

**COURT OF APPEALS
DECISION
DATED AND FILED**

May 26, 2005

Cornelia G. Clark
Clerk of Court of Appeals

NOTICE

This opinion is subject to further editing. If published, the official version will appear in the bound volume of the Official Reports.

A party may file with the Supreme Court a petition to review an adverse decision by the Court of Appeals. See WIS. STAT. § 808.10 and RULE 809.62.

Appeal No. 2004AP496

Cir. Ct. No. 2002CV3826

STATE OF WISCONSIN

**IN COURT OF APPEALS
DISTRICT IV**

**STEPHEN SILLS, LYN M. SILLS, WILLIAM GRODEN, SHEILA
GRODEN, JOHN HARDING AND JAN HARDING,**

PLAINTIFFS-APPELLANTS,

v.

**WISCONSIN DEPARTMENT OF ADMINISTRATION AND WISCONSIN
DEPARTMENT OF NATURAL RESOURCES,**

DEFENDANTS-RESPONDENTS,

BLACK POINT HISTORIC PRESERVE, INC.,

INTERVENOR-DEFENDANT-RESPONDENT.

APPEAL from a judgment of the circuit court for Dane County:
MORIA KRUEGER, Judge. *Affirmed.*

Before Deininger, P.J., Vergeront and Lundsten, JJ.

¶1 PER CURIAM. Stephen and Lyn Sills, William and Sheila Groden, and John and Jan Harding (collectively “Sills”) appeal the circuit court’s judgment in favor of the Department of Administration, the Department of Natural Resources and Black Point Historic Preserve, Inc. Sills challenges the constitutionality of two statutes created by the 1997 biennial budget bill related to Black Point Estate on Lake Geneva. *See* WIS. STAT. §§ 20.866(2)(wr) and 23.0962 (2003-04).¹ We affirm.

¶2 On appeal, Sills has narrowed his argument. He contends that the Black Point Estate legislation was improperly passed as part of the 1997 budget bill because the Black Point legislation is a “private” or “local” law within the meaning of article IV, section 18 of the Wisconsin Constitution.

¶3 The Wisconsin Constitution provides that “[n]o private or local bill which may be passed by the legislature shall embrace more than one subject, and that shall be expressed in the title.” WIS. CONST. art. IV, § 18. The supreme court has explained that

[t]he framers of the constitution, in adopting sec. 18 art. IV, intended to guard against the danger of legislation, affecting private or local interests, being smuggled through the legislature under misleading titles, by requiring every bill affecting such interests to be under a title likely to call attention of the lawmakers to its character....

Milwaukee Brewers Baseball Club v. DHSS, 130 Wis. 2d 79, 109, 387 N.W.2d 254 (1986) (citation omitted).

¹ All references to the Wisconsin Statutes are to the 2003-04 version unless otherwise noted.

¶4 There is an exception to the general rule that legislation that is specific to a person, place or thing is a private or local law within the meaning of article IV, section 18 of the Wisconsin Constitution. *Milwaukee Brewers*, 130 Wis. 2d at 115. The exception provides that legislation that is specific to a person, place or thing is not a private or local law within the meaning of article IV, section 18 if it meets a two-part test: (1) the general subject matter of the law relates to a state responsibility of statewide dimension; and (2) its enactment will have a direct and immediate effect on a specific statewide concern or interest. *Id.*

¶5 We conclude that the Black Point Estate legislation is not a private or local law within the meaning of article IV, section 18 of the Wisconsin Constitution because it meets the two-part *Milwaukee Brewers* test. While there is no doubt that the legislation applies to a specific geographic site, the general subject matter of the legislation—historic preservation—is a state responsibility of statewide dimension. In order to preserve Wisconsin historic sites, the sites must be purchased at specific places in Wisconsin, but the sites then benefit all the citizens of Wisconsin. The legislation also has a direct and immediate effect on historic preservation because it provides funds to adapt Black Point Estate for public use and provides an endowment to run Black Point Estate, which will serve the citizens of this state into the future.

¶6 Although not central to our holding, we note that the Black Point Estate legislation was not a “midnight amendment,” added in secrecy, but was instead passed through the usual process of budget deliberations and amendment. Because the legislation was openly considered during this process, legislators were aware of its nature and subject matter which, in turn, helps to assure that the

underlying purposes of article IV, section 18 of the Wisconsin Constitution were met.²

By the Court.—Judgment affirmed.

This opinion will not be published. *See* WIS. STAT. RULE 809.23(1)(b)5.

² Sills contends that the legislation is not entitled to a presumption of constitutionality, and the Department contends that it is. We find it unnecessary to address this argument because we conclude that the statute is constitutional even if we do not apply a presumption of constitutionality.

