

Dane County judge overturns GOP lame-duck law giving lawmakers oversight of DOJ settlements

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A Dane County judge has ruled unconstitutional a law Republicans approved in the 2018 lame-duck session that gave lawmakers final review over settlements reached by the state Department of Justice.

Dane County Judge Susan Crawford wrote in last week's ruling Republicans have sought to portray the provision — approved just before Dem Josh Kaul took office — as giving lawmakers a “seat at the table.” Instead, she characterized the law as giving the Legislature “absolute power.”

She added the law gives the Joint Finance Committee a veto over settlements with no override mechanism to act as a check on legislative authority.

The state Supreme Court last year upheld the constitutionality of the statute. But the justices in the 4-3 decision noted that ruling was limited because the lawsuit argued the statutes were unconstitutional in any circumstances and didn't provide any examples of how the laws have been applied.

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In the Dane County suit, Kaul sought to challenge the constitutionality of the law's requirement that he seek JFC approval on civil enforcement actions and civil actions DOJ prosecutes on behalf of executive-branch agencies. The latter includes cases impacting how those agencies administer statutory programs they oversee.

Crawford found the law unconstitutional as it applies to settlements in civil enforcements, finding the statute violates the separation of powers.

She held off ruling on the second challenge. Instead, Crawford ruled Kaul could amend the complaint to take into account arguments that were raised during oral argument.

Crawford also stayed the ruling in anticipation lawmakers would file such a request as they appeal.

It is the second time a circuit court judge has weighed in on the issue this year.

Kaul sued lawmakers in the case that led to this month's ruling by Crawford. Meanwhile, the Legislature and former GOP state Rep. Adam Jarchow, who's now running for AG, asked a Polk County Circuit Court to compel Kaul to adhere to the lame-duck laws. They also sought an order that Kaul must get approval from the committee before entering into settlement agreements and to deposit all settlement funds into the general fund.

The judge in that case issued a bench ruling in March that granted motions sought by both GOP lawmakers and Kaul but has yet to enter a final ruling explaining his rationale. A notice of appeal has already been filed in the case.

Kaul praised the Dane County decision.

"The lame-duck power grab by Republicans in the state legislature undermined the will of Wisconsin voters and has resulted in wasted tax dollars," he said. "We will continue working to ensure that the aspects of the lame-duck legislation that violate the Wisconsin Constitution are struck down."

Read the ruling [here](#).