

Section III — Economic & Tax Consequences

When Courts Rewrite the Rules, Households and Employers Pay the Price

Economic growth does not occur by accident. It depends on a legal environment that is stable, predictable, and restrained—one in which rules are known in advance and applied consistently over time. Courts play a central role in maintaining that environment. When they respect legislative judgments and adhere to precedent, they reinforce confidence. When they do not, uncertainty follows, and the costs are borne by taxpayers, workers, and families.

In Wisconsin, judicial decisions have long shaped the state's economic climate as much as tax rates or regulatory policy. The Supreme Court's approach to tort liability, labor law, public-sector employment, and statutory interpretation determines whether businesses can plan, whether local governments can budget responsibly, and whether taxpayers are protected from sudden fiscal shocks.

Historically, Wisconsin moved away from an era in which judicial activism undermined economic stability. Reforms enacted during the 2010s—many of which were upheld by the courts—restored balance to the civil justice system, curbed excessive liability, and empowered state and local governments to manage their finances sustainably. These changes helped transform Wisconsin from a cautionary tale into a competitive place to live, work, and invest.

That progress is now at risk.

A court that views economic policy as malleable, or that treats legislative compromises as provisional, can undo years of reform with a single decision. When precedent is discarded, liability expands. When statutory limits are invalidated, costs shift—often invisibly—from special interests to taxpayers. Property taxes rise. Public budgets strain. Employers hesitate. Jobs disappear not through legislation, but through judicial decree.

This section examines how the Wisconsin Supreme Court's jurisprudence affects economic freedom and fiscal responsibility. It explores the consequences of overturning settled law in areas such as public-sector labor relations, tort reform, and damages limitations—areas where judicial intervention has immediate and measurable financial effects. It also highlights how departures from traditional standards of review, such as rational-basis scrutiny, can expose nearly every major economic reform to retroactive attack.

The economic consequences of judicial decisions are often described as “indirect.” In reality, they are among the most direct impacts courts have. A ruling that alters liability standards, invalidates workforce reforms, or removes fiscal safeguards does not merely interpret the law—it reallocates billions of dollars and reshapes incentives across the state.

The materials that follow demonstrate a fundamental truth: **judicial restraint is not an abstract virtue—it is a prerequisite for economic stability.** When courts respect their constitutional role, Wisconsin's economy benefits. When they do not, uncertainty replaces confidence, and the costs ripple outward to every corner of the state.