



## WISCONSIN LEGISLATIVE COUNCIL ACT MEMO

**2009 Wisconsin Act 363**  
[2009 Senate Bill 227]

**Continuity of Legislative  
Operations**

*2009 Wisconsin Act 363* contains provisions relating to: (1) emergency interim successors for legislators; (2) virtual meetings of the Legislature; and (3) emergency temporary locations for the Legislature. The legislation is a product of the Joint Legislative Council's Special Committee on Emergency Management and Continuity of Government.

### *Emergency Interim Successors for Legislators*

*Act 363* provides a mechanism for choosing interim successors for legislators if specified criteria are met. The provision takes effect if there are nine or more vacancies in the Senate at the same time or if there are 25 or more vacancies in the Assembly at the same time.

Under the provision for interim successors for Senators, the Senate leader of each political party for each vacant Senate seat that was last held by a member of his or her own party must request the state chairperson of that party to solicit nominations for an interim successor from county chairpersons of the party in each county that is at least partially within the Senate district. The Senate leader must request that the state chairperson select three to five potential interim successors from the nominees submitted by the county chairpersons and request that the state chairperson submit the names to the Senate leader of the party within seven days after the date on which the ninth Senate vacancy occurred. Within 14 days after the ninth vacancy occurred, the Senate leader of the political party must appoint an interim successor from the list of potential interim successors that is submitted by the state chairperson of the party. The Act lists the order in which persons are determined to be the Senate leader for the majority party and for the minority party.

A similar procedure is specified for situations in which there are 25 or more vacancies in the Assembly at the same time.

The above procedures apply when the numerical threshold of vacancies is reached during an emergency resulting from enemy action. However, the Act would delete references to "enemy action"

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This memo provides a brief description of the Act. For more detailed information, consult the text of the law and related legislative documents at the Legislature's Web site at: <http://www.legis.state.wi.us/>.

upon approval of an amendment to the Wisconsin Constitution that provides for temporary successors in other types of emergencies. Such an amendment to Article IV, Section 34 of the Wisconsin Constitution was approved by the Legislature on first consideration during the 2009-2010 Legislative Session. [2009 Assembly Joint Resolution 59; Enrolled Joint Resolution 14.] In order to take effect, the constitutional amendment would need to be approved by the Legislature on second consideration and by the electorate in a referendum.

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. Interim successors are required to 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 the law relative to taking office. The chief clerk of each house or his or her deputy must notify the Secretary of State of all vacancies that are filled by interim successors. An interim successor must exercise the powers and discharge the duties of the office until the vacancy is filled by an election.

### **Virtual Meetings**

Act 363 permits each house of the Legislature, pursuant to its rules or joint rules, to issue a notice that the house and its committees are prevented from physically meeting at the seat of government due to a disaster or the imminent threat of a disaster. If a notice is issued, the house and any committee of the house may conduct a virtual meeting and transact business using any means of communication by which all of the following occur: (1) the identity of each participating member is verified and the actions of each participating member are authenticated; (2) all participating members are able to simultaneously hear or read the comments of members recognized to speak; (3) any document that is used by a member and that is accepted by the presiding officer or chairperson is immediately transmitted to the other participating members; and (4) the public has the opportunity to monitor the proceedings, within technological limits. In order for a joint committee of the Legislature to hold a virtual meeting in the manner described above, each house would have to issue a notice of emergency. Exceptions to public notice of legislative proceedings or meetings and to public access are provided where the public welfare requires secrecy, as provided in Article IV, Section 10, of the Wisconsin Constitution.

Under the Act, a virtual meeting held in accordance with these requirements is considered to have occurred at the seat of government and all actions taken at a virtual meeting have the same legal effect as if the members were physically present at the seat of government. For purposes of determining the presence of a quorum to conduct business, any member participating in a virtual meeting is considered present in the same manner as if physically present at the seat of government.

The Act provides that in presiding over a virtual meeting of a house of the Legislature, the presiding officer must interpret and apply all rules of proceeding of that house which presume the physical presence of members in the house's chambers at the seat of government, in a manner so as to accomplish the same purposes for which the rules were adopted. The Act authorizes the Legislature to meet for up to one week per session by holding a virtual meeting, in order to practice meeting in that manner. Finally, the Act provides that the language authorizing virtual meetings does not limit the authority of either house to use teleconferencing for purposes of holding a committee meeting at the seat of government.

**Emergency Temporary Locations for the Legislature**

Under the statutes, whenever during a state of emergency it becomes imprudent, inexpedient, or impossible to conduct the affairs of state government at the state capital, the Governor is required to designate an emergency temporary location for the seat of government and to take such action and issue such orders as are necessary for an orderly transition of the affairs of state government to that location. While the seat of government remains at a temporary location, all official acts required by law to be performed at the seat of government are as valid and binding when performed at the temporary location as if performed at the normal location.

Act 363 allows the Legislature, by joint rule, to provide a process for designating an emergency temporary seat of government for the Legislature that is different than the location designated by the Governor. Under the Act, whenever, as the result of a disaster 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 either at the location designated by the Governor or the location designated by the Legislature itself. Information about this location is not subject to inspection or copying under the Open Records Law.

Under Act 363, the Legislature may meet for up to one week per session in a location other than the state capital or the temporary seat of government designated by the Governor, in order to practice meeting in a temporary location.

***Effective date:*** The Act generally takes effect on June 2, 2010. However, the deletion of references to “enemy action” in the portion dealing with interim successors would take effect after approval of a constitutional amendment, as described above.

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