



## 2003 ASSEMBLY BILL 442

July 21, 2003 – Introduced by Representatives ALBERS, GRONEMUS and OWENS, cosponsored by Senators SCHULTZ and A. LASEE. Referred to Committee on Property Rights and Land Management.

1     **AN ACT** *to amend* 59.694 (2) (bm) and 62.23 (7) (e) 2.; and *to create* 59.694 (2)  
2           (am), 59.694 (3m) and 62.23 (7) (e) 3m. of the statutes; **relating to:** quorum  
3           requirements for a zoning board of appeals or adjustment.

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### *Analysis by the Legislative Reference Bureau*

Under current law, a city, village, town that is authorized to exercise village powers (municipality), or county is authorized to enact zoning ordinances that regulate and restrict the height, number of stories, and size of buildings and other structures; the percentage of lot that may be occupied; the size of yards and other open spaces; the density of population; and the location and use of buildings, structures, and land for various purposes.

A municipality's board of appeals or a county's board of adjustment is authorized under current law to hear and decide appeals that allege that there is an error in the enforcement of a zoning ordinance, to hear and decide special exceptions to the terms of a zoning ordinance, and to authorize a variance from the terms of a zoning ordinance. Currently, the county board chair of a county with a population of 500,000 or more and the chief executive officer of a municipality (a city mayor, village board president, or town board chair) may appoint two alternate members of the board of adjustment or appeals, who act when a member of the board of adjustment or appeals refuses to vote because of a conflict of interest or when a member is absent.

This bill requires all municipalities or counties that have a board of appeals or adjustment to appoint alternate members of the board. The bill also specifies that

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for any such board to take action a quorum must be present and further specifies that a quorum is all members-elect of the board. "Members-elect" is defined as those members of the board, at a particular time, who have been duly appointed for a current regular or unexpired term and whose service has not terminated by death, resignation, or removal from office.

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.** 59.694 (2) (am) of the statutes is created to read:

2           59.694 (2) (am) The chairperson of the county board shall appoint, for  
3 staggered 3-year terms, 2 alternate members of the board of adjustment, who are  
4 subject to the approval of the county board. Annually, the chairperson of the county  
5 board shall designate one of the alternate members as the first alternate and the  
6 other as 2nd alternate. The first alternate shall act, with full power, only when a  
7 member of the board of adjustment refuses to vote because of a conflict of interest or  
8 when a member is absent. The 2nd alternate shall act only when the first alternate  
9 refuses to vote because of a conflict of interest or is absent, or if more than one  
10 member of the board of adjustment refuses to vote because of a conflict of interest or  
11 is absent.

12           **SECTION 2.** 59.694 (2) (bm) of the statutes is amended to read:

13           59.694 (2) (bm) The chairperson of the county board ~~may~~ shall appoint, for  
14 staggered 3-year terms, 2 alternate members of the board of adjustment, who are  
15 subject to the approval of the county board. Annually, the chairperson of the county  
16 board shall designate one of the alternate members as the first alternate and the  
17 other as 2nd alternate. The first alternate shall act, with full power, only when a  
18 member of the board of adjustment refuses to vote because of a conflict of interest or

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1 when a member is absent. The 2nd alternate shall act only when the first alternate  
2 refuses to vote because of a conflict of interest or is absent, or if more than one  
3 member of the board of adjustment refuses to vote because of a conflict of interest or  
4 is absent.

5 **SECTION 3.** 59.694 (3m) of the statutes is created to read:

6 59.694 (3m) QUORUM REQUIREMENTS. (a) In this subsection, “members–elect,”  
7 for the board of adjustment, has the meaning given in s. 59.001 (2m) for members of  
8 the county board.

9 (b) The board of adjustment may not take any action under this section unless  
10 a quorum is present, and a quorum is equal to the number of members–elect of the  
11 board of adjustment.

12 **SECTION 4.** 62.23 (7) (e) 2. of the statutes is amended to read:

13 62.23 (7) (e) 2. The board of appeals shall consist of 5 members appointed by  
14 the mayor subject to confirmation of the common council for terms of 3 years, except  
15 that of those first appointed one shall serve for one year, 2 for 2 years and 2 for 3 years.  
16 The members of the board shall serve at such compensation to be fixed by ordinance,  
17 and shall be removable by the mayor for cause upon written charges and after public  
18 hearing. The mayor shall designate one of the members as chairperson. The board  
19 may employ a secretary and other employees. Vacancies shall be filled for the  
20 unexpired terms of members whose terms become vacant. The mayor ~~may~~ shall  
21 appoint, for staggered terms of 3 years, 2 alternate members of such board, in  
22 addition to the 5 members above provided for. Annually, the mayor shall designate  
23 one of the alternate members as 1st alternate and the other as 2nd alternate. The  
24 1st alternate shall act, with full power, only when a member of the board refuses to  
25 vote because of interest or when a member is absent. The 2nd alternate shall so act

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1 only when the 1st alternate so refuses or is absent or when more than one member  
2 of the board so refuses or is absent. The above provisions, with regard to removal and  
3 the filling of vacancies, shall apply to such alternates.

4 **SECTION 5.** 62.23 (7) (e) 3m. of the statutes is created to read:

5 62.23 (7) (e) 3m. a. In this subdivision, “members–elect,” for the board of  
6 appeals, has the meaning given in s. 59.001 (2m) for members of the city council.

7 b. The board of appeals may not take any action under this subsection unless  
8 a quorum is present, and a quorum is equal to the number of members–elect of the  
9 board of appeals.

10 **SECTION 6. Initial applicability.**

11 (1) This act first applies to meetings or hearings held by a board of adjustment  
12 or board of appeals on the effective date of this subsection.

13 (END)