

ELECTIONS IN WISCONSIN

Purposes and days

Wisconsin holds elections for a variety of purposes and, depending on the purpose, on a variety of days.

FILLING THE STATE'S ELECTIVE OFFICES

To fill its elective offices, Wisconsin holds elections on four regular election days.

The general election. On the Tuesday after the first Monday in November of every even-numbered year, Wisconsin elects individuals to fill its partisan elective offices. The elections held on this day are referred to collectively as the “general election.”

The partisan offices in Wisconsin are U.S. senator, U.S. representative, state senator, state representative, governor, lieutenant governor, attorney general, secretary of state, state treasurer, and the county-level offices of district attorney, county clerk, sheriff, clerk of circuit court, register of deeds, treasurer, coroner (in counties that have one), and surveyor (in counties in which the office is elective).

The voters of the entire state elect Wisconsin's U.S. senators, governor, lieutenant governor, attorney general, secretary of state, and state treasurer. The voters of each congressional, senate, and assembly district elect that district's U.S. representative, state senator, or state representative. The voters of each county elect that county's clerk, sheriff, clerk of circuit court, register of deeds, treasurer, coroner, and surveyor and the district attorney for the prosecutorial unit serving the county. (For the prosecutorial unit that serves Menominee and Shawano Counties, the voters of both counties elect the district attorney.)

The terms of office for the partisan offices are not all the same length and do not all expire on the same day or in the same year. Accordingly, only some of the partisan offices will be up for election at any particular general election—namely, those for which the currently running term of office will expire before the next general election is held.

The ballot at each general election lists the offices that are up for election and, under each office, the candidates for the office who have qualified to be listed. Next to each candidate's name, the ballot lists the name of the political party or, in the case of an independent candidate with no party affiliation, the principle that the candidate represents.

An individual who wishes to be listed as a candidate on the ballot must file,

no later than the June 1 preceding the general election, 1) a declaration of candidacy indicating the office that the individual seeks and the political party or the principle that he or she proposes to represent and 2) nomination papers signed by a statutorily required number of voters residing in the governmental jurisdiction or election district that the office serves. In addition, the individual must win a partisan primary election if he or she proposes to represent one of the “recognized” political parties (see below). By contrast, an individual who does not propose to represent a recognized political party will be listed on the general election ballot without participating in a partisan primary election. Such an individual is called an “independent candidate.”

The candidate who receives the most votes cast for a particular office at the general election fills that office when the currently running term of office expires.

The partisan primary. Prior to the general election, on the second Tuesday in August of every even-numbered year, Wisconsin holds primary elections to select the individuals who will be listed on the general election ballot as the candidates of the “recognized” political parties. The elections held on this day are referred to collectively as the “partisan primary.”

A political party qualifies as a recognized political party in one of three situations:

- A candidate of the political party won at least 1 percent of the votes cast in Wisconsin, either for a statewide office at the last general election at which the office of governor was up for election or for U.S. president at the most recent general election, and the political party was a recognized political party for that election.
- An individual representing the political party as an independent candidate won at least 1 percent of the votes cast in Wisconsin, either for a statewide office at the last general election at which the office of governor was up for election or for U.S. president at the most recent general election, and the political party requests recognized status no later than the April 1 preceding the partisan primary.
- The political party submits, no later than the April 1 preceding the partisan primary, a petition requesting recognized status signed by at least 10,000 Wisconsin voters, including at least 1,000 from each of at least three congressional districts.

The ballot at the partisan primary is divided into sections, one for each recognized political party. Each party’s section lists all of the offices that will be filled at the general election and, under each office, the individuals, if any, who have filed to be candidates for the office and have proposed, in their declarations of candidacy, to represent the party. A voter at the partisan primary can mark votes in only one of these ballot sections, but can pick any section for this purpose—voters in Wisconsin are not asked to declare a party affiliation when registering or voting and are not obliged in any other way to pick a particular party’s section.

However, if a voter marks votes in more than one of the party sections, none of the voter's votes will be counted.

The individual who receives the most votes cast for a particular office in the ballot section for a particular party becomes that party's candidate for that office at the general election, and his or her name, together with the party's name, will be listed under the office on the general election ballot.

The partisan primary is the exclusive means by which a recognized political party can select a candidate to be listed on the general election ballot. The party must accept as its candidate the individual selected by the voters who vote on its section of the partisan primary ballot. Moreover, if no individual is listed under a particular office in that section (because no one who filed to be a candidate for the office proposed to represent that party), the party will not have a candidate for that office listed on the general election ballot.

The spring election. On the first Tuesday in April of every year, Wisconsin elects individuals to fill its nonpartisan elective offices. The elections held on this day are referred to collectively as the "spring election."

The nonpartisan offices in Wisconsin are state superintendent of public instruction; supreme court justice; court of appeals judge; circuit court judge; county executive (in counties that have one); county supervisor; county comptroller (in Milwaukee); every elective town, village, and city office; and school board member.

The voters of the entire state elect Wisconsin's state superintendent of public instruction and supreme court justices. The voters of each court of appeals district elect that district's judges. The voters of each county elect the county's county executive (if any) and county comptroller (in Milwaukee) and the circuit court judges for the circuit that serves the county. (For circuits that serve two counties, the voters of both counties elect the circuit court judges.) The voters of each county supervisory district elect that district's county supervisor. The voters of each town elect that town's officers. Village trustees and city alders can be elected at large by the voters of the entire village or city or from election districts by the voters residing in each election district. All other village and city officers are elected at large by the voters of the entire village or city. School board members can be elected at large by the voters of the entire school district, from election districts by the voters residing in each election district, or from election districts by the voters of the entire school district.

Just as with the partisan offices, the terms of office for the nonpartisan offices are not all the same length and do not all expire on the same day or in the same year. At each spring election, accordingly, the only nonpartisan offices up for election are those for which the currently running term of office will expire before the next spring election is held.

The ballot at each spring election lists the offices that are up for election and, under each office, the candidates for the office who have qualified to be listed. Ordinarily, no more than two candidates can be listed. The situation is different, however, when multiple, undifferentiated instances of the same office exist in a particular governmental jurisdiction or election district. In many villages, for example, the trustees who make up the village board are elected at large rather than from election districts, and no distinction is made between the “seat” occupied by one trustee and the “seat” occupied by another. In this situation, the ballot can list up to twice as many candidates for an office as the number of seats to be filled. The ballot would also include an instruction to vote for no more of those candidates than the number of seats to be filled.

An individual who wishes to be listed as a candidate on the ballot must file, no later than the first Tuesday in the January preceding the spring election, 1) a declaration of candidacy indicating the office that the individual seeks and 2) nomination papers signed by a required number of voters residing in the governmental jurisdiction or election district that the office serves. In addition, the individual must win a spring primary election (see below) if the total number of individuals who file to be candidates for the office is more than two or, if applicable, is more than twice the number of seats to be filled. By contrast, if the total number of individuals is less than two, or is less than twice the number of seats to be filled, each individual will be listed on the spring election ballot without participating in a spring primary election.¹

The candidate who receives the most votes cast for a particular office at the spring election fills that office when the currently running term of office expires. If multiple seats are to be filled for a particular office, the candidates equal in number to the number of those seats who receive the most votes fill those seats when the currently running term of office expires.

The spring primary. Prior to the spring election, on the third Tuesday in February of every year, Wisconsin holds primary elections to select, for some of the offices that will be filled at the spring election, the individuals who will be listed as candidates on the spring election ballot. The elections held on this day are referred to collectively as the “spring primary.”

The ballot at the spring primary lists only those offices for which more than two individuals or, if applicable, more individuals than twice the number of seats to be filled have filed to be candidates and, under each office, the individuals who have filed to be candidates for the office. The ballot also includes for each office an instruction to vote for not more than one individual or for not more individuals than the number of seats to be filled.

The two individuals, or the individuals equal in number to twice the number of

seats to be filled, who receive the most votes cast for an office at a spring primary election will be listed as the candidates for that office on the spring election ballot.

ELECTING THE U.S. PRESIDENT AND VICE PRESIDENT

As part of the process by which the United States elects its president and vice president, Wisconsin holds two elections, each on one of the regular election days just discussed.

At the spring election. On the day of the spring election, in presidential election years, Wisconsin conducts its presidential preference primary.

This primary is advisory, rather than binding. Wisconsin's voters indicate which individual they would like a political party to select as its candidate for U.S. president, but Wisconsin law does not require the party's Wisconsin members to vote for that individual at the party's national convention. Rather, the party conducts its convention according to rules that it determines for itself, and it can select its presidential candidate using any mechanism it chooses.

A political party qualifies to participate in Wisconsin's presidential preference primary only if 1) it was a recognized political party (see above, page 323) at Wisconsin's last general election, 2) it had a candidate for governor at that election, and that candidate won at least 10 percent of the votes cast for that office, and 3) its state chair certifies to the Elections Commission, no later than the second Tuesday in the December preceding the presidential preference primary, that the party will participate.

The spring election ballot includes a separate section for the presidential preference primary of each participating political party. Each party's section lists the individuals who wish to be selected as the party's candidate for president and have qualified to be listed.

An individual can qualify in two ways to be listed on the ballot as a candidate in a party's presidential preference primary. First, the individual can be certified by a special committee that meets in the state capitol on the first Tuesday in the January preceding the presidential preference primary. This committee consists of the state chair, one national committeeman, and one national committeewoman of each participating political party; the speaker and the minority leader of the state assembly; the president and the minority leader of the state senate; and an additional member selected by the rest of the committee to be its chair. The committee identifies, for each of the participating political parties, the individuals who are generally recognized in the national media as the party's candidates for U.S. president and any additional individuals that the committee believes should be included as candidates on the party's ballot list. The committee must certify these candidates to the Elections Commission no later than the Friday following its meeting.

Alternatively, an individual can submit to the Elections Commission, no later than the last Tuesday in January, a petition requesting to be listed as a candidate in a party's presidential preference primary. The petition must be signed by a required number of voters from each of Wisconsin's congressional districts.

A voter at the spring election can cast votes in the presidential preference primary of just one of the participating political parties. As at the partisan primary, the voter can pick any party's section on the ballot to vote on and is not obliged, based on party affiliation or any other criteria, to pick the section of a particular party.

At the general election. In presidential election years, on the day of the general election, Wisconsin elects the slate of presidential electors that will represent the state in the presidential election.

The ballot at the general election does not list slates of would-be presidential electors. Rather, it lists the pairs of candidates who are running together, one for president and one for vice president, who have qualified to be listed. Each of these candidate pairs has its own slate of would-be presidential electors, and a vote cast for a candidate pair is simultaneously a vote cast for its slate.

A pair of individuals can qualify to be listed on the general election ballot as candidates for U.S. president and vice president in two ways. They can be selected by a recognized political party (see above, page 323) to be its candidates. Each recognized political party selects its candidates at a national convention of party members conducted according to rules that the party determines for itself. The pair of individuals that a recognized political party selects will be listed on the general election ballot if 1) the party's state or national chair certifies to the Elections Commission, no later than the first Tuesday in the September preceding the general election, that the individuals are the party's candidates and 2) each of the individuals files a declaration of candidacy with the Elections Commission by the same deadline.

Alternatively, a pair of individuals can qualify to be listed as independent candidates. To do this, each of the individuals must file with the Elections Commission, no later than the first Tuesday in the August preceding the general election, a declaration of candidacy indicating the office that he or she seeks and the political party or principle that he or she proposes to represent, and the two individuals jointly must file nomination papers, signed by a required number of Wisconsin voters, nominating them as a pair.

The slate of presidential electors for each candidate pair must consist of ten individuals, one from each of Wisconsin's eight congressional districts and two more from anywhere in the state.

A slate can be determined in two ways. For the candidates of the recognized

political parties, the slates are determined at a special convention held at the state capitol on the first Tuesday in the October preceding the general election. The convention consists of certain officials holding partisan elective offices in state government—the governor, lieutenant governor, attorney general, secretary of state, state treasurer, and those state senators whose seats are not up for election—together with the individuals who will be listed on the general election ballot as the candidates of the recognized political parties for the offices of state senator and state representative. The convention participants meet separately according to the parties they belong to, and each party designates a slate of presidential electors for its pair of candidates for president and vice president. The state chair of each party then certifies that party’s slate to the Elections Commission.

By contrast, each pair of independent candidates for U.S. president and vice president designates its own slate of presidential electors in its nomination papers.

The presidential electors pledged to the candidate pair that wins the most votes at Wisconsin’s general election cast the state’s 10 electoral college votes for U.S. president and vice president. On the Monday after the second Wednesday in the December following the general election, these electors assemble in the state capitol for this purpose. They are bound by state law to vote for the candidate pair to whom they are pledged.

FILLING A MIDTERM VACANCY

A “special election” can be held to fill a midterm vacancy in certain elective offices. This kind of election can be held on one of the four regular election days or on a different day.

A vacancy in the office of U.S. senator, U.S. representative, state senator, or state representative can be filled only by a special election called by the governor. A vacancy in the office of attorney general, state superintendent of public instruction, secretary of state, or state treasurer can be filled either by a special election called by the governor, if the vacancy occurs more than six months before the term of office expires, or by appointment by the governor, regardless of when the vacancy occurs. (A vacancy in the office of supreme court justice, court of appeals judge, circuit court judge, district attorney, sheriff, coroner, or register of deeds can be filled only by appointment by the governor.) In some county and municipal offices, a vacancy can be filled either by special election or by appointment, at the discretion of the local governing body.

An individual who wishes to be listed as a candidate on a special election ballot must file a declaration of candidacy and nomination papers and must also win a special primary election if one is required. For a partisan office, a special primary must be held for each of the recognized political parties if it is the case for any

one of them that two or more individuals have proposed in their declarations of candidacy to represent it. For a nonpartisan office, a special primary must be held if three or more individuals file to be candidates.

RECALLING AN ELECTED OFFICIAL FROM OFFICE

A “recall election” can be held to decide whether an elected official will be recalled from office before his or her term of office expires and, if so, who will serve in the official’s place for the remainder of the term. This kind of election can be held on one of the four regular election days or on a different day. However, a recall election cannot be held before an official has served one year of his or her term. In addition, no more than one recall election can be held for the same official during a single term of office.

A recall election is held only if voters of the governmental jurisdiction or election district that elected an official file a petition to recall the official. The petition must be signed by a number of voters equal to at least 25 percent of the vote cast for governor in the jurisdiction or district at the last election for governor. In addition, if the petition seeks the recall of a city, village, town, or school district official, it must assert a reason that is related to the duties of the office.

Other than the official named in the recall petition, an individual who wishes to be listed as a candidate on a recall election ballot must file a declaration of candidacy and nomination papers and might also have to win a recall primary election if one is required. The official named in the recall petition might similarly have to win a recall primary but otherwise will be listed on the recall election ballot automatically (unless he or she resigns).

For a partisan office, a recall primary must be held for each recognized political party for which it is the case that two or more individuals, who might include the official named in the recall petition, seek to be listed as its candidate on the recall election ballot. If only one individual seeks to be listed as a party’s candidate, the individual will be listed as such without a primary being held for that party.

For a nonpartisan office, a recall primary must be held if three or more individuals, who might include the official named in the recall petition, seek to be listed as candidates on the recall election ballot. In contrast to other nonpartisan primaries, if one individual receives over 50 percent of the votes cast at the recall primary, no further election is held, and that individual fills the office for the remaining term.

APPROVING OR REJECTING A PROPOSAL

A “referendum” can be held in Wisconsin to approve or reject a proposal (rather

than to choose an individual to fill an office). This kind of election can be held on one of the four regular election days or on a different day.

A referendum can be binding or nonbinding. In the former case, a proposal is implemented automatically if approved by a majority of the voters voting at the referendum; in the latter, the voters' approval or rejection of a proposal is merely advisory. A county, city, village, or town in Wisconsin may conduct an advisory referendum only for limited purposes provided by statute.

At the state level, binding referenda can be held on proposals 1) to amend the state constitution, 2) to extend the right to vote, 3) to allow the state to contract public debt in excess of the limit imposed by the state constitution, and 4) to permit an act of the legislature to take effect when the legislature has provided that the act's taking effect is contingent upon voter approval.

A referendum ballot presents the referendum proposal in the form of a yes-or-no question, and the voter votes the ballot by marking "yes" or "no." The question on the ballot summarizes the effect of the proposal. The full text of the proposal along with an explanation of its effect must be posted at the polling place.

Administration

The responsibility for administering elections is distributed across several levels of government.

Elections Commission. The state Elections Commission oversees and facilitates the performance of elections-related functions by officials at lower levels of government. The commission:

- Determines the format that must be used for ballots.
- Certifies all equipment and materials used to record votes at elections.
- Trains and certifies officials at lower levels of government.
- Maintains the electronic statewide voter registration list.

The Elections Commission also performs certain functions related to state and national elections. The commission:

- Determines which candidates for elective state and national offices qualify to be listed on the ballot. Such candidates must file with the commission their declarations of candidacy and nomination papers.
- Certifies the tally of the votes cast in the state at each election held to fill a state or national office or to vote on a state referendum.

County clerk. The county clerk performs certain functions related to county, state, and national elections. The county clerk:

- Determines which candidates for elective offices in county government qualify

to be listed on the ballot. Such candidates must file with the county clerk their declarations of candidacy and nomination papers.

- Prepares the ballots for elections held to fill county, state, and national offices and to vote on county and state referenda and distributes these ballots to the municipalities (cities, villages, and towns) located within the county.
- Processes voter registrations for county residents who ask to register at the county clerk's office and forwards the information obtained to the municipal clerk of the municipality in which the registrant resides so that the municipal clerk can update the electronic statewide registration list.
- Tabulates the votes cast in the county at each election held to fill a county, state, or national office or to vote on a county or state referendum.
- Reports to the Elections Commission the votes cast in the county related to a state or national election.

In Wisconsin's most populous county, Milwaukee, a special commission performs these functions instead of a clerk.

Municipal clerk. The municipal clerk—i.e., the city, village, or town clerk—performs certain functions related to municipal, county, state, and national elections. The municipal clerk:

- Determines which candidates for elective offices in municipal government qualify to be listed on the ballot. Such candidates must file with the municipal clerk their declarations of candidacy and nomination papers.
- Prepares the ballots for elections held to fill municipal offices and to vote on municipal referenda.
- Processes voter registrations for residents of the municipality and updates the electronic statewide registration list to reflect the information obtained. In some cases, a county clerk, by agreement with a municipal clerk, acts in place of the municipal clerk as that clerk's agent for the performance of all registration functions, including updating the statewide registration list.
- Provides the ballots for each election to the voters who desire to vote and receives the ballots back from those voters when they cast them. Only the municipal clerk provides ballots to voters and receives cast ballots back; county clerks and the Elections Commission do not.
- Operates polling places in the municipality on the day of an election. Only the municipal clerk operates polling places; county clerks and the Elections Commission do not.
- Tabulates the votes cast in the municipality at each election held to fill a municipal, county, state, or national office or to vote on a municipal, county, or state referendum.
- Reports to the county clerk of each county in which the municipality is located the votes cast in the municipality related to a county, state, or national election.

The municipal clerk also handles most matters related to elections held by school districts that are located in whole or part within the municipality. However, the school district clerk determines which candidates for school district elective offices qualify to be listed on the ballot, and such candidates must file with the school district clerk their declarations of candidacy and nomination papers.

In Wisconsin's most populous city, Milwaukee, a special commission performs these functions instead of a clerk.

Voting

Eligibility. To vote at an election in Wisconsin, an individual must be a U.S. citizen, must be 18 years of age or older, and must reside in the governmental jurisdiction or election district for which the election is held. For example, an individual must reside in a particular county to vote at an election for that county's sheriff and must reside in a particular supervisory district within the county to vote at an election for that district's member of the county board of supervisors.

To establish residence for voting purposes, an individual must reside at the same address for at least 28 consecutive days prior to the election at which the individual wishes to vote.

An individual who moves to a new address in Wisconsin during the 28 days preceding an election is considered, for that election, to reside at his or her former address if the individual had established residence at the former address before the move. The individual can vote at the election only if the former address is located within the governmental jurisdiction or election district for which the election is held.

An individual who has resided in Wisconsin for less than 28 days but who is otherwise eligible to vote can vote for U.S. president and vice president (but no other offices) under a special procedure.

Certain individuals are not eligible to vote at any election:

- An individual who has been convicted of treason, felony, or bribery, unless the individual has been pardoned or has completed his or her sentence—including any parole, probation, or extended supervision—for the crime.
- An individual who has been adjudicated incompetent by a court, unless the court has determined that the individual is competent to exercise the right to vote.

In addition, an individual is not eligible to vote at a particular election if the individual has bet upon the result of the election.

Registration. Registration is the means by which an individual demonstrates that the individual is eligible to vote. With limited exceptions, an individual must register to vote before being allowed to vote.

To register, an individual must fill out, sign, and submit a registration form and present acceptable proof of residence.

On the registration form, the individual must:

- Provide the individual's name and date of birth; current address; previous address; and the number and expiration date of the individual's Wisconsin driver's license or identification card, if any, or the last four digits of the individual's social security number, if any.
- Indicate whether the individual has been convicted of a felony for which the individual has not been pardoned and, if so, whether the individual is incarcerated or on parole, probation, or extended supervision.
- Indicate whether the individual is currently registered to vote at an address other than the current one.
- Certify that the individual is a U.S. citizen, will be 18 years of age or older on the day of the next election, and will have resided at his or her current address for at least 28 consecutive days prior to that day. Registrants are not asked to indicate a political party affiliation.

Documents that qualify as proof of residence include:

- A current and valid Wisconsin driver's license or identification card.
- A student identification card accompanied by a fee receipt dated within the preceding nine months.
- A property tax bill or receipt for the current or previous year.
- A bank statement.
- A utility bill for a period beginning no earlier than 90 days before the date of registration.

Through the third Wednesday preceding an election, an eligible voter can register in person at the office of the municipal clerk or county clerk, by mail with the municipal clerk, or via an electronic registration system maintained by the Elections Commission and accessible at myvote.wi.gov.² After that Wednesday and through the Friday preceding the election, an eligible voter can register only in person at the office of the municipal clerk (or of the county clerk, if the county clerk is acting as the municipal clerk's agent for registration purposes). After that Friday, an eligible voter who still has not registered and who wishes to vote at the election must register on the day of the election at his or her polling place.

The Elections Commission maintains an electronic list of all eligible voters who are registered to vote in Wisconsin. Every municipal clerk (or county clerk acting as the agent of a municipal clerk) who processes a registration for an eligible voter must update the list via an interface provided by the Elections Commission

to reflect the information obtained. The list updates automatically to reflect registrations submitted via the electronic registration system.

An individual who has registered once does not need to register again, unless the individual changes his or her name or address. However, an individual's registration can be suspended if the individual has not voted for four years and fails to respond to a mailed postcard that asks whether the individual wishes to continue his or her registration. The Elections Commission sends out the postcards to such voters every two years.

Military voters who are residents of Wisconsin, as well as their spouses and dependents who reside with or accompany them, are not required to register as a prerequisite to voting. In addition, an individual who has resided in Wisconsin for less than 28 days, but who is otherwise eligible to vote, can vote for U.S. president and vice president without being registered. Similarly, a former Wisconsin resident who has moved to another state and is not eligible to vote in the new state can, if the individual is otherwise eligible to vote, cast a Wisconsin absentee ballot for U.S. president and vice president without being registered for up to 24 months after the move.

Voter registration information is generally open to public inspection. However, voters who are victims of certain crimes, such as domestic abuse, sexual assault, and stalking, can request confidential voter status. If a voter qualifies for this status, the municipal clerk updates the electronic statewide registration list to indicate that the voter's registration must be kept confidential and issues a confidential voter identification card to the voter.

Photo identification. With few exceptions,³ a registered voter (or an eligible voter exempt from registration) who wishes to vote at an election in Wisconsin must present acceptable proof of identification in order to obtain a ballot. In most cases, photo identification is required. Acceptable forms of photo identification include:

- A Wisconsin driver's license or identification card issued by the Wisconsin Department of Transportation.
- A U.S. passport.
- A Veterans Affairs identification card.
- An identification card issued by a federally recognized Indian tribe in Wisconsin.
- A photo identification card issued by a Wisconsin university, college, or technical college, if certain conditions are satisfied.

Individuals who have a religious objection to being photographed can obtain and present a Wisconsin driver's license or identification card issued without a photo. In addition, an individual who has had to surrender his or her driver's

license to a law enforcement officer within 60 days of the election can present in place of the driver's license the citation or notice that the individual received. A confidential voter can present his or her confidential voter identification card instead of photo identification.

Voting at a polling place. Polling places are operated by the municipal clerk and are open for voting only on the day of an election. Each address in a municipality is served by a designated polling place, and a voter can vote only at the polling place that serves the voter's address. (If a registered voter has moved within Wisconsin during the 28 days preceding an election, the voter is considered to reside at his or her former address for that election and can vote only at the polling place that serves the former address.) Each polling place is staffed by poll workers who have been trained by the municipal clerk. Each polling place is supplied with duplicate "poll lists,"⁴ which are generated from the electronic statewide registration list, of all eligible voters served by the polling place who registered before the day of the election. Each polling place is also supplied with ballots that are specific to the elections at which the voters served by the polling place are eligible to vote.

When an individual comes to a polling place to vote, a poll worker asks the individual to state his or her name and address and to present proof of identification. (A confidential voter can present a confidential voter identification card without stating anything or can state his or her name and the serial number of the card without presenting anything.) A poll worker confirms that the individual's name and address are listed in the poll list, that the name on the proof of identification is consistent with the name on the poll list, and that any photograph on the proof of identification reasonably resembles the individual.⁵ The individual is then required to sign the poll list, unless the individual cannot sign due to a physical disability.

Following these preliminaries, the poll workers assign the individual a voter number, record the number on both copies of the poll list, and give the individual a paper ballot or a card that will permit the voter to access an electronic ballot on a voting machine.

The voter takes the ballot or card to a voting booth and marks the paper ballot, or marks an electronic ballot via an interface on a voting machine, to indicate the voter's votes. After marking a paper ballot, the voter casts it by depositing it through a slot into a locked ballot box or by feeding it into an optical scanning machine. (An optical scanning machine reads and tabulates electronically the votes marked on a paper ballot and stores the ballot in a locked compartment.) After marking an electronic ballot, the voter verifies a record of the voter's votes that the voting machine prints on a paper tape. The voter then casts the ballot by

giving a direction via the machine's interface. (A voting machine records a voter's votes in its electronic memory, tabulates them electronically, and advances the paper tape so that the paper record of the voter's votes is stored within a locked compartment.)

Voting by absentee ballot. A registered voter (or an eligible voter exempt from registration) who is unwilling or unable to vote at his or her polling place on the day of an election can vote by absentee ballot instead.

To obtain an absentee ballot, the voter must submit a written request to the municipal clerk. This can be done in person at the clerk's office or at an alternate site designated by the clerk. It can also be done by mail, email, or fax. In-person requests must be made prior to the Monday preceding the election; other requests, in most cases, must be made no later than the Thursday preceding the election.

An in-person requester must present acceptable proof of identification to the municipal clerk or an individual designated by the clerk before the requester will be issued a ballot. Most other requesters must submit a copy of their proof of identification with their request for a ballot.⁶

To cast an absentee ballot, the voter must mark his or her votes on the ballot and seal the marked ballot in a special envelope that is provided with the ballot. The voter must take these actions in the presence of a witness. The voter must also show the unmarked ballot to the witness prior to marking it and must make sure that no one, including the witness, sees how the voter marked the ballot. After the ballot is sealed in the special envelope, the voter and the witness must sign a certification that is printed on the special envelope—the voter to attest that the voter is eligible to cast the ballot, will not cast any other ballot at the election, and followed the required procedures in casting the ballot; and the witness to attest that the voter followed the required procedures in casting the ballot. If the voter requested the absentee ballot in person, the voter must return it before leaving the municipal clerk's office or alternate site. In these cases, the municipal clerk or an individual designated by the clerk serves as the witness. If the voter requested the absentee ballot in another way, the voter must seal the special envelope containing the ballot in a second envelope⁷ and either mail it or deliver it in person to the municipal clerk so that it is received by the municipal clerk no later than the day of the election. In *Priorities USA v. Wis. Elections Commission*, 2024 WI 32, the Wisconsin Supreme Court held that the requirement that the ballot be returned in person to the municipal clerk allows for the use of absentee ballot drop boxes.

Campaign finance regulation

Wisconsin regulates campaign finance—the spending of money on campaigning and the giving of money to others to spend on campaigning—in several ways:

- Only a particular kind of entity, called a “committee,” is allowed to use money that it has accepted from others to engage in campaign spending and campaign giving. If the amount of money exceeds a specified threshold, a committee must register and file reports of its financial activity.⁸
- Limits are placed on who can give money to a committee and how much money can be given.
- Limits are also placed on some campaign spending, and some campaign spending is subject to special disclosure requirements.

Three kinds of campaigning are covered by the regulations: 1) express advocacy related to a candidate for elective office in state or local government,⁹ 2) campaigning related to a state or local referendum question, and 3) campaigning related to the recall of an elected official in state or local government.¹⁰

COMMITTEES

A “committee” is a group of two or more individuals that comes together, or an organization that is established, specifically for the purpose of accepting money from others and using that money for campaign spending or campaign giving.¹¹ An entity that is not formed specifically for that purpose—for example, a business or a social club—cannot accept money from others to use for campaign spending or campaign giving, and neither can an individual acting alone. However, such an entity or individual could set up a committee as a separate entity that would be able to undertake those activities.

Registration. A committee must register with the Ethics Commission before it accepts or disburses money above a specified threshold. Wisconsin’s regulations distinguish seven types of committee (described below) and specify a threshold for each type. A committee must identify the type of committee it is when it registers. It must also identify a single depository account that it will use to accept and disburse money and an individual who will be in charge of the account.

A “candidate committee” is a committee formed by a candidate to accept contributions and make disbursements to support the candidate’s election. A candidate cannot accept or disburse any money except through a candidate committee. In addition, a candidate can have only one candidate committee for any one office that the candidate seeks. However, the candidate can be the individual in charge of the candidate committee depository account. (For that matter, the candidate can be the sole member of the candidate committee—an exception to the rule that a committee consists of two or more individuals.) A candidate committee must register with the Ethics Commission as soon as the candidate qualifies¹² to be considered a candidate.

A “political party” is a committee that qualifies for a separate section on the

partisan primary ballot—in other words, it is a “recognized” political party. (See page 323, above.) Local affiliates of a recognized political party that are authorized to operate under the same name are also considered political parties. A political party must register with the Ethics Commission before it accepts or disburses any money in a calendar year. (An entity that calls itself a political party, but that does not meet the criteria just described, would have to register as a different type of committee.)

A “legislative campaign committee” is a committee that is formed by state senators or state representatives of a particular political party to support candidates for legislative office by engaging in express advocacy on their behalf and by giving money to their candidate committees. A legislative campaign committee must register with the Ethics Commission before it accepts or disburses any money in a calendar year.

A “political action committee,” or “PAC,” is a committee, other than a candidate committee, political party, or legislative campaign committee, that 1) is formed to engage in express advocacy; 2) might do this independently or in coordination with a candidate, candidate committee, political party, or legislative campaign committee;¹³ 3) might also campaign for and against referenda; and 4) might also give money to other committees. A PAC must register with the Ethics Commission if it accepts or disburses more than \$2,500 in a calendar year.

An “independent expenditure committee,” or “IEC,” is a committee, other than a candidate committee, political party, or legislative campaign committee, that 1) is formed to engage in express advocacy; 2) will do this independently only and not in coordination with a candidate, candidate committee, political party, or legislative campaign committee; 3) might also campaign for and against referenda; and 4) might also give money to other committees, but will not give money to a candidate committee or to a committee that is able to give the money subsequently to a candidate committee. An IEC must register with the Ethics Commission if it accepts or disburses more than \$2,500 in a calendar year.

A “referendum committee” is a committee that 1) is formed specifically to campaign for or against a referendum and 2) will not attempt to influence how voters vote with respect to a candidate. A referendum committee must register with the Ethics Commission if it accepts or disburses more than \$10,000 in a calendar year.

A “recall committee” is a committee that is formed specifically to campaign for or against the recall of an elected official. A recall committee must register with the Ethics Commission if it accepts or disburses more than \$2,000 in a calendar year. If a recall committee intends to gather signatures on a recall petition, it must also register, beforehand and regardless of whether it has accepted or disbursed any money, with the appropriate filing officer.¹⁴

Reporting financial activity. Each registered committee must file with the Ethics Commission regular reports of its financial activity. Reports are due every January 15 and July 15. A report is also due on September 30 of an even-numbered year if a committee accepts or disburses money after July 1 for campaigning related to a partisan office or a referendum that will be held on the day of the partisan primary or general election. Other reports are required in advance of each primary and election with respect to which a committee accepts or disburses money. All of a committee's reports are made public within two days of their filing.

Each report must include, among other things:

- A listing of each gift of money received from an individual, specifying the amount and date of the gift and the name and address of the individual.
- A listing of each gift of money received from a committee, specifying the amount and date of the gift and the name and address of the committee.
- A listing of any other income received from any source, specifying the amount, date, and type of the income and the name and address of the source.
- A listing of each gift of money given to another committee, specifying the amount and date of the gift and the name and address of the committee.
- A listing of each other disbursement of money made to any individual or entity, specifying the amount, date, and purpose of the disbursement and the name and address of the individual or entity.

CAMPAIGN GIVING LIMITS

Campaign giving consists of giving money to a committee (necessarily, since an entity that is not a committee cannot use money given by others for campaigning). Wisconsin's regulations place limits on who can give money to a committee and how much money can be given. The limits apply simultaneously to the giver and the recipient; both are guilty if the latter accepts a gift that violates a limit.

Generally, only individuals and committees are allowed to give money to a committee. However, corporations, labor unions, cooperative associations, and federally recognized American Indian tribes can also give money in certain cases—but not to a candidate committee and not to a committee that is able to give the money subsequently to a candidate committee.

Giving to a candidate committee. An individual can give up to \$20,000 to the candidate committee of a candidate for a statewide office (governor, lieutenant governor, attorney general, superintendent of public instruction, secretary of state, state treasurer, or supreme court justice). Other limits apply to other offices, including \$2,000 for state senator and \$1,000 for state representative.

A candidate committee can give to another candidate committee up to the same amount as an individual can give. However, the candidate committees of

candidates who are running together for governor and lieutenant governor can give unlimited amounts to each other. A candidate can give unlimited amounts to his or her own candidate committee.

A political party or legislative campaign committee can give unlimited amounts to a candidate committee.

A PAC can give up to \$86,000 to the candidate committee of a candidate for governor. Other limits apply to other offices, including \$26,000 for lieutenant governor; \$44,000 for attorney general; \$18,000 for superintendent of public instruction, secretary of state, state treasurer, or supreme court justice; \$2,000 for state senator; and \$1,000 for state representative.

No other person may give money to a candidate committee.

Giving to a political party or legislative campaign committee. An individual, candidate committee, political party, or legislative campaign committee can give unlimited amounts to a political party or a legislative campaign committee. A PAC can give up to \$12,000 in a calendar year to a political party or legislative campaign committee.

In addition to those amounts, an individual, candidate committee, political party, or legislative campaign committee can give unlimited amounts to a segregated fund established by a political party or legislative campaign committee to be used for purposes other than express advocacy or making contributions to a candidate committee. A PAC can give up to \$12,000 in a calendar year to such a fund. A corporation, labor union, cooperative association, or American Indian tribe can also give up to \$12,000 in a calendar year to such a fund, even though those entities cannot otherwise give money to a political party or legislative campaign committee.

No other person may give money to a political party or legislative campaign committee.

Giving to a PAC. An individual, candidate committee, political party, legislative campaign committee, or PAC can give unlimited amounts to a PAC. No other person may give money to a PAC.

Giving to an IEC. An individual, candidate committee, political party, legislative campaign committee, PAC, or IEC can give unlimited amounts to an IEC. A corporation, labor union, cooperative association, or American Indian tribe can also give unlimited amounts to an IEC. No other person may give money to an IEC.

Giving to a referendum committee. Individuals and committees can give unlimited amounts to a referendum committee. A corporation, labor union, cooperative association, or American Indian tribe can also give unlimited amounts to a referendum committee. No other person may give money to a referendum committee.

Giving to a recall committee. Individuals and committees other than IECs or referendum committees can give unlimited amounts to a recall committee. No other person may give money to a recall committee.

CAMPAIGN SPENDING LIMITS

Committees, entities that are not committees, and individuals can generally spend unlimited amounts on campaigning that they do themselves. The exception is spending on express advocacy that is coordinated with a candidate, candidate committee, political party, or legislative campaign committee.¹⁵ Spending of this kind is treated as a gift given to the candidate committee of the candidate who benefits from the express advocacy. As such, it is subject to the limits that apply to giving to a candidate committee.

CAMPAIGN SPENDING SPECIAL DISCLOSURE REQUIREMENTS

Special disclosures are required for some kinds of campaign spending. These are the only disclosures that individuals and entities that are not committees must make about their campaign spending.¹⁶ Committees, by contrast, must also report their campaign spending in the regular reports they file covering all of their financial activity.

Specific reporting of certain communications. If an individual, PAC, IEC, or entity that is not a committee spends \$2,500 or more to make express advocacy communications during the 60 days preceding a primary or election, the individual, PAC, IEC, or entity must report that spending to the Ethics Commission within 72 hours after the first \$2,500 has been spent and within 72 hours after any additional expenditure. Reports must specify the date, amount, recipient, and purpose of each expenditure, as well as the name of and office sought by any candidate who is the subject of the express advocacy. (However, these details are not required for the expenditures made prior to reaching the \$2,500 threshold.) The reports are made public within two days of their filing.

Candidate committees, political parties, and legislative campaign committees are not required to report these expenditures other than in their regular financial activity reports.

Information required in certain communications. If an individual, committee, or other entity spends money to make an express advocacy communication or to make a communication to influence the outcome of a recall effort or to support or oppose a referendum, the individual, committee, or entity must include in the communication the phrase, "Paid for by," followed by the name of the individual, committee, or other entity.¹⁷ For individuals and entities that are not committees, this requirement applies only to a communication whose cost exceeds \$2,500.

If a committee spends money to make a communication described above or an issue advocacy communication¹⁸ and if the communication is an audio or video communication that contains material generated by artificial intelligence, the communication must state that it contains such material. **BB**

NOTES

1. An alternative mechanism exists by which an individual can qualify to be listed on the spring election ballot. A town or village (but no other type of governmental jurisdiction) can hold a special meeting called a “caucus” to select the individuals who will be the candidates at the spring election for the offices of the town or village. The caucus must be held on or between the January 2 and the January 21 preceding the spring election. The caucus is open to the public, but only the eligible voters of the town or village can participate. The caucus participants nominate one or more individuals to be the candidates for each office and vote, if the total number of nominated candidates for a particular office is more than two (or is more than twice the number of seats to be filled), to determine which ones will be the candidates. An individual who is selected at a caucus to be a candidate for a town or village office must subsequently file a declaration of candidacy in order to be listed on the spring election ballot.

2. To register via the electronic registration system, an individual must possess a current and valid Wisconsin driver’s license or identification card. The system requires the individual to enter his or her name, address, and date of birth together with the number of the driver’s license or identification card. If the system confirms that the individual’s information matches the records of the state Department of Transportation pertaining to the driver’s license or identification card, the system permits the individual to register by 1) filling out and submitting an electronic version of the registration form, 2) “signing” the form by authorizing the use of a copy of the signature that he or she provided when applying for the driver’s license or identification card, and 3) using as proof of residence the number of his or her driver’s license or identification card.

3. Military voters (members of a uniformed service who are residents of Wisconsin and their spouses and dependents who reside with or accompany them) and overseas voters (former Wisconsin residents who no longer reside in the U.S. but remain U.S. citizens) can obtain and cast a Wisconsin absentee ballot without providing proof of identification. Overseas voters are entitled to vote for offices in national government only (U.S. president, vice president, senator, and representative).

4. Some municipalities use electronic poll books as an alternative to creating paper copies of a poll list.

5. If an individual’s name and address are not listed in the poll list or electronic poll book, the poll worker will determine whether the voter is at the wrong polling place or is at the correct polling place but not registered. In the one case, the poll worker will direct the voter to the correct polling place; in the other, the poll worker will tell the voter where to go so that the voter can register.

If an individual’s name and address are listed in the poll list or the electronic poll book but a poll worker believes that the name on the proof of identification is not consistent with the name on the poll list or electronic poll book, or that a photograph on the proof of identification does not reasonably resemble the individual, the poll worker must challenge the individual as unqualified to vote. The individual must reply to the challenge under oath in order to obtain a ballot. If the poll worker does not withdraw the challenge, the individual must also take an oath that he or she is eligible to cast the ballot, and a poll worker must make a note in the poll list or electronic poll book and on the ballot before issuing it. The individual’s votes will be considered valid unless the election officials responsible for counting the votes determine beyond a reasonable doubt, based on evidence presented, that the individual was not eligible to vote or was not properly registered.

If an individual’s name and address are listed in the poll list or electronic poll book but the individual is unable or unwilling to present proof of identification, he or she is given an opportunity to cast a provisional ballot, rather than a regular ballot. The voter must sign a certification attesting that he or she is eligible to cast the ballot. The provisional ballot will not be counted unless the voter subsequently presents the proof of identification. The voter can return to the polling place to do this, until 8:00 p.m. when the polls close, or the voter can bring the proof of identification to the municipal clerk’s office, until 4:00 p.m. on the Friday following the election.

6. Military and overseas voters are exempt from this requirement. (See note 3.)

7. If the voter requested the ballot by email or fax, the voter must also include in the second envelope a signed, printed copy of the request.

8. Another kind of entity, called a “conduit,” is subject to similar requirements. Conduits do not spend money on campaigning themselves, nor do they give money to others to spend on campaigning. Rather, they hold money on behalf of givers and pass it on to a committee at the direction of those givers.

9. Express advocacy is communication that 1) uses words such as “vote for,” “elect,” “support,” “vote against,” “defeat,” or “oppose” with reference to a clearly identified candidate and 2) unambiguously relates to the election or defeat of that candidate. Communication that refers to a candidate but that does not qualify as express advocacy would not, by itself, subject the communicator to Wisconsin’s regulations, even if the communication was intended to influence voters’ opinion of the candidate.

10. Not covered by the regulations is campaigning related to a candidate for elective office in national government. That kind of campaigning is regulated under federal law. There is no national-level referendum or recall process.

11. The money that a committee accepts from others can consist exclusively of money provided by the committee’s own members; the committee is an entity distinct from its individual members. A committee is formed, therefore, whenever individuals pool their money to engage in campaign spending or campaign giving, regardless of how informal their decision-making process is or how little campaign spending or giving they actually do.

12. Based on one of the following criteria: 1) filing nomination papers, 2) being certified as the nominee of a political party or a village or town caucus, 3) accepting or disbursing any money in an effort to win a primary or election, or 4) being an incumbent elective office holder. See note 1 for details regarding village and town caucuses.

13. Under Wisconsin law, coordination exists in only two situations: 1) a candidate, candidate committee, political party, or legislative campaign committee communicates directly with an individual or with an entity other than a political party or legislative campaign committee to specifically request that the individual or entity make an expenditure for express advocacy, and the individual or entity explicitly assents before making the expenditure; or 2) a candidate, candidate committee, political party, or legislative campaign committee exercises control over an expenditure made for express advocacy by an individual or by an entity other than a political party or legislative campaign committee or exercises control over the content, timing, location, form, intended audience, number, or frequency of the express advocacy.

14. The Ethics Commission, if the petition pertains to an official in state government, or a county, municipal, or school district clerk, if it pertains to an official in local government.

15. Also, some entities that enjoy tax-exempt status under federal law, based on the fact that they have limited themselves to specific activities, would lose that status if they were to spend money on campaigning. In addition, a registered committee cannot spend money on a kind of campaigning that is inconsistent with the type of committee that it has registered as. See note 13 for the criteria that define coordination.

16. Campaign giving is a different story. For every gift of money that an individual or entity makes to a committee, the individual or entity must disclose to the committee the information (such as name and address) that the committee needs to complete its financial activity reports, and those reports, in turn, are made public soon after they are filed.

17. An additional phrase—“Not authorized by any candidate or candidate’s agent or committee”—must be included in an express advocacy communication that is made independently, rather than in coordination with a candidate, candidate committee, political party, or legislative campaign committee.

18. Issue advocacy is communication that provides information about political or social issues and is made to influence the outcome of an election.