

CHAPTER 39

ELECTIONS, ELECTORS, APPOINTMENTS, TERMS, AND OFFICERS

[P] Chapter applicable to primary elections, §43.5

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39.1 General election.

The general election shall be held throughout the state on the first Tuesday after the first Monday in November of each even-numbered year.

[C51, §239; R60, §459; C73, §573; C97, §1057; S13, §1057-a; C24, 27, 31, 35, 39, §504; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §39.1]

[P] Iowa Constitution, Art. II, §7

39.2 Special elections.

1. a. All special elections which are authorized or required by law, unless the applicable law otherwise requires, shall be held on Tuesday. A special election shall not be held on the first, second, and third Tuesdays preceding and following the primary and the general elections.

b. A special election shall not be held in conjunction with the primary election. A special election shall not be held in conjunction with a school election unless the special election is for a school district or community college. A special election shall not be held in conjunction with a regularly scheduled or special city primary or city runoff election.

2. Except as otherwise provided in subsection 1, a special election may be held on the same day as a regularly scheduled election if the two elections are not in conflict within the meaning of section 47.6, subsection 2. A special election may be held on the same day as a regularly scheduled election with which it does so conflict if the commissioner who is responsible for conducting the elections concludes that to do so will cause no undue difficulties.

3. a. When voting is to occur on the same day in any one precinct for two or more elections, they shall be considered one election for purposes of administration including but not limited to publishing notice of the election, preparation of the precinct election register and completion of tally sheets after the polling place has closed.

b. If a special election to fill a vacancy is held in conjunction with a regularly scheduled election, the filing deadlines for the special election shall coincide with the filing deadlines for the regularly scheduled election. An election to fill a vacancy in a city office cannot be held in conjunction with a general election if the city election procedures provide for a primary election.

4. Unless otherwise provided by law, special elections on public measures are limited to the following dates:

a. For a county, on the day of the general election, on the day of the regular city election, on the date of a special election held to fill a vacancy in the same county, or on the first Tuesday in March, the first Tuesday in May, or the first Tuesday in August of each year.

b. For a city, on the day of the general election, on the day of the regular city election, on

the date of a special election held to fill a vacancy in the same city, or on the first Tuesday in March, the first Tuesday in May, or the first Tuesday in August of each year.

c. For a school district or merged area, in the odd-numbered year, the first Tuesday in February, the first Tuesday in April, the last Tuesday in June, or the second Tuesday in September. For a school district or merged area, in the even-numbered year, the first Tuesday in February, the first Tuesday in April, the second Tuesday in September, or the first Tuesday in December.

[C51, §237; R60, §460; C73, §574; C97, §1058; C24, 27, 31, 35, 39, §505; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §39.2]

90 Acts, ch 1238, §1; 93 Acts, ch 143, §2; 98 Acts, ch 1123, §1; 2002 Acts, ch 1134, §1, 115; 2008 Acts, ch 1032, §201; 2008 Acts, ch 1115, §24, 71

39.3 Definitions.

The definitions established by this section shall apply wherever the terms so defined appear in this chapter and in chapters 39A, 43, 44, 45, 47, 48A through 53, and 68A unless the context in which any such term is used clearly requires otherwise.

1. “*Absentee ballot*” means any ballot authorized by chapter 53.
2. “*City*” means a municipal corporation not including a county, township, school district, or any special purpose district or authority. When used in relation to land area, “*city*” includes only the land area within the city limits.
3. “*City election*” means any election held in a city for nomination or election of the officers thereof including a city primary or runoff election.
4. “*Commissioner*” means the county commissioner of elections as defined in section 47.2.
5. “*Election*” means a general election, primary election, city election, school election or special election.
6. “*Eligible elector*” means a person who possesses all of the qualifications necessary to entitle the person to be registered to vote, whether or not the person is in fact so registered.
7. “*General election*” means the biennial election for national or state officers, members of Congress and of the general assembly, county and township officers, and for the choice of other officers or the decision of questions as provided by law.
8. “*Infamous crime*” means a felony as defined in section 701.7, or an offense classified as a felony under federal law.
9. “*Primary election*” means that election by the members of various political parties for the purpose of placing in nomination candidates for public office held as required by chapter 43.
10. “*Public measure*” means any question authorized or required by law to be submitted to the voters at an election.
11. “*Registered voter*” means a person who is registered to vote pursuant to chapter 48A.
12. “*Registrar*” means the state registrar of voters designated by section 47.7.
13. “*Registration commission*” means the state voter registration commission established by section 47.8.
14. “*School election*” means that election held pursuant to section 277.1.
15. “*Special election*” means any other election held for any purpose authorized or required by law.
16. “*State commissioner*” means the state commissioner of elections as defined in section 47.1.
17. “*Written*” and “*in writing*” may include any mode of representing words or letters in general use. A signature, when required by law, must be made by the writing or markings of the person whose signature is required. If a person is unable due to a physical disability to make a written signature or mark, that person may substitute either of the following in lieu of a signature required by law:
 - a. The name of the person with a disability written by another upon the request and in the presence of the person with a disability.
 - b. A rubber stamp reproduction of the name or facsimile of the actual signature of the person with a disability when adopted by that person for all purposes requiring a signature

and then only when affixed by that person or another upon the request and in the presence of the person with a disability.

[C97, §1089; C24, 27, 31, 35, 39, §720; C46, 50, 54, 58, 62, 66, 71, 73, §49.2; C75, 77, 79, 81, §39.3]

93 Acts, ch 143, §3; 94 Acts, ch 1169, §43, 65; 94 Acts, ch 1180, §1; 2002 Acts, ch 1071, §7; 2002 Acts, ch 1134, §2, 115

39.4 Proclamation concerning revision of Constitution.

In the years in which the Constitution requires, or at other times when the general assembly by law provides for, a vote on the question of calling a convention and revising the Constitution, the governor shall at least sixty days before the general election issue a proclamation directing that at the general election there be proposed to the people the following question:

Shall there be a convention to revise the Constitution, and propose amendment or amendments to same?

[C97, §1061; SS15, §1061; C24, 27, 31, 35, 39, §507; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §39.4]

[P] Constitutional requirement, Iowa Constitution, Art. X, §3

39.5 Elections authorized. Repealed by 98 Acts, ch 1123, § 17, 18.

39.6 Notice of special election.

A proclamation shall be issued before any election ordered by the governor, designating the office to be filled or the public question to be submitted at the election and designating the time at which such election shall be held; and the commissioner of each county in which such election is to be held shall give notice thereof, as provided in section 49.53.

[R60, §462, 464; C73, §577, 579; C97, §1061, 1063; SS15, §1061; C24, 27, 31, 35, 39, §506, 509; C46, 50, 54, 58, 62, 66, 71, 73, §39.3, 39.6; C75, 77, 79, 81, §39.6]

[P] Additional provision, §49A.7

39.7 Time of choosing officer.

At the general election next preceding the expiration of the term of any officer, a successor shall be elected.

[R60, §461; C73, §575; C97, §1059; C24, 27, 31, 35, 39, §510; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §39.7]

39.8 Term of office.

The term of office of all officers chosen at a general election for a full term shall commence on the first day of January following the election which is not a Sunday or legal holiday, except when otherwise provided by the Constitution or by statute; that of an officer chosen to fill a vacancy shall commence as soon as the officer has qualified therefor.

[R60, §462; C73, §576; C97, §1060; S13, §1060; C24, 27, 31, 35, 39, §511; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §39.8]

[P] Governor and lieutenant governor, Iowa Constitution, Art. IV, §15

[P] Judges of supreme and district courts, Iowa Constitution, Art. V, §17

39.9 State officers — term.

The governor, lieutenant governor, secretary of state, auditor of state, treasurer of state, secretary of agriculture, and attorney general shall be elected for a term of four years at the general election held in the year 1974 and every four years thereafter.

[C51, §239; R60, §465, 466; C73, §580, 581; C97, §1064, 1065; S13, §1065; C24, 27, 31, 35, 39, §512; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §39.9]

39.10 United States senators.

Senators in the Congress of the United States shall be elected in the same manner in which state officers are elected.

[R60, §674; C73, §26; C97, §30; S13, §1087-c; C24, 27, 31, 35, 39, §513; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §39.10]

[P] Term of office, United States Constitution, Amendment 17

[P] Vacancy in United States senate, see §69.13

39.11 More than one office prohibited.

Statewide elected officials and members of the general assembly shall not hold more than one elective office at a time. All other elected officials shall not hold more than one elective office at the same level of government at a time. This section does not apply to the following offices: county agricultural extension council or soil and water conservation district commission.

93 Acts, ch 143, §4; 2001 Acts, ch 158, §5

[P] See also §441.17(1)

39.12 Failure to vacate.

An elected official who has been elected to another elective office to which section 39.11 applies shall choose only one office in which to serve. The official shall resign from all but one of the offices to which section 39.11 applies before the beginning of the term of the office to which the person was most recently elected. Failure to submit the required resignation will result in a vacancy in all elective offices to which the person was elected.

93 Acts, ch 143, §5

39.13 Repealed by 59 Acts, ch 319, § 1.

39.14 Repealed by 61 Acts, ch 296, § 2.

39.15 State senators.

Senators in the general assembly shall be elected at the general election in the respective senatorial districts and shall hold office for the term of four years.

[C51, §239; R60, §471; C73, §588; C97, §1071; S13, §1071; C24, 27, 31, 35, 39, §518; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §39.15]

39.16 Representatives.

Members of the house of representatives shall be elected at the general election in the respective representative districts and hold office for the term of two years.

[C51, §239; R60, §470; C73, §587; C97, §1070; S13, §1070; C24, 27, 31, 35, 39, §519; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §39.16]

39.17 County officers.

There shall be elected in each county at the general election to be held in the year 1976 and every four years thereafter, an auditor and a sheriff, each to hold office for a term of four years.

There shall be elected in each county at the general election to be held in 1974 and each four years thereafter, a treasurer, a recorder and a county attorney who shall hold office for a term of four years.

[C51, §96, 239; R60, §224, 472, 473; C73, §589; C97, §1072; S13, §1072; C24, 27, 31, 35, 39, §520; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §39.17]

83 Acts, ch 186, §10015, 10201

[P] Combining duties of county officers; §331.323

39.18 Board of supervisors.

There shall be elected biennially in counties, members of the board of supervisors to succeed those whose terms of office will expire on the first day of January following the

election which is not a Sunday or legal holiday. The term of office of each supervisor shall be four years, except as otherwise provided by section 331.208 or 331.209.

[C51, §239; R60, §475; C73, §295, 591; C97, §411, 1074; S13, §1074; SS15, §411; C24, 27, 31, 35, 39, §521; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, S81, §39.18; 81 Acts, ch 117, §1202] 87 Acts, ch 68, §1

39.19 Repealed by 69 Acts, ch 218, § 11.

39.20 City officers.

The times at which officers of cities shall be elected and their terms of office shall be as provided by or established pursuant to sections 376.1 and 376.2.

[C75, 77, 79, 81, §39.20]

39.21 Nonpartisan offices.

There shall be elected at each general election, on a nonpartisan basis, the following officers:

1. County public hospital trustees as required by section 347.25.
2. Soil and water conservation district commissioners as required by section 161A.5.
3. County agricultural extension council members as provided in section 176A.6.
4. Township officers as provided in section 39.22, subsection 2.

[C77, 79, 81, §39.21]

87 Acts, ch 23, §2; 90 Acts, ch 1149, §8; 93 Acts, ch 48, § 10; 2001 Acts, ch 158, §6; 2005 Acts, ch 152, §1

39.22 Township officers.

The offices of township trustee and township clerk shall be filled by appointment or election as follows:

1. *By appointment.*

a. The county board of supervisors may pass a resolution in favor of filling the offices of trustee and clerk within a township by appointment by the board, and may direct the county commissioner of elections to submit the question to the registered voters of the township at the next general election. In a township which does not include a city, the voters of the entire township are eligible to vote on the question. In a township which includes a city, only those voters who reside outside the corporate limits of a city are eligible to vote on the question. The resolution shall apply to all townships which have not approved a proposition to fill township offices by appointment. If the proposition to fill the township offices by appointment is approved by a majority of those voting on the question, the board shall fill the offices by appointment as the terms of office of the incumbent township officers expire.

b. The election of the trustees and clerk of a township may be restored after approval of the appointment process under this subsection by a resolution of the board of supervisors submitting the question to the registered voters who are eligible to vote for township officers of the township at the next general election. If the proposition to restore the election process is approved by a majority of those voting on the question, the election of the township officers shall commence with the next general election. A resolution submitting the question of restoring the election of township officers at the next general election shall be adopted by the board of supervisors upon receipt of a petition signed by eligible electors residing in the township equal in number to at least ten percent of the registered voters of a township. The initial terms of the trustees shall be determined by lot, one for two years, and two for four years. However, if a proposition to change the method of selecting township officers is adopted by the electorate, a resolution to change the method shall not be submitted to the electorate for four years.

2. *By election.* If the county board of supervisors does not have the power provided under subsection 1 to fill the offices of trustee and clerk within a township by appointment, then the offices of township trustee and township clerk shall be filled by election on a nonpartisan basis. Township trustees and the township clerk, in townships which do not include a city, shall be elected by the voters of the entire township. In townships which include a city, the

officers shall be elected by the voters of the township who reside outside the corporate limits of the city, but a township officer may be a resident of the city.

a. Township officers. The election of township officers shall take place at the general election on ballots which shall not reflect a nominee's political affiliation. A person seeking election as township officer shall file an affidavit of candidacy with the county commissioner of elections pursuant to section 45.3. A plurality is sufficient to elect the township officers.

b. Township trustees. Township trustees shall be elected biennially to succeed those whose terms of office expire on the first day of January following the election which is not a Sunday or legal holiday. The term of office of each elected township trustee is four years, except as provided in subsection 1 for initial terms following restoration of the election process.

c. Township clerk. At the general election held in the year 1990 and every four years thereafter, in each civil township one township clerk shall be elected who shall hold office for the term of four years.

[C27, 31, 35, §523-b1; C39, §523.1; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §39.22]

85 Acts, ch 30, §1; 86 Acts, ch 1117, §1; 87 Acts, ch 68, §2; 88 Acts, ch 1119, §1; 88 Acts, ch 1134, §18, 19; 95 Acts, ch 67, §53; 2001 Acts, ch 56, §3; 2005 Acts, ch 152, §2, 3; 2007 Acts, ch 25, §1; 2008 Acts, ch 1032, §201

39.23 Township clerk. Repealed by 87 Acts, ch 68, § 3. See § 39.22.

39.24 School officers.

Members of boards of directors of community and independent school districts, and boards of directors of merged areas shall be elected at the school election. Their terms of office shall be four years, except as otherwise provided by section 260C.11, 260C.13, 275.23A, 275.37, or 275.37A.

[C75, 77, 79, 81, §39.24]

83 Acts, ch 77, §1; 2008 Acts, ch 1115, §1, 21

[P] Directors, §274.7

[SP] For provisions applicable to the transition from election of directors annually for three-year terms to the staggered election of directors biennially for four-year terms, see 2008 Acts, ch 1115, §21

39.25 Sex no disqualification.

No person shall be disqualified on account of sex from holding any office created by the statutes of this state.

[C24, 27, 31, 35, 39, §526; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §39.25]

39.26 Candidate qualifications.

Any person seeking election to an elective office under the laws of this state shall be an eligible elector at the time of any election at which the person's name appears on the ballot.

2002 Acts, ch 1134, §3, 115

39.27 Qualifications for public office.

Any person elected to an office under the laws of this state shall be an eligible elector. At the time an elected official takes office the official shall be a resident of the state, district, county, township, city, or ward by or for which the person was elected, or in which the duties of the office are to be exercised. An elected official shall continue to be a resident of the state, district, county, township, city, or ward by or for which the person was elected, or in which the duties of the office are to be exercised for the duration of the term of office. This section shall not apply to United States senators or representatives in Congress or to members of the general assembly.

2002 Acts, ch 1134, §4, 115