

IN THE SUPREME COURT OF WISCONSIN

No. _____

WISCONSIN LEGISLATURE,

Petitioner,

v.

TONY EVERS, IN HIS OFFICIAL CAPACITY AS GOVERNOR OF
THE STATE OF WISCONSIN,

Respondent.

EMERGENCY MOTION FOR TEMPORARY INJUNCTION

The Wisconsin Legislature hereby moves this Court, pursuant to Wis. Stat. §§ 813.02, 809.14, for an immediate order enjoining Executive Order 74, which, among other things “suspend[s] in-person voting for April 7, 2020, until June 9, 2020.” Executive Order 74 (April 6, 2020).¹ The Legislature has also filed, simultaneous with this motion, an Emergency Petition for Original

¹ Available at <https://evers.wi.gov/Documents/COVID19/EO074-SuspendingInPersonVotingAndSpecialSession.pdf>.

Action and a Memorandum in Support of the Emergency Petition for Original Action and Emergency Motion for Temporary Injunction. As explained more fully in the Memorandum, the Governor does not have constitutional or statutory authority to modify, suspend or otherwise alter the statutes. Nor does the Governor have the constitutional or statutory authority to set the time, place and manner of elections. That authority belongs to the Legislature. Thus, Executive Order 74 is void to the extent that it suspends or otherwise alters the Wisconsin Statutes and the time, place and manner of elections as set by statute. It is also void to the extent it purports to alter or otherwise affect the terms of local-government officials.

Given that the Governor's order comes mere hours before the in-person election is set to begin, the Legislature will suffer irreparable harm if Executive Order 74 is not immediately enjoined. Moreover, such sweeping changes to an election made just before the election is set to begin will undoubtedly cause voter confusion and call into question the integrity of the electoral process.

Thus, the Legislature requests that this Court issue an immediate injunction of Executive Order 74.

Dated: April 6, 2020

Respectfully Submitted,

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CERTIFICATE OF SERVICE

A copy of this Motion is being served on all opposing parties via electronic mail and first-class mail.

Dated: April 6, 2020

Ryan J. Walsh
Counsel for The Wisconsin Legislature