

Gov. Evers Sues Legislative Republicans for Violating Wisconsin Constitution

Written by GOV Press Wisconsin

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<http://newiproggressive.com/images/stories/S5/assembly-wi-robin-vos-s450.jpg>



Wisconsin State Legislature has unconstitutionally obstructed basic government functions, including blocking already-approved pay raises for about 35,000 UW System employees.

MADISON — Gov. Tony Evers today sued Republicans in the Wisconsin State Legislature for violating the Wisconsin Constitution and intruding into executive powers. Gov. Evers, in a lawsuit filed today at the request of the governor by Wisconsin Attorney General Josh Kaul, argues Republicans in the Wisconsin State Legislature are unconstitutionally and unlawfully obstructing basic government functions by blocking already-approved pay raises for approximately 35,000 University of Wisconsin (UW) System employees, conservation projects under the Knowles-Nelson Stewardship Program, and updates to the state's commercial building standards and ethics standards for certain licensed professionals.



“Republican legislators are unconstitutionally obstructing basic functions of government—actions that have not only aimed to prevent state government from efficiently and effectively serving the people of our state but are now actively harming tens of thousands of

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Wisconsinites every day across our state,” said Gov. Evers. “I’m a born-and-raised Wisconsinite, and what I know for certain is that Wisconsinites expect elected officials to govern, they expect us to get things done, and they expect their government to work and work for them—and certainly not against them. I promised the people of our state that I would always work to get things done, and I’d always try to do the right thing, and today, I’m doing both by insisting we follow our state’s constitution.”



The petition filed today argues the Wisconsin State Legislature has increasingly worked to violate the Wisconsin Constitution and its well-defined separation of powers by creating more and more “legislative vetoes” through which legislative committees comprised of only a few members of the full Legislature are enabled to operate outside of the ordinary lawmaking process to impede, usurp, or obstruct basic executive branch functions. In so doing, the governor argues, the Wisconsin State Legislature is violating the Wisconsin Constitution by effectively attempting to change state law without passing a bill through both houses of the Legislature and sending a bill to the governor for signature or veto. Similar efforts made by legislatures in other states have been struck down by appellate courts in almost every other state where they have been challenged, including, for example, in Alaska, Kentucky, Michigan, Missouri, New Jersey, and West Virginia.



“To protect our liberty, the Wisconsin Constitution, like the U.S. Constitution, provides for the separation of powers. Despite the importance of this constitutional safeguard, however, the state Legislature has given legislative committees a veto over a wide range of executive branch activity, concentrating executive power in small subsets of the Legislature,” said Attorney General Kaul. “In the case filed today, we argue that, as courts in other jurisdictions

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have, the Wisconsin Supreme Court should hold that legislative vetoes of executive branch acts are unconstitutional.”

The lawsuit challenges three separate instances in which Republicans in the Wisconsin State Legislature are unconstitutionally obstructing basic government functions in violation of the Wisconsin Constitution:

- **The Republican-controlled Joint Committee on Employment Relations is “holding hostage” already-approved pay raises for about 35,000 of the UW System’s 43,000 employees.**

- Gov. Evers in his 2023-25 executive budget proposed a general wage adjustment to address inflation for UW and all other state employees with a 5 percent pay raise over base in the first year of the biennium and 3 percent pay raise over base in the second year of the biennium.

- The Republican-controlled Legislature instead provided a general wage adjustment for UW and all other state employees with a 4 percent pay raise over base in the first year of the biennium and 2 percent pay raise over base in the second year of the biennium, which were ultimately included in the final biennial budget signed by Gov. Evers, 2023 Wisconsin Act 19.

- Although Gov. Evers enacted the biennial budget, the UW System cannot implement the Legislature’s already-approved budget pay raises for its employees without approval from the Joint Committee on Employment Relations.

- On Oct. 17, 2023, the Joint Committee on Employment Relations chose to release the 4 percent and 2 percent pay raises for all state employees except approximately 35,000 employees at the UW System.

- Speaker Robin Vos (R-Rochester), Co-Chair of the Joint Committee on Employment Relations, indicated the committee will continue to block the Legislature’s already-approved pay raises for UW employees until the UW System cuts employee positions dedicated to diversity, equity, and inclusion or gives up its authority to create employee positions: “I don’t think that they deserve to have any more resources until they accomplish the goal,” Vos [said](#)

. “Not a nickel. When I say a nickel, that’s what I mean.”

- As of today, Oct. 31, 2023, the Legislature’s already-approved pay raises for approximately 35,000 UW employees still have not taken effect.

- The Joint Committee on Employment Relations is still holding hostage statutory pay raises for most of the UW System’s 43,000 employees, demanding that UW first make policy concessions to the Legislature not found or required in any law.

- **The Republican-controlled Joint Committee on Finance has repeatedly blocked conservation projects selected under the Knowles-Nelson Stewardship Program.**

- Wis. Stat. § 23.0917 charges the Department of Natural Resources (DNR) with administering the Knowles-Nelson Stewardship Program.

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- The Knowles-Nelson Stewardship Program is designed to help Wisconsin expand and improve public access to natural resources by empowering the DNR to acquire land, develop public recreational property, and provide grants to local units of government and nonprofit organizations to do the same.
- Under the Knowles-Nelson Stewardship Program, the DNR reviews applications and awards already-appropriated funds—that is, funding already approved by the full Legislature—in the form of grants to expand public access to Wisconsin’s natural resources, but the DNR may only do so with the approval of the Joint Finance Committee.
- Since 2007, the Wisconsin State Legislature has repeatedly expanded Knowles-Nelson Program projects that are subject to individual review and approval by the Joint Finance Committee.
- The Republican-controlled Joint Finance Committee has blocked dozens of conservation projects selected by the DNR under the Knowles-Nelson Stewardship Program—27 projects, or nearly one-third of all proposed Knowles-Nelson conservation projects since 2019.
- Those 27 projects sat before the Joint Finance Committee for an average of 291 days before the committee’s objection was resolved either by approving the project, denying the project, the committee lifting its objection, or the DNR withdrawing the project from consideration.

- **The Republican-controlled Joint Committee for Review of Administrative Rules is blocking updates to the state’s commercial building standards and ethics standards for licensed professionals.**
- The Joint Committee for Review of Administrative Rules has indefinitely blocked and suspended the Department of Safety and Professional Services’ (DSPS) and the Marriage and Family Therapy, Professional Counseling, and Social Work Examining Board’s (“the Board”) administrative rules updating commercial building standards and the ethics standards for social workers, marriage and family therapists, and professional counselors, respectively.
- Various provisions under Wis. Stat. Ch. 101 charge the DSPS with establishing minimum standards for the design, construction, maintenance, and inspection of public buildings to protect the health, safety, and welfare of the public by promulgating administrative rules relating to commercial building safety, accessibility, and energy efficiency.
- DSPS must consult with the Commercial Building Code Council in designing those standards, which includes representatives from building-related professions: skilled tradespeople, building inspectors, firefighters, building contractors, architects, engineers, and designers.
- In 2020, DSPS initiated rule-making efforts to update the state’s commercial building standards and bring them into compliance with current building standards and submitted the proposed rule to the Legislature for review in March 2023.
- In an executive session held Sept. 29, 2023, the Joint Committee for Review of Administrative Rules voted 6-4 to indefinitely object to the rule.

- Separately, under Wis. Stat. § 457.03(2), the Board is responsible for promulgating administrative rules to establish ethics standards for social workers, marriage and family therapists, and professional counselors.

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- In 2019 and 2020, the Board developed a proposed administrative rule that would update these ethics standards.
 - One provision included in those updated ethics standards defined as unethical conduct employing or promoting any intervention or method with the purpose of attempting to change a person's sexual orientation or gender identity.
 - The Board completed its work on the proposed rule and submitted it to the Legislature for review in January 2020.
 - As of today, Oct. 31, 2023, over three years have elapsed since the Joint Committee for Review of Administrative Rules first blocked the proposed rule on June 25, 2020.
- Even if an executive branch agency—including DSPS or the Board—completes all steps up to and including obtaining the governor's approval of a proposed rule, it cannot promulgate the rule unless and until it is approved by the Joint Committee for Review of Administrative Rules.

The filing today is a petition for original action with the Wisconsin Supreme Court due to its significant statewide importance as well as the "exigent harms" caused by Republicans' unconstitutional obstruction, including unpaid wages to thousands of UW System employees, program delays, and failures to achieve modern building standards necessitating "speedy and authoritative" resolution by the court. Disputes concerning the proper separation of power among the branches of government have previously been the subject of original actions before the Wisconsin Supreme Court.

A copy of the governor's petition for original action is available [here](#). A copy of the governor's brief in support of original action is available [here](#).