

**STATE OF WISCONSIN
SUPREME COURT**

In the matter of:

**The petition of the State Bar of Wisconsin
proposing revisions to SCR 10.04(1)
to permit non-resident members to serve
as certain officers of the State Bar of Wisconsin**

PETITION FOR REVISION OF SUPREME COURT RULE 10.04(1)

To: The Honorable Justices of the Supreme Court

The State Bar of Wisconsin petitions the Court for a revision to Supreme Court Rule 10.04(1) to permit non-resident members of the State Bar to hold office as treasurer, secretary and chairperson of the board of governors.

On October 24, 2008, the board of the State Bar's Non-Resident Lawyers Division voted 7-3 to request that the Board of Governors petition the Supreme Court to permit State Bar members who do not reside and practice in Wisconsin to be elected and serve as certain State Bar officers, namely treasurer, secretary and chairperson of the board. The Division's board did not request that non-resident members be permitted to serve as president-elect or president.

Under current SCR 10.04(1), only active members currently residing and practicing in Wisconsin are eligible to serve as officers of the State Bar. As of June 1, 2009, 31.4% or 7329 of the State Bar's total membership of 23,320 are non-residents and are ineligible to serve as officers under the current rule. All State Bar members who reside outside of Wisconsin are automatically enrolled in the Non-Resident Lawyers Division, and the Division's board is elected directly by the Division membership.

The Non-Resident Lawyers Division has advocated the revision to SCR 10.04(1) as a matter of general fairness and democracy. No substantive policy reasons exist why non-residents should not be eligible to serve in the State Bar officer positions referenced above. Non-resident members of the State Bar pay dues equal to those charged of resident members, yet they are currently denied the opportunity to serve as officers of the State Bar. The board of the Non-Resident Lawyers Division has not requested that non-residents be eligible to serve as president-elect or president due to the numerous duties those positions require. However, the positions of treasurer, secretary and chairperson of the board of governors are not so onerous that a non-

resident member could not perform them if given the opportunity to serve. Approving the proposed revision to SCR 10.04(1) will merely allow non-resident lawyers the opportunity to be nominated for treasurer, secretary and chairperson of the board; as with resident candidates for those positions, these lawyers would still need to be elected to the officer positions by State Bar members.

Pursuant to SCR 10.05 and 10.06, each year the president of the Non-Resident Lawyers Division is a member of both the board of governors and the executive committee, and attendance by the Non-Resident Lawyers Division president at meetings of those bodies in Wisconsin has consistently been equal to that of resident members. In 2008, the Supreme Court approved adding two additional non-resident lawyers to the board of governors in order to bring non-resident representation on the board to 14%, which is still less than the percentage of non-resident members of the State Bar. The Non-Resident Lawyers Division sought the revision to SCR 10.04(1) proposed in this petition so that non-resident lawyers can be further integrated into the State Bar's leadership by allowing these lawyers the opportunity to be eligible to serve the State Bar in the officer positions referenced above.

At its meeting on May 5-6, 2009, the Board of Governors adopted the Division's recommendation by a voice vote of greater than sixty percent. This petition sets forth the Board of Governors' requested amendment to SCR 10.04(1) to permit active, non-resident members to serve as treasurer, secretary and chairperson of the board.

While a strict reading of the modification requested below may suggest that, if the Court were to adopt the change, an inactive or judicial member of the State Bar would be eligible to serve as treasurer, secretary or chairperson of the board, it should be noted that current SCR 10.03(3)(b)(c) contains an independent prohibition on inactive or judicial members holding office in the State Bar. It is not the State Bar's intent to change this prohibition.

Requested modification:

SCR 10.04 Officers. (1) Titles; Nomination and Election. The officers of the state bar include a president, a president-elect, an immediate past-president, a chairperson of the board of governors, a secretary and a treasurer, who shall be nominated and elected in the manner provided by the bylaws. Only active members of the state bar residing and practicing law in Wisconsin are eligible to serve as ~~officers~~ president or president-elect of the association. The term of office of the president, president-elect, immediate past-president and chairperson of the board of governors is one year. The term of the secretary and the treasurer is 2 years, with the secretary elected in even-numbered years and the treasurer elected in odd-numbered years. The term of each officer runs until the qualification of a successor.

Based on the foregoing, the State Bar of Wisconsin requests that the Supreme Court amend SCR 10.04(1) as reflected above.

Respectfully submitted, this 24th day of June, 2009.

A handwritten signature in black ink, appearing to read "Diane S. Diel". The signature is fluid and cursive, with the first name "Diane" being more legible than the last name "Diel".

ATTY. DIANE S. DIEL
President, State Bar of Wisconsin
PO Box 7158
Madison WI 53707-7158