

by appropriate signs and pavement markings.” Wis. Stat. § 340.01(5e). A pedestrian way is defined as “a walk designated for the use of pedestrian travel.” Wis. Stat. § 346.02(8). (rev. 1/24)

Governing Bodies: General FAQ 9

How many votes are required to approve a proposed action of a governmental body?

The general rule is that where the law relating to a particular subject does not specify the vote required to do a particular act, a majority vote of a valid quorum is sufficient. However, governing body members who are excluded from voting on a particular act due to a pecuniary interest cannot be counted as part of the quorum required to do that act.

In *State ex rel. Burdick v. Tyrell*, 158 Wis. 425, 149 N.W. 280 (1914), the Wisconsin Supreme Court held that where the law does not specify that a majority of the members of the body must vote, a vote by a majority of the quorum is sufficient. In *Burdick*, the common council consisted of six alderpersons and the mayor, so a quorum of the council was four. The whole council was present for a vote to fill a council vacancy but only four votes were cast. Three alderpersons voted for one candidate, and one alderperson cast a blank ballot. The court held that the vote was sufficient because a majority of the quorum had voted in favor of a particular candidate.

Burdick must be read alongside the Wisconsin Supreme Court’s ruling in *Board of Supervisors of Oconto County v. Hall*, 47 Wis. 208, 213, 2 N.W. 291 (1879). In *Hall*, the Oconto County Board of Supervisors consisted of ten members of which six constituted a quorum. On the day in question, seven members were present to vote on a particular resolution. However, the Court found that two of the members were disqualified from voting on the resolution because they had direct pecuniary interests in the resolution. The Court then ruled that these members could not be counted for quorum as it pertained to the resolution and therefore the resolution was void because only 5 of the votes could be counted towards quorum. The Court stated, “No quorum voting, the vote is inoperative for any purpose.” *Id.* at 215.

Sometimes statutes require a super-majority vote (two-thirds, three-fourths, etc.) to pass a measure. If a required super-majority vote results in a certain number of whole votes and a fraction, the fraction must be counted as a whole vote even though this results in an even higher percentage of votes by the body to approve than would be the case if the body were equally divisible by the super-majority fraction denominator. For example, if a body has eight members and a measure requires a two-thirds vote of all members for passage, then passage requires six votes since two-thirds of eight is 5.333 which must be rounded up to six. See 4 McQuillin, Municipal Corporations sec. 13.42 (3rd ed.); League opinion Governing Bodies 321. (rev. 1/24)

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