

Amendment 7_Constitution

Board vacancies filled by election by members

ARTICLE VI: Officer Duties and Authority

Section 3. At the post-convention Executive Board meeting, the board shall appoint a board member to serve as Senior Vice President should the president be unavailable or leave office. The Senior Vice President shall act as presiding officer in the absence of the President. ~~and shall succeed to the office of President for the duration of the unexpired term in~~ the event of death, resignation, or termination of active membership in the State Federation by the President, the Senior Vice President shall succeed to the office of President for the end of the unexpired term or until a special election is held according to Article VI, Section 7 whichever occurs first. The Senior Vice President shall also serve as an alternate to AFT Conventions and Wisconsin AFL-CIO Conventions.

Section 7. In the event of the death, resignation, termination of active membership in the State Federation, or removal from office of any member of the AFT-Wisconsin Executive Board, the members of that Board seat's jurisdiction shall elect the departing officer's replacement. Executive Board members of AFT-Wisconsin shall be elected by the members of their constituency, with each member having one vote. The President, Secretary, and Treasurer shall be elected by the full membership of AFT-Wisconsin with each member having one vote. The Council Vice Presidents shall be elected by the members of their council. The Regional Vice Presidents shall be elected by the members of their region. With the consent of the Executive Board, interim board members may be assigned to serve until the election in the following ways:

- (a) the Secretary or Treasurer, the Executive Board shall elect one of the Regional or Council Vice Presidents to fill the office for the duration of the unexpired term.
- (b) a Regional Vice President, the President shall appoint, with the advice and consent of the Executive Board, a new Regional Vice President to serve out the duration of the unexpired term.
- (c) a council Vice President, the governing body of the appropriate council shall appoint a new council Vice President to serve out the unexpired term as a council Vice President.

ARTICLE VII: Elections

Section 1. A call for nomination of officers shall be made six (6) months prior to Convention by notice to all locals and to all members ~~at large.~~ If an officer vacates their office due to death, resignation, termination of active membership in the State Federation, or removal from office, a call for nominations shall be made within thirty (30) days after their departure from office by notice to all locals and to all members. The election will occur no less than sixty (60) and no more than ninety (90) days after the call for nomination has been issued.

Submitted by,
Ben Balcom, AFT Local 3535

With legal counsel raising concern, The AFT-Wisconsin Executive Board will wait for further analysis before making a recommendation. (See attached opinion.)

<input type="checkbox"/> Adopted
<input type="checkbox"/> Adopted as Amended
<input type="checkbox"/> Defeated

(OVER)

Rationale

When a seat on the Executive Board becomes vacant, under the current AFTW constitution, rank-and-file constituents have no role in determining their new representative. Appointees to vacant positions are therefore accountable to the President, Executive Board, or council governing body rather than to their constituents. There is usually no call for candidates and the constituents of the seat are usually not consulted in any form. Since Board seats become vacant fairly often, this creates a serious lack of democratic accountability in how the Executive Board functions. This amendment corrects this problem by filling vacant Board seats through election of Board members by their constituents.



MEMORANDUM

To: Kim Kohlhaas, President, AFT-Wisconsin
From: Attorney Tim Hawks, Hawks Quindel, S.C.
Re: Legality of Proposed Amendments 5 and 7 to the AFT-W Constitution
Date: October 14, 2021

We raised a concern regarding increased disproportionate representation on the AFT-W executive board caused by a specific provision contained in proposed Constitutional Amendments 5 and 7. You directed us to research and advise the organization whether the clauses are lawful.

The sentence at issue provides:

Executive Board members of AFT-Wisconsin shall be elected by the members of their constituency, with each member having one vote.

We conclude that the sentence is legal if adopted but presents a policy choice regarding the extent to which the Board becomes unrepresentative of the membership. Matters of policy are for the delegates to decide.

AFT-Wisconsin is an “intermediate organization” in the parlance of the U.S. Department of Labor’s regulations that implement federal law regulating union elections. We find this specific guidance from the Department Labor to be dispositive:

Sec. 452.127 Proportionate representation.

When officers of a national, international or intermediate labor organization are elected at a convention of delegates who have been chosen by secret ballot, the structure of representation of the membership is a matter for the union to determine in accordance with its constitution and bylaws. **There is no indication that Congress intended, in enacting title IV of the Act, to require representation in delegate bodies of labor organizations to reflect the proportionate number of members in each subordinate labor organization represented in such bodies.** Questions of such proportionate representation are determined in accordance with the labor organization's constitution and bylaws insofar as they are not inconsistent with the election provisions of the Act. Congress did not attempt to specify the organizational structure or the system of representation which unions must adopt. However, all members must be represented; the union may not deny representation to locals below a certain size. (29 CFR 452.127, emphasis supplied)

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The number of AFT-W members within its constituencies varies widely. Providing each constituency with an equal number of executive board members, increases disproportionate representation on the Board. We encourage the delegates to debate the policy choices reflected in the sentence cited above.