



# Developments in the Governor's Partial Veto Authority

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The Wisconsin Constitution affords the Governor the authority to approve an appropriation bill “in whole or in part.” Since this authority was created in 1930 by constitutional amendment, governors have exercised it in imaginative and novel ways and the Legislature has brought numerous court cases challenging various gubernatorial partial veto actions.<sup>1</sup> This issue brief provides an overview of two partial veto cases decided by the Wisconsin Supreme Court in its 2024-25 term, [LeMieux v. Evers](#), 2025 WI 12, and [Wisconsin State Legislature v. Wisconsin Department of Public Instruction](#), 2025 WI 27.

## LEMIEUX V. EVERS

### Partial Vetoes

Governor Tony Evers exercised numerous partial vetoes of the 2023-25 biennial budget bill, 2023 Senate Bill 70, enacted as [2023 Wisconsin Act 19](#). Relevant to this case, the Legislature included a two-year increase in the school district revenue limit within Senate Bill 70, but Governor Tony Evers used partial vetoes to delete certain words and digits to create a new year that effectively added 400 years to that two-year increase.<sup>2</sup> The Senate subsequently voted to override the partial vetoes, but the Assembly declined to vote on the override.

### Questions Accepted for Original Action

The Wisconsin Supreme Court accepted a [petition](#) for original action from two taxpayers challenging the Governor's actions with two questions for review: (1) does a governor exceed his or her partial veto authority under Wis. Const. art. V, s. 10 (1) (b)<sup>3</sup> by deleting language in an enrolled bill to create a longer duration than the one that the Legislature approved; and (2) does Wis. Const. art. V, s. 10 (1) (c)<sup>4</sup> forbid a governor from deleting digits in an enrolled bill to create a new year?<sup>5</sup>

### Wisconsin Supreme Court Decision

The Court answered both questions in the negative and upheld the Governor's partial vetoes.

Specifically, the Court rejected petitioners' first argument that the partial vetoes violate Wis. Const. art. V, s. 10 (1) (b), because the Governor did not veto the bill “in part” when he extended a duration of time, as 402 years is not part of two years. A majority of the Court instead held that the argument “fails because it improperly relies on *Citizens Utility Board v. Klauser (C.U.B.)*, 194 Wis. 2d 484, 534 N.W.2d 608 (1995), which was limited to the specific circumstance of write-in vetoes, which is absent” in the Governor's partial veto of Senate Bill 70.<sup>6</sup>

The Court also rejected petitioners' second argument that the partial vetoes violate Wis. Const. art. V, s. 10 (1) (c), because the Governor impermissibly deleted digits to create new numbers. The Court instead held that the vetoes were permissible because Wis. Const. art. V, s. 10 (1) (c) “plainly does not prohibit the governor from striking digits to create new numbers.”

Lastly, the majority noted that “a 400-year modification is both significant and attention-grabbing,” but pointed out that the Legislature has a number of options to avoid the result of the case in the future, including by enacting a new bill, amending the Constitution with voter approval, or “draft[ing] bills separate from appropriation bills to avoid the governor's partial veto.”

# WISCONSIN STATE LEGISLATURE V. WISCONSIN DEPARTMENT OF PUBLIC INSTRUCTION (DPI)

## Partial Vetoes

*Legislature v. DPI* involved three separate acts enacted during the 2023-25 legislative session. The 2023-25 biennial budget bill, [2023 Wisconsin Act 19](#), appropriated a total of \$268,884,800 to the Joint Committee on Finance (JCF) supplemental appropriation. Fifty million dollars of this amount was earmarked for DPI for “a literacy program.” [See JCF, [Motion 103](#) (June 13, 2025).]

On July 19, 2023, [2023 Wisconsin Act 20](#) was enacted. Among other things, Act 20 created an Office of Literacy housed in DPI, a literacy coaching program within the Office of Literacy, and a reading curriculum purchasing grant program. Act 20 contained no appropriation.

On February 29, 2024, the Governor partially vetoed and signed [2023 Senate Bill 971](#), which was enacted as [2023 Wisconsin Act 100](#). Senate Bill 971, as passed by the Legislature, created two accounts for use by DPI, one for the Office of Literacy and the literacy coaching program, and one to provide financial assistance to school boards and charter schools for compliance with Act 20. The bill created a new appropriation line in ch. 20, Stats., but the appropriation line had a zero dollar amount. The effect of the Governor’s partial vetoes of Act 100 created a single account in DPI’s section of ch. 20, Stats., designated broadly for the Office of Literacy and the programs it is required to oversee.<sup>7</sup>

## Question for Review

The Wisconsin Supreme Court considered one question relevant to the Governor’s partial veto authority in *Legislature v. DPI*—was Senate Bill 971 an appropriation bill subject to the Governor’s partial veto authority under Wis. Const. art V, s. 10?<sup>8</sup>

## Wisconsin Supreme Court Decision

The Court unanimously held that Senate Bill 971 was not an appropriation bill and, therefore, the Governor’s partial veto was improper and the law is in full force and effect as drafted by the Legislature. The Court explained that under its own precedents, a bill is not an appropriation bill unless, within its four corners, it sets aside public funds for a public purpose. Likewise, a bill is not an appropriation bill “merely because its operation and effect in connection with an existing appropriation law has an indirect bearing upon the appropriation of public moneys.” Applying these precedents, the Court concluded that Senate Bill 971 is not an appropriation bill because within its four corners it “does not set aside any public funds; in fact, it expressly states that ‘\$0’ was appropriated.”

Since the case arose in the context of a set of legislative enactments that separated a program authorization from funding for the program, its practical impact is likely to be greatest with respect to such paired enactments. Ultimately, the decision confirms that the Legislature may insulate a bill from the Governor’s partial veto by allocating no funding within a bill that creates new programs and policies, even if the bill requires funding in separate legislation for those programs or policies to be implemented.

<sup>1</sup> For additional information on this topic, see Legislative Council, *Governor’s Partial Veto Authority*, Information Memorandum (July 2025).

<sup>2</sup> See *LeMieux* at ¶7 for the full text of the vetoed sections, with the deleted text struck through.

<sup>3</sup> Wis. Const. art. V, s. 10 (1) (b) provides: “If the governor approves and signs the bill, the bill shall become law. Appropriation bills may be approved in whole or in part by the governor, and the part approved shall become law.”

<sup>4</sup> Wis. Const. art. V, s. 10 (1) (c) provides: “In approving an appropriation bill in part, the governor may not create a new word by rejecting individual letters in the words of the enrolled bill, and may not create a new sentence by combining parts of 2 or more sentences of the enrolled bill.”

<sup>5</sup> The parties’ briefs and various non-party *amicus curiae*’s briefs may be viewed [here](#).

<sup>6</sup> See *LeMieux* at ¶3. However, a majority of the Court did not agree on a specific rationale for why petitioners’ argument fails under *C. U.B.*, since Justice Dallet joined the majority opinion only as to ¶¶1-19 and 25-31, and filed a separate concurring opinion.

<sup>7</sup> See *Wisconsin State Legislature* at ¶5 for the full text of the vetoed sections, with the deleted text struck through.

<sup>8</sup> The Court also considered a cross claim from DPI alleging that JCF improperly withheld funds allocated to JCF’s supplemental appropriation that were earmarked for DPI literacy programs, but found it could not grant the remedy sought by DPI.