



## 2019 ASSEMBLY BILL 89

March 21, 2019 - Introduced by Representatives BROOKS, KNODL, MURPHY, SUBECK and WICHGERS, cosponsored by Senators STROEBEL, BERNIER and NASS. Referred to Committee on Campaigns and Elections.

1     **AN ACT to renumber and amend** 17.23 (1) (a), 17.23 (1) (b), 17.23 (1) (c) and  
2             17.24 (2); **to amend** 17.23 (1) (intro.); and **to create** 17.23 (1) (e) and 17.24 (3)  
3             of the statutes; **relating to:** vacancies in elective offices in cities and villages.

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### *Analysis by the Legislative Reference Bureau*

This bill reorganizes the statutes prescribing the methods for filling vacancies in elective offices in cities and villages. Under current law and under the bill, a special election to fill a vacancy in a city or village office may be held as follows:

1. If the vacancy occurs no later than December 1, the municipality holds the special election concurrently with the spring election.
2. If the vacancy occurs after December 1, the municipality holds the special election concurrently with the spring election in the following year.
3. If the vacancy occurs no later than June 1, the municipality holds the special election concurrently with the general election.
4. If the vacancy occurs after June 1, the municipality holds the special election concurrently with the general election in the following year.

The bill also clarifies that a vacancy in an elective office in a city and village may be filled by appointing a successor to serve for the residue of the unexpired term or until a special election is held or the office may remain vacant until an election is held.

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

**ASSEMBLY BILL 89****SECTION 1**

1           **SECTION 1.** 17.23 (1) (intro.) of the statutes is amended to read:

2           17.23 (1) GENERAL AND SPECIAL CHARTER CITIES. (intro.) ~~Vacancies~~ Except as  
3 provided in s. 9.10, vacancies in offices of cities operating under the general law or  
4 special charter shall be filled as follows:

5           **SECTION 2.** 17.23 (1) (a) of the statutes is renumbered 17.23 (1) (a) 1. and  
6 amended to read:

7           17.23 (1) (a) 1. In cities of the 2nd, 3rd, or 4th class, in the office of mayor, ~~except~~  
8 ~~as provided in s. 9.10, by appointment by the common council~~ may appoint a  
9 successor. The successor shall serve for the residue of the unexpired term unless the  
10 common council orders a special election is ordered by the common council, in which  
11 ease. If the common council orders a special election, the person appointed shall  
12 serve until his or her successor is elected and qualified.

13           2. In cities of the 2nd, 3rd, or 4th class, in the office of alderperson, by the  
14 common council, ~~except as provided in s. 9.10. A person so appointed shall~~ may  
15 appoint a person to hold office until a successor is elected and qualified.

16           3. Unless otherwise ordered by the common council, a successor shall may be  
17 elected for the residue of the unexpired term ~~on the first Tuesday of April next after~~  
18 as follows:

19           a. If the vacancy happens, in case it happens no later than December 1  
20 preceding the first Tuesday in April, but if spring election, the city shall hold the  
21 special election concurrently with the spring election.

22           b. If the vacancy happens after December 1 preceding the first Tuesday in April  
23 and before that day, then the successor shall be elected on the first Tuesday in April  
24 of the next ensuing year. The common council may, if spring election, the city shall

**ASSEMBLY BILL 89****SECTION 2**

1 hold the special election concurrently with the spring election of the next ensuing  
2 year.

3 c. If a vacancy occurs before June 1 in the year preceding expiration of the term  
4 of office, order a ~~the city may hold the special election to fill a vacancy to be held on~~  
5 ~~the Tuesday after the first Monday in November~~ concurrently with the general  
6 election following the date of the order. ~~A person so elected shall serve for the residue~~  
7 ~~of the unexpired term.~~

8 **SECTION 3.** 17.23 (1) (b) of the statutes is renumbered 17.23 (1) (b) 1. and  
9 amended to read:

10 17.23 (1) (b) 1. In 1st class cities, in the office of mayor, ~~except as provided in~~  
11 ~~s. 9.10, the vacancy shall be filled by the president of the common council as is the~~  
12 ~~acting mayor until a successor is elected at a special election can be held under this~~  
13 ~~paragraph.~~ In such case, the acting mayor may continue to serve as president of the  
14 common council, in addition to exercising the powers and responsibilities of the office  
15 of mayor, until such time as a new mayor is elected and qualified, but the acting  
16 mayor may not take part in any vote of the common council during that period. The  
17 common council shall order a special election for the office of mayor as promptly as  
18 possible, unless the vacancy occurs within 120 days of the expiration of the mayor's  
19 term of office.

20 2. In 1st class cities, in the office of alderperson, by special election, ~~except as~~  
21 ~~provided in s. 9.10. When a mayor is temporarily appointed, the common council~~  
22 ~~shall order a special election for the office of mayor under s. 8.50 as promptly as~~  
23 ~~possible, unless the vacancy occurs within 120 days of the expiration of the mayor's~~  
24 ~~term of office. When.~~ Except as provided in subd. 3. or 4., when an aldermanic seat  
25 becomes vacant, a successor shall may be elected for the residue of the unexpired

**ASSEMBLY BILL 89****SECTION 3**

1 term on the first Tuesday of April or the Tuesday after the first Monday in November  
2 next after the vacancy happens, in case it as follows:

3 a. If the vacancy happens no later than December 1 or preceding the spring  
4 election, the city shall hold the special election concurrently with the spring election.

5 b. If the vacancy happens no later than June 1 preceding that day, but if the  
6 general election, the city shall hold the special election concurrently with the general  
7 election.

8 c. If the vacancy happens after December 1 or preceding the spring election, the  
9 city shall hold the special election concurrently with the spring election of the next  
10 ensuing year.

11 d. If the vacancy happens after June 1 preceding that day, then the successor  
12 shall be elected on the following first Tuesday in April or Tuesday after the first  
13 Monday in November; but no the general election, the city shall hold the special  
14 election concurrently with the next general election.

15 3. No special election to fill a vacancy in such the office of alderperson may be  
16 held at the time of holding the regular election for that office. In addition, the

17 4. The president of the common council of any 1st class city may order a special  
18 election to be held, as provided under s. 8.50, to fill -a- the vacant aldermanic seat of  
19 an alderperson prior to the time when that seat is required to be filled under this  
20 paragraph.

21 5. If a special election to fill the vacant seat of an alderperson is held under this  
22 paragraph after a redistricting plan is adopted, the election city shall be held hold  
23 the election in the aldermanic district as it existed when the office was filled at the  
24 last preceding election.

**ASSEMBLY BILL 89****SECTION 4**

1           **SECTION 4.** 17.23 (1) (c) of the statutes is renumbered 17.23 (1) (c) 1. and  
2 amended to read:

3           17.23 (1) (c) 1. ~~In~~ Except as provided in subd. 2., in the office of any other  
4 elective officer, ~~and except as provided in s. 9.10,~~ by appointment by the mayor  
5 subject to confirmation by the common council, for the residue of the unexpired term  
6 unless a special election is ordered by the common council, ~~except that in.~~ A person  
7 appointed and confirmed under this subdivision shall hold office until a successor is  
8 elected, as provided under par. (a), and qualified.

9           2. ~~In~~ case of vacancies in the office of any ~~such~~ other officer of a 1st class city  
10 who is authorized by law to have a deputy, ~~such~~ the deputy shall perform the duties  
11 of ~~such~~ the office, and shall be entitled to the emoluments of ~~such~~ the office during  
12 the remainder of the term. ~~A person so appointed and confirmed shall hold office~~  
13 ~~until a successor is elected and qualifies. The successor shall be elected as provided~~  
14 ~~in par. (a).~~

15           **SECTION 5.** 17.23 (1) (e) of the statutes is created to read:

16           17.23 (1) (e) For purposes of pars. (a) and (b), a vacancy may be filled by  
17 appointing a successor to serve for the residue of the unexpired term or until a special  
18 election is held or an office may remain vacant until an election is held.

19           **SECTION 6.** 17.24 (2) of the statutes is renumbered 17.24 (2) (intro.) and  
20 amended to read:

21           17.24 (2) (intro.) Except as provided in s. 8.50 (4) ~~(fm)~~, a vacancy in any elective  
22 office in a village may be filled by special election of a successor for the residue of the  
23 unexpired term ~~on the first Tuesday of April next after the vacancy happens, if it as~~  
24 follows:

