

State of Wisconsin



2019 Assembly Bill 661

Date of enactment: **March 3, 2020**
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2019 WISCONSIN ACT 140

AN ACT *to renumber* 60.61 (1m); *to renumber and amend* 17.25 (1) and 19.84 (1) (b); *to amend* 17.13 (3), 60.30 (1e) (e), 60.307 (3) (b), 60.37 (4) (a), 60.61 (1m) (title), 62.23 (9) (title) and 70.47 (2); and *to create* 17.13 (2m), 17.25 (1) (a) 2., 19.84 (1) (b) 1., 2. and 3., 60.30 (5) (c), 60.61 (1m) (b) and 62.23 (9) (c) of the statutes; **relating to:** the way town board vacancies are filled; public notice requirements for governmental meetings; appointment and removal procedures for certain town officeholders; a process for an applicant to appeal a permit denial to the governing body of a city, village, or town; wages paid to an elected town officer who also serves as a town employee; and the term of appointed town assessors.

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

SECTION 1. 17.13 (2m) of the statutes is created to read:

17.13 (2m) ELECTIVE TOWN OFFICERS. Any elective town officer by a majority vote of all the members of the town board, because of continued physical inability to perform the duties of office or gross neglect of duty.

SECTION 2. 17.13 (3) of the statutes is amended to read:

17.13 (3) ALL OFFICERS. Any village, town, town sanitary district, school district or technical college district officer, elective or appointive, including those embraced within subs. (1) ~~and~~ (2), ~~and~~ (2m), by the judge of the circuit court of the circuit wherein the village, town, town sanitary district, school district or technical college district is situated, for cause.

SECTION 3. 17.25 (1) of the statutes is renumbered 17.25 (1) (a) 1. and amended to read:

17.25 (1) (a) 1. In the town board, by the remaining supervisors and the town clerk, except when a special election is authorized under ~~this subsection subd. 2. and~~

~~par. (d)~~ or as provided in s. 9.10, and except when the vacancy is caused by removal by the circuit judge as provided by law, which latter vacancy shall be filled by appointment by that judge.

(b) Vacancies in other elective town offices shall be filled by appointment by the town board, except as provided in ss. 8.50 (4) (fm) and 9.10, and except for vacancies caused by removal by the judge of the circuit court which latter vacancy shall be filled by that judge.

(c) Persons appointed under this subsection to fill vacancies shall hold office for the residue of the unexpired term or, if a special election is ordered to fill a vacancy, until the successor is elected and qualified; ~~except persons appointed to fill vacancies as members of the water or light commission, which persons shall hold office only until their successors are elected and qualify and such successors shall be elected at the annual town meeting next after the vacancy occurs if the vacancy occurs 12 days or more prior to the meeting; otherwise at the annual town meeting held in the year next succeeding unless a special election is ordered to fill the vacancy at~~

* Section 991.11, WISCONSIN STATUTES: Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication."

an earlier date, in which case they shall hold office until their successors are elected and qualify.

(d) Any town board having more than 3 members may, if a vacancy in the office of supervisor occurs before June 1 in the year preceding expiration of the term of office, order a special election to fill the vacancy. If the town board orders a special election during the period beginning on June 1 and ending on November 30 of any year, the special election shall be held concurrently with the succeeding spring election. If the town board orders a special election during the period beginning on December 1 and ending on May 31 of the succeeding year, the special election shall be held on the Tuesday after the first Monday in November following the date of the order. A person so elected shall serve for the residue of the unexpired term.

SECTION 4. 17.25 (1) (a) 2. of the statutes is created to read:

17.25 (1) (a) 2. a. If there are 2 vacancies in the town board, the remaining supervisors, the town clerk, and the town treasurer shall appoint an individual to fill one vacancy and the remaining supervisors, including the appointee, and the town clerk shall appoint an individual to fill the other vacancy.

b. If the number of vacancies on the town board are such that there are not at least 3 individuals, including any remaining supervisors, the town clerk, and the town treasurer, available to make appointments, the town clerk, or the county clerk if the town clerk position is vacant, shall call a special town meeting of the electors to vote to fill the number of vacancies necessary in order to follow the procedure for appointment under subd. 2. a. Notice of the meeting shall be given as provided under s. 60.12 (3).

SECTION 5g. 19.84 (1) (b) of the statutes is renumbered 19.84 (1) (b) (intro.) and amended to read:

19.84 (1) (b) (intro.) By communication from the chief presiding officer of a governmental body or such person's designee to the public, to those news media who have filed a written request for such notice, and to the official newspaper designated under ss. 985.04, 985.05 and 985.06 or, if none exists, to a news medium likely to give notice in the area. Communication from the chief presiding officer of a governmental body or such person's designee shall be made to the public using one of the following methods:

SECTION 5r. 19.84 (1) (b) 1., 2. and 3. of the statutes are created to read:

19.84 (1) (b) 1. Posting a notice in at least 3 public places likely to give notice to persons affected.

2. Posting a notice in at least one public place likely to give notice to persons affected and placing a notice electronically on the governmental body's Internet site.

3. By paid publication in a news medium likely to give notice to persons affected.

SECTION 6. 60.30 (1e) (e) of the statutes is amended to read:

60.30 (1e) (e) Notwithstanding sub. (1) (a) 2. and subject to pars. (f) and (g), a town board that is authorized to do so by a town meeting under s. 60.10 (1) (b) 2m. shall appoint, by a majority of the members-elect of the town board, as defined in s. 59.001 (2m), a person to fill the office of town clerk, town treasurer, or both, or to fill the combined office of town clerk and town treasurer under s. 60.305 (1). ~~The town board shall make the initial appointment not less than 30 days nor more than 60 days after the annual town meeting at which the authorization is given.~~

SECTION 7. 60.30 (5) (c) of the statutes is created to read:

60.30 (5) (c) If a town board supervisor is temporarily incapacitated because of physical or mental disability, the town board may appoint a person to discharge the supervisor's duties until the disability is removed.

SECTION 8. 60.307 (3) (b) of the statutes is amended to read:

60.307 (3) (b) If the town does not have or adopt a civil service system, the town board shall appoint assessors on the basis of merit, experience and general qualifications for a term not to exceed ~~3~~ 5 years.

SECTION 9. 60.37 (4) (a) of the statutes is amended to read:

60.37 (4) (a) ~~An elected town officer, other than a town clerk, a town treasurer, or an officer serving in a combined office of town clerk and town treasurer, who also serves as a town employee may be paid an hourly wage for serving as a town employee, not exceeding a total of \$5,000 each year. An elected town officer, who is a town clerk, a town treasurer, or an officer serving in a combined office of town clerk and town treasurer, who also serves as a town employee may be paid an hourly wage for serving as a town employee, not exceeding a total of \$15,000 each year. Amounts that are paid under this paragraph may be paid in addition to any amount that an individual receives under s. 60.32 or as a volunteer fire fighter, emergency medical services practitioner, or emergency medical responder under s. 66.0501 (4) (a). The \$5,000 \$15,000 maximum in this paragraph includes amounts paid to a town board supervisor who is acting as superintendent of highways under s. 82.03 (1).~~

SECTION 10. 60.61 (1m) (title) of the statutes is amended to read:

60.61 (1m) (title) BUILDING CODE ENFORCEMENT; APPEAL PROCESS.

SECTION 11. 60.61 (1m) of the statutes is renumbered 60.61 (1m) (a).

SECTION 12. 60.61 (1m) (b) of the statutes is created to read:

60.61 (1m) (b) If an applicant is denied a temporary use permit or an extension of a temporary use permit and the individual denying the permit or extension is the chief of a fire district, or an authorized individual acting on the chief's behalf, and if the basis of the denial is a discre-

tionary determination by the chief or authorized individual, the permit or extension applicant may appeal the denial to the town board of the town to which the application relates. Following a hearing on the fire district chief's or authorized individual's denial, the town board may approve the applicant's temporary use permit or extension application.

SECTION 13. 62.23 (9) (title) of the statutes is amended to read:

62.23 (9) (title) BUILDING INSPECTION; APPEAL PROCESS.

SECTION 14. 62.23 (9) (c) of the statutes is created to read:

62.23 (9) (c) If an applicant is denied a temporary use permit or an extension of a temporary use permit and the individual denying the permit or extension is the chief of a fire district, or an authorized individual acting on the chief's behalf, and if the basis of the denial is a discretionary determination by the chief or authorized individual, the permit or extension applicant may appeal the denial to the common council of the city to which the application relates. Following a hearing on the fire district chief's or authorized individual's denial, the common council may approve the applicant's temporary use permit or extension application.

SECTION 15. 70.47 (2) of the statutes is amended to read:

70.47 (2) NOTICE. At least 15 days before the first session of the board of review, or at least 30 days before

the first session of the board of review in any year in which the taxation district conducts a revaluation under s. 70.05, the clerk of the board shall publish a class 1 notice, ~~place a notice in at least 3 public places and place a notice on the door of the town hall, of the village hall, of the council chambers or of the city hall~~ under ch. 985 of the time and place of the first meeting of the board under sub. (3) and of the requirements under sub. (7) (aa) and (ac) to (af). A taxpayer who shows that the clerk failed to publish the notice under this subsection may file a claim under s. 74.37.

SECTION 16. Initial applicability.

(1) BUILDING PERMIT APPEALS. The treatment of s. 62.23 (9) (title) and (c), the amendment of s. 60.61 (1m) (title), the renumbering and amendment of s. 60.61 (1m), and the creation of s. 60.61 (1m) (b) first apply to a temporary use permit or extension application that is filed on the effective date of this subsection.

(2) PUBLIC NOTICE, GOVERNMENTAL MEETINGS. The treatment of ss. 19.84 (1) (b) and 70.47 (2) first applies to a meeting that is noticed on the effective date of this subsection.

(3) APPOINTMENT OF TOWN OFFICERS. The treatment of s. 60.30 (1e) (e) first applies to an initial appointment that occurs on the effective date of this subsection.

(4) APPOINTMENT OF ASSESSORS. The treatment of s. 60.307 (3) (b) first applies to an appointment of an assessor on the effective date of this subsection.