



Written by [Raven Clabough](#) on December 5, 2011

Governor Walker Proposes Protest Fees

The Milwaukee *Journal Sentinel* [reported](#) last week, "Gov. Scott Walker's administration could hold demonstrators at the Capitol liable for the cost of extra police or cleanup and repairs after protests, under a new policy unveiled Thursday."

According to the policy, groups of four or more people must first obtain permits before conducting any activity or display in state buildings, and must obtain those permits at least 72 hours in advance of any event. The rules regulating displays outside of the Capitol indicate that a permit is required for 100 or more people. There is some wiggle room for spontaneous gatherings in the wake of unforeseen events.



Of course, the process of obtaining a permit is not an easy one, and the official state policy lists more than 10 reasons why the permits may be denied, including if the requested use, "poses a substantial risk of financial loss to the State," "would interfere with the primary purposes of the building," or "contains a material falsehood or misrepresentation."

Demonstrators may also be charged for the costs of having extra police on hand for the event, and costs of a counter-protest will be charged to the second group. The costs could be as high as \$50 per hour per Capitol Police officer, while costs for police officers from other agencies will depend on the costs billed to the state. In some cases, the police may require advance payment as part of a requirement for obtaining the permit.

And based on what public officials have seen at prior protests, the new policy indicates that protesters cannot post signs to Capitol walls which are not intended for signs.

Furthermore, any damage or cleanup resulting from a protest will be charged to the organizers.

According to the Walker administration during a court battle that took place earlier this year regarding access to the Capitol, after the administration issued tight restrictions to the Capitol when unions protested Walker's legislation regarding union bargaining, demonstrators had caused nearly \$8 million in damage to the building with signs and other general wear and tear; however, the administration later retracted that estimate and said that the damages were far less than originally asserted.

The Walker administration contends that the new policy is meant to benefit protesters.

"Our goal is to provide equal and continual access for all Wisconsinites to their state buildings in a way that is reasonable and safe," Administration Secretary Mike Huebsch said in a statement. "This policy ensures our ability to appropriately staff events for the safety of those participating."

Walker's policy, which will go into effect by December 16, also requires the acquisition of permits for any events at the statehouse and other state buildings, a provision that went into effect on Thursday. State law already allows public officials to mandate permits for the use of public facilities, indicating



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that applicants “shall be liable to the state ... for any expense arising out of any such use and for such sum as the managing authority may charge for such use.”

As noted by Edward Fallon, however, an associate professor at Marquette University Law School, "I'm a little skeptical about charging people to express their First Amendment opinion. You can't really put a price tag on the First Amendment."

Likewise, Bob Dreps, a lawyer for free speech cases, states that while the administration may place certain restrictions regarding the “time, place, and manner” of the protests, it is “laughable” to define a rally as four or more people. "They still have to be reasonable on their face," Dreps said of the rules.

Similarly, Wisconsin State Senator Glenn Grothman said it “makes sense” to have to acquire a permit to demonstrate, but that calling a group of four people a rally is a bit far-fetched. “Like everything, the important thing is that it will be administered with common sense,” Grothman states.

The American Civil Liberties Union of Wisconsin is in support of some of the new rules, but voices concern over some groups possibly being turned away simply because of lack of funds, and also over the fact that there is not a uniform policy of charging certain fees to all groups. “It leaves too much discretion to the Capitol Police,” said Wisconsin ACLU’s Chris Ahmuty.

Photo: Scott Walker



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