

Wisconsin Institute for Law and Liberty: Legislature grants initial approval for WILL-backed constitutional amendment to protect legislative oversight

Posted on Wednesday, Feb 18, 2026

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The News: On Wednesday, the Wisconsin State Senate approved Assembly Joint Resolution 133 (AJR 133) on first consideration, a WILL-supported proposed amendment to the Wisconsin Constitution designed to restore legislative oversight of administrative rulemaking. The proposed amendment empowers lawmakers to suspend any administrative rule, in whole or in part, through passage of a joint resolution approved by a majority in both legislative houses.

The Quotes: WILL Policy Director, Kyle Koenen, stated, “Unelected bureaucrats write rules with the full force of law, driving up costs for Wisconsin families and small businesses. Last summer, the Wisconsin Supreme Court stripped the Legislature of its ability to oversee that process—even though rulemaking at its core is a legislative function. When one branch can both write and enforce the law, accountability breaks down. This constitutional amendment restores the separation of powers the Wisconsin Constitution was designed to protect.”

The Proposed Amendment: AJR 133 is a WILL-supported constitutional amendment that would restore legislative oversight of administrative rulemaking by allowing the Legislature to suspend an administrative rule, in whole or in part, through a joint resolution approved by a majority of both legislative houses. The amendment mirrors constitutional provisions used in states such as Iowa, where legislatures retain clear authority to review and suspend agency rules.

How We Got Here: A recent Wisconsin Supreme Court decision, known as *Marklein II*, significantly altered the balance of power between the legislative and executive branches. By restricting the Legislature's ability to suspend or block administrative rules without full bicameralism and presentment, the Court made it far more difficult for elected lawmakers to meaningfully oversee agency action. As a result, executive agencies can now exercise expanded authority to both write and enforce binding regulations without meaningful input from the legislative branch, despite rulemaking being an inherent legislative function.

If no changes are made, Wisconsin will increasingly be governed not by laws enacted by elected representatives, but by regulations issued by administrative agencies with limited direct democratic accountability.

What's Next: Having advanced through first consideration, the proposed amendment must pass second consideration during the 2027-28 legislative session before it may be placed on the ballot for voters to ultimately decide.