

**1999 DRAFTING REQUEST**

**Bill**

Received: 09/8/98

Received By: **shoveme**

Wanted: **As time permits**

Identical to LRB:

For: **Robert Welch (608) 266-0751**

By/Representing: **Sen. Welch**

This file may be shown to any legislator: **NO**

Drafter: **shoveme**

May Contact:

Alt. Drafters:

Subject: **Counties  
Munis - miscellaneous**

Extra Copies:

**Pre Topic:**

No specific pre topic given

**Topic:**

Changes to compatibility of offices statute

**Instructions:**

See Attached. Allow a "governing body member" to serve as an employee of a city recreation dept.

**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>
/1	shoveme 09/28/98	gilfokm 09/29/98	jfrantze 09/30/98	_____	lrb_docadmin 09/30/98	lrb_docadmin 04/22/99	Local
				_____	gretskl 04/22/99	lrb_docadmin 04/22/99	
				_____	lrb_docadmin 04/22/99		

FE Sent For:

**5/25/99**

<END>

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1?	shoveme	1-9-29-98	8/30	8/30			
<b>11 MES 9/28/98</b>							

FE Sent For:

<END>



State Senator  
**Robert T. Welch**

August 28, 1998

**MEMORANDUM**

**TO : MARC SCHOVERS**

**FROM : SENATOR ROBERT T. WELCH**

**SUBJECT : Legislation Amending Compatability Law 66.11(4) Wis. Stats.**

I would like legislation drafted for introduction in the next session creating an additional exemption allowing a governing body member to serve as an employee of the city recreation department. I am enclosing a copy of a letter and language sent to my office from James Lewinski, Mayor of Waupaca.

Since I am not up for election, it is my understanding that you can begin drafting this legislation after September 1<sup>st</sup>.

If you have any questions, you can contact the mayor or Les Wakefield in my office.




## CITY OF WAUPACA

111 SOUTH MAIN STREET • WAUPACA, WISCONSIN 54981  
OFFICE OF THE MAYOR TELEPHONE: (715) 258-4410  
FAX (715) 258-4426

July 30, 1998

Senator Robert Welch  
P.O. Box 523  
Red Granite, WI 54970

Dear Senator Welch:

 I trust this letter finds you well. I am writing to seek your assistance on a legislative matter. Specifically, I would like to see an amendment to the compatability law (sec 66.11(4), Wisc. Stats. which would create an additional exemption allowing a governing body member to serve as an employee of the city recreation department, as long as the individual does not earn total compensation (salary & benefits) of more than \$2,500/year. This proposed legislation would be consistent with the EMT and volunteer firefighters exemptions currently in place in the law.

The rationale in advocating this position is simple. One, in small communities the pool of community minded individuals is limited so there must be a means to facilitate involvement by government body members in community activities run by city departments. Second, there is an element of volunteerism in working as a recreation coach or umpire/official. Like EMT's and firefighters the compensation is not the main reason they are involved. Rather they are involved to assist and help their communities.

Thank you for your time and consideration. I appreciate any help you can give me on this. Please call if you have any questions or comments. I look forward to speaking with you soon.

Sincerely,

James Lewinski  
Mayor

JL/ar

### **66.11 Eligibility for office.**

**(1) Deputy sheriffs and municipal police.** No person shall be appointed deputy sheriff of any county or police officer for any city, village or town unless that person is a citizen of the United States. This section shall not affect common carriers, nor apply to a deputy sheriff not required to take an oath of office.

**(2) Eligibility of other officers.** Except as expressly authorized by statute, no member of a town, village or county board, or city council, shall, during the term for which the member is elected, be eligible for any office or position which during such term has been created by, or the selection to which is vested in, such board or council, but such member shall be eligible for any elective office. The governing body may be represented on city, village or town boards and commissions where no additional remuneration is paid such representatives and may fix the tenure of such representatives notwithstanding any other statutory provision. This subsection shall not apply to a member of any such board or council who resigns from said board or council before being appointed to an office or position which was not created during the member's term in office.

**(3) Appointments on consolidation of offices.** Whenever offices are consolidated, the occupants of which are members of the same statutory committee or board and which are serving in that office because of holding another office or position, the common council or village board may designate another officer or officers or make such additional appointments as may be necessary to procure the number of committee or board members provided for by statute.

**(4) Compatible offices and positions.** A volunteer fire fighter or emergency medical technician in a city, village or town whose annual compensation, including fringe benefits, does not exceed \$2,500 may also hold an elected office in that city, village or town.

**History:** 1979 c. 110; 1987 a. 27, 403; 1991 a. 316; 1993 a. 246.



State of Wisconsin  
1999 - 2000 LEGISLATURE

LRB-00487

MES...  
*King*  
*LMP*

~~PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION~~

*gm*

1 AN ACT ...; relating to: the compatibility of the offices of elected member of a local  
2 governing body and employe<sup>e</sup> of a certain department of that unit of  
3 government.

*cannot two*

***Analysis by the Legislative Reference Bureau***

In general, under a number of state supreme court decisions, the doctrine of compatibility holds that one person ~~cannot~~ hold ~~2~~ offices if one office is superior to another in some respect and that the superior office makes decisions about the other office such that the duties exercised under each might conflict to the public detriment. The doctrine applies "where the nature and duties of town offices were such as to render it improper from considerations of public policy for one person to discharge the duties of both" (*Martin v. Smith*, 239 Wis. 314, 326 (1941)), and prohibits a person from holding both a public office and an incompatible position of public employment.

A specific statutory exception to the doctrine authorizes a volunteer fire fighter or emergency medical technician in a city, village or town whose annual compensation, including fringe benefits, does not exceed \$2,500 to simultaneously hold an elected office in that city, village or town.

This bill creates a similar statutory exception for an employe<sup>e</sup> of a local recreation department. Under the bill, such an employe<sup>e</sup> of a city, village or town whose annual compensation, including fringe benefits, does not exceed \$2,500 may simultancously hold an elected office in that city, village or town.



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

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

1 SECTION 1. 66.11 (4) of the statutes is renumbered 66.11 (4) (intro.) and  
2 amended to read:

(intro.)

3 66.11 (4) ~~INTRO~~ COMPATIBLE OFFICES AND POSITIONS. ~~A volunteer fire fighter or~~  
4 ~~emergency medical technician~~ An individual who holds an elected office in a city,  
5 village or town may also hold any of the following positions in a <sup>✓</sup> that city, village or  
6 town whose if the individual's annual compensation for that position, including  
7 fringe benefits, does not exceed \$2,500 may also hold an elected office in that city,  
8 village or town.;

History: 1979 c. 110; 1987 a. 27, 403; 1991 a. 316; 1993 a. 246.

9 SECTION 2. 66.11 (4) (a) to (c) of the statutes are created to read:

10 66.11 (4) (a) Volunteer fire fighter.

11 (b) Emergency medical technician.

12 (c) Employee of a city, village or town recreation department.

13 (END)

**SUBMITTAL  
FORM**

**LEGISLATIVE REFERENCE BUREAU**  
**Legal Section Telephone: 266-3561**  
**5th Floor, 100 N. Hamilton Street**

The attached draft is submitted for your inspection. Please check each part carefully, proofread each word, and sign on the appropriate line(s) below.

**Date:** 9/30/98

**To:** Senator Welch

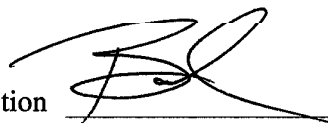
**Relating to LRB drafting number:** LRB-0048

**Topic**

Changes to compatibility of offices statute

**Subject(s)**

Counties, Munis - miscellaneous

1. **JACKET** the draft for introduction 

in the **Senate**  or the **Assembly**  (check only one). Only the requester under whose name the drafting request is entered in the LRB's drafting records may authorize the draft to be submitted. Please allow one day for the preparation of the required copies.

2. **REDRAFT.** See the changes indicated or attached \_\_\_\_\_.

A revised draft will be submitted for your approval with changes incorporated.

3. Obtain **FISCAL ESTIMATE NOW**, prior to introduction 

If the analysis indicates that a fiscal estimate is required because the proposal makes an appropriation or increases or decreases existing appropriations or state or general local government fiscal liability or revenues, you have the option to request the fiscal estimate prior to introduction. If you choose to introduce the proposal without the fiscal estimate, the fiscal estimate will be requested automatically upon introduction. It takes about 10 days to obtain a fiscal estimate. Requesting the fiscal estimate prior to introduction retains your flexibility for possible redrafting of the proposal.

If you have any questions regarding the above procedures, please call 266-3561. If you have any questions relating to the attached draft, please feel free to call me.

Marc E. Shovers, Senior Legislative Attorney  
Telephone: (608) 266-0129