or she files nomination papers stating the person's party or office preference. If the candidate fails to select the party or office, the filing officer shall place the candidate's name on the ballot under either party or office, but may not permit it to appear more than once. If a candidate is nominated at a primary election for partisan office or nonpartisan state office on a ballot where his or her name appears or by nomination papers filed by the candidate, and is also nominated by write-in votes at the primary election to another office, or to the same office as the candidate of a different party, the candidate does not have a choice, but shall be placed on the ballot for the election under the office and party for which the candidate's name appeared on the primary ballot or

for which the candidate had filed nomination papers.

(2) Subsection (1) shall not apply when a candidate for the office of president or vice president of the United States is nominated for another elective office during the same election. If the candidate is elected president or vice president of the United States such election shall void his election to any other office. A special election shall be held to fill any office vacated under this subsection.

(3) This section does not affect the law of compatibility of offices.

History: 1979 c 260.

8.04 Nomination paper signatures. If any person signs nomination papers for 2 candidates for the same office in the same election at different times, the earlier signature is valid and the later signature is invalid. If any person circulates a nomination paper for 2 candidates for the same office in the same election at different times, the earlier paper is valid and the later paper is invalid.

History: 1979 c 260.

NOTE: This section is shown as amended by chapter 260, laws of 1979, effective July 1, 1981. Up to that date, the section reads as follows:

"8.04 Nomination paper signatures. If any person signs nomination papers for 2 candidates for the same office in the same election at different times, the earlier signature is valid and the later signature shall be stricken. Any person who signs or circulates nomination papers for one candidate may later circulate nomination papers for another candidate for the same office in the same election if he changes his mind and intends to support the latter candidate."

8.05 Nomination in towns and villages. Every candidate for an elective office in a town or village shall be nominated under this section.

(1) CAUCUS. (a) When nomination papers are not used, there shall be a caucus to nominate candidates. The governing body shall between

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December 1 and January 1 decide the date of the caucus. The date of the caucus may be established between the first Tuesday in January and the last Tuesday in January. When possible, preference should be given to having the caucus on the last Tuesday in January.

(b) Whenever a caucus is held, the municipal clerk shall give notice of the time and date for the caucus by posting in his office and by one publication in a newspaper under ch. 985, at least 5 days before the date of the caucus.

(c) The town chairman or village president together with the municipal clerk shall serve as caucus officials. If the chairman or president is a candidate, he shall call for the election of officials to conduct the caucus. The officials shall be elected by acclamation or ballot as the meeting directs. The electors attending the meeting shall select 2 tellers to canvass the vote for each office at the caucus.

(d) Names of candidates shall be placed in nomination either by motion made and seconded from the floor or by writing the candidate's name on a slip of paper distributed by the tellers to those electors attending the caucus. Only persons placed in nomination shall be voted on.

(e) Nominations shall be made for one office at a time. Candidates for the office of town supervisor when elected jointly and of village trustee shall be considered one office for purposes of nomination and election.

(f) Before balloting the caucus chairman shall announce the names of all candidates placed in nomination.

(g) The voting for each office shall be by ballot, but the caucus chairman may dispense with voting when only one or 2 persons are nominated for the same office.

(h) The 2 candidates receiving the highest number of votes cast for each office shall be nominated and certified by the caucus chairman and tellers to the municipal clerk. The certified names of the candidates shall be placed on the official ballots. If a town under s. 5.60 (6) elects its supervisors jointly, candidates equal to twice the number of positions to be filled, who receive the most votes, shall be nominated and certified.

(i) Village trustees, excluding the office of village president, shall be nominated together and at large. Candidates, equal to twice the number of positions to be filled, who receive the most votes, shall be nominated and certified.

(j) Any candidate nominated at a caucus who files a written declination of nomination within 5 days shall not be included on the official ballot.

(3) TOWN NONPARTISAN PRIMARY. (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 1 preceding the election and shall be filed with the town clerk not later than 5 p.m. the first Tuesday in January, or the next day if Tuesday is a holiday.

(b) Notice shall be given under ss. 10.01 (2) (a) and 10.06 (2) (a).

(c) When this subsection is used, no additional candidates may be nominated under sub. (1).

(d) The question of adoption of the nonpartisan primary under this subsection may be submitted to the electors at any regular election held in the town or at a special election called for the purpose. When a petition signed by 20 electors of the town is filed with the town clerk so requesting, the question shall be submitted to a vote.

(e) Petitions requesting a vote on the question at a regular town election shall be filed no later than 5 p.m. the last Tuesday in February. When the petition is filed, the clerk shall check its sufficiency. Whether at a regular or special election, the clerk shall give separate notice by one publication in a newspaper at least 5 days before the election.

(f) The ballot used for the referendum question shall be arranged under s. 5.60 (7) and shall ask: "Shall all candidates in the town of _____ for elective town offices be nominated at a nonpartisan primary?"

(g) If a majority of the votes cast are in the affirmative, a nonpartisan primary, under sub. (5), shall thereafter be held to obtain candidates for elective town offices.

(4) VILLAGE NONPARTISAN PRIMARY. (a) A majority of the governing body of any village may provide under s. 8.11 (1) (a) and (b) that candidates for elective village office shall be nominated by a nonpartisan primary, under sub. (5). Determination of the governing body to provide for such primary under s. 8.11 (1) (a) shall be made not later than December 1 preceding the election.

(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 1 preceding the election and shall be filed with the village clerk not later than 5 p.m. the first Tuesday in January, or the next day if Tuesday is a holiday.

(c) Notice shall be given, under ss. 10.01 (2) (a) and 10.06 (3) (a).

(d) When this subsection is used, no additional candidates may be nominated under sub. (1).

(5) WHEN PRIMARY IS HELD. Towns and villages adopting the nonpartisan primary to nominate candidates, under subs. (3) and (4), shall hold a primary only when the number of candidates for an elective office in the municipality exceeds twice the number to be elected to the office. Those offices for which a primary has been held shall have only the names of candidates nominated at the primary appear on the official spring election ballot. When the number of candidates for an office does not exceed twice the number to be elected, their names shall appear on the official ballot for the election without a primary.

(6) MENOMINEE COUNTY. In counties containing only one town candidates shall be nominated for the office of supervisors at large and by wards, and all applicable provisions of this section shall apply to their selection. In selecting the candidates for ward supervisor by caucus, the candidates for each ward shall be selected separately, and only those electors shall participate in each as are residents of that ward. Any ward candidate seeking nomination by the circulation of nomination papers shall incorporate in his nomination papers a statement that the signers are qualified electors of that ward.

History: 1971 c. 304 s. 29 (2); 1973 c. 280; 1977 c. 340; 1977 c. 447 ss. 11, 210; 1979 c. 311

8.06 Municipalities may call special elections. Towns, cities and villages may call special elections for any lawful purpose.

History: 1979 c. 32

8.10 Nominations for spring election. (1)

Candidates for office to be filled at the spring election shall be nominated by nomination papers, or by nomination papers and selection at the primary if a primary is held, except as provided for towns and villages under s. 8.05. Unless designated in this section or s. 8.05, the general provisions pertaining to nomination at the September primary apply.

(2) Nomination papers for offices to be filled at the spring election shall be circulated not sooner than December 1 preceding the election and shall be filed not later than 5 p.m. on the first Tuesday in January, or the next day if Tuesday is a holiday.

(3) The nomination papers shall conform to the requirements for nomination papers for independent candidates for the general election, except that no statement of party or principle may be included and the number of required signatures shall be:

(a) For statewide offices, not less than 2,000 nor more than 4,000 electors;

(am) For court of appeals judges, not less than 1,000 nor more than 2,000 electors;

(b) For judicial offices not specified in pars. (a), (am) and (c), not less than 200 nor more than 400 electors;

(c) For judicial offices in counties over 500,000 population, not less than 1,000 nor more than 2,000 electors;

(cm) For county executives in counties over 500,000 population, not less than 2,000 nor more than 4,000 electors;

(d) For county executives in counties between 100,000 and 500,000 population, not less than 500 nor more than 1,000 electors;

(e) For county executives in counties under 100,000 population, not less than 200 nor more than 400 electors;

(f) For supervisors in counties over 500,000 population, not less than 200 nor more than 400 electors;

(g) For supervisors in counties between 100,000 and 500,000 population, not less than 100 nor more than 200 electors;

(h) For supervisors in counties under 100,000 population, not less than 20 nor more than 100 electors;

(hm) For members of the metropolitan sewerage commission in districts over 1,000,000 population, not less than 1,000 nor more than 2,000 electors, in districts over 200,000 but not over 1,000,000 population, not less than 200 nor more than 400 electors, and in districts not over 200,000 population, not less than 100 nor more than 200 electors.

(i) For city offices in 1st class cities, not less than 1,500 nor more than 3,000 electors for city-wide offices, not less than 200 nor more than 400 electors for aldermen elected from aldermanic districts and not less than 400 nor more than 800 electors for members of the board of school directors elected from combined aldermanic districts.

(j) For city offices in 2nd and 3rd class cities, not less than 200 nor more than 400 electors for city-wide offices and not less than 20 nor more than 40 electors for aldermen elected from aldermanic districts.

(k) For city offices in 4th class cities, not less than 50 nor more than 100 for city-wide offices and not less than 20 nor more than 40 electors for aldermen elected from aldermanic districts.

(l) For other offices, not less than 20 nor more than 100 electors.

(4) All the signers on one sheet shall be from the same county when a candidate is to be elected by the electors of more than one county.

(5) Each candidate shall file with his or her nomination papers a sworn declaration that the candidate will qualify for the office, if elected, and a declaration of residence as provided in s. 8.15 (4) (b). A subsequent declaration shall be filed by the candidate in the event that a candi-

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date changes his or her residence to a location outside the jurisdiction or district in which the candidate seeks office as provided in s. 8.15 (4) (b).

(6) Nomination papers shall be filed:

(a) For state offices or seats on a metropolitan sewerage commission, if the commissioners are elected under s. 66.23 (11) (am), in the office of the board.

(b) For county offices, in the office of the county clerk or board of election commissioners.

(c) For city offices and other offices voted for exclusively within the municipality, except the office of county supervisor, in the office of the municipal clerk or board of election commissioners.

(d) For school district offices to be voted for within more than one municipality, with the person designated by the school board as the filing official for their school district.

History: 1971 c. 304 s. 29 (1), (2); 1973 c. 280; 1973 c. 334 s. 57; 1975 c. 93, 328, 422; 1977 c. 187, 340, 427, 445, 449; 1979 c. 221, 249, 260, 355.

Petitioner who timely filed with county clerk rather than with board under (6) (a) is barred from ballot. State ex rel. Ahlgrimm v. State Elections Bd. 82 W (2d) 585, 263 NW (2d) 152.

8.11 Spring primary. (1) CITY. (a) A primary may be held in any city for the nomination of candidates for city office. When a majority of all the members of the governing body of a city decide upon a spring primary for any specific election, they shall so provide not later than 3 days after the deadline for filing nomination papers.

(b) Any city may provide by charter ordinance, under s. 66.01, that whenever 3 or more candidates file nomination papers for a city office, a primary to nominate candidates for the office shall be held.

(c) Whenever electors, equal to at least 10% of the vote for governor in the city at the last general election, file petitions requesting a primary within 3 days after the deadline for filing nomination papers, there shall be a primary for any specific election.

(d) When the number of candidates for any city office does not exceed twice the number to be elected to the office, no primary may be held for the office and the candidates' names shall appear on the ballot for the ensuing election.

(2) MILWAUKEE COUNTY. A primary shall be held in counties over 500,000 population whenever there are more than twice the number of candidates to be elected to any judicial office within the county or to the county board of supervisors from any one district. A primary shall be held in municipalities in counties over 500,000 population whenever there are more than twice the number of candidates to be

elected to the board of education from any given area except in cities of the 1st class.

(2m) CITY OF MILWAUKEE. A primary shall be held in cities of the 1st class whenever there are more than 2 candidates for any at-large seat or any combined aldermanic district seat which is to be filled on the board of school directors in that year.

(3) STATE. A primary shall be held if more than 2 candidates file nomination papers for the office of state superintendent, for justice, for court of appeals judge in the same district or for judge of the same branch of circuit court.

(4) PRIMARY EXCLUSIVE. Those offices for which a primary has been held shall have only the names of candidates nominated at the primary appear on the official spring election ballot.

(5) COUNTY SUPERVISORS. A primary shall be held in an election for county board supervisor whenever 3 or more candidates file nomination papers.

History: 1973 c. 118 s. 7; 1973 c. 243; 1977 c. 187, 445, 449; 1979 c. 260, 311.

8.12 Presidential preference vote. (1) SELECTION OF NAMES FOR BALLOT. In each year in which electors for president and vice president are to be elected, the voters of this state shall at the spring election be given an opportunity to express their preference for the person to be the presidential candidate of their party.

(a) On the last Tuesday in January in each year in which electors for president and vice president are to be elected, there shall be convened in the capitol a committee consisting of, for each political party recognized under s. 5.62, the state chairman of that state party organization; the national committeeman and the national committeewoman; the speaker and the minority leader of the assembly; and the president and minority leader of the senate. This committee shall organize by selecting an additional member who shall be the chairman and shall determine, and certify to the board no later than on the Friday following the first Tuesday in February, the names of all candidates of the political parties recognized under s. 5.62 for the office of president of the United States. The committee shall have sole discretion to determine that such candidates' candidacy is generally advocated or recognized in the national news media throughout the United States.

(b) No later than 5 p.m. on the 2nd Thursday following the 3rd Tuesday in February of each presidential election year, any person seeking the nomination by the national convention of a political party recognized under s. 5.62 for the office of president of the United States, or any group organized in this state on behalf of and

with the consent of such person, may submit to the board a petition to have the person's name appear on the presidential preference ballot. Such petition shall be signed by a number of qualified electors equal in each congressional district to not less than 1,000 signatures nor more than 1,500 signatures. All signers on each separate petition shall reside in the same county.

(c) The board shall forthwith contact each person whose name has been placed in nomination under par. (a) and notify him or her that his or her name will appear on the Wisconsin presidential preference ballot unless he or she files, no later than 5 p.m. on the 2nd Thursday following the 3rd Tuesday in February of such year, with the board, a disclaimer stating without qualification that he or she is not and does not intend to become a candidate for the office of president of the United States at the forthcoming presidential election. The disclaimer may be filed with the board by certified mail, telegram or in person.

(2) BALLOTS. (a) The form of the official ballots shall be prescribed by the board under s. 5.60 (8).

(b) Except as otherwise provided in subs. (1) and (3) and s. 5.60 (8), the presidential preference vote election shall be noticed, held and conducted, and the results canvassed and returned, in the manner provided for judicial elections.

(2m) DELEGATE INFORMATION. The state chairman of each recognized political party having a presidential preference ballot shall certify to the board, no later than 5 p.m. on the 2nd Tuesday in March of presidential election years, the number of delegates who will be entitled to serve at the party's convention from this state. At least two-thirds of such number shall be designated by congressional district and the remainder, if any, shall be designated at-large delegates. The number of at-large delegates and the number of district delegates certified by the party shall be the total number of delegates and the total number of alternates certified for such party by the board under sub. (3) (d).

(3) DELEGATES TO NATIONAL CONVENTION.

(a) In canvassing the presidential preference vote, the specific candidate for president receiving a plurality in any district or in the state at large is entitled to control all the delegates representing such area in accordance with par. (c) 5. If the choice for "none of the names shown" receives a plurality, then all the delegates from the affected area shall be uninstructed. As an alternative to this procedure, the state chairperson of any political party having a presidential preference ballot may inform the

board in writing no later than 5 p.m. the 2nd Tuesday in March of each presidential election year that the delegates from such party are to be certified on the basis of proportional representation. In such case, each presidential candidate shall be apportioned delegates committed to support him or her as nearly as possible in accordance with the percentage of the vote in a district or in the state at large which such candidate receives. Uninstructed delegates shall also be allotted as nearly as possible to represent the percentage of votes cast for "none of the names shown" in any district or in the state at large, in proportion to the percentage of votes cast for such option, but no fractional delegate votes shall be allowed in any party.

(am) No later than the last Monday in April following the presidential preference vote, the board shall notify each state party organization chairperson under sub. (1) (a) of the results of the presidential preference vote cast within his or her party, and the number of delegates from each congressional district and from the state at large which are to be pledged to each presidential candidate and the number which are to be uninstructed.

(b) After receiving the results of the presidential preference vote cast under par. (am), each state party organization shall select as many delegates or alternates as are allotted or permitted this state's party organization by the national committee of the political party as certified under sub. (2m) in accordance with the results of the vote cast for each candidate or for the uninstructed delegation. The method of selecting the delegates or alternates shall be determined by the state party organization, but not less than two-thirds of the convention votes shall be allotted to congressional districts and these delegates and alternates shall be selected by the party organizations of each respective district. In executing the pledge under par. (c) 5, district delegates and district delegate alternates shall be bound by the outcome of the presidential preference vote in their respective districts, and the delegates and alternates representing the state at large shall be bound by the outcome of the total presidential preference vote in the state at large in accordance with the system of selection under par. (a) which is used by their party. The selection of delegates and alternates shall occur no earlier than the Tuesday after the last Monday in April following a presidential preference vote. The names of the suggested delegates and alternates pledged to a particular candidate shall be transmitted to that candidate for his or her approval no later than June 5, and the candidate shall notify the chairperson of the state party organization of his or her disapproval of any delegate or alternate

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by June 10, and where the candidate has disapproved his or her suggested delegates and alternates, he or she shall file his or her own list of delegates and alternates, which shall become that candidate's official slate of delegates and alternates to the national presidential convention. No person selected as a delegate or alternate is qualified to attend the national convention of his or her political party unless he or she files with the state chairperson of his or her political party a written declaration of acceptance, signed by himself or herself, on a form prescribed by the board, and the state chairperson deposits this declaration of acceptance in the office of the board no later than 5 p.m. on June 20.

(c) The declaration of acceptance shall be in the form of an affidavit and shall contain the following information:

1. The name, residence and post-office address of the delegate or alternate delegate.
2. A statement that he is a qualified voter.
3. A statement that he will not withdraw his name before the holding of the national convention of his party.
4. A statement that he is affiliated with the political party which selected him as a delegate or alternate to its national political convention.

5. If the delegate or alternate is selected to represent votes cast for a specific candidate for the office of president of the United States in accordance with the method of selection used by the party under par. (a), or is selected to replace such a person, a pledge in the following form:

"As a delegate to the 19... national convention of the ... party I pledge myself to support the candidacy of ... as a candidate for the nomination for president by the ... party; that I will, unless prevented by the death of the candidate, vote for his (or her) candidacy on the first ballot; and vote for his (or her) candidacy on any additional ballot, unless released by said candidate, until said candidate fails to receive at least one-third of the votes authorized to be cast; and that, thereafter, I shall have the right to cast my convention vote according to my own judgment"

(d) The board shall forthwith certify to the credentials committee at the national convention of each party recognized under s. 5.62 a list of the names of the delegates and alternates qualified to represent the party organization of this state by virtue of having complied with pars. (b) and (c).

(e) Any vacancy in an office of delegate or alternate to a national political party convention caused by the death, or inability for any reason to serve, of a delegate or alternate delegate shall be filled by the state committee of the political party organization entitled to make the original

selection under par. (b), but no person selected to fill a vacancy under this paragraph is qualified to serve in place of any person required to execute the affidavit under par. (c) 5 unless he or she executes the affidavit.

History: 1973 c. 334 ss. 16, 57; 1975 c. 93, 185, 199, 422; 1977 c. 427; 1979 c. 34, 260, 311, 355

Wisconsin's open primary does not unconstitutionally burden Democratic Party's associational rights. *State ex rel. La Follette v. Democratic Party*, 93 W (2d) 473, 287 NW (2d) 519 (1980)

8.13 Commission city primary. At the first primary after adoption of the commission form of government the 2 candidates for mayor and the 4 candidates for councilmen receiving the highest number of votes shall be nominated. At subsequent primaries the 2 candidates receiving the most votes for either office shall be nominated. Only the names of the nominees shall appear on the spring election ballot.

8.15 Nominations for September primary. (1) Nomination papers shall be circulated not sooner than June 1 preceding the election and shall be filed not later than 5 p.m. on the 2nd Tuesday of July in those years when a September primary is held. Only those candidates for whom nomination papers containing the necessary signatures acquired within the allotted time and filed before the deadline may have their names appear on the official September primary ballot.

(2) Only one signature per person for the same office is valid. In addition to his or her signature, each signer of a nomination paper shall list his or her residence, including the street and number, if any, and the date of signing.

(3) All signers on each separate nomination paper for all state offices, county offices, and the offices of U.S. senator and representative in congress shall reside in the same county and in the district which the candidate named on the paper will represent, if elected.

(4) (a) The affidavit of a qualified elector stating his or her residence with street and number, if any, shall appear at the bottom of each nomination paper, stating he or she personally circulated the nomination paper and personally obtained each of the signatures; he or she is personally acquainted with all the signers; he or she knows they are electors of the ward, aldermanic district, municipality or county, as the nomination papers require; he or she knows they signed the paper with full knowledge of its content; he or she knows their respective residences given; he or she knows each signer signed on the date stated opposite his or her name; and, that he or she, the affiant, resides within the district which the candidate named therein will represent, if elected, and that he or she intends

to support the candidate. The affidavit may be made by the candidate or any qualified elector.

(b) Each candidate shall file with his or her nomination papers, a declaration, sworn to before any officer authorized to administer oaths, that the candidate meets or will at the time he or she assumes office meet applicable age, citizenship, residency or voting qualification requirements, if any, prescribed by the constitutions and laws of the United States and of this state, and that he or she will otherwise qualify for office if nominated and elected. Each candidate for state and local office shall swear that he or she has not been convicted of any felony for which he or she has not been pardoned. Each candidate for state or local office shall also file a sworn declaration with his or her nomination papers that discloses his or her residence for voting purposes, including street and number, if any. The nomination papers and the candidate's sworn declaration are valid with or without the seal impression of the authorized officer who administered the oath. A candidate for state or local office shall file a subsequent oath with the officer or agency with whom nomination papers are filed if he or she changes his or her residence for voting purposes to a location outside the jurisdiction or district in which the candidate seeks office at any time after the original declaration is filed and prior to assuming office or being defeated for election or nomination.

(5) Each nomination paper shall have substantially the following words printed at the top:

I, the undersigned, request that the name of (insert candidate's legal name and street address) be placed on the ballot at the (general, spring or special) election to be held on (date of election) as a candidate [(representing the (name of party)) or (representing the principle(s) of (statement of principles))] so that voters will have the opportunity to vote for (him or her) for the office of (name of office). I am eligible to vote in (name of jurisdiction or district in which candidate seeks office). I have not signed the nomination paper of any other candidate for the same office at this election.

(6) The number of required signatures on nomination papers shall be as follows:

(a) For state-wide offices, not less than 2,000 nor more than 4,000 electors.

(b) For representatives in congress, not less than 1,000 nor more than 2,000 electors.

(c) For state senators, not less than 400 nor more than 800 electors.

(d) For representatives to the assembly, not less than 200 nor more than 400 electors.

(e) For offices representing less than a congressional district in area and for county offices, not less than 500 nor more than 1,000 electors in

counties over 100,000 population and not less than 200 nor more than 400 electors in counties of 100,000 population or less.

(7) A candidate may not run in more than one party primary at the same time. No filing official may accept nomination papers for the same person in the same election for more than one party. An independent candidate at a partisan primary or other election may not file nomination papers as the candidate of a recognized political party for the same office at the same election. A person who files nomination papers as the candidate of a recognized political party may not file nomination papers as an independent candidate for the same office at the same election.

(8) Nomination papers shall be filed:

(a) For state offices and the offices of U.S. senator and representative in congress, in the office of the board.

(b) For offices to be voted for wholly within one county, except representatives in congress and members of the senate and assembly, in the office of the county clerk or board of election commissioners.

History: 1971 c. 304 ss. 13, 29, (2); 1973 c. 334 s. 57; 1977 c. 107, 427; 1979 c. 249, 260, 311.

NOTE: Subs. (2), (3), (4) (a), (5), (8) (a) and (b) are shown as affected by chapter 260, laws of 1979, effective July 1, 1981. Up to that date, these provisions are as follows:

"(2) The signer of a nomination paper declares his intent to support the candidate named therein. Only one signature per person for the same office is valid. In addition to his signature, each signer shall list his residence, including the street and number, if any, and the date of signing.

(3) All signers on each separate nomination paper for all state offices, United States senators, congressmen, county offices and state legislators shall reside in the same county and in the district which the candidate named therein will represent, if elected.

(4) (a) The affidavit of a qualified elector stating his residence with street and number, if any, shall appear at the bottom of each nomination paper, stating he is personally acquainted with all the signers; he knows they are electors of the ward, aldermanic district, municipality or county, as the nomination papers require; he knows they signed the paper with full knowledge of its content; he knows their respective residences given; he knows each signer signed on the date stated opposite his name; and, that he, the affiant, resides within the district which the candidate named therein will represent, if elected, and that he intends to support the candidate. The affidavit may be made by the candidate or any qualified elector.

(5) Each nomination paper shall have substantially the following words printed at the top:

I, the undersigned, a qualified elector of the Ward, Aldermanic district, (Town, City, Village) of, County of, State of Wisconsin, representing the principles of the party, do hereby nominate, (include first and last name plus middle initial, or initial, middle and last name; the use of an initial for a first or middle name is optional, but no nicknames, abbreviations or titles), who resides at Street, (Town, City, Village) of, in the County of, and whose post-office address is, Wisconsin, as a candidate for the office of, to be voted for at the primary to be held on the day of, 19.., as representing the principles of the above named party, and I declare that I intend to support the candidate named herein.

(8) Nomination papers shall be filed:

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(a) For state offices, United States senators, representatives in congress and members of the senate and assembly, in the office of the board.

(b) For offices to be voted for wholly within one county, except representatives in congress and members of the senate and assembly, in the office of the county clerk."

Candidate for election to Congress need not be a resident of the district at the time he files his nomination papers and executes the declaration of intent to accept the office if elected. A candidate for Congress must be an inhabitant of the state at the time of election. 61 Atty. Gen. 155

8.16 Partisan nominations. (1) The person who receives the greatest number of votes for an office on any party ballot at a primary shall be the party's candidate for the office, and that person's name shall so appear on the official ballot at the next election. All independent candidates shall appear on the general election ballot regardless of the number of votes received by such candidates at the September primary.

(2) A person who receives only write-in votes shall not appear on the ballot as the candidate of a recognized political party for an office unless the person receives at least 5% of the vote cast in the jurisdiction or district for the party's gubernatorial candidate at the last general election or the number of votes equivalent to the minimum number of signatures required on nomination papers for that office under s. 8.15 (6), whichever is greater, and the person files a registration statement under s. 11.05 (2g) or (2r) and declaration of acceptance under s. 8.15 (4) (b), within 2 days after the person receives notification of his or her nomination. Independent candidates may not be nominated by write-in votes but shall file nomination papers under s. 8.20.

(3) Where the boundaries of a district in which the candidate of a political party seeks office have been changed since the most recent gubernatorial election such that it is not possible to calculate the exact percentage of write-in votes, under sub. (2), which are needed by that candidate to become the nominee of the party, the number of votes cast for a political party's nominee for governor at the last general election in each ward or aldermanic district, or each municipality where there are no wards, which is wholly contained within the boundaries of the newly formed district shall be calculated. If a candidate of a political party in a newly formed district does not obtain 5% of the number of votes calculated or the number of votes equivalent to the minimum number of signatures required under s. 8.15 (6), whichever is greater, the candidate shall not appear on the ballot as the candidate of that party for the office sought.

(4) A recognized political party which participated in the most recent gubernatorial election but loses its ballot position and subse-

quently regains such position under s. 5.62 (2) does not cease to be a political party for purposes of qualification under subs. (2) and (3).

(5) Any candidate for a partisan state office may also qualify for payments under s. 11.50 if the candidate meets the requirements specified in s. 11.50; however, a candidate who qualifies under this section for placement on the official ballot at the general election shall appear on such ballot regardless of whether he or she qualifies for payments under s. 11.50.

(6) The persons who receive the greatest number of votes respectively for the offices of governor and lieutenant governor on any party ballot at a primary shall be the party's joint candidates for the offices, and their names shall so appear on the official ballot at the next election.

(7) Nominees chosen at a national convention and under s. 8.18 (2) by each party entitled to a September primary ballot shall be the party's candidates for president, vice president and presidential electors.

History: 1975 c. 41, 93, 199; 1977 c. 107, 383, 427, 447

The vote percentage requirement set forth in (2) applies to special partisan primary elections. 61 Atty. Gen. 172

8.17 Political party committees. (1) At the September primary the party committeemen and committeewomen shall be elected. Counties over 500,000 population shall elect one committeeman or committeewoman for each political party from each aldermanic district and village. All other counties shall elect one committeeman or committeewoman for each political party from each ward, or from each municipality if the municipality is not divided into wards. No person is eligible to serve in the office of party committeeman or committeewoman who is not a resident of the aldermanic district, ward or municipality for which he or she is chosen at the time of filing nomination papers for the office, or at the time of appointment under this section.

(2) Nomination papers shall be in substantially the same form as those required under s. 8.15. Nomination papers shall be circulated no sooner than June 1 preceding the election and shall be filed in the office of the county clerk or board of election commissioners not later than 5 p.m. on the 2nd Tuesday of July in those years when a September primary is held. The number of required signatures shall be:

(a) For party committeeman from each aldermanic district and village in counties over 500,000 population, not less than 60 nor more than 100 electors.

(b) For party committeeman from each ward in 2nd, 3rd and 4th class cities, not less than 20 nor more than 40 electors.

(c) For committeeman in all other wards, not less than 20 nor more than 40 electors.

(3) (a) Only the names of persons filing nomination papers may have their names appear on the ballots. There shall be no space provided for write-in candidates. When no candidate files nomination papers for party committeeman or committeewoman, the office may not appear on the ballot for that party in that ward, aldermanic district or municipality and the vacancy shall be filled by the county committee under sub. (5) (g) and (h).

(b) The county clerk shall arrange the names of candidates for committeemen in the proper party column for each ward, aldermanic district and village under s. 5.62.

(4) (a) Each elector may vote for his party committeeman by voting for one of the names on the ballot. No write-in vote or sticker applied for the office of party committeeman shall be counted.

(b) The results shall be returned as are other results of the September primary, but no write-in votes or stickers shall be counted. In counties over 500,000 population, whenever 2 or more candidates for party committeeman receive an equal number of votes, the ward official shall return the results and the county board of election commissioners shall break the tie during its canvass of the votes. Other ties for ward committeeman shall be determined by drawing lots at the ward where the tie occurs.

(c) The term of office of each committeeman elected shall be for 2 years.

(5) (a) The county committee of each political party shall consist of the duly elected or appointed committeemen residing in the county.

(b) Within 2 days after completion of the official September primary county canvass the chairman of each party committee shall call the first meeting of the county committee. The date for the meeting shall be set not less than 5 nor more than 15 days thereafter by giving at least 5 days' written notice to each member.

(c) At the first meeting, the county committee shall elect a chairman, secretary, treasurer and other officers or subcommittees deemed necessary.

1. In counties containing one or more assembly districts, the county committee shall also elect 2 persons from each assembly district as members of the congressional district committee.

2. In counties comprising an assembly district consisting of more than one county, each county shall elect one person as a member of the congressional district committee.

(d) The county committee chairman elected at the first meeting shall certify to the state

committee chairman under s. 8.175 the name and post-office address of each person elected to the congressional district committee.

(e) Additional county committee meetings may be called by the county chairman or upon written demand signed by a majority of the committee members. If the chairman fails to call a meeting of the committee within 3 days of the written demand, demanding members may designate one of their number to call a meeting and preside. Any business transacted at the meeting shall have the same effect as a meeting called by the county chairman.

(f) Any county committee officer may be removed from office at any meeting of the committee called under par. (e) by a majority vote of those present and voting. Two-thirds of the members of the county committee constitute a quorum at a meeting for the removal of the officers.

(g) Any vacancy in any committee office shall be filled by the county committee, except that the county chairman may temporarily fill any vacancy.

(h) The county committee may appoint a committeeman or committeewoman for any ward, aldermanic district or municipality in which none was elected.

(i) Each committee and its officers shall have the powers usually exercised by committees and their officers.

(6) (a) Committees may be organized for any political subdivision, or legislative district as under sub. (5). The first meeting shall be called within 10 days pursuant to a written demand therefor signed by 25% or more of the members by at least 5 days' written notice to each member.

(b) Membership of committees under par. (a) shall consist of all duly elected or appointed committeemen residing in the subdivision or district, except that in congressional districts and legislative districts consisting of more than one county, the membership shall consist of the members of the congressional district committee elected under sub. (5)(c).

History: 1971 c. 304 s. 29 (1), (2); 1971 c. 336; 1973 c. 334; 1979 c. 260, 311, 355.

8.175 Regular political party committees.

(1) The secretary of the state committee of each recognized political party under s. 5.62 (1) (b) or (2) shall notify the board in writing of the name and address of the person occupying the position of state chairman. The secretary of each county committee of such a party shall notify the county clerk in writing of the name and address of the person occupying the position of county chairman.

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(2) Within 10 days following any change in the position of state or county chairman, a subsequent written notice shall be filed.

(3) In the event of failure to file the name of a current county chairman, it is presumed that no organized political party committee exists in the county. In such case, the state party is entitled to fill any vacancy occurring on the party ballot under s. 7.38 (3). If no party is organized in the county under s. 8.17, nomination of election officials shall proceed as provided under s. 7.30 (4) (c).

(4) In the event of failure to file the name of a current state chairman, the board shall not recognize the state committee for the purpose of filling vacancies under s. 7.38 (3).

History: 1975 c. 93, 200; 1977 c. 427; 1979 c. 260.

8.18 Nomination of presidential electors.

(1) Candidates for the senate and assembly nominated by each political party at the primary, the state officers and the holdover state senators of each political party shall meet in the state capitol at 10 a.m. on the first Tuesday in October of each year in which there is a presidential election.

(2) The purpose of the convention is to nominate one presidential elector from each congressional district and 2 electors from the state at large. The names of the nominees shall be certified immediately by the chairman of the state committee of each party to the chairman of the elections board.

History: 1973 c. 334; 1975 c. 93; 1977 c. 427.

8.185 Write-in candidates for president and vice president.

(1) The names of candidates for president and vice president may be written in, in the place provided, on the general ballot at the general election for choosing the president and vice president of the United States. Write-in votes shall be listed as scattering unless the person whose name is written in has a list of presidential electors on file with the board in accordance with this section or unless the person whose name is written in has received more than 10% of the total vote cast in the ward, or in the municipality if not divided into wards.

(2) Any candidate for the office of president or vice president of the United States as a write-in candidate shall file a list of presidential electors and a declaration that he will qualify for the office, if elected, with the board no later than 4:30 p.m. on the 2nd Tuesday preceding the day of the general election to choose the president and vice president of the United States. The list shall contain one presidential elector from each congressional district and 2 electors from the state at large and the names of the candidates

for president and vice president for whom they intend to vote, if elected. Each person who is listed as an elector shall file a declaration of acceptance of his nomination as an elector stating that he will qualify for the office, if elected. Such declaration shall be filed with the board no later than 4:30 p.m. on the 2nd Tuesday preceding the day of the general election to choose the president and the vice president of the United States. Compliance with this subsection may be waived by the board but only if the results of the general election indicate that write-in candidate for the office of president is eligible to receive the electoral votes of this state except for non-compliance with this subsection. In such event, the write-in candidate and his named presidential electors shall have until 4:30 p.m. on the Friday following the general election to comply with the filing requirements of this subsection.

(3) If more than one list of presidential electors is filed with the board by any write-in candidates for the offices of president and vice president of the United States, the first list filed shall be considered the valid list, provided that this list meets the additional requirements of this section.

(4) Any failure by a voter to write in the name of a candidate for the office of vice president of the United States on the general ballot shall not invalidate the vote for any candidate whose name is written in for the office of president of the United States.

History: 1971 c. 304 s. 29 (2); 1973 c. 334 s. 57; 1977 c. 427.

8.19 Party name. (1) The state committee of any party polling less than 75,000 presidential votes in this state in the last election may change the name of the party. The new name may not duplicate that of an existing national party. A certificate of approval by the party's national committee which has been certified by the national committee secretary, the state committee chairman and the state committee secretary shall be filed with the board.

(2) The new name shall take effect upon certification.

(3) Every political party entitled, under s. 5.62, to have its candidates on the September primary and general election ballots has exclusive right to the use of the name designating it at any election involving political parties. The board shall not certify nor the county clerk print the name of any person whose nomination papers indicate a party name comprising a combination of existing party names, qualifying words, phrases, prefixes or suffixes in connection with any existing party name.

History: 1973 c. 334 s. 57; 1975 c. 93.

8.20 Nomination of independent candidates. (1) Independent nominations may be made for any office to be voted for at any general or partisan special election.

(2) (a) Nomination is by nomination papers. The nomination paper forms shall contain the candidate's name in any combination of initials for the first and middle names, plus the last name, but no nicknames, abbreviations or titles; the office for which he is nominated; his residence and post-office address; and the party or principle he represents, if any, in 5 words or less. In the case of candidates for the offices of governor and lieutenant governor, the nomination paper forms shall so contain both candidates' names; the office for which each is nominated; the residence and post-office address of each; and the party they represent, if any, in 5 words or less.

(b) Nomination papers for presidential electors shall list one presidential elector from each congressional district and 2 electors from the state at large for electors and the candidates for president and vice president for whom they intend to vote, if elected.

(3) The affidavit of an elector under s. 8.15

(4) (a) shall be appended to each nomination paper.

(4) The number of required signatures on nomination papers for independent candidates shall be the same as the number specified in s. 8.15 (6). For independent presidential electors intending to vote for the same candidates for president and vice president, the number of required signatures shall be not less than 2,000 nor more than 4,000 electors.

(5) Only one signature per person for the same office is valid. In addition to his signature, each signer shall list his residence, including the street and number, if any, and the date of signing. Signers of each separate nomination paper shall reside in the same county and in the district which the candidate named therein will represent, if elected.

(6) Each candidate shall file with his or her nomination papers a sworn declaration that the candidate will qualify for the office, if elected. Each candidate for state or local office shall also file with such papers a declaration of residence as provided in s. 8.15 (4) (b). A subsequent declaration shall be filed by the candidate in the event that a candidate changes his or her residence to a location outside the jurisdiction or district in which the candidate seeks office as provided in that paragraph.

(7) Nomination papers shall be filed in the office of the board for all state offices and the offices of U.S. senator and representative in congress, and in the office of county clerk or

board of election commissioners for all county offices.

(8) (a) Nomination papers for independent candidates for any office to be voted upon at a general election or September primary and general election may be circulated no sooner than June 1 preceding the election and shall be filed not later than 5 p.m. on the 2nd Tuesday in July.

(b) Nomination papers for independent candidates for any office to be voted upon at a partisan special election shall be circulated and filed as provided in s. 8.50 (3) (a).

(9) Persons nominated by nomination papers without party designation shall be placed on the official ballot at the general election and at any partisan election to the right or below the party candidates in their own column designated "Independent". At the September primary, persons nominated by nomination papers without party designation shall be placed on a separate ballot or row on the voting machine designated "Independent". If the candidate's name already appears under a party it may not be listed again.

History: 1971 c. 242, 304; 1973 c. 334 s. 57; 1975 c. 369; 1977 c. 107, 287, 427; 1979 c. 249, 260.

8.25 General elections. (1) **PRESIDENTIAL ELECTORS.** By general ballot at the general election for choosing the president and vice president of the United States there shall be elected as many electors of president and vice president as this state is entitled to elect senators and representatives in congress. A vote for the president and vice president nominations of any party is a vote for the electors of the nominees.

(2) **UNITED STATES SENATOR.** One senator to serve in the United States congress shall be chosen at the general election in 1962 and every 6 years thereafter and another in 1964 and every 6 years thereafter.

(3) **REPRESENTATIVE IN CONGRESS.** One representative to serve in the United States congress shall be chosen from each congressional district at the general election held in each even-numbered year.

(4) **CONSTITUTIONAL OFFICERS; TERMS.** (a) A governor, lieutenant governor, secretary of state, treasurer and an attorney general shall be elected at the general election in 1970 and quadrennially thereafter. A state superintendent shall be elected on the first Tuesday in April 1917 and quadrennially thereafter.

(b) The regular full term of office of the state superintendent commences on the first Monday of July, and the regular full term of each other officer enumerated in par. (a) commences on the first Monday of January, next succeeding his election.

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8.28 Challenge to residency qualifications. (1) Any person who believes that a person holding or elected to public office in this state is not a resident or inhabitant of this state or of the jurisdiction or district in which he or she serves, whenever such qualification is required by the constitution of this state or by any applicable law, may file a verified complaint with the attorney general alleging such facts as may cause him or her to believe that the person is not qualified to hold office because of failure to meet a residency requirement.

(2) The attorney general may thereupon investigate whether such allegations are true. If the attorney general finds that the allegations of the complaint are true or for any other reason finds that the subject person who is holding or elected to office is not qualified because of failure to meet a residency requirement, the attorney general may commence an action under ch. 784 for a writ of quo warranto to have the subject person's office declared vacant or to restrain any person not entitled to take office from assuming it. In the case of a person who is elected to office in the legislature, the clerk of court shall transmit a copy of the judgment to the presiding officer of the appropriate house, and the house shall determine whether the person is qualified to be seated or whether a vacancy exists.

History: 1979 c. 249.

8.30 Candidates ineligible for ballot placement. (1) The official or agency with whom nomination papers are required to be filed may refuse to place the candidate's name on the ballot:

(a) If the nomination papers are not prepared, signed and executed, as required under this chapter;

(b) If it conclusively appears, either on the face of the nomination papers offered for filing, or by admission of the candidate or otherwise, that the candidate is ineligible to be nominated or elected;

(c) If elected the candidate could not qualify for the office sought within the time allowed by law for qualification because of age, residence or other impediment.

(2) If no registration statement has been filed by or on behalf of a candidate for state or local office in accordance with s. 11.05 (2g) or (2r) by the applicable deadline for filing nomination papers by such candidate, the name of the candidate may not appear on the ballot. This subsection may not be construed to exempt a candidate from applicable penalties if he or she files a registration statement later than the time prescribed in ss. 11.01 (1) and 11.05 (2g).

(3) The official or agency with whom nomination papers are required to be filed may not place a candidate's name on the ballot if the official or agency is prohibited from doing so under s. 19.43 (4) or an ordinance adopted under s. 19.59 (3) (b).

History: 1975 c. 93; 1979 c. 120, 328; 1979 c. 355 ss. 28, 29. See note to 8.10, citing State ex rel. Ahlgrimm v. State Elections Bd. 82 W (2d) 585, 263 NW (2d) 152.

8.35 Vacancies after nomination. (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).

(2) If a vacancy occurs after nomination due to death 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 prepared, the committees or body filling the vacancy shall supply pasters as provided under s. 7.38 (3) (c).

(3) Whenever a nominee dies after the ballots are prepared, and no nomination is made under this section, the votes cast for the deceased shall be counted and returned. If he or she receives a plurality of the votes cast, the vacancy shall be filled as in the case of a vacancy occurring by death after election.

(4) (a) When a candidate is appointed to fill a vacancy under this section, the funds remaining in the former candidate's depository after payment of the former candidate's lawful campaign debts, if any, shall be: a) donated to the former candidate's local or state political party if he or she was a partisan candidate or donated to the charitable organization of his or her choice or the charitable organization chosen by his or her next of kin if the former candidate is deceased, or if no choice is made returned to the donors on a proportional basis; or b) if he or she was a nonpartisan candidate, donated to the

charitable organization of his or her choice or the charitable organization chosen by the former candidate's next of kin if he or she is deceased; or c) if no choice is made, returned to the donors on a proportional basis, with contributions which cannot be identified donated in accordance with a) or b). A petitioner or personal representative may make the choice under a) or b) where c) applies.

(b) Notwithstanding par. (a), any unspent and unencumbered moneys received by a candidate from the Wisconsin election campaign fund shall be immediately transferred to any candidate who is appointed to replace such candidate, upon filing of a proper application therefor under s. 11.50 (2). If there is no candidate appointed or if no proper application is filed within 7 days of the date on which the vacancy occurs, such moneys shall revert to the state as provided in s. 11.50 (8).

(c) The transfer shall be reported to the appropriate filing officer in a special report submitted by the former candidate's campaign treasurer. If the former candidate is deceased and was serving as his or her own campaign treasurer, the former candidate's petitioner or personal representative shall file the report and make the transfer required by par. (b), if any. The report shall include a complete statement of all contributions, disbursements and incurred obligations pursuant to s. 11.06 (1) covering the period from the day after the last date covered on the former candidate's most recent report to the date of disposition.

(d) The newly appointed candidate shall file his or her report at the next appropriate interval under s. 11.20 (3) after his or her appointment. The appointed candidate shall include any transferred funds in his or her first report.

(e) Any person who violates this subsection may be punished as provided under s. 11.60 or 11.61.

History: 1973 c. 334; 1975 c. 93; 1977 c. 107, 340; 1979 c. 110 s. 60 (11); 1979 c. 311.

Vacancy due to death of circuit court candidate may not be filled under (2). *Committee to Retain Byers v Elections Board*, 95 W (2d) 632, 291 NW (2d) 616 (Ct. App. 1980).

8.50 Special elections. Unless otherwise provided, this section applies to filling vacancies in the U.S. senate and house of representatives, executive, judicial and legislative state offices, county offices and the offices of municipal judge and member of the board of school directors in school districts organized under ch. 119. State legislative offices may be filled in anticipation of the occurrence of a vacancy whenever authorized in sub. (4) (e). In addition to filling vacancies in public office by appointment, vacancies may be filled by election under this section, but no special election may be held after

February 1 preceding the spring election unless it is held on the same day as the spring election, nor after September 1 preceding the general election unless it is held on the same day as the general election, until the day after that election. If the special election is held on the day of the general election, the primary for the special election, if any, shall be held on the day of the September primary. If the special election is held on the day of the spring election, the primary for the special election, if any, shall be held on the day of the spring primary.

(1) SPECIAL ELECTION ORDER AND NOTICES.

(a) When there is to be a special election, the special election for governor shall be ordered by the attorney general; the special election for county clerk shall be ordered by the sheriff; the special election for any other county office shall be ordered by the county clerk except as provided in s. 17.21 (5); the special election for school board member in a school district organized under ch. 119 shall be ordered by the school board; and all other special elections shall be ordered by the governor. When the governor or attorney general issues the order, it shall be filed and recorded in the office of the board. When the county clerk or sheriff issues the order, it shall be filed and recorded in the office of the county clerk. When the county executive issues the order, it shall be filed in the office of the county board of election commissioners. When the school board of a school district organized under ch. 119 issues the order, it shall be filed and recorded in the office of the city board of election commissioners.

(b) Notice of any special election shall be given upon the filing of the order under par. (a) by publication in a newspaper under ch. 985. If the special election concerns any state office or an office to be filled from a district which includes more than one county, the board shall give notice as soon as possible to the county clerks and publish one notice. Upon receipt of notice from the board, or when the special election is for a county office, the county clerk shall give notice as soon as possible to all municipal clerks and publish 2 notices. The notices shall include the provisions of par. (c) and be a type A notice under ch. 10 in substantially the form prescribed by the board.

(c) The order and notice shall specify the office to be filled, the expiration date of the remaining term of office, the date of the election, the earliest date for circulating and deadline for filing nomination papers, the area involved in the election, the name of the incumbent before the vacancy occurred and a description of how the vacancy occurred, or for an election held under sub. (4) (e), the name of

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the incumbent and a description of how and when the vacancy is expected to occur.

(d) When the election concerns a state office under par. (b) or an office to be filled from a district which includes more than one county, the board shall transmit to each county clerk at least 22 days before the special primary a certified list of all persons for whom nomination papers have been filed in its office. If no primary is required, the list shall be transmitted at least 42 days prior to the day of the election. Immediately upon receipt of the certified list, the county clerk shall prepare his or her ballots. For a county special election, the county clerk shall certify the candidates and prepare the ballots. If there is a primary, the county clerk shall publish 2 type B notices in a newspaper under ch. 10. When a primary is held, as soon as possible after the primary, the county clerk shall certify the candidates and prepare the ballots for the following special election. The clerk shall publish 2 type B notices in a newspaper under ch. 10 for the election.

(2) DATE OF SPECIAL ELECTION. (a) The date for the special election shall be not less than 62 nor more than 77 days from the date of the order except when the special election is held on the day of the general election or spring election. If a special election is held concurrently with the spring or general election, the special election may be ordered not earlier than 92 days prior to the spring primary or September primary, respectively, and not later than 49 days prior to that primary.

(b) If a primary is required, 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 September primary or if the special election is held concurrently with the spring election, the primary shall be held concurrently with the spring primary.

(3) NOMINATION AND PRIMARY. (a) Nomination papers may 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. 28 days before the day that the special primary will or would be held, if required, except when a special election is held concurrently with the spring election or general election, the deadline for filing nomination papers shall be specified in the order and the date shall be no earlier than the date provided in s. 8.10 (2) or 8.15 (1), respectively, and no later than 35 days prior to the date of the spring or September primary.

(b) Except as otherwise provided in this section, the provisions for September primaries under s. 8.15 are applicable to all primaries held under this section. Independent candidates for

state office at a special partisan election shall not appear on the primary ballot. No primary is required for a nonpartisan election in which not more than 2 candidates appear on the ballot or for a partisan election in which not more than one candidate appears on the ballot of each recognized political party. In every special election, a space for write-in votes shall be provided on the ballot, regardless of whether a special primary is held.

(c) Notwithstanding ss. 5.37 (4), 5.91 (6) and 6.80 (2) (f), whenever a special partisan primary is held concurrently with the presidential preference primary, an elector may choose the party column or ballot in which the elector will cast his or her vote separately for each of the 2 primaries. Whenever 2 or more special partisan primaries or one or more special partisan primaries and a September primary are held concurrently, the procedure prescribed in ss. 5.37 (4), 5.91 (6) and 6.80 (2) (f) applies.

(4) REGULATIONS ON SPECIAL ELECTIONS.

(a) A vacancy in the office of United States senator shall be filled under s. 17.18(2).

(b) A vacancy in the office of representative in congress occurring within 60 days of the 2nd Tuesday in July preceding a general election shall be filled at the September primary and general election. Any vacancy occurring before or after that period prior to a general election may be filled at a special primary and election. If no special primary and election is held the vacancy shall be filled at the next general election.

(c) A vacancy in the office of secretary of state, state treasurer, attorney general or state superintendent, occurring more than 6 months before the expiration of the current term, may be filled at a special election.

(d) Any vacancy in the office of state senator or representative to the assembly occurring before the 2nd Tuesday in May in the year in which a regular election is held to fill that seat shall be filled as promptly as possible by special election. However, any vacancy in the office of state senator or representative to the assembly occurring after the close of the last regular floorperiod of the legislature held during his or her term shall be filled only if a special session or extraordinary floorperiod of the legislature is called or a veto review period is scheduled during the remainder of the term. The special election to fill the vacancy shall be ordered, if possible, so the new member may participate in the special session or floorperiod.

(e) Whenever a member of the legislature is elected to another office after the commencement of his or her term, and the term of the new office or the period during which the legislator is eligible to assume that office commences prior

to the end of the legislator's original term of office, the governor may call a special election to fill the seat of the member in anticipation of a vacancy, upon receipt of a written resignation from that member which is effective on a date not later than the date of the proposed special election.

(f) A vacancy in the office of judge or justice occurring on or before December 1 shall be filled, if in the office of circuit judge, at the succeeding spring election; if in the office of court of appeals judge, at the first spring election when no other court of appeals judge is to be elected from the same court of appeals district; or, if in the office of justice, at the first spring election when no other justice is to be elected. A vacancy in the office of circuit judge occurring after December 1 shall be filled at the spring election the next year; in the office of court of appeals judge, at the first spring election, beginning with the spring election the next year, when no other court of appeals judge is to be elected from the same court of appeals district; or in the office of justice, at the first spring election, beginning with the spring election the next year, when no other justice is to be elected.

(g) If through neglect or failure, an elected officer who should have been chosen at the spring or general election is not chosen at that

election, a special election may be held to fill the vacancy; but no special election may be held for any school or county officer after the time when the officer's term would have commenced had such person been elected at the proper spring or general election, except as authorized under this section, and no election may be held to fill a vacancy in the office of justice or judge except as authorized in par. (f).

(h) Whenever the right to office of any person who is elected to the legislature or the U.S. house of representatives ceases before the commencement of the term of office to which he or she is elected, a special election may be held to fill the vacancy.

(i) When the governor so directs, a special election shall be held to fill any vacancy not provided for in this section. This paragraph does not apply to judicial offices.

(5) CAMPAIGN FINANCE LAWS. All laws and rules adopted pursuant to ch. 11 governing campaign finance and reporting, including all deadlines for filing reports and statements, are applicable to special elections, except as otherwise specifically provided.

History: 1971 c. 1, 40; 1973 c. 334 ss. 22, 57; 1973 c. 336; 1975 c. 80, 93, 199, 369; 1977 c. 26, 107, 187, 340, 427, 445, 447, 449; 1979 c. 27, 32, 260, 311.