



Village Attorney's Office

Raymond J. Pollen
William P. Dineen

MEMORANDUM

April 5, 2006

TO: M. Chris Swartz, Village Manager (via E-mail and First Class Mail)
CC: Kathleen Grieg, Village Clerk (via E-mail)
FROM: Raymond Pollen, Village Attorney
RE: Trustee Vacancy



You have asked for a review of options available to the Village Board for the Trustee vacancy created by the election of Guy Johnson to the position of Village President. The authority for these options are set forth within Wisconsin Statutes § 17.24 – a copy of which I have attached. At this time the Board has four options.

First, the Board can decide to leave the position vacate until the spring election in April 2008 at which time that position would be scheduled for a regular election.

Second, the Board has the opportunity to fill the position by appointment. The appointment would follow a vote of the majority of the Board and the person appointed would hold that position until the election of April 2008. The Board can select a process for appointment which might include applications and/or interviews. Minutes from past Board meetings at which the appointment option was selected might be accessed to review the process that has been used by the Shorewood Village Board in the past under this option.

The **third** option is to fill the position through a special election. Given the timing of this vacancy the special election could be held in April of 2007 as designated under Section 17.24(2). It is significant to note that Section 17.24 will be amended later this month in 2005 Wis Act 248 which was endorsed by the Governor yesterday. I enclose a portion of that new law. By its terms, it authorizes a special election to be held in November of 2006.

The **fourth** option is a combination of the second and third. The Board could appoint a replacement until the special election would be held where the elected trustee would hold the position until the regular election in 2008.

After you or the Board has the opportunity to review this matter, if you should have any questions, please let me know.

UNOFFICIAL TEXT

Chapter 17

17.24



17.24

**17.24 Vacancies in village offices.**

17.24(1)



(1) Except as provided in s. 9.10, a vacancy in any elective village office may be filled by appointment by a majority of the members of the village board for the residue of the unexpired term or until a special election is held under s. 8.50 (4) (fm) or sub. (2). A vacancy in an appointive office shall be filled in the same manner as the original appointment.

17.24(2)



(2) 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 happens no later than December 1 preceding the first Tuesday in April, but 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; but no election to fill a vacancy in the office may be held at the time of holding the regular election for the office.

17.24 - ANNOT.



History: 1977 c. 305, 403, 447; 1979 c. 260; 1985 a. 304; 1995 a. 16 s. 2.

17.245



~~17.245 New city, village or town office, filling. Whenever an elective office is created in a city, village or town pursuant to law or ordinance, the office shall not be deemed vacant until it has first been filled by the electorate, except that if a city, village or town enacts an ordinance or bylaw creating a municipal court under s. 755.01 before the December 1 preceding the spring election the office of municipal judge for that court shall be considered vacant and a temporary appointment may be made by the city, village or town governing body pending the election of the initial elected occupant of the office.~~

17.245 - ANNOT.



History: 1977 c. 256, 447; 1993 a. 10; 1995 a. 16 s. 2.

17.25



~~17.25 Vacancies in town offices; how filled. Vacancies in town offices shall be filled as follows:~~

17.25(1)



~~(1) In the town board, by the remaining supervisors and the town clerk, except 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. 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. Persons appointed under this subsection to fill vacancies shall hold office for the residue of the unexpired term, 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; but~~

History of Senate Bill 34 — *passed as Act 248*

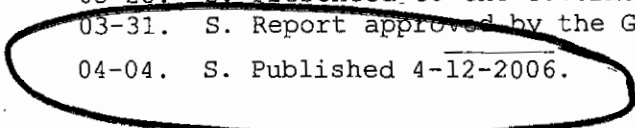
SENATE BILL 34

LC Amendment Memo

An Act to amend 8.50 (intro.), 8.50 (1) (a) and (b), 8.50 (2) (b), 8.50 (4) (fm), 17.21 (3), 17.23 (1) (a) and (c), 17.24 (2), 17.25 (1) and 59.10 (3) (e) of the statutes; relating to: the method of filling vacancies in certain county, city, village, and town elective offices.
2005

*passed
as
Act
248*

02-02.	S. Introduced by Senators Leibham and Lassa; cosponsored by Representatives Loeffelholz, Nass, LeMahieu and Ott.	
02-02.	S. Read first time and referred to committee on Veterans, Homeland Security, Military Affairs, Small Business and Government Reform	61
03-23.	S. Public hearing held.	
05-11.	S. Executive action taken.	
05-13.	S. Report passage recommended by committee on Veterans, Homeland Security, Military Affairs, Small Business and Government Reform, Ayes 3, Noes 2	222
05-13.	S. Available for scheduling.	
06-14.	S. Placed on calendar 6-15-2005 by committee on Senate Organization.	
06-15.	S. Read a second time	259
06-15.	S. Senate amendment <u>1</u> offered by Senator Breske	259
06-15.	S. Senate amendment <u>1</u> laid on table, <u>Ayes 20, Noes 13</u>	259
06-15.	S. Ordered to a third reading	259
06-15.	S. Rules suspended	259
06-15.	S. Read a third time and passed	259
06-15.	S. Ordered immediately messaged	262
06-28.	A. Received from Senate	343
06-28.	A. Read first time and referred to committee on Urban and Local Affairs	344
07-14.	A. Public hearing held.	
11-03.	A. Assembly amendment <u>1</u> offered by Representative Pridemore	575
11-15.	A. Executive action taken.	
11-17.	A. Report Assembly Amendment <u>1</u> adoption recommended by committee on Urban and Local Affairs, Ayes 7, Noes 0	624
11-17.	A. Report concurrence as amended recommended by committee on Urban and Local Affairs, Ayes 7, Noes 0	624
11-17.	A. Referred to committee on Rules	624
2006		
01-11.	A. Placed on calendar 1-17-2006 by committee on Rules.	
01-17.	A. Read a second time	726
01-17.	A. Assembly amendment <u>1</u> adopted	726
01-17.	A. Ordered to a third reading	726
01-19.	A. Read a third time and concurred in as amended	733
01-27.	S. Received from Assembly concurred in as amended	563
01-27.	S. Available for scheduling.	
02-22.	S. Placed on calendar 2-23-2006 by committee on Senate Organization.	
02-23.	S. Assembly amendment <u>1</u> concurred in	621
02-23.	S. Action ordered immediately messaged	624
02-27.	S. Report correctly enrolled on 2-27-2006	636
03-28.	S. Presented to the Governor on 3-28-2006	760
03-31.	S. Report approved by the Governor on 3-30-2006. 2005	
04-04.	S. Published 4-12-2006.	



SENATE BILL 34

1 city of the first class who is authorized by law to have a deputy, such deputy shall
2 perform the duties of such office, and shall be entitled to the emoluments of such
3 office during the remainder of the term. A person so appointed and confirmed shall
4 hold office until a successor is elected and qualifies. The successor shall be elected
5 as provided in par. (a).

6 **SECTION 7.** 17.24 (2) of the statutes is amended to read:

7 17.24 (2) Except as provided in s. 8.50 (4) (fm), a vacancy in any elective office
8 in a village may be filled by special election of a successor for the residue of the
9 unexpired term on the first Tuesday of April next after the vacancy happens, if it
10 happens no later than December 1 preceding the first Tuesday in April, but if the
11 vacancy happens after December 1 preceding the first Tuesday of April, then the
12 successor shall be elected on the first Tuesday of April of the next ensuing year; ~~but~~
13 ~~no election to fill a vacancy in the office may be held at the time of holding the regular~~
14 ~~election for the office, and if the vacancy occurs before June 1 of the year preceding~~
15 ~~the expiration of the term of office, the village board of trustees may order a special~~
16 ~~election to fill the vacancy to be held on the Tuesday after the first Monday in~~
17 ~~November following the date of the order. A person so elected shall serve for the~~
18 remainder of the unexpired term.

19 **SECTION 8.** 17.25 (1) of the statutes is amended to read:

20 17.25 (1) In the town board, by the remaining supervisors and the town clerk,
21 except when a special election is authorized under this subsection or as provided in
22 s. 9.10, and except when the vacancy is caused by removal by the circuit judge as
23 provided by law, which latter vacancy shall be filled by appointment by that judge.
24 Vacancies in other elective town offices shall be filled by appointment by the town
25 board, except when a special election is authorized under this subsection or as