

### SENATE HEARING SLIP

(Please Print Plainly)

AB123  
4

DATE: 2-13-02

BILL NO. AB 123

OR

SUBJECT \_\_\_\_\_

(NAME) Roy Tony Stachewas

(Street Address or Route Number) Author

(City and Zip Code) \_\_\_\_\_

(Representing) \_\_\_\_\_

Speaking in Favor:

Speaking Against:

Registering in Favor:

but not speaking:

Registering Against:

but not speaking:

Speaking for information only; Neither for nor against:

Please return this slip to a messenger PROMPTLY.

Senate Sergeant-At-Arms  
State Capitol - B35 South  
P.O.Box 7882  
Madison, WI 53707-7882

### SENATE HEARING SLIP

(Please Print Plainly)

DATE: 2/13/02

BILL NO. AB 123

OR

SUBJECT \_\_\_\_\_

(NAME) Rep. Mike Powers

(Street Address or Route Number) Po Box 8953

(City and Zip Code) Madison 53708

(Representing) 80th Assembly Dist.

Speaking in Favor:

Speaking Against:

Registering in Favor:

but not speaking:

Registering Against:

but not speaking:

Speaking for information only; Neither for nor against:

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Senate Sergeant-At-Arms  
State Capitol - B35 South  
P.O.Box 7882  
Madison, WI 53707-7882

### SENATE HEARING SLIP

(Please Print Plainly)

DATE: 02-13-02

BILL NO. AB123

OR

SUBJECT \_\_\_\_\_

(NAME) Senator Burke

(Street Address or Route Number) Milwaukee

(City and Zip Code) Senate District 3

(Representing) \_\_\_\_\_

Speaking in Favor:

Speaking Against:

Registering in Favor:

but not speaking:

Registering Against:

but not speaking:

Speaking for information only; Neither for nor against:

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Senate Sergeant-At-Arms  
Room 109-LL One East Main  
P.O.Box 7882  
Madison, WI 53707-7882

**SENATE HEARING SLIP**

(Please Print Plainly)

DATE: 2-13-02

BILL NO. \_\_\_\_\_  
OF \_\_\_\_\_  
SUBJECT AB123

Jenny ROESE  
(NAME)  
PO Box 7158

(Street Address or Route Number)

Madison, WI 53708  
(City and Zip Code)

Elder Law Section  
(Representing) Real Property, Probate & Trust Section of State Bar

Speaking in Favor:

Speaking Against:

Registering in Favor:

but not speaking:

Registering Against:

but not speaking:

Speaking for information only; Neither for nor against:

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Senate Sergeant-At-Arms  
State Capitol - B35 South  
P.O. Box 7882  
Madison, WI 53707-7882



**ANTHONY J. STASKUNAS**  
STATE REPRESENTATIVE • 15TH ASSEMBLY DISTRICT

**Testimony of Rep. Tony Staskunas, 2001 AB 123**  
**Senate Committee Judiciary, Consumer Affairs and Campaign Finance Reform**  
**February 13, 2002**

Chair and Members of the Judiciary, Consumer Affairs and Campaign Finance Reform Committee, I am Representative Tony Staskunas of the 15<sup>th</sup> Assembly District, the author of Assembly Bill 123, relating to who may be appointed personal representative in informal administration of estates.

I am a practicing attorney who has dealt with many probate cases over the past several years. An elderly woman whose single daughter had passed away leaving no will recently contacted me. Under the laws of intestacy, the daughter's entire estate would go to the mother. This left the mother the sole heir and the sole interested party in this probate proceeding.

However, strict enforcement of Section 865.08 of the Statutes requires that the personal representative must be an heir, an attorney, or a bank & trust company. Since the mother's health was frail, she wanted one of her sons appointed as personal representative. The courts would not allow her son to be appointed because he was not an heir to the estate.

Assembly Bill 123 would allow any person who has the consent of all interested parties to be appointed personal representative. This would eliminate the need for the estate to hire an attorney or obtain the services of a bank & trust company and instead give people the option of choosing whom they wish to serve as a personal representative.

Assembly Bill 123 has received unanimous support from the Assembly Judiciary Committee and the Assembly as a whole. I hope that you will also view this proposal favorably. Mr. Chairperson and committee members, I appreciate your kind attention today. I would be happy to answer any questions you may have.

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**STATE BAR  
of WISCONSIN®**

5302 Eastpark Blvd.  
P.O. Box 7158  
Madison, WI 53707-7158

February 20, 2001

Rep. Tony Staskunas  
Room 124 North, State Capitol  
PO Box 8953  
Madison, WI 53708

**RE: Assembly Bill 123**

Dear Rep Staskunas:

I am writing in my capacity as Chair of the Elder Law Section of the State Bar of Wisconsin to inform you of our Section's support for your legislation, Assembly Bill 123. We understand that the Assembly Judiciary Committee will hold a public hearing on February 22 on AB 123. Unfortunately, we will not be able to attend that hearing but wanted to alert you and the committee of our support for the bill.

It is our understanding that this legislation was introduced to address problems encountered with the strict application of s. 865.08 - who may be appointed as personal representatives in informal administration if no person is nominated in the will, if the person nominated in the will fails to qualify or if there is no will. Under Assembly Bill 123, any person who has the consent of all interested parties and who qualifies may be appointed. The person does not have to be an attorney or a beneficiary under the will if there is a will or an heir if there is no will.

As practicing elder law attorneys, we agree with this approach to amending s. 865.08. While this may not be a pervasive problem, it can be a frustrating and difficult one when it does happen. Providing the court with discretion to appoint an individual who has the consent of all parties involved is an appropriate approach for those instances when strict application of the current statutes fails to work well in practice.

Thank you for this opportunity to provide comments on this legislation.

Sincerely,

Dan Walsh, Chair  
Elder Law Section,  
State Bar of Wisconsin