

SEIU Local 1: Unions file brief in Wisconsin Supreme Court

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Labor Unions and Organizations Urging to Uphold Lower Court Ruling Against Unconstitutional Power-Grab by Republican Legislature

MADISON—Yesterday, SEIU Local 1, AFT Wisconsin, and other labor organizations and leaders filed a brief in the Wisconsin Supreme Court (attached) urging the Court to uphold a lower court ruling against the unconstitutional power-grab laws rammed through the Legislature last year. Following the election of Governor Evers in November 2018, the Republican-controlled Legislature rushed through legislation that would strip power from the Executive branch before Evers could take office. This is part of a dangerous pattern demonstrating Republican politicians' contempt for democracy: the North Carolina Legislature attempted a similar power grab after a Democrat was elected governor there.

SEIU Local 1, AFT Wisconsin and other labor organizations and leaders filed suit, arguing that the lame-duck laws violate the separation of powers required by the Wisconsin Constitution. The laws 1) seized for the Legislature the Executive's power to make critical decisions regarding litigation on behalf of the State, 2) permit a mere handful of legislators acting through committee to indefinitely suspend agency regulations that implement the law, and 3) require almost every communication about the law from the Executive branch to the public to go through burdensome notice-and-comment procedures. This is unconstitutional. The Legislature may not invade areas of exclusive Executive authority (like executing the law through litigation) and also may not interfere so substantially with the Executive in areas of shared power.

A trial court in Wisconsin temporarily blocked the most egregious aspects of the laws, but the Legislature appealed, and the Supreme Court assumed jurisdiction over the case. In doing so, the Supreme Court cancelled a trial in the lower court just hours before it was set to begin. The unions are asking the Court for an evidentiary hearing so they can offer evidence demonstrating the extent of the burden placed on Wisconsin government by the unconstitutional laws. Before the Supreme Court considers laws that will upend government, it should have the best evidence in front of it showing how those laws would actually work (or not work) in practice. The unions' motion for an evidentiary hearing (also attached) is pending.

The Wisconsin Supreme Court, which is dominated by Republicans, now faces a test of its legitimacy: it can fulfill its constitutional duty to check an egregious abuse of power by one of the other branches, or it can turn a blind eye to this violation of the Constitution to serve the short-term interests of the Republican Party. Our brief urged the court to defend bedrock constitutional principles and affirm the ruling of the lower court, allowing the case to proceed appropriately.

Background: In the lead up to the 2018 midterm elections, working people in the Milwaukee area showed up to canvass in unprecedented ways, urging low propensity voters to get out and vote for candidates who cared about issues that would help them. Local unions, organizations and working people door knocked on tens of thousands of doors, and the low propensity voters they mobilized, powered to victory Tony Evers, who stood with Wisconsin's working people by supporting a \$15 minimum wage and expanded healthcare for all.

In December 2018, after Evers beat Scott Walker in the Governor's race, the Republican Legislature held a lame duck session during Walker's final weeks in office and passed a 141- page package of bills that stripped away Gov-elect Evers' power and executive authority to govern the state effectively. Many of these powers were the same ones then-Gov. Scott Walker freely exercised during his tenure. Walker, along with Republican legislators, strategized to limit Gov-elect Evers' power in office, and through the lame duck laws, they locked in policies that would give to the legislature new powers that had always belonged with the governor and executive branch.

Local union leaders and Wisconsin residents continue to challenge this power grab, alleging that the acts are unlawful and invalid because they violate the Wisconsin Constitution.