

League of Wisconsin Municipalities: Says accountable local health officers must be able to combat emergent communicable diseases

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League of Wisconsin Municipalities & City of Milwaukee File Joint Amicus Brief in Becker v. Dane County

The League of Wisconsin Municipalities and the City of Milwaukee recently filed a joint amicus brief with the Wisconsin Supreme Court in *Becker v. Dane County*, which examines the scope of authority of local health officers to issue emergency orders to address pandemics like COVID-19. The joint amicus brief asks for the court to rule in favor of the Public Health Madison and Dane County (PHMDC) health officer as highlighted in the following statement from the League of Wisconsin Municipalities' Legal Counsel, Claire Silverman:

“The League and City of Milwaukee’s brief contends that the state Legislature wisely vested local health officers with broad authority to allow them to respond to existing and emerging threats that can vary widely and spread rapidly, including the authority to issue orders under Wis. Stat. § 252.03 without governing body approval. Dane County’s ordinance is not a delegation of authority; it simply provides an enforcement mechanism for the health officer’s orders. Furthermore, if the court were to find that the language in Wis. Stat. § 252.03 granting local health officers the authority to issue orders constituted an unlawful delegation of authority, such a finding would call into question numerous other statutory delegations of authority which are woven into the framework of local government.”

Additional Background on the Case:

- In January 2021, The Wisconsin Institute for Law and Liberty (WILL) filed an action on behalf of several plaintiffs challenging the Public Health Madison and Dane County (PHMDC) health officer's COVID-19 orders.
- A lower court concluded that state law authorizing a local health officer to “do what is reasonable and necessary for the prevention and suppression of” a communicable disease provided sufficient authority to the Dane County health officer to issue emergency orders without the need for the county board to approve such orders. The circuit court dismissed the plaintiffs' claims and granted summary judgment in favor of PHMDC.
- In response, WILL petitioned the Wisconsin Supreme Court to bypass the court of appeals and review the circuit court decision. The Supreme Court agreed to do so.

A link to the Amicus Brief is available [here](#).

The League of Wisconsin Municipalities advocates for Wisconsin's cities and villages, large and small, urban and rural, speaking up for local democracy and common-sense citizen-led government. Learn more at <https://www.lwm-info.org/>