



WISCONSIN LEGISLATIVE COUNCIL

*Terry C. Anderson, Director
Laura D. Rose, Deputy Director*

TO: REPRESENTATIVE TAMARA GRIGSBY
FROM: Anne Sappenfield, Senior Staff Attorney
RE: Requirement That the Legislature Meet at the Seat of Government
DATE: February 15, 2011

You have asked whether the Governor may deliver the budget message at a location in Madison that is not the State Capitol. Current law requires the Governor, in each regular session of the Legislature, to deliver the budget message to the two houses of the Legislature in joint session assembled. [s. 16.45, Stats.]

The specific issue of convening the Legislature outside of the State Capitol has not been addressed by the courts or the Legislature, but it appears that, in the absence of an emergency, the Legislature must meet in the State Capitol.

Analysis of this question requires considering what is meant by the requirement in the Wisconsin Constitution that the Legislature meet at the “seat of government” and under what circumstances the Governor may convene the Legislature at a location other than the seat of government.

MEETINGS OF THE LEGISLATURE AT THE SEAT OF GOVERNMENT

Article IV, Section 11, of the Wisconsin Constitution governs meetings of the full Legislature and provides:

The legislature shall meet at the seat of government at such time as shall be provided by law, unless convened by the governor in special session, and when so convened no business shall be transacted except as shall be necessary to accomplish the special purposes for which it was convened.

Under current law, the seat of government “is located and established at the town of Madison, between the 3rd and 4th of the 4 lakes, on the corner of sections 13, 14, 23 and 24 in township 7, north, of range 9, east.” [s. 1.09, Stats.] On a map of the City of Madison, the corner of the sections listed above falls on the location of the State Capitol building. Therefore, it appears that a joint session or other meeting of the Legislature must be held at the State Capitol building under the Wisconsin Constitution.

GOVERNOR'S POWER TO CONVENE THE LEGISLATURE OUTSIDE OF THE SEAT OF GOVERNMENT

Under current law, the Governor may require the Legislature to meet in a location other than the seat of government under specified emergency circumstances. First, Wisconsin Constitution, Article V, Section 4, provides:

The governor shall be commander and chief of the military and naval forces of the state. He shall have power to convene the legislature on extraordinary occasions, and in case of invasion, or danger from the prevalence of contagious disease at the seat of government, he may convene them at any other suitable place within the state....

This provision appears to permit the Governor to convene the Legislature at a place other than the seat of government in the case of invasion or prevalence of contagious disease at the seat of government.

Second, s. 323.51 (1), Stats., permits the Governor to designate a temporary location for the seat of government whenever, as the result of a disaster or the imminent threat of a disaster, it becomes imprudent, inexpedient, or impossible to conduct the affairs of state government at the state capital. In addition, s. 323.51 (1m), Stats., permits the Legislature to designate a different temporary seat of government for the Legislature, which may be used under those same circumstances.

It does not appear that circumstances currently exist under which the Governor may convene the Legislature, or the Legislature may convene, outside of the seat of government.

If you have any questions, please feel free to contact me directly at the Legislative Council staff offices.

AS:ty