

# WISCONSIN

## LOBBYING DISCLOSURE

These resources are current as of 11/21/18. We do our best to periodically update these resources and welcome any comments or questions regarding new developments in the law. Please email us at [advocacy@afj.org](mailto:advocacy@afj.org).

### What's New in This Guide

The following changes/additions have been made since the previous version of this guide:

- ◆ Membership of the Wisconsin Ethics Commission which, together with the Wisconsin Elections Commission, will replace the Government Accountability Board (G.A.B.) on June 30, 2016.

This guide summarizes key aspects of laws and regulations governing lobbying on the *state* level. It is not intended to provide legal advice or to serve as a substitute for legal advice.

In some jurisdictions, city and/or county regulations may also apply to certain political activities. Check with the appropriate local jurisdiction before undertaking any activity.

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## ETHICS COMMISSION

- In December 2015, legislation was signed into law dissolving the Government Accountability Board and replacing it with two independent commissions: the Ethics Commission which regulates ethics, lobbying and campaign finance and the Elections Commission, which administers and oversees election administration.<sup>1</sup> The Ethics Commission consists of at least six members:
  - One member appointed by the senate majority leader;
  - One member appointed by the senate minority leader;
  - One member appointed by the speaker of the assembly;
  - One member appointed by the assembly minority leader;
  - Two members who formerly served as judges (and who were elected to their judicial positions), appointed by the governor, and subject to senate confirmation;<sup>2</sup> and,
  - One member nominated by each political party, other than the two major political parties, whose candidate for governor received at least 10 percent of the vote in the most recent gubernatorial election, appointed by the governor, and subject to senate confirmation. The governor chooses this third-party nominee from a list of three individuals prepared by the third party.
- The Ethics Commission has the ability to retain both special investigators and special counsel to assist in the enforcement of the laws it administers.
- Lobbying regulations in effect in December 2015 remain unchanged.

## DEFINITIONS

- In most cases, “lobbying” is direct advocacy for a change in state law or an administrative rule. A “lobbyist” is generally “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.”

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<sup>1</sup> The dissolution of the Government Accountability Board (G.A.B.) and creation of the two commissions is effective on June 30, 2016. See 2015 Wisconsin Act 117. This summary refers to the Ethics Commission throughout.

<sup>2</sup> These two members are chosen from separate lists prepared by the legislative leadership of the two major political parties. Each party prepares a list of three individuals, and then the governor appoints one individual from each party’s list.

Wis. STAT. § 13.62(11). Symmetrically, a “principal” is “any person [including organizations] who employs a lobbyist.” Wis. STAT. § 13.62(12).

### Lobbying

- Lobbying – broadly encompasses direct attempts to influence anything the state legislature may do as well as the promulgation, repeal or modification of any administrative rules. Under Wisconsin law, “lobbying” is defined as “the practice of attempting to influence legislative or administrative action by oral or written communication with any elective state official, agency official or legislative employee,<sup>1</sup> and includes time spent in preparation for such communication and appearances at public hearings or meetings or service on a committee in which such preparation or communication occurs.” Wis. STAT. § 13.62(10).
  - Certain communications, however, are *not* considered “lobbying” for purposes of determining whether an individual must register as a lobbyist or whether a communication must be included on a lobbyist’s time reports. The statutory exceptions include:
    - communicating through the media or public addresses to audiences principally composed of persons other than legislators or agency officials (Wis. STAT. § 13.621(1)(a));
    - providing responses to requests for information from agency officials (but *not* responses to requests from elective state officials or legislative employees) (Wis. STAT. § 13.621(1)(f));
    - participating as a member of an administrative advisory committee or a committee of the legislature (Wis. STAT. § 13.621(1)(e)); and
    - communicating only with a state senator or representative who represents the area in which the individual resides – whether or not such communication is made on behalf of the individual or on behalf of another person (Wis. STAT. § 13.621(6)(b)).
  - A lobbying communication may include matters that do not yet have a bill or clearinghouse rule number – a lobbying “topic.” Wis. STAT.

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<sup>1</sup> An “agency official” is “a member, officer, employee or consultant of any agency who as part of such person’s official responsibilities participates in any administrative action in other than a solely clerical, secretarial or ministerial capacity.” Wis. STAT. § 13.62(3). An “elective state official” is “a person who holds an elective state office... or has been elected to an elective state office but has not yet taken office. A person who is appointed to fill a vacant elective state office is an elective state official.” Wis. STAT. § 13.62(6). A “legislative employee” is “a member or officer of the legislature, an individual employed [by the legislature] or an employee of a legislative service agency....” Wis. STAT. § 13.62(8m).

§ 13.67(1). Talking to a state official or legislative employee about the possible introduction of legislation, for example, may be a lobbying communication. So may discussing with a legislator why legislation would be a bad idea or a good idea or discussing with an agency employee why an administrative rule may be needed.

- “Legislative Action” – “the development, drafting, introduction, consideration, modification, adoption, rejection, review, enactment or defeat of any bill, resolution, amendment, report, nomination, proposed administrative rule or other matter by the legislature or by either house or any committee, subcommittee, joint or select committee thereof, or by a legislator or employee of the legislature acting in an official capacity. „Legislative action” also means the action of the governor in approving or vetoing any bill or portion thereof, and the action of the governor or any agency in the development of a proposal for introduction in the legislature.” WIS. STAT. § 13.62(8).
- “Administrative Action” – “the proposal, drafting, development, consideration, promulgation, amendment, repeal or rejection by any agency of any [administrative rule].” WIS. STAT. § 13.62(1). While the statutory definition of “lobbying” includes contacting agency officials in connection with “administrative actions,” it does not include any contact with agency officials on other matters. Regulated lobbying only occurs when communicating with agency officials on administrative rules promulgated by the agency under chapter 227, Wis. Stats., or on developing a proposal for introduction in the legislature.
  - Accordingly, any communication or contact with agency staff on other matters – e.g., enforcement actions, rate-making, licensing, procurements, contracts or permits – would not be considered lobbying.

### Types of Lobbyists

- Lobbyist – An individual is required to be licensed and to register as a “lobbyist” if the individual is compensated for his or her attempts to influence state legislation or administrative rules on behalf of a business or organization. WIS. STAT. § 13.62(11). This requirement applies, however, only if the individual communicates with elective state officials, agency officials, or legislative employees on five or more days within any six-month reporting period (January to June or July to December). *Id.*
  - The registration requirement for each individual is triggered by the number of days on which each individual has lobbying contacts – regardless of the number of meetings on those days, the length of the meetings, or whether the lobbying communications were on several different topics.

- o To determine whether registration is required, an individual should track the number of days on which he or she communicates about specific matters, however briefly, with elective state officials, agency officials, or legislative employees. The number of meetings held or topics discussed on any given day are irrelevant.

### Other Actors

- Lobbyist Principal – An organization is required to register with the Ethics Commission as a “lobbying principal” if the organization retains an individual (a “lobbyist”):
  - for compensation;
  - to communicate with elective state officials, agency officials or legislative employees;
  - in an attempt to influence state legislation or administrative rulemaking on the organization’s behalf; AND,
  - the individual communicates (in the form of a lobbying contact) with elective state officials, agency officials or legislative employees on five or more days during either the first or last six months of any calendar year.

Wis. STAT. §§ 13.62(12), 13.64.

### Grassroots Lobbying

- Grassroots lobbying does not fall under the statutory definition of regulated “lobbying” in Wisconsin. As such, it does not count toward the lobbyist registration triggers. However, if an organization is registered to lobby as a “lobbying principal,” that organization will need to track its grassroots lobbying expenses and report these expenses as “other lobbying expenses” on its Statement of Lobbying Activity and Expenses.

## **REGISTRATION**

### **Registration of Principals**

To register, a principal must register on the state’s online portal, “Eye on Lobbying.” Once on the website, the principal should click “Registration and Licensing” on the left-hand menu, after which it will be asked to create a username and password and be guided through the online registration process.

- Timing – A principal must register within 10 business days of its lobbying expenditures or obligations exceeding \$500 in a calendar year. Wis. STAT. § 13.64(1). The Ethics Commission “recommends” that an organization register and authorize its lobbyists before they begin their lobbying activities. See “Does your organization need to register as a lobbying principal?”, February 2016.

- Disclosures – A principal that is an organization must disclose:
  - o Name of the organization;
  - o Contact information for the person responsible for lobbying issues;
  - o Organization’s purpose and interest which the organization represents;
  - o Approximate number of members;
  - o Specific description of the policy areas the organization will attempt to influence;
  - o Names of authorized lobbyists; and
  - o Names of non-lobbyists authorized to sign documents submitted to the Ethics Commission
  
- Renewing Registration – Registrations expire on December 31 of each even-numbered year. WIS. STAT. § 13.64(2). To renew its registration, a principal must submit a new registration form, accompanied by the applicable fees.
  
- Fee – Registering an organization as a principal costs \$375, plus an additional \$125 for each lobbyist whom the principal authorizes to lobby on its behalf. WIS. STAT. § 13.75.

### **Registration of Lobbyists**

- Before engaging in lobbying for a principal on *more than four days during a six-month period*, a lobbyist must obtain a lobbying license from the Ethics Commission and the lobbyist’s principal must authorize the lobbyist to advocate on its behalf. WIS. STAT. §§ 13.63, 13.64, 13.65. The practical effect is that an individual should be registered before his or her fifth day of lobbying. Lobbyists must register via the G.A.B.’s online lobbying portal, “Eye on Lobbying.”
  
- Timing – The lobbyist must register and obtain a lobbying license before lobbying on behalf of a principal. WIS. STAT. § 13.65.
  
- Disclosures – A lobbyist’s initial license application must disclose to following information:
  - o Name and contact information;
  - o Social Security number; and o Employer’s name.
 WIS. STAT. § 13.63.
  - o The Ethics Commission will reject a registration statement if the lobbyist filer does not include his or her Social Security number. Additionally, the Ethics Commission. will reject applications from individuals who have failed to pay child support and certain other required payments. WIS. STAT. § 13.63.

- o The license application permits – but does not require – the applicant to submit a photograph, which will be included with the lobbyist’s profile on the Ethics Commission website, available here.
- Renewing Registration – Registrations expire on December 31 of each even-numbered year. WIS. STAT. § 13.63(1)(a). To renew its registration, a principal must submit a new registration form, accompanied by the applicable fees.
- Fee – A lobbyist must pay \$250 to obtain a license to act on behalf of one principal, or \$400 for a license to act on behalf of multiple principals. WIS. STAT. § 13.75.

## REPORTING

### Reporting by Principals

- All topics on which a principal will lobby must be disclosed within its initial registration. If a principal decides to lobby on a previously undisclosed topic, the principal must inform the Ethics Commission within 15 days of first making a communication about the undisclosed topic, identifying the legislative proposal, proposed administrative rule, budget bill or other topic on which it will lobby. WIS. STAT. § 13.67(1); for reporting methods, see “Reporting requirements once an organization is registered as a lobbying principal,” G.A.B.1514 (revised Nov. 2010).
- Principals must file reports twice yearly, disclosing their lobbying expenditures, including certain grassroots lobbying activities. In July and January, the Ethics Commission will make personalized forms available online for each principal. See WIS. STAT. § 13.68.
- Timing – Reporting periods are six-month periods from January 1 through June 30, and July 1 through December 31. Reports are due July 31 and January 31 for the just-concluded reporting period. WIS. STAT. § 13.62(12r), 13.68(1).
- Disclosures – A principal must report the amount of time and money spent on the principal’s lobbying activities as well as an overview of the subjects lobbied. See WIS. STAT. § 13.68. As part of these reports, each lobbying principal must provide a daily itemization of the time its contract lobbyists and employees (lobbyists as well as certain non-lobbyist employees) spend on lobbying and lobbying-related activities. As the statute specifies numerous items that must be included, with certain exceptions, principals are advised to consult the statute before submitting a semi-annual expense report.



## Reporting by Lobbyists

- Lobbyists' activities are reported by the principals on whose behalf the lobbyists advocate. To enable the principal to file an accurate semi-annual expense report, each lobbyist must provide the principal with the information necessary to prepare the report. The principal must file a copy of that information – signed by the lobbyist under penalty of perjury – along with its semi-annual report. WIS. STAT. § 13.68(4). Lobbyists sign electronic filings using an online authentication.

## LOBBYING RESTRICTIONS

As described below, lobbyists and principals are restricted in certain interactions with state public officials, such as giving gifts or campaign contributions.<sup>2</sup>

### Time Restrictions on Lobbying

- There are no time restrictions on lobbying.

### Identification of Lobbyists

- Lobbyists are not required to wear a badge or other identification. By choice, their photographs may be posted on the Ethics Commission website.

*Note that many states' rules on gifts, travel and other benefits provided to public officials are extremely complex. The laws outlined below are only summaries of some of the more commonly encountered issues; organizations and lobbyists are advised to consult with legal counsel for a complete analysis of their proposed activities before giving gifts or other benefits to officials.*

### Gifts

- With very limited exceptions, no lobbyists or lobbying principal may furnish anything (defined literally) of pecuniary value to an elective state official or a candidate, agency official, or legislative employee, unless those items are also made available to the general public. WIS. STAT. § 13.625.
  - "Anything of value" means, quite literally, *anything of any value*. However, a state public official may receive something of value from a lobbyist or lobbying principal if: the item is being provided to the general public, or the item is received on behalf of or for the

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<sup>2</sup> State public officials covered under the lobbying law include: elected officials chosen in statewide elections (governor, lieutenant governor, secretary of state, state treasurer, attorney general and state school superintendent), state senators and representatives, legislative employees, agency officials (any member, officer or employee of a state agency that participates in promulgation of rules), and candidates for elective state office and a candidate's personal campaign committee. See WIS. STAT. § 13.625(1)(b).

benefit of the state, or the item is a reimbursement for actual or reasonable expenses in connection with a speaking engagement to the principal. See WIS. STAT. § 13.625, 19.56.

Entertainment

- The provision of entertainment falls within the scope of the gift ban. WIS. STAT. § 13.625.

Travel

- The provision of travel falls within the scope of the gift ban. WIS. STAT. § 13.625.

Campaign Contributions

- Lobbyists may make campaign contributions to candidates only between April 15 of the year of that candidate’s election and the day of the general election. In the case of legislative candidates, the “window” for campaign contributions by lobbyists does not open until the legislature has concluded its final floor period and is not in special or extraordinary session. WIS. STAT. § 13.625(1m)(b).

Lobbyists may deliver campaign contributions from a PAC, conduit or other person to partisan elective state officials at any time. WIS. STAT. § 13.625(1)(b).

Contingency Fees

- Contingency fees are prohibited. WIS. STAT. § 13.625(1)(d).

Revolving Door

- Covered former officials are barred from lobbying for 12 months following the end of their public service. WIS. STAT. § 19.45(8)(a).

<b>Activity</b>	<b>Regulated by State? (Y/N)*</b>	<b>Statutory Citation</b>
Lobbying by Former Officials	YES	19.45(8)(a)
Limits on Lobbyists’ Gifts to Officials	YES	13.625(1)
Hospitality Provided to Officials	YES	13.625(1)
Trips Organized by Lobbyists	YES	13.625(1)

## CONTACT INFORMATION FOR STATE AND LOCAL AGENCIES

### **Ethics Commission**

<http://gab.wi.gov/>

Staff directory: <http://gab.wi.gov/about/staff>

212 East Washington Avenue, Third Floor

P.O. Box 2973

Madison, WI 53707-2973

Phone: (608) 266-8123

Fax: (608) 264-9319

[gab@wi.gov](mailto:gab@wi.gov)

The Ethics Commission publishes numerous documents to assist principals, lobbyists and affected officials in understanding and complying with the state's lobbying and ethics law, available here. (<http://ethics.state.wi.us/Forms-Publications/FormsPublications.htm>)

Mike Wittenwyler wrote the first edition of the Wisconsin Campaign Finance state law resource, published by Alliance for Justice in 2007.  
This edition has been revised and updated by: Mike Wittenwyler and Jodi Jensen

## FOR FURTHER ASSISTANCE

**For assistance regarding these resources or for more information about federal law, please contact our attorney one-on-one counseling service:**

**Email:** [advocacy@afj.org](mailto:advocacy@afj.org)

**Telephone:** 1-866-NPLOBBY (675-6229)

**For assistance regarding state law in Wisconsin, please contact:**

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