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(FORM UPDATED: 08/11/2010)

**WISCONSIN STATE LEGISLATURE ...
PUBLIC HEARING - COMMITTEE RECORDS**

1999-00

(session year)

Assembly

(Assembly, Senate or Joint)

**Committee on ... Judiciary and Personal Privacy
(AC-JPP)**

COMMITTEE NOTICES ...

- Committee Reports ... **CR**
- Executive Sessions ... **ES**
- Public Hearings ... **PH**

INFORMATION COLLECTED BY COMMITTEE FOR AND AGAINST PROPOSAL

- Appointments ... **Appt** (w/Record of Comm. Proceedings)
- Clearinghouse Rules ... **CRule** (w/Record of Comm. Proceedings)
- Hearing Records ... bills and resolutions (w/Record of Comm. Proceedings)
(**ab** = Assembly Bill) (**ar** = Assembly Resolution) (**ajr** = Assembly Joint Resolution)
(**sb** = Senate Bill) (**sr** = Senate Resolution) (**sjr** = Senate Joint Resolution)
- Miscellaneous ... **Misc**

* Contents organized for archiving by: Mike Barman (LRB) (May/2012)





Mary Hubler

State Representative

July 7, 1999

Representative Michael Huebsch, Chair
Assembly Committee on Judiciary and Personal Privacy
20 North, State Capitol
Madison, WI 53708

Dear Mike:

Assembly Joint Resolution 63 was referred to your Committee on Judiciary and Personal Privacy July 1. The resolution would amend the state's Constitution to provide for the gubernatorial appointment of Justices of the Wisconsin Supreme Court for ten-year terms.

I am writing to ask that you give AJR 63 a public hearing as soon as possible. I consider this resolution an important one for the people of Wisconsin who were forced to witness the acrimonious Supreme Court election campaign last spring. Removing our highest court from the political realm should be a top priority of this Legislature.

Thank you for your consideration of my request.

Sincerely,

MARY HUBLER
State Representative
75th Assembly District

MH:lra



Governor Should Appoint Supreme Court Justices

ASSEMBLY JOINT RESOLUTION 63 WOULD AMEND THE WISCONSIN CONSTITUTION TO ALLOW GUBERNATORIAL APPOINTMENT OF SUPREME COURT JUSTICES.

by Mary Hubler



REP. MARY HUBLER, U.W. 1980, HAS REPRESENTED THE 75TH ASSEMBLY DISTRICT SINCE 1984.

ARTICLE VII, SECTION 4(1) OF the Wisconsin Constitution provides for the nonpartisan, popular election of the Wisconsin Supreme Court. Though the wording has been amended since the Wisconsin Constitution first was drafted, the general concept has remained the same – the supreme court is a judicial body elected by the voters of this state. It's ironic, then, that 43 of the 70 men and women who have served as justices of our supreme court were appointed to their first terms of office.

Don't get me wrong. I'm not saying that the appointment of more than 61 percent of our justices violates the letter of the law. Article VII, Section 9, of the Wisconsin Constitution authorizes the governor to fill supreme court vacancies by appointment.

What I am saying is that appointment of supreme court justices in Wisconsin has become the norm. And, I believe appointment of supreme court justices works well for our state.

That is why I have introduced Assembly Joint Resolution 63, which would amend the Wisconsin Constitution to provide for gubernatorial appointment of Wisconsin Supreme Court justices.

Under AJR 63:

- Current supreme court justices will continue to serve the remainder of their terms.

- When vacancies occur – either at the end of a justice's term or before a term expires – the governor will make an appointment for a new, full 10-year term, with the advice and consent of the state senate.

- If the new term is scheduled to end in the same year as that of another justice, the new term will instead end on Aug. 1 of the closest year preceding the tenth year in which no other term expires.

The fact that a majority of Wisconsin's Supreme Court justices were not originally elected is just the tip of a statistical iceberg that illustrates why I believe it is time for a change. Eighteen of the 23 jurists who have served as chief justices – including Shirley Abrahamson, Roland Day, and Nathan Heffernan – were gubernatorial appointees. When you count Diane Sykes, the governor's appointment to replace Justice Donald Steinmetz, more than half of the current court – a quorum under the Wisconsin Constitution – are appointees.

I believe the April 1999 campaign offers some of the most compelling reasons to amend the Wisconsin Constitution to provide for an appointed supreme court.

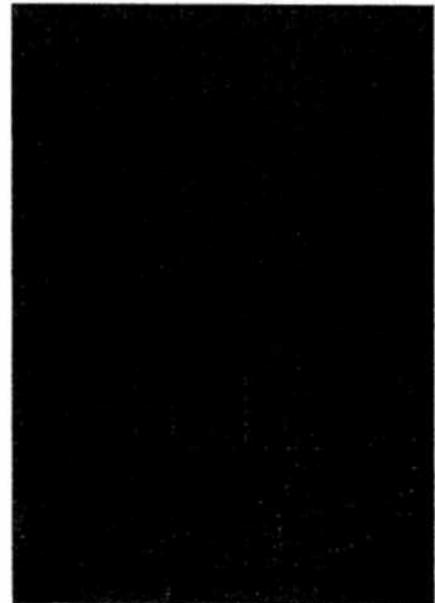
The two supreme court candidates in that race – Chief Justice Shirley Abrahamson and Attorney Sharren Rose – spent a record total of \$1,375,841.07. With 749,856 ballots cast in this election, their campaigns spent \$1.84 for each vote.

In a partisan general election, such

spending would be a sad commentary on our electoral system. In the nonpartisan race for our state's highest court, it is a travesty.

(In contrast, when Justice Abrahamson last ran for reelection in 1989, both candidates accepted public campaign financing and its spending limits. Total spending for that supreme court race, in which 882,547 votes were cast, was \$428,496, or 52 cents per vote. Ironically, their campaigns cost less than one-third of the total spent in 1999, yet 132,000 more people voted.)

Supreme court candidates in recent campaigns have resorted to 30-second sound bites to disseminate what often are complex messages. And, unlike the high-minded supreme court campaigns of the past, the 1999 race was characterized by strident, negative television advertising.



My former Assembly colleague, Justice David Prosser, has warned that the use of attack ads in high court races will have a major effect on the dispensation of justice in our state.

"If a judge is required to defend himself or herself in each individual case, they are going to know what the sensitive cases are and rule not on the facts, but on what the public reaction will be," he said after the April 1999 court election.

An illustration of his point came as early as 1967, when then-Chief Justice George R. Currie was defeated for reelection, reportedly because of his participation a year earlier in the court's anti-trust decision that allowed the Braves baseball team to leave Milwaukee and the state.

Justice Currie, however, was the last sitting member of the court to be defeated. Whether a justice is first appointed or elected to the Wisconsin Supreme Court, incumbency becomes a strong factor in subsequent elections. Since 1853, when the first justices were elected, only five incumbents have been unseated.

Finally, low voter turnout is routine for the spring nonpartisan elections, and 1999 was no exception. Just under 20 percent of the state's eligible voters went to the polls on April 6. Of those who voted on election day, about two-thirds cast their ballots for Chief Justice Shirley Abrahamson. That means she won this election by receiving electoral support from just one out of eight of those eligible to vote.

Each of these factors – high spending, incumbency, and low voter turnout – pushes our supreme court campaigns farther away from our long-standing tradition of clean and open judicial elections with virtually no special-interest influence.

When our state's founders drafted Wisconsin's Constitution, they could not have anticipated the technological excesses that dominate our electoral process today. Unless we take action, we run the risk of allowing these processes to distort and trivialize and erode the ability of our highest court to carry on the vital task of defending our constitution. ☐

Recently Passed Legislation

Recently passed legislation is a feature of the Legislative Watch column, offered in response to your requests for more information on new laws. To subscribe to the slip laws (acts), send your order with payment to: Document Sales, P.O. Box 7840, Madison, WI 53707-7840. The subscription period is from January 1999 through December 2000. The mailed subscription price is \$70 plus applicable sales tax. Save mailing costs by picking up your subscription for \$20 plus tax. Pick up orders at Legislative Documents, 202 S. Thornton Ave., Madison, Wis. MasterCard or Visa orders may be placed by calling (800) 362-7253. For information, call (608) 266-3358. To receive a free, single copy of an entire act, please contact Legislative Documents, 202 S. Thornton Ave., Madison, WI 53703, (608) 266-2400. Or access the acts online at www.legis.state.wi.us/billtext/acts/99acts.html.

Ratifying Wisconsin State Public Defenders Association Agreement

1999 Wisconsin Act 1
1999 Assembly Bill 49

*Publication date**: Feb. 26, 1999

Relating to: Ratification of the agreement negotiated between the state of Wisconsin and the Wisconsin State Public Defenders Association, WFT/AFT, Local 4822, AFL-CIO, for the 1997-99 biennium, covering employees in the public defenders collective bargaining unit, and authorizing an expenditure of funds.

Contributing to a WWII Memorial

1999 Wisconsin Act 2
1999 Assembly Bill 65

*Publication date**: May 10, 1999

Relating to: Contributions for a World War II memorial in Washington, D.C., and making appropriations.

Materials used to sexually exploit children

1999 Wisconsin Act 3
1999 Senate Bill 83

*Publication date**: May 12, 1999

Relating to: Materials involving the sexual exploitation of a child.

Completing the capitol restoration project

1999 Wisconsin Act 4
1999 Senate Bill 179

*Publication date**: July 12, 1999

Relating to: Authorizing the completion of the capitol restoration project, historically significant furnishings, granting bonding authority and making appropriations.

Changes to the property tax lottery credit

1999 Wisconsin Act 5 (vetoed in part)
1999 Senate Bill 114

*Publication date**: Aug. 11, 1999

Relating to: The property tax lottery credit and making appropriations.

Validation of votes for independent candidates

1999 Wisconsin Act 6
1999 Assembly Bill 156

*Publication date**: Aug. 11, 1999

Relating to: Candidacy of independent candidates for the offices of governor and lieutenant governor.

Regulating the use of semiautomatic defibrillators

1999 Wisconsin Act 7
1999 Assembly Bill 239

*Publication date**: Aug. 11, 1999

Relating to: Limitations on and requirements for use of semiautomatic defibrillators by individuals other than emergency medical technicians and first responders – defibrillation, providing civil immunity for the use and requiring the department of health and family services to review training courses for the use.

*Section 991.11, Wisconsin Statutes 1997-98: 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]. ☐