

# State justices question proposal on redistricting process

Posted on Friday, Jan 15, 2021

Justices on Thursday appeared skeptical of a conservative-backed proposal to create a process for the state Supreme Court to handle redistricting cases.

The petition asks the court to officially signal immediate acceptance of any redistricting suits, bypassing the traditional path through the lower courts.

Rick Esenberg, president of the conservative Wisconsin Institute for Law & Liberty, argued before the court in a public hearing that the proposal is necessary to ensure any upcoming legal battles get solved by state courts instead of federal ones.

Conservative justices hold a 4-3 majority over liberals on the state's highest bench.

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But Chief Justice Patience Roggensack, a conservative, criticized Esenberg's argument. She said the proposal would make the court a proactive body on litigation instead of a reactive one to what others present.

"That's just not how we operate," she said. "We determine cases and controversies that are brought to us by someone else."

Roggensack added justices retain only a handful of staffers and not the "huge" numbers she said would be necessary to draw new maps.

The Legislature redraws electoral maps once every decade according to the latest Census data. Republicans controlled all branches of government during the previous redistricting period in 2011, sealing a GOP-favored playing field for the following decade.

But Dem Gov. Tony Evers is likely to veto the maps lawmakers present this time around, sparking a court battle over what the state's political borders should look like in 2022 and beyond. Often, such disputes go to federal court, but many conservatives think they'd have a better outcome by going the state Supreme Court route.

Former GOP Assembly Speaker Scott Jensen before the court said the COVID-19 pandemic has delayed Census data. He said that delay would create an even greater time crunch than usual for lawmakers to pass maps and then for the courts to take action if Evers vetoes the maps.

Roggensack pointed out the court already takes original action on certain cases, lifting them from the lower courts. She asked why justices should sign on to a rules change to allow something that they already do.

Liberal Justice Jill Karofsky agreed with Roggensack's assessment that the proposal would be unnecessary as nothing now blocks people from petitioning the Supreme Court. She said WILL only wants to ensure a gerrymandering case would be a "rocket docket" in the state in order to beat similar lawsuits filed in federal courts, where conservative prospects may be less favorable.

Meanwhile, Justice Brian Hagedorn, another conservative who has emerged as a swing vote on the high court, asked Jensen what his "main objective" is with the proposal.

"Our main objective is that a state court handles this matter," Jensen said. "Our other concern is time. You need a process if you're going to be able to wrap this up in time."

But Christopher Ford, chair to Evers' People's Maps Commission, slammed the petition and its supporters, arguing conservatives want to use the court as "a political tool" to benefit Republicans' gerrymandered maps.

Watch the hearing:

<https://wiseye.org/2021/01/14/wisconsin-supreme-court-public-hearing-redistricting-rule-petition/>