



STATE OF WISCONSIN  
DEPARTMENT OF JUSTICE

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February 19, 2024

VIA ELECTRONIC FILING

Mr. Samuel A. Christenson  
Clerk, Wisconsin Supreme Court  
Post Office Box 1688  
Madison, WI 53701-1688

Re: *Rebecca Clarke, et al. v. Wisconsin Elections Commission, et al.*,  
Case No. 23AP1399-OA

Dear Clerk Christenson:

Earlier today, Governor Evers signed into law Wisconsin Senate Bill 488, which creates new legislative districts for the Wisconsin Assembly and Senate.<sup>1</sup> The bipartisan enactment of SB 488 is a historic moment. For the first time in more than a decade, Wisconsinites will be able to exercise their fundamental right to vote in districts that are constitutional, fair, and reflect the will of the people.

The Assembly and Senate districts enacted by SB 488 are identical to the proposed redistricting plans submitted by the Governor in this case.<sup>2</sup> The Court's consultants concluded in their February 1, 2024, Report that the Governor's maps "satisfy contiguity requirements," Report at 8, meet all "good government criteria - of population equality, political subunit splits, and compactness," *id.* at 21, "create a competitive environment," *id.* at 23, and "reflect the political competitiveness of the state." *Id.*

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<sup>1</sup> See Governor's Signing Statement on Legislative Redistricting, (Feb. 19, 2024) (attached).

<sup>2</sup> See Memorandum: Evers *Clarke* submission and Senate Substitute Amendment 1 to Senate Bill 488, Legislative Reference Bureau (Feb. 12, 2024), available at <https://www.wispolitics.com/wp-content/uploads/2024/02/240213Overall.pdf>.

Although SB 488 is now law, this action is not over. The Court should retain jurisdiction over this matter to entertain motions or address other proceedings. Last year, the Court held that the then-current *Johnson III* legislative maps violated the Wisconsin Constitution, *Clarke v. Wisconsin Elections Comm'n*, 2023 WI 79, ¶ 3, 410 Wis. 2d 1, 998 N.W.2d 370, and “enjoin[ed] the Wisconsin Elections Commission from using [those] legislative maps in all future elections.” *Id.* ¶ 56. That injunction is still in effect and applies to “the use of the legislative maps as a whole, rather than only the non-contiguous districts.” *Id.* While the districts in SB 488 will apply for the 2024 primary and general elections, it is unsettled what maps will apply to special or recall elections prior to the November 2024 General Election.<sup>3</sup> Because there will be at least one special election to fill Senate District 4,<sup>4</sup> there is still at least one issue for the Court to resolve regarding what maps will apply to that election. Further, other special elections may become necessary prior to the November General Election. For example, should a vacancy occur in the Legislature before the second Tuesday in May, Wis. Stat. § 8.50(4)(d) requires holding a special election prior to the 2024 General Election, as opposed to concurrently with it.

The Governor stands ready to assist this Court in any further briefing it might order or to provide it any additional information needed to address the issues raised in this litigation.

Sincerely,

Electronically signed by Anthony D. Russomanno

Anthony D. Russomanno  
Assistant Attorney General

cc: All parties via e-file

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<sup>3</sup> See 2023 Senate Bill 488, § 2 (relating to legislative redistricting); see also Memorandum: Initial applicability provision under SSA1 to SB488, Legislative Reference Bureau (Feb. 13, 2024), available at <https://www.wispolitics.com/wp-content/uploads/2024/02/240214LRB.pdf>.

<sup>4</sup> Scott Bauer, *Gov. Evers appoints longtime state Sen. Lena Taylor to be Milwaukee judge*, Associated Press (Jan. 26, 2024), <https://apnews.com/article/wisconsin-senate-judge-lena-taylor-evers-3c6112f66c93c2a251752dae8c6a1d77>.