

# State of Wisconsin



2009 Senate Bill 227

Date of enactment: **May 18, 2010**  
Date of publication\*: **June 1, 2010**

## 2009 WISCONSIN ACT 363

AN ACT *to amend* 13.41 (1) (a) (intro.) and (2) (a) (intro.), 166.05 (1) (title) and 166.05 (2); and *to create* 13.41, 13.42, 14.38 (10m) and 166.05 (1m) of the statutes; **relating to:** interim successors for legislators, meetings of the legislature and legislative committees, and temporary seat of government for the legislature.

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

**SECTION 2m.** 13.41 of the statutes is created to read:

**13.41 Interim successors for legislators.** (1) (a) If, during an emergency resulting from enemy action, there are 9 or more vacancies in the senate at the same time, as determined under s. 17.03, the senate leader of each political party, as specified in pars. (b) and (c), shall, for each vacant senate seat that was last held by a member of his or her party, do all of the following:

1. Request that the state chairperson of the party solicit nominations for an interim successor from the county chairpersons of the party in each county that is at least partially within the senate district.

2. Request that the state chairperson of the party select at least 3 and not more than 5 potential interim successors from the nominees under subd. 1.

3. Request that the state chairperson of the party submit the names of the potential interim successors selected under subd. 2. to the senate leader of the party within 7 days after the date on which the 9th vacancy occurred.

4. Within 14 days after the 9th vacancy occurred, appoint an interim successor from the list of potential interim successors submitted under subd. 3.

(b) The person holding the highest position, ranked in the following order, that is not vacant, is the senate leader for the majority party under par. (a):

1. The senate majority leader.
2. The president of the senate.
3. The president pro tempore of the senate.
4. The assistant senate majority leader.
5. The senate majority caucus chairperson.
6. The senate majority caucus vice chairperson.
7. The senate majority caucus sergeant at arms.

(c) The person holding the highest position, ranked in the following order, that is not vacant, is the senate leader for the minority party under par. (a):

1. The senate leader of the party.
2. The senate assistant leader of the party.
3. The senate caucus chairperson of the party.
4. The senate caucus vice chairperson of the party.
5. The senate caucus sergeant at arms of the party.

(2) (a) If, during an emergency resulting from enemy action, there are 25 or more vacancies in the assembly at the same time, as determined under s. 17.03, the assembly leader of each political party, as specified in pars. (b) and (c), shall, for each vacant assembly seat that was last held by a member of his or her party, do all of the following:

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\* Section 991.11, WISCONSIN STATUTES 2007-08 : 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 as designated" by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].

1. Request that the state chairperson of the party solicit nominations for an interim successor from the county chairpersons of the party in each county that is at least partially within the assembly district.

2. Request that the state chairperson of the party select at least 3 and not more than 5 potential interim successors from the nominees under subd. 1.

3. Request that the state chairperson of the party submit the names of the potential interim successors selected under subd. 2. to the assembly leader of the party within 7 days after the date on which the 25th vacancy occurred.

4. Within 14 days after the 25th vacancy occurred, appoint an interim successor from the list of potential interim successors submitted under subd. 3.

(b) The person holding the highest position, ranked in the following order, that is not vacant, is the assembly leader for the majority party under par. (a):

1. The speaker of the assembly.
2. The assembly majority leader.
3. The speaker pro tempore of the assembly.
4. The assistant assembly majority leader.
5. The assembly majority caucus chairperson.
6. The assembly majority caucus vice chairperson.
7. The assembly majority caucus secretary.
8. The assembly majority caucus sergeant at arms.

(c) The person holding the highest position, ranked in the following order, that is not vacant, is the assembly leader for a minority party under par. (a):

1. The assembly leader of the party.
2. The assembly assistant leader of the party.
3. The assembly caucus chairperson of the party.
4. The assembly caucus vice chairperson of the party.
5. The assembly caucus secretary of the party.
6. The assembly caucus sergeant at arms of the party.

(3) The senate and assembly political party leaders may not appoint an interim successor who is unwilling, unable, or ineligible under the constitution and the statutes to serve as a legislator.

(4) Interim successors appointed under sub. (1) or (2) shall take the oath of office immediately upon appointment, but may not be required, as a prerequisite to the exercise of the powers or discharge of the duties of a legislator, to comply with any other provision of law relative to taking office.

(5) The chief clerk of each house, or if he or she is unavailable, his or her deputy, shall notify the secretary of state of all vacancies that are filled by interim successors under this section.

(6) An interim successor taking office under this section shall exercise the powers and discharge the duties of the office until the vacancy is filled under s. 17.19. All votes taken by an interim successor shall be as valid as if taken by an elected legislator.

**SECTION 2r.** 13.41 (1) (a) (intro.) and (2) (a) (intro.) of the statutes, as created by 2009 Wisconsin Act .... (this act), are amended to read:

13.41 (1) (a) (intro.) If, ~~during an emergency resulting from enemy action,~~ there are 9 or more vacancies in the senate at the same time, as determined under s. 17.03, the senate leader of each political party shall, for each vacant senate seat that was last held by a member of his or her party, do all of the following:

(2) (a) (intro.) If, ~~during an emergency resulting from enemy action,~~ there are 25 or more vacancies in the assembly at the same time, as determined under s. 17.03, the assembly leader of each political party shall, for each vacant assembly seat that was last held by a member of his or her party, do all of the following:

**SECTION 3.** 13.42 of the statutes is created to read:

**13.42 Virtual meetings of the legislature and legislative committees.** (1) In this section:

(a) "Disaster" means a severe or prolonged, natural or human-caused, occurrence that threatens or negatively impacts life, health, property, infrastructure, the environment, the security of this state or a portion of this state, or critical systems, including computer, telecommunications, or agricultural systems.

(b) "Member" means a member of the legislature.

(2) Either house of the legislature, under its rules or joint rules, may issue a notice that the house and its committees are prevented from physically meeting at the seat of government due to an emergency resulting from a disaster or the imminent threat of a disaster.

(3) If a house issues a notice under sub. (2), that house and any committee of that house may conduct a meeting and transact business through the use of any means of communication by which all of the following occur:

(a) The identity of each participating member may be verified, and the actions of each participating member may be authenticated, in a manner satisfactory to the presiding officer or committee chairperson.

(b) During the meeting, all participating members may simultaneously hear or read the comments of each member who is recognized by the presiding officer or committee chairperson.

(c) Any document that is used during the meeting by a member and that is accepted by the presiding officer or committee chairperson is immediately transmitted to each participating member.

(d) Except as provided in sub. (8), within technological limits, the public may monitor the proceedings of the house or committee.

(4) In order to hold a meeting of a joint committee in the manner provided under sub. (3), each house of the legislature shall issue a notice of emergency under sub. (2).

(5) For purposes of article IV, section 11, of the Wisconsin Constitution, a meeting held under sub. (3) or (10) shall be considered to have occurred at the seat of government and all actions taken during the meeting shall have the same legal effect as if the members were physically present at the seat of government.

(6) For purposes of determining the presence of a quorum in proceedings or meetings held under this section, any participating member shall be considered present as if the member were physically present at the seat of government.

(7) Except as provided in sub. (8), a meeting held under sub. (3) or (10) shall be preceded by the same or substantially equivalent public notice as would be required if the members were physically present at the seat of government.

(8) Subsections (3) (d) and (7) do not apply with respect to a meeting held under sub. (3), if pursuant to article IV, section 10, of the Wisconsin Constitution, the public welfare requires secrecy.

(9) In presiding over a meeting of a house of the legislature described under sub. (3) or (10), the presiding officer shall interpret and apply all rules of proceeding of that house that presume the physical presence of members in the house's chambers at the seat of government, in such a manner as to accomplish the same purposes for which the rules were adopted.

(10) Notwithstanding the requirement for a notice of emergency under sub. (2), and pursuant to the session schedule under s. 13.02 (3), the legislature may meet for up to one week per session by holding a meeting as described under sub. (3) in order to practice meeting in that manner.

(11) This section does not limit the authority of either house of the legislature to use teleconferencing for purposes of holding a committee meeting at the seat of government.

**SECTION 4.** 14.38 (10m) of the statutes is created to read:

14.38 (10m) NOTIFICATION OF CONSTITUTIONAL AMENDMENT. If an amendment to the Wisconsin Constitution is approved that requires the legislature to provide for temporary succession to the powers and duties of public offices for the period of an emergency resulting from a cause other than an enemy action, within 30 days after the government accountability board records the approval under s. 7.70 (3) (h), notify the legislature that the amendment has been approved.

**SECTION 5.** 166.05 (1) (title) of the statutes is amended to read:

166.05 (1) (title) DESIGNATION OF EMERGENCY TEMPORARY LOCATION BY THE GOVERNOR.

**SECTION 6.** 166.05 (1m) of the statutes is created to read:

166.05 (1m) DESIGNATION OF TEMPORARY LOCATION BY THE LEGISLATURE. (a) The legislature, by joint rule, may provide a process for designating a temporary seat of government for the legislature that is different than the location under sub. (1).

(b) Whenever, as the result of a disaster, as defined in s. 13.42 (1) (a), or the imminent threat of a disaster, it becomes imprudent, inexpedient, or impossible to conduct the business of the legislature at the state capital, the legislature may meet at the temporary location designated as provided under par. (a) or sub. (1) until it is no longer, as a result of the disaster or imminent threat of disaster, imprudent, inexpedient, or impossible, to conduct the business of the legislature at the state capital.

(c) Pursuant to the session schedule under s. 13.02 (3), the legislature may meet for up to one week per session in a location that is not the state capital or the temporary location designated as provided under par. (a) or sub. (1) to practice meeting at a temporary location.

(d) Information about the temporary location designated as provided under par. (a) is not subject to inspection or copying under s. 19.35 (1).

**SECTION 7.** 166.05 (2) of the statutes is amended to read:

166.05 (2) EXERCISE OF GOVERNMENTAL AUTHORITY. While the seat of government remains at such a temporary location all official acts required by law to be performed at the seat of government by any officer, independent agency, department, or authority of this state, including the convening and meeting of the legislature in regular or special session under sub. (1) or (1m) (b) or (c), shall be as valid and binding when performed at such emergency the temporary location as if performed at the normal location.

**SECTION 8m. Effective dates.** This act takes effect on the day after publication, except as follows:

(1) INTERIM SUCCESSORS FOR LEGISLATORS. The amendment of section 13.41 (1) (a) (intro.) and (2) (a) (intro.) of the statutes takes effect on the day after the secretary of state notifies the legislature that an amendment to the Wisconsin Constitution has been approved that requires the legislature to provide for temporary succession to the powers and duties of public offices for the period of an emergency resulting from a cause other than an enemy action.