

Assembly Bill 1092

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Chapter 617

AN ACT to repeal 60.24 to 60.27, 60.57, 62.24 (2) (c), 235.19 (2) (j) and 300.06 (5); to amend 6.24, 19.01 (4) (c), 30.76 (1), 56.08 (7) (a), 59.395 (4), 59.82, 60.32, 61.19 and 61.195, both as amended by chapter 20, laws of 1965, 61.21, 62.09 (1) (a) and (3) (a), as amended by chapter 20, laws of 1965, 62.24 (1) (a), as affected by chapters 161, 249 and 433, laws of 1965, and (c), (2) (a) (intro. par.) and 8 and (3) (b) and (d), 62.26 (6) (a), 176.01 (5), 256.22 (3), (4) and (5), 256.54 (1), 300.001 (1), 885.01 (1) and 887.01 (1), both as renumbered by chapter 66, laws of 1965, 946.15 (1) and (2), 960.01 and 990.01 (17m); and to create 300.05 (10) of the statutes, relating to the deletion of obsolete statutory references to now-abolished constitutional justices of the peace.

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

SECTION 1. 6.24 of the statutes is amended to read:

6.24 No candidate for any judicial, school, member of county board in counties having a population of 250,000 or more, or elective city office shall be elected upon any party ticket, nor shall any designation of party or principle represented be printed on the ballot used at the election of any such candidate. The statement "a nonpartisan judiciary," "a nonpartisan superintendency," or "a nonpartisan administration" shall not be deemed a designation of party or principle within the meaning of this

section. The election of members of such county boards, except as provided by s. 17.21 (5) in cases of vacancy, shall be held and conducted in the manner provided for the election of judicial officers, except ~~municipal justices or justices of the peace~~ in counties having a population of 300,000 or more, and containing an entire judicial circuit for which more than one circuit judge is provided by law.

SECTION 2. 19.01 (4) (c) of the statutes is amended to read:

19.01 (4) (c) In the office of the clerk of the circuit court of any county: Of the county judge, of all court commissioners, of all family court commissioners, of all justices of the peace, ~~of all municipal justices of the peace~~, and of all other judges or judicial officers elected or appointed in and for such county, or whose jurisdiction is limited thereto;

SECTION 3. 30.76 (1) of the statutes is amended to read:

30.76 (1) A person arrested without a warrant for a violation of ~~any provision of~~ ss. 30.50 to 30.80 or any rule or local regulation enacted pursuant thereto, who is not released at the time of arrest or without unnecessary delay brought before a magistrate or a court, shall be allowed to make a deposit of money by mailing the deposit as directed by the arresting officer, at the nearest mail box, to the office of the sheriff, area conservation headquarters, city or village police headquarters or precinct stations or to the office of the clerk of court or justice of the peace ~~or municipal justice~~ before whom he is summoned to appear, or by going in the custody of the arresting officer to any of those places to make the deposit.

SECTION 4. 56.08 (7) (a) of the statutes is amended to read:

56.08 (7) (a) If the prisoner was convicted in a justice ~~or a municipal justice~~ court, a court having criminal jurisdiction (other than the circuit court) located in the county seat (designated for this purpose by the judges of all such courts if there is more than one) has authority and jurisdiction to make all determinations and orders under this section and s. 53.43 as might otherwise be made by the sentencing court after the prisoner is received at the jail.

SECTION 5. 59.395 (4) of the statutes is amended to read:

59.395 (4) Send to the secretary of state on or before June 1 of each year certified lists of all justices of the peace ~~and municipal justices of the peace~~ who filed their official bonds during the preceding year.

SECTION 6. 59.82 of the statutes is amended to read:

59.82 The auditing committee of the county board in counties which have such a committee and in other counties the county auditor, or the county clerk if there is no county auditor, shall personally, before the meeting of the county board in each year, inspect the docket of every justice of the peace, ~~municipal justice of the peace~~ or other magistrate in the county who is authorized to receive fines under s. 960.34, when such magistrate has had any criminal case during the previous year and ascertain therefrom the amount of such fines received by any such magistrate during the preceding year ending October 31 and make a separate written report for each such magistrate, which report shall be verified by his affidavit, embrace the title of each case in which any such fine was received, the date of conviction and the total amount of fines received during the period covered by such report. To facilitate the making of such examinations and reports the several magistrates shall deliver their dockets to the auditing committee, county auditor or county clerk, ~~as the case may be~~, at such time before or during the annual meeting of the county board and

at such place as such committee, auditor or clerk ~~may designate~~ *designates*, to be forthwith examined and to be returned to such magistrate on the same day of delivery. The county board shall, at their annual meeting, compare the reports upon such examinations with those made by magistrates pursuant to ~~said~~ s. 960.34.

SECTION 7. 60.24 to 60.27 of the statutes are repealed.

SECTION 8. 60.32 of the statutes is amended to read:

60.32 The town board shall meet on the 2nd Tuesday next preceding the annual town meeting and also on the first Tuesday of December, and at such other ~~time or times~~ as they ~~shall~~ deem necessary to audit and settle all charges against the town and if the 3 supervisors ~~be are~~ not present, the chairman, or in his absence, either of the other supervisors attending, shall call ~~one or more justices~~ *the justice* of the town to act instead of the absent supervisor or supervisors, and if any such vacancy cannot be filled by reason of there being no legally qualified justice ~~or justices~~ of the peace in ~~said the town, then said the~~ vacancy may be filled by selecting a qualified elector ~~or electors~~ thereof. ~~And~~ Said elector ~~or electors~~ if so chosen shall take and file the usual oath of office, so as to make a board of audit composed of 3. No such special meeting shall be held unless notice of the same ~~shall be~~ *is* given to each supervisor at least 2 days prior to the time fixed therefor, and none but supervisors shall act on the board of audit at such special meetings.

SECTION 9. 60.57 of the statutes is repealed.

SECTION 10. 61.19 of the statutes, as amended by chapter 20, laws of 1965, is amended to read:

61.19 At the annual spring election in each village in odd-numbered years, except as otherwise provided herein, there shall be chosen: A president, a clerk, a treasurer, an assessor, ~~and~~ a constable ~~and a justice of the peace~~. Any village board may provide for additional justices to be elected in odd numbered years and the board may change by ordinance the number of or abolish such additional offices. No reduction in the number of justices shall deprive any justice of his office. In villages in counties having a population of at least 500,000 ~~or more~~, the officers named shall be elected for a term of 2 years on the first Tuesday of April of each year in which ~~is to be held~~ a general election for state officers ~~is to be held~~. Any other officers shall be appointed annually by the village board at their first meeting after the first Tuesday in April unless the board otherwise provides. No person not a resident elector in such village shall be elected to any office therein. The village clerk may appoint a deputy clerk for whom he shall be responsible, and who shall take and file the oath of office, and in case of the absence, sickness or other disability of the clerk, may perform his duties and receive the same compensation unless the village board appoints a person to act as such clerk.

SECTION 11. 61.195 of the statutes, as amended by chapter 20, laws of 1965, is amended to read:

61.195 Any village may proceed pursuant to s. 66.01 to discontinue the office of marshal or constable, to change the method of selection of or tenure of any officer other than members of the village board ~~and justices of the peace~~, to consolidate any such office or to change the term of office of members of the village board.

SECTION 12. 61.21 of the statutes is amended to read:

61.21 Within 5 days after the election or appointment of any village officer the village clerk shall notify the person so selected thereof unless

he voted at such election, and every person elected or appointed to any named in s. 61.19 ~~except justice of the peace~~ shall within 5 days after such election or appointment or notice thereof, when so required to be given, take and file the official oath.

SECTION 13. 62.09 (1) (a) and (3) (a) of the statutes, as amended by chapter 20, laws of 1965, are amended to read:

62.09 (1) (a) The officers shall be a mayor, treasurer, clerk, comptroller, attorney, engineer, one or more assessors, one or more ~~justices of the peace~~ and constables as determined by the common council, a health commissioner or board of health, street commissioner, a board of police and fire commissioners, except in cities where not applicable, chief of police, chief of the fire department, a board of public works, a board of education or of school commissioners, except in cities where not applicable, 2 aldermen from each ward, and such other officers or boards as are created by law or by the council. If one alderman from each ward is provided pursuant to s. 66.018 (1), the council may, by ordinance, adopted by a two-thirds vote of all its members and approved by the electors at the general or special election, provide that there shall be 2 aldermen from each ward.

(3) (a) The mayor, ~~and aldermen and justices of the peace~~ shall be elected by the voters.

SECTION 14. 62.24 (1) (a), as affected by chapters 161, 249 and 433, laws of 1965, and (c), (2) (a) (intro. par.) and 8 and (3) (b) and (d) of the statutes are amended to read:

62.24 (1) (a) The common council of any city may by ordinance provide for the election of a justice of the peace, and in cities of the 1st class, one or more such justices, to be "municipal justice of the peace" ~~in addition to justices of the peace otherwise provided for by law~~ and such municipal justice of the peace shall be elected at large as provided by the council. He shall qualify pursuant to s. 62.09 (4) and file pursuant to s. 19.01 (4) (c). If any city which has created the office of municipal justice of the peace consolidates with or has previously consolidated with another municipality which also had created such office, such city may provide for the election of 2 municipal justices of the peace.

(c) In case of his absence, sickness or disability, he may, by written order filed in his court, designate ~~a justice of the peace or another municipal justice of the peace~~ to perform his duties during such time. When such incumbent justice is incompetent, unable or fails to make such designation, the mayor may make such designation subject to confirmation by the council.

(2) (a) (intro. par.) The municipal justice of the peace shall have the jurisdiction, both as to subject matter and as to territory, ~~of any other prescribed by law for a justice of the peace~~ and in addition shall have:

8. Jurisdiction of garnishment actions and actions commenced by warrant of attachment against the property of a debtor, as provided by and subject to the limitations set forth in ch. 304. ~~Justices of the peace, other than municipal justices of the peace, shall not have jurisdiction of such actions.~~

(3) (b) The procedure shall be ~~the same as is that~~ applicable to ~~other~~ justices of the peace, except as otherwise provided ~~in this section~~.

(d) ~~When juries shall be~~ are selected in criminal cases ~~in the same manner as in other justice courts except that~~, either side may challenge 2 talesmen peremptorily.

SECTION 15. 62.24 (2) (c) of the statutes is repealed.

SECTION 16. 62.26 (6) (a) of the statutes is amended to read:

62.26 (6) (a) Justices of the peace ~~and municipal justices of the peace~~ shall qualify and have jurisdiction in each county the same as though the city lay wholly therein, and may hold court in one county while exercising jurisdiction in the other. If a defendant resides in either of said counties, venue upon appeal or certiorari in civil cases shall be in such county, otherwise in that one of said counties where the cause of action arose, if it arose in either, otherwise in either county. In criminal cases venue upon appeal or certiorari shall be in the county where the offense was committed. In cases of removal of a cause, the papers shall be transmitted to the nearest justice of the peace of the city competent to try the same, and if there ~~be is~~ none ~~such~~ or he ~~be is~~ absent or sick, then to the nearest justice of the peace of the county where a defendant was served and in criminal cases of the county where the offense was committed.

SECTION 17. 176.01 (5) of the statutes is amended to read:

176.01 (5) ~~The term "Magistrate" includes the judges of the several courts of record and judges of any municipal court in vacation as well as term time, court commissioners, police justices, and all justices of the peace.~~

SECTION 18. 235.19 (2) (j) of the statutes is repealed.

SECTION 19. 256.22 (3), (4) and (5) of the statutes are amended to read:

256.22 (3) No practicing attorney shall have his office in the same room with any district attorney, ~~municipal justice~~, justice of the peace, or court commissioner, unless he is a partner of such district attorney, ~~municipal justice~~, justice of the peace, or court commissioner, in which case he shall not practice as an attorney before such ~~municipal justice~~, justice of the peace, or court commissioner nor act as attorney in any case in which it is the duty of such district attorney to appear or prosecute for the state; except that the law partner of any district attorney may, at the request of the district attorney, without fee or compensation therefor, assist the district attorney in the prosecution of any case on the part of the state.

(4) No law partner of any district attorney shall act as a ~~municipal justice~~, justice of the peace or court commissioner in any case in which the state may be a party or defend in any court any person charged with any offense, or appear in any civil action against the state in which it is the duty of such district attorney to prosecute or appear for the state.

(5) Any attorney who violates ~~any provision of~~ sub. (2), (3) or (4), and any ~~municipal justice~~, justice of the peace or court commissioner, who violates or knowingly permits any such violation, ~~shall may~~ be fined not to exceed \$100 for each such offense.

SECTION 20. 256.54 (1) of the statutes is amended to read:

256.54 (1) In this section, unless the context requires otherwise, "court" means any tribunal recognized as part of the judicial branch of the government, but excluding justices of the peace ~~and municipal justices of the peace~~.

SECTION 21. 300.001 (1) of the statutes is amended to read:

300.001 (1) Justice means *municipal* justice of the peace;

SECTION 22. 300.05 (10) of the statutes is created to read:

300.05 (10) Actions specified in s. 62.24 (2) (a).

SECTION 23. 300.06 (5) of the statutes is repealed.

SECTION 24. 885.01 (1) of the statutes, as renumbered by chapter 66, laws of 1965, is amended to read:

885.01 (1) By any judge or clerk of a court or court commissioner or justice of the peace, ~~or municipal justice of the peace~~ within the territory in which such officer or the court of which he is such officer has jurisdiction, to require the attendance of witnesses and their production of lawful instruments of evidence in any action, matter or proceeding pending or to be examined into before any court, magistrate, officer, arbitrator, board, committee or other person authorized to take testimony in the state.

SECTION 25. 887.01 (1) of the statutes, as renumbered by chapter 66, laws of 1965, is amended to read:

887.01 (1) An oath or affidavit required or authorized by law ~~(, except oaths to jurors and witnesses on a trial and such other oaths as are required by law to be taken before particular officers)~~, may be taken before any judge, court commissioner, resident United States commissioner who has complied with s. 235.19, clerk, deputy clerk or calendar clerk of a court of record, notary public, town clerk, village clerk, city clerk, justice of the peace, ~~including any municipal justice~~, county clerk or his deputy within the territory in which such officer is authorized to act; and, when certified by such officer to have been taken before him, may be read and used in any court and before any officer, board or commission. Oaths may be administered by any person mentioned in s. ~~325.01~~ 885.01 (3) and (4) to any witness examined before him.

SECTION 26. 946.15 (1) and (2) of the statutes are amended to read:

946.15 (1) A justice of the peace, ~~municipal justice of the peace~~ or constable who directly or indirectly acquires a financial interest in any note, bond, demand or cause of action for the purpose of commencing an action thereon before a justice of the peace ~~or municipal justice~~; or

(2) A justice of the peace, ~~municipal justice of the peace~~, or constable who lends or advances, agrees to lend or advance, or procures to be lent or advanced anything of value to another as an inducement to such other person to place a cause of action in his hands for prosecution or collection or as a reward or consideration for such other person having done so; or

SECTION 27. 960.01 of the statutes is amended to read:

960.01 Except as otherwise provided in this chapter, justices of the peace shall have jurisdiction throughout their respective counties to hold court to try and determine all charges under ss. 940.20 and 947.01. ~~Neither Justices of the peace nor municipal justices of the peace shall not have jurisdiction to hold preliminary examinations in felony cases.~~

SECTION 28. 990.01 (17m) of the statutes is amended to read:

990.01 (17m) "Justice of the peace" ~~includes means~~ municipal justices ~~justice~~ of the peace.

SECTION 29. TRANSFER PROVISIONS. (1) By August 1, 1966, all records in the possession of a justice of the peace, other than a municipal justice of the peace, shall be transmitted by him to the municipal justice of the peace for the same municipality or, if there is no municipal justice, to the county court of his county. By August 1, 1966, all moneys collected by judgment and owing to any municipality or county in the possession of

a justice of the peace who is not a municipal justice of the peace shall be paid over by him to the municipality or county to which due.

(2) No judgment of a justice of the peace who is not a municipal justice of peace is invalidated by this act. The municipal justice of the peace for the same municipality or, if there is no municipal justice, the county court of the county with which the records were filed may issue execution and transcripts upon any such judgment.

(3) The powers and duties prescribed by law for justices of the peace may be exercised only by municipal justices of the peace, and no justice of the peace, other than a municipal justice of the peace, may exercise such powers and duties.

SECTION 30. STATUTORY CHANGES. The revisor of statutes, in co-operation with the judicial council, shall prepare for introduction in the 1967 session a bill changing all statutory references to "municipal justice of the peace," "justice of the peace," "justice court" and words of similar import to "municipal justice court" or "municipal justice," as he deems appropriate.

Approved July 4, 1966.
