



WISCONSIN LEGISLATIVE COUNCIL INFORMATION MEMORANDUM

Vacancies in the Office of Governor and Lieutenant Governor

CONSTITUTIONAL PROVISIONS

The Wisconsin Constitution provides that upon the Governor's death, resignation or removal from office, the Lieutenant Governor becomes Governor for the balance of the unexpired term. [Wis. Const. art. V, s. 7.]

The Wisconsin Constitution also provides that whenever there is a vacancy in the Office of Lieutenant Governor, the Governor must nominate a successor to serve for the balance of the unexpired term. That person takes office after confirmation by the Senate and by the Assembly. [Wis. Const. art. XIII, s. 10 (2).]

Both of the above constitutional provisions were created in 1979 following ratification by the voters of this state of a constitutional amendment that passed the Legislature in the 1977 and 1979 Sessions. The constitutional amendment resulted from a 1977 situation in which Governor Patrick Lucey left office in the middle of his term to become Ambassador to Mexico. Lieutenant Governor Martin Schreiber, under the Wisconsin Constitution as it existed at that time, became Acting Governor. Under the Constitution as it existed in 1977, Acting Governor Schreiber did not have the authority to appoint a new Lieutenant Governor for the balance of the unexpired term. The constitutional amendment ratified by the voters in 1979 provided that the

Lieutenant Governor became Governor (rather than Acting Governor) and provided a mechanism for filling a vacancy in the Office of Lieutenant Governor. Since ratification of the Constitutional amendment, no Governor has left office in mid-term.

PROCESS FOR CONFIRMING A LIEUTENANT GOVERNOR NOMINEE

Although the Wisconsin Constitution requires Senate and Assembly confirmation of a person nominated to be Lieutenant Governor, the rules of the Assembly or the joint rules do not explicitly provide a mechanism for confirmation. While many gubernatorial appointees are subject to Senate confirmation, there are no appointees, other than a person filling a vacancy in the Office of Lieutenant Governor, who require Assembly confirmation.

Confirmation of a person nominated to be Lieutenant Governor might be undertaken by one of a number of different processes. For example, the joint rules of the two houses could be amended to specify that the confirmation is undertaken by joint resolution. Presumably, the joint resolution would be unamendable since the only question before the two houses is confirmation. Another approach might be to

have the Assembly follow the procedure that the Senate currently follows for confirmation of other appointees; namely, a roll call vote on the question of confirmation. Senate rules also require that gubernatorial nominations be referred to a standing committee. [Senate Rule 22.] In the alternative, the Assembly could adopt an Assembly resolution that provides for confirmation.

In conclusion, the process of confirming a nominee for Lieutenant Governor could take any of several approaches. These might include:

- Amending the joint rules to provide for adoption of a joint resolution by both houses.
- Having the Senate follow its usual confirmation process (referral to a committee and a roll call vote on the

question of confirmation by the Senate) and having the Assembly follow the same process.

- Having the Senate follow its usual confirmation process and having the Assembly adopt an Assembly resolution for confirmation.

If either of the latter two approaches are used, the Assembly could amend its rules to specify that this is the process for Assembly confirmation of a Lieutenant Governor nominee.

This memorandum was prepared on January 12, 2001, by *Richard Sweet, Senior Staff Attorney, Legislative Council Staff*.

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