



Wisconsin Elections Commission

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DATE: November 24, 2021

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

FROM: Allison Coakley
Training Coordinator

SUBJECT: Election Administration Manual Legislative Update

The following section of the September 2020 Election Administration Manual was affected by 2021 WI Act 33, relating to posting an incumbent's notification of non-candidacy by the filing officer. Please review the information provided below and our clerk communication, "Notification of Non-Candidacy Posting Requirements and Filing Deadlines:" <https://elections.wi.gov/node/7563>. This legislation affects municipalities that use nomination papers and towns and villages that use the caucus system. If you have any questions, please contact the Elections Help Desk: elections@wi.gov or (608) 261-2028.

Chapter: Candidates
Notification of Non-candidacy (EL-163), page 32
Non-Candidacy posting requirements and filing deadlines

Where nomination papers are used: If a filing officer receives a notification of non-candidacy from an incumbent, the filing officer is now required to promptly post public notice of that fact on their website, or, if they do not have a website, they can post that information in at least 3 different locations within the jurisdiction. In addition, if an incumbent fails to file a declaration of candidacy by the filing deadline of 5:00 p.m. on the first Tuesday in January, the filing officer is now required to post that information on their website or in 3 locations within the jurisdiction. Wis Stat. §§ 8.10(2)(am) and 120.06(6)(b)3m.

In jurisdictions where nomination papers are required, if an incumbent does not file either a notification of noncandidacy by the second Friday in December before the January filing deadline or nomination papers and a declaration of candidacy by 5:00 p.m. on the January filing deadline, the filing deadline for that office is extended by 72 hours from the original deadline for all candidates except the incumbent. Wis Stat. §§ 8.10(2)(a) and 120.06(6)(b)3. The extension does not apply to the incumbent. Wis. Stat. § 8.05(1)(j).

Where caucus is used: If a filing officer receives a notification of non-candidacy from an incumbent, the filing officer is now required to promptly post public notice of that fact on their website, or, if they do not have a website, they can post that information in at least 3 different locations within the jurisdiction. In addition, if an incumbent fails to file a declaration of candidacy by the filing deadline of 5 days after notification of nomination after a caucus, the filing officer is now required to post that information on their website or in 3 locations within the jurisdiction. Wis Stat. § 8.05(1)(j)2m.

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In jurisdictions where caucus is used, if an incumbent is nominated at caucus but does not file either a notification of non-candidacy or a declaration of candidacy by 5:00 p.m. on fifth day after notification of their nomination from the caucus, the filing deadline for that office is extended by 72 hours after the original deadline for all candidates certified at caucus except the incumbent. Wis. Stat. § 8.05(1)(j)2. The extension does not apply to the incumbent. Wis. Stat. § 8.05(1)(j).

An incumbent is required to file a Notification of Noncandidacy to notify everyone, especially the clerk and potential candidates, that they do not intend to be a candidate at the upcoming spring election. For this reason, the municipal clerk may want to send the notification of noncandidacy form to all incumbent officeholders whose term of office is up the next election.