

2003 DRAFTING REQUEST

Assembly Substitute Amendment (ASA-AB442)

Received: 11/19/2003

Received By: mshovers

Wanted: As time permits

Identical to LRB:

For: Sheryl Albers (608) 266-8531

By/Representing: Ryan

This file may be shown to any legislator: NO

Drafter: mshovers

May Contact:

Addl. Drafters:

Subject: Munis - zoning
Counties - zoning

Extra Copies:

Submit via email: YES

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

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Members of a zoning board of adjustment who must be present for board to act

Instructions:

AB 442 (LRB -2061), plus AA1 (a1704), and repeal s. 62.23 (7) (e) 9.

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>
/?	mshovers 11/19/2003	kgilfoy 11/21/2003					Local
/1			jfrantze 11/21/2003		mbarman 11/21/2003	mbarman 11/21/2003	

FE Sent For:

<END>

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17	mshovers	1-11/21 KMG	[Signature] 11/21	[Signature] Pg 11/21			
11	MES	11/19/03					

FE Sent For:

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50271/1

ASA
to

RMNR

2003 ASSEMBLY BILL 442

WANTED!
SOON

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.

gen

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.

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

substitute amendment

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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.

and repeals a current law provision that requires four out of five votes for
The people of the state of Wisconsin, represented in senate and assembly, do
enact as follows:

SECTION 1. 59.694 (2) (am) of the statutes is created to read:

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

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

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

the board of appeals or adjustment may take action by a majority vote

a city, village, or certain town board of appeals,

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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.

INS
3-5

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.

FNS
4-4

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)

{ Sec #, RP; 62.23 (7) (e) 9. ✓

**ASSEMBLY AMENDMENT 1,
TO 2003 ASSEMBLY BILL 442**

November 6, 2003 - Offered by Representative ALBERS.

INS 3-5 ✓

1 ~~At the locations indicated, amend the bill as follows:~~

2 ~~1. Page 3, line 6: delete lines 6 to 11 and substitute:~~

3 ~~§59.694 (3m) QUORUM REQUIREMENTS. If a quorum is present, the board of~~
4 ~~adjustment may take action under this section by a majority vote of the members~~
5 ~~present.~~

6 ~~2. Page 4, line 5: delete lines 5 to 9 and substitute:~~

7 ~~§62.23 (7) (e) 3m. If a quorum is present, the board of appeals may take action~~
8 ~~under this subsection by a majority vote of the members present.~~

END

INS 4-4 ✓