

## GUEST ESSAY

# This Election Will Be a Crucial Test of Musk's Power

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Elon Musk has set his sights, and spent tens of millions of dollars, on being involved in national and international elections and politics. Now his focus has turned to a U.S. state election: the race to fill a crucial seat that will determine control of the Wisconsin Supreme Court.

That election is scheduled for April 1 (early voting begins on Tuesday), and Mr. Musk is supporting the conservative candidate Brad Schimel over the liberal candidate Susan Crawford. A victory for Judge Schimel would flip the court from liberal to conservative control, with potentially enormous implications for access to voting, legislative districts, abortion and more.

The prospect of a billionaire with outsize influence over the federal government also seeking to dictate the direction of state-level democracy should be profoundly alarming to anyone committed to federalism, a core constitutional value.

Federalism is especially important right now. With unified Republican control in

Washington, D.C., and a Congress that has been a willing participant in its own defenestration, states and state institutions are poised to become ever more critical sites for the preservation of rights and the rule of law.

Mr. Musk's interjection started in January with an X post urging his followers to "vote Republican for the Wisconsin Supreme Court." (The contest is nonpartisan, but it was clear what he meant: Vote for Judge Schimel.) He has since unleashed his spending juggernaut on the race: According to recent filings, his AmericaPAC has spent over \$6.3 million on it, and the Musk-affiliated Building America's Future has spent another \$4.3 million. Yet another Musk-affiliated PAC, Progress 2028, is airing deceptive ads that purport to support Judge Crawford but in fact appear designed to help Judge Schimel.

Wisconsin's politics are as divided as those of any state, and the State Supreme Court has long been in the middle of them. Wisconsin has a Democratic governor and attorney general, a Republican-controlled legislature, and a 4-3 State Supreme Court with liberals currently in the majority. In November 2024, Mr. Trump won the state by just 29,000 votes — his narrowest victory in any battleground state — while the Democratic senator Tammy Baldwin was narrowly re-elected.

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For years, extreme gerrymandering produced an enormous Republican advantage in the State Legislature. But in 2023 — in another expensive and closely watched Supreme Court race — liberal Janet Protasiewicz beat conservative Dan Kelly to change the ideological balance of the high court. Later that year the new 4-3 majority found that the State Legislature's gerrymandered maps violated the State Constitution and needed to be redrawn. The new maps ultimately put in place, drafted by the Democratic governor and enacted by the Republican legislature, created the conditions of genuine democratic competition.

The court's liberal majority has also issued rulings permitting ballot drop-boxes and overruling a 2022 decision that had barred their use; and, just last month, turning away (on standing grounds) a challenge to the state's in-person absentee voting procedures.

These issues of state-level democracy are especially important in light of what happened in the state in 2020, when the state high court came within a single vote of endorsing the Trump campaign's outlandish claims of election fraud — the only state court to have seriously entertained such claims. Three of the court's sitting justices at the time would have considered throwing out hundreds of thousands of votes in heavily Democratic areas.

The two candidates in this year's race, Judges Crawford and Schimel, are both sitting lower-court judges. Judge Crawford has been endorsed by the state Democratic Party, as well as the A.F.L.-C.I.O. and Planned Parenthood of Wisconsin; Judge Schimel has been endorsed by the state Republican Party, anti-abortion groups, the N.R.A. — and now, Mr. Musk.

Just as it has been difficult to disentangle Mr. Musk's personal financial motives from his ideological goals when it comes to dismantling the federal bureaucracy, it's not clear how much of his Wisconsin intervention is ideologically driven and how much may be more narrowly self-interested. In January — just a week before Mr. Musk's endorsement of Judge Schimel — Tesla sued the state of Wisconsin in a challenge to state dealership rules that may well end up before the State Supreme Court.

Whether it's business interests or a desire to expand his influence by installing ideological allies in every conceivable position of power on the national, international and now state stage, Mr. Musk's effort to exert control over this election should be cause for alarm. The amount of power he is wielding seems flatly inconsistent with core precepts of political equality, government accountability and, above all, popular sovereignty.

The particular stakes in Wisconsin are high: The State Supreme Court has two pending cases involving the enforceability of the state's 1849 ban on abortion. The state high court could also agree to hear a challenge to Wisconsin's congressional districts, which were unaffected by the 2023 ruling on state districts and continue to reflect an extreme partisan gerrymander, with six of the state's eight seats held by Republicans. And a changed court could revisit and perhaps even overrule the recent decision outlawing the previous state legislative maps — paving the way for restoration of Republican supermajorities in the Wisconsin legislature.

We should understand Mr. Musk's interest in this race as an acknowledgment of the undeniable fact that a great deal of law and policy will continue to be made in the states, whatever happens in Washington. But his entry into the Wisconsin race could serve as a galvanizing moment for voters troubled by this billionaire's influence in our politics and a way to make their objections known.

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