



2019 ASSEMBLY BILL 661

December 5, 2019 - Introduced by Representatives QUINN, SUMMERFIELD, BALLWEG, BROOKS, DOYLE, DUCHOW, EDMING, FELZKOWSKI, JAMES, KITCHENS, KRUG, KULP, KURTZ, MAGNAFICI, B. MEYERS, MILROY, MURSAU, NOVAK, OLDENBURG, PETERSEN, PETRYK, SCHRAA, SWEARINGEN, TITTL, TUSLER, VANDERMEER, WICHGERS, WITTKE and VRUWINK, cosponsored by Senators JACQUE, TIFFANY, BERNIER, BEWLEY, LEMAHIEU, MARKLEIN, RINGHAND and SCHACHTNER. Referred to Committee on Local Government.

AUTHORS SUBJECT TO CHANGE

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

Analysis by the Legislative Reference Bureau

This bill makes changes to 1) the method of filling town board of supervisors vacancies; 2) public notice requirements for certain governmental meetings; 3) appointment and removal procedures for certain town officeholders; 4) procedures to appeal the denial of a temporary use permit or extension; 5) the maximum wages that may be paid to elected town officers who also serve as town employees; and 6) the term of a town assessor.

Under current law, a vacancy on a town board is filled at a special election or by an appointment made by the remaining town board supervisors and the town

ASSEMBLY BILL 661

clerk. The bill provides that if there are two vacancies on the town board, the remaining supervisors, the town clerk, and the town treasurer appoint an individual to fill one vacancy and the remaining supervisors, including the appointee, and the town clerk appoint an individual to fill the other vacancy. The bill also provides that if there are not at least three individuals available to make appointments, the town clerk, or the county clerk if the town clerk position is vacant, must call a special town meeting of the electors to vote to fill the number of vacancies necessary so that the supervisors, including the appointees, and the town clerk and town treasurer may make appointments to fill the remaining vacancies.

Generally, under current law, if a town board is authorized by a town meeting to appoint instead of elect persons to offices, the board must appoint a person to fill the office of town clerk, town treasurer, or both, and the board must make the initial appointment not fewer than 30 days nor more than 60 days after the town meeting at which the authorization is given. The bill repeals the requirement relating to the timing of when the town board must make the initial appointment.

Current law provides a number of methods by which public notice must be given for meetings of a governmental body, including a property tax board of review which reviews local property tax rolls. "Governmental body" is defined as a state or local agency, board, commission, committee, council, department or public body corporate and politic created by constitution, statute, ordinance, rule or order, including certain special purpose districts such as a local exposition district. The bill expands how public notice of a meeting of a governmental body may be given.

Under current law, if a village board trustee is temporarily incapacitated because of physical or mental disability, the board may appoint a person to discharge the trustee's duties until the disability is removed. The bill creates a similar provision for a member of a town board of supervisors who is temporarily incapacitated in a similar way.

Current law provides that an elective village officer may be removed for the continued physical inability to perform the duties of office or gross neglect of duty by a majority vote of all the members of the village board. The bill creates a similar removal provision for any elective town officer.

The bill authorizes an applicant to appeal the denial of a temporary use permit application or permit extension application by the chief of a fire district if the basis of the denial is a discretionary determination. Under the bill, the applicant may appeal the denial to the common council or village or town board to which the application relates. Following a hearing on the denial, the council or board may approve the applicant's permit or extension application.

Generally, under current law, an elected town officer who also serves as a town employee may be paid an hourly wage not exceeding \$5,000 each year for serving as a town employee, except that if the individual is an elected town clerk or town treasurer or an officer serving as a combined town clerk and town treasurer, the maximum hourly wage he or she may be paid for serving as a town employee is \$15,000 each year. Under the bill, any elected town officer who serves as a town employee may be paid an hourly wage not exceeding \$15,000 each year for serving as a town employee.

ASSEMBLY BILL 661

The bill extends from three years to five years the maximum contract length that a town can engage in with an appointed assessor.

For further information see the *state and 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.** 17.13 (2m) of the statutes is created to read:

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

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

6 17.13 **(3)** ALL OFFICERS. Any village, town, town sanitary district, school district
7 or technical college district officer, elective or appointive, including those embraced
8 within subs. (1) ~~and~~, (2), and (2m), by the judge of the circuit court of the circuit
9 wherein the village, town, town sanitary district, school district or technical college
10 district is situated, for cause.

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

13 17.25 **(1)** (a) 1. In the town board, by the remaining supervisors and the town
14 clerk, except when a special election is authorized under ~~this subsection~~ subd. 2. and
15 par. (d) or as provided in s. 9.10, and except when the vacancy is caused by removal
16 by the circuit judge as provided by law, which latter vacancy shall be filled by
17 appointment by that judge.

18 **(b)** Vacancies in other elective town offices shall be filled by appointment by the
19 town board, except as provided in ss. 8.50 (4) (fm) and 9.10, and except for vacancies

ASSEMBLY BILL 661

1 caused by removal by the judge of the circuit court which latter vacancy shall be filled
2 by that judge.

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

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

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

23 17.25 (1) (a) 2. a. If there are two vacancies in the town board, the remaining
24 supervisors, the town clerk, and the town treasurer shall appoint an individual to fill

ASSEMBLY BILL 661

1 one vacancy and the remaining supervisors, including the appointee, and the town
2 clerk shall appoint an individual to fill the other vacancy.

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

10 **SECTION 5.** 19.84 (1) (b) of the statutes is amended to read:

11 19.84 (1) (b) By communication from the chief presiding officer of a
12 governmental body or such person's designee to the public using a publication or
13 posting method as described under s. 985.02, to those news media who have filed a
14 written request for such notice, and to the official newspaper designated under ss.
15 985.04, 985.05 and 985.06 or, if none exists, to a news medium likely to give notice
16 in the area.

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

18 60.30 (1e) (e) Notwithstanding sub. (1) (a) 2. and subject to pars. (f) and (g), a
19 town board that is authorized to do so by a town meeting under s. 60.10 (1) (b) 2m.
20 shall appoint, by a majority of the members-elect of the town board, as defined in s.
21 59.001 (2m), a person to fill the office of town clerk, town treasurer, or both, or to fill
22 the combined office of town clerk and town treasurer under s. 60.305 (1). ~~The town~~
23 ~~board shall make the initial appointment not less than 30 days nor more than 60 days~~
24 ~~after the annual town meeting at which the authorization is given.~~

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

ASSEMBLY BILL 661

1 60.30 (5) (c) If a town board supervisor is temporarily incapacitated because
2 of physical or mental disability, the town board may appoint a person to discharge
3 the supervisor's duties until the disability is removed.

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

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

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

9 60.37 (4) (a) ~~An elected town officer, other than a town clerk, a town treasurer,~~
10 ~~or an officer serving in a combined office of town clerk and town treasurer, who also~~
11 ~~serves as a town employee may be paid an hourly wage for serving as a town~~
12 ~~employee, not exceeding a total of \$5,000 each year. An elected town officer, who is~~
13 ~~a town clerk, a town treasurer, or an officer serving in a combined office of town clerk~~
14 ~~and town treasurer, who also serves as a town employee may be paid an hourly wage~~
15 ~~for serving as a town employee, not exceeding a total of \$15,000 each year. Amounts~~
16 ~~that are paid under this paragraph may be paid in addition to any amount that an~~
17 ~~individual receives under s. 60.32 or as a volunteer fire fighter, emergency medical~~
18 ~~services practitioner, or emergency medical responder under s. 66.0501 (4) (a). The~~
19 ~~\$5,000~~ \$15,000 maximum in this paragraph includes amounts paid to a town board
20 supervisor who is acting as superintendent of highways under s. 82.03 (1).

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

22 60.61 (1m) (title) BUILDING CODE ENFORCEMENT; APPEAL PROCESS.

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

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

ASSEMBLY BILL 661

1 60.61 (1m) (b) If an applicant is denied a temporary use permit or an extension
2 of a temporary use permit and the individual denying the permit or extension is the
3 chief of a fire district, or an authorized individual acting on the chief's behalf, and
4 if the basis of the denial is a discretionary determination by the chief or authorized
5 individual, the permit or extension applicant may appeal the denial to the town
6 board of the town to which the application relates. Following a hearing on the fire
7 district chief's or authorized individual's denial, the town board may approve the
8 applicant's temporary use permit or extension application.

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

10 62.23 (9) (title) ~~BUILDING INSPECTION;~~ APPEAL PROCESS.

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

12 62.23 (9) (c) If an applicant is denied a temporary use permit or an extension
13 of a temporary use permit and the individual denying the permit or extension is the
14 chief of a fire district, or an authorized individual acting on the chief's behalf, and
15 if the basis of the denial is a discretionary determination by the chief or authorized
16 individual, the permit or extension applicant may appeal the denial to the common
17 council of the city to which the application relates. Following a hearing on the fire
18 district chief's or authorized individual's denial, the common council may approve
19 the applicant's temporary use permit or extension application.

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

21 70.47 (2) NOTICE. At least 15 days before the first session of the board of review,
22 or at least 30 days before the first session of the board of review in any year in which
23 the taxation district conducts a revaluation under s. 70.05, the clerk of the board
24 shall publish a class 1 notice, ~~place a notice in at least 3 public places and place a~~
25 ~~notice on the door of the town hall, of the village hall, of the council chambers or of~~

ASSEMBLY BILL 661

1 ~~the city hall~~ under ch. 985 of the time and place of the first meeting of the board under
2 sub. (3) and of the requirements under sub. (7) (aa) and (ac) to (af). A taxpayer who
3 shows that the clerk failed to publish the notice under this subsection may file a claim
4 under s. 74.37.

SECTION 16. Initial applicability.

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

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

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

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

17 (END)