



State of Wisconsin  
2019 - 2020 LEGISLATURE

LRBs0035/1  
JK:ahc

**ASSEMBLY SUBSTITUTE AMENDMENT 1,  
TO ASSEMBLY BILL 89**

June 4, 2019 - Offered by Representative BROOKS.

1 **AN ACT to repeal** 17.23 (1) (a), 17.23 (1) (bm) and (c) and 17.24 (2); **to renumber**  
2 **and amend** 17.23 (1) (intro.), 17.23 (1) (b), 17.23 (1) (d) and 17.24 (1); and **to**  
3 **amend** 8.50 (4) (fm), 17.23 (2) (a) 1., 17.27 (1m) and 64.05 (2) of the statutes;  
4 **relating to:** vacancies in elective offices in cities and villages.

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***Analysis by the Legislative Reference Bureau***

This bill provides that a vacancy in an elective office in a city or 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.

Current law specifies, in detail, the timing for holding a special election to fill a vacancy in an elective office in a city or village. The bill eliminates those provisions and simply states that the common council or village board may fill a vacancy by special election.

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

5 **SECTION 1.** 8.50 (4) (fm) of the statutes is amended to read:

1           8.50 (4) (fm) A permanent vacancy in the office of municipal judge may be filled  
2 by temporary appointment of the municipal governing body, or, if the judge is elected  
3 under s. 755.01 (4), jointly by the governing bodies of all municipalities served by the  
4 judge. The office shall then be permanently filled by special election, ~~which shall be~~  
5 ~~held concurrently with the next spring election following the occurrence of the~~  
6 ~~vacancy, except that a vacancy occurring during the period after December 1 and on~~  
7 ~~or before the date of the spring election shall be filled at the 2nd succeeding spring~~  
8 ~~election, and except that the governing body of a city or village or, if the judge is~~  
9 ~~elected under s. 755.01 (4), the governing bodies of the participating cities or villages~~  
10 ~~may, if the vacancy occurs before April 15 in the year preceding expiration of the term~~  
11 ~~of office, order a special election to be held on the Tuesday after the first Monday in~~  
12 ~~November following the date of the order. A person so elected shall serve for the~~  
13 ~~residue of the unexpired term.~~

14           **SECTION 2.** 17.23 (1) (intro.) of the statutes is renumbered 17.23 (1) and  
15 amended to read:

16           17.23 (1) GENERAL AND SPECIAL CHARTER CITIES. Vacancies Except as provided  
17 in sub. (1b) and s. 9.10, vacancies in offices of cities operating under the general law  
18 or special charter shall may be filled as follows: by the common council, by majority  
19 vote, appointing a successor to serve for the residue of the unexpired term or until  
20 a special election is held, as ordered by the common council under s. 8.50, or an office  
21 may remain vacant until an election is held.

22           **SECTION 3.** 17.23 (1) (a) of the statutes is repealed.

23           **SECTION 4.** 17.23 (1) (b) of the statutes is renumbered 17.23 (1b) and amended  
24 to read:

1           17.23 (1b) FIRST CLASS CITIES. In 1st class cities, in the office of mayor, except  
2 as provided in s. 9.10, the vacancy shall be filled by the president of the common  
3 council as acting mayor until a special election can be held ~~under this paragraph~~.  
4 In such case, the acting mayor may continue to serve as president of the common  
5 council, in addition to exercising the powers and responsibilities of the office of  
6 mayor, until such time as a new mayor is elected and qualified, but the acting mayor  
7 may not take part in any vote of the common council during that period. ~~In~~ A vacancy  
8 in the office of alderperson, shall be filed by special election, except as provided in s.  
9 9.10. When a mayor is temporarily appointed, the common council shall order a  
10 special election for the office of mayor under s. 8.50 as promptly as possible, unless  
11 the vacancy occurs within 120 days of the expiration of the mayor's term of office.  
12 When an aldermanic seat becomes vacant, a successor ~~shall~~ may be elected for the  
13 residue of the unexpired term ~~on the first Tuesday of April or the Tuesday after the~~  
14 ~~first Monday in November next after the vacancy happens, in case it happens no later~~  
15 ~~than December 1 or June 1 preceding that day, but if the vacancy happens after~~  
16 ~~December 1 or June 1 preceding that day, then the successor shall be elected on the~~  
17 ~~following first Tuesday in April or Tuesday after the first Monday in November;~~, but  
18 no election to fill a vacancy in such office may be held at the time of holding the  
19 regular election for that office. ~~In addition, the~~ The common council or the president  
20 of the common council of any 1st class city may order a special election to be held  
21 under s. 8.50 to fill a vacant aldermanic seat ~~prior to the time when that seat is~~  
22 ~~required to be filled under this paragraph~~. If a special election is held under this  
23 ~~paragraph subsection~~ after a redistricting plan is adopted, the election shall be held  
24 in the aldermanic district as it existed when the office was filled at the last preceding  
25 election.

1           **SECTION 5.** 17.23 (1) (bm) and (c) of the statutes are repealed.

2           **SECTION 6.** 17.23 (1) (d) of the statutes is renumbered 17.23 (1m) and amended  
3 to read:

4           17.23 **(1m)** APPOINTIVE OFFICES. ~~In Vacancies in~~ appointive offices, in cities may  
5 be filled by appointment for the residue of the unexpired term by the appointing  
6 power and in the manner prescribed by law for making regular full term  
7 appointments thereto.

8           **SECTION 7.** 17.23 (2) (a) 1. of the statutes is amended to read:

9           17.23 **(2)** (a) 1. In the office of mayor or other member of the council, except as  
10 provided in s. 9.10, in the manner provided in sub. (1) ~~(a)~~. In the office of municipal  
11 judge, in the manner provided in s. 8.50 (4) (fm). On failure of the council to make  
12 an appointment ~~under sub. (1) (a)~~ for 30 days after the vacancy exists the city  
13 engineer shall be a temporary acting member of the council until such vacancy is  
14 filled in the manner provided by law, and shall have all the powers, prerogatives and  
15 duties of the vacant office except the right to vote to fill a vacancy in the office of  
16 mayor or council member.

17           **SECTION 8.** 17.24 (1) of the statutes is renumbered 17.24 and amended to read:

18           **17.24 Vacancies in village offices.** Except as provided in s. 9.10, a vacancy  
19 in any elective village office may be filled by appointment by a majority of the  
20 members of the village board for the residue of the unexpired term or until a special  
21 election is held ~~under s. 8.50 (4) (fm) or sub. (2)~~, as ordered by the village board, or  
22 an office may remain vacant until an election is held. A vacancy in an appointive  
23 office shall be filled in the same manner as the original appointment.

24           **SECTION 9.** 17.24 (2) of the statutes is repealed.

25           **SECTION 10.** 17.27 (1m) of the statutes is amended to read:

