



Wisconsin Briefs

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CONSTITUTIONAL AMENDMENT TO BE CONSIDERED BY WISCONSIN VOTERS, APRIL 1, 2008

Introduction

One proposal to amend the Wisconsin Constitution will be submitted to Wisconsin voters on April 1, 2008. The constitutional amendment relates to prohibiting the governor from exercising the partial veto to create new sentences.

Section Amended	Resolution	Subject
Article V, Sec. 10 (1) (c)	2005 Senate Joint Resolution 33 (Enrolled Joint Resolution 46) 2007 Senate Joint Resolution 5 (Enrolled Joint Resolution 26)	Partial veto

Amendment Process

Article XII, Section 1, of the Wisconsin Constitution requires that every constitutional amendment must be adopted by two successive legislatures and ratified by the electorate before taking effect. A proposed change is introduced in the legislature for “first consideration” in the form of a joint resolution that must pass both houses but does not have to be submitted to the governor for approval. It must be published for three months before the next election. If the resolution is adopted on first consideration, a new joint resolution embodying the identical constitutional text must be approved on “second consideration” by the next legislature. The second joint resolution specifies the wording of the ballot question and sets the referendum date. The third and final step involves submitting the question to a statewide referendum vote where a majority of those casting ballots must ratify the amendment.

PARTIAL VETO

Ballot Question

The question will appear on the ballot in this form:

Partial Veto. Shall section 10 (1) (c) of article V of the constitution be amended to prohibit the governor, in exercising his or her partial veto authority, from creating a new sentence by combining parts of two or more sentences of the enrolled bill?

Proposed Language

Section 10 (1) (c) of article V of the constitution is created to read: [Article V] Section 10 (1) (c) In approving an appropriation bill in part, the governor may not create a new

word by rejecting individual letters in the words of the enrolled bill, and may not create a new sentence by combining parts of 2 or more sentences of the enrolled bill.

Legislative Reference Bureau Analysis

The Legislative Reference Bureau analysis of 2005 Senate Joint Resolution 33 states:

This proposed constitutional amendment, proposed to the 2005 legislature on first consideration, prohibits partial vetoes from creating new sentences by combining parts of 2 or more sentences of the enrolled bill.

Attorney General's Explanatory Statement

Attorney General J.B. Van Hollen has provided the following explanatory statement of the effect of the proposed amendment as required by Section 10.01 (2) (c), Wisconsin Statutes:

The Governor currently has broad authority to veto any part of a bill passed by the Legislature that contains an appropriation of money, including, but not limited to, the state budget bill. At the present time, this partial veto power is limited in the text of the Constitution only to the extent of prohibiting the Governor from creating new words by eliminating individual letters in the words of the bill passed by the Legislature. Thus, this partial veto power allows the Governor to take parts of sentences in the bill passed by the Legislature and combine them to form new sentences that were not contained in the original bill.

A "yes" vote would place an additional limit on the Governor's power to veto parts of an appropriation bill by prohibiting the Governor from creating a new and different sentence by combining parts of two or more sentences as they are written in the bill passed by the Legislature.

A "no" vote would leave the Governor's partial veto power as it is, and continue to permit the Governor to create a new sentence by combining parts of several sentences in the bill passed by the Legislature.

Background

Prior to 1931, Wisconsin's governor only had the power to veto bills in their entirety. In November 1930, Wisconsin's voters approved a constitutional amendment providing that "appropriations bills may be approved in whole or in part by the governor . . ."

The partial veto power was used sparingly by Wisconsin's governors until the 1970s. In the 1970s, governors began to use the partial veto power more often, and in more creative ways, enabled by the constitutional language that allows appropriation bills to be approved "in part." This language is far more expansive than the provisions found in most state constitutions or statutes, which allow governors to veto "items" from appropriation bills. Wisconsin governors have maximized this power through a variety of methods, including the "digit veto," whereby appropriations are radically altered by the elimination of a single digit of a large number; the "editing veto," whereby the clear intent of a sentence can be reversed by eliminating a crucial word such as "not"; the "pick-a-letter veto," the selective deletion of letters to form new words; and the "reduction veto," in which a figure is deleted and replaced by a lower figure. Both state and federal courts have upheld these creative practices.

There have been numerous attempts over the years to curtail, eliminate, or modify the governor's partial veto authority through constitutional amendment. Only one has passed

the legislature prior to the 2007 session. This measure, approved by the voters in April 1990, prohibits the governor from creating “a new word by rejecting individual letters in the words of the enrolled bill.” This amendment effectively eliminated the “pick-a-letter” veto.

Only a few proposals to modify the governor’s partial veto authority have been introduced since 1991. In his veto of 2005 Assembly Bill 100, the budget bill for 2005-07, however, Governor Jim Doyle created new sentences from unassociated words and numbers, most notably in veto item A-4, section 9155 of the bill. The veto occurred on July 25, 2005. On August 19, Senate Joint Resolution 33, removing the governor’s power to veto parts of sentences in order to form new sentences, was introduced.

For a detailed discussion of the partial veto in Wisconsin, see our Informational Bulletin 04-1, *The Partial Veto in Wisconsin*.

Legislative Action

2005 Senate Joint Resolution 33, the “first consideration” resolution, was introduced on August 19, 2005, by Senator Sheila Harsdorf and 45 coauthors and cosponsors. SJR-33 was adopted by the senate on October 25 and the assembly as amended by Assembly Substitute Amendment 1 on March 2, 2006. Assembly Substitute Amendment 1 prohibited the governor from rejecting any individual word in a sentence without rejecting the entire sentence. This language was identical to that of another constitutional amendment offered on first consideration as Assembly Joint Resolution 68 on November 29, 2005. The senate refused to concur in Assembly Substitute Amendment 1 by a vote of 32-0 on March 7. The assembly receded from its position on April 25. Senate Joint Resolution 33 was enrolled on May 15 as Enrolled Joint Resolution 46.

2007 Senate Joint Resolution 5, the “second consideration” resolution, was introduced on January 16, 2007, by Senator Tim Carpenter and 60 coauthors and cosponsors. It was adopted by the senate on December 11, 2007, and the assembly on January 15, 2008. It was enrolled on January 28 as Enrolled Joint Resolution 26.