‘There’s no transparency’: Secretive ‘pocket veto’ scuttles Wisconsin projects

*The Joint Finance Committee has long allowed members to anonymously block projects, but some want to rein in its dubious practice of not holding hearings*

**By Jacob Resneck**

*Wisconsin Watch*

Along a sagging marshland boardwalk near Appleton’s airport, woodpeckers root out grubs from the pitted ash trunks that line a popular pathway through a municipal park.

The Wisconsin Department of Natural Resources late last year approved paying for half of a $1.3 million rehabilitation project that would remove the decrepit trees, improve safety and replace the boardwalk that gives access to Arrowhead Park’s marshy forestland.

But an [anonymous objection raised by the state’s powerful budget committee](https://www.documentcloud.org/documents/23696640-jfc-objection-letter-for-town-of-grand-chute-1?responsive=1&title=1) left officials with the town of Grand Chute scrambling to figure out why the project’s funding had been blocked. The committee later approved a smaller amount.

“Whoever objected thought it was too much,” said Katie Schwartz, the town’s public works director. “And so we were given some different options for how to move forward. But that was the extent of it.”

Such objections from the Republican-led Joint Finance Committee (JFC) have become increasingly common under Democratic Gov. Tony Evers, with land conservation in the Northwoods especially targeted.

Wisconsin Watch found that in many cases, the committee has failed to follow state law, which requires [scheduling a public hearing on spending halted by such anonymous objections](https://s3.documentcloud.org/documents/23697326/51222-stewardship-memo.pdf).

The effect is a secretive “pocket veto” over projects and programs, ranging from a $15.5 million easement to expand recreational access along the Pelican River to a historic fraternity house remodel in Madison and a $17.5 million incentive program to encourage low-income Wisconsinites on Medicaid to become vaccinated — all without a public hearing or explanation.

Evers has so far been unwilling to challenge the committee’s legal authority. Instead he has called in his proposed 2023-25 budget for an end to the secrecy that committee members from both parties have historically used to block spending.

**Little projects held up by big players**

State law requires land conservation projects funded under the Knowles-Nelson Stewardship program be approved by the budget committee if they exceed $250,000. In 2015, the Legislature under GOP Gov. Scott Walker also required JFC approval for any stewardship projects north of Highway 64, which bisects the state between the St. Croix River bridge and Marinette.

Wisconsin’s land stewardship program has been used since 1989 to acquire property for outdoor recreation and to protect environmentally sensitive areas. The program, authorized through 2026, provides $33.25 million annually, mostly through borrowing, for various projects.

A Wisconsin Watch review of DNR data found the pace of committee objections to Knowles-Nelson projects accelerated during the Evers administration. From 2014 through 2018, under Walker, the Republican-run committee lodged at least 17 objections; a couple were withdrawn — and only one [project was denied](https://madison.com/news/local/govt-and-politics/gop-warns-dnr-about-appraisals-in-denying-dane-county-land-grant/article_e3cbc83a-8338-5639-8f43-c1f0e4f652fd.html).

But since Evers took office in January 2019, the committee lodged at least 26 objections against land stewardship projects. Some remain held up, some were withdrawn, and at least four had funding approved at a reduced level.

In 2021, three parcel acquisitions in Burnett County a few miles from the Mississippi River were held up by anonymous objections. About 93 acres, costing $165,000, were mostly within the Crex Meadows Wildlife Area, a 30,000-acre marshy bird refuge managed by DNR.

“I have no idea why they objected,” said Paul Stoll, president of the nonprofit Friends of Crex.

"We’ve had deals go through fairly quickly, but we’ve had some trouble in the last several years.”

Since 2004, the nonprofit has purchased more than 800 private acres and resold the land to the state for wildlife conservation and recreation. But because the parcels are north of Highway 64, the acquisitions must pass JFC scrutiny.

DNR withdrew its requests for the three projects, acquiring 53 of the acres with federal grants not subject to JFC oversight. The other 40 acres inside the nearby Amsterdam Slough Wildlife Area remain in limbo, but the committee has given the nonprofit no indication why.

“We’re big boys. I mean, if it has to be rejected, for some reason, tell us,” said Jerry McNally, who volunteers with Friends of Crex to close real estate deals for the land trust. “But, the way things are set up, there isn’t really sufficient feedback.”

Evers’ budget bill calls for raising the threshold so only projects worth $500,000 or more would come under the JFC’s review. It also seeks to end the practice of scrutinizing every Knowles-Nelson stewardship land deal in the northern part of the state.

It also would require that “if a member of the Legislature objects to a proposed stewardship project approval, that member’s name and nature of the objection be announced publicly.” But it does not clarify the JFC’s requirement to schedule a hearing over blocked projects.

“Unfortunately, the review process for these projects has been weaponized by members of the Legislature to indefinitely suspend critical projects from moving forward, leaving projects hanging in limbo,” Evers said in a February statement announcing various budget measures.

But those proposals are unlikely to pass because the budget bill’s first stop is before the very committee Evers is proposing to rein in.

**Funds blocked without recourse**

In 2021, the Wisconsin Economic Development Corp. awarded funding to help rehabilitate the century-old Alpha Pi fraternity house on Lake Mendota in Madison’s Langdon Street Historic District. The historic designation constrains the use of remodeling materials, adding to the construction costs.

“We definitely don’t take for granted what we have,” said Mike McGuire, Alpha Pi chapter president who lives there with about 30 other UW sophomores. “It’s like one of the best houses I’ve seen in the city.”

The nonprofit, Beta Building Association of Madison, applied for a WEDC historic preservation award to cover some of the $1.7 million remodel. Because the owner is a nonprofit holding company, it came before JFC for review.

The nonprofit’s director, Bart Kocha, said a WEDC official panicked, telling him the funding “was being held up for political reasons.” The JFC sent him a vague, one-page letter saying the money was on hold pending a hearing.

The JFC has formally met at least five times since the July 2022 objection was lodged but has not put the project on its agenda. The only clue to the objection’s origin is a [written statement](https://www.documentcloud.org/documents/23699748-marklein-statement?responsive=1&title=1) JFC co-chair Sen. Howard Marklein, R-Spring Green, gave to WisPolitics, alleging the WEDC award was patronage for someone employed in the governor’s office.

“This is the kind of thing that taxpayers hate,” Marklein wrote. “It looks like one of Governor Evers’ staff is getting a sweetheart deal at taxpayers’ expense.”

His office declined further comment to Wisconsin Watch.

The fraternity’s nonprofit denies any strings were pulled. Evers’ Washington, D.C.-based staffer Derek Campbell is a former chapter president and served on the nonprofit’s volunteer board in 2018.

But the organization has never had a chance to answer the allegations publicly because no hearing has been scheduled.

“Obviously we feel like we’re over a barrel on this thing,” Kocha said. “There’s no transparency to the process, obviously. We don’t even know where to go.”

At one point Kocha met with Marklein in his Capitol office for 45 minutes. He said they chatted affably, and Marklein told his own fraternity stories, but offered no reason for the objection.

“He could have asked questions, to explore anything that was bothering him,” Kocha said. “But he didn’t.”

**Anonymous objection halted pandemic program**

The JFC also reviews certain Medicaid expenditures under the state Department of Health Services. In spring 2021, as the delta variant of COVID-19 was taking hold in Wisconsin, the [agency proposed a $17.5 million cash incentive program](https://www.documentcloud.org/documents/23697848-2023112-jfc-vaccine-outreach?responsive=1&title=1) to reward Medicaid providers whose patients were vaccinated.

The goal was to get 80% of adults on Medicaid fully vaccinated against the coronavirus.

But the JFC co-chairs wrote to DHS saying an unnamed member had objected. The agency never followed up, and the program was redesigned using federal funding as a [$7.4 million “pay-for-performance” program](https://www.documentcloud.org/documents/23697873-revised-vaccine-outreach-program-memo_12_14_2021?responsive=1&title=1), with a reduced goal of 55% of most adult Medicaid recipients to be fully vaccinated.

A Jan. 12 records request for emails related to the agency’s response to the objection remains pending.

It’s still not clear who on the committee objected to the vaccine program. JFC co-chair Rep. Mark Born, R-Beaver Dam, said there was a consensus among Republican members that state funding wasn’t needed.

“That was one where we questioned whether it was really necessary,” Born told Wisconsin Watch, “because there were massive amounts of federal money that were coming into the state for COVID relief at that time.”

By the end of 2021, the state health department had paid out $3.9 million to health providers under the modified program. Vaccination rates among participating Medicaid providers ranged between 34% and 61%.

Health agency officials declined to be interviewed but provided details of the programs and an unsigned agency statement to Wisconsin Watch.

“We recognize that there are often barriers to people of lower income to have access to preventative health care,” an agency spokesperson wrote. “And we strongly believed this approach to vaccinate more Wisconsinites was a good idea.”

**Legality of ‘pocket vetoes’ debated**

Nobody disputes the JFC’s role in providing fiscal oversight of the state government. But legal experts inside and outside the Capitol say the manner in which it blocks funding violates state law.

Agencies must routinely submit funding plans to the budget committee before the funds can be allocated. Any committee member can object, which holds up spending. But the law says the agency can spend the money if the committee “[does not schedule a meeting for the purpose of reviewing](https://docs.legis.wisconsin.gov/statutes/statutes/16/iii/515/1)” the proposal within 14 working days.

The budget committee must register any objection within the time period. But it often doesn’t schedule a meeting for weeks, months or — in many cases — ever.

A 2022 [Wisconsin Legislative Council review](https://www.documentcloud.org/documents/23697326-51222-stewardship-memo?responsive=1&title=1) determined the JFC isn’t following the law by not setting a meeting date, although it warned the courts would be unlikely to intervene. State Rep. Deb Andraca, D-Whitefish Bay, sought the opinion after JFC held up $2.3 million in stewardship funds to buy 131 acres around Cedar Gorge near Milwaukee for nearly a year. No hearing was ever scheduled.

“It’s almost like a pocket veto,” Andraca said, referring to a technique that kills a proposal when the decision-maker takes no action. “That’s not fair to the public.”

**JFC process ‘bad for transparency’**

As it has done repeatedly since Evers took office, the administration [last summer](https://content.govdelivery.com/accounts/WIGOV/bulletins/3288c13) used federal funds for the Cedar Gorge-Clay Bluffs Preserve purchase and five other conservation projects stalled for months to get around the anonymous objections.

“The governor came through and dislodged the project,” Andraca added. “But the problem is not fixed.”

Madison attorney Jeffrey Mandell, who specializes in government accountability, said the Legislative Council opinion “makes crystal clear” the committee is breaking the law.

Conservation groups have [urged Evers to allocate the funds anyway](https://www.wxpr.org/podcast/wxpr-the-stream/2023-01-02/pelican-river-forest-in-limbo-after-lawmaker-anonymously-objects-to-funding), arguing that the committee is not using the correct process. Mandell agreed, saying, “The executive branch would be entirely following the law to go ahead and disburse the funds.”

The Legislative Council lawyer who wrote the opinion declined to comment. But in her five-page memo, she warned that a legal challenge might be fruitless.

“I should caution that Wisconsin courts have historically been reluctant to interfere in disputes between the two ‘political’ branches of government,” attorney Anna Henning wrote.

That’s true, agreed Port Washington attorney Tom Kamenick of the Wisconsin Transparency Project. He said the committee’s anonymous objections aren’t prohibited — but they aren’t a laudable way for elected officials to deliberate.

“What they’re doing is a lot of bad governance and bad for transparency, but it doesn’t violate any of the records or meetings laws,” Kamenick said.

**Evers declines to pick a fight**

The Department of Natural Resources raised the issue in March 2022 when [then-Secretary Preston Cole wrote to the JFC that six conservation projects](https://www.documentcloud.org/documents/23697878-dnr-secretary-cole-stewardship-objections-letter-to-jfc-co-chairs?responsive=1&title=1) had been held up indefinitely with no hearings scheduled.

DNR’s press office did not respond to questions about any follow-up, and Evers spokesperson Britt Cudaback declined to comment on the legal issues. A spokesperson for Democratic Attorney General Josh Kaul said the office was not aware of any complaints filed on the issue.

“It’s clear that the finance committee is exceeding their legal authority,” said Charles Carlin of Gathering Waters, an umbrella group for land trusts across Wisconsin. It has been calling for the governor to override objections when a hearing isn’t scheduled.

A recent high-profile example is an objection holding up a [landmark $15.5 million conservation easement deal](https://www.wxpr.org/podcast/wxpr-the-stream/2023-01-02/pelican-river-forest-in-limbo-after-lawmaker-anonymously-objects-to-funding) that would provide public access and recreational opportunities on more than 56,000 acres around the Pelican River in Oneida County.

The relatively high price tag means backfilling with federal funds could be more difficult. And a large project that [conservationists bill as a once-in-a-generation opportunity](https://www.conservationfund.org/impact/press-releases/2589-largest-unprotected-forest-in-wisconsin-secured) makes a confrontation over the committee’s blocking land stewardship projects increasingly likely.

“The chilling effect on land conservation has been incredible,” Carlin said. “We really think that the stewardship program is at a breaking point now. Things have to change and we just simply have to put more daylight on this process.”

During a tour of the University of Wisconsin-Oshkosh, Evers told Wisconsin Watch that he doesn’t want to override the committee and approve individual stalled projects.

“It’s important to look at this in a really comprehensive way, frankly, instead of kind of piecemealing it,” the governor said.

When pressed on the legal arguments raised by the Legislative Council and others, Evers said: “What we have in our budget will solve that problem. And so that’s where we’re going to be.”

**Old habits die hard**

One reason the secrecy endures is political inertia. A review of past budget documents by Wisconsin Watch dating back to 2009 found the JFC’s practice of secret vetoes was done under both Republican and Democratic control.

“That’s the process and it’s been there for a long time,” said Bob Lang, who has led the nonpartisan Legislative Fiscal Bureau since the 1970s.

Former Sen. Luther Olsen, who sat on the committee for 16 years under both Democratic and Republican leadership, said he’s conflicted about the committee’s ability to anonymously block funding and hold up projects.

“I wasn’t around when this was put in place, but I gotta believe it was put in place for a reason,” said the Ripon Republican, who retired from the Legislature after the 2020 election. “And whether that’s a valid reason today, or not, I don’t really know.”

Olsen said anonymous objections that give no reasoning can be difficult to work through if there’s no effort to find common ground. But he did recall a time when an objection allowed the DNR to get a better deal for the state when the committee felt appraisals were too high.

Those in charge now see no reason to change the system. State law gives Senate and Assembly leaders authority to appoint six members each, ensuring a 12-4 split if the majority party controls both chambers.

“I don’t think the process is broken,” Born said. “I think it’s more of occasionally, someone’s upset that their project isn’t going the way they want it to go.”

He declined to discuss legalities but noted it’s been this way “no matter who is in charge of the committee.”

“My experience with Republicans is you don’t win by playing nice, because they don’t play nice,” said former state lawmaker Spencer Black, a Madison Democrat who served 26 years in the Legislature, retiring in 2010. “And if they decide to be bipartisan, that’s because they find out that the other guy can punch back.”

He added, “I would like to see more of that in terms of the governor’s office, but you know, I’m not in politics anymore.”

Those in the minority say their power is limited as even committee members often don’t know who lodged an objection or why.

“I’m glad the governor is pushing forward with removing anonymity,” said Milwaukee Rep. Evan Goyke, the ranking Democrat on the JFC. “But the non-hearing issue is almost worse in my mind, because it sits and sits and sits.”

**Grand Chute boardwalk in limbo**

A review of DNR data shows that the committee has reduced Knowles-Nelson funding to at least nine projects proposed during the Evers administration. But some projects sail through without comment.

Late last year, the city of Beloit [requested $1 million from the conservation fund](https://docs.legis.wisconsin.gov/misc/lfb/jfc/100_section_16_505_16_515_passive_review_requests/2022_12_02_natural_resources_city_of_beloit_riverwalk.pdf) to help pay for the demolition of a century-old vacant riverfront building complex owned by billionaire industrialist Diane Hendricks whose [development company has been remaking the historic downtown](https://www.beloitdailynews.com/news/local-news/beloit-plan-commissions-recommends-approval-for-entertainment-venue/article_47267822-a8a1-11ed-be55-abe7c9944b9e.html).

The state funding will help expand a public riverwalk and facilitate a $20 million redevelopment with a restaurant and four-story mixed use complex over the site, according to a [joint statement](https://www.beloitwi.gov/index.asp?SEC=725CA980-D88D-45BC-AC9C-3A73AF0BF563&DE=BC4753E6-1972-4BA7-9413-411C6CAA3D39) between the city and Hendricks’ company.

The million dollars in state assistance to aid a public-private partnership between the city and a [Republican Party megadonor](https://www.jsonline.com/story/news/investigations/daniel-bice/2021/02/11/diane-hendricks-and-uihleins-gave-88-million-politicians/6703760002/) elicited no extra scrutiny from the JFC.

“We are thankful to the Wisconsin DNR and the Joint Committee on Finance who recognized this need for our community,” City Council President Regina Dunkin [told the Beloit Daily News](https://www.beloitdailynews.com/news/local-news/wisconsin-dnr-grant-to-assist-in-demolition-in-downtown-beloit/article_7d72a118-7727-11ed-bd03-ef8053bd6372.html) shortly after it was approved.

Grand Chute’s Arrowhead Park boardwalk traveled a different path. The co-chairs put the frozen project back on its agenda only after the town agreed to accept less by working through an intermediary.

“We never received any questions from the Joint Finance Committee,” said Schwartz, the town’s public works director.

[Emails from December obtained in a records request](https://www.documentcloud.org/documents/23697889-grand-chute-dec-2022-emails#document/p3) show state Sen. Rachael Cabral-Guevara, R-Appleton, had conveyed to the town its three options: Accept $400,000 — two-thirds of the funding approved by DNR; make a counteroffer or roll the dice and send it back to the Republican-controlled committee where it could be held up indefinitely.

The town accepted the $400,000.

A few days after the committee agreed to release the money, Cabral-Guevara issued a joint press release with the town in which she said, “Grand Chute worked tirelessly to get this proposal pushed through. I applaud their hard work and I was happy to help raise this issue with my colleagues.”

Schwartz later told Wisconsin Watch that with the delays and less funding, the town board will discuss “if we’re able to proceed with the project at this time or not.”

As she surveyed the uneven boardwalk, Schwartz said the anonymous objection put the local government in a tough spot.

“We weren’t afforded a chance to answer the questions that maybe were raised or why they objected,” Schwartz said. “So, I guess just information transparency would be a good first step.”

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