
AMANDA NEDWESKI

STATE REPRESENTATIVE • 61ST ASSEMBLY DISTRICT

February 7, 2024

Assembly Committee on State Affairs
Testimony on Assembly Joint Resolution 112

Chairman Swearingen and distinguished members of the committee, thank you for holding a public hearing on Assembly Joint Resolution 112.

Wisconsin's unique "partial" veto is considered one of the most powerful policy tools in the country. Common "*item*" veto powers in 43 other states typically limit a governor to striking or reducing appropriations in appropriations bills only by striking a **full line** – thus the term "line-item veto." In Wisconsin, using the *partial* veto – distinctive to our state alone – the governor can strike words, numbers, and punctuation in an appropriations bill in a way that may result in laws that the legislature did not intend, or perhaps even rejected outright.

Since 1930, the legislature has responded several times to overly broad use of the partial veto with amendments to the State Constitution. This joint resolution is definitely not the first time the legislature is seeking to reign in the broad reach of the partial veto power. Over time, both Democrat and Republican executives abused the partial veto with creative tactics that resulted in policy that has a completely different meaning from what the legislature intended. The timeline of evolving case law illustrates a gradual restriction of the originally expansive power of the partial veto, but it still remains a powerful tool that invites significant conflict between the roles of the executive and legislative branches.

AJR112 proposes an amendment to the Wisconsin Constitution to restrict the governor, in exercising partial veto power over an appropriations bill, from creating or increasing or authorizing the creation or increase of any **tax** or **fee**.

We narrowly crafted this legislation to address the specific situations that we believe members of the public would find the most egregious: the ability for a single person to create or raise taxes and fees on the people of Wisconsin with a single stroke of a pen. The People of Wisconsin deserve transparency and integrity from the office of the executive. Their will, as put forth by their elected representatives in the Legislature, should not be twisted and bent by the governor's partial veto power. They should not be subjected to political trickery that is in conflict with their will. As we all agree, *the will of the People is the law of the land*.

If adopted, this amendment would appropriately rebalance power between the executive and the legislature and further restrict the executive from completely rewriting laws that are not representative of the people. The governor is not a legislator, and the partial veto was not intended to give the governor legislative power. Support for this idea more generally has had bipartisan support in the past – with constitutional amendments related to the partial veto having been previously introduced by both Republicans and Democrats.

For more information on the evolution of Wisconsin's partial veto, please see the comprehensive history of this unique power detailed in the following Legislative Reference Bureau paper authored by Rick Champagne, Staci Duros, PhD, and Madeline Kasper, MPA, MPH in 2019.

https://docs.legis.wisconsin.gov/misc/lrb/reading_the_constitution/reading_the_constitution_4_1.pdf

LEGISLATIVE REFERENCE BUREAU

The Wisconsin Governor's Partial Veto

Richard A. Champagne

chief

Staci Duros, PhD

legislative analyst

Madeline Kasper, MPA, MPH

legislative analyst



Appendix

Table 1. Partial vetoes in executive budget bills

Session	Bill	Law	Number of items vetoed ¹	Senate/Assembly Journal reference
1931	AB-107	Ch. 67	12	AJ p. 1134
1933	SB-64	Ch. 140	12	SJ p. 1195
1935	AB-17	Ch. 535	0	—
1937	AB-74	Ch. 181	0	—
1939	AB-194	Ch. 142	1	AJ p. 1462
1941	AB-35	Ch. 49	1	AJ p. 770
1943	AB-61	Ch. 132	0	—
1945	AB-1	Ch. 293	1	AJ p. 1383
1947	AB-198	Ch. 332	1	AJ p. 1653
1949	AB-24	Ch. 360	0	—
1951	AB-174	Ch. 319	0	—
1953	AB-139	Ch. 251	2	AJ p. 1419
1955	AB-73	Ch. 204	0	—
1957	AB-77	Ch. 259	2	AJ p. 2088
1959	AB-106	Ch. 135	0	—
1961	AB-111	Ch. 191	2	AJ p. 1461
1963	SB-615	Ch. 224	0	—
1965	AB-903	Ch. 163	1	AJ p. 1902
1967	AB-99	Ch. 43	0	—
1969	SB-95	Ch. 154	27	SJ p. 2615
1971	SB-805	Ch. 125	12 ²	SJ p. 2162
	AB-1610	Ch. 215	8	AJ p. 4529
1973	AB-300	Ch. 90	38	AJ p. 2409
	AB-1 ³	Ch. 333	19	AJ p. 310
1975	AB-222	Ch. 39	42	AJ p. 1521
	SB-755	Ch. 224	31	SJ p. 2257
1977	SB-77	Ch. 29	67	SJ p. 853
	AB-1220	Ch. 418	44	AJ p. 4345
1979	SB-79	Ch. 34	45	SJ p. 617
	AB-1180	Ch. 221	58	AJ p. 3421
1981	AB-66	Ch. 20	121	AJ p. 895
	SB-1 ⁴	Ch. 93	10	SJ p. 1196
	SB-783	Ch. 317	23	SJ p. 2085
1983	SB-83	Act 27	70	SJ p. 276
1985	AB-85	Act 29	78	AJ p. 296

Table 1. **Partial vetoes in executive budget bills, continued**

Session	Bill	Law	Number of items vetoed ¹	Senate/Assembly Journal reference
	SB-1 ⁵	Act 120	1	SJ p. 585
1987	SB-100	Act 27	290	SJ p. 277
	AB-850	Act 399	118	AJ p. 1052
1989	SB-31	Act 31	208	SJ p. 325
	SB-542	Act 336	73	SJ p. 966
1991	AB-91	Act 39	457	AJ p. 404
	SB-483	Act 269	161	SJ p. 896
1993	SB-44	Act 16	78	SJ p. 362
	AB-1126	Act 437	11	AJ p. 960
1995	AB-150	Act 27	112	AJ p. 383
	AB-557	Act 113	11	AJ p. 689
	SB-565	Act 216	3	SJ p. 770
1997	AB-100	Act 27	152	AJ p. 322
	AB-768	Act 237	22	AJ p. 927
1999	AB-133	Act 9	255	AJ p. 405
2001	SB-55	Act 16	315	SJ p. 282
	AB-1 ⁶	Act 109	72	AJ p. 894
2003	SB-44	Act 33	131	SJ p. 277
2005	AB-100	Act 25	139	AJ p. 374
2007	SB-40	Act 20	33	SJ p. 373
	AB-1 ⁷	Act 226	8	AJ p. 792
2009	SB-62	Act 2	0	—
	AB-75	Act 28	81	AJ p. 298
2011	AB-11 ⁸	Act 10	0	—
	SB-12 ⁸	Act 13	0	—
	AB-148	Act 27	0	—
	AB-40	Act 32	50	AJ p. 413
2013	AB-40	Act 20	57	AJ p. 253
2015	SB-21	Act 55	104	SJ p. 329
2017	AB-64	Act 59	98	AJ p. 421

Note: This table includes biennial budget acts, budget review acts, budget adjustment acts, annual budget acts, and the 1995 transportation budget act. AJ: Assembly Journal; SJ: Senate Journal.

1. As listed in the governor's veto message. 2. Numerous "technical changes" made by the governor are counted as one partial veto. 3. April 1974 Special Session. 4. November 1981 Special Session. 5. January 1986 Special Session. 6. January 2002 Special Session. 7. March 2008 Special Session. 8. January 2011 Special Session.

Source: Senate and Assembly Journals.

Table 2. Executive partial vetoes

Session	Bills		Biennial budget bills	
	Partially vetoed	With veto overrides	Partial vetoes ¹	Vetoes overridden
1931	2	—	12	—
1933	1	—	12	—
1935	4	—	—	—
1937	1	—	—	—
1939	4	—	1	—
1941	1	—	1	—
1943	1	1	—	—
1945	2	1	1	—
1947	1	—	1	—
1949	2	1	—	—
1951	—	—	—	—
1953	4 ²	—	2	—
1955	—	—	—	—
1957	3	—	2	—
1959	1	—	—	—
1961	3	—	2	—
1963	1	—	—	—
1965	4	—	1	—
1967	5	—	—	—
1969	11	—	27	—
1971	8	—	12 ³	—
1973	18	3	38	2
1975	22	4	42	5
1977	16	3	67	21
1979	9	2	45	1
1981	11	1	121 ⁴	—
1983	11	1	70	6
1985	7	1	78	2
1987	20	—	290	—
1989	28	—	208	—
1991	13	—	457	—
1993	24	—	78	—
1995	21	—	112	—
1997	8	—	152	—
1999	10	—	255	—

Table 2. **Executive partial vetoes**, continued

Session	Bills		Biennial budget bills	
	Partially vetoed	With veto overrides	Partial vetoes ¹	Vetoes overridden
2001	3	—	315	—
2003	10	—	131	—
2005	2	—	139	—
2007	4	—	33	—
2009	5	—	81	—
2011	3	—	50	—
2013	4	—	57	—
2015	5	—	104	—
2017	4	—	98	—

Note: The legislature is not required to act on vetoes. Any veto not acted upon is counted as sustained, including pocket vetoes. “Vetoes sustained” includes the following pocket vetoes: 1937 (5); 1941 (13); 1943 (4); 1951 (14); 1955 (10); 1957 (1); 1973 (1). A “pocket veto” resulted if the governor took no action on a bill after the legislature had adjourned sine die. (Sine die, from the Latin for “without a day,” means the legislature adjourns without setting a date to reconvene.) With this type of adjournment, the legislature concluded all its business for the biennium, and there was no opportunity for it to sustain or override the veto (see article V, section 10, of the Wisconsin Constitution). Under current legislative session schedules, in which the legislature usually adjourns on the final day of its existence, just hours before the newly elected legislature is seated, the pocket veto is unlikely.

—represents zero

1. As listed in the governor’s veto message. 2. 1953 AB-141, partially vetoed in two separate sections by separate veto messages, is counted as one. 3. Numerous “technical changes” made by the governor are counted as one partial veto. 4. Attorney general ruled several vetoes “ineffective” because the governor failed to express his objections (see Opinions of the Attorney General, 70, 189).

Source: Senate and Assembly Journals.

Table 3. **Legislative proposals to amend the partial veto**

Session	Joint resolution	Subject	Final disposition
1935	AJR-170	Limit governor’s partial veto to the “appropriation item(s)” in appropriation bills. (1st Consideration)	Failed to pass.
1941	AJR-71	Permit governor to disapprove or reduce items or parts of items in any bill appropriating money. (1st Consideration)	Failed to pass.
1961	AJR-130	Require that portions of appropriation bill to which the governor objects be returned to legislature for possible repassing on majority vote of both houses. If passed again and rejected by governor a second time, veto procedure would then apply. (1st Consideration)	Failed to pass.
1969	AJR-9	Require only majority approval to override a partial veto in instances where vetoed part did not include an appropriation. (1st Consideration)	Failed to pass.

Table 3. Legislative proposals to amend the partial veto, continued

Session	Joint resolution	Subject	Final disposition
1969 (cont.)	AJR-56	Limit governor's partial veto authority to disapproval or reduction of an appropriation. (1st Consideration)	Failed to pass.
1973	SJR-123	Remove governor's authority to partially veto appropriation bills. (1st Consideration)	Failed to pass.
1975	SJR-46	Remove governor's authority to partially veto appropriation bills. (1st Consideration)	Failed to pass.
	AJR-61	Same as SJR-46. (1st Consideration)	Failed to pass.
	AJR-74	Limit governor's partial veto authority to appropriation paragraphs or amounts. (1st Consideration)	Failed to pass.
1977	SJR-46	Limit governor's partial veto authority to complete dollar amounts or to a numbered segment of law as identified in a bill. Partial veto can be overridden by majority vote in both houses. (1st Consideration)	Failed to pass.
1979	SJR-7 (Enrolled JR-42)	Limit governor's partial veto power by requiring that the part vetoed "would have been capable of separate enactment as a complete and workable bill," but, regardless of that limit, governor may veto any complete dollar amount. (1st Consideration)	Passed Senate (28-1); Assembly (74-24).
	SJR-16	Limit governor's partial veto authority to whole sections only. (1st Consideration)	Failed to pass.
1981	SJR-4	Second consideration of content of 1979 Enrolled Joint Resolution 42.	Passed Senate (17-15); failed Assembly (54-42).
1983	SJR-16	Same as 1977 SJR-46. (1st Consideration)	Failed to pass.
1987	SJR-71 (Enrolled JR-76)	Prevent governor from creating "a new word by rejecting individual letters in the words of the enrolled bill." (1st Consideration)	Passed Senate (18-14); Assembly (55-35-2).
1989	SJR-11 (Enrolled JR-39)	Second consideration of content of 1987 Enrolled Joint Resolution 76.	Passed Senate (22-11); Assembly (64-32-2). Voters approved on April 3, 1990 (387,068- 252,481).
1991	SJR-85	Limit governor's partial veto power to "item(s)" and require that the remainder of the bill constitute "a complete and workable law" that is "germane to the subject of the legislative enactment." (1st Consideration)	Failed to pass.

Table 3. **Legislative proposals to amend the partial veto**, continued

Session	Joint resolution	Subject	Final disposition
1991 (cont.)	AJR-78	Prevent governor from creating a new sentence by combining parts of two or more sentences in enrolled bill. (1st Consideration)	Failed to pass.
	AJR-130 (Enrolled JR-16)	Limit governor's partial veto power to "item(s)" and require that the remainder of the bill constitute "a complete and workable law" that is "germane to the subject of the legislative enactment." (1st Consideration)	Passed Assembly (58-40); Senate (17-15).
1993	AJR-34	Second consideration of content of 1991 Enrolled Joint Resolution 16.	Failed to pass.
1999	AJR-119	Limit governor's partial veto power by requiring that the veto keeps the proposal as a "workable bill" or is a complete dollar amount as shown in the bill. (1st Consideration)	Failed to pass.
2003	AJR-77	Prevent governor from increasing the dollar amount of an appropriation and from approving any law that the legislature did not authorize as part of the enrolled bill. (1st Consideration)	Failed to pass.
2005	SJR-33 (Enrolled JR-46)	Prevent governor from creating new sentences by combing parts of two or more sentences of the enrolled bill. (1st Consideration)	Passed Senate (23-10); Assembly (72-24-2).
	AJR-52	Same as 2005 SJR-33.	Failed to pass.
	SJR-35	Provide that the people may approve or reject full or partial gubernatorial vetoes by referendum. (1st Consideration)	Failed to pass.
	AJR-68 (Enrolled JR-40)	Prevent governor from partially vetoing parts of a bill section without rejecting the entire bill section. (1st Consideration)	Passed Assembly (74-25); Senate (20-12).
2007	SJR-5 (Enrolled JR-26)	Second consideration of Enrolled Joint Resolution 46.	Passed Senate (33-0); Assembly (94-1). Voters approved on April 1, 2008 (575,582- 239,613).
	AJR-1	Second consideration of Enrolled Joint Resolution 46.	Passed Assembly (70-25-2); Senate failed to concur.
2009	SJR-61 (Enrolled JR-40)	Prevent governor from partially vetoing parts of a bill section without rejecting the entire bill section. (1st Consideration)	Passed Senate (21-12); Assembly (50-48).
	AJR-109	Same as 2009 SJR-61.	Failed to pass.

Table 3. Legislative proposals to amend the partial veto, continued

Session	Joint resolution	Subject	Final disposition
2009 (cont.)	AJR-129	Prevent governor from creating new sentences by combining parts of sentences. (1st Consideration)	Failed to pass.
2011	AJR-114	Second consideration of content of 2009 Enrolled Joint Resolution 40.	Failed to pass.
	SJR-60	Second consideration of content of 2009 Enrolled Joint Resolution 40.	Failed to pass.
2013	AJR-124	Prevent governor from partially vetoing parts of bill sections without rejecting the entire bill section. (1st Consideration)	Failed to pass.

Source: Senate and Assembly Journals.



WISCONSIN STATE SENATE

DAN KNODL

STATE SENATOR • 8TH DISTRICT

Assembly Joint Resolution 112

Public Testimony

Assembly Committee on State Affairs

February 7, 2024

Thank you Chairman Swearingen and members for holding this hearing on Assembly Joint Resolution 112.

This constitutional amendment will prohibit any Wisconsin governor from using his/her partial veto to create or increase any tax or fee on the great citizens of our state.

This amendment is in response to the repeated abuses by our governors, from both political parties, who wish to break the separation of powers and commit future legislatures to spending they did not authorize and, or want.

In our current biennium budget, Governor Evers used his partial veto authority to carelessly commit our state to a 402-year-long funding increase. He accomplished this gluttonous spending spree by striking a hyphen and a "20" from a reference to the 2024-25 school year, thus making the year 2425.

Prior to this action, according to the Legislative Reference Bureau, our governors used vetoes to increase state spending above levels set by the legislature 31 times since 1991 and increased bonding levels seven times during that time.

To address these usurpations, our state budgets now include the phrase "cannot" instead of "may not" to avoid the gimmicks played by our governors.

This constitutional amendment is another needed remedy to keep the power of the purse with the legislature and to not commit the state to irresponsible spending.

I'd like to thank Representative Nedweski for introducing this resolution. Thank you for your time, and we would be happy to answer any questions you may have.

WMC

Wisconsin's Chamber

TO: Assembly Committee on State Affairs

FROM: Evan Umpir, General Counsel & Director of Tax, Transportation and Legal Affairs

DATE: February 7, 2024

RE: Support for AJR 112, Partial Veto Amendment (First Consideration)

WMC appreciates the opportunity to testify in support of Assembly Joint Resolution 112 (AJR 112). This amendment is important for all taxpayers and upholds the proper balance of separation of powers.

WMC is the largest general business association in Wisconsin, representing approximately 3,800 member companies of all sizes, and from every sector of the economy. Since 1911, our mission has been to make Wisconsin the most competitive state in the nation to do business. **Part of that mission is promoting a tax climate that allows individuals and businesses, and by extension the state, to prosper.**

The foundation of our Anglo-American legal and governmental systems have their roots in runaway taxation. In the early 13th century, King John sought to regain parts of his kingdom across the channel in France; in doing so he raised taxes to record levels to fund his conquest but made himself unpopular among his subjects in the process.¹ Ultimately in 1215, English barons forced King John to consent to Magna Carta, which among other rights and limits on arbitrary government power, **“prevented kings from imposing taxes ‘without common counsel.’”**²

That deep-rooted principle of no taxation without representation took the journey across the pond to America. In response to the Stamp Act in 1765, the American colonists gathered to voice their vehement opposition to Parliament’s tax on the colonies without their consent.³ Of course, eleven years later, Thomas Jefferson penned the Declaration of Independence that included the grievance of “imposing Taxes on us without our Consent.”

“[T]he power to tax involves the power to destroy.” *McCulloch v. Maryland*, 17 U.S. 316, 431 (1819). Recognition of this principle underpins America’s and England’s long history of requiring consent – by the people or their representatives, not an all-powerful king out of touch with the people – to wield the power to tax and take the earnings out of the pocket of workers and place them into the coffers of government.

¹ “How did Magna Carta come about?,” UK Parliament, available at: <https://www.parliament.uk/about/living-heritage/evolutionofparliament/originsofparliament/birthofparliament/overview/magnacarta/magnacartahow/>.

² “1215 Magna Carta,” UK Parliament, available at: <https://www.parliament.uk/about/living-heritage/evolutionofparliament/2015-parliament-in-the-making/get-involved1/2015-banners-exhibition/ruth-ewan/1215-magna-carta-gallery/>.

³ “On this day: ‘No taxation without representation!’,” National Constitution Center (October 7, 2022), available at: <https://constitutioncenter.org/blog/no-taxation-without-representation>.

Unfortunately, this sacred principle was again violated in 2023. Through his partial vetoes, Governor Evers unilaterally and without the consent of the governed – you, me, your constituents, and all Wisconsinites – raised taxes not just for the two years of the biennial budget, but for 402 years.⁴ **His partial vetoes and their stealth property tax increase on hardworking Wisconsin homeowners and businesses is *not* what democracy looks like.**

AJR 112 simply clarifies that the Governor cannot use his partial veto power in appropriations bills to raise any tax or fee beyond what the Legislature has authorized. Reining in the Wisconsin partial veto authority is not unprecedented and not a partisan exercise. The 1990 amendment curbed the use of the “Vanna White” veto after an unsuccessful challenge to Republican Governor Thompson’s partial vetoes and a 2008 amendment banned the “Frankenstein” veto in response to Democrat Governor Doyle’s use of it in the 2005 budget. Today **the Legislature has the opportunity to rebalance the check the Governor’s partial veto has on the Legislature’s authority to authorize taxation and to reinvigorate the legislative branch’s primacy as the lawmaker**, part of such lawmaking power includes the choice *not* to impose or increase a tax or fee.

A runaway governor wielding the “power to destroy” without legislative oversight will chase individuals and businesses out of Wisconsin to states with lower or no tax burdens. Wisconsin’s top individual income tax rate is already one of the top ten highest in the country at 7.65% while the median top state income tax rate is 4.95% (Wisconsin’s second highest bracket, 5.3%, is also above that national median).⁵ We cannot afford to tax our citizens and businesses out of the state.

Whether it is King John in a field at Runnymede, King George and a distant parliament across an ocean, or Governor Evers on an isthmus in Madison, abusing executive powers to rob individuals and businesses of their hard-earned money to pay government more is unfair, disrupts the separation of powers and checks between the Legislative and Executive branches, and usurps the centuries-old, revered Anglo-American principle of no taxation without representation. **Ensuring the branch closest to and responsive to the people, the Legislature, retains its authority to decide what to tax and how much, not an overzealous governor or king, is the most fair and democratic way to ensure that Wisconsin has a tax climate that will allow individuals and businesses to prosper.**

I urge you to support AJR 112 and offer Wisconsinites this important constitutional amendment for ratification.

⁴ See 2023 Wisconsin Act 19 partial veto of Sections 402-404, 408.

⁵ Jared Walczak and Andrey Yushkov, “Governor Youngkin Unveils a New Tax Plan for Virginia,” Tax Foundation (December 20, 2023), available at: <https://taxfoundation.org/blog/virginia-governor-youngkin-tax-plan/>.



WISCONSIN INSTITUTE FOR LAW & LIBERTY, INC.
330 E. Kilbourn Avenue, Suite 725, Milwaukee, WI 53202-3141
414-727-WILL (9455) | Fax 414-727-6385 | www.will-law.org

TESTIMONY IN SUPPORT OF 2023 ASSEMBLY JOINT RESOLUTION 112

Chairman Swearingen and Members of the Assembly Committee on State Affairs,

My name is Kyle Koenen, I am the Policy Director with the Wisconsin Institute for Law & Liberty (“WILL”), and I am here today to testify in support of Assembly Joint Resolution 112. WILL is a nonpartisan not-for-profit law and policy center based out of Milwaukee.

Governors in Wisconsin have one of the most powerful line-item veto powers in the entire country. Governors of both political parties have used this power to recraft state budgets and other legislation time and time again. The people of Wisconsin have historically responded by amending the power in what seems like a game of whack-a-mole. In 1990, the constitution was amended to make clear that the governor may not create a new word by striking out individual letters and stringing together other letters (Vanna White veto). It was again amended in 2008 to prohibit governors from creating “a new sentence by combining parts of two or more sentences (Frankenstein veto). Needless to say, we are here again.

AJR 112 makes a relatively simple, but vitally important, amendment to our state constitution which will strengthen our separation of powers and protect taxpayers. Specifically, AJR 112 ensures that when the Governor wields their veto pen they cannot create or increase, or authorize the creation or increase, of any tax or fee. In reality, this means that when the Governor exercises a line-item veto, it may only be to lower a tax or fee, not increase it.

Preserving the separation of powers is crucial for maintaining a system of checks and balances that safeguards against the “tyrannical” concentration of power. Passing this constitutional amendment would further clarify our state constitution to ensure no individual Governor from either party has the authority to single-handedly raise taxes or fees. This is a simple reform ensures that every Governor is still able to effectively use the line-item veto, while simultaneously protecting taxpayers in our state.

Thank you for the opportunity to testify today. Please support AJR 112 and give voters the option to weigh in on this important topic. I would be happy to answer any questions.