

2005 ASSEMBLY BILL 24

January 20, 2005 – Introduced by Representatives ALBERS, OWENS, AINSWORTH and MUSSER, cosponsored by Senators OLSEN and LASSA. Referred to Committee on Property Rights and Land Management.

1 **AN ACT** *to repeal* 62.23 (7) (e) 9.; *to amend* 59.694 (2) (bm) and 62.23 (7) (e) 2.;

2 and *to create* 59.694 (2) (am), 59.694 (3m) and 62.23 (7) (e) 3m. of the statutes;

3 **relating to:** quorum 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

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if a quorum is present the board of appeals or adjustment may take action by a majority vote, and repeals a current law provision that requires four out of five votes for action by a city, village, or certain town board of appeals.

For further information see the *local* fiscal estimate, which will be printed as an appendix to this bill.

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

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

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

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

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

9 62.23 **(7)** (e) 2. The board of appeals shall consist of 5 members appointed by
10 the mayor subject to confirmation of the common council for terms of 3 years, except
11 that of those first appointed one shall serve for one year, 2 for 2 years and 2 for 3 years.
12 The members of the board shall serve at such compensation to be fixed by ordinance,
13 and shall be removable by the mayor for cause upon written charges and after public
14 hearing. The mayor shall designate one of the members as chairperson. The board
15 may employ a secretary and other employees. Vacancies shall be filled for the
16 unexpired terms of members whose terms become vacant. The mayor ~~may~~ shall
17 appoint, for staggered terms of 3 years, 2 alternate members of such board, in
18 addition to the 5 members above provided for. Annually, the mayor shall designate
19 one of the alternate members as 1st alternate and the other as 2nd alternate. The
20 1st alternate shall act, with full power, only when a member of the board refuses to
21 vote because of interest or when a member is absent. The 2nd alternate shall so act
22 only when the 1st alternate so refuses or is absent or when more than one member
23 of the board so refuses or is absent. The above provisions, with regard to removal and
24 the filling of vacancies, shall apply to such alternates.

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

