

2007 DRAFTING REQUEST

Assembly Amendment (AA-ASA2-SB176)

Received: **03/05/2008**

Received By: **mshovers**

Wanted: **As time permits**

Identical to LRB:

For: **Sheryl Albers (608) 266-8531**

By/Representing: **Terri and Rep. Albers**

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

Drafter: **mshovers**

May Contact:

Addl. Drafters:

Subject: **Local Gov't - counties
Local Gov't - 1st class cities**

Extra Copies:

Submit via email: **YES**

Requester's email: **Rep.Albers@legis.wisconsin.gov**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Investigation and reassignment of deputy sheriffs

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>
/1	mshovers 03/05/2008	lkunkel 03/05/2008	nnatzke 03/05/2008	_____	mbarman 03/05/2008	mbarman 03/05/2008	

FE Sent For:

<END>

2007 DRAFTING REQUEST

Assembly Amendment (AA-ASA2-SB176)

Received: 03/05/2008

Received By: mshovers

Wanted: As time permits

Identical to LRB:

For: Sheryl Albers (608) 266-8531

By/Representing: Terri and Rep. Albers

This file may be shown to any legislator: NO

Drafter: mshovers

May Contact:

Addl. Drafters:

Subject: Local Gov't - counties
Local Gov't - 1st class cities

Extra Copies:

Submit via email: YES

Requester's email: Rep.Albers@legis.wisconsin.gov

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Investigation and reassignment of deputy sheriffs

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>
/1	mshovers	1/1mk ^{3/5}	nwn 3/5	nwn / ps <u>3/5</u>			
<i>1/1 MBS 3/5/08</i>							

FE Sent For:

<END>

Shovers, Marc

From: Griffiths, Terri
Sent: Tuesday, March 04, 2008 2:55 PM
To: Shovers, Marc
Subject: LRB 1767

*modify a1064 / not
this bill*

Marc,

With regarding to LRB 1767 - Rep. Albers wants to add the following at line 7 on page 1 of the draft.
"Payments stop altogether at 180th day if the person refuses to accept reassignment."

My assumption then is if a deputy accepts reassignment then payment would continue after the 180 days should the investigation be ongoing.

I'd like have this change made and then put this into a draft for jacketing please.

Thank you,

*Terri S. Griffiths
Office of Rep. Sheryl Albers
266-8531
877-947-0050*

*payments stop ~~at~~ when charges
filed*

*Sheryl says to make the Am.
"consistent" w/ the bill & draft
it to ASA 2 to ~~SB~~ SB176*



ink
RMA

**ASSEMBLY AMENDMENT ,
TO ASSEMBLY SUBSTITUTE AMENDMENT 2,
TO 2007 SENATE BILL 176**

0-note
wanted:
2 p.m.

1 At the locations indicated, amend the substitute amendment as follows:

2 **1.** Page 1, line 3: before "1st class" insert "deputy sheriff's county law
3 enforcement employee's, and".

4 **2.** Page 3, line 1: before that line insert:

5 "SECTION 1d. 59.26 (9) (a) of the statutes is amended to read:

6 59.26 (9) (a) ~~A~~ Except as provided in par. (d), a deputy sheriff in any county may
7 not be suspended or dismissed under sub. (8) or s. 59.52 (8) or 63.10 without pay or
8 benefits, for any action taken that is within the scope of the deputy's employment,
9 until the matter that is the subject of the suspension or dismissal is disposed of by
10 the grievance committee or civil service commission or the time for appeal of that
11 matter passes without an appeal being made.

History: 1975 c. 198; 1977 c. 26; 1983 a. 27; 1983 a. 192 ss. 125, 303 (1); 1989 a. 221; 1991 a. 39, 316; 1993 a. 53; 1995 a. 201 s. 273; Stats. 1995 s. 59.26; 1995 a. 225 ss. 154, 155; 2001 a. 9, 107; 2003 a. 33 ss. 1523, 9160; 2005 a. 40.

12 "SECTION 1g. 59.26 (9) (d) of the statutes is created to read:

1

2

3

4

5

6

7

8

9

10

11

59.26 (9) (d) Following a discharge or suspension under sub. (8) s. 59.52 (8) or s. 63.10, no deputy sheriff or other law enforcement employee of the county is entitled to any salary or wages from the department pending an appeal of the discharge or suspension to the board, the grievance committee, or the civil service commission if charges relating to an offense, as defined in s. 62.50 (1e), are also pending against the deputy or employee and such charges arose out of the same conduct or incident that serves as the basis for the discharge or suspension. If the charges against the deputy or employee are dismissed, or if the deputy or employee is found not guilty of the charges, the deputy or employee shall be reinstated and entitled to pay as if he or she was in continuous service.

12

SECTION 1k. 59.52 (8) (b) (intro.) of the statutes is amended to read:

13

59.52 (8) (b) (intro.) ~~A~~ Except as provided in s. 59.26 (9) (d), a law enforcement employee of the county may not be suspended, demoted, dismissed or suspended and demoted by the civil service commission or by the board, based either on its own investigation or on charges filed by the sheriff, unless the commission or board determines whether there is just cause, as described in this paragraph, to sustain the charges. In making its determination, the commission or the board shall apply the following standards, to the extent applicable:"

20

3. Page 3, line 1: delete "SECTION 1" and substitute "SECTION 1s".

21

4. Page 8, line 4: after that line insert:

22

"SECTION 9m. 63.10 (1) of the statutes is amended to read:

23

63.10 (1) Whenever a person possessing appointing power in the county, the chief executive officer of a department, board or institution, the county park

24

1 commission, county election commission, civil service commission, and county board
2 of welfare as to officers and employees under their respective jurisdictions, believes
3 that an officer or employee in the classified service in that person's, commission's or
4 board's department has acted in such a manner as to show the officer or employee
5 to be incompetent to perform the officer's or employee's duties or to have merited
6 demotion or dismissal, the person, commission or board shall report in writing to the
7 civil service commission setting forth specifically the complaint against the officer
8 or employee, and may suspend the officer or employee at the time such complaint is
9 filed. It is the duty of the director of personnel to file charges against any officer or
10 employee in the classified service upon receipt of evidence showing cause for
11 demotion or discharge of the officer or employee in cases where a department head
12 or appointing authority neglects or refuses to file charges. Charges may be filed by
13 any citizen against an officer or employee in the classified service where in the
14 judgment of the commission the facts alleged under oath by the citizen and supported
15 by affidavit of one or more witnesses would if charged and established amount to
16 cause for the discharge of the officer or employee. The commission shall forthwith
17 notify the accused officer or employee of the filing of the charges and on request
18 provide the officer or employee with a copy of the same. Nothing Except as provided
19 in s. 59.26 (9) (d), ^{nothing} in this subsection shall limit the power of the department head to
20 suspend a subordinate for a reasonable period not exceeding 10 days. In case an
21 employee is again suspended within 6 months for any period whatever, the employee
22 so suspended shall have the right of hearing by the commission on the second
23 suspension or any subsequent suspension within said period the same as herein
24 provided for in demotion or dismissal proceedings." ✓

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRBa1574/1dn

MES...:...

mk

(date)

Representative Albers:

Please review this amendment very carefully to ensure that it meets your intent. I believe that the provisions in the amendment are similar to the provisions in ASA 2 to AB 176 that apply to 1st class city police officers but, because the whole system of discipline, suspension, and dismissal for deputy sheriffs and other county law enforcement officers is so different from the treatment of 1st class city police officers, both under current law and as affected by this substitute amendment, this amendment may not fit in too well with current law. ✓

In addition, it is possible that this amendment, as drafted, could be challenged as being nongermane to SB-176. ✓ Under Assembly Rule 54 (3) (f), an amendment that "substantially expands the scope of the proposal" is nongermane. It could be argued that this amendment, which deals with deputy sheriffs, substantially expands the scope of ASA 2 to SB-176, which deals with disciplinary actions against a 1st class city police officer. ✓ On the other hand, one could argue that this amendment is germane because it addresses disciplinary actions relating to law enforcement personnel. I just thought you should be aware of both sides of this issue should the amendment be challenged.

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

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRBa1574/1dn
MES:lmk:nwn

March 5, 2008

Representative Albers:

Please review this amendment very carefully to ensure that it meets your intent. I believe that the provisions in the amendment are similar to the provisions in ASA 2 to AB 176 that apply to 1st class city police officers but, because the whole system of discipline, suspension, and dismissal for deputy sheriffs and other county law enforcement officers is so different from the treatment of 1st class city police officers, both under current law and as affected by this substitute amendment, this amendment may not fit in too well with current law.

In addition, it is possible that this amendment, as drafted, could be challenged as being nongermane to SB-176. Under Assembly Rule 54 (3) (f), an amendment that "substantially expands the scope of the proposal" is nongermane. It could be argued that this amendment, which deals with deputy sheriffs, substantially expands the scope of ASA 2 to SB-176, which deals with disciplinary actions against a 1st class city police officer. On the other hand, one could argue that this amendment is germane because it addresses disciplinary actions relating to law enforcement personnel. I just thought you should be aware of both sides of this issue should the amendment be challenged.

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