March 15, 2019 - Introduced by Senators STROEBEL, NASS and BERNIER, cosponsored by Representatives BROOKS, KNODL, WICHGERS, MURPHY and SUBECK. Referred to Committee on Elections, Ethics and Rural Issues.

AN ACT to renumber and amend 17.23 (1) (a), 17.23 (1) (b), 17.23 (1) (c) and 17.24 (2); to amend 17.23 (1) (intro.); and to create 17.23 (1) (e) and 17.24 (3) of the statutes; relating to: vacancies in elective offices in cities and villages.

Analysis by the Legislative Reference Bureau

This bill reorganizes the statutes prescribing the methods for filling vacancies in elective offices in cities and villages. Under current law and under the bill, a special election to fill a vacancy in a city or village office may be held as follows:

1. If the vacancy occurs no later than December 1, the municipality holds the special election concurrently with the spring election.
2. If the vacancy occurs after December 1, the municipality holds the special election concurrently with the spring election in the following year.
3. If the vacancy occurs no later than June 1, the municipality holds the special election concurrently with the general election.
4. If the vacancy occurs after June 1, the municipality holds the special election concurrently with the general election in the following year.

The bill also clarifies that a vacancy in an elective office in a city and village may be filled by appointing a successor to serve for the residue of the unexpired term or until a special election is held or the office may remain vacant until an election is held.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:
SECTION 1. 17.23 (1) (intro.) of the statutes is amended to read:

17.23 (1) GENERAL AND SPECIAL CHARTER CITIES. (intro.) Vacancies Except as provided in s. 9.10, vacancies in offices of cities operating under the general law or special charter shall be filled as follows:

SECTION 2. 17.23 (1) (a) of the statutes is renumbered 17.23 (1) (a) 1. and amended to read:

17.23 (1) (a) 1. 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 may appoint a successor. The successor shall serve for the residue of the unexpired term unless the common council orders a special election is ordered by the common council, in which case, If the common council orders a special election, the person appointed shall serve until his or her successor is elected and qualified.

2. In cities of the 2nd, 3rd, or 4th class, in the office of alderperson, by the common council, except as provided in s. 9.10. A person so appointed shall may appoint a person to hold office until a successor is elected and qualified.

3. Unless otherwise ordered by the common council, a successor shall may be elected for the residue of the unexpired term on the first Tuesday of April next after as follows:

a. If the vacancy happens, in case it happens no later than December 1 preceding the first Tuesday in April, but if spring election, the city shall hold the special election concurrently with the spring election.

b. 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. The common council may, if spring election, the city shall
hold the special election concurrently with the spring election of the next ensuing year.

c. If a vacancy occurs before June 1 in the year preceding expiration of the term of office, the city may hold the special election to fill a vacancy to be held on the Tuesday after the first Monday in November concurrently with the general election following the date of the order. A person so elected shall serve for the residue of the unexpired term.

SECTION 3. 17.23 (1) (b) of the statutes is renumbered 17.23 (1) (b) 1. and amended to read:

17.23 (1) (b) 1. In 1st class cities, in the office of mayor, except as provided in s. 9.10, the vacancy shall be filled by the president of the common council as is the acting mayor until a successor is elected at a special election can be held under this paragraph. In such case, the acting mayor may continue to serve as president of the common council, in addition to exercising the powers and responsibilities of the office of mayor, until such time as a new mayor is elected and qualified, but the acting mayor may not take part in any vote of the common council during that period. The common council shall order a special election for the office of mayor as promptly as possible, unless the vacancy occurs within 120 days of the expiration of the mayor’s term of office.

2. In 1st class cities, in the office of alderperson, by special election, except as provided in s. 9.10. When a mayor is temporarily appointed, the common council shall order a special election for the office of mayor under s. 8.50 as promptly as possible, unless the vacancy occurs within 120 days of the expiration of the mayor’s term of office. Except as provided in subd. 3. or 4., when an aldermanic seat becomes vacant, a successor may be elected for the residue of the unexpired
term on the first Tuesday of April or the Tuesday after the first Monday in November next after the vacancy happens, in case it as follows:

a. If the vacancy happens no later than December 1 or preceding the spring election, the city shall hold the special election concurrently with the spring election.

b. If the vacancy happens no later than June 1 preceding that day, but if the general election, the city shall hold the special election concurrently with the general election.

c. If the vacancy happens after December 1 or preceding the spring election, the city shall hold the special election concurrently with the spring election of the next ensuing year.

d. If the vacancy happens after June 1 preceding that day, then the successor shall be elected on the following first Tuesday in April or Tuesday after the first Monday in November; but no the general election, the city shall hold the special election concurrently with the next general election.

3. No special election to fill a vacancy in such the office of alderperson may be held at the time of holding the regular election for that office. In addition, the

4. The president of the common council of any 1st class city may order a special election to be held, as provided under s. 8.50, to fill a the vacant aldermanic seat of an alderperson prior to the time when that seat is required to be filled under this paragraph.

5. If a special election to fill the vacant seat of an alderperson is held under this paragraph after a redistricting plan is adopted, the election city shall be held hold the election in the aldermanic district as it existed when the office was filled at the last preceding election.
SECTION 4. 17.23 (1) (c) of the statutes is renumbered 17.23 (1) (c) 1. and amended to read:

17.23 (1) (c) 1. In Except as provided in subd. 2., 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 common council, for the residue of the unexpired term unless a special election is ordered by the common council, except that in. A person appointed and confirmed under this subdivision shall hold office until a successor is elected, as provided under par. (a), and qualified.

2. In case of vacancies in the office of any such other officer of a 1st class city who is authorized by law to have a deputy, such the deputy shall perform the duties of such the office, and shall be entitled to the emoluments of such the 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).

SECTION 5. 17.23 (1) (e) of the statutes is created to read:

17.23 (1) (e) For purposes of pars. (a) and (b), a vacancy may be filled by appointing a successor to serve for the residue of the unexpired term or until a special election is held or an office may remain vacant until an election is held.

SECTION 6. 17.24 (2) of the statutes is renumbered 17.24 (2) (intro.) and amended to read:

17.24 (2) (intro.) 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 as follows:
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(a) If the vacancy happens no later than December 1 preceding the first Tuesday in April, but if spring election, the village shall hold the special election concurrently with the spring election.

(b) 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, and if spring election, the village shall hold the special election concurrently with the spring election of the next ensuing year.

(c) 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 in November concurrently with the general election following the date of the order. A person so elected shall serve for the remainder of the unexpired term.

SECTION 7. 17.24 (3) of the statutes is created to read:

17.24 (3) For purposes of subs. (1) and (2), a vacancy may be filled by appointing a successor to serve for the residue of the unexpired term or until a special election is held or an office may remain vacant until an election is held.

(END)