



WISCONSIN STATE SENATE

DAN KNODL

STATE SENATOR • 8TH DISTRICT

Senate Joint Resolution 109

Public Testimony

Senate Committee on Government Operations

March 6, 2024

Thank you Chairman Stroebel and members of this committee for holding this hearing on Senate Joint Resolution 109.

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

Wisconsin's governor has one of the most powerful partial veto powers in the country. The most egregious examples have led the people of Wisconsin to vote on multiple constitutional amendments to rein in this authority, including outlawing the infamous "Frankenstein" and "Vanna White" veto tactics.

Another perverse tactic has now emerged. In our current biennial budget, Governor Evers used his partial veto authority to 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 would like to thank Representative Nedweski for introducing this resolution on the Assembly side. Thank you for your time, and we would be happy to answer any questions you may have.

AMANDA NEDWESKI

STATE REPRESENTATIVE • 61ST ASSEMBLY DISTRICT

March 6, 2024

Senate Committee on Government Operations

Testimony on Assembly Joint Resolution 112 / Senate Joint Resolution 109

Chairman Stroebel and distinguished members of the committee, thank you for holding a public hearing on Assembly Joint Resolution 112 and Senate Joint Resolution 109.

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 and SJR 109 propose 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



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 Stroebel and Committee Members,

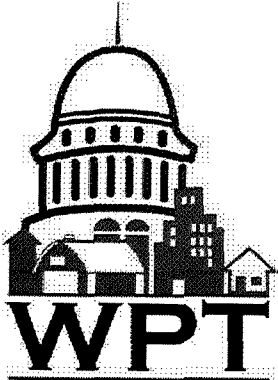
My name is Lucas Vebber, I am deputy counsel at the Wisconsin Institute for Law & Liberty (“WILL”), and I am here today to testify in support of Assembly Joint Resolution 112. WILL is a nonpartisan not-for-profit law and policy center based out of Milwaukee.

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 as it was intended when adopted by the people of Wisconsin, 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.



Property Taxpayers United
for Fairness and Reform
Since 1985

TO: Senate Government Operations

FROM: Paul Rozeski, Director of Government Affairs & Member Relations, WPT

Date: March 6, 2024

RE: Assembly Joint Resolution-112 - Relating to: Prohibiting the governor from using the partial veto to create or increase any tax or fee

Good morning, Chairman Stroebel, Vice Chair Bradley, and members of the committee. Thank you for allowing me to testify in favor of AJR-102.

Thank you also for holding a hearing on this resolution and allowing me to give testimony on behalf of the thousands of WPT members throughout the state with a simple and direct commentary on this resolution.

According to the Wisconsin Constitution: Executive Powers and Duties - Section 4: The Governor "shall expedite all such measures as may be resolved upon by the legislature and shall take care that the laws be faithfully executed."

That is a formal way to describe our government's generally accepted separation of powers. The legislature, and only the legislature, has the power to establish the parameters of government. The legislature sets the parameters of the laws that the citizens of Wisconsin must adhere to. The legislature sets the parameters of the taxes that the state is allowed to collect. The legislature sets the parameters of the budgets and spending. The executive branch carries out the business of government. The Medieval Latin root of the word executive is *exsequi*, which means "carry out," and so an executive carries out plans and actions.

This resolution is a great example of what the process of governance is: to clarify, refine, specify, adjust, and sometimes confirm the details within the already established parameters.

It not only allows for that clarification but allows for that confirmation to come directly from the electorate. Allowing the people to expand or restrict the separation of powers is not partisan or political, and I encourage this committee to reflect that through passage of AJR-112.

Paul Rozeski
Director of Member Services and
Government Relations

P.O. Box 280
Greenwood, WI 54437

Office - 608-255-7473

Wisconsin Property Taxpayers is comprised of thousands of small businesses, farms, and homeowners in all 72 of the state's counties. Founded in 1985, the organization committed to providing its members with up-to-date information, legislative advocacy, and exclusive cost-saving benefits.

WMC

Wisconsin's Chamber

TO: Senate Committee on Government Operations

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

DATE: March 6, 2024

RE: Support for AJR 112/SJR 109, Partial Veto Amendment (First Consideration)

WMC appreciates the opportunity to testify in support of Assembly Joint Resolution 112 (AJR 112)/Senate Joint Resolution 109. This constitutional 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-involved/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/SJR 109 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/SJR 109 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/>.



To: Members of the Senate Committee on Government Operations

Date: March 6, 2024

Subject: Support AJR 112/SJR 109

Chairman Stroebel, and members of the Senate Committee on Government Operations, thank you for the opportunity to provide testimony supporting Assembly Joint Resolution 112/Senate Joint Resolution 109.

I come before you today to emphasize the urgent need for passage of AJR 112/SJR 109, proposing a constitutional amendment to curtail the expansive powers of the Governor's partial veto in Wisconsin. Our state's unique partial veto authority stands as one of the most potent policy tools in the country, allowing governors to manipulate appropriations bills in ways that often defy legislative intent.

The legislature has grappled with the consequences of governor vetoes, irrespective of party affiliations, abusing this power. Amendments to the State Constitution have sought to rein in the broad reach of the partial veto, illustrating a longstanding concern over the erosion of legislative authority and the undermining of the people's will.

AJR 112/SJR 109 aims to address these concerns by specifically restricting the governor's ability to create or increase taxes or fees through the partial veto. This legislation targets the most egregious abuses of power, ensuring that the executive branch cannot unilaterally impose financial burdens on the citizens of Wisconsin without proper legislative scrutiny.

The people of Wisconsin deserve transparency and integrity from their elected officials, and that the will of the people, as expressed through their elected representatives, should not be undermined by executive overreach. The proposed amendment seeks to rebalance power between the executive and legislative branches, safeguarding the integrity of the legislative process and preventing the governor from rewriting laws at whim.

Thank you for your time and consideration. Chairman Stroebel and committee members, we strongly urge you to support AJR 112/SJR109.