Wisconsin Democrats on ‘veto watch’ after Tony Evers blocks 10 bills

*Republicans don’t control two-thirds of the Assembly, but they only need two-thirds of those present on a session day to override the governor’s veto*

**By Jack Kelly and Matthew DeFour**

*Wisconsin Watch*

Gov. Tony Evers found himself in familiar territory last week, issuing [his first 10 vetoes of the legislative session](https://apnews.com/article/wisconsin-tony-evers-vetoes-unemployment-crime-environment-1368dbddb8dc597eb4df1d251367d32e).

Only this time, instead of putting the legislation to bed, as a veto has done for decades in Wisconsin, the governor’s pen triggered a “veto watch” among Democratic lawmakers.

“Our caucus has determined protecting Gov. Evers’ veto to be a top priority,” Assembly Minority Leader Greta Neubauer, D-Racine, told Wisconsin Watch, adding that Democratic lawmakers are “remaining extremely vigilant and will do so throughout the session to ensure that we are able to uphold (the governor’s) vetoes and prevent Wisconsin from moving backwards.”

But why do Democrats need to be on alert when Republicans control fewer than 66 seats in the Assembly — the two-thirds supermajority needed to override a veto?

The answer: The Wisconsin Constitution says that to successfully override a veto, lawmakers only need support from two-thirds of members who are present on a given day — not two-thirds of all Assembly members. So if just three Democratic lawmakers were absent on a given day, Assembly Republicans could have a two-thirds majority and would be able to undo Evers’ vetoes.

It’s been a record 38 years since the Legislature has overridden a veto, a failure that “in recent decades has made the governor’s veto power practically invincible,” according to a January 2023 [memo](https://docs.legis.wisconsin.gov/misc/lrb/reading_the_constitution/veto_override_7_1.pdf) on the veto override process from the nonpartisan [Legislative Reference Bureau](https://docs.legis.wisconsin.gov/misc/lrb/reading_the_constitution/veto_override_7_1.pdf).

**How do vetoes work in Wisconsin?**

When lawmakers send a bill to the governor for a final signature, the governor has six days, excluding Sunday, to veto it or it becomes law. Once the governor vetoes a bill, it first returns to the chamber where it originated. In the Assembly, Republicans control 64 of 99 seats. In the state Senate, they control 22 of 33 seats. The Assembly can vote on a veto override for the same bill multiple times during a session, whereas the Senate may only vote for one on the same bill once, according to the LRB.

Evers has vetoed bills passed by the GOP-controlled Legislature at a record-breaking clip in recent years. During the 2021-22 legislative session, he struck down 126 bills sent to his desk, or 32% of all bills sent to his desk, the most by any governor in a single session in Wisconsin history. Other governors have vetoed on average 3.7% of bills they receive, the LRB reported.

Four of the bills Evers vetoed last week would have made changes to Wisconsin’s unemployment insurance system. Another would have prevented state agencies and local governments from restricting the sale of gas-powered vehicles.

But with such slim margins this session, the governor’s veto doesn’t feel invincible to Democrats, and lawmakers are planning accordingly in an attempt to avoid being caught off guard by a surprise vote scheduled by their Republican colleagues. To prepare for a potential surprise override vote, Assembly Democrats are slated to receive a briefing from the LRB on the veto override process this fall, Neubauer spokesperson Sidney Litke told Wisconsin Watch.

**When could a veto override take place?**

Veto votes may take place at any time during a regularly scheduled floor session. Those periods include Sept. 12-15, Sept. 18-21, Oct. 10-13, Oct. 16-19, Nov. 7-10, Nov. 13-16 and in 2024 on Jan. 16-19, Jan. 22-25, Feb. 13-16, Feb. 19-22, March 12-14 and April 11, 16-18.

Next year on May 14 and 15 any vetoes that have not been overridden are automatically placed on the calendar for what is known as a “veto review floorperiod.”

“All of our members have made this commitment to be in Madison for every scheduled session day,” Neubauer said.

And now that there are vetoes available to be scheduled for an override vote, the Democratic leader said all 35 of her caucus members will also be in Madison on all skeletal session days — procedural sessions usually involving only a few members that are required to maintain established floor schedules on session days when the full body doesn’t actually meet.

Evers is also conscious that his veto authority is protected by the slimmest of margins.

“After the last election I met with all the legislators on the Democratic side and said, ‘You can't be sick this year.’ And so far that’s worked out,” the governor told Wisconsin Watch earlier this summer in Oshkosh. He added, “We are well prepared to ensure that we keep the margins where they should be. Obviously, the Republicans have a large number of people in the Legislature, but the Democrats will always be there.”

Both Evers and Neubauer said they have not discussed with Republicans an informal deal to avoid a surprise override vote.

Assembly Speaker Robin Vos, R-Rochester, through a spokesperson, didn’t respond to a question about whether he would schedule an override vote if Democratic lawmakers were absent and Republicans had a two-thirds majority on a given day. Senate Majority Leader Devin LeMahieu, R-Oostburg, through a spokesperson, didn’t respond to a question about whether he would support an override effort that had been approved by Assembly Republicans using procedural tactics.

**Why would a veto override matter?**

Neubauer cautioned that a snap override attempt could harm the Legislature as an institution.

“People … have an understanding of the ways in which the rules have been changed in the Legislature — through the gerrymander and otherwise — to further consolidate Republicans' power,” she said. “And I don't think that an unscheduled veto override attempt would reflect well on our democracy and on the institution.”

She continued, “That being said, we just have to be as prepared as possible.”

Senate Minority Leader Melissa Agard, D-Madison, echoed Neubauer, likening a surprise override vote to other recent Republican “over stretches,” including lame duck legislation in 2018 that sought to weaken Evers and Attorney General Josh Kaul, Republicans’ decision to gerrymander the state’s voting maps to insulate their majorities and the attempt to submit fake presidential electors to Congress after the 2020 election.

“These types of parlor tricks are not true governing,” Agard told Wisconsin Watch. “They aren’t in the best interest of our state.”

**Could courts play a role?**

A Republican veto override would leave little recourse for Democrats.

Even with liberals taking control of the Wisconsin Supreme Court last week, Democrats could face a tough path to reversing any potential surprise overrides via the courts.

Aside from what’s in the constitution, the Legislature sets the rules for override process. There are no statutes governing the process and the Legislature can change or enforce the rules however it wants, according to the LRB memo.

The state Supreme Court stated in 1983 that “if the Legislature fails to follow self-adopted procedural rules in enacting legislation, and such rules are not mandated by the constitution, courts will not intervene to declare the legislation invalid.”

The LRB concluded in its memo that the courts have no role in overseeing the veto override process.

“The veto override process is an internal, procedural matter created and governed by the Legislature alone. The Legislature adopts rules that regulate the process, and

courts may not adjudicate the application or interpretation of the rules,” LRB director Rick Champagne wrote. “The veto override process is in every way a self-determined legislative process.”

Neubauer said Democrats are prepared to prevent it from getting that far.

“Our caucus is very clear that this is one of our top priorities for this session,” she said. “We've discussed it countless times and we are in very close communication with every member of the caucus and will be throughout the session to make sure that we're doing what we need to do. And people will make real sacrifices — time with their family, vacation, time in their districts — in order to make sure that we are doing everything in our power to protect the veto.”

*Wisconsin Watch reporter Jacob Resneck contributed to this report.*

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