

# **Becoming Influential in the State Legislative Process**

A Legislative Action Guide to the  
Wisconsin State Legislature

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## **Introduction**

The American system of government functions primarily as a result the demands placed on it by its citizens. Whether you are acting as a concerned citizen or on behalf of a group of people with a common goal, this guide will equip you with insights and perspectives that you can use to be more effective. This guide is intended to prepare you for the task of influencing the legislative process. It avoids lingering too long on the technical processes, but instead focuses on sharing the realities experienced by the author.

If you are reading this guide and are a legislator, please be assured that you are an ideal legislator and when the author discusses negative attributes of legislators, he is not talking about you.

## **About the author**

Jim has been both a lobbyist and the person lobbied. He has participated in the legislative process at the federal level and throughout the nation at the state level since 1992. In the course of his legislative activities, he has developed a belief that the American system of government functions despite the inertia and mixed motives of its elected officials. While at times cynical about the particulars of the process, he believes that patience and persistence are critical to influencing legislation. His other core belief is that the best long-term strategy for influencing legislation is to build honest and professional relationships with decision-makers.

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## **Chapter One: The Players**

## **The Legislator**

### **The Ideal**

What is the ideal legislator? The voice of the people? The one with a clear agenda? The staunch advocate for local interests? The one looking out for the common good? Regardless of your philosophical views on the role of a legislator, it is a good bet that your legislator is none of these things. If you're lucky, he or she may be "looking out" for someone other than himself or herself, but in reality, most have a personal reason why they have chosen (or settled for) a career in politics. There is no doubt that people who run for office have some form of courage. Not everyone is willing to endure the intense work of a political campaign and be exposed to public criticism. In that sense, I admire anyone willing to run for public office. Also, while some of the descriptions of legislators that follow are not flattering (and are intended to be humorously demonstrative), we should keep in mind that everyone to some degree has faults, ulterior motives, and acts from self-interest.

Legislators certainly want to be seen as ideal. They always are "looking out" for someone or something. If you ask them to "promote the common good", that is not a problem. The problem is in the details and very often, the work. Your task in trying to influence legislation is to 1) persuade the legislator that your specific request is, or will be seen as, a common good and 2) give him or her a reason why they should personally care enough about promoting the common good that they will do the necessary work.

Keep in mind that we have freedom of speech in American not because it is a good idea, but because the British "enlightened" American politicians regarding the dangers of not having it. In other words, legislators must be persuaded that failing to act in a particular way is against their self-interest. In this regard, having less than ideal legislators can be an advantage because once you understand what motivates them, you can use that to your advantage.

### **Get to Know Your Legislator**

Finding out more about your legislator will often help you understand what motivates him or her. Think of it as market research for whatever it is you are advocating. The Wisconsin State Legislature homepage ([www.legis.state.wi.us](http://www.legis.state.wi.us)) is the first stop you should make. Your legislator will have a page that has their "official bio" which, of course, is something they wrote, so it is not objective or necessarily accurate. Read it as carefully as a resume because the exact words are critical – "attended UW Madison" means something very different than "graduated from UW Madison".

The first thing you may want to note is when they came to the legislature and what other jobs they have had. A career politician is very different to deal with than a newcomer who was coaxed out of the private sector into politics. Local newspapers and asking

around are probably the only way to get the real feel of who you are dealing with. If your legislator is high-profile enough, you may pick up some chatter about him or her on talk radio. It may not be accurate chatter, but it helps form a picture. Of course, there will be some partisan information floating around from the last election and from political griping blogs. With a couple grains of salt, these sources can also help you better know with whom you are dealing. I would like to say that meeting the legislator personally is the best way to get to know them, but I have run into too many of politicians with the ability to charm to believe this. To be truly influential in the legislative process, you must meet with your legislator, but your general rule of operation should be “verify, then trust” and not the other way around.

### **The Universal Rule of Legislators**

Every legislator’s dream is to scare away all competition and to have an uncontested race –which happens all too often. Regardless of the type of legislator, they all work within a political system in which Election Day is the focus and the test for which they all prepare. Contested election campaigns are very hard work. They believe that work done between elections makes the election easier or, ideally, eliminates the contest completely. In order to achieve an uncontested race, it must appear to potential competitors and the opposing party that running someone against that legislator is futile and would be a waste of resources. In other words, all legislators want to appear to be Wal-Mart and will work very hard to obtain and retain that status. While each type of legislator described below has different motives and methods, they all believe – rightly or wrongly – that their work needs to be directed toward becoming a political Wal-Mart.

### **Types of Legislators**

There are many less than ideal types of legislators, the following are a sampling. Each has positive and negative traits. Keep in mind that you may want something other than legislation from your legislator. A legislator who is good at passing bills may not be as good at helping you through the maze of state agencies. Some legislators do better working quietly behind the scenes to help their voters instead of offering bills.

#### **Mr. or Ms. Popularity: Please All of the People All of the Time**

We all know people who want to please everyone. Mix that personality trait with someone who has a manic desire for external affirmation of worth and you have this type of legislator. This type of person craves being before the public and loves the election process (presuming they win). Once in office, their main focus becomes keeping everyone happy. Of course, this is impossible, so it tends to become keeping everyone happy long enough to be reelected. This type loves to agree and promise. They avoid making public stands absent a prior knowledge that the stand will be very popular. Instead they usually try to operate by quietly trying to satisfy citizen demands in the way least likely to cause any public objection.

In order to gain public support for something from this type of legislator, it is very important to be able to demonstrate strong to universal support for the particular idea. Remember, it cannot be idle support – legislators do not expend real energy without an expected reward.

Since they so desperately want you to like them, these types of legislators will often bend over backwards (or, more likely, have their staff bend over backwards) to get things done for you quietly. This is great if you need help with a very particular thing from a state agency, for instance.

*Remember: This type of legislator will never disagree with you, but he or she will also not take risks for you.*

### **Radicals: When Only One Issue Counts**

Some radicals come to office in bitterly contested races and, at times, intra-party electoral contests. As a result, they believe that they won due to one issue and that is all they need to deal with. Other radicals come to office by hiding their focused agenda and appearing to be a vanilla Democrat or Republican. These sometimes convert to Party Lap Dogs (discussed later), but some lower their façade to become their true radical self. If you are on the other side of the issue that defines them as a radical, look to the next election as your remedy. However, most people looking to influence legislation are not focused on hot-button issues. In this case, the challenge is persuading the radical to care about an issue that seems irrelevant to him or her. Often, this really translates into persuading the legislator that it is in principle a good idea and then persuading legislative staff that it is important and politically advantageous. (Often legislative staff has a different – or even opposite – view of what is important for reelection. Since the future of their jobs rests upon their legislator’s reelection, they will at times work on your issue much harder than the legislator would want them to.) This is not to say that the radical or the radical’s staff will not be of help to you, but typically, the enthusiasm for non-radical issues is lacking.

*Remember: Unless you are advocating the other side of what makes this legislator a radical, you can usually count on this type to provide some staff effort. You will need to work extra-hard to help the staff move things forward to overcome the legislator’s objection that your issue is a distraction.*

### **The “Known for”: Don’t Bother Me with Anything New**

The “known for” legislator is similar to the radical, but has grown intransigent over time. He or she is able to obtain press coverage and guest spots on talk shows because he or she is “known for” this or that. Since it is easier for them to repeat instead of innovate, they simply keep to this pattern. Moving them to new fields can be difficult. If you can somehow persuade the legislator that your idea is the logical extension of his or her “known for” fame, this is a great advantage.

Often, these legislators know they are in rut and want something new – but easy. Being “known for” something does not hold the voters’ attention for long and, especially if the legislator has designs on higher office, expanding what he or she is “known for” is a great approach. If your idea is not similar to what he or she is “known for”, I recommend an approach similar to that of the radical. However, many times their legislative staff has also grown used to the ease of dealing with a well-worn issue and has little desire to change.

*Remember: Persuading this kind of legislator that this is the logical extension of his or her previous work may garner some enthusiastic assistance.*

### **Party People: The Republican or Democrat Lap Dog**

Legislators who owe their positions to the work and funding of their party are similar to radicals in that if your idea conflicts with theirs, the best remedy will be during the next election. However, these are often legislators who are looking for opportunities to free themselves from the dictates of their parties by establishing themselves as free-standing legislators. In other words, if you want to promote something that is consistent (or at least not inconsistent) with the party that put them into power, they will likely be very helpful. Few legislators want to be a party lapdog for long. Gaining independent name recognition and personal supporters in their community is very important. They need to do it before the next election because they fear the party will not view their election as a priority.

Typically, if you make an effort to get to know these types of legislators, they can be very helpful – at least until they become “known fors”.

*Remember: This kind of legislator is eager to stand on his or her own feet and may offer a great deal of support, provided what you are advocating does not offend his or her party.*

### **Ruler of the Roost: This is the Top**

Put bluntly, some people settle on a career in politics because they have failed in every other area of their life. Typically, these legislators have never had a private sector job, or jobs most people think of as after-school jobs for mall money. In other words, they have no concept of real life. They often base their decision on stereotypes, rumors and newspapers. Since they have no real world experience, they live in constant dread of losing their job (and having to become a lobbyist). This economic dependence on reelection means that the self-interest aspect of persuading them is critical. It is not merely character defects that drive these legislators, it is their livelihood.

*Remember: While this type of legislator is unwilling to risk much, if the risk is low, they are eager to please you.*

## **Future Ruler of the World: This is Just the Beginning**

Some people who settle on a career in politics have the smarts (or the staff) and the confidence to become truly skilled at it. Of course, these people seldom are happy staying in a “stepping stone position” for long. They are focused on movement up the political food chain. Village trustee, then State Assemblyman, then State Senator, then Governor, then on to DC! Typically, these legislators are not as concerned with ideas as they are with people. They are the ultimate networkers. In other words, you need them to believe that you can help them in their advance toward world domination before they will seriously listen to your ideas. If those ideas help them gain your support, or even better, are ideas that help their career, you can expect real and effective help from them. If not, it is probably best to try another legislator.

*Remember: If you are important or they think you are, you can get a lot done via this type of legislator.*

## **Nodding Politely: The Fools Who Rush In**

Probably the most sincere politicians are the fools who rushed in. No IQ tests are given (or sanity tests for that matter) before people are allowed to run for office. After all, our system of government is not about selecting the most “intelligent” people, but those who best represent us. If the system is working, average people should be in holding office. For the most part, this is the case; however, most legislators, consciously or not, suffer from a superiority complex and claim to be omniscient. This type of legislator has not been “informed” of his or her importance, so is more humble about his or her ability to comprehend the Universe.

This type of legislator needs little self-interest if your idea is good – at least until the other legislators try to “educate” him or her about “political reality”. Often this type of legislator will have an earnest interest in learning what you have to say and will work closely with you to try to get things accomplished. Your critical role is then to provide him or her with the information and persuasive arguments needed to keep things moving despite objection.

*Remember: It is critical to educate this type of legislator and provide them with the support and encouragement they need to struggle through the resistance they will face from other legislators.*

Of course, a legislator may change from one type of legislator to another as time goes on. Their position of power (the next subject) may also influence what type of legislator they are.

## Positions O'Power

Not all legislators have the same influence on legislation. Party, position, political clout, committee assignments, and personal connections (positive and negative) vary significantly. Some factors you can research ahead of time and other you perhaps only learn after it is too late. For instance, there are legislators who are “crazy” and the bills they offer are never taken seriously regardless of merit. Others are “known for” great economic insight or consumer friendliness; this will automatically color the bills they introduce for better or worse.

Looking at the other bills the legislator has introduced will be helpful. Do they seem reasonable? Do they have many co-sponsors (explained later)? Were they successful in getting their bills into law? Most bills do not become law – thankfully. However, if your Senator has been around for a few years and has never gotten a bill beyond his or her own house, you may want to try your Assemblyman instead. If your legislator’s bills tend to make it through one house, only to stall in the other, your legislator may lack follow-through.

*Tip: When reviewing a legislator’s voting record, look for clusters of your legislator’s bills passing – this is a red flag that deals were made. While deal making can be an asset at times, it can also signal indebtedness and borderline corruption a.k.a. logrolling. If you happen upon this pattern, look at the legislative agenda for that day – the hot-button vote that day was probably the leverage used for obtaining passage of that cluster of bills.*

### **Political Party does make a difference.**

Your party preference does not necessarily matter, but your legislator’s does. If he or she is a Democrat when the Republicans are the majority, chances of his or her bill getting a committee vote are slim. Those that do probably have expended tremendous political capital to do so – in other words, they were significantly compelled by self-interest to get that bill passed. Working with a legislator in the majority party tends to produce better results since they typically are given a certain number of bills that are virtually certain to be passed out of their house. However, if the bill is viewed as too partisan, the other house or the Governor may block you.

### **In theory, Party Caucuses control of their party members.**

The Chair of the party caucus is elected by the members of his or her party and house. This person in turn organizes the party and hands out committee chair assignments. Typically, the majority party chair controls which bills receive a public vote by the whole legislative body. Needless to say, majority party chair is a highly contested position and very powerful. Typically, there is a division between moderates and radicals within the party and the intra-party fighting can be worse than partisan fighting.

**Committees are chaired (controlled) by the majority party chair.**

A committee chair has nearly despotic power over the committee. Most try, however, to involve the public and other members in the process to avoid removal and public criticism. Committee assignments are fought over (and avoided) with intense deal making and sucking up. Most legislators want to be a member of the Joint Finance Committee (JFC) because it controls the state budget (which is often the only significant legislation passed in a session) and its members get additional staff and budget, plus unequalled opportunities for media access and fundraising.

A “Joint” committee means the Assembly and Senate committees meet together to, hopefully, streamline the hearing process. Aside from JFC, committees are typically rated by legislators by the amount of potential PR and fundraising they can generate using the committee. Less cynically, they often assign committees based on the legislator’s interests and background.

Of course, some committees are avoided by legislators because they are demanding and have little appeal to the public. However, these committees often have the best potential to make changes because of their lack of public appeal and have the ability to act in a stealthy manner.

## **The Legislative Staff**

Every legislator has a legislative staff to assist with the duties of the elected official. The law views legislative staffers as quasi-civil servants. The elected official may hire and fire individual staffers at will. A legislator is free to hire just about anyone he or she wants – with some restrictions on close relatives. In other words, while many staffers are professionals with good qualifications, this is not always the case.

### **Rule Number One: Don't Anger the Staff**

Legislative staffers act as gatekeepers for the legislator. Needless to say, if you do or say things to make them angry, things can move very, very slowly. The legislative process is already designed to work slowly; you do not need extra resistance. Legislative staff does not appreciate being circumvented and since they are the people who will most likely do the real work you want, make sure you do not bypass them without a good reason. In fact, in some circumstances, it may be more rewarding to bypass the legislator if you feel you can grab the attention of a good staffer.

Think three times before complaining about a staffer. Ask yourself if it is worth making an enemy by complaining. Short of the legislator firing the staffer, a complaint will likely just make matters worse. Try to work around the problem staffer or look to another legislator.

*Remember: Staffers have much more access to the legislator than you will ever have. That can work for you or against you.*

### **Rule Number Two: Make Their Job As Easy As Possible**

Legislative staff is typically underpaid and tasked with impossible and mind-numbing jobs. (There are overpaid do-nothing staffers too, but they are easily spotted since they usually try to be a carbon copy of their boss – to the extent of dressing and acting like the legislator. And yes, I have particular people in mind when I say this.) The more you can help them, the more they will help you. For instance, providing them with concise, well-written talking points with a clear positive goal will get you much farther than simply complaining that not enough is being done.

*Remember: While they may be paid with your tax-dollars, they do not work for you. Be friendly and professional and you will probably be surprised at how responsive they can be.*

### **Rule Number Three: Make Sure They Do Not Dread Calling You Back**

Admit it, there are some people you hate to call or meet with. Legislative staffers have the same problem. Unpleasant people certainly do not get a quick response. The same is true for people who are never satisfied or never express appreciation. However, the list

does not end there. I remember one staffer who would put off calling a particular citizen for days because he knew that once he was on the phone, he would be trapped for an hour or more because he was too polite to stop the conversation. This in turn caused stress within the office because other tasks were not being done during that time and the rest of the staff ended up resenting this citizen too. Since I am a master at killing conversation, when I called the same person, it was short. There was nothing unpleasant about him and he was fine to talk to, he just did not know to keep it short and on point. Make your point and do not repeat yourself. If you cannot keep it short on the phone, write instead.

*Remember: Staffers are busy. A little friendly chit-chat is fine, but do not beat around the bush too much. If you call, make sure you listen for impatience in their voice or phones ringing unanswered in the background.*

#### **Rule Number Four: You Represent More Work for Staffers**

Legislative staffers, at least the good ones, work very hard. They have a full-time job keeping track of their legislator (because they tend to “wander off”) and responding to the demands of legislator. Helping you is part of the legislator’s demands, but often a general demand among hundreds of specific time-critical demands presented to the legislative staff.

You represent more work for the legislative staffer. You can be viewed as hard work or easy work. This is determined by how you treat the staffer, how much good and accurate information you provide to allow the staffer to focus more on solutions and less on defining the issue.

Make sure his or her boss knows that staffer has been a help and is a real asset (think of it as tipping). I remember one staffer who made a copy of a letter to his Senator that complimented his work and posted it on his bulletin board because he was so proud. Those letters are rare and make a huge difference.

*Remember: Represent easy, rewarding work for staffers. Staffers want results and doing what you can to get to those results helps both you and the staffer. Make sure you communicate good things to the legislator when you get good service (not necessarily just good results).*

#### **Rule Number Five: Respond Quickly and Acknowledge Assistance**

Everyone has been there. Someone asks you for urgent help and then for some reason does not call you back when you leave a message asking for critical information from them. Or, you provide them with the help they wanted and receive no acknowledgement that it was received.

Legislative staffers do not have time to nag you for the information they need from you. If you do not get back to them quickly, your needs will probably be placed at the back of the line as they move on to serving other constituents.

While perhaps not important to your immediate needs, acknowledging help and information you receive is just being polite. Many legislative staffers complain that after the first contact with a constituent, they never hear from them again – unless a new problem needs to be solved. After a while, this begins to feel like you are doing an awful lot of work for no reason. A simple thank you or “got it” is better than silence.

*Remember: The quicker you respond, the faster you get what you need. When you get what you need, say thanks or at least acknowledge you received it.*

### **Rule Number Six: Don't Ask for What You Don't Need**

Depending on the methods of the particular legislative office involved, the legislative staff may or may not know that you have contacted other offices for assistance. Every citizen has an Assemblyman and Senator and it is not unusual to contact both about the same thing. Sometimes these offices coordinate efforts, but more often they do not. Letting staff know that you have contacted other offices will help them avoid redundant efforts – or encourage them to compete to provide you with better service. If you have found one office to be responsive and good to work with, I recommend only contacting that office in the future.

If you have contacted other government officials (e.g., your County Supervisor), this may be of interest too. Demonstrating a knowledge of which government officials represent you and are relevant to your issue will leave a good impression. Of course, contacting everyone from the United Nations down to the Village Dog Catcher will leave a much less impressive image.

Do not let legislative staffers continue to work on your problem if it has been solved. Keep track of who you have contacted, ideally, the particular staffer, and let them know you no longer need their assistance. Do not insinuate that they have been slow, simply thank them and let them know you did not want them to do unnecessary work.

*Remember: Let legislative staff know who else may be working to help you and let them know when they can stop working on your problem so they can help other people.*

## The Parties

Regardless of all of the political parties that exist during an election, in the legislature there are two parties – Democrat and Republican. Within each party, there are “moderates and radicals”, “left and right”, “weak and strong”, or “realists and idealists”, depending on your position on the political spectrum and your views on how to accomplish things. Even within these divisions, there are shifts based on particular issues. In fact, hot-button issues often create unexpected coalitions that cross party lines.

In theory, the parties control their membership by meeting in a caucus. This is the public<sup>1</sup> meeting where the legislators of one party gather to discuss what they will do. Of course, there are many less formal methods of communication used by the party leadership to direct their party members’ activities.

As a rule the Wisconsin Assembly has a much stronger and more organized party leadership. In part, this is due to the two-year term in the Assembly, which keeps election time and the need for the party in front of the legislator. The party control and leadership in the Senate as a rule is weaker and more haphazard. This may be due to the four year term of Senators. Also, since there are fewer Senators, the party has more to lose in terms of voting power if it alienates a Senator.

Your legislator's legislative power will vary depending on which party holds the majority. There are also legislators who gain power by large electoral wins, successful fundraising, and helping others in their party during election time. In other words, helping the party results in more legislative power and influence. Their speaking ability, media access, credibility and other persuasive skills also help determine their power.

Your party affiliation is unlikely to be a major concern to a legislator outside of the election context. They know that helping people from the other party can result in votes and good will that can help them get reelected. Obviously, if you are a major donor to their campaign, you will likely receive prompt and top-notch service when you call the legislator. That being said, never try to gain service by offering a donation or promising a vote. Aside from being potentially illegal, if you have to buy access to a legislator, you should not work with that legislator. Instead, you should work to remove that legislator.

If you are promoting a bill, the main thing you must realize about the parties is that aligning too much with one or the other will label your idea as “Democrat” or “Republican.” This can help or hurt. Most bills do not make it through the legislature during their first session. This means that a “Republican” label may help this year, but hurt next year if the majority party changes.

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<sup>1</sup> It should be public since the majority party will effectively be able to determine the vote in a closed meeting. However, under Wisconsin’s open meeting law, the legislature conveniently granted itself the power to make its own rules. Therefore, many of these meetings are declared “closed” and sometimes even legislative staff is excluded. By law, they must follow their own written rules about closing such meetings.

*Remember: Your party affiliation is not critical to persuading your legislator. However, your legislator's party affiliation may significantly impact what he or she can accomplish for you.*

## Special Interest Groups

A special interest group is simply an organization designed to influence legislation, and perhaps elections, based on a focused subject area and a defined political position on that subject area. These can range from broad-based groups (e.g., Wisconsin Manufacturing and Commerce, League of Women Voters) to highly specialized groups (e.g., Brotherhood of Locomotive Engineers and Trainmen). Special interest groups are generally not regarded highly by the public. Politicians love to blame them for all sorts of things. They are blamed from holding up legislation and the growth of campaign spending. In my opinion, special interest groups on all sides are the only groups that are actively holding the legislators responsible for their votes. The media must rely on citizens to react to stories. Special interest groups, in contrast, inform, organize, and mobilize citizens.

This is not to say that all special interest groups operate fairly, ethically, or legally. However, if a special interest group wishes to have public credibility and real influence, destructive practices are very short-sighted. They may achieve a goal one time, but will jeopardize future endeavors. Recent problems with “pay to play” seem to have been initiated by corrupt legislators more than corrupt special interests.

My complaint about special interest groups is their tendency to create fictional fundraising issues and unnecessary legislation. Often, in order to create a reason to fundraise, special interest groups will pick legislative fights that then allow them to ask their membership for money. For members, it is difficult to discern which issues are real and which are not. It is like walking in on two toddlers fighting, both will say the other started it. Aside from the deception inflicted on their own membership, every bill introduced in the legislature costs the public thousands of dollars – whether acted on or not. You should be very suspicious as a member of a special interest group when receiving solicitations based on such situations. Contrary to these fundraising letters, chances are that your donation is not critical to any legislative battle.

With that caveat, if you can find a good special interest group that matches your beliefs and interests, they are a great way to get informed and influence the legislative process. However, paying your dues and reading a newsletter will only get you so far. You should be involved not only in with the group, but in its legislative activities. Most groups promote a very general agenda. You have particular views and needs. It is always better for you to meet with your legislator personally, even if it is part of a special interest group's activities. Not only does this better advance your cause, but it tells the legislator that he or she should listen to the special interest group because its members are active and watching. Sometimes you may not agree with the entire agenda of your special interest group and you should let your legislator know that too.

## **The Media**

I remember attending one committee meeting in Madison where the Committee Chair kept looking at the back of the hearing room like dog waiting for its owner to return. After awhile, I realized the focus of the legislator's attention was a television camera. It became apparent that the legislator was making sure she was presenting her "good side." She lost her next election. Perhaps the camera caught her "bad side." The point of this war story is that most legislators want good publicity. Good publicity does not necessarily mean they want to be written up or portrayed as the "good guy" by the media. Republicans, for instance, sometimes want the "bad guy" role in the "liberal media".

Providing your legislator with positive press coverage is a very effective way to encourage your legislator to help you. How to provide this positive press coverage depends on what you do. Anyone can write a letter to the editor praising efforts of a legislator. Start with the most local of papers you can find. Whether true or not, legislators think these papers are read more thoroughly than the state-wide papers. If you have a business with facilities the legislator can tour, this may provide a venue for good local press coverage. Invite the local media to cover the event. It is good coverage for your business too. You want to avoid doing this sort of thing during the campaign season though, unless you want to be seen as partisan – and really believe your legislator will be reelected.

Generating negative press coverage can be an effective short-term method of motivating your legislator to act. However, think carefully before going negative. Ideally, you should focus on the issue and not focus on the legislator's lack of action. Always allow the legislator a way to look like the one coming to the rescue. Once he or she acts, be sure to praise their action publicly.

## **Selling to the Media**

Media relations is a specialty unto itself. In a sense, you almost need to approach the media as another branch of government (although a virtually powerless one) and lobby for coverage. A few things should be kept in mind with dealing with the media.

The media tends to be very passive. There are exceptions. When there is "blood in the water", reporters tend to perk up and get aggressive. The "Caucus Scandal" from a few years ago involved a well known and occasionally reported violation of law. However, since both parties were aware and involved in the corruption, the stories had no traction. Once it became subject to a criminal investigation, the media had a story that interested the readers/viewers and the real reporting began. This pattern is seen repeatedly.

Some issues simply die of lack of public interest. Just like anyone else, the media wants to see results from their work. Investigative reporters are always on the look for their Watergate, but seldom find it. While you are unlikely to provide a Watergate to a reporter, you can provide an interesting and easy to write story.

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The media has to choose. You cannot expect reporters to read everything that comes across their desk or computer screen. You have to make media releases easy to read and understand. While I have experienced reporters simply re-typing press releases as stories, most are not that lazy. Approach press releases as you might advertising for your idea – they do not necessarily need to be complete stories, but need to entice reporters to call and find out more. They need to get the reporter interested without being so lacking detail that the reporter cannot judge whether it is worth the effort. Also, do not rely on your press release to sell itself. Calling or meeting with a reporter who, based on past stories or general assignments, you believe would be interested in your situation can help a great deal.

*Tip: The local media is perceived as more influential by legislators. These reporters are often open to building a relationship, especially if you are likely to continue to provide a good supply of stories.*

The media likes “people stories” more than “principle stories”. For instance, no one likes to pay more taxes. When a local taxpayer funded program is cut, will the news focus on the kid who will not get band class anymore or the money families won’t have to pay in taxes? While some may complain about the “liberal media”, the practical reason is that you can get quotes from the kid, plus pictures. The principle story of “lower taxes are good” is more difficult to create and less appealing to the reader/viewer. Always try to translate your “principle stories” into “people stories.”

### **Alternatives to “The Media”**

The media can be bypassed. The numbers of ways to bypass the “traditional media” are growing. At first, this meant buying ad time to disseminate your views. Talk-radio took off in the 1990s as way to circumvent the “traditional media” and allowed access to the media by simply phoning and waiting. Now the growth of personal media via the Internet makes it very inexpensive to communicate with the world. While these alternatives are not as persuasive as the “traditional media”, they are good ways to supplement a traditional media relations effort with the public and establish connections that can be used to gain prestige inside the legislative process.

## **Average Citizen v. Above Average Citizen**

### **The Average Citizen**

Just as there are different types of legislators, there are different types of citizens. Hopefully, the average citizen makes the effort to vote or, at least, chooses not vote because he or she thinks all the candidates are adequate (or equally inadequate). Most citizens want little to do with the legislative process because they are busy with their work and families. After all, why vote for a legislator if you have to dive into the legislative process yourself? For most people, this is a perfectly rational and reasonable decision when the government is operating in a way that does not harm or impede them. However, most people eventually run into a situation where the government is operating in a harmful or detrimental manner or, when they could use government resources to assist in an endeavor. This is when being an above average citizen pays off.

### **The Above Average Citizen**

Taking the time to build a personal relationship with a legislator and his or her legislative staff can take much of the frustration out influencing legislation and obtaining assistance. Beyond that, to be an above average citizen, you must be viewed as involved and influential.

Whether it is fair or not in practice, legislators do not serve all citizens equally. They know that reelection does not just happen on Election Day or by distributing campaign literature. Name recognition, positive reputation, and “good buzz” are what incumbents want. All of this is based on “making nice” with those people who are connected in the local communities. In this sense, if you are involved in the local community already, the legislators will likely be seeking you out. Many legislators join all sorts of community service organizations and attend several local events a day in hopes of getting known. In other words, they are out looking for you in the places they expect to find community “leaders”. If you are there, know who the heck they are, and look like a reasonable person, the legislator will already be impressed.

The above average citizen also needs to know what he or she is talking about. While you may not view yourself as an expert, you probably have much more expertise than a legislator in most areas of life. Regardless, approaching them as an informed and thoughtful person will add to your influence potential.

## Hired Guns

Obviously, being an above average citizen requires a great deal of time and effort. While you may be able to integrate being an above average citizen with existing areas of your life – e.g., you may already be a member of a community service organization or a prominent business-owner – you may find that maintaining yourself as an above average citizen is simply too costly or too much of a distraction. Professional lobbyists and lobbying organizations exist because it is not easy to be seen as influential.

If you look over the list of lobbyists and lobbying organizations, it is obvious that there is an advantage that comes with being represented by a professional lobbyist. Most of the large special interest groups employ professional lobbyists and large businesses, especially those with heavy state regulation, have teams of lobbyist, use lobbying firms, or both. Obviously, the more money that is at stake with state actions, the more this investment makes sense.

I once calculated the hourly pay of a lobbyist after a meeting with him and realized that he had made about \$325 during an hour long meeting that essentially ended with him “agreeing to look into it”. While this is a top-end example, the fact is that the \$325 probably saved the company thousands of dollars because they avoided more formal legislative and administrative inquiries.

Lobbying is often viewed as the retirement plan of washed-up politicians and beaten incumbents. It is true that the highest paid lobbyists are typically the most connected lobbyists. There is little doubt that names can open doors. However, the return on this sort of investment may be questionable. An awful lot of lobbying done by these “former” types devolves into reminiscing. You may not appreciate paying \$325 an hour for gossiping and stories of the good ol’ days when the government ran surpluses. In addition, legislators know how much lobbyists make – do not think for a moment that they do not use this as weapon. There is often a deliberate decision to contact the hired lobbyist instead of the salaried in-house lobbyist with the desire to “make them pay” and hopefully get quicker results.

The best lobbyists I dealt with when I was the one being lobbied – and I do not know what their hourly rate was – were professionals who knew their information and could answer questions intelligently and quickly (not necessarily at that moment, but the same day). A team from State Farm Insurance, for instance, was remarkable because they provided a quick (under ten minutes) and direct presentation which was designed to allow me, as a staffer, advise my legislator without much effort. They were able to answer the objections we were receiving from citizens in a way that would cause most people to say “that’s a good point.” In other words, they were prepared and organized. You would be amazed at how many lobbyists seem to just show up without a clear understanding of their issue or an organized presentation.

A good lobbyist is both an advocate and an educator. Some of the most influential arrange meeting between the legislator and citizens from the legislator district and simply guide the process and fill in the gaps left by the discussion with the citizen. Others tap technical professionals who are able to provide an impressive depth of knowledge to the legislative decision making process. A good lobbyist not only educates the legislator and legislative staff, but also the person or group he or she represents. Similar to the special interest group, the lobbyist should make his or her clients aware of significant events and developments.

The worst lobbyists – and I hope poorly compensated – show up with a package of paper that will never be read and very little idea of why they are there. They seem to view their role as messenger more than advocate or educator. At best, they leave quickly. At worst, they seem to think that reading a bullet point list and wasting staff time is lobbying.

The worst of the worst believe they can bully the legislator by simply threatening electoral reprisals or buy action by borderline bribery. “Do it because I say so” just does not work.

## **Chapter Two: The Play**

## **What Your Legislator Can and Cannot Do**

Most people do not know who their state legislators are until one of them is on the front page of a newspaper being charged with drunk driving. Yet most legislative staffers will tell you that many people who call their state legislators apparently think that he or she is the President of the United States. A state legislator can do many things other than vote on bills, but there are limits. If you were paying attention in high school civics, you should know most of these limits.

A state legislator votes on state legislation. This is the legal extent of his or her power. However, because of this power, he or she can leverage action in other parts of government.

### **Federal Issues**

A state legislator has little influence on federal matters. In fact, if you are influential in the community, you probably have more influence on your federal legislators than does your state legislator. Knowing what is a federal or a state issue will help save you a lot of time. As a general rule, anything that crosses state borders or involves other countries is a federal issue. Areas of joint concern exist. Often the federal government sends money to the states and the state has great discretion as to where within the state to allocate that money. However, at times state involvement is simply implementation of the federal program and little state control exists.

### **The Executive Branch**

The Executive Branch is essentially run by the Governor via politically appointed department heads who control civil service employees. In theory, their civil service status protects them from political pressures and retaliation, but their lives tend to be much more pleasant when they are agreeable to the politically appointed department heads.

The executive departments have two distinct functions – policy and administration. The rule making process will be discussed later, but suffice it to say, the executive branch is authorized to make laws by way of agency rule making. While the legislature does review these rules, the executive branch has a great deal of room for informal interpretations and other policy decision making.

Rule making is an area that a legislator can influence. This can be done most easily through an agreeable Governor's office by simply asking for a review of the policy and a "more appropriate" interpretation. If the Governor is not agreeable, the implicit threat is that the legislature will expressly change the interpretation through legislation or, more likely, by being equally disagreeable about something the Governor wants from the

legislature. The legislator's access to the media can also force changes when there is obvious inequity involved or a dramatic unintended consequence.

Helping citizens interact with state agencies is probably the most valuable service legislators can offer you. This is called "constituent work". There typically is a legislative liaison in each executive agency whose job it is to act as a go between with your legislator (or more likely the legislators staff) and the agency bureaucracy. You may be able to obtain the same information and services by calling the state agency yourself, but chances are you will need to stay on hold and talk to five different people to get the same results. What typically happens is you, "a constituent," call the legislators office with your request. Depending on the nature of your request, the legislative staff may simply call the agency to remedy the situation or ask the legislator for direction – which is likely to be "call the state agency and have them take care of it." The advantage for you is you don't need to figure out who in the state government to talk to – which is not always obvious or one person – and the responsiveness is likely quicker and better than you may get as a citizen. You may be a taxpayer, but the legislature is what directly controls the agency budget. The other advantage is the legislative liaisons have a specialized knowledge of the state agency that speeds matter ups. The average state worker answering your phone call simply does not know the agency that well.

Administrative functions are more difficult for legislators to influence. They are prohibited from interfering with administrative hearings for instance or licensing reviews. Do not ask your legislator to influence the outcomes of such administrative functions. Often a legislator will be able to monitor and inquire about administrative actions, but even this must be done with caution so that there is no appearance of trying to influence the outcome or speed the process.

That being said, legislators often do ask that administrative functions be focused on a particular issue or be initiated. The agency is free to refuse. For instance, the legislator can ask that a study be conducted as to whether a stop light should be installed at an intersection on a state highway. The agency can refuse. The agency then risks having the legislator working to cut their budget during the next budget cycle. If the agency agrees to conduct the study, the legislator should not try to influence the findings of that study. Of course, many legislators do extend their influence beyond what is appropriate. Pushing too hard may be illegal. Pushing at all draws the legality of the study or hearing into question.

## **The Judiciary**

A legislator can not (and should not) influence judicial proceedings. Despite constitutional prohibitions regarding *ex post facto* laws, legislators will sometimes attempt to change a law during the judicial process. While the court system moves slowly, the legislature tends to move even slower, so the court typically acts before the legislature. With rare exception, the court is concerned with the law at the time of the actions at issue in the case before them. Changes in the law after that may sometimes be

noted, but not always in the way desired. Sometimes a change is viewed by courts as better defining the intent of the statute at issue. Other times it is viewed by courts as the legislature correcting a deficiency in the statute. In other words, a legislator can change the law for the future, but not for the past.

## The Legislative Process

The main purpose of legislators is to legislate. Many legislators view their main purpose to be a distraction from their main concern – getting reelected. Some legislators love the legislative process and others hate it. It can be rewarding, frustrating or both. While most people are aware of the general process of how a bill becomes a law, they may not know the full story.

Let us assume you have a great idea or you have a problem. The first step is to decide if this is something that the law can or should address. Not every idea or problem can or should be addressed by law. It may annoy you that people use the express lane at the grocery store with too many items, but is it really something we need to outlaw? And if we did outlaw it, would there be any practical method of enforcing it? There are also constitutional limits on what can be legislated.

The next step is to target which level of government should and can address the issue. As already discussed, there are some areas that state governments have no power or must operate under the direction of the federal government. At the same time, most of the laws people come in contact with are state level laws or local ordinances. The world will not end if you contact the wrong level of government but you will save yourself some time if you figure out who can act.

Once you know you have a state-level concern you should decide in which “house” or “chamber” of the legislature you want to start. All Wisconsin citizens have one legislator in the Assembly and one in the Senate. Assembly offices (except leadership) usually have two staffers if they are in the majority and one staffer if they are in the minority (sometimes offices share a staffer too). Senate offices have larger staffs (especially the majority leadership). Assembly districts represent about a third of the number of citizens that a Senate district does. Overall, the resources each house can offer are about even. I recommend looking at other factors like committees, political party, and length of time in the legislature to figure out whether to use your Senator or Assemblyman. Of course, if you have a good relationship with one or the other, that is the best way to decide.

Occasionally, it is worth looking at legislators who do not represent you. For instance, if he or she chairs a critical committee, it may be advantageous to approach them with your idea. However, legislators are unlikely to respond to you if you cannot vote for them. This is where special interest groups and professional lobbyists can make a real difference since they represent groups or pools of voters. If your business is located in the legislator’s district, you may be able to get some results too. If you are an above average citizen who is active in communities in the legislator’s district, this may also help get results. The point is, do not expect a legislator to introduce legislation for you unless they have a practical reason to do so.

Most great ideas or problems presented to legislators do not become legislation. You must sell your idea or sell your solution to the problem. This is where knowing what kind of legislator you are dealing with is important.

Regardless of the type involved, most legislation and legislators are reactive. In other words, they do not like to step forward with only great ideas – they want to step forward with the answer to a problem. So, you need to convince them that there is a problem that needs to be addressed by the law. Then you need to convince them that your great idea is the solution.

Many times, citizens present legislators with problems, but no solutions. These citizens may be given some assistance in the form of help with dealing with agencies or a letter explaining the law and how it developed. It is highly unlikely that a citizen will be offered legislation to solve the problem.

### **Drafting a Bill**

Once you convince your legislator to introduce a bill, they will typically ask their staff to have the Legislative Reference Bureau (LRB) prepare a draft bill, which will then be referred to by its LRB number. The LRB has a staff of attorneys who have specialized in writing bills under the rules of the legislature. If you are lucky, you will get an attorney who has been around for awhile and knows the subject area well and the history of the statutory development in the area. However, attorneys working for the LRB do have a tendency to be very focused and are overworked. In other words, they can miss things and make mistakes. Do not think that your input is unneeded in the drafting process.

If the draft just does not seem to be right, you may also request a meeting with the legislator and a member of the Legislative Council. The Legislative Council attorneys often have a broader view of things than do LRB attorneys. They act as legal counsel for the legislative committees so they often have good political insight too. Many have been in their positions longer than those with LRB, which also lets them draw on past attempts to address similar problems. That being said, you should make sure you believe in the bill. The legislator is interested in making you happy, not making the legislative support agency attorneys happy. Consider hiring your own attorney to explain the draft and suggest improvements or point out difficulties.

The next step will be a “circulation memo” which asks the other legislators to co-sponsor the bill. Co-sponsors are other legislators who will publicly support the bill by adding their name to a sponsorship list – typically, the more, the better. At this point, there should be some discussion with you about what aspects of the bill are important to you. Many times there will be changes suggested at this point to make the bill more appealing to other legislators. It is important to give your opinions regarding changes.

## **Introducing the Bill**

Once the legislator is ready and the co-sponsors have been collected, the bill is “jacketed” for introduction. This means that the legislative clerk gives the bill an official number and it is available for legislative action. Typically, the bill will then be assigned to a committee in the house in which it was introduced by the house’s organizational committee. There is some discretion in this regard and, at times, it is possible to get a bill into a more favorable committee.

To move out of committee, the bill usually<sup>2</sup> has a public hearing and a committee vote. This can be difficult or impossible if the committee chair does not agree to grant the bill a hearing. Regardless of the chair’s personal support for a bill, many committee chairs will not go to the effort of holding a hearing for a bill without some evidence that the bill will pass the committee and house. This is done to conserve resources and to avoid the embarrassment of endorsing a bill that then fails to pass the house.

The committee hearing normally invites public comment and testimony about the bill (and many others scheduled for a hearing that day). Presenting an argument for the bill is normally arranged by the legislator who introduces the bill. You should offer to present testimony. You may present testimony in person (be prepared to wait for the committee and through all of the other people testifying) or in writing. Written testimony is seldom persuasive enough to change votes, but it can provide legislators and staff with important arguments and facts to justify the legislator’s position. The committee may amend the bill to make it more acceptable to the full legislature. Once a bill is introduced, it is technically subject to amendment by anyone who has the power and votes. While it is possible to amend your bill in committee without your legislator’s agreement, it is highly improbable.

## **On the Floor**

Once a bill is acted upon by a committee, the chamber’s organizational committee must agree to put the bill to a vote. The chamber’s organizational committee will often weigh the costs and benefits of having public debate on the bill. If members of the majority party feel that the bill will expose them to political risks, the bill may fail to be scheduled for a vote and will simply never be acted upon.

Once on the floor, the bill is subject to “motions”. These motions are actions that the legislature can take. These include, but are not limited to, motion to: amend, substitute, refer to committee, reject, etc.. Unless it is a bill the majority feels compelled by public demand to address – hot button issue – a bill will seldom be scheduled without a strong

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<sup>2</sup> It is possible, but unusual, to “dip” bills into committees. The bill is technically assigned to a committee and then withdrawn, typically by the majority leadership. This is primarily done when there is strong support for a bill, but the bill needs to comply with a technical requirement – e.g., the requirement that bills with a certain level of fiscal impact be presented to the Joint Finance Committee. It is also possible to use a “pulling motion” to force a bill out of a committee that fails to act.

belief the bill will be passed. Once a bill is passed by the house, it is sent to the other chamber. Then the whole process starts anew. It is possible to short-circuit this to some extent by using “companion bills”. These are identical bills that are introduced in both houses to move the bills faster.

If your bill is lucky or good enough to get through both houses, it may need to go to a conference committee reconcile any differences between the bill passed in the Assembly and the bill passed in the Senate. Except for budget bills and really contentious bills, this is usually a formal matter. The bill then needs a final adoption by both houses before it goes to the Governor.

The Governor in Wisconsin has many powerful options. A strong line-item veto is available to the Governor which can significantly change a bill before it becomes law. However, aside from the budget and other contentious bills, the Governor typically signs a bill into law or vetoes it. A veto override is possible, but unless there is a strong partisan support for the bill and a large super-majority, this is seldom a realistic option.

## **The Hidden Life of Administrative Rule Making**

State agencies issue rules that once enacted are law. This is legislating. To avoid the constitutional objection of delegation of legislative powers, the legislature exercises a relatively passive oversight of administrative rules. The system of review operates with a presumption that the administrative rules are acceptable.

An agency that proposes new rules or changes to existing rules submits them to the “administrative rules clearinghouse” a.k.a. Legislative Council (discussed earlier). The clearinghouse has 20 days (with another 20 days available by extension) to review and offer an objective legal opinion regarding the proposed rule. This would include suggestions for changes in form and at times opinions regarding the statutory authority of the agency to enact the rules. The agency then must hold a public hearing on the rules before putting them in their final form for submission to the legislature.

The legislature reviews the rules by referring them first to the appropriate standing committee in each house. The standing committee has thirty days to review the rules and may extend that another thirty days. If the standing committee fails to object to the rules, the rules may be promulgated and become law.

A standing committee may object to the proposed administrative rule. In that event, the rules then go to the Joint Committee for Review of Administrative Rules (JCRAR). Unlike most committees, JCRAR is a statutory committee, which means it must exist by law. The JCRAR consists of five members of each house (from both parties). The JCRAR has thirty days to review the rule, which can be extended another thirty days.

Despite the objection of a standing committee, the structural bias to approve the rules remains. If JCRAR fails to act, the rules are accepted. If it objects, JCRAR must then introduce bills in both houses to prevent adoption of the rules. If these bills are enacted, the agency may not adopt the proposed rules and would need to pursue enabling legislation if it wanted to do so in the future. If the legislature fails to enact the bills or fails to act on the bills, the rules become law.

### **When to Act**

On its face, it would appear that this process is only capable of stopping agencies from enacting rules that are very objectionable. In theory, a very determined and stubborn agency could wait out the process and rely on the inertial tendency of the legislature to prevent enactment of the bills objecting to the rule. However, the reality is that there is a great deal of negotiating throughout the process.

The earlier you can get involved, the more likely you will get what you want (or get rid of what you do not want). This is based on the fact that most agencies feel more “invested” in a rule as the rule moves closer to enactment. It also is less embarrassing to change rules at the clearinghouse/public hearing stage because it is less public and the

public perception is “agency responsive to public” and not “agency caves to political pressure in the legislature”.

Politically appointed agency heads are more than happy to do battle over hot-button issues when the legislature objects to a rule. However, it is unlikely that they are going to be devoted to minor details in a proposed rule objected to in the public hearing stage. Therefore, monitoring the clearinghouse rules and objecting early has a significant impact.

That being said, there is real agency arrogance behind many rules. The civil service agency experts often view their proposals with an “I know better” attitude. Enlisting the “help” of your legislator can be a very effective tactic at this point. It is especially effective if he or she is a member of a committee that will later review the proposed rules. This need not be done in the actual public hearing (and there are some rules that do not require a public hearing). These public hearings typically either have huge numbers attending or few. Essentially, you will have a chance to give comments about the rules. Written comments are probably as effective, especially well written and researched comments, as attending a public hearing.

After the agency has a final proposed rule and all of the necessary impact reports are finished, the agency hands the proposed rule to the legislature. The leadership in the legislature then assigns the proposal to one of the standing committees (since many proposed rules cover many topics, leadership can help or hinder the proposal with this assignment). The standing committees can request changes in the proposed rules. This provides another opportunity to influence the final rules. Most disputes over the proposals are dealt with by negotiations and modifications to the rule. A committee, in theory, could perpetually stall the rules by continually requesting changes.

Most proposed rules are handled by negotiations between the agency and the standing committee. Objections are, as indicated above, moved to JCRAR. This again allows access to the process. When the both houses of the legislature are controlled by one party, the agencies probably take this move a little more seriously since a failure to negotiate could result in legislation that would permanently prevent reintroduction of the proposed rules and perhaps a real change in the agencies power and authority. However, when there is a split in the houses, this possibility becomes unlikely. This does not mean that the agency will not negotiate, but without the realistic ability to stop the proposed rules via legislation, the leverage of the legislature comes from the agency’s desire to avoid the delays and the work that the agency will need to put in for the JCRAR hearing and information demands.

JCRAR has some unusual powers for a legislative committee. It can review and suspend existing agency rules *sua sponte*.<sup>3</sup> In order to do this, JCRAR calls a public hearing to review the administrative rules at issue. It then may suspend those rules if it finds the rules violate a list of reasons for suspending the rules. The reasons, however, are fairly

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<sup>3</sup>On its own accord – for those who neglected to learn Latin.

vague – e.g. “imposes undue hardship” – so aside from possible public and political reaction to the suspension, there is little restraint on the suspension power. Within thirty days of the suspension, JCRAR must then introduce bills in both houses to repeal the rule. If the bills fail to pass, the suspension lapses. However, JCRAR may not suspend the rule again if the repeal fails.

JCRAR also has the power to demand that agencies place informal policies into rule form so as to allow legislative review. It also has the ability to suspend or extend the duration of emergency rules issued by agencies. Some agencies rely heavily upon the use of emergency rules.

## **The All Too Public Life of the Joint Finance Committee**

In the interest of full-disclosure, I have a very low opinion of the budget process in Wisconsin. Given the power of the Governor's line-item veto, it makes little sense to me that the Governor's office is the source of the initial budget. While the legislature is free to simply ignore the Governor's budget and introduce a completely different budget, the reality is that the Governor gets the first and final word on the budget. A large amount of campaign fundraising is conducted while the budget bill is pending. The budget is also the most publicized function of the legislature. It is easy to think that the budget process is unnecessarily drawn out, if not for fundraising, then certainly for media coverage.

While the Joint Finance Committee (JFC) must review other legislation (technically any bill that appropriates money, raises revenue, or relates to taxation), its main task is handle the state budget bill. Other legislation may be very important to you and your interests. I do not mean to discount these bills since they can have a very significant impact on particular situations and may be more important to you than the general budget.

JFC serves a positive function in that it focuses public scrutiny on the budget. In a series of seemingly endless hearings, a great deal of information is brought out. Agencies are forced to plead their case for their budget (at least the new parts of the budget – the old budget stays in place unless a change is made). The Legislative Fiscal Bureau (LFB) provides the impressive professional expertise needed to make sense of the budget bill. It provides a summary at each critical stage, which in reality is the document your legislator uses. Without the LFB, it is doubtful that anything productive would come from the process. Legislators constantly barrage LFB personnel with questions and “what if”s. Obviously, the Governor's party works to show the perfection of his or her budget bill and the other party works to show how the Governor's budget will make Wisconsin into a wasteland.

JFC is formed by members of both houses and parties. If majorities in both houses are held by one party, JFC is controlled by that party and votes should be fairly predictable. If there is a split in the houses, JFC seldom produces a meaningful bill. At this point, it would save a lot of time and hot air to skip to a conference committee to attempt to reconcile the bills from each party. In my experience, the majority party allows each of its members to offer a number of amendments to the budget bill that will be supported by its members on JFC. Depending on the overall strategy, this may be done via JFC or during floor amendments. Minority party members usually just complain and hold press conferences, but without majority status, there is little they can do.

All budget bills have pork in them. The primary change for state budgeting in the lean revenue years that have typified recent budget is that budget bills tend to focus on the budget and do not get loaded up with tag along bills. In other words, with low state revenue, there are plenty of money-related issues to fight about without adding “policy” to the budget. Of course, many money issues are also policy issues.

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Once JFC has approved a budget bill, the bill is forwarded to each house for a vote. Depending on how much partisan control was exerted within JFC, this can be a formality or a free-for-all. There are always attempts to amend the bill. Most of these are political and nature and often the basis for “I tried” style press releases. Occasionally, majority party members try to work over their own party by demanding changes. This is especially tempting to Republicans who have a hard time voting in favor of *any* spending.

Any differences between the bills passed are ironed out in a conference committee. If there is a split in the majority control of the houses, this is where the actual content of the budget bill is determined. If there is no split, this is usually formal. The Governor then gets the final word on the budget and often vetoes letters, words and phrases to get the end product of the legislative process more to his or her liking. Veto overrides are difficult even with a large majority, but occasionally they are possible when there is strong support.

## **Chapter Three: How to Best Communicate With Legislators**

## **In person**

The best way to communicate with your legislator is to meet with him or her. This starts by calling his or her “scheduler” to arrange a time and place to meet. You cannot legally buy your legislator a meal or drinks, so do not feel it has to be anything more than simply meeting. Let the scheduler know what you plan to talk about. Do not expect to accomplish much by “stopping by” in Madison. Chances are that your legislator is either not in or is busy. That is not just an excuse since they are in fact up to something at most moments in their day – whether the something is important or not is another issue.

If you cannot arrange a meeting with your legislator, set one up with staff in Madison (some legislators also have district staff who can meet with you). Let the scheduler know what you plan to talk about so that the staffer can prepare (but do not expect him or her to be prepared). Ask to meet with the staffer who handles the particular area with which you are concerned. The staffer’s official position in the office does not necessarily indicate anything about their ability to make decisions or influence the legislator. An exception is interns. With rare exception, if you asked to meet with an intern, you have just been insulted.

Keep meeting times to a minimum, especially in Madison. Even a local meeting is probably scheduled very tightly since many legislators feel the need to be everywhere at once. (It also provides the legislator with a good exit excuse.) Meetings with staffers should stick to the issue and avoid redundancy. A meeting with a staffer should last about 10 to 15 minutes. Obviously, there are exceptions, but they are rare.

Meeting with the legislator may last longer because it tends to involve more long-term relationship building. The legislator normally tries to avoid any substantive discussion, so it is your job to keep to the agenda and get your message across. Because staffers usually think meeting with the legislator last too long, so do not be surprised if you are interrupted or have to wait for the meeting before yours to end.

## **Call**

Depending on the legislator’s personality, talking directly to him or her over the phone may be easy or impossible. Few will take calls directly unless they are expecting them. The more you get to know the legislator personally, the more likely you will get a call back from him or her. Regardless, do not wait by the phone for a call back. Leave a message that allows legislative staff to act for you or prepare the legislator. Playing phone tag with a legislator is a game you will never win.

If you are calling about legislation, do not just call and say “Support tax cuts” or “Vote for SB 12”. These messages are treated with same respect as telephone solicitations. Provide the legislator with reasons why and specifics. If your background gives you some insight, let your legislator know that. Normally, brief is better, but legislators are

looking for reasons and arguments to justify their actions. Providing correct details like bill numbers not only demonstrates that you are informed and involved, it helps the legislative staffer who otherwise has to spend fifteen minutes figuring out what “that bill to cut healthcare service” is.

### **Letters**

Next to meeting with the legislator or speaking directly to him or her on the phone, the letter is best method of communication. Be professional and try to keep it to one page. Be specific and concise. Use your own words. Never use template letters provided by special interest groups. It does not take a genius to figure out what is going on when ten similar letters come in on the same day. These are typically placed in a folder together to wait for their companion letters – and a comparably well thought out response will be generated for all of them.

If the legislator does not know you, you may want to include some of your background – especially if it gives you some special insight or persuasive authority on the issue.

### **E-mail**

E-mail is free and easy. To be taken seriously, your e-mail will require as much work as a well-written professional letter, unless you have an established relationship with the legislator. Many legislators are tech-phobic so do not expect a quicker response from e-mail. If you simply want to be included in a vote count (which most legislators ignore anyway), this is an easy and cheap way to do it. Make sure you include your name and address (to show you are a voter the legislator needs to care about) and the correct bill number.

### **Post-cards**

This is the most annoying and ineffective communication method. Typically, the post-cards arrive in bundles. Most are pre-printed and simply signed with the address scrawled on them. Special interest groups sometimes use them in hopes of demonstrating the great numbers of people in support of something. Most remain unbundled except in the offices of truly desperate or fearful legislators. Legislators know that these postcards come from people who are too apathetic to write a personal letter. Ironically, this, the least effective method of communication, is typically used for hot-button issues where the legislator is least likely to change his or her position.

### **Petitions**

Unless it is a recall petition, legislators do not take much notice of petitions. They know that it takes little effort to sign a petition (after all, they have to collect signatures to run for office) and that many people sign without knowing what the petition is for or without really agreeing with the petition. Petition drives may be a way of letting the public know

about something, but for influencing your legislator a letter writing campaign is a better approach.

## **Chapter Four: The Law**

## **Legal Traps to Avoid**

So long as you act as an individual citizen, other than bribery, the legality of your dealings with a legislator is the legislator's concern. You should, however, be aware of the legal restrictions placed on your legislator to avoid awkward situations and inadvertent violations. Gifts, awards or compensation to a legislator should be carefully reviewed for legality. In most circumstance, the legislator will need to pay for his or her meal or other accommodations. This can vary depending on the relationships involved too. It is best to review the Ethic Guidelines or ask legislative staff for assistance. Remember that legislative staffers are also bound by these laws.

## **Campaigns**

You are free as an individual citizen to be involved in a legislator's campaign within the general elections laws. Most of restrictions cap donation amounts or "in-kind" contributions and demand public reporting of these donations. Corporations face addition restrictions.

Again, most of the restrictions regarding conduct of campaigns are the responsibility of the legislator. The main practical concern is that the legislator is not to use his or her state resources for campaigning. Incumbents often hair-split their way around this by sending out newsletter, conspicuously labeled state road maps and other items to vast numbers of their constituents. While these are "informational" in nature, they are really designed to buoy name recognition.

That said, the one area that your legislator should not be hair-splitting is using his or her legislative staff for campaigning. You should not call legislative offices looking to donate to the legislator's campaign, coordinate campaign events, or do anything else related to an election. You may contact the legislator directly or his or her campaign for this type of information or activities. At most the legislative staff may give you the legislator's campaign contact information, but even this can make them uneasy.

## **Unintentional Lobbying**

When you move from citizen to lobbyist, additional legal restrictions apply and you will more likely be held responsible for violations as well as the legislator. The main additional restriction is a ban on campaign donations during certain legislative activity. In addition, your activity and expenditures must be publicly reported.

At times, the move from citizen to lobbyist can be unintentional. The state statutes offer this definition: "Lobbyist" means an individual who is employed by a principal, or contracts for or receives economic consideration, other than reimbursement for actual expenses, from a principal and whose duties include lobbying on behalf of the principal. If an individual's duties on behalf of a principal are not limited exclusively to lobbying,

the individual is a lobbyist only if he or she makes lobbying communications on each of at least 5 days within a reporting period.

Potentially, if you are paid, and lobby on more than five days within a six-month reporting period, you may be a lobbyist and subject to reporting requirements. So, for example, a CEO of a plastic manufacturing company has a personal interest in changes to environmental laws in Wisconsin that make it more costly for the company she runs to operate. If she sends five different letters encouraging her legislator to change the law, is she lobbying? Possibly. If the company has a legislative director who is ordered to do the same thing, there is no doubt that the legislative director is lobbying. Since the personal and business lives of most people are blended, the example demonstrates that a citizen may be lobbying without knowing it or intending too.

### **A Word of Warning about Written Communications**

All written communication sent to an elected official is subject to Wisconsin's open records law. While few legislative offices worry about complying with the records retention demands of the law, technically, they must retain all written records for a defined number of years. In other words, anyone can demand that your letter be produced for inspection. The same is true of a letter written by the legislator to you. Although it is unlikely that open records request will be made regarding your communication with the legislator, you should be aware of this and keep it in mind in terms of what information could be discovered.

## Appendix

### Useful Internet Resources

#### Legislature

**The Legislature Home Page**

[www.legis.state.wi.us](http://www.legis.state.wi.us)

**Legislative Fiscal Bureau**

<http://www.legis.state.wi.us/lfb/index.html>

**Legislative Council**

<http://www.legis.state.wi.us/lc/>

**Legislative Reference Bureau**

<http://www.legis.state.wi.us/lrb/index.htm>

#### Elections and Lobbying

**Wisconsin State Ethics Board**

<http://ethics.state.wi.us/>

**Wisconsin State Elections Board**

<http://elections.state.wi.us/>

**Wisconsin Democracy Campaign**

<http://www.wisdc.org/>

#### Political Parties

**Republican Party**

<http://www.wisgop.org/Home.aspx>

**Democratic Party**

<http://www.wisdems.org/>

#### Print Media

**Major Madison Newspapers**

[www.madison.com](http://www.madison.com)

**Major Milwaukee Newspaper**  
[www.jsonline.com](http://www.jsonline.com)  
(Cary Spivak & Dan Bice are especially good.)

**Internet Media**

**The Wheeler Report**  
[www.thewheelerreport.com](http://www.thewheelerreport.com)

**WisPolitics.com**  
[www.wispolitics.com](http://www.wispolitics.com)