



2023 SENATE BILL 104

March 1, 2023 - Introduced by Senators TOMCZYK and BALLWEG, cosponsored by Representatives SPIROS, NOVAK, ALLEN, ARMSTRONG, BALDEH, GUNDRUM, KITCHENS, KRUG, MOSES, MURPHY, MURSAU, O'CONNOR, RATCLIFF and STEFFEN. Referred to Committee on Government Operations, Elections and Consumer Protection.

1 **AN ACT** *to renumber and amend* 17.16 (10); and *to create* 17.16 (10) (b) and
2 17.16 (10) (c) of the statutes; **relating to:** eligibility for local office following
3 removal.

Analysis by the Legislative Reference Bureau

Current law provides procedures by which appointive and elective officials of political subdivisions may be removed from office. Current law also provides that an official who is removed from office is ineligible to fill the vacancy created by that removal. This bill provides that an elective official of a political subdivision who is removed from office for cause or who resigns during the pendency of a removal proceeding is ineligible for the elective public office from which the official was removed. An elective official who resigns during the pendency of a removal proceeding may regain eligibility by demonstrating to the removing power that the official would not have been removed for cause and did not resign for purposes of impeding the removal proceeding.

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

4 **SECTION 1.** 17.16 (10) of the statutes is renumbered 17.16 (10) (a) and amended
5 to read:

SENATE BILL 104**SECTION 1**

1 17.16 (10) (a) ~~A person lawfully~~ An official who is removed from office shall be
2 is ineligible to appointment or election to fill the vacancy caused by such the removal.

3 **SECTION 2.** 17.16 (10) (b) of the statutes is created to read:

4 17.16 (10) (b) An elected official of a city, village, town, or county who is removed
5 from office for cause or, except as provided under par. (c), who resigned from office
6 after written verified charges were filed under sub. (3) and before an order under sub.
7 (8) was issued is ineligible for the elective public office from which the official
8 resigned or was removed. This paragraph does not apply to a sheriff.

9 **SECTION 3.** 17.16 (10) (c) of the statutes is created to read:

10 17.16 (10) (c) 1. An elected official of a city, village, town, or county who resigned
11 from office after written verified charges were filed under sub. (3) and before an order
12 under sub. (8) was issued may apply to the removing power for restoration of the
13 official's eligibility for the elective public office from which the official resigned.

14 2. Upon application under subd. 1., the removing power shall hold a public
15 hearing at which the official shall have a full opportunity to be heard, personally and
16 by counsel. The issues at the hearing shall be limited to the following:

17 a. Whether the written verified charges filed under sub. (3) would have resulted
18 in the official being removed.

19 b. Whether the resignation was made for the purpose of impeding the removal
20 proceeding.

21 3. The removing power shall determine within 30 days after a hearing under
22 subd. 2. whether the official's eligibility for the elective public office from which the
23 official resigned should be restored. The removing power may not restore eligibility
24 under this subdivision unless it determines that the elected official would not have

