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In the Supreme Court of Wisconsin

No. 2021-AP-1450-OA

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BILLIE JOHNSON, ERIC O'KEEFE, ED PERKINS AND RONALD  
ZAHN,

*Petitioners,*

v.

WISCONSIN ELECTIONS COMMISSION, MARGE BOSTELMANN,  
JULIE GLANCEY, ANN JACOBS, DEAN KNUDSON, ROBERT  
SPINDELL, AND MARK THOMSEN, IN THEIR OFFICIAL  
CAPACITIES AS MEMBERS OF THE WISCONSIN ELECTION  
COMMISSION,

*Respondents.*

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**MOTION OF WISCONSIN LEGISLATURE FOR LEAVE TO FILE  
NON-PARTY BRIEF IN SUPPORT OF PETITION TO SUPREME  
COURT TO TAKE JURISDICTION OF ORIGINAL ACTION**

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The Wisconsin Legislature moves to file a non-party amicus brief in response to Petitioners' Petition To The Supreme Court Of Wisconsin To Take Jurisdiction Of An Original Action (filed August 23, 2021). The grounds for this motion are as follows:

1. This action challenges the constitutionality of existing legislative district boundaries from which legislators were previously elected and asks the Court to draw new boundaries should the legislative process fail to timely produce maps in light of new census data, as the Legislature is constitutionally required to do. (Pet. ¶ 36).

2. The Wisconsin Legislature is the legislative branch of Wisconsin's government. Wis. Const. art. IV. It has the responsibility to create Wisconsin's congressional and state legislative districts. U.S. Const. art. I, § 4, cl. 1; Wis. Const. art. IV, § 3. The Wisconsin Legislature has begun its redistricting process.

3. This Court has allowed legislative participation in previous redistricting actions. *See, e.g., State ex rel. Reynolds v. Zimmerman*, 22 Wis. 2d 544, 548 (1964) (President pro tem of Senate

and Speaker of Assembly permitted to intervene), and the Wisconsin Legislature has a statutory right to participate in litigation to defend its institutional interests, including defending the validity of its laws. *Democratic Nat'l Comm. v. Bostelmann*, 2020 WI 80, ¶¶ 6-8, 13, 394 Wis.2d 33, 949 N.W.2d 423 (2020).

4. This motion is timely, filed in the time period for non-party briefs as prescribed by this Court's Order of August 26, 2021.

5. The Legislature's proposed brief, attached, argues that taking jurisdiction enables Wisconsin to control its redistricting process by: (1) protecting the State's interest in redistricting, including the Wisconsin Legislature's interest, free from federal interference; and (2) providing the most appropriate state forum to adjudicate Petitioners' claims should the legislative process fail to produce and map.

Dated this 7<sup>th</sup> day of September, 2021.

Respectfully submitted,

Electronically Signed By  
Kevin M. St. John

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