

OREGON AREA PROGRESSIVES
PO Box 154
Oregon, Wisconsin 53575
oregonareaprogressives@gmail.com
www.oregonareaprogressives.org

The Clerk of the Supreme Court
PO Box 1688
Madison, Wisconsin 53701

In re: Petition for Proposed Rule to Amend Wis Stat Section 809.70 (relating to original actions).

To the Court:

I am writing on behalf of the Oregon Area Progressives. We are a grassroots organization located in Oregon, Wisconsin, about 7 miles south of Madison Wisconsin. We are a core group of approximately thirty Wisconsin residents who are politically engaged. We are writing to express our very deep concerns over a proposed rule that the Court will be reviewing during its current term. The rule concerns the process of reviewing redistricting maps.

If enacted, the proposed Rule will limit the due process rights of citizens, limit facts and opinions normally available to the Court, and result in unnecessary politicization of our highest Court.

We express five direct results of the proposed Rule that we find injurious to the citizens of Wisconsin and to the Supreme Court itself.

These results are explained herein.

1. Unnecessarily Limits Citizens' Right to Petition. The proposed rule would eliminate existing and significant avenues of petition for citizens to respond to the critical issue of redistricting; an issue in which many citizens are highly engaged.¹

¹ As of November, 2020, fifty-four Wisconsin counties have passed Resolutions on what they call "fair maps" and 28 counties have passed such referenda. Setting aside the question of what "fair maps" means, this level of political activity indicates a high degree of citizen interest in the issue of redistricting. "Wisconsin Counties Pass Referendums for Independent Redistricting", www.news800.com, 11/6/20.

Section 5(b) of the proposed rule requires that political parties be heard by the court but does not give that same right to other interested parties, such as this and other community organizations. When it comes to redistricting, we would suggest that all citizens are interested parties and that the Court should be encouraged to seek their comments.

2. Unnecessarily Eliminates Lower Courts' Fact Finding. If enacted, the proposed rule would allow any lawsuit about future maps to bypass state trial courts entirely. Such a move would unnecessarily eliminate lower courts' fact finding, thus eliminating any factual record that the Supreme Court could rely on to render its own judgment. We believe such a move to be an unnecessary elimination of a key tool for the Court, as well as injuriously limiting citizen participation.
3. Keeps Information Necessary to Render its Decision from the Supreme Court. Fact finding is a formal process to determine validity of a controversy. If the Court approves this rule change, and lower courts are not allowed to fact find or take citizen testimony, the Supreme Court will be denied access to facts that would undoubtedly be relevant, if not necessary, to the Supreme Court's own deliberations. The absence of a lower court record will expose the Supreme Court to additional problems, such as the perception of politicization.
4. Opens the Court Unnecessarily to the Perception of Politicization. The proposed rule unnecessarily forces the Supreme Court into the center of a previously unadjudicated political controversy. By not having the benefit of a record and opinion created by the lower courts, the proposed rule unnecessarily thrusts the Supreme Court into the middle of what are essentially political controversies; controversies that will land on the Court's doorstep without benefit of lower court vetting.
5. Gives the Perception that the Supreme Court is Allied With Special Interests. The proposed Rule significantly limits testimony from the public, forcing the Court to rely instead on testimony from the political parties. By so doing, the proposed rule implies that the political parties have an overly influential role in the Court's deliberative process in a controversy in which the public is highly engaged.

In summary, we believe the proposed rule unnecessarily limits public input on a highly controversial topic and place the Supreme Court squarely in the middle of that conflict, without benefit of lower court findings, and fully in the center of an inevitable public outcry.

For these reasons, we respectfully request that the Court reject Proposed Rule to Amend Wis Stat Section 809.70.

Sincerely,
Steering Committee, Oregon Area Progressives:

Beth Cox 

And electronically for:

Carlene Bechen
Amanda Peterson
Beth Whittemore
Charles Uphoff

Enclosed: nine copies

CC: email copy in Word format to clerk@wicourts.gov
US Mail to: WILL 330 E. Kilbourn Ave., Suite 725, Milwaukee, WI 53202