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quired, with the clerk or board of election commissioners of the jurisdiction in which the candidate seeks office.

(2) The declaration of candidacy shall be sworn to before any officer authorized to administer oaths. The declaration shall contain the name of the candidate in the form specified under s. 8.10 (2) (b) for candidates for nonpartisan office or s. 8.15 (5) (a) or 8.20 (2) (a) for candidates for partisan office and shall state all of the following:

(a) That the signer is a candidate for a named office.

(b) That the signer 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.

(c) That the signer will otherwise qualify for office if nominated and elected.

(3) The declaration of candidacy shall include the candidate's name in the form in which it will appear on the ballot.

(4) Each candidate for state and local office shall include in the declaration of candidacy all of the following:

(a) A statement that the candidate has not been convicted of any misdemeanor designated under state or federal law as a violation of the public trust or any felony for which the candidate has not been pardoned.

(b) A statement that discloses the candidate's municipality of residence for voting purposes, and the street and number, if any, on which the candidate resides.

(5) The declaration of candidacy is valid with or without the seal of the officer who administers the oath.

(6) A candidate for state or local office shall file an amended declaration of candidacy under oath with the same officer or agency if any information contained in the declaration of candidacy changes at any time after the original declaration of candidacy 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; 1993 a. 140; 1999 a. 182; 2001 a. 109; 2005 a. 149.

Cross-reference: See also s. EL 6.04, Wis. adm. code.

A candidate for election to Congress need not be a resident of the district at the time the candidate files 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.

8.25 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 2008 and quadrennially 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; 2007 a. 158.

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 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 if any of the following apply:

(a) The nomination papers are not prepared, signed, and executed as required under this chapter.

(b) 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) The candidate, if elected, 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. 11.0202 (1) (a) 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 s. 11.0202 (1) (a).

(2m) The official or agency with whom nomination papers and declarations of candidacy are required to be filed shall not place a candidate's name on the ballot if the candidate's name is ineligible for ballot placement under s. 5.05 (2m) (d) 2., 15.61 (3), or 19.49 (2) (c) 2.

(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).

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(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; 2001 a. 109; 2005 a. 149, 177; 2007 a. 1; 2015 a. 117, 118.

Cross-reference: See also ss. EL 2.09 and 2.11, Wis. adm. code.

A petitioner who timely filed with the county clerk rather than with the State Elections Board under former s. 8.10 (6) (a), 1975 stats., was barred from the ballot. *State ex rel. Ahlgrimm v. State Elections Board*, 82 Wis. 2d 585, 263 N.W.2d 152 (1978).

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).

(1m) (a) A person who files nomination papers with the commission for an office other than district attorney to be filled at the general election does not qualify under sub. (1) to appear on the ballot at the partisan primary or general election, and the person's name shall not appear on the ballot, if, no later than the 7th business day before the June 10 preceding the partisan primary or no later than the 7th business day before the 4th Tuesday in August preceding the general election, the person does all of the following:

1. Files with the commission the sworn statement and identity verification required under par. (b).
2. Pays a fee of \$2,500 to the commission if the person is a candidate for governor, lieutenant governor, secretary of state, state treasurer, attorney general, U.S. senator, or, with respect to the general election, president and vice president of the United States.
3. Pays a fee of \$500 to the commission if the person is a candidate for U.S. representative in Congress.
4. Pays a fee of \$250 to the commission if the person is a candidate for state senate or representative to the assembly.

(b) 1. Each person withdrawing his or her candidacy under par. (a) shall complete and file with the commission a sworn statement, which shall be notarized and made under oath, on a form prescribed by the commission attesting that the person withdraws his or her candidacy and that verifies the person's identity, as provided in this paragraph. The form shall include a space for the candidate to state his or her reasons for withdrawing from candidacy, the date of completion of the form, the candidate's printed name, the candidate's signature, and the signature of the witness under subd. 2.

2. The candidate's completion of the form required under subd. 1. shall be personally witnessed by a county clerk, county sheriff, or municipal chief of police in this state, who shall verify the candidate's identity by means of an operator's license issued under ch. 343, an identification card issued under s. 343.50, an identification card issued by a U.S. uniformed service, or a U.S. passport, except that the identity of a candidate for president or vice president who is not a resident of this state may be verified by means of a driver's license or identification card issued by the candidate's state of residence in lieu of such license or identification issued by this state. A copy of the candidate's license, identification, or passport shall be submitted to the commission with the form required under subd. 1.

(c) A candidate's withdrawal of his or her candidacy prior to the partisan primary or general election shall not alter the ballot order of the remaining candidates if upon the candidate's compliance with pars. (a) and (b) the commission has already deter-

mined the ballot arrangement for the partisan primary or general election.

(d) No later than the 5th business day before the June 10 preceding the partisan primary or before the 4th Tuesday in August preceding the general election, the commission shall notify the county clerk in each affected county of any person who has withdrawn his or her candidacy by complying with pars. (a) and (b).

(e) A presidential candidate's withdrawal of his or her candidacy under pars. (a) and (b) constitutes a withdrawal of that candidate's joint ticket for president and vice president of the United States.

(2) (a) If a vacancy occurs after nomination due to the death of a candidate of a recognized political party for a partisan office, the vacancy may be filled by the chairperson of the committee of the proper political party under s. 7.38, or the candidate committee, if any, in the case of independent candidates. Similar vacancies in nominations of candidates for nonpartisan local offices may be filled by a candidate committee or, if there is 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 candidate 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 candidate committee whose names were not filed under s. 11.0203 (1) (c) 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 chairperson, 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 chairperson, 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 registration statement form under s. 11.0203 (1). 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. 11.0203 (1). 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). 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

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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) 1. 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 the former candidate was a partisan candidate or donated to the charitable organization of the former candidate's choice or the charitable organization chosen by the former candidate's 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 the former candidate was a nonpartisan candidate, donated to the charitable organization of the former candidate's choice or the charitable organization chosen by the former candidate's next of kin if the former candidate 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 subd. 1. a. or b.

2. A petitioner or personal representative may make the choice under subd. 1. a. or b. where subd. 1. c. applies.

(c) The treasurer of the former candidate's committee shall submit to the appropriate filing officer a special report detailing the disposition of funds under par. (a) 1. If the former candidate is deceased and was serving as the treasurer of his or her own campaign committee, the former candidate's petitioner or personal representative shall file the report. The report shall include a complete statement of all contributions, disbursements, and incurred obligations, pursuant to s. 11.0204 (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. 11.0204 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. 11.1400 or 11.1401.

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; 1993 a. 184; 1995 a. 225; 1999 a. 182; 2001 a. 109; 2005 a. 177; 2009 a. 89; 2011 a. 32; 2015 a. 117; 2025 a. 43.

Circuit judge is a nonpartisan state office. A vacancy due to the death of a circuit court judge candidate may not be filled under sub. (2). Committee to Retain Judge Byers v. Elections Board, 95 Wis. 2d 632, 291 N.W.2d 616 (Ct. App. 1980).

8.37 Filing of referenda petitions or questions. Unless otherwise required by law, all proposed constitutional amendments and any other measure or question that is to be submitted to a vote of the people, or any petitions requesting that a measure or question be submitted to a vote of the people, if applicable, shall be filed with the official or agency responsible for preparing the ballots for the election no later than 70 days prior to the election at which the amendment, measure or question will appear on the ballot. No later than the end of the next business day after a proposed measure is filed with a school district clerk under this section, the clerk shall file a copy of the measure or question with the clerk of each county having territory within the school district.

History: 1999 a. 182; 2005 a. 451; 2011 a. 75.

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 word "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 re-

sides, and the date of signing. In addition, each signer shall legibly print his or her name in a space provided next to his or her signature. No signature is valid under this subsection unless the signer satisfies the requirements under this subsection.

(2) The certification of a qualified circulator 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 he or she personally circulated the petition and personally obtained each of the signatures; that the circulator knows that they are electors of the jurisdiction or district in which the petition is circulated; that the circulator knows that they signed the paper with full knowledge of its content; that the circulator knows their respective residences given; that the circulator knows that each signer signed on the date stated opposite his or her name; that the circulator is a qualified elector of this state, or if not a qualified elector of this state, that the circulator is a U.S. citizen age 18 or older who, if he or she were a resident of this state, would not be disqualified from voting under s. 6.03; and that the circulator is aware that falsifying the certification is punishable under s. 12.13 (3) (a). The circulator shall indicate the date that he or she makes the certification next to his or her signature.

(3) The commission 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; 1997 a. 35; 1999 a. 182; 2001 a. 109; 2005 a. 451; 2013 a. 160; 2015 a. 118 s. 266 (10); 2017 a. 365 s. 111.

Cross-reference: See also ss. EL 2.09 and 2.11, Wis. adm. code.

The residence requirement for nomination paper circulators in former sub. (2), 2003 stats., as applied to Wisconsin residents who circulate papers outside the political subdivision in which they reside and to nonresidents violates the 1st amendment right of free speech. *Frami v. Ponto*, 255 F. Supp. 2d 962 (2003).

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, city, village, and town 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 August 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 partisan 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 office shall be ordered by the county board of supervisors except as provided in s. 17.21 (5); the special election for city office shall be ordered by the common council; the special election for village office shall be ordered by the board of trustees; the special election for town office shall be ordered by the town board of supervisors; 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 governing body of the municipality, except in 1st class cities, or if the judge is elected under s. 755.01 (4) jointly by the governing bodies of all municipalities served by the judge; 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 commission. When the county board of supervisors issues the order, it shall be filed and