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CLERK OF WISCONSIN
SUPREME COURT

STATE OF WISCONSIN
SUPREME COURT

Appeal No. 2020AP2020-OA

Tony Evers, Governor of Wisconsin, Department of Natural Resources,
Board of Regents of the University of Wisconsin System, Department
of Safety and Professional Services and Marriage and Family Therapy
Board, Professional Counseling and Social Work Examining Board,

Petitioners,

v.

Senator Howard Marklein, Representative Mark Born, in their official
capacities as chairs of the joint committee on finance; Senator Chris
Kapenga, Representative Robin Vos, in their official capacities as
chairs of the joint committee on employment relations; Senator Steve
Nass and Representative Adam Neylon, in their official capacities as
co-chairs of the joint committee for review of administrative rules,

Respondents,

MOTION OF CLEAN WISCONSIN, INC., FOR LEAVE TO
FILE A NON-PARTY BRIEF

Clean Wisconsin, Inc., moves the Court, pursuant to Wis. Stat. §
809.19(7)(a) and (c), for permission to file a non-party, amicus curiae
brief in the above-referenced matter. The grounds for this motion are as
follows:

1. Clean Wisconsin is a membership organization representing the environmental interests of over 20,000 members and supporters around the state.

2. Clean Wisconsin advocates for clean water, air, energy, and a healthy environment for all Wisconsin residents. This advocacy includes lobbying the governor and members of the legislature to appropriate money for items in the state budget that further these environmental interests.

3. Clean Wisconsin has consistently supported funding for the Knowles-Nelson conservation program, and other environmental programs that involve the Wisconsin Department of Natural Resources (DNR) managing applications for money appropriated in the budget pursuant to criteria set forth in legislation.

4. The case at hand asks the Court to consider whether provisions in Wis. Stat. Ch. 23 allowing the Joint Committee on Finance (JCF) to veto DNR's decisions regarding how to award money under the Knowles-Nelson conservation program facially violate the separation of powers.

5. Clean Wisconsin is interested in how the Court resolves this issue in at least three ways.

6. First, the Knowles-Nelson conservation program promotes clean water, clean air, habitat for critical plant and animal species, and a range of outdoor recreational opportunities. These are the same environmental interests Clean Wisconsin advocates for every day.

7. Second, this case raises the question of whether legislative committees may block agency allocation of already-appropriated funds. As an organization that lobbies for appropriations to fund environmental programs administered by state agencies, Clean Wisconsin is interested in whether this type of legislative veto survives constitutional scrutiny.

8. Third, a ruling from the Court on JCF's legislative veto authority may implicate the continuing vitality of legislative committee vetoes in other contexts, and those vetoes have direct impacts on Wisconsin's environment. Clean Wisconsin is thus interested in how this Court resolves separation of powers issues presented by legislative vetoes more generally.

9. A brief from Clean Wisconsin will prove valuable to the Court by offering the perspective of an interested organization that has had its mission and purpose impacted by legislative committee vetoes in recent years. We have observed that these legislative committee vetoes

have negative consequences for effective government decision making and democratic accountability. Connecting these direct observations with scholarship on the functional impact legislative vetoes have on government action, Clean Wisconsin will articulate why preserving the legislative vetoes is not only inconsistent with basic separation of powers principles, but it is also inimical to effective democratic governance.

10. This motion is timely filed under Wis. Stat. § 809.19(7)(c).

11. If this motion is granted, Clean Wisconsin respectfully requests that the non-party brief accompanying this motion be accepted by the Court for consideration.

CONCLUSION

For the reasons stated herein, Clean Wisconsin requests that this Court grant it permission to file a nonparty amicus brief pursuant to Wis. Stat. § 809.19(7).

Dated this 13th day of March, 2024.

Respectfully submitted,

Electronically signed by Evan Feinauer

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