



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

November 19, 2003 - Offered by 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.

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***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 substitute amendment requires all municipalities or counties that have a board of appeals or adjustment to appoint alternate members of the board. The substitute amendment also specifies that 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.

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

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.

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

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

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

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

