

State of Wisconsin\Government Accountability Board

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MEMORANDUM

DATE: November 19, 2015

TO: Wisconsin County Clerks
Wisconsin Municipal Clerks
Milwaukee County Election Commission
City of Milwaukee Election Commission

FROM: Michael Haas
Elections Division Administrator

SUBJECT: Deadline for Notification of Noncandidacy

As we prepare for the circulation of nomination papers by candidates for the 2016 Spring Election, the G.A.B. has received several inquiries regarding the deadline for incumbents to file a Notification of Noncandidacy (GAB-163) in time to avoid extending the deadline for other candidates to file nomination papers. This year, the deadline falls on December 25, 2015. Because that date is a holiday recognized in Wisconsin Statutes, the filing deadline is extended to 5 p.m. on Monday, December 28, 2015, which is reflected in the Election Calendar which we recently posted.

Wis. Stat. §8.10(2)(a) provides that if an incumbent fails to file nomination papers and a declaration of candidacy by the filing deadline for the Spring Election, all other candidates for that office receive a 72-hour extension of the filing deadline. That section states:

No extension of the time for filing nomination papers applies if the incumbent files written notification with the filing officer or agency with whom nomination papers are filed for the office which the incumbent holds, no later than 5 p.m. on the 2nd Friday preceding the [filing deadline], that the incumbent is not a candidate for reelection to his or her office, and the incumbent does not file nomination papers for that office. . . .

Wis. Stat. §120.06(6)(b)3 contains similar language specifically pertaining to candidates for school board. We understand that some school district offices may be closed on December 28, 2015, but neither Section 8.10(2) nor Section 120.06(6) provides an exemption from or an additional postponement for the deadline to file a Notification of Noncandidacy when the office of a filing officer is closed on a day that is not recognized as a state holiday. Therefore, local filing officers, including school district clerks, or their designees, must be available to receive the Notification form until 5:00 p.m. on Monday, December 28, 2015.

Please note that the filing officer must receive an incumbent's Notification of Noncandidacy by December 28, 2015 in order to avoid extending the nomination paper filing deadline by 72 hours. However, pursuant to Section GAB 6.04, Wis. Adm. Code, the Notification of Noncandidacy may be filed by fax or email provided that the original document is either received by the filing officer or postmarked by the filing deadline, December 28, 2015. The G.A.B. recommends that filing officers reach out to all incumbent office holders early in an effort to avoid potential filing issues during the holiday season. Incumbents can file the Notification at any time prior to the deadline.

If you have any further questions regarding the above information or other issues that arise, please contact the G.A.B. Help Desk at (608) 261-2028, or gabhhelpdesk@wi.gov.