

2005 DRAFTING REQUEST

Bill

Received: 03/11/2005

Received By: mshovers

Wanted: As time permits

Identical to LRB:

For: Gary Sherman (608) 266-7690

By/Representing: Judy

This file may be shown to any legislator: NO

Drafter: mshovers

May Contact: Mary Offerdahl

Addl. Drafters:

Subject: Local Gov't - munis generally

Extra Copies:

Submit via email: YES

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

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Maximum monetary interest of town sanitary district commissioner in town sanitary district contracts

Instructions:

See attached. Create provision in 60.77 (7) that is similar to s. 60.37 (4)

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 04/13/2005	wjackson 04/13/2005	pgreensl 04/13/2005	_____	lemery 04/13/2005		Local
/2	mshovers 04/15/2005	wjackson 04/15/2005	rschluet 04/15/2005	_____	lnorthro 04/15/2005	lnorthro 08/11/2005	

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*Jacket per
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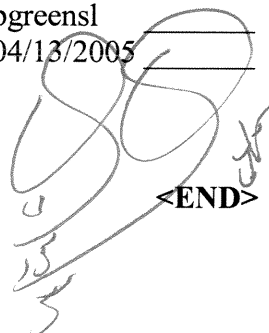
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12 MFS 4/15/05
FE Sent For: 12 WLJ 4/15


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11 MES	4/13/05		PS	PS11			

FE Sent For:

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WISCONSIN LEGISLATIVE COUNCIL

Terry C. Anderson, Director
Laura D. Rose, Deputy Director

TO: REPRESENTATIVE GARY SHERMAN

FROM: Mary Offerdahl, Staff Attorney

RE: Salary Limitations on a Local Governmental Board Member's Additional Employment With the Local Government

DATE: February 21, 2005

This memorandum responds to a question from your staff regarding a constituent letter to you discussing a statutory salary limitation on a town sanitary district commissioner's employment with the town sanitary district. Your staff asked for information on similar limitations applicable to a local governmental board member. After briefly describing the limitation on town sanitary district commissioner employment, this memorandum describes salary limitations on a local governmental board member's additional employment with the local government that the board member is representing.

Salary Limitation on a Town Sanitary District Commissioner's Additional Employment With the Sanitary District

A town sanitary district commissioner receives compensation fixed by the town board of the town having the largest portion of the equalized full value of all taxable property in the town sanitary district, and in addition may receive actual and necessary expenses incurred while in the performance of the duties of the office. [s. 60.77 (3), Stats.] A town sanitary district commissioner is statutorily required to let contracts for any work or purchase that involves an expenditure of \$15,000 or more to the lowest responsible bidder [s. 60.77 (6) (a), Stats.], and is prohibited from having an interest in "work or labor done for" the town sanitary district unless the interest complies with the following provision:

60.77 (7) INTEREST IN CONTRACTS; PENALTY. No commissioner may have an interest, directly or indirectly, in a contract with, **work or labor done for** or material furnished to the town sanitary district or to anyone on the district's behalf, unless the interest is in a contract **not exceeding \$1,000 in any one year** or in the publication of required legal notices by the district or a commissioner if the publication rate does not exceed the rate

MAKE this
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A 60.37(4)-
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of \$1,000 →
the max specified
in A. 60.37(4) (a)

prescribed by law. A commissioner who violates this subsection shall forfeit not less than \$50 nor more than \$500. [Emphasis added.]

Salary Limitations on a Local Governmental Board Member's Additional Employment With the Local Government

In general, local governmental board or council members are prohibited from holding any office or position created by or selected by the board or council while serving on the board or council, unless expressly authorized by statute. [s. 66.0501 (1), Stats.] Section 66.0501 (4), Stats., expressly authorizes:

- A **volunteer fire fighter, emergency medical technician, or first responder** in a city, village, or town whose annual compensation from one or more of those positions **does not exceed \$15,000** to also hold an elective office in that city, village, or town.
- An elected **town officer** to receive wages under s. 60.37 (4), Stats., **not exceeding a total of \$5,000 each year** for serving as a town employee, in addition to any amount that the elected town official receives under s. 60.32, Stats. (compensation from serving on the town board) or as a volunteer fire fighter, emergency medical technician, or first responder under s. 66.0501 (4), Stats. Section 60.37 (4), Stats., states as follows:

60.37 (4) ELECTED OFFICERS SERVING AS EMPLOYEES. (a) An elected town officer who also serves as a town employee may be paid an hourly wage for serving as a town employee, not exceeding a total of \$5,000 each year. Amounts that are paid under this paragraph may be paid in addition to any amount that an individual receives under s. 60.32 or as a volunteer fire fighter, emergency medical technician, or first responder under s. 66.0501 (4). The \$5,000 maximum in this paragraph includes amounts paid to a town board supervisor who is acting as superintendent of highways under s. 82.03 (1).

(b) 1. Except as provided in subd. 2., the town meeting shall establish the hourly wage to be paid an elected town officer for serving as a town employee.

2. If authorized by the town meeting under s. 60.10 (2) (L), the town board may establish the hourly wage to be paid an elected town officer, other than a town board supervisor, for serving as a town employee.

In addition to the above provisions specific to a local governmental board member's additional employment with the local government, please note that other more general statutory provisions may be relevant to a specific situation. Examples of other statutory provisions that may be relevant include the code of ethics for local government officials, employees, and candidates under s. 19.59, Stats., and the general prohibition (with exceptions) against private interest in a public contract under s. 946.13, Stats.

If you have any additional questions, please feel free to contact me directly at the Legislative Council staff offices.

MO:rv



State of Wisconsin
2005 - 2006 LEGISLATURE

LRB-2415/1

MES...f:....

WJ/PMR

2005 BILL

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I couldn't get this
to print out single-
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FN 4/13

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- 1 AN ACT ...; relating to: increasing the ^gthe contract amount of a contract in which
- 2 a town sanitary district commissioner may have an interest.

Analysis by the Legislative Reference Bureau

Under current law, the salary of a town sanitary district commissioner (commissioner) is set by the town board of the town with the largest portion of equalized value of all taxable property in the town sanitary district. Also under current law, a commissioner is required to let contracts, to the lowest responsible bidder, for any work or purchase that involves an expenditure ^gor at least \$15,000, and a commissioner may not have an interest in a contract involving the town sanitary district unless the interest is in a contract not exceeding \$1,000 in any one year.

The salary of an elective town officer is set, under current law, by the town meeting, and such an officer who is also an employee of the town may be paid an additional hourly wage for serving as a town employee in an amount of up to \$5,000 annually.

This bill increases from \$1,000 to \$5,000 the maximum value of a contract in which a commissioner may have an interest.

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:

BILL

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SECTION 1. 60.77 (7) of the statutes is amended to read:

60.77 (7) INTEREST IN CONTRACTS; PENALTY. No commissioner may have an interest, directly or indirectly, in a contract with, work or labor done for or material furnished to the town sanitary district or to anyone on the district's behalf, unless the interest is in a contract not exceeding ~~\$1,000~~ \$5,000 in any one year or in the publication of required legal notices by the district or a commissioner if the publication rate does not exceed the rate prescribed by law. A commissioner who violates this subsection shall forfeit not less than \$50 nor more than \$500.

History: 1983 a. 532; 1989 a. 31, 56, 159, 322; 1991 a. 39; 1993 a. 16; 1995 a. 185, 349, 378; 1999 a. 150 s. 672; 2001 a. 16.

SECTION 2. Initial applicability.

(1) This act first applies to a town sanitary district contract that is let on the effective date of this subsection.

(END)

Shovers, Marc

From: Sherman, Gary
Sent: Friday, April 15, 2005 8:23 AM
To: Shovers, Marc
Subject: RE: Submitted: LRB 05-2415/1 Topic: Maximum monetary interest of town sanitary district commissioner in town sanitary district contracts?body=

I agree. Reference to the town statute.

G

From: Shovers, Marc
Sent: Thursday, April 14, 2005 1:49 PM
To: Sherman, Gary
Subject: RE: Submitted: LRB 05-2415/1 Topic: Maximum monetary interest of town sanitary district commissioner in town sanitary district contracts?body=

Hello Representative Sherman:

Well, the automatic change could only work "one way" because one of the statutes will have to have a dollar value, as does s. 60.37 (4), and the other statute, s. 60.77 (7), can be cross-referenced to the dollar amount in s. 60.37 (4). The only reason not to make this change is that every time someone looks at 60.77 (7), they'd have turn to another statute to see what the dollar value is supposed to be. Not having the dollar value right in the statute may annoy some people. If you want me to go ahead and change the dollar value by cross-reference, would you like the dollar value to remain in s. 60.37 (4), with a cross-reference in s. 60.77 (7), or would you like the dollar value to be in s. 60.77 (7) with the cross-reference in s. 60.37 (4)? I'd recommend keeping the dollar value in s. 60.37 (4) because the issue probably comes up a lot more with respect to town employees than with town sanitary district commissioners.

Marc

Marc E. Shovers

Senior Legislative Attorney
Legislative Reference Bureau
Phone: (608) 266-0129
Fax: (608) 264-8522
e-mail: marc.shovers@legis.state.wi.us

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

From: Sherman, Gary
Sent: Thursday, April 14, 2005 12:02 PM
To: Shovers, Marc
Cc: Kelly, Judy
Subject: Submitted: LRB 05-2415/1 Topic: Maximum monetary interest of town sanitary district commissioner in town sanitary district contracts?body=

My preference was to do this by cross reference to the town statute, so that if one changes, the other will automatically, and it will make the point of equivalence, which is the whole idea. Is there some reason not to?



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RMA

2005 BILL

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1 AN ACT ..., relating to: increasing the contract amount of a contract in which a
2 town sanitary district commissioner may have an interest.

Analysis by the Legislative Reference Bureau

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The salary of an elective town officer is set, under current law, by the town meeting, and such an officer who is also an employee of the town may be paid an additional hourly wage for serving as a town employee in an amount of up to \$5,000 annually.

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

by linking the value to the maximum additional hourly wage that a town may pay an elective town officer who is also a town employee

Emery, Lynn

From: Tribys, Eleanora
Sent: Monday, December 12, 2005 4:26 PM
To: Emery, Lynn
Subject: LRB 1492 & LRB 2415

Could you please send me electronic versions of the above two referenced bills?

Thanks,
Nora Tribys
Office of Rep. Gary Sherman
74th Assembly District

Emery, Lynn

From: Emery, Lynn
Sent: Monday, December 12, 2005 4:30 PM
To: Tribys, Eleanora
Subject: LRB 05-1492/1 & 05-2415/2 (attached as requested)

Attachments: 05-1492/1; 05-2415/2



05-14921.pdf (18
KB)



05-24152.pdf (11
KB)

Lynn Emery
Program Assistant
Legislative Reference Bureau
(608) 266-3561