

**2001 DRAFTING REQUEST**

**Bill**

Received: **01/09/2002**

Received By: **kuesejt**

Wanted: **As time permits**

Identical to LRB:

For: **Joseph Leibham (608) 266-0656**

By/Representing: **him**

This file may be shown to any legislator: **NO**

Drafter: **kuesejt**

May Contact:

Addl. Drafters: **rmarchan**

Subject: **Elections - miscellaneous**

Extra Copies:

Submit via email: **YES**

Requester's email: **Rep.Leibham@legis.state.wi.us**

Carbon copy (CC:) to:

**Pre Topic:**

No specific pre topic given

**Topic:**

Vacancies in local elective offices

**Instructions:**

County, city, village or town may call special election to fill vacancy in local elective office to be held on 1st Tuesday after 1st Monday in November, with primary held on 2nd Tuesday in September. June 1 cutoff.

**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	kuesejt 01/22/2002 rmarchan 01/28/2002	gilfokm 01/28/2002		_____			
/1			jfrantze	_____	lrb_docadmin	lrb_docadmin	

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			01/28/2002	_____	01/28/2002	02/06/2002	
				_____	lrb_docadmin		
				_____	01/29/2002		

FE Sent For:

*none required*

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Vers.   Drafted   Reviewed   Typed   Proofed   Submitted   Jacketed   Required

01/28/2002 \_\_\_\_\_  
\_\_\_\_\_  
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01/28/2002  
lrb\_docadmin  
01/29/2002

FE Sent For:

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→ sent  
via  
e-mail  
↳ paper copy  
also sent

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1/?	kuesejt	1-4/28 KMP	10/28	10/28 b/ch			

FE Sent For:

<END>

2001

Date (time) needed

*NAWA* *TODAY*

LRB - 4680 / 1

BILL

*DNOTE*

*JM + RJM*  
*KMG*

Use the appropriate components and routines developed for bills.

AN ACT . . . [generate catalog] *to repeal . . . ; to renumber . . . ; to consolidate and renumber . . . ; to renumber and amend . . . ; to consolidate, renumber and amend . . . ; to amend . . . ; to repeal and recreate . . . ; and to create . . .* of the statutes; relating to: *the method of filling vacancies in certain county, city, village, and town elective offices.*

[NOTE: See section 4.02 (2) (br), Drafting Manual, for specific order of standard phrases.]

*Analysis by the Legislative Reference Bureau*

- If titles are needed in the analysis, in the component bar:
  - For the main heading, execute: . . . . . create → anal: → title: → head
  - For the subheading, execute: . . . . . create → anal: → title: → sub
  - For the sub-subheading, execute: . . . . . create → anal: → title: → sub-sub
- For the analysis text, in the component bar:
  - For the text paragraph, execute: . . . . . create → anal: → text

*attached*

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

SECTION #.

2001-2002 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRB-4680/lins2  
JTK & RJM.....

analysis

Currently, vacancies in the statutory offices of county clerk, treasurer, or surveyor are filled by appointment of the county board of supervisors for the remainder of the unexpired term. Vacancies in the office of county supervisor, except in counties having a population of 500,000 or more (Milwaukee) and counties having only one town (Menominee), are filled by the chairperson of the county board of supervisors. Vacancies in the office of municipal judge are filled by temporary appointment of the municipal governing body. Vacancies in the office of mayor or alderperson in 2nd, 3rd, or 4th class cities are filled by temporary appointment of the common council. Vacancies in most other city offices, including offices in 1st class cities, are filled by temporary appointment of the mayor. If a vacancy in the office of municipal judge or in a city office described above occurs on or before December 1 preceding a spring election, it is filled at that election; otherwise it is filled at the 2nd succeeding spring election. Vacancies in village offices are filled by the village board, except that if a vacancy occurs on or before December 1 preceding a spring election, the vacancy may be filled at that election; otherwise it may be filled at the 2nd succeeding spring election. Vacancies in most town offices are filled by appointment of the town board of supervisors.

This bill permits a county board of supervisors, common council, village board of trustees, or town board of supervisors to order a special election to be held to fill any of these vacancies in a county, city, village, or town office, respectively, if the vacancy occurs before June 1 preceding expiration of the term of office. The election is then held on the Tuesday after the first Monday in November following the date of the order and the primary, if any, is held on the 2nd Tuesday in September. If a municipal judge serves more than one municipality, the bill requires any special election to be called by the governing bodies of all municipalities served by the judge.

of trustees



2001-2002 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRB-4680/lins  
JTK & RJM.....

SECTION 1. 8.50 (intro.) of the statutes is amended to read:

**8.50 Special elections.** (intro.) Unless otherwise provided, this section applies to filling vacancies in the U.S. senate and house of representatives, executive state offices except the offices of governor, lieutenant governor, and district attorney, judicial and legislative state offices, county, city, village, and town offices, and the offices of municipal judge and member of the board of school directors in school districts organized under ch. 119. State legislative offices may be filled in anticipation of the occurrence of a vacancy whenever authorized in sub. (4) (e). No special election may be held after February 1 preceding the spring election unless it is held on the same day as the spring election, nor after September 1 preceding the general election unless it is held on the same day as the general election, until the day after that election. If the special election is held on the day of the general election, the primary for the special election, if any, shall be held on the day of the September primary. If the special election is held on the day of the spring election, the primary for the special election, if any, shall be held on the day of the spring primary.

History: 1971 c. 1, 40; 1973 c. 334 ss. 22, 57; 1973 c. 336; 1975 c. 80, 93, 199, 369; 1977 c. 26, 107, 187, 340, 427, 445, 447, 449; 1979 c. 27, 32, 260, 311; 1983 a. 484; 1985 a. 304; 1987 a. 391; 1989 a. 31, 359; 1993 a. 184; 1995 a. 16 s. 2; 1999 a. 182.

SECTION 2. 8.50 (1) (a) and (b) of the statutes are amended to read:

8.50 (1) (a) When there is to be a special election, the special election for county clerk shall be ordered by the sheriff; the special election for any other county office shall be ordered by the <sup>clerk</sup> ~~county~~ clerk board of supervisors except as provided in s. 17.21 (5); the special election for city office shall be ordered by the common council; the special election for village office shall be ordered by the board of trustees; the special election for town office shall be ordered by the <sup>town</sup> ~~county~~ board of supervisors; the

special election for school board member in a school district organized under ch. 119 shall be ordered by the school board; the special election for municipal judge shall be ordered by the ~~mayor, president or chairperson~~ governing body of the municipality, except in 1st class cities, or if the judge is elected under s. 755.01 (4) jointly by the ~~mayors, presidents or chairpersons~~ governing bodies of all municipalities served by the judge; and all other special elections shall be ordered by the governor. When the governor or attorney general issues the order, it shall be filed and recorded in the office of the board. When the county ~~clerk or sheriff board of supervisors~~ issues the order, it shall be filed and recorded in the office of the county clerk. When the county executive issues the order, it shall be filed in the office of the county board of election commissioners. When the common council issues the order, it shall be filed in the office of the city clerk. When the board of trustees issues the order, it shall be filed in the office of the village clerk. When the town board of supervisors issues the order, it shall be filed in the office of the town clerk. When the school board of a school district organized under ch. 119 issues the order, it shall be filed and recorded in the office of the city board of election commissioners. ~~When the mayor, president or chairperson issues the order, it shall be filed in the office of the municipal clerk or city board of election commissioners.~~ If a municipal judge is elected under s. 755.01 (4), the order shall be filed in the office of the county clerk or board of election commissioners of the county having the largest portion of the population of the jurisdiction served by the judge.

History: 1971 c. 1, 40; 1973 c. 334 ss. 22, 57; 1973 c. 336; 1975 c. 80, 93, 199, 369; 1977 c. 26, 107, 187, 340, 427, 445, 447, 449; 1979 c. 27, 32, 260, 311; 1983 a. 484; 1985 a. 304; 1987 a. 391; 1989 a. 31, 359; 1993 a. 184; 1995 a. 16 s. 2; 1999 a. 182.

(b) Notice of any special election shall be given upon the filing of the order under par. (a) by publication in a newspaper under ch. 985. If the special election concerns a national or state office, the board shall give notice as soon as possible to the county

clerks. Upon receipt of notice from the board, or when the special election is for a county office or a municipal judgeship under s. 755.01 (4), the county clerk shall give notice as soon as possible to the municipal clerks of all municipalities in which electors are eligible to vote in the election and publish one type A notice for all offices to be voted upon within the county as provided in s. 10.06 (2) (n) and ~~10.06 (2) (m)~~. If the special election is for a city, village or town office, the municipal clerk shall publish one type A notice as provided under s. 10.06 (3) (f).

History: 1971 c. 1, 40; 1973 c. 334 ss. 22, 57; 1973 c. 336; 1975 c. 80, 93, 199, 369; 1977 c. 26, 107, 187, 340, 427, 445, 447, 449; 1979 c. 27, 32, 260, 311; 1983 a. 484; 1985 a. 304; 1987 a. 391; 1989 a. 31, 359; 1993 a. 184; 1995 a. 16 s. 2; 1999 a. 182.

**SECTION 3.** 8.50 (2) (b) of the statutes is amended to read:

8.50 (2) (b) If a primary is required, the primary shall be on the day 4 weeks before the day of the special election except when the special election is held on the same day as the general election the special primary shall be held on the same day as the September primary or if the special election is held concurrently with the spring election, the primary shall be held concurrently with the spring primary, and except when the special election is held on the Tuesday after the first Monday in November of an odd-numbered year, the primary shall be held on the 2nd Tuesday of September in that year.

History: 1971 c. 1, 40; 1973 c. 334 ss. 22, 57; 1973 c. 336; 1975 c. 80, 93, 199, 369; 1977 c. 26, 107, 187, 340, 427, 445, 447, 449; 1979 c. 27, 32, 260, 311; 1983 a. 484; 1985 a. 304; 1987 a. 391; 1989 a. 31, 359; 1993 a. 184; 1995 a. 16 s. 2; 1999 a. 182.

**SECTION 4.** 8.50 (4) (fm) of the statutes is amended to read:

8.50 (4) (fm) A permanent vacancy in the office of municipal judge may be filled by temporary appointment of the municipal governing body, or, if the judge is elected under s. 755.01 (4), jointly by the governing bodies of all municipalities served by the judge. The office shall then be permanently filled by special election, which shall be held concurrently with the next spring election following the occurrence of the vacancy, except that a vacancy occurring during the period after December 1 and on

or before the date of the spring election shall be filled at the 2nd succeeding spring election, <sup>plain space</sup> and no such election may be held after the expiration of the term of office nor at the time of holding the regular election for the office except that the municipal governing body, or if the judge is elected under s. 755.01 (4), the municipal governing bodies may, if the vacancy occurs before June 1 in the year preceding expiration of the term of office, order a special election to be held on the Tuesday after the first Monday in November following the date of the order. A person so elected shall serve for the residue of the unexpired term.

History: 1971 c. 1, 40; 1973 c. 334 ss. 22, 57; 1973 c. 336; 1975 c. 80, 93, 199, 369; 1977 c. 26, 107, 187, 340, 427, 445, 447, 449; 1979 c. 27, 32, 260, 311; 1983 a. 484; 1985 a. 304; 1987 a. 391; 1989 a. 31, 359; 1993 a. 184; 1995 a. 16 s. 2; 1999 a. 182.

**SECTION 5.** 17.21 (3) of the statutes is amended to read:

17.21 (3) COUNTY CLERK, TREASURER, AND SURVEYOR. In the office of county clerk, treasurer, or surveyor, by appointment by the county board for the residue of the unexpired term unless a special election is ordered by the county board ~~of~~ supervisors, in which case the person appointed shall serve until his or her successor is elected and qualified. The <sup>county</sup> board of supervisors may, if a vacancy occurs before June 1 in the year preceding expiration of the term of office, order a special election to fill a vacancy to be held on the Tuesday after the first Monday in November following the date of the order. A person so elected shall serve for the residue of the unexpired term.

History: 1973 c. 58; 1977 c. 449; 1979 c. 175 ss. 4, 53; 1979 c. 260; 1989 a. 31; 1995 a. 16 s. 2.

**SECTION 6.** 17.23 (1) (a) and (c) of the statutes are amended to read:

17.23 (1) (a) In cities of the 2nd, 3rd, or 4th class, in the office of mayor, except as provided in s. 9.10, by appointment by the common council for the residue of the unexpired term unless a special election is ordered by the common council, in which case the person appointed shall serve until his or her successor is elected and qualified. In the office of alderperson, by the common council, except as provided in

*strike spaces* - 5 -

s. 9.10. A person so appointed shall hold office until a successor is elected and qualified. A Unless otherwise ordered by the common council, a successor shall be elected for the residue of the unexpired term on the first Tuesday of April next after the vacancy happens, in case it happens no later than December 1 preceding the first Tuesday in April, but if the vacancy happens after December 1 preceding the first Tuesday in April and before that day, then the successor shall be elected on the first Tuesday in April of the next ensuing year; but no election to fill a vacancy in such office may be held at the time of holding the regular election for that office. The common council may, if a vacancy occurs before June 1 in the year preceding expiration of the term of office, order a special election to be held to fill a vacancy on the Tuesday after the first Monday in November following the date of the order. A person so elected shall serve for the residue of the unexpired term.

History: 1977 c. 149, 273, 305; 1979 c. 260, 355; 1983 a. 484; 1985 a. 135, 304, 332; 1993 a. 184; 1995 a. 16 s. 2.

(c) In the office of any other elective officer, and except as provided in s. 9.10, by appointment by the mayor subject to confirmation by the <sup>COMMON</sup> council, for the residue of the unexpired term unless a special election is ordered by the common council, except that in case of vacancies in the office of any such officer of a <sup>1st class</sup> ~~city of the first class~~ who is authorized by law to have a deputy, such deputy shall perform the duties of such office, and shall be entitled to the emoluments of such office during the remainder of the term. A person so appointed and confirmed shall hold office until a successor is elected and qualifies. The successor shall be elected as provided in par. (a).

History: 1977 c. 149, 273, 305; 1979 c. 260, 355; 1983 a. 484; 1985 a. 135, 304, 332; 1993 a. 184; 1995 a. 16 s. 2.

**SECTION 7. 17.24 (2) of the statutes is amended to read:**

17.24 (2) Except as provided in s. 8.50 (4) (fm), a vacancy in any elective office in a village may be filled by special election of a successor for the residue of the

unexpired term on the first Tuesday of April next after the vacancy happens, if it happens no later than December 1 preceding the first Tuesday in April, but if the vacancy happens after December 1 preceding the first Tuesday of April, then the successor shall be elected on the first Tuesday of April of the next ensuing year; ~~but no election to fill a vacancy in the office may be held at the time of holding the regular election for the office~~ and if the vacancy occurs before June 1 of the year preceding the expiration of the term of office, the village board of trustees may order a special election to fill the vacancy to be held on the Tuesday after the first Monday following the date of the order. A person so elected shall serve for the remainder of the unexpired term.

*in November*

History: 1977 c. 305, 403, 447; 1979 c. 260; 1985 a. 304; 1995 a. 16 s. 2.

**SECTION 8.** 17.25 (1) of the statutes is amended to read:

17.25 (1) In the town board, by the remaining supervisors and the town clerk, except when a special election is authorized under this subsection or as provided in s. 9.10, and except when the vacancy is caused by removal by the circuit judge as provided by law, which latter vacancy shall be filled by appointment by that judge. Vacancies in other elective town offices shall be filled by appointment by the town board, except when a special election is authorized under this subsection or as provided in ss. 8.50 (4) (fm) and 9.10, and except for vacancies caused by removal by the judge of the circuit court which latter vacancy shall be filled by that judge. Persons appointed under this subsection to fill vacancies shall hold office for the residue of the unexpired term or, if a special election is ordered to fill a vacancy, until the successor is elected and qualified, except persons appointed to fill vacancies as members of the water or light commission, which persons shall hold office only until their successors are elected and qualify and such successors shall be elected at the

annual town meeting next after the vacancy occurs if the vacancy occurs 12 days or more prior to the meeting; otherwise at the annual town meeting held in the year next succeeding; ~~but no election to fill a vacancy in the office may be held at the time of holding the regular election for the office~~ unless a special election is ordered to fill the vacancy at an earlier date, in which case they shall hold office until their successors are elected and qualify. The town board may, if a vacancy occurs before June 1 in the year preceding expiration of the term of office, order a special election to be held to fill a vacancy on the Tuesday after the first Monday in November following the date of the order. A person so elected shall serve for the residue of the unexpired term.

History: 1977 c. 305, 403, 447; 1985 a. 304.

**SECTION 9.** 59.10 (3) (e) of the statutes is amended to read:

**59.10 (3) (e) Vacancies.** If a vacancy occurs on the board, the board chairperson, with the approval of the board, shall appoint a person who is a qualified elector and resident of the supervisory district to fill the vacancy. The successor shall serve for the unexpired portion of the term to which the person is appointed and until his or her successor is elected and qualified, unless the board orders a special election to fill the vacancy, in which case the person appointed shall serve until his or her successor is elected and qualified. The board may, if a vacancy occurs before June 1 in the year preceding expiration of the term of office, order a special election to be held to fill a vacancy on the Tuesday after the first Monday in November following the date of the order. A person so elected shall serve for the residue of the unexpired term.

History: 1971 c. 134, 211, 304; 1973 c. 118 ss. 2 to 4, 7; 1973 c. 334 s. 57; 1973 c. 336, 1975 c. 93 s. 113; 1975 c. 116, 200; 1977 c. 427; 1979 c. 34, 89, 122, 260; 1981 c. 4, 390; 1983 a. 29; 1983 a. 192 ss. 115, 303 (1), (2); 1983 a. 484; 1983 a. 532 s. 36; 1985 a. 29, 304; 1989 a. 56 s. 258; 1991 a. 5, 316; 1993 a. 490; 1995 a. 16 s. 2; 1995 a. 201 s. 100; Stats. 1995 s. 59.10; 1997 a. 35; 1999 a. 150 s. 672.

**SECTION 10. Initial applicability.**

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

(END)



**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-4680/1dn  
JTK & RJM.....

*King*

Representative Leibaum:

*county*

1. This draft does not attempt to treat clerks of court. Vacancies in the office of clerk of court are filled by temporary appointment under article VII, section 12, of the Wisconsin Constitution. In two cases, the clerks serve more than one county.

2. This draft does not treat county supervisors in Milwaukee and Menominee Counties. In Milwaukee County, a special election is required to be held to fill a vacancy in the office of supervisor that occurs on or before December 1 preceding a spring election at the next spring election, or otherwise at the 2nd succeeding spring election. In addition, the county executive may order a special election to fill a vacancy at any time. See s. 17.21 (5), stats. In Menominee County, county supervisors double as town supervisors. Under s. 59.10 (1) (d), stats., the Menominee county board may determine a method of filling vacancies in the office of supervisor in that county.

3. This draft does not treat mayors and alderpersons in the city of Milwaukee. Under s. 17.23 (1) (b), stats., any vacancy in the office of mayor occurring earlier than 120 days before expiration of the term of office is filled by special election. Any vacancy in the office of alderperson that occurs on or before June 1 is filled on the first Tuesday after the first Monday following that date and any vacancy that occurs on or before December 1 is filled at the spring election following that date. In addition, the president of the common council may order a special election to fill an aldermanic vacancy at any time.

Please let us know if you would like to treat any of these situations in this draft.

*in November*

Jeffery T. Kuesel  
Managing Attorney  
Phone: (608) 266-6778

Robert J. Marchant  
Legislative Attorney  
Phone: (608) 261-4454  
E-mail: robert.marchant@legis.state.wi.us

**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-4680/1dn  
JTK&RJM:kmgjf

January 28, 2002

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2. This draft does not treat county supervisors in Milwaukee and Menominee counties. In Milwaukee County, a special election is required to be held to fill a vacancy in the office of county supervisor that occurs on or before December 1 preceding a spring election at the next spring election, or otherwise at the 2nd succeeding spring election. In addition, the county executive may order a special election to fill a vacancy at any time. See s. 17.21 (5), stats. In Menominee County, county supervisors double as town supervisors. Under s. 59.10 (1) (d), stats., the Menominee County Board may determine a method of filling vacancies in the office of supervisor in that county.
3. This draft does not treat mayors and alderpersons in the city of Milwaukee. Under s. 17.23 (1) (b), stats., any vacancy in the office of mayor occurring earlier than 120 days before expiration of the term of office is filled by special election. Any vacancy in the office of alderperson that occurs on or before June 1 is filled on the first Tuesday after the first Monday in November following that date and any vacancy that occurs on or before December 1 is filled at the spring election following that date. In addition, the president of the common council may order a special election to fill an aldermanic vacancy at any time.

Please let us know if you would like to treat any of these situations in this draft.

Jeffery T. Kuesel  
Managing Attorney  
Phone: (608) 266-6778

Robert J. Marchant  
Legislative Attorney  
Phone: (608) 261-4454  
E-mail: robert.marchant@legis.state.wi.us

**Emery, Lynn**

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**From:** Vander Sanden, Patrick  
**Sent:** Wednesday, February 06, 2002 2:02 PM  
**To:** LRB.Legal  
**Subject:** Draft review: LRB-4680/1 Topic: Vacancies in local elective offices

It has been requested by <Vander Sanden, Patrick> that the following draft be jacketed for the ASSEMBLY:

Draft review: LRB-4680/1 Topic: Vacancies in local elective offices