



STATE BAR OF WISCONSIN

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In the matter of:

The petition of the State Bar of Wisconsin
proposing revisions to SCR 10.04 and
SCR 10.05 relating to Officers and
the Board of Governors of the State Bar of Wisconsin.

SUPPORTING MEMORANDUM FOR REVISION OF SUPREME COURT RULE 10.04 and 10.05

TO: Chief Justice Shirley S. Abrahamson
Justice Ann Walsh Bradley
Justice N. Patrick Crooks
Justice David T. Prosser, Jr.
Justice Patience D. Roggensack
Justice Annette Kingsland Ziegler
Justice Michael J. Gableman

Filed with the Clerk of Court Diane Fremgen
Clerk of Supreme Court
110 E. Main Street, Suite 215
Madison, WI 53703

The State Bar of Wisconsin petitions the Court for a revision to Supreme Court Rule 10.04 and 10.05 relating to the succession of the president and the filling of vacancies and removal of officers and members of the Board of Governors. On June 12, 2013, the Board of Governors approved the filing of this petition by a 38-2 vote.

BACKGROUND

A subcommittee of the Board of Governors, the Committee on Governance, has been reviewing Supreme Court Rules and State Bar of Wisconsin bylaws related to the service of officers and members of the board of governors. In particular, the committee has been reviewing the matter of succession should there be a vacancy among the officers or governors, the definition of a vacancy, and the terms under which an officer or member of the board could be removed.

This petition is the implementing authority for revisions to the State Bar of Wisconsin's bylaws amendments adopted June 12, 2013.

PROPOSED REVISIONS

Vacancy

Vacancy is generally not defined in current rules or bylaws. Through the newly-approved bylaws amendments, the Bar adopted a definition where a vacancy would occur when there is a death, incapacity, inability to serve, revocation, suspension or relinquishment of law license, resignation or by removal of the Board.

Succession

Under SCR 10.04, should the position of president become vacant, the chairperson of the board of governors performs the duties of the president. The chairperson of the board is chosen by a majority vote of the board members, not by a vote of the membership. There are no provisions in Supreme Court rule or State Bar bylaws for filling a vacancy of the president-elect.

Under this petition and the accompanying bylaws amendments, should the office of the president become vacant under the definition or vacated by resignation or removal, the president-elect would complete the remaining term. The president-elect would also then serve the full term he or she was elected to serve. A vacancy in the position of president-elect would be filled by a majority vote of the total membership of the Board of Governors. A president-elect so chosen would succeed to the office of President only if necessary to fulfill a vacancy but would not serve an additional one year term as president unless elected by the membership at large at the next election. The Board of Governors adopted this plan to include the removal of the chair of the board from the line of succession since that person is not elected by the membership at large.

Removal

SCR 10.03 provides that, “No judicial or inactive member may practice law in this state or *hold office* or vote in any election conducted by the state bar. [Emphasis added]” One additional restriction can be found in SCR 10.04 (1), “Only active members of the state bar residing and practicing law in Wisconsin are eligible to serve as president or president-elect of the association.” Should a sitting officer of the Bar be suspended from practice, or commit misconduct while in office, the Bar has no recourse to act in the best interests of the organization should removal prove to be necessary.

The Board of Governors adopted amendments to the bylaws to include a procedure for the removal of an officer or member of the board if conduct while in office is contrary to the best interest of the State Bar. A vote of 75% of the membership of the Board would be required and the officer or governor would be given an opportunity to be heard.

The State Bar has considered provisions of other state, local and national bar associations as well as other associations and organizations and developed the language and due process protections approved in June 2013. In support of this petition, please find enclosed amendments to related State Bar Bylaws. These bylaws revisions were adopted by a 38-2 vote of the Board of Governors on June 12, 2013. (Attachment A)

Respectfully submitted this 28th day of June 2013.

A handwritten signature in cursive script that reads "Kevin G. Klein". The signature is written in black ink on a white background.

Kevin G. Klein
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