

2005 DRAFTING REQUEST

Bill

Received: 02/03/2005

Received By: mshovers

Wanted: As time permits

Identical to LRB:

For: Karl Van Roy (608) 266-0616

By/Representing: Tanya

This file may be shown to any legislator: NO

Drafter: mshovers

May Contact:

Addl. Drafters:

Subject: Local Gov't - munis generally
Local Gov't - counties

Extra Copies:

Submit via email: YES

Requester's email: Rep.VanRoy@legis.state.wi.us

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Compatibility of offices; firefighters, medical examiners, coroners

Instructions:

See Attached.

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?				_____			Local
/1	mshovers 02/15/2005	lkunkel 02/16/2005	rschluet 02/16/2005	_____	sbasford 02/16/2005		Local
/2	mshovers 02/18/2005	lkunkel 02/18/2005	pgreensl 02/21/2005	_____	mbarman 02/21/2005	lnorthro 02/21/2005	

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11 NES 2/15/05

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MES
2

Bill Request Form

Legislative Reference Bureau
100 N. Hamilton Street
Legal Section 266-3561

*Use of this form is optional. It is often better to talk directly with the LRB attorney who will draft the bill.
Use this form only for bill draft requests. Attach more pages if necessary.*

Date 2/1/05

Legislator, agency, or other person requesting this draft Rep. Karl Van Roy

Person submitting request (name and phone number) same - 266-0616

Persons to contact for questions about this draft (names and phone numbers) Tanya Hein 266-0616; John Stanley 284-6000

Describe the problem, including any helpful examples. How do you want to solve the problem?

Please attach a copy of any correspondence or other material that may help us. If you know of any statute sections that might be affected, list them or provide a marked-up copy.

You may attach a marked-up copy of any LRB draft or provide its number (e.g., 1999 LRB-2345/1 or 1997 AB-67). see attached

Requests are confidential unless stated otherwise. May we tell others that we are working on this for you? YES NO

If yes: Anyone who asks? YES NO
Any legislator? YES NO

Eric Bott

Only the following persons John Stanley; or our office

Do you consider this request urgent? YES NO If yes, please indicate why _____

Should we give this request priority over any pending request of this legislator, agency, or person?
YES NO

Shovers, Marc

From: Hein, Tanya
Sent: Tuesday, February 01, 2005 3:57 PM
To: Shovers, Marc
Subject: FW: Stats 59.34



Scan001.PDF

Here is the info.

Tanya R. Hein
Legislative Aide

State Representative Karl Van Roy
8 West, State Capitol
P.O. Box 8953
Madison, WI 53708
Tel: 608-266-0616
Fax: 608-282-3690

-----Original Message-----

From: XeroxScan
Sent: Tuesday, February 01, 2005 1:24 PM
To: Hein, Tanya
Subject: Stats 50.34

Please open the attached document. It was scanned and sent to you using a Xerox WorkCentre Pro.

Sent by: thein [xerox.scan@legis.state.wi.us]
Number of Images: 2
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Device Name: 111W_WCP_45

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DANE COUNTY CORONER'S OFFICE

JOHN E. STANLEY

Coroner

Room 2144
Public Safety Building
115 W. Doty Street
Madison, Wisconsin 53703

PH: (608) 284-6000
(608) 266-4948
FAX: (608) 284-6015
stanley@co.dane.wi.us

59.34 Coroner, medical examiner duties; coroner compatibility. (1) CORONER; MEDICAL EXAMINER; DUTIES. The coroner shall do all of the following:

(a) Participate in inquest proceedings when required by law, except that in any county with a population of 500,000 or more and all counties which have instituted the medical examiner system this duty and the powers incident thereto shall be vested exclusively in the office of the medical examiner. Except as provided under s. 59.38 (5), the board shall appoint the medical examiner. The office may be occupied on a full-time or part-time basis and the officeholder shall be paid compensation as the board by ordinance provides. The duties performed by the coroner and not vested in the medical examiner shall be performed by the clerk. The medical examiner may appoint such assistants as the board authorizes. Whenever requested by the court or district attorney, the medical examiner shall testify to facts and conclusions disclosed by autopsies performed by him or her, at his or her direction or in his or her presence; shall make physical examinations and tests incident to any matter of a criminal nature up for consideration before either the court or district attorney upon request; shall testify as an expert for either the court or the state in all matters where the examinations or tests have been made; and shall perform such other duties of a pathological or medicolegal nature as may be required.

(b) When there is no sheriff or undersheriff in any county organized for judicial purposes, exercise all the powers and duties of sheriff of that county until a sheriff is elected or appointed and qualified; and when the sheriff for any cause is committed to the jail of that county, be keeper thereof during the time that the sheriff remains a prisoner therein.

(c) Serve and execute process of every kind and perform all other duties of the sheriff when the sheriff is a party to the action and whenever the clerk of the circuit court addresses the original or other process in any action to the coroner as provided in s. 59.40 (2) (c), execute the same in like manner as the sheriff might do in other cases; exercise the same powers and proceed in the same manner as prescribed for sheriffs in the performance of similar duties; and in all cases the coroner and the coroner's sureties shall be liable in the same manner and to the same extent on the coroner's official bonds as sheriffs and their sureties are liable in similar cases.

(d) Perform all other duties that are required by law.

(e) Act as coroner in ~~another~~ county when requested to do so ~~under sub. (2) (b)~~.

(2) CORONER; COMPATIBILITY WITH OTHER OFFICES. (a) Notwithstanding s. 979.04 (3) and except as provided in par. (b), any

person holding office under sub. (1) may also serve as a ~~volunteer~~-emergency medical technician, first responder or ~~volunteer~~ fire fighter.

(b) 1. No person serving as a coroner under sub. (1) who also serves as a ~~volunteer~~-emergency medical technician, ~~volunteer~~-first responder or a ~~volunteer~~ fire fighter may participate as a coroner in any case in which he or she may be required to participate as a ~~volunteer~~ emergency medical technician, ~~volunteer~~ first responder or a ~~volunteer~~ fire fighter. If an apparent or actual conflict of interest arises between the person's duties as coroner and as ~~volunteer~~ emergency medical technician, ~~volunteer~~ first responder or ~~volunteer~~ fire fighter, the deputy coroner shall act as coroner in the case in which the conflict exists. If there is no deputy coroner, the coroner shall request that the coroner, medical examiner, deputy coroner or a medical examiner's assistant in a nearby county act as coroner in the case in which the conflict exists. Any fees owed to or expenses incurred by the acting coroner from the nearby county shall be paid by the county that requested the acting coroner's services.

2. If a person serving as coroner under sub. (1) is required to exercise the powers and duties of sheriff under sub. (1) (b), the deputy coroner shall act as coroner or, if there is no deputy coroner, the coroner shall request under the procedures in subd. 1. that another person act as coroner until the coroner is no longer exercising the powers and duties of sheriff.

History: 1973 c. 272; 1983 a. 146, 279, 538; 1989 a. 31, 268, 359; 1991 a. 316; 1995 a. 201 ss. 296 to 299; 1997 a. 35; 1999 a. 56.

A county board in a county under 500,000 can abolish the elective office of coroner and implement a medical examiner system to be effective at the end of the incumbent coroner's term. 63 Atty. Gen. 361.

A medical examiner should be a qualified expert in pathology. 69 Atty. Gen. 44. Appointment of a law enforcement officer as an assistant medical examiner creates an impermissible conflict between the offices. 75 Atty. Gen. 28.

DELETE: Cross-outs

INSERT: medical examiner's assistant

INSERT: medical examiner

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(b) When there is no sheriff or undersheriff in any county organized for judicial purposes, exercise all the powers and duties of sheriff of that county until a sheriff is elected or appointed and qualified; and when the sheriff for any cause is committed to the jail of that county, be keeper thereof during the time that the sheriff remains a prisoner therein.

(c) Serve and execute process of every kind and perform all other duties of the sheriff when the sheriff is a party to the action and whenever the clerk of the circuit court addresses the original or other process in any action to the coroner as provided in s. 59.40 (2) (c), execute the same in like manner as the sheriff might do in other cases; exercise the same powers and proceed in the same manner as prescribed for sheriffs in the performance of similar duties; and in all cases the coroner and the coroner's sureties shall be liable in the same manner and to the same extent on the coroner's official bonds as sheriffs and their sureties are liable in similar cases.

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DELETE: Cross-outs

INSERT: medical examiner's assistant

INSERT: medical examiner

59.33 COUNTIES

59.33 Powers after term. (1) Every undersheriff and deputy sheriff, compensated for services by fees or by part salary and part fees, may execute and return all writs, processes and orders in their hands at the expiration of the sheriff's term of office and which the undersheriff or deputy sheriff has, before that time, begun to execute by service, levy, advertisement or the collection of money thereon.

(2) In counties where the compensation of sheriffs, undersheriffs and deputies has been changed from the fee to the salary system, the sheriff, immediately upon the expiration of the sheriff's term, shall turn over to the sheriff's successor all writs, processes and orders in the hands of the sheriff, or in the hands of the undersheriff or deputies, whether or not such writs, processes and orders have been partly or fully executed or returned, and such successor shall execute and return or complete the execution and return of such writs, processes and orders.

(3) In case of a vacancy in the office of sheriff, of any county, the undersheriff and deputies then in office having then any writ, process or order in their hands shall have the same authority and be under the same obligation to serve, execute and return the same as if the sheriff had continued in office.

History: 1987 a. 181; 1991 a. 316; 1995 a. 201 s. 295.

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A medical examiner should be a qualified expert in pathology. 69 Atty. Gen. 44.

Appointment of a law enforcement officer as an assistant medical examiner creates an impermissible conflict between the offices. 75 Atty. Gen. 28.

59.35 Deputy coroner. (1) Within 10 days after entering upon the duties of the office, the coroner may appoint up to 6 proper persons, residents of the county, deputy coroner. The deputies shall reside in the county for which they are appointed. The coroner may fill vacancies in the office of any such appointees, and may appoint a person to take the place of any deputy who becomes incapable of executing the duties of the office. A person appointed deputy coroner for a regular term or to fill a vacancy or otherwise shall hold office during the pleasure of the coroner. Every appointment of a deputy coroner and every revocation of an appointment shall be in writing and filed and recorded in the office of the clerk of the circuit court. In case of a vacancy in the office of coroner, the chief deputy coroner shall in all things and with like liabilities and penalties execute the duties of the office until the vacancy is filled as provided by law.

(2) The coroner shall be responsible for every default or misconduct in office of a deputy coroner during the coroner's term of office, and after the coroner's death, resignation, or removal from office, as well as before. An action for any default or misconduct under this subsection may be prosecuted against the coroner and the sureties on the coroner's official bond or against the coroner's personal representative.

(3) The coroner may require a deputy coroner, before entering upon the duties of the office, to execute and deliver to the coroner a bond in such sum and with such sureties as the coroner may require, conditioned for the faithful performance of the deputy's official duties; and every default or misconduct of the deputy coroner for which the coroner shall be liable shall be a breach of the bond.

(4) Whenever a medical examiner has been appointed under s. 59.34 (1) (a), this section shall not apply in such counties, nor shall the coroner of such counties be responsible for any default or misconduct in office of the medical examiner.

(5) A person holding office under this section may also serve as a volunteer emergency medical technician, a volunteer first

State association weighs in on local medical examiner debate

**By Anna Krejci
News-Chronicle**

A statute that seemingly requires medical examiners not to serve simultaneously as paid firefighters or paramedics needs to be changed, according to the Wisconsin Coroner and Medical Examiner Association.

Darrell Witt, president of the association and Douglas County Medical Examiner, said the association has decided to ask state legislators to revise Chapter 59.34 of the Wisconsin Statutes where it addresses the roles that are incompatible with that of medical examiner. Witt said a reworking of the statute should allow any firefighter or paramedic, regardless of whether paid or volunteer, to work as a medical examiner.

Witt is aware of the Brown County Board controversy surrounding whether its interim medical examiner, Al Klimek, can keep working as a firefighter and paramedic.

In November Brown County supervisors received a legal opinion they had requested from the state's attorney general's office. The legal opinion had interpreted Chapter 59.34 such that Klimek's jobs as firefighter and medical examiner were incompatible.

Klimek said the legal opinion is an informal one and should not be considered law.

The association is in the early stages of contacting state legislators. John Stanley, legislative committee chairman for the Wisconsin Coroner and Medical Examiner Association and coroner of Dane County, said he has not yet begun to work with any legislator but plans to start Monday.

No other county has raised the issue and Witt said he knows there have been several circumstances where the medical examiner was also a firefighter.

By making changes to Chapter 59.34, the county wants to avoid the chance that it could be interpreted as outlawing a firefighter's ability to also serve as medical examiner. Witt said other parts of the

chapter worth keeping provide a solution to cases where a firefighter might be required to work as a medical examiner on a death that resulted out of the very same fire the firefighter extinguished.

In such cases, the statute requires a coroner or medical examiner from another county to investigate the death, Witt said.

The association arrived to its decision to change the statute after a statewide meeting held in Wausau on Tuesday.

Witt said the proposed changes to the statute has support from the state's attorney general's office.

There are several instances where firefighters and paramedics have worked as medical examiners at the same time, Witt said.

If firefighters and paramedics are excluded from maintaining those jobs and working as a medical examiner at the same time, some counties will likely face huge costs because they would have to pay someone to hold a medical examiner position full time.

The other pool of applicants for the job of medical examiner are nurses or doctors, but Witt said many do not want to take the on-call job of medical examiner that pays less.

In Douglas County, Witt said the medical examiner position does not receive reimbursement for mileage.

If paid firefighters and paramedics are prohibited from working as medical examiners at the same time, the number of qualified applicants for the job decreases drastically for counties across the state, Witt said.

Witt is of the opinion that firefighters and paramedics are among some of the best candidates for medical examiner jobs because they are asked to multitask under time pressure.

"This is a skill that's very difficult to teach," he said.

Based on 2004 membership, the Wisconsin Coroner and Medical Examiner Association has members in 69 of the state's 72 counties.

Besides asking for changes to chapter 59.34, the association wants Chapter 979 to require mandatory training for coroners, medical examiners and deputies. The association has been pressing for the

change for at least three years, Witt said.

The measure could protect counties from lawsuits, but he said legislators have not supported the change because they say it would place great costs on counties.

Shovers, Marc

From: Hein, Tanya
Sent: Friday, February 11, 2005 10:54 AM
To: Shovers, Marc
Subject: FYI

Hi Marc,

Just wanted to let you know that we are being contacted by media regarding the draft. Also, the county board is going to be discussing this issue on Feb. 16.

Tanya R. Hein
Legislative Aide

~~~~~  
State Representative Karl Van Roy  
8 West, State Capitol  
P.O. Box 8953  
Madison, WI 53708  
Tel: 608-266-0616  
Fax: 608-282-3690

**Posted Feb. 11, 2005**

## **Brown County may sue itself over Klimek role**

**At issue: Should medical examiner also serve as paid firefighter?**

**By Mike Hoeft**

[mhoeft@greenbaypressgazette.com](mailto:mhoeft@greenbaypressgazette.com) <<mailto:mhoeft@greenbaypressgazette.com>>

Brown County may end up suing itself in an effort to settle whether the county medical examiner also can be a paid firefighter.

But others say a simpler solution is to have state lawmakers fix an ambiguous statute.

The Public Safety Committee voted 3-2 Wednesday to recommend seeking a court declaratory judgment over apparently conflicting legal opinions. At issue is whether Al Klimek, a Green Bay firefighter/paramedic, should continue to serve as the county interim medical examiner.

If approved by the County Board, the legal case would pit one branch of county government (the County Board) against another (the County Executive).

County Executive Carol Kelso and Corporation Counsel John Jacques have held there is no conflict over Klimek's dual role.

Amending the statute might be the easiest and quickest course of action, Kelso said.

"Since other avenues are available, a lawsuit appears to be a waste not only of tax dollars but of the court's time," she said Thursday.

Klimek said politics might be the likely motive for a suit.

"If it's not being driven by personality, then why spend thousands of dollars of taxpayer money on an issue that may be moot by the time it ends in court?" Klimek said.

But Harold Kaye, Public Safety Committee chairman, said seeking an objective judicial ruling is the only

way to keep politics out of the issue.

"We have two different legal conclusions. Which one do we believe? We're trying to remove politics and personalities from this," Kaye said.

A judge would provide a neutral third-party ruling, Kaye said. He doubted that lawyer services would cost much or take long.

He estimated \$152 for a filing fee and about five hours for an attorney to write briefs, he said. The case could be scheduled within five weeks once approved.

Kaye said that, while seeking a legislative amendment is fine, changing a statute may be more difficult.

"We're trying to move forward one way or the other and find common ground," he said.

The Legislature amended statutes in 1991 to indicate that a person serving as coroner or medical examiner can also serve as a volunteer firefighter. The idea was to keep volunteers in rural areas on the job.

Unfortunately, the apparently unintended consequence of the language change could be interpreted to mean paid firefighters may not also serve as coroner or medical examiner, wrote Assistant Attorney General Christopher Blythe in a Jan. 25 letter to Klimek.

He said the purpose of Attorney General Peg Lautenschlager's letter to Kaye last year was meant to articulate the probable outcome of the issue if ever litigated, which he said the state had no intent of doing.

In the meantime, the solution is to amend the statute in the Legislature, Blythe said. Lautenschlager "will be happy to support" such legislation, he said.

The Wisconsin Coroner and Medical Examiner Association agreed and asked lawmakers to revise state law to make it clear that medical examiners can simultaneously serve as paid firefighters or paramedics.

Darrell Witt, president of the association, said a reworking of Chapter 59.34 of the Wisconsin Statutes should allow any firefighter or paramedic, regardless of whether paid or volunteer, to work as a medical examiner.

Klimek's role has come under increased scrutiny, especially since the 2003 death of the son of Green Bay Packers assistant coach Ray Sherman Sr.

Ray Sherman II, 14, was found dead May 18, 2003, of a gunshot wound in the family's garage. Klimek initially ruled it a suicide. The Shermans challenged the finding. In May 2004, Brown County Circuit Judge Richard Dietz concluded the death was an accident. The Shermans now want the county to pay their legal bills, which have topped \$100,000.

Some County Board members want the county's medical examiner to be a forensic pathologist, which Klimek is not. The committee will forward to the board information on availability of physicians, Kaye said.

Committee members Guy Zima, Bill Clancy and Kaye voted for the pathologist requirement and for pursuing a court case. Supervisors Andy Nicholson and Earl Vanden Heuvel voted no. Nicholson said he wanted to know more about additional costs of hiring a pathologist.

When the county switched from an elected coroner in 1993 to medical examiner, the intent was to fill it with an independent forensic pathologist. However, the county's first two physician medical examiners encountered troubles.

James Dibdin left in 1994 after just a year, and Gregory Schmunk quit amid controversy in 1999.

While medical examiners do not necessarily have to be licensed medical doctors, they must have equivalent qualifications as experts in the field of pathology.

Klimek, a certified death-scene investigator, acts as part-time administrator and contracts with

pathologists who conduct autopsies.

He earns about \$60,000 a year for that job, along with about that same amount for his job with the Green Bay Fire Department.

**Tanya R. Hein**  
Legislative Aide

~~~~~  
State Representative Karl Van Roy
8 West, State Capitol
P.O. Box 8953
Madison, WI 53708
Tel: 608-266-0616
Fax: 608-282-3690



State of Wisconsin
2005 - 2006 LEGISLATURE

LRB-2062/P
MES. [unclear]

RMR

~~PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION~~

D-NOTE
WANTED;
FRIDAY

gen

1 AN ACT ...; relating to: the compatibility of the offices of coroner or medical
2 examiner, and certain emergency services positions. ✓

Analysis by the Legislative Reference Bureau

Under current law, and subject to an exception, a coroner or medical examiner may also serve as a volunteer emergency medical technician (EMT), first responder, or volunteer firefighter. ✓ Under the current law exception, no person serving as a coroner who also serves as a volunteer EMT, first responder, or volunteer firefighter may participate as a coroner in any case in which he or she may be required to participate as a volunteer EMT, volunteer first responder, or a volunteer firefighter. ✓ If a conflict exists, the deputy coroner is required to act as coroner in the case in which the conflict exists. ✓ If there is no deputy coroner, the coroner must request that the coroner, medical examiner, deputy coroner, or medical examiner's assistant in a nearby county act as coroner in the case in which the conflict exists.

This bill extends the provisions of current law regarding conflicts involving a person serving as coroner who also serves as a volunteer EMT, first responder, or volunteer firefighter to a medical examiner, and extends the provisions which currently apply to a deputy coroner to a medical examiner's assistant. ✓ The bill also expands the compatibility provisions of current law to allow a coroner or medical examiner, subject to the same exceptions as exist under current law, to also serve as

an EMT, first responder, or firefighter, without regard to whether any of the positions are paid or volunteer. ✓

FE-L

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

1 SECTION 1. 59.34 (title) of the statutes is amended to read: ✓

2 59.34 (title) Coroner, medical examiner duties; coroner, medical
3 examiner compatibility.

4 History: 1973 c. 272; 1983 a. 146, 279, 538; 1989 a. 31, 268, 359; 1991 a. 316; 1995 a. 201 ss. 296 to 299; 1997 a. 35; 1999 a. 56.

4 SECTION 2. 59.34 (1) (e) of the statutes is amended to read: ✓

5 59.34 (1) (e) Act as coroner in a ~~nearby~~ another county when requested to do
6 so ~~under sub. (2) (b)~~.

7 History: 1973 c. 272; 1983 a. 146, 279, 538; 1989 a. 31, 268, 359; 1991 a. 316; 1995 a. 201 ss. 296 to 299; 1997 a. 35; 1999 a. 56.

7 SECTION 3. 59.34 (2) (title) of the statutes is amended to read: ✓

8 59.34 (2) (title) CORONER, MEDICAL EXAMINER; COMPATIBILITY WITH OTHER OFFICES.

9 History: 1973 c. 272; 1983 a. 146, 279, 538; 1989 a. 31, 268, 359; 1991 a. 316; 1995 a. 201 ss. 296 to 299; 1997 a. 35; 1999 a. 56.

9 SECTION 4. 59.34 (2) (a) of the statutes is amended to read: ✓

10 59.34 (2) (a) Notwithstanding s. 979.04 (3) and except as provided in par. (b),
11 any person holding office under sub. (1) may also serve as a ~~volunteer~~ an emergency
12 medical technician, first responder or ~~volunteer~~ fire fighter. ✓

13 History: 1973 c. 272; 1983 a. 146, 279, 538; 1989 a. 31, 268, 359; 1991 a. 316; 1995 a. 201 ss. 296 to 299; 1997 a. 35; 1999 a. 56.

13 SECTION 5. 59.34 (2) (b) 1. of the statutes is amended to read: ✓

14 59.34 (2) (b) 1. No person serving as a coroner or medical examiner under sub.
15 (1) who also serves as a ~~volunteer~~ an emergency medical technician, ~~volunteer~~ first
16 responder, or a ~~volunteer~~ fire fighter may participate as a coroner or medical
17 examiner in any case in which he or she may be required to participate as a ~~volunteer~~
18 an emergency medical technician, ~~volunteer~~ first responder, or a ~~volunteer~~ fire
19 fighter. If an apparent or actual conflict of interest arises between the person's duties
20 as coroner or medical examiner and as ~~volunteer~~ emergency medical technician,

1 volunteer first responder, or volunteer fire fighter, the deputy coroner or medical
 2 examiner's assistant shall act as coroner or medical examiner in the case in which
 3 the conflict exists. If there is no deputy coroner or medical examiner's assistant, the
 4 coroner or medical examiner shall request that the coroner, medical examiner,
 5 deputy coroner, or a medical examiner's assistant in a nearby county act as coroner
 6 or medical examiner in the case in which the conflict exists. Any fees owed to or expenses incurred by the
 7 acting coroner or medical examiner from the nearby county shall be paid by the
 8 county that requested the acting coroner's or medical examiner's services.

History: 1973 c. 272; 1983 a. 146, 279, 538; 1989 a. 31, 268, 359; 1991 a. 316; 1995 a. 201 ss. 296 to 299; 1997 a. 35; 1999 a. 56.

9 **SECTION 6. Initial applicability.**

10 (1) This act first applies to a case to which a coroner or medical examiner is first
 11 called on the effective date of this subsection.

12 (END)

(d-n)

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2062/?dn

MES.....

mk

(date)

Representative Van Roy:

The instructions and marked-up statutes you provided did not add "or medical examiner" after the first appearance of "coroner" in s. 59.34 (2) (b) 1. of the statutes. It seems to me that "or medical examiner" should be added, and I did so. Is this OK? Also, in that same subdivision, your instructions stated that the second to last sentence should appear as follows:

"If there is no deputy coroner or medical examiner's assistant, the coroner or medical examiner shall request that the coroner, medical examiner, deputy coroner, or a medical examiner's assistant in a nearby county act as coroner in the case in which the conflict exists." ~~I did not add~~ "or medical examiner" after the last appearance of "coroner." Is this OK? *Similarly, added*

Your instructions also struck the word "nearby" from s. 59.34 (1) (e), but did not strike the word "nearby" in s. 59.34 (2) (b) 1. Is this inconsistency intentional? Does the treatment of s. 59.34 (1) (e) in this draft reflect your intent?

Please let me know if you'd like any further changes made to the bill.

Marc E. Shovers
Senior Legislative Attorney
Phone: (608) 266-0129
E-mail: marc.shovers@legis.state.wi.us

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2062/1dn
MES:lmk:rs

February 16, 2005

Representative Van Roy:

The instructions and marked-up statutes you provided did not add "or medical examiner" after the first appearance of "coroner" in s. 59.34 (2) (b) 1. of the statutes. It seems to me that "or medical examiner" should be added, and I did so. Is this OK? Also, in that same subdivision, your instructions stated that the second to last sentence should appear as follows:

"If there is no deputy coroner or medical examiner's assistant, the coroner or medical examiner shall request that the coroner, medical examiner, deputy coroner, or a medical examiner's assistant in a nearby county act as coroner in the case in which the conflict exists." Similarly, I added "or medical examiner" after the last appearance of "coroner." Is this OK?

Your instructions also struck the word "nearby" from s. 59.34 (1) (e), but did not strike the word "nearby" in s. 59.34 (2) (b) 1. Is this inconsistency intentional? Does the treatment of s. 59.34 (1) (e) in this draft reflect your intent?

Please let me know if you'd like any further changes made to the bill.

Marc E. Shovers
Senior Legislative Attorney
Phone: (608) 266-0129
E-mail: marc.shovers@legis.state.wi.us

Shovers, Marc

From: Hein, Tanya
Sent: Wednesday, February 16, 2005 4:42 PM
To: Shovers, Marc
Subject: coroner bill

Hi Marc,

Please go ahead and make the changes we talked about. They were just oversights by the person who gave me the request. Please make "another" county consistent. Also, where you added "medical examiner" is appropriate. Thanks!!

Tanya R. Hein
Legislative Aide

~~~~~  
State Representative Karl Van Roy  
8 West, State Capitol  
P.O. Box 8953  
Madison, WI 53708  
Tel: 608-266-0616  
Fax: 608-282-3690



Keep  
LMR

2005 BILL

Wanted:  
SOON  
IN 2/18

Reyer

1 AN ACT to amend 59.34 (title), 59.34 (1) (e), 59.34 (2) (title), 59.34 (2) (a) and 59.34  
2 (2) (b) 1. of the statutes; relating to: the compatibility of the offices of coroner  
3 or medical examiner, and certain emergency services positions. ✓

*Analysis by the Legislative Reference Bureau, deputy coroner*

\* Under current law, and subject to an exception, a coroner or medical examiner may also serve as a volunteer emergency medical technician (EMT), first responder, or volunteer firefighter. Under the current law exception, no person serving as a coroner who also serves as a volunteer EMT, first responder, or volunteer firefighter may participate as a coroner in any case in which he or she may be required to participate as a volunteer EMT, volunteer first responder, or a volunteer firefighter. If a conflict exists, the deputy coroner is required to act as coroner in the case in which the conflict exists. If there is no deputy coroner, the coroner must request that the coroner, medical examiner, deputy coroner, or medical examiner's assistant in a nearby county act as coroner in the case in which the conflict exists.

This bill extends the provisions of current law regarding conflicts involving a person serving as coroner who also serves as a volunteer EMT, first responder, or volunteer firefighter to a medical examiner, and extends the provisions which currently apply to a deputy coroner to a medical examiner's assistant. The bill also expands the compatibility provisions of current law to allow a coroner or medical examiner, subject to the same exceptions as exist under current law, to also serve as an EMT, first responder, or firefighter, without regard to whether any of the positions are paid or volunteer. Also under the bill, if a conflict exists and if no

deputy coroner or medical examiner's assistant exists, the coroner or medical examiner must request that the coroner, medical examiner, deputy coroner, or medical examiner's assistant in another county must act as coroner or medical examiner.

is not limited to requesting assistance from a "nearby" county. Under the bill, he or she

deputy coroner

**BILL**

For further information see the *local* fiscal estimate, which will be printed as an appendix to this bill.

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

1           **SECTION 1.** 59.34 (title) of the statutes is amended to read:

2           **59.34 (title) Coroner, medical examiner duties; coroner, medical**  
3 **examiner compatibility.**

4           **SECTION 2.** 59.34 (1) (e) of the statutes is amended to read:

5           59.34 (1) (e) Act as coroner in a nearby another county when requested to do  
6 so under sub. (2) (b).

7           **SECTION 3.** 59.34 (2) (title) of the statutes is amended to read:

8           59.34 (2) (title) CORONER, MEDICAL EXAMINER; COMPATIBILITY WITH OTHER OFFICES.

9           **SECTION 4.** 59.34 (2) (a) of the statutes is amended to read:

10          59.34 (2) (a) Notwithstanding s. 979.04 (3) and except as provided in par. (b),  
11 any person holding office under sub. (1) may also serve as a ~~volunteer~~ an emergency  
12 medical technician, first responder or ~~volunteer~~ fire fighter.

13          **SECTION 5.** 59.34 (2) (b) 1. of the statutes is amended to read:

14          59.34 (2) (b) 1. No person serving as a coroner or medical examiner under sub.  
15 (1) who also serves as a ~~volunteer~~ an emergency medical technician, ~~volunteer~~ first  
16 responder, or a ~~volunteer~~ fire fighter may participate as a coroner or medical  
17 examiner in any case in which he or she may be required to participate as a ~~volunteer~~  
18 an emergency medical technician, ~~volunteer~~ first responder, or a ~~volunteer~~ fire  
19 fighter. If an apparent or actual conflict of interest arises between the person's duties  
20 as coroner or medical examiner and as ~~volunteer~~ emergency medical technician,  
21 ~~volunteer~~ first responder, or ~~volunteer~~ fire fighter, the deputy coroner or medical

**BILL**

1 examiner's assistant shall act as coroner or medical examiner in the case in which  
 2 the conflict exists. If there is no deputy coroner or medical examiner's assistant, the  
 3 coroner or medical examiner shall request that the coroner, medical examiner,  
 4 deputy coroner, or a medical examiner's assistant in a ~~nearby~~<sup>another</sup> county act as coroner  
 5 or medical examiner in the case in which the conflict exists. Any fees owed to or  
 6 expenses incurred by the acting coroner or medical examiner from the ~~nearby~~<sup>other</sup> county  
 7 shall be paid by the county that requested the acting coroner's or medical examiner's  
 8 services.

**SECTION 6. Initial applicability.**

9 (1) This act first applies to a case to which a coroner<sup>, deputy coroner,</sup> or medical examiner is first  
 10 called on the effective date of this subsection.  
 11

(END)

Section #. 59.35 (5) of the statutes is amended to read:

59.35 (5) A person holding office under this section may also serve as a ~~volunteer~~ emergency  
 medical technician, a ~~volunteer~~ first responder, a ~~volunteer~~ fire fighter or a chief, deputy chief or  
 assistant chief of a fire department.

History: 1973 c. 272; 1975 c. 294, 421; 1985 a. 315; 1989 a. 31; 1991 a. 316; 1995 a. 201 s. 306; Stats. 1995 s. 59.35;  
 1997 a. 35; 1999 a. 56; 2001 a. 102.

**Northrop, Lori**

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**From:** Hein, Tanya  
**Sent:** Monday, February 21, 2005 2:05 PM  
**To:** LRB.Legal  
**Subject:** Draft review: LRB 05-2062/2 Topic: Compatibility of offices; firefighters, medical examiners, coroners

It has been requested by <Hein, Tanya> that the following draft be jacketed for the ASSEMBLY:

Draft review: LRB 05-2062/2 Topic: Compatibility of offices; firefighters, medical examiners, coroners