

WISCONSIN SUPREME COURT

April 20, 2020

10:45 a.m.

No. 2019AP2054-OA

Wis. Small Businesses United, Inc. v. Joel Brennan

The Supreme Court accepted jurisdiction over the original action petition filed by the Wisconsin Small Businesses United, Inc. and five Wisconsin citizens, raising the question of whether the governor, pursuant to his constitutional authority under Article V, § 10 of the Wisconsin Constitution, may reject individual parts of a date contained in an enrolled bill so as to create a new date that was never approved by the Legislature.

This matter echoes the challenges raised in case no. 2019AP1376-OA, Bartlett v. Evers. Here, as there, the Supreme Court is asked to examine the scope of the governor’s partial veto authority.

On September 15, 2017, the Wisconsin State Assembly and Senate passed a biennial budget bill for the 2017–2019 biennium. It was presented to then-Governor Scott Walker pursuant to article V, section 10(1)(a), for his signature, and on September 21, 2017, Governor Walker signed the budget bill with partial vetoes. The bill was published as 2017 Wis. Act 59 (“Act 59”) on September 22, 2017. The partial vetoes to Act 59 were calendared and sustained by the Legislature’s inaction on May 8, 2018.

With this original action, Wisconsin Small Businesses United, Inc. and five Wisconsin citizens challenge two of Governor Walker’s partial vetoes from 2017. The petitioners, as taxpayers, claim an interest in certain legislation approved as part of Act 59. The petition alleges that Governor Walker’s partial vetoes in Act 59 are unconstitutional. The petitioners question whether the governor may, pursuant to his constitutional authority under art. V, sec. 10 of the Wisconsin Constitution, as amended in 1990, reject individual parts of a date contained in an enrolled bill so as to create a new date that was never approved by the Legislature.

The specific vetoes the petitioners are contesting are in Section 1641m, the Energy Efficiency Revenue Limit Adjustment (changing a legislative deadline of “December 31, 2018” into “December 3018”) and in Section 2265, the Private Label Credit Card Bad Debt Deduction (changing the implementation date of the Private Label Credit Card Bad Debt Deduction from “July 1, 2018” to “July 1, 2078.”).

The respondents to this petition for original action are, named in their official capacities, Joel Brennan, Secretary, Department of Administration (DOA); Peter Barca, Secretary, Department of Revenue (DOR); and Carolyn Stanford Taylor, Acting Superintendent of the Department of Public Instruction.

The court will hear oral argument on this matter on the same date as it hears argument in Nancy Bartlett v. Tony Evers, case no. 2019AP1376-OA.