

ELECTION  
ADMINISTRATION  
IN THE  
STATE OF WISCONSIN



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# **Election Administration in the State of Wisconsin**

## **I. Introduction**

This document has been prepared to provide a description of the election process in Wisconsin. It addresses several frequently asked questions about Wisconsin elections. The questions raised deal with election management, the role of political parties, and political funding in Wisconsin elections. In order to better understand the answers, references are included to Wisconsin Statutes, Wisconsin Administrative Code (GAB x.xx), and Government Accountability Board forms (EB-xx) and publications.

## **II. Election Management**

### **A. Qualification and Registration of Voters.**

#### **1. Elector Qualification**

Wisconsin law is designed to facilitate voter participation. There are no significant barriers for an individual to qualify and register to vote. In order to qualify as a voter, an individual must be:

1. A United States citizen;
2. Age 18 or older by Election Day;
3. A resident of the ward or election district for at least 10 days before the election.

**See § 6.02, Wis. Stats.**

Certain persons are not permitted to vote in Wisconsin elections:

1. Any individual who is incapable of understanding the objectives of the electoral process;
2. An individual under a legal guardianship pursuant to a court order;
3. An individual convicted of treason, felony, or bribery, unless the person's civil rights have been restored;
4. An individual who has an interest directly, or indirectly, in any debt or wager depending on the result of an election.

**See § 6.03, Wis. Stats.**

If an individual has been convicted of treason, felony, or bribery, Wisconsin law provides for restoration of a person's right to vote when the person has completed the terms of his or her sentence.

**See § 304.078, Wis. Stats.**

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One of the key concerns about the qualifications of an elector is residence. Wisconsin law addresses a number of specific situations relating to residence.

Generally speaking, an individual must establish a physical presence in the voting district and intend that presence to be his or her residence for voting purposes. Electors may be temporarily absent from the place where they have established a voting residence if they have an intent to return to that residence. Many Wisconsin voters travel to warmer climates in the winter, for example, Florida or Arizona. As long as they do not vote at their temporary location, they maintain their qualification for voting in Wisconsin. This is also true for college students and persons working temporarily overseas.

**See § 6.10, Wis. Stats.**

### **2. Voter Registration**

In order to vote in Wisconsin elections, individuals must be registered. There are two exceptions: military electors and new Wisconsin residents - individuals who have moved into Wisconsin less than 10 days before an election.

Recent federal legislation, the Help America Vote Act of 2002 (HAVA), requires all states to develop a single statewide list of registered voters. The Government Accountability Board has designed a Statewide Voter Registration System (SVRS) to implement this requirement. SVRS enables the Government Accountability Board to track voter participation across the state. It also enables the Government Accountability Board to compare voter registration information with other state data bases. Currently SVRS is used to match new voters with driver's license records. Checks are also made with death records and felon records.

**See § 6.27, Wis. Stats.**

In order to register to vote, an individual must complete a voter registration form, EB-131. The voter must provide their full name; current and complete address; date of birth; and driver's license number. If the voter does not have a driver's license, the voter may provide a Wisconsin Identification card number or the last four digits of their Social Security number. The form contains a certification that all statements are true and correct. No witness is required.

The form may be completed in the municipal clerk's office or at a number of other locations designated by the municipal clerk. The municipal clerk appoints special registration deputies to administer voter registration at these other locations, which include fire houses, police stations, public libraries, institutions of higher education, high schools, supermarkets, community centers, plants, factories and financial institutions.

**See §§. 6.26, 6.28, Wis. Stats.**

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An individual may also register to vote by mail. The form must be completed by the voter and mailed to the municipal clerk. The municipality pays the postage for registration forms mailed in the United States. The registration form must be delivered to the municipal clerk's office or postmarked no later than the third Wednesday before an election.

HAVA requires first-time voters who register by mail to provide a current identifying document as proof of residence before voting. A first-time voter is an individual who registers to vote by mail and has never voted in Wisconsin. Forms collected as part of voter registration drives are treated as mail registrations unless the drive was conducted by special registration deputies.

**See Ss. 6.30 (4), 6.36 (2) (c)2., Wis. Stats.**

Registration closes at 5:00 p.m. on the third Wednesday before the election. The municipal clerk may also accept registration forms received after the close of registration, if post-marked by the close of registration.

A voter may register after the close of registration in the municipal clerk's office until 5:00 p.m. or the close of business, whichever is later, on the day before the election. The voter must present a current identifying document as proof of residence that shows the voter's full name and current address. If the voter does not have acceptable proof of residence, the voter may have another voter corroborate the information on the voter registration form. The corroborator must provide proof of residence.

**See §§. 6.28, 6.29, Wis. Stats.**

A voter may also register on Election Day at the polling place. The voter must present a current identifying document as proof of residence that shows the voter's full name and current address. If the individual does not have acceptable proof of residence, the individual may have another elector corroborate the information on the voter registration form. The corroborator must provide proof of residence.

The voter completes a voter registration form that is witnessed by an election inspector or a special registration deputy. The type of identifying document presented as proof of residence including any serial or account number is recorded on the registration form.

**See §§ 6.55(2), (3), 6.79 (4) Wis. Stats.**

### **B. Qualification and Registration of Candidates**

All candidates seeking public office must register with the appropriate filing officer. This is one of several qualifications for a candidate to get his or her name on the ballot.

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Registration is accomplished by completing a campaign registration statement (Form EB-1) and filing it with the appropriate filing officer. The campaign registration statement must be filed as soon as the individual forms an intent to become a candidate and before spending or receiving any money on his or her election campaign, except to open a campaign account or post office box.

**See S. 11.05, Wis. Stats.**

Candidates for most offices must file at least three documents to qualify to have their name placed on the ballot. These documents are:

1. Campaign Registration Statement, Form EB-1.
2. Declaration of Candidacy, Form EB-162.
3. Nomination Papers, Form EB-168 or EB-169.

Candidates for the fall partisan elections may begin circulating their nomination papers on June 1 for the fall elections. The deadline for filing nomination papers and the other documents required for ballot access is 5:00 p.m. on the second Tuesday in July.

**See §§ 8.15, 8.20, 8.21, Wis. Stats.**

The Government Accountability Board has established a challenge period by administrative rule that enables any elector to challenge the sufficiency of a candidate's nomination papers.

**See GAB. 2.05, 2.07, Wis. Adm. Code., Ss. 8.15, 8.20, Wis. Stats.**

Candidates for the spring nonpartisan election may begin circulating nomination papers on December 1 preceding the spring election. The deadline for filing nomination papers with the appropriate filing officer is 5:00 p.m. on the first Tuesday in January.

**See § 8.10, Wis. Stats.**

Candidates for school board in some school districts do not have to file nomination papers. They qualify for the ballot if they file a campaign registration statement and a declaration of candidacy by 5:00 p.m. on the first Tuesday in January.

**See § 120.06, Wis. Stats.**

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Candidates in some towns and villages are nominated by caucus and do not file nomination papers. The information on how caucus candidates qualify for the ballot is set out in the publication *Wisconsin Caucus Procedures*.

**See § 8.05(1), Wis. Stats.**

After candidates have filed the appropriate ballot access documents (campaign registration statement, declaration of candidacy, and nomination papers), a filing officer must review the documents to determine their sufficiency. The filing officer reviews the documents to be sure the information on the face of the documents complies with all legal requirements. The filing officer is not required to verify the accuracy of the information unless presented with evidence in the form of a sworn complaint that raises doubts about the accuracy of the information. The filing officer is required to certify to the election official responsible for preparing ballots, the names of all the candidates who have qualified to have their name placed on the ballot.

### **C. Election Campaign**

There is no official starting time for an election campaign. Press coverage often begins before candidates have announced their intention to run for office. This is a reflection of the right of free speech set out in the United States and Wisconsin constitutions. Much of the discussion about issues facing elected officials has a definite political overtone.

#### **1. Methods of campaigning**

Candidates employ a number of methods to persuade electors to vote for them. Generally, campaigns for the fall elections begin with the circulation of nomination papers in June. Candidates make numerous personal appearances at local civic gatherings during the months of June, July, and August. They also respond to questionnaires from interest groups seeking to gather information about the candidates' views on issues they will consider if elected. During this period of time, candidates are preparing campaign literature to hand out when meeting voters, along with promotional items such as bumper stickers and other articles with the candidate's name and the office they are seeking printed on them.

Opposing candidates may agree to debate each other in various formats with different degrees of formality. In late August or early September, candidates in primary contests will begin erecting campaign signs and placing ads with broadcast media. Candidates in large municipalities with a TV market may purchase television ads supporting their candidacy. Most candidates will purchase radio advertising, which is less expensive and is more local in its impact. Campaigning continues in earnest for the fall elections through the November election that is held on the Tuesday after the first Monday in November of even-numbered years.

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Candidates in spring elections generally begin organizing their campaigns in November and December. Nomination papers may be circulated beginning December 1. In spring election campaigns for smaller jurisdictions, more time is spent by candidates attending meetings of community groups and going door-to-door to meet voters.

### **2. Funding of campaigns**

Candidates may receive funds from three sources to finance their campaigns:

1. The candidate's personal funds;
2. Contributions from other individuals including family, friends and relatives;
3. Contributions from registered political committees including political party committees and political action committees.

Wisconsin law prohibits the use of certain money or other resources for campaigns:

1. Anonymous funds (money received by a candidate from an unknown source);
2. Any money or assistance from corporations;
3. Funds from unregistered committees or organizations.

Candidates and political committees must register with the appropriate filing officer and file periodic reports disclosing the source of all their income and the nature of their disbursements including the specific purpose for all campaign expenditures.

**See Chapter 11, Wis. Stats., specifically § 11.06 (1) (content of reports) and § 11.20 (reporting periods)**

Funds are raised by candidates through personal solicitation of potential contributors, mailings by the candidate's committee to potential contributors, and fundraising events such as dinners or golf outings.

**See the *Campaign Finance and Bookkeeping Manual*.**

### **3. Campaign Offenses and Penalties**

Wisconsin law is designed to encourage free, fair, and open campaigns. There are significant penalties for failing to disclose the source of funding for candidates or exceeding restrictions on the amount of money a candidate may receive from particular sources.

**See § 11.61, Wis. Stats.**

Penalties for campaign finance violations are generally punished by a civil forfeiture (similar to a traffic citation). Particularly egregious cases may involve criminal penalties, including prison.

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Wisconsin law is also designed to prevent fraud in the election process. Any person, particularly a candidate or election official, is prohibited from tampering with ballots and voting equipment. Employers and labor unions are prohibited from attempting to coerce electors to vote a particular way. Bribery is prohibited.

See §§ 12.05, 12.11, 12.13, Wis. Stats.

The purpose of the restrictions on certain activity is to ensure the orderly conduct of elections in a manner that preserves public confidence in the integrity of the electoral process. Penalties for offenses which undermine the integrity of the electoral process are criminal and punishable by fine or imprisonment.

**See Forms EB-111, EB-117 which are required to be posted at the polling place detailing election offenses and election rights.**

### **D. Voting**

#### 1. Methods of Voting

There are three types of voting equipment in use in Wisconsin: paper ballots, optical scan vote tabulators and direct record electronic voting machines. When a person appears at the polling place on Election Day to vote, the voter gives his name and address to the two election inspectors who maintain the poll lists. The voter is recorded on the lists by assigning a serial number corresponding to the number of voters that have come to the polling place.

The oldest form of voting and the one used in the largest number of municipalities in Wisconsin is a paper ballot. After the voter's name and address are recorded on the poll list, he or she is given a set of paper ballots initialed by two election inspectors. The voter takes the ballots to a voting booth. The voter makes his or her choice by making an "x" or other mark on the ballot across from the names of the candidates the voter wishes to support. After marking the ballot, the voter folds the ballot and deposits it in a locked ballot box.

In spring elections, there may be several different paper ballots provided to the elector: a ballot containing state and county offices, a ballot for municipal offices, a ballot for school district offices, and a referendum ballot. In the fall partisan primary, the voter receives several ballots stapled together, one for each political party with ballot status and one for the independent candidates who may qualify for public funding.

Paper ballots are hand tabulated after the polls close. The results are recorded on duplicate tally sheets and given to the municipal clerk for delivery to the appropriate board of canvassers.

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In the 1950s, many of Wisconsin's larger municipalities purchased lever machines for voting. A lever machine is a self-contained voting unit. After the voter's name is recorded on the voter list, the voter enters the unit and pulls a lever that closes a curtain behind the voter. The voter can then make his choices by pulling down small levers on the machine corresponding to the candidates of his choice. The voter then pulls a large lever that records the voter's choices by advancing a series of numbered dials on the machine. After the polls close, the election inspectors unlock the voting machines, read the results from the dials, and record them on duplicate tally sheets that are given to the municipal clerk for delivery to the appropriate board of canvassers. These machines have not been used in Wisconsin since the 2006 Spring elections.

Beginning in 1980, Wisconsin law authorized the use of electronic voting systems. Vote tabulation is done electronically on these voting systems. There are currently two types of electronic voting systems in use in Wisconsin: optical scan tabulators and direct record electronic voting devices.

In 1993 the State Elections Board worked with municipal and county clerks to establish a moratorium on the use of punch card voting equipment. Following the 2000 general election, the Board revoked the approval for the use of punch card voting equipment.

An optical scan ballot is a paper ballot that can be read electronically. The voter receives the ballot after his name and address is recorded on the voter lists. The voter takes the ballot to a voting booth and selects the candidates of his choice by completing an arrow across from the candidate's name or by darkening an oval next to the candidate's name. After voting, the elector takes the ballot to a scanning device and inserts the ballot into the device. The device reads the ballot and records the votes. When the polls close, the device is unlocked and the election inspectors print out the vote totals for the reporting unit. Because the results are also stored electronically, a device called an E-Prom can be inserted into a computer to accumulate the totals from several reporting units in a municipality. The printout is the tally sheet. It is distributed to the appropriate boards of canvassers along with the E-Prom. The results are often sent by modem to the municipal or county clerk for posting on election night.

HAVA requires that every polling place have a voting system that permits individuals with disabilities to cast a vote in a private and independent manner by January 1, 2006. Direct record electronic (DRE) voting devices provide this opportunity, but there is currently a controversy over the lack of a voter verified paper trail on this type of voting equipment and a perceived vulnerability to tampering.

All DRE voting devices approved for use in Wisconsin have a voter verifiable paper trail. In the event of recount or election contest, the paper record is the official ballot for resolving election disputes.

Direct record voting equipment is an electronic version of lever voting machines. The voting unit is self-contained like a lever voting machine. However, the voter's choices are recorded

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electronically rather than mechanically. As a result, the information can be electronically transmitted and the results accumulated electronically. The equipment produces a printout, which is the tally sheet. It is distributed to the appropriate boards of canvassers along with a data card with the results in an electronic format.

The Elections Division has established a strong working relationship with representatives of the disability community to identify accessible voting systems. The partnership also helps evaluate the accessibility of the voting process, including polling places.

### **2. Ballots**

All votes in Wisconsin are recorded on ballots. Ballots are generally in paper format. However, a ballot may consist of a display on a direct record voting device. Different election officials are responsible for preparing different ballots. The Elections Division is responsible for specifying the general design for ballot forms used in Wisconsin.

**See §§ 5.51 et seq., 7.08, Wis. Stats. and *Ballot Instruction Manual for Wisconsin*.**

The county clerk is responsible for preparing ballots for federal, state and county offices and state and county referenda questions. The municipal clerk is responsible for preparing ballots for municipal offices and municipal referenda. The school district clerk is responsible for preparing ballots for school district offices and school district referenda.

For some voting systems where all offices are combined on a single ballot, the county clerk may prepare all ballots. For example, with optical voting systems, the county clerk often will take responsibility for preparation of all the ballots. However, for direct record voting systems, the municipal clerk will take responsibility for preparation of all the ballots.

The cost of programming electronic vote tabulation is apportioned in the same manner as the cost of ballot preparation.

When one clerk prepares all the ballots, it is still the responsibility of the other clerks to review the ballots to ensure the candidates' names are spelled properly and are in the proper office. This requires clear communication among the Elections Division, the county clerks, the municipal clerks, and the printers.

The election official responsible for preparation of the ballots arranges for ballots to be designed and printed. Ballots must be prepared and delivered to municipal clerks so they are available for absentee voting at least 31 days before the fall elections and 22 days before spring and special elections.

Once ballots are prepared, they are delivered to the municipal clerk, who packages them for

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delivery to the polling place. Absentee ballots are kept in the municipal clerk's office to respond to requests for absentee voting. There are no written or statutory requirements for delivering ballots to the polling place. Municipalities follow different procedures. The Government Accountability Board has adopted a set of administrative rules to ensure security of ballots, voting equipment and election results.

**See GAB Chapter, Wis. Adm. Code**

The procedure for transporting ballots will vary by the type of voting equipment. Paper ballots are delivered to the municipal clerk before the election. The clerk is responsible for ensuring ballots delivered to the polling place are kept securely until the polls open. Generally, ballots are packaged and sealed until they are needed. A careful accounting of all ballots is made to ensure that unauthorized personnel do not take ballots. The same procedures apply for optical scan ballots.

The ballots for direct record voting equipment consist of the candidate and referenda displays that are programmed into the device under the direction of the local election official. Only personnel under the direction of the municipal clerk have access to the voting equipment before voting. Any person who assists in setting up voting equipment signs a certificate when the equipment is programmed as well as when the equipment is delivered to the polling. The certificate shows the time and date of access. The keys for the voting equipment are also recorded, sealed, and secured by the municipal clerk.

### 3. Polling Place

The municipal clerk is responsible for establishing, setting up and equipping polling places. Usually the clerk directs municipal employees to arrange the rooms in which voting takes place and to set up the voting equipment. All equipment must be set up before the polls open on Election Day. Depending on the type of voting system used, this may require voting equipment from warehouses and setting up voting booths.

The clerk also recruits, appoints and trains the election inspectors. The election inspectors are responsible for conducting voting at the polling place. The chief inspector is in charge of the polling place. The chief inspector is designated by the municipal clerk. The clerk may appoint tabulators to assist in counting the votes after the polls close and special registration deputies to assist with voter registration on Election Day at the polling place.

The two political parties that received the most votes at the preceding general election in the municipality may nominate individuals to serve as election inspectors. This is not a common practice. A recent change in state law permits high school students to serve as election inspectors.

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**See §§ 7.15, 7.30, Wis. Stats.**

### **4. Absentee Voting**

Any qualified elector who is unable or unwilling to go to the polls on Election Day may vote absentee. There is no requirement to state a reason.

In order to vote absentee, a qualified elector must complete a written application containing the information set out in a form designed by the Elections Division (EB-121). The municipal clerk must receive the application no later than 5:00 p.m. on the Thursday before the election if the person wishes to have the absentee ballot mailed to them. If the person votes absentee in the municipal clerk's office, the application must be completed by 5:00 p.m. the day before the election.

A separate application is required for each election, except in certain cases. Military electors may request that an absentee ballot be automatically sent to them until they have completed their military service. Persons who are indefinitely confined due to age, illness, or physical disability may request an absentee ballot be sent to them automatically. The municipal clerk maintains a separate record of voters entitled to have an absentee ballot sent to them automatically. If the voter fails to return an absentee ballot that is automatically sent to them, the municipal clerk notifies the voter that they must reapply if they want an absentee ballot sent for the next election.

**See §§ 6.85, 6.86 Wis. Stats.**

The municipal clerk maintains a list of all persons who have applied for an absentee ballot. The list indicates the date the application is received, whether the person receives an absentee ballot automatically, the date the ballot was mailed, the date the ballot was returned, and any other contact the municipal clerk has with the voter with respect to absentee balloting.

**See § 6.89 Wis. Stats.**

There are special procedures for absentee voting in institutions where a large number of elderly or disabled voters may reside, such as nursing homes. In those cases, the municipal clerk appoints two special voting deputies, one from each of the two major political parties, to take the absentee ballots to the nursing home on a date sometime during the four weeks immediately preceding the election. The persons complete their ballots in the presence of the special voting deputies. The special voting deputies return the ballots to the municipal clerk who delivers them to the polling place on Election Day.

**See § 6.875, Wis. Stats. and the publication, *Absentee Voting in Nursing Homes, Retirement Homes and Community Based Residential Facilities.***

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Any elector who votes absentee must complete a certificate envelope. The certificate is signed before one witness. The voter's absentee ballot is placed in the envelope that is returned to the municipal clerk. The municipal clerk is required to pay the return postage for all absentee ballots that are mailed within the continental United States. The clerk may use special envelopes for military and overseas electors for which the United States government pays the postage. When the municipal clerk receives absentee ballots, the municipal clerk keeps them in a secure place until they are delivered to the polling place on Election Day.

On Election Day, the election inspectors review the certificate envelope to make sure it is properly completed. If it is not properly completed, the envelope is marked "rejected" and placed in an envelope for rejected absentee ballots. If the certificate is sufficient, the election inspectors open the envelope to determine that no more than one ballot of each type has been voted on. If so, the ballots are returned to the envelope and it is marked rejected. If not, the election inspectors record the absentee electors on the voter lists. They indicate on the voter lists that the elector voted absentee and place the voted ballots in the ballot box. After the polls close the ballots are counted by the election inspectors.

See § 6.88 Wis. Stats.

### **5. Provisional Voting.**

HAVA established a requirement to provide individuals who appeared at the polling place without required identification or whose name did appear on the poll list to cast a provisional ballot. Provisional ballots are separated from other ballots cast at the polling place. A provisional ballot is not counted unless certain conditions are met.

Because Wisconsin has Election Day registration, very few provisional ballots are cast.

### **E. Canvassing**

The canvass of election results consists of adding vote totals from reporting units under the jurisdiction of the board of canvassers, certifying the results as official, and formally determining the winner of the election. Canvass boards have the power to require correction of obvious errors in the work done by election inspectors at the polling place or to require an explanation of inconsistencies in the reports received from the polling place.

#### **1. Municipal Level**

The municipal board of canvassers consists of the municipal clerk and two electors appointed by the clerk. The municipal board of canvassers certifies the election results at the municipal level and officially determines the winners for municipal offices. In municipalities with only one

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reporting unit, the election inspectors working at the polling place on election night serve as the municipal board of canvassers. The municipal board of canvassers is responsible for certifying election results for town, city, and village offices and referenda.

**See § 7.53, Wis. Stats.**

### **2. School District Level**

The school district board of canvassers consists of the school district clerk and two electors chosen by the clerk. The school district board of canvassers is required to meet within 24 hours after the polls close to certify the results of the school district election. The school district board of canvassers does not physically recount the votes when it meets. It reviews the documents prepared at the polling place, adds the totals, certifies the results, and determines the winners.

**See § 7.53 (3) Wis. Stats.**

### **3. County Board of Canvassers**

The county board of canvassers consists of the county clerk and two persons appointed by the county clerk from lists submitted by the two major political parties. One county canvass board member must be from a political party other than that of the county clerk. If the county clerk is on the ballot or is unable to perform the duties, the county clerk designates a deputy clerk to serve on the county board of canvassers. The county board of canvassers receives election results from each reporting unit in the county. It is responsible for reviewing the results, ensuring that there are no problems apparent in the reports, and certifying the results for county, state and federal elections. The county board of canvassers officially determines the winners for county offices and referenda. It also transmits its certification of the vote totals for state and federal offices to the Government Accountability Board. The county board of canvassers meets no later than 9:00 a.m. on the Thursday following the election. The county board of canvassers does not physically recount the ballots at its canvass board meeting.

**See S. 7.60, Wis. Stats.**

### **4. State Canvass**

The chairperson of the Government Accountability Board reviews the official results prepared by the Elections Division staff from the canvass reports received from the county boards of canvassers. The Board chair certifies the official results for all state and federal elections and officially determines the winners of those elections.

**See § 7.70, Wis. Stats.**

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### 5. Recount

Any candidate may request a recount of an election. Any person who voted on a referendum question may request a recount on that referendum question. In order to request a recount, a person must file a sworn petition stating they believe a mistake or fraud was committed in the conduct of the election or specify any other irregularity or illegality in the conduct of the election. The statement must be filed no later than three business days after the board of canvassers determining the result of the election has met. The petition for recount may not be filed before the board of canvassers meets. If the difference in the vote is more than one half of one percent (.5%), the person requesting the recount must pay a fee equal to \$5 for each ward which is recounted. If the difference in the vote is more than 2%, the petitioner must pay the actual cost of conducting the recount. The board of canvassers responsible for determining the election results conducts the recount. In the case of state or federal offices, the county board of canvassers in each county conducts the recount.

The board of canvassers recounts each ballot for the race that is being recounted. They do not just review reports received from the polling places.

See § 9.01, Wis. Stats. and the publication, *Election Recount Procedures*.

### **F. Special Elections**

Wisconsin law provides for the conduct of special elections for particular purposes. A special election is any election held at a time other than a regularly scheduled election. A special election may be held in conjunction with a regularly scheduled election if the office requiring the special election is not scheduled. For example, in 2008, odd-numbered state senate seats are not up for election. However, if there were a vacancy in an odd-numbered state senate seat, a special election to fill that vacancy could be held on the same day as the 2008 general election.

Special elections are held to fill vacancies in elected offices. Some referenda and recall elections may also be viewed as special elections because they are held at times that do not coincide with a regularly scheduled spring or fall election.

See §. 8.50, 8.55, Wis. Stats.

### **G. Recall Elections**

The Wisconsin Constitution and Wisconsin law provide for the recall of elected officials.

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Generally, after an elected official has served one year of his term, he or she may be subject to a recall election if a specified number of electors in the jurisdiction the office holder represents file a petition requesting recall of that elected official. County, state and federal office holders may be recalled if a petition is filed containing signatures equal to 25% of the vote cast for governor at the last general election in the jurisdiction the candidate represents. Local elected officials (town, village, city and school district officeholders) are also subject to recall if a petition is filed containing signatures equal to 25% of the vote cast for governor at the last general election in the jurisdiction the local elected official represents. Petitioners seeking to recall an elected official have 60 days to gather signatures. In addition, recall petitions for local elected officials must contain a reason for recall. The reason must be related to the person's official duties. No reason for recall is required on a petition seeking to recall county, state or federal office holders.

**See § 9.10, Wis. Stats. and the Government Accountability Board publication, *Recall of Local Elected Officials*.**

### **H. Referenda**

Wisconsin law provides for a vote on particular issues at different levels of government. These issue votes are called referenda.

A statewide referendum can be held on any question submitted by the legislature to the voters. In order for the question to be on the ballot, the state legislature must enact legislation specifying the question to be submitted to a vote. Any change to the Wisconsin Constitution that is approved by two consecutive legislatures must also be submitted to the voters for ratification.

The governing bodies of counties, cities, villages, towns, or school districts may also submit advisory referendum questions to the voters for consideration. School districts and other municipalities seeking to borrow money over a certain amount are required to submit the question to the voters for approval. Questions are often submitted at a special election because the governing body does not wish to wait for a regularly scheduled election to get approval to borrow money by issuing bonds.

In cities and villages, voters may petition to have legislation adopted by the governing body or submitted to the voters for approval. In Wisconsin this is called direct legislation. In other states this type of referendum is called an initiative referendum because it is generated by petitions from the voters. The subject of direct legislation is limited by statute and case law.

**See §§ 8.37, 9.20, Wis. Stats.**

### **I. Election Cycle**

Wisconsin has six regularly scheduled elections in a two-year election cycle. In odd-numbered

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years there is a spring primary and spring election. In even-numbered years there is a spring primary, spring election, partisan primary, and a general election.

The spring primary is held on the third Tuesday in February. The spring election is held on the first Tuesday in April. Nonpartisan judicial offices, county board, school board and municipal offices are filled at the spring election.

The partisan primary is held on the second Tuesday in September of even-numbered years. The general election is held on the Tuesday after the first Monday in November of even-numbered years. Representatives in Congress and representatives to the state assembly are elected at the general election for two-year terms. Statewide officeholders (Governor, Lieutenant Governor, Attorney General, Secretary of State and State Treasurer), odd-numbered state senators, county sheriffs clerks of court and corners are elected to four-year terms in non-presidential years. Even-numbered state senators, district attorneys, county clerks, surveyors, treasurers and registers of deeds are elected to four-year terms in presidential years.

In even-numbered years that are divisible by four, i.e. 2000, 2004, 2008, there is a presidential preference election which coincides with the spring primary and the election for United States president which coincides with the general election. A special selection committee meets before the presidential preference primary to determine the names of presidential candidates that will appear on the ballot. The presidential electors selected at the general election meet as part of the Electoral College on the Monday following the second Wednesday in December to cast the official votes for president and vice-president.

See §§ 7.75, 8.25, Wis. Stats.

### **III. Political Parties and Campaign Finance**

#### **A. Legal Requirements for the Establishment and Dissolution of Political Parties**

In Wisconsin, political parties are voluntary organizations. The political parties determine their organizational structure. Political parties control their internal organization. Because they are private organizations, they set their own rules on membership.

Political parties and their subordinate organizations may make contributions to candidates to influence the outcome of elections. They must register with the Government Accountability Board as a political party organization and file reports disclosing the source of the funds they use to make contributions to candidates and the specific purpose of election-related disbursements. Wisconsin law limits the amount of money that political parties may contribute directly to candidates and prohibits political parties from making expenditures independently of candidates. Political funds may only be used as contributions to candidates or for expenditures designed to enhance the activities of the party.

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Wisconsin law recognizes certain political parties as qualifying for ballot status if one of their candidates for statewide office received at least 1% of the vote in a general election. Wisconsin law also recognizes the existence of a party organization for purposes of nominating election inspectors and special voting deputies. This structure is defined in the statutes. It does not reflect the real-life organization of political parties.

### **B. Present Political Party Status**

There are currently four political parties with ballot status:

Democratic Party of Wisconsin

Republican Party of Wisconsin

Libertarian Party of Wisconsin

Wisconsin Green Party

The Democratic and Republican parties are referred to as major parties because their candidates receive the most votes in state and federal elections. The other parties are referred to as minor parties because they meet the minimum threshold of receiving at least 1% of the vote, but their candidates have not been elected to office in recent years in Wisconsin.

There are other political parties or political organizations which candidates represent. They generally appear on the ballot as independent candidates because the parties' candidates have not acquired the minimum 1% of the vote for a statewide office at a general election.

### **C. Interrelationship of Political Party and Election**

There are no strict requirements for membership in a political party by candidates. Practically speaking, candidates join political parties and are active in the party organization. There are occasions when candidates are not members of political parties but run in party primary elections.

In the partisan primary, voters must choose which primary they wish to participate. Voters may only vote for candidates of one political party. Voters may not crossover and vote for candidates of more than one political party at the primary election. This choice is made in secret so that there is no public record of the political party primary in which a voter participates. This is accomplished by requiring the voter to pick one of the several paper ballots, or the independent ballot, and throw the others away. The voter may make a designation by making a mark on the ballots used with electronic voting equipment which prevents the equipment from counting votes

## **Election Administration in the State of Wisconsin**

in more than one political party. In other states, the voter registers by political party, so there is a public record of which party primary the voter chooses.

### **D. Campaign Finance**

#### 1. History

Wisconsin has regulated the sources of funds candidates may use to finance their elections and the purpose for which those funds may be used since the early 1900s. It is only in the last 30 years that a significant amount of regulation concerning the financing of political campaigns has developed in Wisconsin, at the federal level, and in other states. Traditionally, campaign financing came from the candidates' own personal funds, political party funds, contributions from individuals, and in some cases, business and labor organizations. Wisconsin has prohibited the use of business or corporate funds in elections since the early 1900s.

Following the Watergate scandal in 1972, the federal government and several states, including Wisconsin, developed significant legislative regulation of political funding. Independent commissions were established to administer and enforce the financing of political campaigns. At the federal level the Federal Elections Commission whose primary responsibility is to regulate the money used in federal elections does this. In Wisconsin, the Government Accountability Board carries out this role.

See Governor's Study Committee on Political Finance, Final Report, 1974.

#### 2. Contribution Limits

The key components of Wisconsin's regulation of political financing are limits on the sources of money candidates may receive. Certain contributions are prohibited:

1. Contributions from corporations;
2. Anonymous contributions of more than \$10;
3. Cash contributions exceeding \$50;
4. Contributions from unregistered organizations.

Generally, a candidate receives money from the following sources:

1. The candidate's own funds;
2. Contributions from individuals;
3. Contributions from registered political committees;
4. Contributions from registered political party committees;
5. For statewide and legislative candidates, publicly funded grants from Wisconsin Election

## Election Administration in the State of Wisconsin

### Campaign Fund.

Wisconsin law limits the amount that can be received from these sources.

See § 11.26, Wis. Stats. and the *Campaign Finance and Bookkeeping Manual* and attached charts.

### 3. Expenditure Limits

When the Wisconsin campaign finance law was first enacted in 1974, it contained strict limits on the amount of money candidates for public office could spend. However, the U.S. Supreme Court determined that state-imposed limits on the amount of money candidates could spend violated the United States Constitution's right to freedom of expression. The Supreme Court stated that it costs money for candidates to communicate their views to constituents. Any limit on the amount of money candidates can spend was a limit on their ability to communicate their views to potential voters. This was seen as an unconstitutional abridgement of their right of free speech. Buckley v. Valeo, 424 U.S. 1, (1976). As a result of the United States Supreme Court decision in Buckley, expenditure limits may only be imposed in election campaigns if they are voluntarily agreed to by candidates or if they are a condition for accepting publicly funded grants for election campaigns.

Expenditure limits are a growing concern because of the escalating costs of political campaigns. Incumbents are seen to have an unfair advantage because political committees and individuals are more interested in contributing funds to persons already in power.

### 4. Qualification for Receiving Public Funds

In 1976, the Wisconsin legislature created the Wisconsin Election Campaign Fund (WECF). The WECF provides grants of money to candidates for statewide and legislative office who qualify to receive it. The basic qualifications to receive a grant are:

1. Candidates must submit a sworn application stating they will adhere to all applicable contribution and expenditure limits;
2. Candidates must win their primary;
3. Candidates for partisan office must not only win the primary, but must obtain at least 6% of the total vote cast for that office at the primary;
4. The candidate must have an opponent in the general election who could qualify for the receipt of public funds.

See § 11.50, Wis. Stats. and the Government Accountability Board publication, *Wisconsin Election and Campaign Fund Manual*.

### 5. Performance

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Wisconsin's regulations on campaign finance have been viewed as a model for state and federal regulation of political funding. However, concerns have been expressed recently about the high cost of conducting campaigns, the potential influence of special interests represented by political action committees and conduits, and the inability of challengers to raise significant funds to mount a credible campaign for public office. In addition, the Wisconsin Election Campaign Fund, which receives its funds from taxpayer designations, has been declining in recent years. Almost 20% of eligible taxpayers designated \$1 of their taxes in 1979. By 2006 this amount had dropped below 6%. As a result of these concerns, the legislature and other participants in the political process, including the Government Accountability Board and its staff, have been examining proposals which would meet the key criteria for campaign finance regulations:

1. To facilitate funding to enable a vigorous campaign mounted for elective office;
2. To disclose the sources of funding candidates receive, as well as the purpose for which political expenditures are made;
3. To reduce the high cost of political campaigns;
4. To ensure public confidence in the way in which campaigns are conducted and in the outcome of elections.

**See Governor's Blue Ribbon Commission on Campaign Finance Reform, May 1997 Report (Kettl Commission) and Citizens' Panel on a Clean Elections Option, June 1997 Report (Heffernan Commission)**

Additional information on the election process in Wisconsin can be obtained from the Government Accountability Board website: <http://gab.wi.gov>

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