



---

---

**WISCONSIN LEGISLATIVE COUNCIL  
AMENDMENT MEMO**

---

---

<b>2001 Assembly Bill 470</b>	<b>Assembly Substitute Amendment 1</b>
<b>Memo published: October 22, 2001</b>	<b>Contact: Don Dyke, Senior Staff Attorney (266-0292)</b>

**APPOINTMENT WHEN MUNICIPAL JUDGE IS TEMPORARILY ABSENT, SICK OR DISABLED**

**Current Law**

Under current law, if a municipal judge is to be temporarily absent or is sick or disabled, the judge may transfer the case to circuit court or, with the approval of the chief judge of the judicial administrative district, may designate another municipal judge to perform his or her duties for a period not to exceed 30 days. [s. 800.06 (1), Stats.] If the municipal judge is from the first judicial administrative district (Milwaukee County) the judge may designate another municipal judge from any municipality within the state. [s. 800.06 (1) (a), Stats.] If the municipal judge is from a judicial administrative district other than the first district, the judge may only designate another municipal judge from the same judicial administrative district. [s. 800.06 (1) (b), Stats.]

**The Substitute Amendment**

The substitute amendment allows the temporarily absent, sick or disabled municipal judge to designate another municipal judge from any municipality in the state, regardless of the designating judge's judicial administrative district (the designation continues to be subject to the approval of the chief judge). In addition, the substitute amendment allows the designation of a temporary reserve judge, as an alternative to a sitting judge. The temporary reserve judge need not reside in the judicial administrative district in which the municipal court is located.

**APPOINTMENT WHEN PERMANENT VACANCY IN OFFICE OF MUNICIPAL JUDGE**

**Current Law**

Under current law, if there is a permanent vacancy in the office of municipal judge, the chief judge of the judicial administrative district may, upon request of the municipal governing body,

designate another municipal judge to perform the duties of the office until the office is filled by temporary appointment of the governing body under s. 8.50 (4) (fm), Stats. [s. 800.06 (3), Stats.] The chief judge of the first judicial administrative district may designate a municipal judge from any municipality within the state; the chief judge of a judicial administrative district other than the first district is limited to designating a municipal judge from a municipality within the same judicial administrative district as the chief judge.

**The Substitute Amendment**

The substitute amendment allows the designation of a temporary reserve judge, as an alternative to a sitting municipal judge, until the permanent vacancy is filled by temporary appointment by the governing body. In addition, the substitute amendment allows the chief judge of a judicial administrative district to appoint a temporary reserve judge or municipal judge from any municipality within the state.

**APPOINTMENT OF TEMPORARY RESERVE JUDGES IN MUNICIPAL COURT**

**Current Law**

Under current law, the chief judge of a judicial administrative district may appoint a temporary reserve judge to perform duties on a day-by-day basis as directed by the chief judge. [s. 800.056, Stats.]

**The Substitute Amendment**

The substitute amendment expressly provides that a temporary reserve judge may be appointed by the chief judge of a judicial administrative district regardless of where the temporary reserve judge resides at the time of appointment.

**APPOINTMENT IN CASES OF MUNICIPAL JUDGE INCOMPETENCE, INABILITY OR FAILURE TO ACT; DISQUALIFICATION; OR SUBSTITUTION**

**Current Law**

Under current law, if a municipal judge is incompetent, unable or fails to act, recuses himself or herself, or is subject to a substitution order, the Chief Justice of the Supreme Court assigns another municipal judge, temporary reserve judge, or circuit judge, depending on the reason for the assignment, or transfers the case to circuit court. [See, generally, ss. 751.03 (2); and 800.06 (2), Stats.]

**The Substitute Amendment**

The substitute amendment does not affect the assignment of another municipal judge or temporary reserve judge in these circumstances.

**ASSIGNMENT OF OTHER JUDGES UNDER SUBSTITUTE AMENDMENT SUBJECT TO LOCAL QUALIFICATIONS**

The substitute amendment also requires that a municipal judge or temporary reserve judge assigned under its provisions meet any local qualifications for a municipal judge, such as a requirement that a municipal judge be a lawyer, established by the municipality or municipalities that established the municipal court.

**DIFFERENCES BETWEEN SUBSTITUTE AMENDMENT AND ORIGINAL PROPOSAL**

The substitute amendment revises the original bill by:

1. Expressly applying to assignment of municipal judges or temporary reserve judges in cases where a municipal judge is temporarily absent or is sick or disabled and where there is a permanent vacancy in the office of municipal judge. (As drafted, the original bill only applied to appointment of temporary reserve judges by the district chief judge to perform duties on a day-by-day basis as directed by the chief judge and, arguably, did not apply to the situations expressly covered by the substitute amendment.)
2. Specifying that either a municipal judge or a temporary reserve judge may be appointed in cases of temporary absence, sickness or disability, or vacancy.
3. Requiring that a municipal judge or temporary reserve judge appointed under the provisions of the substitute amendment meet any local eligibility qualifications.

Assembly Substitute Amendment 1 was recommended for adoption by the Assembly Committee on Judiciary by a vote of Ayes, 8; Noes, 0.

DD:tlu;ksm

CITY OF MILWAUKEE  
DEPARTMENT OF ADMINISTRATION  
INTERGOVERNMENTAL RELATIONS DIVISION

Phone: 414/286-3747

Fax: 414/286-8547



FAX COVER SHEET

To: Senator Gary R. George

From: Michael Miller

Date: 11-28-01 No. of Pages: 3

Phone: \_\_\_\_\_ Fax: 266-7381-(608)

Message: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_



**JUDGE LOUIS B. BUTLER, JR.**

Milwaukee Municipal Court, Branch 2  
951 North James Lovell Street  
Milwaukee, Wisconsin 53233  
414-286-8759



November 27, 2001

Michael Miller  
Staff Assistant  
Office of the Mayor  
200 East Wells St., Room 201  
Milwaukee, WI 53202

Dear Mr. Miller:

RE: Amendment to Substitute Judge Bill

Milwaukee's municipal court recently supported a change in legislation allowing municipal judges to serve in jurisdictions outside of their own in place of a judge who could not otherwise attend a scheduled proceeding. This change in the law would essentially give the judges around the state the same authority that Milwaukee currently has to appoint substitute judges.

Recently, an Amendment to this Bill was added that would require any substitute judge to have the same qualifications as the judge or judges that are elected to serve in that jurisdiction. The net effect of this amendment would require that substitute judges sitting in Milwaukee would now have to be attorneys.

A number of judges who currently sit for us are not lawyers, and this is on a regular basis. Indeed, this Amendment would make it difficult for this court to operate without unscheduled closures because of the limited number of judges who would be available to us. We find it ironic that we supported a Bill to help other judges that will now severely hamper our ability to operate effectively. At minimum, this Amendment should be eliminated. Otherwise, we need your help in making sure the Bill is not passed.

Sincerely,



LOUIS B. BUTLER, JR.  
Presiding Judge

LBB/gtk

# WISCONSIN MUNICIPAL JUDGES ASSOCIATION

10533 West National Avenue, #200

West Allis, WI 53227

Telephone (414) 541-6800

Fax (414) 541-7739

E-mail: [wmja@execpc.com](mailto:wmja@execpc.com)

Board of Directors

President

JoAnn Eiring  
Town of Brookfield  
(62) 544-4600  
Fax (262) 544-9456

Vice-President

Douglas Stern  
Western Waukesha County

Secretary/Treasurer

Ronald J. Wambach  
City of Franklin

1st-President

Richard J. Steinberg  
City of Brookfield

2nd-President

Gary A. Glojek  
City of Pewaukee

3rd-President

Shelley J. Gaylord  
City of Madison

4th-President

Nancy Bekx  
Town of Buchanan

5th-President

Mark L. Goodman  
City of Sparta

Legislative Chairman

Michael C. Hurt  
Village of Menomonee Falls

Program Chairman

Vincent Bobot  
City of Milwaukee

Public Affairs Chairman

C. Michael Hausman  
City of Delafield

Senator Gary George  
c/o Wisconsin State Senate  
State Capitol  
Madison, WI 53702

RE: AB 470

Dear Senator George:

It has come to the attention of the Wisconsin Municipal Judges Association that AB 470 has, by amendment, lost its original intent and purpose. This bill was originated by the Wisconsin Municipal Judges Association and introduced to the Assembly by Representative Jeskewitz, Sherman, Lippert, D. Meyer, Wage, Townsend, Owens, Ladwig, Kedzie, Sykora, Lehmann, Ott, Ryba and Olson. It was co-sponsored by Senators George, Huelsman, Darling and Roessler.

It was originally intended to allow a District Chief Judge to appoint any eligible municipal judge as defined in 800.065, whether they were an attorney or non-attorney municipal judge, to sit as a "temporary municipal judge" anywhere in the state.

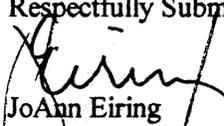
The bill now has been amended to limit the appointment to municipal judges that meet the municipality's qualifications for its judgeship. In other words, a community may require their judge to be a lawyer. Thus a non-attorney judge could not sit on a temporary basis. **THIS WAS NOT THE INTENT OR DESIRE OF THE WISCONSIN MUNICIPAL JUDGES ASSOCIATION.**

This would cause a great disservice and hardship to many communities throughout the state, including, but in no way limited, to Milwaukee County, Waukesha County, Dane County, Brown County and many others.

The association firmly believes that through mandatory judicial education, municipal judge mentoring programs and practical experience, Wisconsin's municipal judges, whether lawyers or non-lawyers, are qualified to sit in any municipal court.

We urge you to please review the attached copy of AB 470 and either eliminate the highlighted parts in the bill or KILL the bill in its entirety and allow the status quo for appointments of temporary reserve municipal judges to remain.

Respectfully Submitted,

  
JoAnn Eiring  
President, Wisconsin  
Municipal Judges Association

  
Michael C. Hurt  
Legislative Director  
WMJA

CITY OF MILWAUKEE  
DEPARTMENT OF ADMINISTRATION  
INTERGOVERNMENTAL RELATIONS DIVISION

Phone: 414/286-3747

Fax: 414/286-8547



FAX COVER SHEET

To: Senator Gary R. George

From: Michael Miller

Date: 1-3-02 No. of Pages: 7

Phone: \_\_\_\_\_ Fax: 266-7381-(608)

Message: Dan,

I was out of town when you called -  
Just got back today. Here's the info  
you requested



**JUDGE LOUIS B. BUTLER, JR.**

Milwaukee Municipal Court, Branch 2  
951 North James Lovell Street  
Milwaukee, Wisconsin 53233  
414-286-8759



November 27, 2001

Michael Miller  
Staff Assistant  
Office of the Mayor  
200 East Wells St., Room 201  
Milwaukee, WI 53202

Dear Mr. Miller:

RE: Amendment to Substitute Judge Bill

Milwaukee's municipal court recently supported a change in legislation allowing municipal judges to serve in jurisdictions outside of their own in place of a judge who could not otherwise attend a scheduled proceeding. This change in the law would essentially give the judges around the state the same authority that Milwaukee currently has to appoint substitute judges.

Recently, an Amendment to this Bill was added that would require any substitute judge to have the same qualifications as the judge or judges that are elected to serve in that jurisdiction. The net effect of this amendment would require that substitute judges sitting in Milwaukee would now have to be attorneys.

A number of judges who currently sit for us are not lawyers, and this is on a regular basis. Indeed, this Amendment would make it difficult for this court to operate without unscheduled closures because of the limited number of judges who would be available to us. We find it ironic that we supported a Bill to help other judges that will now severely hamper our ability to operate effectively. At minimum, this Amendment should be eliminated. Otherwise, we need your help in making sure the Bill is not passed.

Sincerely,

LOUIS B. BUTLER, JR.  
Presiding Judge

## 2001 - 2002 LEGISLATURE

LRB-2962/1  
RPN:jld:jf**2001 ASSEMBLY BILL 470**

August 15, 2001 - Introduced by Representatives JESKEWITZ, SHERMAN, LIPPERT, D. MEYER, WADE, TOWNSEND, OWENS, LADWIG, KEDZIE, SYKORA, M. LEHMAN, OTT, RYBA and OLSEN, cosponsored by Senators GEORGE, HUELSMAN, DARLING and ROESSLER. Referred to Committee on Judiciary.

- 1 **AN ACT** *to amend* 800.065 (1); and *to create* 800.065 (2m) of the statutes;  
2 **relating to:** the appointment of municipal temporary reserve judges.

---

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

Under current law, the chief judge of a judicial administrative district may appoint a person as a temporary reserve judge to act as a municipal court judge in a municipality in that district to perform duties on a day-to-day basis as directed by the chief judge. To be eligible to be appointed as a temporary reserve judge, a person must have served eight or more years as a municipal court judge or served four or more years as a municipal court judge and not been defeated in his or her last judicial office race. This bill allows the chief judge of a judicial administrative district to appoint any eligible person to act as a temporary reserve judge within that judicial district, regardless of where the person resides at the time of the appointment.

---

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

- 3 **SECTION 1.** 800.065 (1) of the statutes is amended to read:  
4 800.065 (1) **DEFINITIONS.** In this section, "temporary reserve judge" means a  
5 ~~person appointed to act as a judge for a municipal court for any municipality within~~  
6 ~~the judicial administrative district appointed by the chief judge of that the judicial~~

2001 - 2002 Legislature  
**ASSEMBLY BILL 470**

- 2 -

LRB-2962/1  
RPN:jld:jf  
**SECTION 1**

1 administrative district in which the municipality is located to perform such specified  
2 duties on a day-by-day basis as the chief judge may direct.

3 **SECTION 2.** 800.065 (2m) of the statutes is created to read:

4 **800.065 (2m) APPOINTING AUTHORITY.** The chief judge of a judicial  
5 administrative district may appoint any person who is eligible under sub. (2) to serve  
6 as a temporary reserve judge regardless of where that person resides at the time of  
7 the appointment.

8 (END)

# History of Assembly Bill 470

## ASSEMBLY BILL 470

An Act to amend 800.065 (1); and to create 800.065 (2m) of the statutes; relating to: the appointment of municipal temporary reserve judges.

2001

08-15.	A.	Introduced by Representatives Jeskewitz, Sherman, Lippert, D. Meyer, Wade, Townsend, Owens, Ladwig, Kedzie, Sykora, M. Lehman, Ott, Ryba and Olsen; cosponsored by Senators George, Huelsman, Darling and Roessler.	
08-15.	A.	Read first time and referred to committee on Judiciary	375
09-06.	A.	Public hearing held.	
09-26.	A.	Assembly amendment <u>1</u> offered by Representative Staskunas	400
09-27.	A.	Assembly substitute amendment <u>1</u> offered by Representative Gundrum	421
09-27.	A.	Executive action taken.	
10-08.	A.	Report Assembly substitute amendment <u>1</u> adoption recommended by committee on Judiciary, Ayes 8, Noes 0	423
10-08.	A.	Report passage as amended recommended by committee on Judiciary, Ayes 8, Noes 0	423
10-08.	A.	Referred to committee on Rules	423
11-01.	A.	Placed on calendar 11-6-2001 by committee on Rules.	
11-06.	A.	Read a second time	525
11-06.	A.	Assembly substitute amendment <u>1</u> adopted	525
11-06.	A.	Ordered to a third reading	525
11-06.	A.	Rules suspended	525
11-06.	A.	Read a third time and passed	525
11-06.	A.	Ordered immediately messaged	525
11-07.	S.	Received from Assembly	457
11-07.	S.	Read first time and referred to committee on Judiciary, Consumer Affairs, and Campaign Finance Reform	458

Search for another history



[Back to Legislation Page](#)



[Back to Legislature Home Page](#)



*Senator Gary R. George  
State of Wisconsin  
Sixth Senate District*

118 South, State Capitol Building  
P. O. Box 7882  
Madison, WI 53707-7882  
(608) 266-2500

4011 W. Capitol Drive  
Milwaukee, WI 53216  
(414) 445-9436  
(877) 474-2000

Facsimile Cover Sheet

To:

Atty. Michael C. Hurt

From:

Office of State Senator Gary R. George

Recipient's Fax Number:

414 359-9778

Number of pages:

2, including cover sheet.

Attached please find the amendment we have had drafted to AB 470. I believe it addresses your concerns re: appointment of non-attorney muni. judges on a temporary basis.

If you have difficulty receiving this fax transmission please call (608) 266-2500.



*Senator Gary R. George  
State of Wisconsin  
Sixth Senate District*

118 South, State Capitol Building  
P. O. Box 7882  
Madison, WI 53707-7882  
(608) 266-2500

4011 W. Capitol Drive  
Milwaukee, WI 53216  
(414) 445-9436  
(877) 474-2000

**Facsimile Cover Sheet**

To: Atty. Michael C. Hunt

From: Office of State Senator Gary R. George

Recipient's Fax Number: (414) 359-9778

Number of pages: 5, including cover sheet.

Ass. sub amdt. to AB 470 and corrective  
Sen. amdt. for your review.

If you have difficulty receiving this fax transmission please call (608) 266-2500.