

TITLE II.

Elections.

CHAPTER 5.

NOMINATION OF CANDIDATES FOR OFFICE.

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5.01 **Definitions.** In Title II, ELECTIONS, unless inconsistent with the context:

- (1) "Primary" means a primary election.
- (2) "September primary" means the primary held the second Tuesday in September to nominate candidates to be voted for at the general election.
- (3) "Spring primary" means the nonpartisan primary held in March to nominate candidates to be voted for at the spring election.
- (4) "General election" means the election held the Tuesday after the first Monday in November.
- (5) "Spring election" means the election held the first Tuesday in April.
- (6) "Special election" or "special primary" means any election or primary other than those defined above.
- (7) "Precinct" means an area within which all electors vote at one polling place.

History: 1951 c. 455.

5.011 **Construction of Title II.** Title II shall be construed so as to give effect to the will of the electors, if that can be ascertained from the proceedings, notwithstanding informality or failure to comply with some of its provisions.

History: 1951 c. 455.

In a case properly calling for the construction of a statute regulating elections, the rule of liberal construction may be applicable, but for the court to enlarge the time which the legislature has designated in 5.05 (1) for the filing of nomination papers would be to amend the latter statute, not to construe it. State ex rel Stearns v. Zimmerman, 257 W 443, 43 NW (2d) 681.

5.012 **General election laws applicable; recount.** (1) Except as otherwise specially provided all the provisions of chapter 6 of the statutes, relating to the qualification or registration of electors, notices of or pertaining to elections, poll lists, party challengers and challenges, officers and their duties, hours when the polls are to be opened and closed, canvass and return of votes, the solicitation of voters at the polls or to any other step or proceedings in preparation for or in the conduct of elections, are applicable to primaries in so far as they are consistent with this chapter.

(2) The provisions of section 6.66 shall apply to primaries except that the notices to candidates shall be served on opposing candidates for the same party nomination only.

History: 1951 c. 455.

5.02 **Methods of nomination.** Candidates for elective offices shall be nominated only according to the provisions of this chapter.

History: 1951 c. 455.

[5.025 Stats. 1949 renumbered section 5.24 (1) (a) (b) by 1951 c. 455]

5.03 **September primary.** The September primary shall be held at the regular polling place in each precinct on the second Tuesday of September of each even-numbered year for the nomination of all candidates to be voted for at the next general election.

History: 1951 c. 455.

5.04 **Notice of primaries.** (1) At least 60 days before the time of holding such September primary, the secretary of state shall prepare and transmit to each county

clerk, a notice in writing designating the offices for which candidates are to be nominated at such primary.

(2) Upon receipt of such notice the county clerk shall immediately prepare under his hand and official seal a similar notice containing so much of the notice received from the secretary of state as may be applicable to his county. He shall also specify the county offices for which candidates are to be nominated at such primary, and, within 10 days, publish said notice once each week for 4 consecutive weeks, as provided in section 6.82. In all counties having a population of 500,000 or more such notice shall be published once each week for 2 consecutive weeks as provided in section 6.82.

(3) Not later than the fifteenth day of August the county clerk shall cause to be printed on heavy paper, suitable for posting, copies of the notice thus prepared and immediately forward to each city, village, and town clerk within his county a sufficient number of copies for the purposes hereinafter specified. At the bottom of such notice shall be printed a form to be executed by the local clerk specifying the place where the primary will be held and the hours at which the polls will be opened and closed in the precinct in which such notices are posted. Within 10 days after receipt the city, village or town clerk shall complete such notices and cause them to be posted in 5 conspicuous places in each election district or precinct, and either file or post another copy in his office. At the request of the city clerk police officers shall post said notices as he shall direct. It shall be the duty of the town, city or village clerk to see that such notices are received and correctly posted.

(4) The city clerk of any city holding a primary to select nonpartisan candidates for city offices shall cause a similar notice thereof to be published once, and to be posted in 3 public places in each precinct therein, not more than 20 nor less than 10 days before such primary.

(5) Subsections (3) and (4) shall not be applicable in any city, village or town where publication of such notices is made as provided in 6.82 (2).

History: 1951 c. 455.

5.05 Nomination papers, September primary. (1) No candidate's name may be printed upon an official ballot used at any September primary unless not later than 5 p. m. central standard time on the second Tuesday of July of the year in which such primary is to be held a nomination paper has been filed in his behalf as provided in this chapter, with substantially the following wording printed at the top of each sheet:

"I, the undersigned, a qualified elector of (the . . . precinct of the town of . . .) or (the . . . ward of the city of . . .), county of . . . and state of Wisconsin, and a member of the . . . party, hereby nominate . . . (include both given and surname), who resides (at No. . . ., on . . . street, city of . . .) or (in the town of . . .), in the county of . . . as a candidate for the office of (here specify the office) . . ., to be voted for at the primary to be held on the second Tuesday in September, 19. . ., as representing the principles of said party, and I further declare that I intend to support the candidate named herein." Signatures shall not be counted unless on such sheets.

(3) Each signer of a nomination paper shall sign but one such paper for the same office, and shall declare that he intends to support the candidate named therein; he shall add his residence, with the street and number, if any, and the date of signing.

(4) No nomination paper shall be circulated prior to 60 days before the date on which it must be filed, and no signature shall be counted unless it is upon such nomination paper and bears date within 60 days prior to the time for filing the paper.

(5) (a) For nominations of state executive officers, United States senators, congressmen and county officers, all signers on each separate nomination paper shall reside in the same county. For nomination of assemblymen and senators, all signers on each separate nomination paper shall reside in the same district, except that if the senatorial or assembly district includes more than one county, then such signers shall reside in the same county.

(b) The affidavit of a qualified elector stating his residence with street and number if his residence has any street and number shall be appended to each such nomination paper, stating that he is personally acquainted with all persons who have signed the same, and that he knows them to be electors of that precinct, ward, town, village, city or county, as the nomination papers shall require; that he knows that they signed the same with full knowledge of the contents thereof and that their respective residences are stated therein and that each signer signed the same 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 such candidate. Such affidavit may be made by the candidate or any qualified elector, but each candidate shall file with his nomination paper or papers, a declaration that he will qualify as such officer if nominated and elected.

(6) The basis for determining the number of signatures required on nomination

papers shall be the party vote cast for governor at the last preceding gubernatorial election. Such nomination papers shall be signed:

(a) If for a state-wide office, by at least one per cent of the voters of the party of such candidate in at least each of 6 counties in the state, and in the aggregate according to the following table:

Party Vote for Governor	Signatures Required	Signatures Permissible
200,001 or more	3,000	5,000
100,001 to 200,000	2,000	3,000
50,001 to 100,000	1,000	2,000
1 to 50,000	500	1,000

(b) If for a representative in congress, by at least 2 per cent of the voters of his party in at least each of one-half of the counties in the congressional district, and in the aggregate according to the following table:

Party Vote for Governor	Signatures Required	Signatures Permissible
50,001 or more	1,000	2,000
25,001 to 50,000	500	1,000
10,001 to 25,000	250	500
5,001 to 10,000	100	250
1 to 5,000	50	100

(c) If for an office representing less than a congressional district in area, or a county office, an aggregate number of signatures according to the following table:

Party Vote for Governor	Signatures Required	Signatures Permissible
10,001 or more	300	500
5,001 to 10,000	200	300
3,001 to 5,000	100	200
1,001 to 3,000	50	100
501 to 1,000	25	50
251 to 500	10	50
1 to 250	5	10

(7) No filing officer shall accept nomination papers for any candidate to run in more than one party primary at the same time.

(8) All nomination papers shall be filed as follows:

(a) For state officers, United States senators, representatives in congress, and those members of the senate and assembly whose districts comprise more than one county, in the office of the secretary of state.

(b) For officers to be voted for wholly within one county, except representatives in congress, in the office of the county clerk of such county.

(c) For city officers, or other officers voted for exclusively within one city, in the office of the city clerk.

(d) When nomination papers shall be received which contain 10 per cent of the total vote as limited in section 5.05 (6) (a), (b) and (c), the clerk with whom such papers are required to be filed shall not receive or file further nomination papers for the candidate named therein.

(9) All nomination papers in the custody of any official under the provisions of this section shall, 4 months after the day of the primary at which the nominees sought to be named by such nomination papers have been voted for, be destroyed, by the official having such custody. Such papers as are material to any investigation or litigation then pending shall not be destroyed, however, until the final determination of such investigation or litigation.

History: 1951 c. 279, 455, 734.

A candidate did not file his nomination papers in the office of the secretary of state, or present them for filing, until after 5 p.m. central standard time on the last day allowed for filing them, or arrive at such office in time for filing them at or before 5 p.m. on such date. They were correctly rejected by the secretary of state as not being filed within the time designated. The time limit set by the legislature for the filing of nomination papers must be strictly observed. State ex rel. Stearns v. Zimmerman, 257 W 443, 43 NW (2d) 681.

[5.06 Stats. 1949 repealed by 1951 c. 455]

[5.07 (1) to (4) Stats. 1949 renumbered section 5.05 (8) (a) to (d); 5.07 (5) renumbered section 5.05 (9) by 1951 c. 455]

5.08 Certification of names for ballot. (1) The secretary of state shall transmit to each county clerk not later than the fourth Tuesday in July a certified list containing the name, given and surname, residence and post-office address of each person for whom nomination papers have been filed in his office, and entitled to be voted for at the Sep-

tember primary, together with a designation of the office for which he is a candidate, and the party or principle he represents; such lists shall designate the order in which the names of the candidates shall be printed upon the primary ballot in each assembly district.

(2) (a) For the purpose of determining the order in which the names of candidates for each state office shall be placed upon the primary ballot, the secretary of state shall number the assembly districts in the state consecutively, from one to 100, in the order of their population according to the last preceding published census, beginning with the district having the largest population, which shall be numbered one.

(b) In determining the order in which the names of candidates for representatives in congress, and state senators in districts comprising more than one county, shall be placed upon the primary ballot, the secretary of state shall number the assembly districts and parts of districts in each congressional or senatorial district from one upward, according to population, as aforesaid.

(c) In determining the order in which the names of candidates for members of assembly, in districts comprising more than one county, shall be placed upon the primary ballot, the secretary of state shall number the counties in each assembly district from one upward, according to population, as aforesaid.

(3) (a) The secretary of state shall arrange the surnames of all candidates for each office alphabetically for the first assembly district; thereafter for each succeeding district, the name appearing first for each office in the last preceding district shall be placed last.

(b) He shall arrange the surnames of all candidates for member of assembly alphabetically for the first county in each assembly district; thereafter for each succeeding county, the name appearing first in the last preceding county shall be placed last.

(4) Such clerk shall forthwith upon receipt thereof publish under the proper party designation, the title of each office, the names and addresses of all persons for whom nomination papers have been filed, giving the name, including given and surname, and address of each, the date of the primary, the hours during which the polls will be opened, and state that the primary will be held at the regular polling places in each precinct. The caption shall be set in 12 point bold face caps and the body of the notice in 8 point type of which the party headings shall be in caps and the names of the several offices in bold face type as set forth in the model form printed in appendix to election laws. The columns shall not exceed 2½ inches in width. The fee for such publication shall be paid for by the square as defined in section 370.01.

(5) It shall be the duty of the county clerk to publish such notice once each week for 2 consecutive weeks prior to said primary.

History: 1951 c. 261, 455.

[5.10 Stats. 1949 repealed by 1951 c. 455]

5.11 Preparation of ballots. (1) Immediately upon receipt of the certification of names from the secretary of state, each county clerk shall prepare copy for the official ballots. The clerk shall place thereon, under the appropriate title of each office and party designation, the names of all candidates to be voted for in his county. The names certified by the secretary of state shall be arranged in the order in which they were certified.

(2) For the purpose of determining the order in which the names of candidates for each office for whom nomination papers have been filed in the office of the county clerk shall be placed on the primary ballot, the county clerk shall prepare a list of the election precincts of his county. Such lists shall be prepared by arranging the various towns, cities and villages of the county in alphabetical order, and the wards or precincts of each city, village or town in numerical order under the name of such city, village or town. The precincts in each assembly district within the county shall be arranged in the same manner.

(3) The county clerk shall arrange the surnames of all candidates for each office for whom nomination papers have been filed in his office alphabetically for the first precinct in the list; thereafter for each succeeding precinct; the name appearing first for each office in the last preceding precinct shall be placed last.

(5) The county clerk shall have official and sample ballots printed in substantially the annexed form. Sample ballots shall be printed on colored paper and may be printed without blank indorsement and certificate. The number of ballots shall be the same, both as to official and sample ballots, as provided in section 6.26 (1) and (2). The ballots shall be in his possession 3 weeks before the primary and he shall distribute them immediately to the local clerks.

History: 1951 c. 455.

[5.12 Stats. 1949 renumbered section 5.13 (4) by 1951 c. 455]

5.13 Primary ballot; party ticket. (1) At all primaries there shall be an Australian ballot made up of the several party tickets, all of which shall be securely fastened together at the bottom and folded and there shall be as many separate tickets as there are

parties entitled to participate in said primary election. The party ticket of the party which had the greatest number of votes cast at the preceding general election for governor shall be the topmost ticket of the ballot, the other party tickets to follow in their order in accordance with the number of votes cast in each respective party at such preceding election for governor.

(2) Any recognized political party, which at the last preceding general election was represented on the official ballot by regular party candidates, shall have a separate primary ticket and party column at the next primary and general elections, respectively, if any of its state-wide candidates received one per cent of the total vote cast for the office for which he was a candidate. Any other political organization, which at the last preceding general election was represented on the official ballot by independent candidates, shall have a separate primary ticket and party column at the next primary and general elections, respectively, if any of its state-wide candidates received one per cent of the total vote cast for the office for which he was a candidate. The chairman and secretary of such new organization shall certify to the secretary of state the name of such party, which shall not duplicate the name of any other party.

(3) Any political organization which files with the secretary of state, not less than 90 days before a September primary, a petition signed by electors in at least 10 counties equal to one-sixth of the vote cast for governor in each of the counties, or by one-sixth of the electors within any senatorial, assembly or congressional district, praying that said organization be given a party ticket at the September primary, may have a separate party ticket as a political party in such district or in the state; candidates of such party shall, upon complying with the provisions of law relative to nomination papers, be placed upon such ticket.

(4) Every political party entitled on August 25, 1947 to have the names of its candidates printed on the September primary and November election ballots is entitled to the exclusive right to the use of the name designating it. The secretary of state shall not certify to the county clerk and the county clerk shall not place on any ballot prepared by him, the name of any person whose nomination papers designate a party name which comprises a combination of existing party names, or qualifying words, phrases, prefixes or suffixes in connection with any existing party name.

History: 1951 c. 274, 455, 734.

(2) entitles Socialist party to ballot privileges on a state-wide basis for the 1950 party elections. 38 Atty. Gen. 513.

[5.14 Stats. 1949 repealed by 1951 c. 455]

5.14 Use of ballot. (1) If any elector write upon his ticket the name of any person who is a candidate for the same office upon some other ticket than that upon which his name is so written, this ballot shall be counted for such person only as a candidate of the party upon whose ticket his name is written, and shall in no case be counted for such person as a candidate upon any other ticket.

(2) In case the person is nominated upon more than one ticket he shall forthwith file with the proper officer, or officers in charge of the preparation of the ballots, a written declaration indicating the party designation under which his name is to be printed on the official ballot; provided, that in case a candidate is nominated on a ticket on which his name is printed and also on some other ticket by having his name written thereon, he shall not have the right of choice but shall be held to be the nominee of the party on which his name is printed.

(3) The ballots with the indorsements shall be in substantially the form heretofore annexed; provided, that ballots for any city primary may be varied as to the title of the offices to be printed thereon, so as to conform to the law under which each such primary is held.

(4) The provisions of section 6.37 of the statutes, so far as applicable, shall govern the preparation of the ballot.

(5) After preparing his ballot, the elector shall detach the same from the remaining tickets and fold it so that its face will be concealed and the printed indorsements and signatures or initials thereon seen.

(6) The remaining tickets attached together shall be folded in like manner by the elector, who shall thereupon without leaving the polling place, vote the marked ballot forthwith, and deposit the remaining tickets in the separate ballot box to be marked and designated as the blank ballot box.

(7) Immediately after the canvass, the inspector shall, without examination, destroy the tickets deposited in the blank ballot box.

History: 1951 c. 455.

5.15 Canvass of primary votes. (1) The party chairman of the precinct in a precinct canvass, of the county in a county canvass, of the state in a state canvass, or some duly appointed agent to represent each party, shall be allowed to be present and observe the proceedings.

(2) The precinct inspectors of election shall, on blanks to be provided for that purpose, make full and accurate returns of the votes cast for each candidate, and shall deliver such returns to the county clerk, not later than 2 p. m. of the day after the primary.

(3) The county canvass of the returns of a September primary shall be made by the same officers, and in the manner provided in chapter 6, of the statutes, for the canvass of the returns of a November election.

(4) The canvassers shall meet and canvass such returns at 9 a. m. on the Thursday following the September primary. Their returns shall contain the whole number of votes cast for each candidate of each political party. The returns shall be sent to the secretary of state on or before the second Saturday following the primary.

(5) The canvassers shall also make an additional duplicate return in the same form as provided in subsection (4), showing the votes cast for each candidate not voted for wholly within the limits of one county.

(6) The county clerk shall forthwith send to the secretary of state by registered mail one complete copy of all returns as to such candidates.

History: 1951 c. 455, 734.

5.16 State canvass. The board of canvassers provided by section 6.69 to canvass returns of the November election shall constitute the state board of canvassers of the September primary. The board shall make a canvass of the votes cast for candidates for members of the senate and assembly in districts not wholly within one county, and all of the provisions of sections 6.70, 6.71, 6.72 and 6.73 relating to the canvass of the returns of the November election, shall, as far as applicable, apply to the canvass, return and certification to the secretary of state of such primary. Such board shall complete the canvass not later than the third Thursday after the September primary.

History: 1951 c. 455.

5.17 Determination of nominations made at primaries. (1) If all candidates for nomination for any one office voted for on any party ballot shall receive in the aggregate 5 per cent or more of the average of the vote cast for the nominee of such party for governor at the 2 last general elections, the person receiving the greatest number of votes at such primary election as the candidate of such party for such office, shall be the candidate of that party for such office, and his name shall be placed on the official ballot at the following election. Provided, if such person receiving the greatest number of votes has not filed nomination papers as provided in section 5.05 he shall not be the candidate of such party for such office or have his name placed on the official ballot as such unless he shall personally receive 3 per cent or more of the average of the votes cast for the nominee of such party for governor at the 2 last general elections.

(2) If all the candidates for nomination for any one office voted for on any party ballot, shall receive in the aggregate less than 5 per cent of such votes so cast at such last general election, no person shall be deemed to be the party nominee for such office, but the person receiving the greatest number of votes at such primary as the candidate of such party for such office, shall be deemed an independent candidate for such office, and his name shall be placed on the official ballot in the column of individual nominations and he shall be denominated in such column by the word "Independent" prefixed to the proper party designation.

(3) The name of a person nominated by written-in votes at a primary shall not be placed on the succeeding ballot unless he files within 2 days after receiving official notice of his nomination, a declaration that he will qualify as such officer if elected.

History: 1951 c. 279, 455.

[5.18 Stats. 1949 (1) renumbered 5.26 (2); (2) to (4) repealed by 1951 c. 455]

5.18 Declining nominations; vacancies after nomination. Any person nominated to office may decline the nomination by delivering to the officer with whom his certificate of nomination or nomination paper is filed, not less than one week after the last day on which nomination papers can be filed, or one week after the primary election, a declination in writing signed and acknowledged by him. Upon such declination or the death of a nominee or upon the occurrence of a vacancy after a primary from any other cause the vacancy may be filled by the committee representing the nominee's party, the chairman and secretary of which shall make and deliver to the proper officer for filing a certificate, duly signed, certified and sworn to, as required in case of original certificates, setting forth the cause of the vacancy, name of the new nominee, office for which nominated, and such other information as is required in case of original certificates. This certificate must be filed within 4 days after the declination is delivered or after notice of death and shall have the effect of an original certificate. If such declination, death or the permanent removal of a nominee take place after the ballots are printed and before election, the proper chairman of the committee above authorized to fill vacancies may make a nomination to fill the vacancy, and provide the election boards with pasters containing the name of such

nominee only, which shall be pasted upon each of the official ballots by the ballot clerks, before signing their initials thereon and delivering them to voters. If the nominee die after the ballots are printed, and no nomination shall be made as herein provided, the votes cast for him shall be counted and returned, and if he shall receive a plurality the vacancy shall be filled as in case of vacancies occurring by death after election. There can be no vacancy in nomination prior to a party primary.

History: 1951 c. 279, 455, 734.

[5.19 Stats. 1949 renumbered section 5.35 by 1951 c. 455]

5.19 Independent nominations. (1) Independent nominations may be made for any office to be voted for at any general or special election.

(2) Such nominations shall be made by nomination papers, containing the given and surname of the candidates, the office for which he is nominated, his business or vocation, residence, post-office address, and the party or principle he represents, if any, expressed in not more than 5 words.

(3) To each nomination paper shall be appended the affidavit of an elector as provided by section 5.05 (5) (b).

(4) Nomination papers for independent candidates for the office of governor, lieutenant governor, secretary of state, attorney-general and state treasurer and United States senator shall be signed by at least 5,000 electors; for independent candidates for the senate or assembly by at least 8 per cent and not more than 10 per cent of the whole number of electors voting in the respective district for governor at the last preceding general election; for candidates to be voted for throughout a county, district, or other division less than the state, by at least 3 per cent and not more than 5 per cent of the whole number of electors voting therein for governor at the last preceding general election. Except as otherwise provided in this subsection nomination papers for an independent candidate to be voted for throughout the state shall be signed by at least 1,000 electors.

(5) Each elector shall sign for only one candidate for the same office, and shall add his residence, post-office address and the date of signing.

(6) Such nomination papers shall be filed as follows: For candidates to be voted for throughout the state or any division or district embracing more than one county, in the office of the secretary of state and for candidates to be voted for wholly within one county, in the office of the county clerk. Such nomination papers shall be filed not later than 5 p. m. central standard time on the second Tuesday after the primary.

History: 1951 c. 46, 455, 734.

[5.20 Stats. 1949 renumbered section 5.36 by 1951 c. 455]

5.21 Tie votes. In every case of a tie vote, the tie shall forthwith be determined by lot by the canvassers.

History: 1951 c. 455.

[5.22 Stats. 1949 renumbered section 5.37 by 1951 c. 455]

5.22 Nominations for spring election. (1) Candidates for offices to be filled at the spring election shall be nominated by nomination papers or if a primary is required before the election, by nomination papers and selection at the primary. A spring primary, when required, shall be held 4 weeks before the spring election.

(2) Except as provided in sections 5.22 to 5.27 the law relating to nomination at September primaries shall apply to the nomination of candidates at the spring primary.

History: 1951 c. 455.

[5.225 Stats. 1949 renumbered section 6.85 by 1951 c. 455]

[5.23 Stats. 1949 renumbered section 5.38 by 1951 c. 455]

5.23 Nomination papers; spring primary. Nomination papers for offices to be filled at the spring election shall be filed not later than 5 p. m. on the last Tuesday in January. They shall conform to the requirements for nomination papers for independent candidates for the general election, except that the number of signers required is as follows: For state offices, 1,000 electors; for offices in districts less than the state, and county offices, (except, in both cases, judicial offices) 3 per cent of the number of electors voting for governor at the last preceding general election; for judicial offices, 2 per cent of such number; for city offices, 2 per cent of the number of electors who voted for the candidate who received the highest number of votes for such office in the last preceding election, but not less than 100 signers in the case of any office to be voted for throughout the city. Each candidate shall file with his nomination papers a declaration that he will qualify as such officer if elected. All signers on one sheet for a candidate elected by voters of more than one county shall reside in the same county.

History: 1951 c. 455.

Nomination papers should be circulated as holding of primary is contingent and unfor April election and not for March primary, certain. 33 Atty. Gen. 648.

[5.24 Stats. 1949 renumbered section 5.39 by 1951 c. 455]

5.24 Spring primary; when required. (1) **CITY OFFICES.** (a) A primary may be held in any city for the nomination of candidates for city office, including supervisor, if 90 days prior to the spring election such city either by a majority vote of all members of its governing body shall provide for, or by a petition signed by electors of said city equal in number to not less than 10 per cent of the vote cast therein for governor at the last preceding general election and filed with the city clerk shall require, a primary for any specific election. If the number of candidates for any city office does not exceed 2 times the number to be elected to such office, no primary shall be held for such office and the names of such candidates shall be printed upon the official ballot for the ensuing election. If candidates for any city office have been nominated by primary, no further candidates shall be nominated by nomination papers.

(b) Any city may by ordinance enacted pursuant to section 66.01 provide that whenever 3 or more candidates file nomination papers for a city office, including supervisor, a primary shall be held for the nomination of candidates for such office.

(c) Any city of the first class may, by charter ordinance, provide for a primary to nominate candidates for city offices.

(2) **MORE THAN 3 NOMINATED.** If nomination papers propose 3 or more candidates for members of the county board of supervisors or for any elective town office, including constable, in towns adopting the primary for elective town officers as provided in section 5.27 (4) in counties having a population of 500,000 or more, or for any judicial office or for county superintendent of schools in any county having a population of 500,000 or more, or propose more than twice as many candidates for any elective town office in any such towns or for members of the board of school directors or the board of education as are to be elected in any city of any such county, or propose 3 or more candidates for justice of the supreme court, circuit, county, superior, district, municipal, civil or small claims judge or for state superintendent of public instruction, no person's name shall be placed on the ballot in the spring election unless he is nominated at the spring primary.

Cross Reference: For spring primary in towns and villages, see 5.27.

History: 1951 c. 455.

5.245 Primary in commission cities. At the first primary after adopting the commission form of government the 2 candidates for mayor and the 4 candidates for councilmen receiving the highest number of votes shall be deemed nominated. At subsequent primaries the 2 candidates for either office receiving the highest number of votes shall be deemed nominated. The names of such nominees and no others shall be placed upon the ballot used at the next succeeding city election.

History: 1951 c. 734.

5.25 Ballots for spring primaries. (1) The given and surname of each nonpartisan candidate nominated for an office by nomination papers, and no other, shall be printed under a designation of the office for which he is named on the official ballot used at the spring primary, which ballot shall be so arranged as to permit any other person to be voted for by the elector.

(2) (a) Except in cities of the first class, the order in which the names of nonpartisan candidates for city offices shall be printed on the ballot at spring primaries shall be determined by the city clerk in the manner provided in section 5.11 (2) and (3) so far as such subsections are applicable.

(b) In cities of the first class the order in which the names of nonpartisan candidates shall be printed on the ballot at spring primaries shall be determined by drawing lots by or under the supervision of the secretary of the city election commission at his office, at 2 p. m. on the day first succeeding the last day for filing such papers.

(3) The order in which the names of candidates so presented for offices mentioned in section 5.24 (2) are printed on such ballots for the spring primary shall be determined by drawing lots at 2 p. m., on the day immediately following the last day for filing nomination papers, by or under the supervision of the secretary of state at his office, in case of candidates for state-wide offices, or secretary of the county election commission at his office, in a case of candidates for a county-wide judicial office, or member of the county board of supervisors, and by or under the supervision of the secretary of the city election commission at his office in a case of candidates for members of a school board, or at the office of the town clerk in case of candidates for town office. The candidates for such office shall be designated upon the primary ballot as follows: "For Circuit Judge (to succeed, Branch Number)," "For Civil Judge (to succeed, Branch Number)," "For County Judge," "For Member of the County Board of Supervisors, District," "For Members of the Board of School Directors," "For Town Chairman," "For County Superintendent of Schools," "For Town Supervisor," etc., as the case may be. The 2 candidates for any judicial office, or state superintendent

of public instruction, county superintendent of schools in counties having a population of 500,000 or more, member of the county board of supervisors in each district and twice as many candidates as are to be elected for members of the board of school directors, the board of education or elective officers receiving the highest number of votes cast at such primary shall be the nominees for such office, and their names, and none other, shall be placed on the official ballot at the ensuing spring election.

(4) The secretary of state shall transmit to each county clerk not later than the first Tuesday in February a certified list of all candidates for state offices to be voted for at the spring primary, and shall designate the order in which the names of the candidates are to be printed.

History: 1951 c. 455.

Under (3), secretary of election commission for Milwaukee county has duty to conduct the drawing by lot to determine sequence of names of candidates on ballot. 38 Atty. Gen. 648.

[5.26 Stats. 1949 (1) to (6) renumbered section 5.19 (1) to (6); (7) repealed; (8) (a) renumbered 5.24 (2); (8) (b) renumbered 5.25 (3); (8) (c) and (9) repealed by 1951 c. 455]

5.26 Return and canvass; spring primary. (1) The precinct election inspectors shall make returns of the votes cast for each candidate at the spring primary and deliver such returns, not later than 2 p. m. on the day following the primary to the city clerk or county clerk or both as provided in section 6.59.

(2) The canvass of the returns of a primary for city offices shall be made by the same board or body of officers that is empowered to canvass the returns of the city election. The canvass shall be made as provided in sections 6.62 and 6.63.

(3) The canvass of returns for offices other than city offices shall be made as prescribed in sections 5.15 and 5.16.

(4) The persons, equal in number to twice the number of persons to be elected to any office, receiving the highest vote for such office at any city primary, shall be the nominees for such office, and their names, and no others, shall be placed upon the official ballot at the ensuing city election in such city.

History: 1951 c. 455.

5.265 Declining nominations; vacancies after nomination, spring primary. If a person nominated for town, village, city or county office declines as prescribed in section 5.18 within 2 days after the municipal or county canvass is completed or dies before election, the vacancy may be filled within 2 days by his personal campaign committee, or if he had no committee by the governing body of the municipality or county as in section 5.18 prescribed.

History: 1951 c. 455.

5.27 Nomination in towns and villages. Every candidate for any elective town or village office shall be nominated as provided in this section:

(1) If a caucus is to be held the date for the caucus shall be set by resolution adopted by the town or village board at least 60 days before each first Tuesday of April in years in which there is to be a town or village election, which date shall not be less than 23 nor more than 32 days before said first Tuesday in April. The electors of any town or village may assemble in caucus and by ballot nominate candidates for the different town or village offices. The governing body of each municipality in which a caucus is to be held shall give at least 5 days' written notice of the time and place of holding the caucus, such notice to be given either by publishing a copy thereof in some newspaper published in such village or town, or by posting copies of such notices in at least 5 public places. The 2 candidates for each office at such caucus who receive the highest number of votes shall be certified by the caucus officers to the town or village clerk, together with the number of votes cast for each, and the name of such candidates shall be placed on the official ballot. Provided, that if the vote of the candidate receiving the second highest vote for any office at such caucus is not at least one-fifth as great as that of the candidate for the same office receiving the highest vote, or if the candidate receiving the second highest vote for any office at such caucus files with the town or village clerk within 5 days of the holding of the caucus a request that his name be not printed on the ballot, then only the name of the candidate receiving the highest number of votes shall appear thereon. A tie vote shall be determined by lot.

(2) A candidate may be nominated by nomination papers signed by electors of a town or village equal in number to 3 per cent and not more than 10 per cent of all the votes cast in such town or village for all candidates for governor at the last preceding general election. Such nomination papers shall conform to section 5.23 and shall be filed in the office of the town or village clerk at least 18 days before the election.

(3) In counties containing a population over 500,000, every candidate for an elective town office shall be nominated by nomination papers signed by electors of such town equal in number to 10 per cent of all the votes cast in such town for all candidates for governor at the last preceding general election. Such nomination papers shall conform to section 5.23 and shall be filed in the office of the town clerk at least 20 days before the town meeting. The candidates so nominated shall be voted for and election had at the town meeting.

(4) (a) In towns in counties containing cities of the first or second class where by a referendum vote the electors have so provided or in any town containing a population of 2,500 or more, where the electors have so provided either by referendum vote or at the town meeting, every candidate for an elective town office shall be nominated at a non-partisan primary conducted as directed in this chapter so far as applicable. Nomination papers shall be signed by not less than 2 per cent nor more than 5 per cent of the electors voting for governor at the last preceding general election; notices shall be given as in section 5.04 (4). Such nomination papers shall be filed in the office of the town clerk not less than 20 days before the date upon which said primary is to be held and not later than 5 p. m. central standard time on said last day for filing.

(b) The form of ballot for such town primaries shall be substantially as herein set forth:

SAMPLE OFFICIAL TOWN PRIMARY BALLOT.
MILWAUKEE COUNTY.

To vote for a person or persons whose names are printed on the ballot, make a cross (X) in the square after the name of the person or persons for whom you desire to vote. To vote for a person whose name is not printed on the ballot, write his name in the blank space provided for that purpose.

CHAIRMAN OF SUPERVISORS —	VOTE FOR ONE
William Jones*	
John Roberts	
James Underwood	
.....	
.....	
SUPERVISORS —	VOTE FOR TWO
James Ames*	
William Bennet	
Charles Osborn	
Jacob Watson	
John Zimmerman	
.....	
.....	
TOWN CLERK —	VOTE FOR ONE
Ole Carlson*	
Amos Duncan	
James Frisby	
.....	
TOWN TREASURER —	VOTE FOR ONE
Carl Matson*	
Walter Newman	
George Price	
.....	

*Order of names is determined by lot, 5.25 (3).

TOWN ASSESSOR —	VOTE FOR ONE
James Blanding	
Robert Gunderson	
Albert Mason	
.....	

(e) The ballot provided for in paragraph (b) shall have printed on the back thereof the following:

SAMPLE OFFICIAL TOWN PRIMARY BALLOT
FOR
..... Precinct,
Town of
MILWAUKEE COUNTY.
.....
Ballot Clerks.

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

(d) The question whether candidates for elective town offices shall be nominated at a nonpartisan primary as provided in subsection (4) may be submitted to the electors in any such town at any election therein, or at a special election called and held for such purposes as provided by law; such question shall be so submitted when a petition is filed with the town clerk of any town, signed by electors thereof in number not less than 10 per cent of the votes therein cast for governor at the last preceding general election, requesting that such question be submitted to the electors of such town.

(e) The referendum ballot used at such election shall be in the form now required by law and the question upon the same shall be: "Shall all candidates in the town of for elective town offices be nominated at a nonpartisan primary to be conducted and held as provided by law?"

(f) If a majority of the vote cast upon such referendum in any such town shall be in the affirmative, then all candidates for elective offices in such town shall thereafter be nominated as provided in this section at a nonpartisan primary.

(g) Any petition requesting the submission of such referendum question at a regular town election shall be filed with the town clerk thereof at least 10 days before the date upon which the election is to be held; and the clerk shall upon the filing of such petition, if it be sufficient, and whether the same apply to a regular town election or a special election, give separate notice thereof by posting 10 copies in 10 public places in said town at least 6 days before said election.

(6) Any village may provide pursuant to section 66.01 that candidates for elective village offices shall be nominated by a nonpartisan primary conducted as directed in this chapter so far as applicable; nomination papers shall be signed by electors not less than 3 per cent of the number of electors voting therein for governor at the last preceding general election, but not less than 15 voters, and shall be filed with the village clerk not less than 20 days before such primary, not later than 5 p. m. on said last day. In such event no additional candidates may be nominated for such offices by the method provided by subsections (1) and (2).

History: 1951 c. 455.

[5.28 Stats. 1949 renumbered section 5.18 by 1951 c. 455]

[5.29 Stats. 1949 renumbered section 5.012 by 1951 c. 455]

5.29 Primary for special election. (1) Whenever a special election shall be ordered as provided in section 7.04 of the statutes, all party candidates to be voted for at such election shall be nominated by a primary to be held 4 weeks prior to such special election. This section shall apply to the filling of vacancies in the office of member of the

assembly, state senator or representative in congress; and, unless otherwise provided, to filling vacancies in United States senate and county offices.

(2) Notice of any such primary shall be given by the officer aforesaid forthwith upon the filing of the order for the special election, and publication thereof shall be made by the county clerk once in each week from the date of said order to the date of the primary.

(3) Nomination papers shall be filed not later than 18 days before the day of the primary.

(4) When the primary embraces more than one county, the secretary of state shall, at least 18 days prior thereto, transmit to each county clerk a certified list of all persons for whom nomination papers have been filed in his office.

(5) Except as otherwise provided and except when inconsistent herewith the provisions of this chapter respecting September primaries are applicable to all primaries held under this section.

History: 1951 c. 455.

5.30 Nomination papers, officer may refuse to accept. If nomination papers are not prepared, signed and executed as required by law; or if it should appear conclusively, either from the face of the nomination papers offered to be filed, or by admission of the candidate or otherwise, that said candidate is ineligible to be nominated or elected, or if elected could not, by reason of age, residence, or other impediment, qualify for the office sought within the time allowed by law for qualification, the officer or officers with whom such nomination papers are required by law to be filed may refuse either to accept said nomination papers for filing or to place the name of said candidate upon the ballot.

History: 1951 c. 455.

5.35 Party committees in counties, cities and precincts. (1) (a) At the September primary each voter may write in the space left on his ticket for that purpose the name of not to exceed one qualified elector of the precinct for his party precinct committeeman or he may vote for one whose name is on the ballot for such position. The person having the highest number of votes shall constitute such committeeman.

(b) The official return made by the inspectors shall show the name and address of each ward and party committeeman chosen.

(2) In counties containing a city of the first class there shall be elected at the September primary one committeeman for each political party from each ward, town and village and in all other counties one committeeman for each party from each precinct. Such committeemen shall be nominated by nomination papers to be signed by not less than 3 per cent and not more than 10 per cent of the party vote for governor at the last preceding election in such precinct, ward, town or village. Nomination papers shall be in substantially the same form as provided in section 5.05 of the statutes and shall be filed with the county clerk not later than the last Tuesday of July before the primary. The county clerk shall arrange the names of candidates for such committeemen, as provided in section 5.11 of the statutes, and place the names so arranged in the proper party columns as candidates for such ward, town and village committeemen.

(3) In case of a tie, the inspectors of election shall decide by lot.

(4) The term of office of each party committeeman elected shall be for the 2 years next succeeding the date of his election.

(5) The city committee of each political party shall consist of the several precinct and ward committeemen in such city. It shall be the duty of the chairman of each party county committee to call, within 10 days after the September primary, a meeting of such members of the city committee at a place to be designated by him. They shall at such meeting elect a chairman and such other officers as they shall deem necessary.

(6) Except in counties containing a city of the first class the county committee of each party shall consist of the several committees from each election precinct in the county elected at the September primary. In counties containing cities of the first class the county committee of each party shall consist of the committeeman from each ward, town and village.

(7) In all counties the chairman of the county committee shall within 2 days after the completion of the official county canvass of said primary call a meeting of said county committee, by giving each member thereof a notice in writing, at least 5 days prior to the holding of such meeting.

(8) The county committee shall at such meeting elect a chairman, secretary and treasurer of the county committee, and such other officers or subcommittees as they may deem necessary, and 2 persons from each assembly district in the county to be members of the congressional district committee, but where an assembly district comprises two or more counties, then there shall be one member from each county. In counties constituting one or more assembly or senatorial districts the members of the county committee residing

within the territory of such assembly or senatorial districts shall constitute the party committee for such assembly or senatorial district and they may, at such meeting of the county committee, elect a chairman, secretary and treasurer and such other officers as they may deem necessary.

(9) In assembly districts or state senatorial districts embracing more than one county the county committee of each county shall elect 2 persons to be members of such assembly district or state senatorial district committee. The chairman of each county committee shall immediately certify to the chairman of the state central committee the name and post-office address of each person elected a member of said assembly or senatorial district committee, whose duty it shall be upon receipt thereof to call a meeting of the members of such assembly or senatorial district committee for the purpose of organization, such meeting to be called upon not less than 5 days' notice. The chairman of each county committee shall also certify to the chairman of the state central committee the name and post-office address of each person elected member of the congressional committee, upon receipt of which the said chairman shall immediately call a meeting of said members for the purpose of organization, such notice to be given at least 5 days prior to such meeting.

(10) Each committee and its officers shall have the powers usually exercised by such committees, and by the officers thereof, in so far as is consistent with this act.

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

(12) Meetings of the county committee shall be called by the county chairman as provided by statutes or upon written demand signed by a majority of the members of said committee. Should the chairman fail to call a meeting of such committee within 3 days after such demand the members demanding such meeting may designate one of their number to call such meeting and preside thereat. Any business transacted at such meeting shall have the same force and effect as if the meeting had been called by the county chairman.

(13) The county chairman, or other officers of any county committee may be removed from office at any meeting of the committee called pursuant to subsection (12), by a majority vote of those present and voting. Two-thirds of the members of the county committee shall constitute a quorum at a meeting for the removal of officers of such committee.

History: 1951 c. 455.

5.36 Platform convention; state central committee; presidential electors. (1) The candidates for the various state offices, and for the senate and assembly nominated by each political party at such primary, and senators of such political party, whose term of office extends beyond the first Monday in January of the year next ensuing, shall meet at the capitol at 10 o'clock on the third Tuesday after the September primary. They shall forthwith formulate the state platform of their party. They shall thereupon proceed to elect a state central committee of at least 2 members from each congressional district and a chairman of such committee by ballot. In the years in which presidential elections are held the convention shall nominate, by a majority vote, one elector for president and vice president from each congressional district, and 2 such electors from the state at large. The names of such nominees shall be immediately certified by the chairman and secretary of the meeting to the secretary of state. They shall perform such other business as may properly be brought before such meeting. The platform of each party shall be framed at such time that it shall be made public not later than 6 o'clock in the afternoon of the following day.

(2) The chairman and secretary of the platform convention of each party shall, within 30 days after the holding of said convention, file with the secretary of state a certified copy of the proceedings thereof and of the platform adopted.

(3) The state central committee of any party which polled less than 75,000 votes in this state for presidential electors at the last preceding election, with the approval of the national committee of said party, certified by the respective secretaries thereof to the secretary of state, may change the name of any such party; provided, that such new name shall not duplicate the name of any existing national party. Such action shall be certified to the secretary of state by chairman and secretary of the committee and thereafter the party shall be known and designated by the name so selected and certified.

History: 1951 c. 455.

5.37 Delegates to national conventions. (1) There shall be chosen at an election held in each precinct of the state on the first Tuesday of April in each year in which electors for president and vice president of the United States are to be elected, delegates to the national convention of each party, to nominate candidates for president and vice president. The number of delegates to be chosen shall be the number specified by the party's national committee.

(2) Except as otherwise provided, such elections shall be noticed, held and conducted, and the results canvassed and returned in the manner provided for judicial elections.

(3) A plurality of votes cast shall determine which candidates are elected delegates.

(5) It shall be the duty of the state central committee of each political party after such election and at least 15 days prior to the holding of the national convention, to meet and elect an alternate for each delegate. Said meeting shall be called by the chairman of the party state central committee, upon at least 10 days' notice.

History: 1951 c. 455.

5.38 Nomination papers for delegates. (1) (a) Nominations for candidates for delegates shall be made by nomination papers, in the manner provided by section 5.05, except that the nomination paper shall refer to the election to be held on the first Tuesday of April, in the year in which such candidates are to be voted for. The names of all candidates for delegates at large favoring the same candidate for president may be included on one nomination paper and the names of all candidates for district delegates, representing the same district and favoring the same candidate for president may be included on one nomination paper, on such forms as prescribed by the secretary of state. A statement of principles when favoring a specific candidate shall be limited to the candidate's name only and such proposed presidential candidate's name shall be printed but once at the top of the column on the ballot. The number of delegates permitted under a proposed presidential candidate's name shall be limited to the number of delegates to be elected, as designated by the national party committees. When the number of delegates, which have been certified or which have filed nomination papers, for a single presidential candidate equals the number to be elected, no additional candidate's names shall be accepted for a place on the ballot. However, in the event 2 or more candidates favoring the same presidential candidate shall file their nomination papers at the same time, which filing will exceed the total number of delegates to be elected by the party, the excess number of candidates shall be eliminated by lot conducted under the supervision of the board of state canvassers. Candidates not favoring any specific candidate may have principles expressed in not more than 5 words, and such principles shall be printed underneath their names on the ballot in the uninstructed column. Any proposed presidential candidate, who certifies and files a full list of delegates with the secretary of state not later than 5 p. m., 32 days prior to said April election, shall have the names of such delegates printed on the ballot in the same manner as candidates filing nomination papers and such certification shall take preference over any candidate filing nomination papers, in behalf of such presidential candidate. Any proposed presidential candidate, who certifies and files a full list of delegates with the secretary of state not later than the third Tuesday of January in the year in which such election is held, shall have the names of such delegates printed on the ballot in the same manner as candidates filing nomination papers, and no nomination papers shall be filed thereafter in behalf of such presidential candidate.

(b) In the event the proposed presidential candidate does not file a certified list of candidates for delegates as provided in paragraph (a), but there are candidates who have filed their nomination papers as delegates pledged to him, their names shall not appear on the ballot for the delegate election unless on or before the last day for filing nomination papers such proposed presidential candidate shall file a certificate of consent permitting the use of his name on said ballot. Such certificate shall be on a form prescribed by the secretary of state.

(2) The number of signers on nomination papers of candidates for delegates at large shall be not less than 3,000 nor more than 5,000 and of candidates for district delegates not less than 1,000 nor more than 2,000. Nomination papers for such candidates shall be circulated by county or district, as the case may be, and shall be filed with the secretary of state not later than 5 p. m., 32 days prior to said April election. Lists of such candidates shall be published in the manner provided by section 5.08 (4).

(3) Each candidate for delegate, whether he be certified or file nomination papers, shall file with the secretary of state a declaration of acceptance signed by himself, on or before 5 p. m. on the last day for filing nomination papers. Such acceptance shall be in the form of an affidavit, prescribed by the secretary of state, which shall contain the following information:

(a) The residence and post-office address of the delegate.

(b) A statement that he is a qualified voter.

(c) A statement that he will not withdraw his name before the presidential delegate election.

(d) A statement that he is affiliated with the political party whose nomination the candidate seeks, and that he intends to vote at the ensuing election for the nominee for president of that political party.

(e) A pledge in the following form:

FOR . . . CONGRESSIONAL DISTRICT DELEGATES TO . . . NATIONAL CONVENTION

Vote for . . .

JOHN DOE	JOHN DOE	JOHN DOE	JOHN DOE	JOHN DOE	<input type="checkbox"/>
JOHN DOE	JOHN DOE	JOHN DOE	JOHN DOE	JOHN DOE	<input type="checkbox"/>

[Indorsement on back of ballot]

OFFICIAL BALLOT
FOR
ELECTION OF DELEGATES TO NATIONAL CONVENTION

..... Precinct, Ward,
City (Village or Town) of
....., 19.....

Ballot Clerks.

Absent Voter's Ballot issued by

..... {
County Clerk
City Clerk
Village Clerk
Town Clerk

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

.....
..... of Election
.....
..... of Election

(b) The names of candidates for president for whom delegates are to be elected shall appear at the top of their respective columns on the party ticket with the words "Candidate for President" appearing immediately below their names, and immediately below, and above each candidate column shall be placed a circle, so that the voter may mark a cross or other mark therein and vote for the entire slate of delegates under such name. The order of such presidential candidates and their respective columns shall be from left to right as determined by lot by or under the supervision of the board of state canvassers. The names of those candidates for delegates at large and district delegates favoring a presidential candidate shall be printed in the column designated for that candidate and the names of candidates not favoring any particular candidate for president shall be printed in the uninstructed column. Voting for individual candidates shall not be permitted except in the case of uninstructed delegates and squares for individual voting shall be placed on the ballot only after the names of the uninstructed delegates.

(2) The official ballots for the delegates election shall be securely fastened together at the bottom and there shall be as many separate tickets as there are authorized parties participating in said election. The party casting the greatest vote for governor at the preceding election shall have its ticket placed on top and the remaining party tickets arranged in the same manner.

(3) The order of such names for delegates at large and district delegates shall be respectively arranged alphabetically in the appropriate column and place on the ballot.

(4) After preparing his ballot, the elector shall detach the same from the remaining tickets and fold it so that its face will be concealed and the printed indorsements and signatures or initials thereon seen. The remaining tickets attached together shall be folded in like manner by the elector who shall thereupon, without leaving the polling place, vote the marked ballot forthwith and deposit the remaining tickets in a separate ballot box to be marked and designated as the blank ballot box.

(5) Immediately after the canvass the inspectors shall, without examination, destroy the tickets deposited in the blank ballot box.

(6) Whenever any elector shall vote for more delegates than are specified by section 5.37 his vote shall not be counted for any of such delegates.

History: 1951 c. 455.

5.40 Election forms. The secretary of state shall prepare all forms necessary to carry out the provisions of this chapter, which forms shall be substantially followed in all primaries held in pursuance hereof. Such forms shall be printed with copies of this chapter for public use and distribution.

History: 1951 c. 455.