



## 1995 ASSEMBLY BILL 562

September 25, 1995 - Introduced by Representatives PORTER, SERATTI, DUFF, GOETSCH, ALBERS, LADWIG, URBAN and OTT. 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), 59.03 (1)  
2             (d), 59.03 (3) (e), 59.031 (7), 59.19 (2), 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.

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:

22           17.21 (3) COUNTY CLERK, TREASURER AND SURVEYOR. In the office of county clerk,  
23 treasurer or surveyor, by appointment by the county board for the residue of the  
24 unexpired term, in accordance with s. 17.205.

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

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

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

13           17.24 (1) Except as provided in s. 9.10, a vacancy in any elective village office  
14 may be filled by appointment by a majority of the members of the village board for  
15 the residue of the unexpired term or until a special election is held under s. 8.50 (4)  
16 (fm) or sub. (2), in accordance with s. 17.205. A vacancy in an appointive office shall  
17 be filled in the same manner as the original appointment.

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

19           17.25 (1) In the town board, by the remaining supervisors and the town clerk  
20 in accordance with s. 17.205, except as provided in s. 9.10 and except when the  
21 vacancy is caused by removal by the circuit judge as provided by law, which latter  
22 vacancy shall be filled by appointment by that judge. Vacancies in other elective  
23 town offices shall be filled by appointment by the town board in accordance with s.  
24 17.205, except as provided in ss. 8.50 (4) (fm) and 9.10 and except for vacancies  
25 caused by removal by the judge of the circuit court which latter vacancy shall be filled

1 by that judge. Persons appointed under this subsection to fill vacancies shall hold  
2 office for the residue of the unexpired term, except persons appointed to fill vacancies  
3 as members of the water or light commission, which persons shall hold office only  
4 until their successors are elected and qualify and such successors shall be elected at  
5 the annual town meeting next after the vacancy occurs if the vacancy occurs 12 days  
6 or more prior to the meeting; otherwise at the annual town meeting held in the year  
7 next succeeding; but no election to fill a vacancy in the office may be held at the time  
8 of holding the regular election for the office.

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

10 17.26 (1) In a common, union high or unified school district, by appointment  
11 by the remaining members in accordance with s. 17.205. Each appointee shall hold  
12 office until a successor is elected and takes office under s. 120.06 (4) or 120.42 (2).  
13 When a vacancy occurs in the office of a board member who is in the last year of his  
14 or her term, or when a vacancy occurs after the spring election but on or before the  
15 last Tuesday in November in the office of a board member who is not in the last year  
16 of his or her term, the successor shall be elected at the next spring election. When  
17 a vacancy occurs after the last Tuesday in November and on or before the date of the  
18 next spring election in the office of a board member who is not in the last year of his  
19 or her term, the successor shall be elected at the 2nd following spring election.

20 **SECTION 7.** 59.03 (1) (d) of the statutes is amended to read:

21 59.03 (1) (d) *Vacancies.* ~~A~~ Subject to the requirements of s. 17.205, a county  
22 board may determine the procedure for filling a vacancy.

23 **SECTION 8.** 59.03 (3) (e) of the statutes is amended to read:

24 59.03 (3) (e) *Vacancies.* In the event of a vacancy on the board, the board  
25 chairperson, with the approval of the board and in accordance with s. 17.205, shall

1 appoint a person who is a qualified elector and resident of the supervisory district  
2 to fill the vacancy for the unexpired portion of the term to which the person is  
3 appointed and until his or her successor is elected and qualified.

4 **SECTION 9.** 59.031 (7) of the statutes is amended to read:

5 59.031 (7) REMOVAL FROM OFFICE; VACANCY, HOW FILLED. The county executive  
6 may be removed from office by the governor for cause under s. 17.16. A vacancy in  
7 the office of county executive shall be filled temporarily, within 30 days of the date  
8 of the vacancy, by appointment by the chairperson of the board, subject to  
9 confirmation by the board, from among electors of the county. The appointment is  
10 subject to the requirements of s. 17.205. Within 7 days following the occurrence of  
11 the vacancy, the clerk shall order a special election to be held under s. 8.50 to fill the  
12 vacancy. If the vacancy occurs after October 31 but not later than 49 days prior to  
13 the day of the spring primary, the special election shall be held concurrently with the  
14 spring primary and election.

15 **SECTION 10.** 59.19 (2) of the statutes is amended to read:

16 59.19 (2) If any county treasurer is incapable of discharging the duties of the  
17 office of county treasurer, the county board may, if they see fit, appoint a person to  
18 serve as treasurer, in accordance with s. 17.205, who shall serve until such disability  
19 is removed. A person so appointed or appointed to fill a vacancy in the office of  
20 treasurer, upon giving an official bond with like sureties as are required of such  
21 treasurer, shall perform all the duties of such office, and thereupon the powers and  
22 duties of any deputy performing the duties of the last treasurer shall cease.

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

24 60.30 (5) (a) If any elected town officer, other than a town board supervisor, is  
25 absent or temporarily incapacitated from any cause, the town board may appoint, if

1 there is no deputy officer for the office, a suitable person to discharge the duties of  
2 the office until the officer returns or the disability is removed, except that the  
3 appointment procedures of this paragraph apply to a town board supervisor if he or  
4 she is absent because of entry into the U.S. armed forces. All appointments are  
5 subject to the requirements of s. 17.205. Appointees shall file the official oath and  
6 bond required under s. 60.31.

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

8 60.75 (4) VACANCIES. Any vacancy on an elective or appointive commission may  
9 be filled by appointment by the town board for the remainder of the unexpired term.  
10 If the commission is elective, an appointment is subject to the requirements of s.  
11 17.205. Any vacancy on a commission consisting of town board supervisors remains  
12 vacant until a successor town board supervisor is appointed or elected.

13 **SECTION 13. Initial applicability.**

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

16 (END)