



## 1997 ASSEMBLY BILL 8

January 21, 1997 - Introduced by Representatives PORTER, GARD, M. LEHMAN, LADWIG, URBAN, SERATTI, ZIEGELBAUER, GOETSCH, HAHN, OWENS, OLSEN, GUNDERSON and ALBERS, cosponsored by Senator MOEN. Referred to Committee on Urban and Local Affairs.

1     **AN ACT to amend** 17.21 (3), 17.23 (1) (a), 17.24 (1), 17.25 (1), 17.26 (1), 59.10 (1)  
2             (d), 59.10 (3) (e), 59.17 (7), 59.25 (2) (b), 60.30 (5) (a) and 60.75 (4); and **to create**  
3             17.205 of the statutes; **relating to:** the procedure for filling vacancies in certain  
4             elective local offices.

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### *Analysis by the Legislative Reference Bureau*

Currently, under various laws, vacancies in certain elective local offices may be filled by appointment of local governmental bodies on a permanent or temporary basis.

This bill provides that, with limited exceptions, whenever a vacancy in an elective local office occurs and the law permits the vacancy to be filled by an elective body, the body shall not fill the vacancy during the period beginning on the date of the spring election at which any seat on that body is to be filled by the electorate and ending on the date on which all persons who are elected at that election take office.

The bill also provides, with limited exceptions, that whenever a vacancy in an elective local office is permitted by law to be filled by a body, the body shall not make any appointment to fill the vacancy unless the body first publishes or posts notice of the vacancy, accepts an application for the office submitted by any person who qualifies for the office and considers each application. The vacancy must be noticed in the jurisdiction where the vacancy occurs at least 10 days before the vacancy is filled.

**ASSEMBLY BILL 8**

For further information see the *local* fiscal estimate, which will be printed as an appendix to this bill.

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*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

1           **SECTION 1.** 17.205 of the statutes is created to read:

2           **17.205 Procedure for filling vacancies in elective local offices.** (1) In  
3 this section, "local office" has the meaning given in s. 5.02 (9).

4           **(2)** Except as provided in sub. (4), whenever a vacancy in an elective local office  
5 occurs and the law permits the vacancy to be filled by an elective body, the body shall  
6 not fill the vacancy during the period beginning on the date of the spring election at  
7 which any seat on that body is to be filled by the electorate and ending on the date  
8 on which all persons who are elected at that election take office.

9           **(3)** Except as provided in sub. (4), whenever a vacancy in an elective local office  
10 is permitted by law to be filled by a body, the body shall not make any appointment  
11 to fill the vacancy unless the body first publishes or posts notice of the vacancy in  
12 accordance with this subsection, accepts an application for the office submitted by  
13 any person who qualifies for the office and considers each application. The body shall  
14 publish or post notice of the vacancy, in the jurisdiction where the vacancy occurs,  
15 not less than 10 days before the vacancy is filled. Each notice shall provide that,  
16 subject to any applicable qualifications for office, any person may submit an  
17 application to be considered for the position to be filled and shall specify the location  
18 and the latest date and time for submitting an application.

19           **(4)** This section does not apply to vacancies filled under s. 60.30 (2) (d), 61.27,  
20 62.09 (1) (d) or 64.29 (2).

21           **SECTION 2.** 17.21 (3) of the statutes is amended to read:

**ASSEMBLY BILL 8**

1           17.21 (3) COUNTY CLERK, TREASURER AND SURVEYOR. In the office of county clerk,  
2 treasurer or surveyor, by appointment by the county board for the residue of the  
3 unexpired term, in accordance with s. 17.205.

4           **SECTION 3.** 17.23 (1) (a) of the statutes is amended to read:

5           17.23 (1) (a) In cities of the 2nd, 3rd or 4th class, in the office of mayor, except  
6 as provided in s. 9.10, by appointment by the common council in accordance with s.  
7 17.205. In the office of alderperson, by the common council, in accordance with s.  
8 17.205, except as provided in s. 9.10. A person so appointed shall hold office until a  
9 successor is elected and qualified. A successor shall be elected for the residue of the  
10 unexpired term on the first Tuesday of April next after the vacancy happens, in case  
11 it happens no later than December 1 preceding the first Tuesday in April, but if the  
12 vacancy happens after December 1 preceding the first Tuesday in April and before  
13 that day, then the successor shall be elected on the first Tuesday in April of the next  
14 ensuing year; but no election to fill a vacancy in such office may be held at the time  
15 of holding the regular election for that office.

16           **SECTION 4.** 17.24 (1) of the statutes is amended to read:

17           17.24 (1) Except as provided in s. 9.10, a vacancy in any elective village office  
18 may be filled by appointment by a majority of the members of the village board for  
19 the residue of the unexpired term or until a special election is held under s. 8.50 (4)  
20 (fm) or sub. (2), in accordance with s. 17.205. A vacancy in an appointive office shall  
21 be filled in the same manner as the original appointment.

22           **SECTION 5.** 17.25 (1) of the statutes is amended to read:

23           17.25 (1) In the town board, by the remaining supervisors and the town clerk  
24 in accordance with s. 17.205, except as provided in s. 9.10 and except when the  
25 vacancy is caused by removal by the circuit judge as provided by law, which latter

**ASSEMBLY BILL 8****SECTION 5**

1 vacancy shall be filled by appointment by that judge. Vacancies in other elective  
2 town offices shall be filled by appointment by the town board in accordance with s.  
3 17.205, except as provided in ss. 8.50 (4) (fm) and 9.10 and except for vacancies  
4 caused by removal by the judge of the circuit court which latter vacancy shall be filled  
5 by that judge. Persons appointed under this subsection to fill vacancies shall hold  
6 office for the residue of the unexpired term, except persons appointed to fill vacancies  
7 as members of the water or light commission, which persons shall hold office only  
8 until their successors are elected and qualify and such successors shall be elected at  
9 the annual town meeting next after the vacancy occurs if the vacancy occurs 12 days  
10 or more prior to the meeting; otherwise at the annual town meeting held in the year  
11 next succeeding; but no election to fill a vacancy in the office may be held at the time  
12 of holding the regular election for the office.

13 **SECTION 6.** 17.26 (1) of the statutes is amended to read:

14 17.26 (1) In a common, union high or unified school district, by appointment  
15 by the remaining members in accordance with s. 17.205. Each appointee shall hold  
16 office until a successor is elected and takes office under s. 120.06 (4) or 120.42 (2).  
17 When a vacancy occurs in the office of a board member who is in the last year of his  
18 or her term, or when a vacancy occurs after the spring election but on or before the  
19 last Tuesday in November in the office of a board member who is not in the last year  
20 of his or her term, the successor shall be elected at the next spring election. When  
21 a vacancy occurs after the last Tuesday in November and on or before the date of the  
22 next spring election in the office of a board member who is not in the last year of his  
23 or her term, the successor shall be elected at the 2nd following spring election.

24 **SECTION 7.** 59.10 (1) (d) of the statutes is amended to read:

**ASSEMBLY BILL 8**

1           59.10 (1) (d) *Vacancies*. ~~A~~ Subject to the requirements of s. 17.205, a board  
2 may determine the procedure for filling a vacancy.

3           **SECTION 8.** 59.10 (3) (e) of the statutes is amended to read:

4           59.10 (3) (e) *Vacancies*. If a vacancy occurs on the board, the board chairperson,  
5 with the approval of the board and in accordance with s. 17.205, shall appoint a  
6 person who is a qualified elector and resident of the supervisory district to fill the  
7 vacancy for the unexpired portion of the term to which the person is appointed and  
8 until his or her successor is elected and qualified.

9           **SECTION 9.** 59.17 (7) of the statutes is amended to read:

10           59.17 (7) REMOVAL FROM OFFICE; VACANCY, HOW FILLED. The county executive may  
11 be removed from office by the governor for cause under s. 17.16. A vacancy in the  
12 office of county executive shall be filled temporarily, within 30 days of the date of the  
13 vacancy, by appointment by the chairperson of the board, subject to confirmation by  
14 the board, from among electors of the county. The appointment is subject to the  
15 requirements of s. 17.205. Within 7 days following the occurrence of the vacancy, the  
16 clerk shall order a special election to be held under s. 8.50 to fill the vacancy. If the  
17 vacancy occurs after October 31 but not later than 49 days before the day of the spring  
18 primary, the special election shall be held concurrently with the spring primary and  
19 election.

20           **SECTION 10.** 59.25 (2) (b) of the statutes is amended to read:

21           59.25 (2) (b) If any county treasurer is incapable of discharging the duties of  
22 the office of treasurer, the board may, if it sees fit, appoint a person to serve as  
23 treasurer, in accordance with s. 17.205, who shall serve until such disability is  
24 removed. A person so appointed or appointed to fill a vacancy in the office of  
25 treasurer, upon giving an official bond with like sureties as are required of such

**ASSEMBLY BILL 8****SECTION 10**

1 treasurer, shall perform all the duties of such office, and thereupon the powers and  
2 duties of any deputy performing the duties of the last treasurer shall cease.

3 **SECTION 11.** 60.30 (5) (a) of the statutes is amended to read:

4 60.30 (5) (a) If any elected town officer, other than a town board supervisor, is  
5 absent or temporarily incapacitated from any cause, the town board may appoint, if  
6 there is no deputy officer for the office, a suitable person to discharge the duties of  
7 the office until the officer returns or the disability is removed, except that the  
8 appointment procedures of this paragraph apply to a town board supervisor if he or  
9 she is absent because of entry into the U.S. armed forces. All appointments are  
10 subject to the requirements of s. 17.205. Appointees shall file the official oath and  
11 bond required under s. 60.31.

12 **SECTION 12.** 60.75 (4) of the statutes is amended to read:

13 60.75 (4) VACANCIES. Any vacancy on an elective or appointive commission may  
14 be filled by appointment by the town board for the remainder of the unexpired term.  
15 If the commission is elective, an appointment is subject to the requirements of s.  
16 17.205. Any vacancy on a commission consisting of town board supervisors remains  
17 vacant until a successor town board supervisor is appointed or elected.

18 **SECTION 13. Initial applicability.**

19 (1) This act first applies with respect to vacancies occurring on the effective  
20 date of this subsection.

21 (END)