

## **Canton of St. Gallen**

### **sGS 125.3 Law on the ballots of July 4<sup>th</sup> 1971**

The Great Council of the Canton of St.Gallen has acknowledged the message of the Government of 28 October 1969 and decrees in application of Articles 51, 81, 83 and 84 of the Constitution of the Canton of 16 November 1890, in implementation of Article 3-6 of the Federal Law on the Federal Criminal Justice of 15 June 1934 as a law:

#### **I. Scope**

##### **Referendi**

##### **a) Principles**

###### **Art. 1**

<sup>1</sup> This Act regulates:

- a) the federal ballots, where the federal law does not prescribe otherwise;
- b) the cantonal ballots;
- c) the municipal ballots.

<sup>2</sup> ballots in the sense of this decree are both elections and referendi.

<sup>3</sup> The elections of the district courts are subject to the provisions pertaining to the cantonal elections.

##### **b) Delegation**

###### **Art. 2**

<sup>1</sup> Political municipality and special municipality may agree to transfer the preparation and conduct of the poll entirely or partly to the political municipality.

##### **c) Confessional- and church municipalities**

###### **Art. 3**

<sup>1</sup> Where there are no special provisions regarding certain confessions, polls in the Catholic and Protestant confessions shall be held in accordance with the requirements of the cantonal popular votes; in the church municipalities according to the rules on polls in the special municipalities.

#### **II Provisions for all polls**

##### **1. Organization in general**

##### **Implementation by the municipalities**

###### **Art. 4**

<sup>1</sup> The federal and cantonal ballots are held within the political municipalities.

<sup>2</sup> In all municipalities, the ballots shall be held on the same days.

##### **Voter's registration**

##### **a) in general**

###### **Art. 5**

<sup>1</sup> All voters eligible in federal, cantonal and municipal matters shall be registered on the voter's roll of the political municipality.

<sup>2</sup> The voters only eligible in federal matters, shall be registered separately for each federal ballot.

**b) The public****Art. 5bis**

<sup>1</sup> The voter's roll is open for inspection to the voters and the relevant department.

**Voting cards****Art. 5ter**

<sup>1</sup> The voting card card contains:

- a) name, first name, date of birth and address of the voter;
- b) the date of the poll;
- c) a declaration for postal voting, if the council decides so.

<sup>2</sup> The municipality may imprint the voting card on the envelope containing the voting papers or the envelope for postal voting.

<sup>3</sup> Whereas there are different voting rights, the voting cards are to differ in colour.

**Tellers****a) Election****Art. 6**

<sup>1</sup> The council appoints from amongst the eligible voters at least three times more tellers than ballot boxes set up.

<sup>2</sup> The members of the council, the council clerk, the registrar of voters and the usher are not eligible.

**b) Ballot box service****Art. 7**

<sup>1</sup> The council summons tellers from case to case to the ballot box service.

<sup>2</sup> For each ballot box at least two tellers shall be summoned.

<sup>3</sup> Chairman and clerk of the election office are excluded from ballot box service.

**c) Election Office****Art. 8**

<sup>1</sup> The election office consists of the chairman and tellers summoned by the council.

<sup>2</sup> The election office shall be manned by sufficient tellers to guarantee an efficient count. The political parties shall be adequately represented.

<sup>3</sup> If there are no contrary provisions by the council, chairman and clerk of the council act in the same capacity in the election office. The chairman partakes in the deliberations of the election office, but is otherwise limited to chairing negotiations. The clerk has an advisory vote and is otherwise limited to the receipt and compilation of the counting results and keeping the minutes of meeting.

**d) Recusal****Art. 9**

<sup>1</sup> The members and the clerk of the election office may not exercise office in their own affairs.

<sup>2</sup> The chairman and the clerk may remain in office when they are candidates themselves.

<sup>3</sup> The deputies of the voter's registrar and of the usher may not participate as tellers, if they have been employed in this capacity in the ballot.

**e) Auxiliary functions****Art. 10**

<sup>1</sup> For menial work, third parties may be employed.

<sup>2</sup> The use of technical aids, which expedite the counting, may be employed when counting votes.

<sup>3</sup> The election office is to monitor the counting.

**Place and time of vote****a) Principle****Art. 11**

<sup>1</sup> The main ballot is held on Sunday.

<sup>2</sup> The locations and opening hours of the polling stations shall be set by the council so that, where possible, all eligible voters may cast their vote.

**b) Sunday****Art. 12**

<sup>1</sup> On polling Sundays the polling stations are to close latest at 12:00h.

**c) previous days****Art. 13**

<sup>1</sup> The municipality is to facilitate early voting on at least two of the four days previous to the vote on Sunday by:

a) opening of polling stations by the Council during certain hours;

b) delivering the ballot in a sealed envelope to the competent body of the municipality;

<sup>2</sup> It sets the valid form of early polls for each of the early voting days.

**d) Temporary polling stations****Art 14**

<sup>1</sup> The Council may set up a temporary polling station on Sunday or on the previous days with short opening times in suitable locations or in suitable places.

**Art. 15**

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**Postal voting****a) in principle****Art. 16**

<sup>1</sup> Any registered voter may cast his ballot by letter, from receipt of the voting materials and from anywhere at home or abroad.

<sup>2</sup> postal votes are only valid if they arrive on Sunday on closing of the polls at the municipality.

**b) Implementation****Art 16bis**

<sup>1</sup> Whoever casts his vote by mail:

a) puts the ballot card in a separate envelope;

b) confirms with his signature on a pre-printed or self-written declaration that the vote is representing his own will.

<sup>2</sup> ballot envelope, declaration and voting card are put in an envelope. Reserved are Art 5ter para 1 lit. c and para 2 of this law.

<sup>3</sup> The envelope shall be marked "postal voting", and addressed to relevant department of the municipality. It may be dropped in a mailbox or in a mailbox designated by the council of the municipality. The municipality bears the postage.

### **c) Ascertaining**

#### **Art. 16ter**

<sup>1</sup> The voting registrar or the clerk of the election office, with the help of a committee of the election office, ascertains that the postal voting is valid.

<sup>2</sup> It is valid if:

- a) the voter is eligible as a voter;
- b) ...
- c) it contains the ballot card and a signed statement;
- d) the ballot cards are in a separate envelope;

<sup>3</sup> The postal votes are kept under lock before ascertaining. Afterwards, they shall be kept in a sealed ballot box.

## **2. Arrangement and preparation of the polls**

### **Renewal elections and referendi**

#### **Art. 17**

<sup>1</sup> The Government sets the date of the cantonal referendi and the renewal elections in the Canton, court districts and municipalities.

<sup>2</sup> simultaneously elected are the members of the:

- a) National Council and;
- b) Cantonal Council and Executive;
- c) Parliament and Council, if the municipal legislation stipulates no other rule.

### **By-elections**

#### **Art. 18**

<sup>1</sup> If an office becomes available after renewal elections, a by-election shall be held.

<sup>2</sup> The cantonal departement in charge orders cantonal by-elections, the municipal council by-elections of municipal authorities to be held.

<sup>3</sup> If renewal elections are to be held within six months, the by-elections may be waived, if they are not required by important, urgent transactions.

### **Second ballot**

#### **Art. 19**

<sup>1</sup> A second ballot will take place, if insufficient candidates have achieved the absolute majority.

<sup>2</sup> It is arranged by the authority which has held the first ballot.

### **Publication**

#### **Art. 20**

<sup>1</sup> Ballots shall be published at least six weeks, silent ballots at least ten weeks before the voting Sunday. Referendi shall be published at least four weeks before the voting Sunday.

<sup>2</sup> Municipal ballots shall be published in the official publication of the municipality, cantonal ballots in the official gazette of the canton.

<sup>3</sup> The notice includes:

- a) Subject and date of the ballot;
- b) Place and date of the submission of nominations;
- c) Date of the second ballot;
- d) Place and date of filing of nominations for the second ballot.

## **Nominations**

### **a) Validity**

#### **Art. 20bis**

<sup>1</sup> For authorities whose members are elected by majority elections, nominations may be submitted. The nominations for the district court chief judges shall be supplemented by evidence of the fulfilment of the election requirements under art. 26 of the court Act.

<sup>2</sup> nominations are valid if they:

- a) are submitted within the deadline at the competent authority of the municipality, in cantonal elections to the relevant department;
- b) have been signed:
  - 1. by at least 15 voters eligible in the constituency in the election of municipal and district court authorities;
  - 2. of at least 15 voters eligible in cantonal affairs in the election of members of the cantonal executive and the council of states;
- b<sup>bis</sup>) contain no more than an equal number of candidates than seats to be allocated;
- c) contain only eligible candidates;
- d) contain only candidates who have agreed to their nomination.

### **b) Representative of the nomination**

#### **Art. 20bis<sup>a</sup>**

<sup>1</sup> The signatories determine a representative and a deputy for nomination. Else the first and second signatory are deemed nominee and deputy.

<sup>2</sup> The nominee, or his deputy, submits on behalf of the signatories the statements required for the regularization of the nominations.

## **Silent election**

### **a) Scope**

#### **Art. 20<sup>ter</sup>**

<sup>1</sup> Silent election is permissible for:

- a) Council of States and cantonal executive in the second ballot;
- b) District courts in the first and second ballot;
- c) local authorities in the second ballot.

### **b) Formation**

#### **Art. 20<sup>quater</sup>**

<sup>1</sup> Silent election takes place when the number of all valid nominations listed is equal to the number of mandates to be allocated.

<sup>2</sup> The competent authority of the municipality, in cantonal elections the relevant department decides on the establishment of silent election and publishes the decision:

- a) for the election of members of the Council of States and Executive and District Courts in the cantonal government gazette;
- b) for the election of municipal authorities by public posting and the official publication.

## Delivery of addresses

### Art. 21

<sup>1</sup> The voting registrar has to supply the addresses of the eligible voters against reimbursement of the expenses, if they are used for advertising in ballot campaigns.

## Voting papers

### Art. 22

<sup>1</sup>The voters must be in possession of the voting papers at least three weeks before the ballot. In proportional representation elections, second ballots and votes held on the same day, the deadline is ten days.

<sup>2</sup>The voting papers include:

- a) information on the ballot to be held;
- b) the ballot cards;
- c) the voting card;
- d) ...
- e) a pre-printed declaration for postal voting. Reserved is Art 5<sup>ter</sup> para 1 lit. c of this Act;
- f) communication on locations and opening times of the local polling stations and on procedures, deadlines and delivery of postal voting;
- g) a reference to voting on the eve of the vote on Sunday;
- h) in elections a short election guide prepared by the competent authority of the municipality, in cantonal elections by the relevant department.

## Ballot card

### a) Design

### Art. 23

<sup>1</sup> The ballot card shall be marked "ballot card" and contain the district, the date and subject of the vote.

<sup>2</sup> To distinguish different voting matters, the ballot cards may be of different colors, marked with numbers or contain other distinguishing characteristics.

### b) Content

### Art. 23bis

<sup>1</sup> In referendi, the ballot card contains the voting issue and sufficient space to answer.

<sup>2</sup> In majority elections it contains:

- a) the names of the candidates, based on the valid nominations and listed in alphabetical order, the current candidates first, and with continuous numbering;
- b) as many blank lines as candidates be elected;
- c) next to each name and each blank line a check box.

### Art 24

### Art 24bis

### Art 24ter

## 3. Implementation of the ballot

## Ballot card

### a) Filling in

### Art 25

<sup>1</sup> ...

<sup>2</sup> ballot cards are filled in or amended by hand.

<sup>3</sup> In majority elections, the following shall be checked:

- a) candidate names pre-printed on the ballot cards;
- b) names of other persons written by the voter on the blank lines.

### **a<sup>bis</sup>) counting in majority elections**

#### **Art 25bis**

<sup>1</sup> In majority elections are not counted:

- a) Candidate names and names of other eligible persons who are not checked;
- b) Candidate names and names of other eligible persons who are checked and both are deleted.

#### **b) Availability**

#### **Art 26**

<sup>1</sup> Ballot cards must be available in sufficient numbers at the ballot box or in an anteroom.

#### **Secret vote**

#### **Art. 27**

<sup>1</sup> The secrecy of the vote must be respected.

<sup>2</sup> The local polling station shall be arranged to maintain the secrecy of the vote.

#### **Casting the ballot**

#### **Art 28**

<sup>1</sup> The voter has to submit his or her voting card at the ballot box.

<sup>2</sup> Then he gets from the tellers an envelope into which he may put a ballot for each election and for each referendum. He then casts the envelope into the ballot box.

<sup>3</sup> If there are multiple ballots, in which voters with different voting rights take part, envelopes of different colors shall be used.

#### **Monitoring of the ballot boxes**

##### **a) during opening hours**

#### **Art 29**

<sup>1</sup> During opening hours, two tellers shall be present without interruption at the ballot box and ensure the observance of the legal rules.

<sup>2</sup> The tellers are to pay particular attention to the fact that:

- a) the ballot box is empty at the beginning of the ballot;
- b) the voter only cast ballots in matters in which he is entitled to vote;
- c) the voter only casts a single envelope into the ballot box;
- d) there are no voting recommendations present or posted near the ballot boxes or in the antechambers.

<sup>3</sup> The tellers may neither investigate on the contents of the ballots nor influence the voters or assist them in filling in their ballots or inserting them into the envelope. The same prohibition applies to other people in the polling station or at the mobile ballot box. Frail people may be assisted by an accompanying person.

<sup>4</sup> No one may be present longer than necessary in the polling station or near the mobile ballot box.

**b) outside opening hours****Art. 30**

<sup>1</sup> Immediately after the end of opening hours, the ballot box shall be sealed in such a way that the contents can not be changed.

<sup>2</sup> The ballot box may only be opened:

- a) for the continuation of the vote, when the tellers allotted to the opening time are present;
- b) for counting, when a committee of the election office supervises the opening.

**Unrestricted access to ballot boxes****Art 31**

<sup>1</sup> The unimpeded access to the ballot box during the opening hours must be maintained.

<sup>2</sup> In front of and inside the premises it is forbidden:

- a) to distribute ballot cards or advertising matters;
- b) collecting signatures or donations;
- c) offering food or beverages.

**4. Determining the results of the ballot****Validity of the ballot cards****Art 32**

<sup>1</sup> A ballot card is valid if the will of the voter is clearly recognisable.

<sup>2</sup> ballot cardss are invalid:

- a) when they are cast without envelope or in a private envelope into the ballot box;
- b) ...
- c) when found with other, different ballot cards of the same voting topic in the same envelope; of several identical ballot cards only one is valid;
- c<sup>bis</sup>) when the number of candidates checked exceeds the number of candidates to be elected;
- d) when containing unofficial control marks;
- e) when containing defamatory remarks.

**Elections****a) relevant majority****Art 33**

<sup>1</sup> In the first ballot, the absolute majority decides. It is achieved when a candidate gets more than half of the valid votes.

<sup>2</sup> The absolute majority shall be calculated separately for the election of each authority.

<sup>3</sup> In the second ballot, the relative majority shall prevail. Elected are the candidates with the highest numbers of votes.

**b) Elimination****Art 34**

<sup>1</sup> In the case of more candidates than available seats, or candidates who may not belong to the same authority, achieving absolute majority, those with the highest number of votes are deemed elected.

<sup>2</sup> In the case of several candidates attracting an equal number of votes, it shall decided by lot.

<sup>3</sup> The lot is drawn in cantonal elections by the cantonal chairman in the presence of the executive, in the remaining elections by chairman of the election office in the presence of the other members of the office.



**c) Regularization of the valid ballot cards****Art 35**

<sup>1</sup> On the ballot cards shall be deleted by the election office:

- a) Candidate names, which appear more than once;
- b) Names which are illegible or of candidates insufficiently clearly described;
- b<sup>bis</sup>) Names of persons not eligible.

**Referendi****Art. 36**

<sup>1</sup> A referendum is adopted if it attracts more valid votes in favor than against.

<sup>2</sup> In a tie, it is rejected.

**Municipality results****a) Determining****Art. 37**

<sup>1</sup> The election office determines the municipal results of the ballot.

<sup>2</sup> In the case of several ballots on the same day, the municipality result is determined in the following order:

- a) federal ballots;
- b) cantonal ballots;
- c) district court ballots;
- d) municipal ballots.

<sup>3</sup> The election office may start the counting on the morning of the voting Sunday. It ensures that no partial results are communicated to the public.

**b) counting****Art. 38**

<sup>1</sup> The election office takes note of the number of voters, and determines the number of:

- a) voting cards submitted;
- b) total of ballot cards cast;
- c) the empty, the invalid and valid ballot cards;
- d) the valid votes cast for each candidate or for or against a referendum.

**c) Procedures****Art. 39**

<sup>1</sup> A committee of the election office mixes the contents of each ballot box before counting.

<sup>2</sup> The counting is done in groups of at least two tellers.

<sup>3</sup> in disagreements or doubts the entire election office decides.

<sup>4</sup> A very tight vote shall be re-counted before it is recorded.

**d) Protocols****Art. 40**

<sup>1</sup> The municipal election office protocols the results of the ballots. The protocols shall be signed by the chairman, the clerk and two other members of the election office.

<sup>2</sup> The protocols of the federal and the cantonal ballots shall be sent immediately to the relevant department.

<sup>3</sup> The protocols of the municipal ballots shall be sent to the relevant department.

## **e) Retention of ballots**

### **Art 41**

<sup>1</sup> The ballot cards shall be, in the case of several ballots separately, packaged and sealed before the whole election office.

<sup>2</sup> The ballot cards of federal matters shall be sent immediately to the relevant department, or after consultation with the election office, stored in an appropriate manner in the municipality.

<sup>3</sup> The ballot cards of cantonal and municipal matters shall be stored by the municipality up to the final settlement of complaints, but at least a month.

## **f) proviso**

### **Art. 41bis**

<sup>1</sup> Municipalities with more than 10'000 voters may stipulate a counting method different from the law by respective regulations.

<sup>2</sup> These regulations require the approval of the relevant department.

## **Cantonal results**

### **Art. 42**

<sup>1</sup> The election office notifies immediately:

a) the relevant department of the results of federal and cantonal ballots;

b) the relevant department, attention of the election office, of the results of the elections to the national council and cantonal council;

c) ...

<sup>2</sup> The relevant department provisionally compiles the results of cantonal ballots. The cantonal executive has it finally determined by compiling the protocols of the municipal results.

## **5. Announcing the result of the vote**

### **Publication**

#### **Art. 43**

<sup>1</sup> The municipal result will be announced by public posting.

<sup>2</sup> In federal and cantonal ballots, the relevant cantonal department announces the preliminary results.

...

<sup>3</sup> The cantonal executive publishes the results of cantonal ballots, based on the protocols, in the cantonal government gazette.

### **Notification of Election**

#### **Art. 44**

<sup>1</sup> Those elected by popular election into a cantonal authority or the council of states are notified by the relevant department, those elected by the citizenship of a municipality by the cantonal council.

### **Election rejection and resignation**

#### **Art. 45**

<sup>1</sup> With the notification of election is communicated that the office is deemed accepted if not rejected within fourteen days.

<sup>2</sup> Resignation statements shall be submitted to the authority which notified the election.

<sup>3</sup> This is subject to the rules on compulsory offices.

## **Complaints**

### **Art. 46**

<sup>1</sup> Eligible voters may lodge complaints against cantonal ballots with the cantonal executive.

<sup>2</sup> The complaint must be lodged within three days of knowledge of the grievance in writing and not later than the third day after the official announcement of the result. The complaint must contain a request, a brief presentation of the facts and a substantiation. It shall be signed.

<sup>3</sup> Valid reasons are irregularities in the preparation or conduct of the ballot. They are deemed reasons for revocation if they were or could have been of decisive influence on the outcome of the ballot.

## **6. Electronic data processing**

### **Art. 47**

### **Art. 48 and Art. 49**

## **III. Proportional elections**

### **Common provisions**

#### **a) Ballot papers**

### **Art. 50**

<sup>1</sup> The voters receive along with with the blank ballot card for the elections to the national council and the cantonal council as additional ballot cards all the officially published electoral lists. These are also to be made available at the ballot box or in an anteroom.

<sup>2</sup> Additional officially published electoral lists will be supplied at cost if ordered within a set time limit.

#### **b) Cantonal election office**

### **Art. 51**

<sup>1</sup> The cantonal executive shall appoint a cantonal election office for the elections to the national and the cantonal council. The political parties shall be adequately represented.

<sup>2</sup> The cantonal election office ascertains the results of the election constituencies and the canton, with the participation of the relevant department.

## **National council**

### **Art. 52**

<sup>1</sup> The relevant Departement runs the preliminary proceedings of the National Council elections.

### **Cantonal council**

#### **a) Number of Members**

### **Art. 53**

<sup>1</sup> The cantonal executive stipulates the number of members of the cantonal council by regulation.

<sup>2</sup> Basis of the calculation is the annual federal population statistics.

<sup>3</sup> Relevant date is 1<sup>st</sup> of January of the second last year before the election year.

#### **b) Applicable law of procedure**

### **Art. 54**

<sup>1</sup> The members of the cantonal council are elected in appropriate application of the federal legislation on the election procedure to the national council.

<sup>2</sup> For the preliminary proceedings, the same electoral deadlines shall be valid in all constituencies.

### **c) Preliminary proceedings**

#### **Art. 55**

<sup>1</sup> The relevant department is in charge of the preliminary proceedings of the cantonal elections.

#### **c<sup>bis</sup>) Compound lists**

#### **Art. 55bis**

<sup>1</sup> Signatories of election proposals or their representatives may agree, that their nominations form with each other an interconnected list. Sublist connections are not allowed.

<sup>2</sup> Valid are links between nominations of the same name, if they can be distinguished by supplemental information about the sex, the wing of a grouping, the region or age.

<sup>3</sup> Compound lists must be indicated on the ballot cards.

### **d) Validation**

#### **Art. 56**

<sup>1</sup> The Cantonal Council shall decide on the validity of the election of its members.

<sup>2</sup> He also decides on request of the cantonal executive about demands for nullification of a ballot.

### **Constitutional council**

#### **Art. 57**

<sup>1</sup> The Constitutional Council shall be subject to the same rules as the cantonal council.

### **IV Election of the federal jury**

#### **Art. 58 to 63**

<sup>1</sup>

### **V. Penalties**

#### **Contraventions**

#### **Art. 64**

<sup>1</sup> With a fine will be punished, whoever:

- a) falsifies, distorts, or unauthorizedly uses a voting card;
- b) knowingly uses a false or falsified voting card or forwards it to another person for use;
- c) supplies a voter with an invalid ballot card in order to induce him to cast an invalid vote;
- d) ...;
- e) intentionally disrupts or impedes access to the polling station.

<sup>2</sup> In light cases, a warning may be issued instead of a fine.

<sup>3</sup> Attempt and assistance are punishable.

<sup>4</sup> This is subject to Article 279 ff. of the Swiss Penal code.

### **VI. Final Provisions**

#### **Enforcement decree**

#### **Art. 65**

<sup>1</sup> The enforcement decree of cantonal executive contains:

- a) the detailed rules on postal voting, the distribution of ballot materials and on the design of the ballot card;
- b) the rules based on Art. 53, 54 and 55<sup>bis</sup> of this Act for the election of the cantonal council;

c) other provisions, insofar the enforcement of this Act requires them.

**Change of existing laws**

**a) law on the organisation**

**Art. 66**

<sup>1</sup>

**b) cantonal penal by-law**

**Art. 67**

<sup>1</sup>

**Repeal of current law**

**Art. 68**

<sup>1</sup> The law on elections of 9 August 1954 is hereby repealed.

**Date of implementation**

**Art. 69**

<sup>1</sup> The cantonal executive determines when enforcement of this law takes effect.