



1995 ASSEMBLY JOINT RESOLUTION 36

April 28, 1995 - Introduced by Representatives Huebsch, Ladwig, Musser, Duff, Urban, Green, Kreivich, Walker and Handrick; cosponsored by Senators Petak, Farrow and Huelsman. Referred to Committee on Elections and Constitutional Law.

1 To amend so as in effect **to repeal** section 2 of article VI; **to amend** section 8 of article
2 V, sections 1 and 3 of article VI, sections 7 and 8 of article X and section 4 of
3 article XIII; and **to create** section 17 of article XIV of the constitution; **relating**
4 **to:** deleting from the constitution the positions of secretary of state and state
5 treasurer (first consideration).

Analysis by the Legislative Reference Bureau

This constitutional amendment, proposed to the 1995 legislature on first consideration, deletes from the constitution the positions of secretary of state and of state treasurer. The functions of the 2 positions provided in the constitution are either deleted as a constitutional requirement or reassigned.

Secretary of state

The constitution assigns 4 duties to the secretary of state; all other duties are prescribed by law. The 4 duties prescribed by the constitution are: 1) to succeed to the position of governor when both the governor and the lieutenant governor are unavailable; 2) to keep a fair record of the official acts of the legislature and executive department of the state; 3) to serve on the board of commissioners of public lands (renamed the public lands board by this proposal); and 4) to keep the great seal of Wisconsin.

In the line of gubernatorial succession, the secretary of state will be replaced by the attorney general.

The requirement that the secretary of state must keep legislative and executive records will be deleted from the constitution.

The secretary of state will be removed from the public lands board.

The constitution will continue to provide for a great seal, but its placement will be determined by law.

State treasurer

The only duty assigned to the state treasurer by the constitution is to serve as a member of the public lands board; all other duties are prescribed by law.

Transition

This joint resolution creates, as section 17 of article XIV (the transition schedule) of the constitution, a provision permitting the secretary of state and state treasurer to continue in office for the balance of their unexpired terms or until the legislature specifies, by law, an ending date for the ongoing 4-year terms in advance of the first Monday of January in 1999.

Reconciling split ratification

When a proposed constitutional amendment incorporates more than one object or purpose, the legislature must submit each unrelated object or purpose to the people for ratification by a separate ballot question. The constitution provides that, “if more than one amendment be submitted, they shall be submitted in such manner that the people may vote for or against such amendments separately” [see section 1 of article XII of the constitution].

The requirement for separate questions was construed by the Wisconsin supreme court in *State ex rel. Hudd v. Timme*, 54 Wis. 318 (1882), *State ex rel. Thomson v. Zimmerman*, 264 Wis. 644 (1953), and *Milwaukee Alliance v. Elections Board*, 106 Wis. 2d 593 (1982). In the most recent case, the court reiterated that it “is within the discretion of the legislature to submit several distinct propositions as one amendment if they relate to the same subject matter and are designed to accomplish one general purpose”.

The constitution changes proposed in this joint resolution are structured to permit submitting the amendment for ratification by 2 separate ballot questions: a) “Shall the position of secretary of state be deleted from the constitution?”; and b) “Shall the position of state treasurer be deleted from the constitution?”

The attorney general replaces the secretary of state in the line of gubernatorial succession only if the office of secretary of state is abolished.

Public lands board

The 3-member public lands board presently consists of the secretary of state, state treasurer and attorney general. Under this proposal: 1) the attorney general remains a member; 2) the governor becomes a member of the public lands board if either the position of secretary of state or the position of state treasurer is deleted from the constitution and may designate the lieutenant governor to serve on the public lands board in lieu of the governor; and 3) the state superintendent of public instruction becomes a member only if the positions of secretary of state and state treasurer are both deleted from the constitution.

Second consideration and ratification

As a constitutional amendment, the proposal requires adoption by 2 successive legislatures, and ratification by the people, before it can become effective.

1 **SECTION 1.** Section 8 of article V of the constitution is amended to read:

2 [Article V] Section 8 (1) If there is a vacancy in the office of lieutenant governor
3 and the governor dies, resigns or is removed from office, the ~~secretary of state~~
4 attorney general shall become governor for the balance of the unexpired term.

5 (2) If there is a vacancy in the office of lieutenant governor and the governor
6 is absent from this state, impeached, or from mental or physical disease becomes
7 incapable of performing the duties of the office, the ~~secretary of state~~ attorney
8 general shall serve as acting governor for the balance of the unexpired term or until
9 the governor returns, the disability ceases or the impeachment is vacated.

10 **SECTION 2.** Section 1 of article VI of the constitution is amended to read:

11 [Article VI] Section 1. ~~The~~ At the 1998 general election and every 4 years
12 thereafter, the qualified electors of this state, ~~at the times and places of choosing the~~
13 ~~members of the legislature, shall in 1970 and every 4 years thereafter elect a~~
14 ~~secretary of state, treasurer and~~ an attorney general ~~who shall hold their offices for~~
15 ~~4 years~~ a 4-year term.

16 **SECTION 3.** Section 2 of article VI of the constitution is amended so as in effect
17 to repeal said section:

18 [Article VI] Section 2. ~~The secretary of state shall keep a fair record of the~~
19 ~~official acts of the legislature and executive department of the state, and shall, when~~
20 ~~required, lay the same and all matters relative thereto before either branch of the~~
21 ~~legislature. He shall perform such other duties as shall be assigned him by law. He~~
22 ~~shall receive as a compensation for his services yearly such sum as shall be provided~~
23 ~~by law, and shall keep his office at the seat of government.~~

24 **SECTION 4.** Section 3 of article VI of the constitution is amended to read:

1 [Article VI] Section 3. The powers, duties and compensation of the treasurer
2 and attorney general shall be prescribed by law.

3 **SECTION 5.** Sections 7 and 8 of article X of the constitution are amended to read:

4 [Article X] Section 7. ~~The secretary of state~~ There is created a public lands
5 board to consist of the governor or the lieutenant governor if designated by the
6 governor, treasurer the state superintendent of public instruction and the attorney
7 general, shall constitute a board of commissioners for. The board shall administer
8 the sale of the school and university lands and for the investment of the funds arising
9 therefrom. Any two of said commissioners 2 members shall be a quorum for the
10 transaction of all business pertaining to the duties of their office the board.

11 Section 8. ~~Provision shall be made by law for the~~ The sale of all school and
12 university lands, after they shall have been appraised, and when, shall be regulated
13 by law. Whenever any portion of such lands shall be is sold and the purchase money
14 shall is not be paid at the time of the sale, the commissioners public lands board shall
15 take security by mortgage upon the lands sold for the sum remaining unpaid, with
16 ~~seven per cent~~ 7 percent interest thereon, payable annually at the office of the
17 ~~treasurer as provided by law.~~ The commissioners shall be authorized to board may
18 execute a good and sufficient conveyance to all purchasers of such lands, and to. The
19 board may discharge any mortgages taken as security, when the sum due thereon
20 shall have has been paid. The commissioners shall have power to board may
21 withhold from sale any portion of such lands when they shall deem the board
22 considers it expedient, and. The board shall invest all moneys arising from the sale
23 of such lands, as well as all other university and school funds, in such manner as the
24 legislature shall provide, and shall provided by law. The members of the board shall

1 give such security for the faithful performance of their duties as ~~may be~~ required by
2 law.

3 **SECTION 6.** Section 4 of article XIII of the constitution is amended to read:

4 [Article XIII] Section 4. ~~It shall be the duty of the~~ The legislature to shall, by
5 law, provide a great seal for the state, which shall be kept by the secretary of state,
6 and all. All official acts of the governor, ~~his approbation of the laws excepted~~ except
7 the governor's approval of bills which shall have passed the legislature, shall be
8 thereby authenticated with the great seal.

9 **SECTION 7.** Section 17 of article XIV of the constitution is created to read:

10 [Article XIV] Section 17. The secretary of state or state treasurer holding office
11 on the date of ratification of the 1995-97 amendment providing for the deletion of one
12 or both of those positions from the constitution may hold and continue in such
13 position, respectively, for the balance of the unexpired term of office then in progress
14 or until the legislature, by law, specifies a date of term expiration in advance of the
15 first Monday of January in 1999.

16 **SECTION 8.** Numbering of new section. The new section 17 of article XIV of the
17 constitution, created in this joint resolution, shall be designated by the next higher
18 open whole section number in that article if, prior to or simultaneously with the
19 ratification by the people of the amendment proposed in this joint resolution, any
20 other ratified amendment has created a section 17 of article XIV of the constitution
21 of this state. If several ratified amendments simultaneously create a section 17 of
22 article XIV, the chief of the legislative reference bureau shall determine the sequence
23 and the numbering.

24 **SECTION 9.** Result of split ratification. (1) ISSUES; BALLOT QUESTIONS. It is the
25 sense of the 1995 legislature that the amendment proposed by this joint resolution

1 incorporates more than one object or purpose, and that there are 2 separable issues
2 that must be submitted to the people by separate ballot questions:

3 1) "Shall the position of secretary of state be deleted from the constitution?";
4 and

5 2) "Shall the position of state treasurer be deleted from the constitution?"

6 And further, it is the sense of the 1995 legislature that the various situations
7 arising from the deletion of only one of the 2 positions from the constitution cannot
8 be addressed by the submission of amendments submitted separately in 2 joint
9 resolutions but require, instead, the submission of a single consolidated joint
10 resolution providing in detail for the possibility of deleting only one of the 2 positions.

11 (2) SECRETARY OF STATE DELETION NOT RATIFIED. If the voters ratify the deletion
12 of the position of state treasurer from the constitution, but do not ratify the deletion
13 of the position of secretary of state from the constitution, then: a) section 2 of article
14 VI of the constitution shall not be amended by this joint resolution so as in effect to
15 repeal said section; b) section 8 of article V and section 4 of article XIII shall not be
16 amended by this joint resolution; and c) section 1 of article VI and section 7 of article
17 X of the constitution, as affected by the ratification vote, shall read as follows:

[Article VI] Section 1 ~~The~~ At the 1998 general election and every 4 years thereafter, the qualified electors of this state, ~~at the times and places of choosing the members of the legislature, shall in 1970 and every 4 years thereafter~~ elect a secretary of state, treasurer and an attorney general who shall hold their offices for the term of 4 years.

[Article X] Section 7. ~~The~~ There is created a public lands board to consist of the governor or the lieutenant governor if designated by the governor, the secretary of state, treasurer and the attorney general, ~~shall constitute a board of commissioners for. The board shall administer the~~ sale of the school and university lands and ~~for~~ the investment of the funds arising therefrom. Any ~~two of said commissioners~~ 2 members shall be a quorum for the transaction of all business pertaining to the duties of ~~their office~~ the board.

1 (3) STATE TREASURER DELETION NOT RATIFIED. If the voters ratify the deletion of
2 the position of secretary of state from the constitution, but do not ratify the deletion
3 of the position of state treasurer from the constitution, then: a) section 3 of article
4 VI of the constitution shall not be amended by this joint resolution; and b) section 1
5 of article VI and section 7 of article X of the constitution, as affected by the ratification
6 vote, shall read as follows:

[Article VI] Section 1 ~~The~~ At the 1998 general election and every 4
years thereafter, the qualified electors of this state, ~~at the times and places~~
~~of choosing the members of the legislature, shall in 1970 and every 4 years~~
~~thereafter~~ elect a ~~secretary of state, treasurer and~~ an attorney general
~~who shall hold their offices for~~ the term of 4 years.

[Article X] Section 7. ~~The secretary of state~~ There is created a public
lands board to consist of the governor or the lieutenant governor if
designated by the governor, the state treasurer and the attorney general,
~~shall constitute a board of commissioners for.~~ The board shall administer
the sale of the school and university lands and for the investment of the
funds arising therefrom. Any two of said commissioners 2 members shall
be a quorum for the transaction of all business pertaining to the duties of
~~their office~~ the board.

7 ***Be it further resolved, That*** this proposed amendment be referred to the
8 legislature to be chosen at the next general election and that it be published for 3
9 months previous to the time of holding such election.

10

(END)