

CHAPTER 8

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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 candidate who is 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 candidate who is 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 the candidate's election to any other office. A special election shall be held to fill any office vacated under this subsection.

(2m) A candidate may appear on the ballot for more than one local nonpartisan office at the same election.

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

History: 1979 c. 260; 1989 a. 192; 1991 a. 316

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

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 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 date, time and place for the caucus by posting in the clerk's office and by one publication in a newspaper under ch. 985, at least 5 days before the date of the caucus.

(c) The town chairperson or village president together with the municipal clerk shall serve as caucus officials. If the chairperson or president is a candidate, he or she shall call for the election of officials to conduct the caucus. The officials shall be elected by acclamation or ballot at 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. Nominations for the office of town supervisor when supervisors are elected to unnumbered seats and nominations for the office of village trustee shall be considered together, and each elector voting at the caucus may cast as many votes as there are seats to be filled at the 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 chairperson may dispense with voting by ballot 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. If a town

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under s. 5.60 (6) elects its supervisors to unnumbered seats, 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) The municipal clerk shall notify in writing each candidate whose name is certified as a nominee under par. (h) of his or her nomination. Upon receipt of the notice, each candidate shall file a declaration of candidacy in the manner prescribed by s. 8.21 with the municipal clerk making the notification no later than 5 p.m. on the 5th day after the notification is mailed or personally delivered to the candidate by the municipal clerk. If the candidate has not filed a registration statement under s. 11.05 at the time of the notification, the candidate shall file the statement with the declaration. A candidate for municipal judge shall also file a statement of economic interests with the ethics board under s. 19.43 (4) no later than 4:30 p.m. on the 5th day after notification of nomination is mailed or personally delivered to the candidate by the municipal clerk. Upon receipt of the declaration of candidacy and registration statement of each qualified candidate, and upon filing of a statement of economic interests by each candidate for municipal judge, the municipal clerk shall place the name of the candidate on the ballot. No later than the end of the 3rd day following qualification by all candidates, the municipal clerk shall draw lots to determine the arrangement of candidates' names on the spring election ballot.

(k) Within 10 days of the date of the original caucus, the town board chairperson or the village president may reconvene the caucus to correct any procedural error or to nominate a candidate for a position for which no candidate was nominated at the original caucus or for which no candidate nominated at the original caucus qualified. The municipal clerk shall give notice of the reconvened caucus as provided in par. (b).

(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 conforming to the requirements of s. 8.40 signed by at least 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 the 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; 1983 a. 484; 1985 a. 304; 1987 a. 391; 1989 a. 56, 192; 1991 a. 316.

8.06 Special elections may be called. Towns, cities, villages and school districts may call special elections for any purpose authorized by law. If an election is called for a special referendum, the election shall be noticed under s. 8.55

History: 1979 c. 32; 1989 a. 192.

8.07 Validity of nomination papers. The board shall promulgate rules under this chapter for use by election officials in determining the validity of nomination papers and signatures thereon.

History: 1983 a. 484; 1989 a. 359.

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) (a) 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.

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

I, the undersigned, request that the name of (insert candidate's last name plus first name or initial, and middle name, former legal surname or middle initial or initials if desired, but no other abbreviations, nicknames or titles), residing at (insert candidate's street address) be placed on the ballot at the (spring or special) election to be held on (date of election) as a candidate 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 the (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.

(c) Each candidate shall include his or her mailing address on the candidate's nomination papers.

(3) The affidavit of a qualified elector under s. 8.15 (4) (a) shall be appended to each nomination paper. The number of required signatures on nomination papers filed under this section is:

(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, except as provided in sub. (3m).

(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 citywide 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 election 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.

(km) For school district officer in any school district which contains territory lying within a 2nd class city, not less than 100 nor more than 200 electors.

(ks) For school district officer in any school district which does not contain territory lying within a 1st or 2nd class city, if nomination papers are required under s. 120.06 (6) (a), not less than 20 nor more than 100 electors.

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

(3m) The county board of any county having a population of at least 100,000 but not more than 500,000 may provide by ordinance that the number of required signatures on nomination papers for the office of county supervisor in the county is not less than 50 nor more than 200 electors. A county that enacts such an ordinance may repeal the ordinance at a later date. Any ordinance changing the number of signatures under this subsection takes effect on November 15 following enactment of the ordinance.

(4) (a) All signers on each nomination paper shall reside in the jurisdiction or district which the candidate named on the paper will represent, if elected.

(b) 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 municipality of residence for voting purposes, the street and number, if any, on which the signer resides, and the date of signing.

(5) Nomination papers shall be accompanied by a declaration of candidacy under s. 8.21. If a candidate has not filed a registration statement under s. 11.05 at the time he or she files nomination papers, the candidate shall file the statement with the papers. A candidate for state office or municipal judge shall also file a statement of economic interests with the ethics board under s. 19.43 (4) no later than 4:30 p.m. on the 3rd day following the last day for filing nomination papers under sub. (2) (a).

(6) Nomination papers shall be filed:

(a) For state offices; municipal judges, if they are elected under s. 755.01 (4); 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; 1983 a. 484; 1985 a. 89, 304; 1989 a. 88, 290.

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 a petition conforming to the requirements of s. 8.40 with the city clerk

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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 having a population of 500,000 or more 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.

(2m) **FIRST CLASS CITY SCHOOL BOARD.** A primary shall be held in 1st class cities whenever there are more than 2 candidates for member of the board of school directors at-large or from any election district in any 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; 1983 a. 192, 484; 1985 a. 225, 304; 1989 a. 192, 290.

8.12 Presidential preference vote. (1) SELECTION OF NAMES FOR BALLOT.

(a) No later than 5 p.m. on the first Tuesday in January, or the next day if Tuesday is a holiday, in each year in which electors for president and vice president are to be elected, the state chairperson of each recognized political party listed on the official ballot at the last gubernatorial election whose candidate for governor received at least 10% of the total votes cast for that office may certify to the board that the party will participate in the presidential preference primary. For each party filing such a certification, 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 that party.

(b) 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 party filing a certification under this subsection, the state chairman of that state party organization or the chairman's designee, one national committeeman and one national committeewoman designated by the state chairman; the speaker and the minority leader of the assembly or their designees, and the president and the minority leader of the senate or their designees. All designations shall be made in writing to the board. 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 last Tuesday in January, the names of all candidates of the political parties represented on the committee for the office of president of the United States. The committee shall place the names of all candidates whose candidacy is generally advocated or recognized in the national news media throughout the United States on the ballot, and may, in addition, place the names of other candidates on the ballot. The committee shall have sole discretion to determine that a candidacy is generally advocated or recognized in the national news media throughout the United States.

(c) No later than 5 p.m. on the 3rd Tuesday in February of each presidential election year, any person seeking the nomi-

nation by the national convention of a political party filing a certification under this subsection for the office of president of the United States, or any committee 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. The petition may be circulated no sooner than the last Tuesday in January of such year and 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. The form of the petition shall conform to the requirements of s. 8.40. All signers on each separate petition paper shall reside in the same congressional district.

(d) The board shall forthwith contact each person whose name has been placed in nomination under par. (b) 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 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.** The form of the official ballots shall be prescribed by the board under s. 5.60 (8).

(3) **REPORTING OF RESULTS.** No later than May 15 following the presidential preference vote, the board shall notify each state party organization chairperson under sub. (1) (b) of the results of the presidential preference vote cast within the state and within each congressional district.

History: 1973 c. 334 ss. 16, 57; 1975 c. 93, 185, 199, 422; 1977 c. 427; 1979 c. 34, 260, 311, 355; 1983 a. 484; 1985 a. 304 ss. 100 to 106, 156; 1987 a. 391; 1989 a. 192.

See note to art. I, sec. 1, citing *Democratic Party of U.S. v. Wisconsin*, 450 US 107 (1981).

8.125 Accessibility of presidential caucuses. Any political party which holds a caucus open to the public for the purpose of selecting delegates to the national presidential nominating convention of the party shall hold the caucus in a place which is accessible to persons in wheelchairs.

History: 1985 a. 304.

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 council members 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.

History: 1985 a. 135 s. 83 (2).

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 municipality of residence for voting purposes, the street and number, if any, on which the signer resides, 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 jurisdiction

or 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 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; that he or she intends to support the candidate; and that he or she is aware that falsifying the affidavit is punishable under ss. 12.13 (3) (a) and 946.32 (1) (a), Wis. stats. The affidavit may be made by the candidate or any qualified elector. The nomination papers are valid with or without the seal of the officer who administers the oath.

(b) Nomination papers shall be accompanied by a declaration of candidacy under s. 8.21. If a candidate for state or local office has not filed a registration statement under s. 11.05 at the time he or she files nomination papers, the candidate shall file the statement with the papers. A candidate for state office shall also file a statement of economic interests with the ethics board no later than the end of the 3rd day following the last day for filing nomination papers under sub. (1).

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

I, the undersigned, request that the name of (insert candidate's last name plus first name or initial, and middle name, former legal surname or middle initial or initials if desired, but no other abbreviations, nicknames or titles) residing at (insert candidate's street address) be placed on the ballot at the (general or special) election to be held on (date of election) as a candidate representing the (name of party) 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.

(b) Each candidate shall include his or her mailing address on the candidate's nomination papers.

(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.

(dm) For district attorneys, not less than 500 nor more than 1,000 electors in prosecutorial units over 100,000 population and not less than 200 nor more than 400 electors in prosecutorial units of 100,000 population or less.

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

(9) Upon filing of nomination papers by any candidate for representative in congress, state senator or representative to the assembly under this section or upon appointment or nomination of such a candidate by write-in vote, the board shall provide to the candidate a copy of the map or maps, received under s. 16.96 (3) (b), required to show the boundaries of the district which the candidate seeks to represent.

History: 1971 c. 304 ss. 13, 29 (1), (2); 1973 c. 334 s. 57; 1977 c. 107, 427; 1979 c. 249, 260, 311; 1983 a. 29, 484; 1985 a. 304; 1989 a. 31.

Ban on multiple party nominations under (7) does not burden the associational rights of political parties and is justified by compelling state interests *Swamp v. Kennedy*, 950 F (2d) 383 (1991).

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) Except as provided in sub. (2), the person who receives the greatest number of votes for an office on a party ballot at any partisan primary, regardless of whether the person's name appears on the ballot, shall be the party's candidate for the office, and the 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 whenever no candidate's name appears on the ballot for that 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 unless:

(a) The person files a declaration of candidacy under s. 8.21 no later than 5 p.m. on the 3rd day after notification of nomination is mailed or personally delivered to the person by the filing officer or agency for the office sought;

(b) If the person is a candidate for state office, the person files a statement of economic interests under s. 19.43 (4), no later than 4:30 p.m. on the 3rd day after notification of nomination is mailed or personally delivered to the person by the board; and

(c) If the person is a candidate for state or local office, the person files a registration statement under s. 11.05.

(2m) 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

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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 subsequently 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 except district attorney 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. The state or national chairperson of each such party shall certify the names of the party's nominees for president and vice president to the board no later than 5 p.m. on the first Tuesday in September preceding a presidential election. Each name shall be in one of the formats authorized in s. 7.08 (2) (a).

History: 1975 c. 41, 93, 199; 1977 c. 107, 383, 427, 447; 1983 a. 484; 1985 a. 304; 1987 a. 391; 1989 a. 31

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

Five per cent requirement of (2) did not violate equal protection nor did it burden rights to associate and cast votes effectively. Blair v. Hebl, 498 F Supp 756 (1980).

8.17 Political party committees. (1) (a) Political parties qualifying for a separate ballot under s. 5.62 (1) (b) or (2) shall elect their party committeemen and committeewomen at the September primary. The function of committeemen and committeewomen is to represent their neighborhoods in the structure of a political party. Committeemen and committeewomen shall act as liaison representatives between their parties and the residents of the election districts in which they serve. Activities of committeemen and committeewomen shall include, but not be limited to, voter identification; assistance in voter registration drives; increasing voter participation in political parties; polling and other methods of passing information from residents to political parties and elected public officials; and dissemination of information from public officials to residents. For assistance in those and other activities of interest to a political party, each committeeman and committeewoman may appoint a captain to engage in these activities in each ward, if the election district served by the committeeman or committeewoman includes more than one ward. In an election district which includes more than one ward, the committeeman or committeewoman shall coordinate the activities of the ward captains in promoting the interests of his or her party.

(b) Each political party shall elect one committeeman or committeewoman from each election district. In this section, each village, each town and each city is an "election district"; except that in cities having a population of more than 7,500 which are divided into aldermanic districts, each aldermanic district is an "election district"; and in cities having a population of more than 7,500 which are not divided into aldermanic

districts and villages or towns having a population of more than 7,500, each ward or group of combined wards under s. 5.15 (6) (b) constituting a polling place on June 1 of the year in which committeemen or committeewomen are elected is an "election district". To be eligible to serve as its committeeman or committeewoman, an individual shall be, at the time of filing nomination papers or at the time of appointment under this section, a resident of the election district which he or she is chosen to represent and shall be at least 18 years of age.

(2) Nomination papers shall be in substantially the same form as those required for candidates for the assembly. The papers shall include a statement signed by the candidate declaring the candidate's candidacy and that the candidate meets the eligibility requirements of sub. (1). Nomination papers may be circulated no sooner than June 1 preceding the election and may be filed in the office of the county clerk or board of election commissioners no later than 5 p.m. on the 2nd Tuesday of July in those years when a September primary is held. The signatures of not less than 20 nor more than 40 electors are required.

(3) (a) Only individuals filing nomination papers may have their names appear on the ballot. 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 election district and the vacancy shall be filled by the county committee under sub. (5) (g) and (h).

(b) The county clerk or board of election commissioners shall arrange the names of candidates for committeemen or committeewomen in the proper party column under s. 5.62 for each election district.

(4) (a) Each elector may vote for party committeeman or committeewoman by voting for one of the names on the ballot.

(b) The results shall be returned as are other results of the September primary, but no write-in votes or stickers may be counted. Whenever 2 or more candidates for party committeeman or committeewoman receive an equal number of votes, the county board of canvassers shall certify as the winner the one of them who was the first to file proper nomination papers.

(c) The term of office of each elected or appointed committeeman or committeewoman shall end on the date of the meeting held under sub. (5) (b) following each September primary.

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

(b) A combined meeting of the county committee and members in good standing of the party in the county shall be held no sooner than 15 days after the September primary and no later than April 1 of the following year. At this meeting, the county committee offices of chairman, vice chairman, secretary and treasurer shall be filled by election by the committeemen, committeewomen and party members present and voting, each of whom is entitled to one vote. At this meeting, the county committee shall elect the members of the congressional district committee as provided in sub. (6) (b), (c) and (d). The secretary of the county committee shall give at least 7 days' written notice of the meeting to party and committee members. Individuals elected as county committee officers or as congressional district committee members may be, but are not required to be, committeemen or committeewomen. They are required to be party members in good standing. Their terms begin during the meeting immediately

upon completion and verification of the voting for each office.

(c) The secretary of the county committee shall notify the county clerk in writing of the name and address of the elected county committee chairman within 10 days of his or her election.

(d) The chairman of the county committee shall notify the chairman of the state committee of the names and addresses of the individuals elected as congressional district committee members within 10 days of their election.

(e) Except as authorized in this paragraph, all county committee meetings shall be called by the chairman of the county committee. The secretary of the county committee shall give at least 7 days' written notice of each meeting to the committee members. A majority of committee members may, upon petition to the chairman signed by all of them, demand that the chairman call a meeting. If after 3 days the chairman has failed to do so, the demanding members may designate one of them to call and preside at a meeting, also upon at least 7 days' written notice to all committee members. The member so designated shall provide the notice. Meetings called in either manner have equal standing.

(f) Any of the county committee officers named in par. (b) may be removed from office at any meeting of the committee if at least two-thirds of the committeemen or committeewomen are present; at least 7 days' written notice of the meeting is given to members of the party in the county; the notice discloses that discussion of the removal of one or more officers is on the agenda; and the notice includes and identifies this paragraph. Any such removal, and subsequent filling of a vacancy, shall be by vote of the committeemen, committeewomen and party members present and voting, each of whom is entitled to one vote.

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

(h) The county committee may appoint a committeeman or committeewoman for any election district in which no one was elected. An appointed committeeman or committeewoman has the same responsibilities and may engage in the same activities as an elected committeeman or committeewoman.

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

(6) (a) The congressional district committee shall consist of members elected by the county committee or committees under pars. (b) and (c).

(b) For each assembly district lying wholly within one county, the county committee shall elect 2 persons from each assembly district as members of the congressional district committee.

(c) For each assembly district lying partially within one county, the county committee shall elect one person as a member of the congressional district committee, except that the county committee may elect additional members so that the county has at least 2 members on the committee of each congressional district in which it lies.

(d) County committees may elect alternate members to congressional district committees on the same basis and in the same numbers as they are entitled to elect under pars. (b) and (c).

(e) At least once every year, the chairman of the congressional district committee shall call, with at least 30 days' notice in writing to the chairman of the county committee, or committees lying within the district, for a caucus of members of the party in the district. Committee offices of chairman, vice chairman, secretary, and treasurer shall be filled by a

caucus in the time and manner prescribed by the constitution of either the district committee or the state committee. Individuals elected to these offices may be, but are not required to be, members of the congressional district committee. The secretary shall provide notice of all meetings of the congressional district committee.

(7) (a) Duly elected or appointed committeemen and committeewomen residing in any political subdivision or assembly district may organize a committee for their area upon presenting a petition therefor to the congressional district committee, which petition shall be signed by at least 25% of the committeemen and committeewomen who reside in that same area. Upon filing such a petition:

1. The chairman of the congressional district committee shall call the first meeting within 10 days of delivery of the petition.

2. The secretary of the congressional district committee shall give at least 5 days' advance written notice of the meeting to all committeemen, committeewomen and party members residing in the area of the new committee.

3. Committee offices of chairman, vice chairman, secretary, and treasurer shall be filled by election in the same manner as that provided for the county committee, and may be filled by individuals who are not committeemen or committeewomen.

4. Additional meetings may be called in the same manner as that provided for the county committee under sub. (5) (e).

5. Holders of committee offices may be removed and subsequent vacancies filled in the same manner as that provided for the county committee under sub. (5) (f).

6. Committeemen and committeewomen who are members of committees organized in any political subdivision or assembly district retain their status as members of the county committee.

(b) Assembly district committees shall also include as members those individuals elected by the county committee under sub. (6) as members of the congressional district committee.

(8) (a) The congressional district committee shall elect at least 2 individuals to become members of the state committee. Those elected may be, but are not required to be, members of the district committee.

(b) The state committee may consist solely of members elected under par. (a) or may consist of those members and as many other members called for and chosen in the manner prescribed in the constitution of the state committee.

(9) (a) If a county has no committee as provided by sub. (5) (a), residents of that county may voluntarily form a committee, which, upon approval of the state committee and certification by the secretary of the state committee to the board and the county clerk or board of election commissioners, shall then become the county committee with equal standing as if it had been organized under sub. (5) (a). This standing shall remain unless and until a committee is organized under sub. (5) (a).

(b) Members of a committee organized under par. (a) are not, and shall not be known as, committeemen and committeewomen.

(10) Committeemen and committeewomen who are members in good standing of their county parties, by virtue of their offices, shall be granted credentials for participation in any caucus or convention called by their congressional district committees or the state committee, and those credentials shall be distributed at least 21 days in advance of the meeting by the secretary of the committee calling the caucus or convention.

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(11) The names of the committees shall be that of the identifying name followed by Party of _____, the blank to be filled with the name of the county, congressional district, or other geographic areas.

(12) 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 elected state committee chairman within 10 days of his or her election.

History: 1971 c. 304 s. 29 (1), (2); 1971 c. 336; 1973 c. 334; 1979 c. 260, 311, 355; 1981 c. 116; 1983 a. 484, 549; 1985 a. 131, 304; 1987 a. 391; 1991 a. 316.

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 candidates for the office of president and vice president of the United States as write-in candidates shall file a list of presidential electors and a declaration of candidacy in the manner prescribed in s. 8.21 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. Compliance with this subsection may be waived by the board but only if the results of the general election indicate that a 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 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) Write-in votes for president and vice president shall be counted as provided in s. 7.50 (2) (i).

History: 1971 c. 304 s. 29 (2); 1973 c. 334 s. 57; 1977 c. 427; 1981 c. 377 ss. 21 to 23; 1983 a. 484.

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. Each nomination paper shall have substantially the following words printed at the top:

I, the undersigned, request that the name of (insert candidate's last name plus first name or initial, and middle name, former legal surname or middle initial or initials if desired, but no other abbreviations, nicknames or titles), residing at (insert candidate's street address) be placed on the ballot at the (general 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 the (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.

(b) Each candidate shall include his or her mailing address on the candidate's nomination papers.

(c) In the case of candidates for the offices of president and vice president, the nomination papers shall contain both candidates' names; the office for which each is nominated; the residence and post-office address of each; and the party or principles they represent, if any, in 5 words or less. In the case of candidates for the offices of governor and lieutenant governor, the nomination papers shall contain both candidates' names; the office for which each is nominated; the residence and post-office address of each; and the party or principles they represent, if any, in 5 words or less.

(d) Nomination papers for president and vice president shall list one candidate for presidential elector from each congressional district and 2 candidates for presidential elector from the state at large who will vote for the candidates for president and vice president, 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 or her signature, each signer shall list his or her municipality of residence for voting purposes, the street and number, if any, on which the signer resides, and the date of signing. Signers of each nomination paper shall reside in the same jurisdiction or district which the candidate named therein will represent, if elected.

(6) Nomination papers shall be accompanied by a declaration of candidacy under s. 8.21. If a candidate for state or local office has not filed a registration statement under s. 11.05 at the time he or she files nomination papers, the candidate shall file the statement with the papers. A candidate for state office shall also file a statement of economic interests with the ethics board no later than the end of the 3rd day following the last day for filing nomination papers under sub. (8) (a).

(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, except president, vice president and presidential elector, may be circulated no sooner than June 1 preceding the election and may be filed not later than 5 p.m. on the 2nd Tuesday in July.

(am) Nomination papers for independent candidates for president and vice president, and the presidential electors designated to represent them, may be circulated no sooner than August 1 and may be filed not later than 5 p.m. on the first Tuesday in September.

(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 a recognized political party designation shall be placed on the official ballot at the general election and at any partisan election to the right or below the recognized political party candidates in their own column or row designated "Independent". At the September primary, persons nominated for state office by nomination papers without a recognized political 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 recognized political party it may not be listed on the independent ballot, column or row.

(10) Upon filing of nomination papers by any candidate for representative in congress, state senator or representative to the assembly under this section or upon appointment of such a candidate, the board shall provide to the candidate a copy of the map or maps, received under s. 16.96 (3) (b), required to show the boundaries of the district which the candidate seeks to represent.

History: 1971 c. 242, 304; 1973 c. 334 s. 57; 1975 c. 369; 1977 c. 107, 287, 427; 1979 c. 249, 260; 1981 c. 377; 1983 a. 29, 484; 1985 a. 304; 1987 a. 391.

8.21 Declaration of candidacy. Each candidate, except a candidate for presidential elector under s. 8.20 (2) (d), shall file a declaration of candidacy, no later than the latest time provided for filing nomination papers under s. 8.10 (2) (a), 8.15 (1), 8.17 (2), 8.20 (8) (a) or 8.50 (3) (a), or the time provided under s. 8.16 (2) or 8.35 (2) (c). A candidate shall file the declaration with the officer or agency with which nomination papers are filed for the office which the candidate seeks, or if nomination papers are not required, with the clerk or board of election commissioners of the jurisdiction in which the candidate seeks office. The declaration shall be sworn to before any officer authorized to administer oaths, and shall state that the signer is a candidate for a named office, that he or she 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. The declaration shall include the candidate's name in the form in

which it will appear on the ballot. Each candidate for state and local office shall include in the declaration a statement that he or she has not been convicted of any infamous crime for which he or she has not been pardoned and a list of all felony convictions for which he or she has not been pardoned. In addition, each candidate for state or local office shall include in the declaration a statement that discloses his or her municipality of residence for voting purposes, and the street and number, if any, on which the candidate resides. The declaration is valid with or without the seal of the officer who administers the oath. A candidate for state or local office shall file an amended declaration under oath with the same officer or agency if any information contained in the declaration changes at any time after the original declaration is filed and before the candidate assumes office or is defeated for election or nomination.

History: 1983 a. 484 s. 94; 1985 a. 304; 1987 a. 391.

8.25 Election of state and federal officers. (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) 1. The regular full term of office of the state superintendent commences on the first Monday of July, next succeeding the superintendent's election.

2. The regular full term of each other officer enumerated in par. (a) commences on the first Monday of January, next succeeding the officer's election.

(5) DISTRICT ATTORNEY; TERM. A district attorney shall be elected for each prosecutorial unit specified in s. 978.01 at the general election in 1990 and biennially thereafter. The regular term of the office of district attorney commences on the first Monday in January next succeeding the officer's election.

History: 1981 c. 62, 314; 1987 a. 391; 1989 a. 31.

8.28 Challenge to residency qualifications. (1) Any individual who believes that an individual holding or elected to state or local office 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 individual 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

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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; 1983 a. 484.

8.30 Candidates ineligible for ballot placement. (1) Except as otherwise provided in this section, the official or agency with whom declarations of candidacy 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, or the deadline for filing a declaration of candidacy for an office for which nomination papers are not filed, 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 declarations of candidacy 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).

(4) The official or agency with whom a declaration of candidacy is required to be filed may not place a candidate's name on the ballot if the candidate fails to file a declaration of candidacy within the time prescribed under s. 8.21.

History: 1975 c. 93; 1979 c. 120, 328; 1979 c. 355 ss. 28, 29; 1983 a. 484; 1985 a. 304; 1987 a. 391.

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 qualifies to appear on the ballot may not decline nomination. The name of that person shall appear upon the ballot except in case of death of the person. A person who is appointed to fill a vacancy in nomination or who is nominated by write-in votes is deemed to decline nomination if he or she fails to file a declaration of candidacy within the time prescribed under sub. (2) (c) or s. 8.16 (2).

(2) (a) If a vacancy occurs after nomination due to the death of a candidate of a recognized political party for a partisan office, other than party committeeman or committeewoman, the vacancy may be filled by the chairperson 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. Similar vacancies in nominations of candidates for nonpartisan local offices may be filled by the candidate's personal campaign committee or, if the candidate had none, by the body which governs the local governmental unit in which the deceased person was a candidate for office. The chairperson, chief officer of the committee, or clerk of

the body making an appointment shall file a certificate of appointment with the official or agency with whom declarations of candidacy for the office are filed. For purposes of this paragraph, the official or agency need not recognize members of a personal campaign committee whose names were not filed under s. 11.05 prior to the death of the candidate.

(b) If a vacancy in nomination occurs due to the death of a candidate, the officer or agency with whom nomination papers are filed for the office shall promptly notify the chairman, committee or body, if any, that the vacancy may be filled within 4 days of the date of the notice, as shown by the postmark if the notice is mailed. The chairman, committee or body may file a sworn certificate of nomination with the official or agency within the 4-day period.

(c) The official or agency with whom a proper certificate is filed under par. (b) shall promptly notify the candidate who is nominated and transmit to the candidate a declaration of candidacy form and, in the case of a candidate for state or local office, a financial registration statement form under s. 11.05. No later than 5 p.m. on the 3rd day after notification of nomination is mailed or personally delivered to the new nominee by the official or agency, the nominee shall file a declaration of candidacy and, in the case of a candidate for state or local office, a registration statement under s. 11.05. No later than 4:30 p.m. on the 3rd day after notification of nomination is mailed or personally delivered to a new nominee for state office or municipal judge by the official or agency, the nominee shall file a statement of economic interests under s. 19.43 (4). If the nominee fails to file the declaration of candidacy, the official or agency may refuse to place the candidate's name on the ballot. If the nominee fails to file the registration statement or statement of economic interests, the official or agency may not place the candidate's name on the ballot.

(d) If the ballots have been prepared, the committees or body filling the vacancy shall supply stickers as provided under s. 7.38 (3) (c). No vacancy in a nomination occurs prior to the time of the primary election for an office, unless no primary is required for the office for which the nomination is made.

(e) This subsection does not apply in the event of the death of a candidate for nonpartisan office who has no opponent appearing on the election ballot.

(3) Whenever a nominee dies after the election 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 (2) or (4) 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; 1983 a. 484; 1985 a. 131 s. 3; 1985 a. 303 s. 88; 1985 a. 304; 1987 a. 391.

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).

8.40 Petition requirements. (1) In addition to any other requirements provided by law, each separate sheet of each petition for an election, including a referendum, shall have on the face at the top in boldface print the words "PETITION". Each signer of such a petition shall affix his or her signature to the petition, accompanied by his or her municipality of residence for voting purposes, the street and number, if any, on which the signer resides, and the date of signing.

(2) The affidavit of a qualified elector stating his or her residence with street and number, if any, shall appear at the bottom of each separate sheet of each petition specified in sub. (1), stating that the affiant personally circulated the petition and personally obtained each of the signatures; that the affiant knows that they are electors of the jurisdiction or district in which the petition is circulated; that the affiant knows that they signed the paper with full knowledge of its content; that the affiant knows their respective residences given; that the affiant knows that each signer signed on the date stated opposite his or her name; that the affiant resides within the jurisdiction or district in which the petition is circulated; and that the affiant is aware that falsifying the affidavit is punishable under ss. 12.13 (3) (a) and 946.32 (1) (a). The petition is valid with or without the seal of the officer who administers the oath.

(3) The board shall, by rule, prescribe standards consistent with this chapter and s. 9.10 (2) to be used by all election officials and governing bodies in determining the validity of petitions for elections and signatures thereon.

History: 1989 a. 192

8.50 Special elections. Unless otherwise provided, this section applies to filling vacancies in the U.S. senate and house of representatives, executive state offices except the offices of governor, lieutenant governor and district attorney, 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). 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 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; the special election for municipal judge shall be ordered by the mayor, president or chairman of the municipality, except in 1st class cities; 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. When the mayor, president or chairman issues the order, it shall be filed in the office of the municipal clerk or 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 a national or state office, the board shall give notice as soon as possible to the county clerks. 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 one type A notice for all offices to be voted upon within the county as provided in s. 10.06 (2) (n) and (3) (f).

(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 the incumbent and a description of how and when the vacancy is expected to occur. Except as otherwise provided in this paragraph, the notice shall include the information specified in s. 10.01 (2) (a).

(d) When the election concerns a national or state office, 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 one type B notice 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

8.50 NOMINATIONS, PRIMARIES, ELECTIONS

91-92 Wis. Stats. 146

election. The clerk shall publish one type B notice 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, PRIMARY AND CANVASS.** (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)(a) or 8.15 (1), respectively, and no later than 35 days prior to the date of the spring or September primary. Nomination papers may be filed in the manner specified in s. 8.10, 8.15 or 8.20. Each candidate shall file a declaration of candidacy in the manner provided in s. 8.21 no later than the latest time provided in the order for filing nomination papers. If a candidate for state or local office has not filed a registration statement under s. 11.05 at the time he or she files nomination papers, the candidate shall file the statement with the papers. A candidate for state office shall also file a statement of economic interests with the ethics board no later than the end of the 3rd day following the last day for filing nomination papers specified in the order.

(b) Except as otherwise provided in this section, the provisions for September primaries under s. 8.15 are applicable to all partisan primaries held under this section, and the provisions for spring primaries under s. 8.10 are applicable to all nonpartisan primaries held under this section. In a special partisan primary or election, the order of the parties on the ballot shall be the same as provided under s. 5.62 (1) or 5.64 (1) (b). 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 for an office appear on the ballot or for a partisan election in which not more than one candidate for an office appears on the ballot of each recognized political party. In every special election except a special election for nonpartisan state office where no candidate is certified to appear on the ballot, 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.

(d) The requirements for nominations and special primaries under this section apply to the filling of any office for

which a municipal caucus is regularly used to nominate candidates.

(e) In a special election for a state or national office, the county clerk or board of election commissioners shall transmit the statement of the county board of canvassers to the elections board no later than 7 days after the special primary and 13 days after the special election.

(4) **REGULATIONS ON SPECIAL ELECTIONS.** (b) A vacancy in the office of U.S. senator or representative in congress occurring prior to the 2nd Tuesday in May in the year of the general election shall be filled at a special primary and election. A vacancy in that office occurring between the 2nd Tuesday in May and the 2nd Tuesday in July in the year of the general election shall be filled at the September primary and 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) 1. Except as provided in subds. 2 and 3, a vacancy in the office of justice, court of appeals judge or circuit judge occurring in any year after the date of the spring election and 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 succeeding 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 succeeding spring election when no other justice is to be elected. A vacancy in the office of justice, court of appeals judge or circuit judge occurring after December 1 and on or before the date of the succeeding spring election shall be filled, if in the office of circuit judge, at the 2nd succeeding spring election; if in the office of court of appeals judge, at the first spring election, beginning with the 2nd succeeding 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, beginning with the 2nd succeeding spring election, when no other justice is to be elected.

2. If a vacancy in the office of justice, court of appeals judge or circuit judge occurs after December 1 and on or before the date of the succeeding spring election as the result of the resignation of the incumbent, if an election for that seat is scheduled to be held at the succeeding spring election and if

the incumbent is not a candidate to succeed himself or herself, the vacancy shall be filled at the regularly scheduled election.

3. If a vacancy in the office of justice, court of appeals judge or circuit judge occurs after the date of the spring election for that seat and before the succeeding August 1 as the result of the resignation of the incumbent and the incumbent is not elected to succeed himself or herself, the vacancy shall be filled by the individual who was elected at the regularly scheduled election. If no individual is elected at the regularly scheduled election or if the individual who is elected dies or declines to serve, the vacancy shall be filled under subd. 1.

4. All vacancies filled under subds. 1 and 2 are for a full term commencing on August 1 succeeding the spring election at which they are filled.

(fm) A permanent vacancy in the office of municipal judge may be filled by temporary appointment of the municipal governing body. The office shall then be permanently filled by special election, held concurrently with the next spring election following the occurrence of the vacancy, except that a vacancy occurring during the period after December 1 and on or before the date of the spring election shall be filled at the 2nd succeeding spring election, and no such election may be held after the expiration of the term of office nor at the time of holding the regular election for the office.

(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. senate or house of representatives ceases before the commencement of the term of office to which he or she is elected, a special election shall 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 promulgated under 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; 1983 a. 484; 1985 a. 304; 1987 a. 391; 1989 a. 31, 359.

8.55 Special referenda. (1) Whenever a special referendum is called, the clerk of the jurisdiction which calls the special referendum shall publish a type A notice of the special referendum on the 4th Tuesday preceding the special referendum.

(2) The clerk of the jurisdiction which calls a special referendum shall publish type B and C notices of the special referendum on the day preceding the special referendum.

(3) Whenever a special county referendum is called, the municipal clerk of each municipality which is wholly or partly contained within the county shall publish type D and E notices of the special referendum at the times specified in s. 10.06 (3). Whenever a special municipal referendum is called, the municipal clerk of that municipality shall publish type D and E notices of the special referendum at the times specified in s. 10.06 (3). Whenever a special referendum is called by a special purpose district, the clerk of the jurisdiction which calls a special referendum shall publish type D and E notices of the referendum at the times specified in s. 10.06 (4). If an election for national, state, county or municipal office or a state, county or municipal referendum is called in a municipality on the same day that a special referendum is called by a special purpose district in the same municipality, the type D and E notices shall be published only by the municipal clerk.

(4) Whenever the clerks of more than one jurisdiction are required under this section to publish the same notice on the same day, they may publish one notice only and share the cost under s. 10.07 (1).

History: 1987 a. 391.