



## Legislation Text

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**File #: 971104, Version: 1**

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971104  
SUBSTITUTE 1

ALD. FRANK, RICHARDS AND GORDON

A substitute charter ordinance creating the position of municipal court commissioner, amending the prohibition against municipal judges and the chief court administrator engaging in an outside business or profession, and creating an additional position of bailiff as part of the municipal court staff.

3-34-2-a am  
3-34-2-d am  
3-34-4 rn  
3-34-4 cr  
3-34-5 rn  
3-34-5 am  
3-34-6-d am

- Analysis -

This charter ordinance creates the position of municipal court commissioner and provisions for eligibility, appointment and supervision, salary and ethical code for the position, amends the prohibition against outside employment for municipal judges and the chief court administrator, and creates an additional bailiff position as part of the municipal court staff.

The Mayor and Common Council of the City of Milwaukee do ordain as follows:

Part 1. Section 3-34-2-a of the charter is amended to read:

3-34. Municipal Court.

2. MUNICIPAL JUDGE.

a.Term. Each municipal judge shall be elected to a 4-year term [; with respect to the office of branch 3 municipal judge the initial election for the position shall be held at the spring election of 1983]]. Temporary appointments to fill vacancies in the office of municipal judge shall be made as provided in s. 800.06, Wis. Stats. A permanent vacancy in the office of municipal judge shall be filled pursuant to s. 8.50, Wis. Stats.

Part 2. Section 3-34-2-d of the charter is amended to read:

d. Prohibition From Engaging in Outside Business or Profession. No municipal judge elected pursuant to this section may engage in outside employment [[including the private practice of law, for compensation or pecuniary reward during his or her term]] >>during his or her appointed court hours, as defined in sub. 3-c<<. [[Any person who intentionally violates this subsection shall be fined no less than \$100 nor more than \$1,000; provided, however, that the penalty under this subsection does not limit the power of the common council to remove a municipal judge for cause, or by recall, or by any other means pursuant to state law.]]

Part 3. Section 3-34-4 and 5 of the charter is renumbered 3-34-5 and 6.

Part 4. Section 3-34-4 of the charter is created to read:

4.COURT COMMISSIONER.a. Appointment and Supervision. Municipal court commissioners shall be appointed by the presiding judge of the municipal court to perform their duties as specified in s. 755.19(2), Wis. Stats., and shall be supervised by the judge whose cases the commissioner is hearing. The presiding judge may terminate the contract for services or employment of the municipal court commissioner at will and without cause. Upon appointment, and for the duration of the commissioner contract for services or employment, the commissioner shall comply with the judicial education required by SCR ch. 33, Wisconsin supreme court rules, as amended, as applicable to municipal judges.

b.Eligibility. A municipal court commissioner shall be an attorney licensed to practice law in Wisconsin and shall have practiced as an attorney for at least 3 years immediately prior to appointment. The municipal court commissioner shall be a resident of the city of Milwaukee.

c.Salary or Fees. The rates of pay in salary or fees of the municipal court commissioner shall be determined by the common council.

d. Code of Ethics. Municipal court commissioners shall comply with the provisions of ch. 303 and SCR ch. 60, Wisconsin supreme court rules,

as amended, as applicable to part-time municipal judges.

e. Prohibition From Legal Practice Before the Municipal Court. During the period of service or employment as municipal court commissioner, the commissioner shall not engage in legal practice before the municipal court.

Part 5. Section 3-34-5 of the charter is amended to read:

5. OFFICERS AND STAFF.

a. Chief Court Administrator. The chief court administrator shall be appointed by the presiding municipal court judge and confirmed by the common council. [[The first such term shall commence on the date this section becomes effective, and shall continue until the last day of September, 1989.]] Each [[successive]] term shall be for a period of 3 years, commencing on the first day of October, 1989, and every 3rd year thereafter. In the case of a vacancy during any term, the appointee shall hold office for the unexpired term of his or her predecessor. In all cases, the chief court administrator shall hold office for the specified term to which he or she was appointed, confirmed qualified and thereafter until a successor is appointed, confirmed qualified. The chief court administrator shall receive a salary to be determined by the common council [[, and every chief court administrator appointed under this section shall devote his or her time and attention to said office, and shall not during the term of his or her duties be actively engaged in any other business or profession]]. Before entering upon the duties of the office, each chief court administrator shall take and subscribe the oath of office prescribed by the constitution of the state and contained in s. 19.01, Wis. Stats., and file the same duly certified by the official administering the same with the city clerk.

b. Municipal Court Staff. In addition to the 3 municipal court judges >>, the municipal court commissioners<< and the chief court administrator, the municipal court staff shall include [[a management court clerk and]] such municipal court clerks as are authorized by the common council, to be appointed by the chief court administrator from civil service lists submitted for that purpose, said clerks to remain in the classified city civil service. The staff shall further include [[3]] <<4<< police officers designated by the chief of police who shall serve as bailiffs, and such additional administrative and clerical staff, selected through the usual procedures of the city civil service, as are authorized by the common council.

Part 6. Section 3-34-6-d of the charter is amended to read:

6. PROCEDURE.

d. Temporary Absence of Judge. Whenever a municipal judge shall be temporarily absent, his >>or her<< office shall be filled for the period of [[his]]>>the<< absence by one or more municipal judges from other municipalities within the [[county]] >>state<< of [[Milwaukee]] >>Wisconsin<<, as provided by s. 800.06>>(1)(a)<<, Wis. Stats., in accordance with the terms of agreements, which the chief court administrator shall execute with the substitute judges. Agreements fixing the compensation to be paid to such substitute judges and the manner of payment shall be established by the common council.

Part 7. This is a charter ordinance and shall take effect 60 days after its passage and publication, unless within such 60 days a referendum petition is filed as provided in s. 66.01(5), Wis. Stats., in which event this ordinance shall not take effect until submitted to a referendum and approved by a majority of the electors voting thereon.

APPROVED AS TO FORM

\_\_\_\_\_  
Legislative Reference Bureau

Date: \_\_\_\_\_

IT IS OUR OPINION THAT THE ORDINANCE  
IS LEGAL AND ENFORCEABLE

\_\_\_\_\_  
Office of the City Attorney

Date: \_\_\_\_\_

LRB97565.2

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12/10/97