

ASK THE LRB

State of Wisconsin
Legislative Reference Bureau
Informational Bulletin 94-5, December 1994

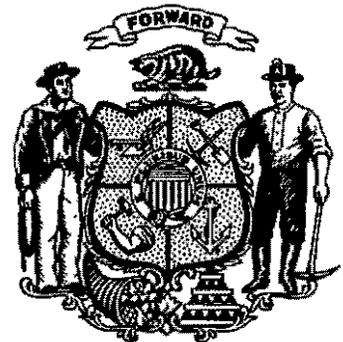


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ASK THE LRB

I. INTRODUCING THE LEGISLATIVE REFERENCE BUREAU

The Legislative Reference Bureau (LRB) is a nonpartisan service agency of the Wisconsin Legislature. Its services include drafting, reference and research assistance, and a legislative library collection. The administrative staff consists of:

Acting Chief and Director of Legislative Attorneys: Peter J. Dykman, 5th Floor, 100 North Hamilton Street, Telephone: (608) 266-7098

Director of Reference and Library: Lawrence S. Barish, 2nd Floor, 100 North Hamilton Street, Telephone: (608) 266-0344

The Legislative Index editor is Marian G. Rogers, 2nd Floor, 100 North Hamilton Street, Telephone: (608) 266-2824

Come In or Call

Main entrance — 100 North Hamilton (Receptionist: 2nd floor).

Bill Drafting — 5th Floor. Telephone: (608) 266-3561

Draft Pick Up (Bill Drafts) — 5th Floor. Telephone: (608) 266-3561

Reference, Research and Library — 2nd Floor. Telephone: (608) 266-0341

LRB General Office Hours

7:45 a.m. to 5:30 p.m. — On any day on which either house of the legislature holds a floor session. (On session days and when requested by the Joint Committee on Finance, the Legal Section retains the needed staff until the legislature or the committee adjourns.)

7:45 a.m. to 4:30 p.m. — On days when the legislature does not hold a floor session. The LRB remains open during the noon hour.

Special Memo to Legislators

Legislators are encouraged to bring requests for information or bill drafts to the LRB personally, so there will be less chance for error and greater opportunity to clarify instructions. They may, however, call or send requests via an administrative assistant or secretary.

Legislators wishing bill drafting assistance are invited to consult one of the attorneys listed below. Reference, research, or Blue Book information can be provided by research analysts at the reference counter or by calling 266-0341.

LRB Drafting, Reference, and Library Services

The LRB was established primarily to give the legislature unbiased, nonpartisan, confidential and professional research and bill drafting assistance. It also provides a public reference service, which is the state's major source of information about the legislature, legislative process, and state government in general. The LRB's research and library staff issues reports on topics of current interest and compiles the Wisconsin Blue Book, the almanac of Wisconsin state government. Although the agency focuses on serving the legislature, its library and information services are available to all patrons.

The LRB Staff

The LRB has 56 permanent positions, all filled on the basis of merit under Wisconsin's classified service law. The agency is headed by a chief and is divided into 3 sections: the Legal Section, staffed by attorneys; the Reference Section, staffed by research analysts; and the Library Section, staffed by librarians. A central support staff provides personnel, editorial, and clerical services for the entire agency.

Legal Section
5th Floor
(except as noted)

Peter J. Dykman, Acting Chief	(PJD)	John Lorence, Sr. Staff Counsel	(JL)
Budget (Generally)	266-7098	(2nd Floor)	267-7380
Constitutional Amendments		Business Associations	
Government Organization		Energy and Public Utilities	
Legislative Rules		Financial Institutions	
Legislature		Shared Revenue and Property Tax Credits	
Richard A. Champagne, Attorney	(RAC)	Gordon M. Malaise, Attorney	(GMM)
Administrative Law	266-9930	Children	266-9738
Civil Service		Employment (except Collective Bargaining and Unemployment Compensation)	
Collective Bargaining		Libraries	
Gambling		Worker's Compensation	
Retirement		Robert P. Nelson, Sr. Staff Counsel	(RPN)
School Finance*		(2nd Floor)	267-7511
Timothy N. Fast, Attorney	(TNF)	Courts and Procedure	
Higher Education Agencies	266-9739	Discrimination	
(except UW and Technical Colleges)		Drunk Driving	
Highways		Supreme Court Rules	
Transportation*		Veterans and Military Affairs	
Bruce Feustel, Asst. Chief Counsel	(BF)	Paul E. Nilsen, Attorney	(PEN)
Correctional System	266-0131	Beverages	261-6926
Criminal Law*		Environment*	
Mary Gibson-Glass, Attorney	(MGG)	Transportation*	
Natural Resources	267-3215	Jefren E. Olsen, Attorney	(JEO)
Public Defender		Criminal Law (primarily Criminal Procedure)*	266-8906
Trade Regulation		Occupational Regulation	
Peter R. Grant, Asst. Chief Counsel	(PG)	Marc E. Shovers, Attorney	(MES)
Education (K-12)	267-3362	Counties	266-0129
Eminent Domain		Individual Income Taxation	
School Finance*		Municipalities	
Technical College System		Jack Stark, Asst. Chief Counsel	(JS)
UW System		(2nd Floor)	266-7291
K. Scott Hubli, Attorney	(KSH)	Corporate Income Taxation	
Bonding	266-0135	Probate	
Community Aids		Real Estate	
Public Assistance		Taxation (except Income Taxation)	
Securities		Rebecca C. Tradewell, Asst. Chief Counsel	(RCT)
Pamela J. Kahler, Attorney	(PJK)	Agriculture	266-7290
Domestic Relations	266-2682	Environment*	
Economic Development		Tina A. Yacker, Attorney	(TAY)
Insurance		Buildings and Safety	261-6927
Debora A. Kennedy, Asst. Chief Counsel	(DAK)	Health*	
Health*	266-0137	Housing	
Mental Health			
Jeffery T. Kuesel, Asst. Chief Counsel	(JTK)		
Claims	266-6778		
Elections			
Ethics			
Lobbying			
State Finance			
Unemployment Compensation			

*Shared Topic Area

**LRB Legal Section
Subject Areas and Attorneys**

Administrative Law	RAC	Health	DAK, TAY
Agriculture	RCT	Higher Education – UW and Tech. Colleges	PG
Beverages	PEN	Higher Education (except UW&Tech.Colleges)	TNF
Bonding	KSH	Highways	TNF
Budget (Generally)	PJD	Housing	TAY
Buildings and Safety	TAY	Insurance	PJK
Business Associations	JJL	Legislative Rules	PJD
Children	GMM	Legislature	PJD
Civil Service	RAC	Libraries	GMM
Claims	JTK	Lobbying	JTK
Collective Bargaining	RAC	Mental Health	DAK
Community Aids	KSH	Military Affairs	RPN
Constitutional Amendments	PJD	Municipalities	MES
Correctional System	BF	Natural Resources	MGG
Counties	MES	Occupational Regulation	JEO
Courts and Procedure	RPN	Probate	JS
Criminal Law	BF	Public Assistance	KSH
Criminal Law (primarily Criminal Procedure)	JEO	Public Defender	MGG
Discrimination	RPN	Public Utilities	JJL
Domestic Relations	PJK	Real Estate	JS
Drunk Driving	RPN	Retirement	RAC
Economic Development	PJK	School Finance	PG, RAC
Education (K-12)	PG	Securities	KSH
Elections	JTK	Shared Revenue and Property Tax Credits	JJL
Eminent Domain	PG	State Finance	JTK
Employment (except Collective Bargaining and Unemployment Compensation)	GMM	Supreme Court Rules	RPN
Energy	JJL	Taxation (except Income Taxation)	JS
Environment	RCT, PEN	Taxation, Corporate Income	JS
Ethics	JTK	Taxation, Individual Income	MES
Financial Institutions	JJL	Trade Regulation	MGG
Gambling	RAC	Transportation	TNF, PEN
Government Organization	PJD	Unemployment Compensation	JTK
		Veterans	RPN
		Worker's Compensation	GMM

Reference and Library Sections

Lawrence S. Barish, Director of Reference and Library

Research Staff

Patricia E. Meloy, Research Analyst (lead analyst)
 A. Peter Cannon, Research Analyst
 Michael Keane, Research Analyst
 Robert A. Paolino, Research Analyst
 Clark G. Radatz, Research Analyst
 Daniel F. Ritsche, Research Analyst
 Richard L. Roe, Research Analyst
 Gary A. Watchke Research Analyst

Library Staff

Rose A. Arnold, Librarian
 Lynn Lemanski, Publications Editor
 Teresa Pellitteri, Librarian
 Marian G. Rogers, Librarian

II. A UNIQUE INSTITUTION

The LRB was the first legislative service agency in the nation to provide a state legislature with both professional drafting and research assistance. From its creation in 1901 to the present, it has provided multifaceted services for the legislature: bill drafting, reference and research, and legislative library services.

Drafting. The LRB is responsible for drafting all bills, joint resolutions, substitute amendments, and simple amendments introduced in the Wisconsin Legislature. Legislative attorneys also prepare the plain language analyses that explain all bills and most resolutions, and they perform other legal services relating to legislative matters. (See Section III for an explanation of legal services.)

Reference and Research. Research analysts can assist the legislator who is considering a legislative proposal and the attorney drafting the proposal by providing background information about the historical development of the problem, model laws, and similar measures and their results in other states. Reference services include answering questions about legislation and other aspects of government, preparing informational reports about state governmental problems, and publishing the biennial Wisconsin Blue Book. Legislative attorneys also participate in preparing the Blue Book and assist research analysts whenever detailed legal information would be helpful. (See Section IV for an explanation of reference and research services.)

Dr. H. Rupert Theobald Legislative Library. The LRB maintains an extensive collection of materials pertaining to federal, state, and local government. In contrast to a general purpose library, the collection specializes in materials related to the legislative process and topics which

may be of interest to Wisconsin's lawmakers. Although the library is organized primarily to meet the needs of the legislature, it is open to the general public. (See Section IV for an explanation of library services.) The LRB librarians maintain a detailed catalog especially developed for the collection. They also prepare the index for the "Bulletin of Proceedings of the Wisconsin Legislature", which provides a quick subject guide to all bills, joint resolutions, and resolutions introduced during a legislative session.

III. LEGAL SERVICES

A. Making a Drafting Request

Statutory Services

Section 13.92 (1) (b) of the Wisconsin Statutes requires the LRB to prepare all legislative proposals for introduction in the legislature. This service also covers any amendments to these proposals. The agency's legislative attorneys, aided by editors and support staff, perform these drafting services, always guided by the bureau's statutory mandate to provide nonpartisan, confidential service. By law, no information about a bill draft or drafting request, including the existence of such a request, can be released until the measure has been introduced in the legislature, unless the release is authorized by the requester.

The Legal Section is required by statute to enroll the final text of all legislation that has passed both houses. It also engrosses the text of bills passed by one house when the chief clerk of that house directs the printing of engrossed copies.

Who May Request a Bill Draft

Legislative attorneys may accept bill drafting requests from legislators (members and members-elect), legislative standing committees, the Legislative Council, the Legislative Fiscal Bureau, the Revisor of Statutes, independent interim committees of the legislature, state agencies, the Judicial Council, and the governor's special committees. The cities of Madison and Milwaukee, the counties of Dane and Milwaukee and certain major organizations of local governments, such as the League of Wisconsin Municipalities, the Wisconsin Counties Association and the Wisconsin Towns Association, also have drafting privileges.

Others, including lobbyists, may use the LRB drafting services only upon the specific request of a legislator or standing committee. It is preferable to submit a drafting request in person, but if it is submitted in writing, a letter, note, or just the legislator's signature is acceptable. Legislative attorneys also accept instructions by telephone from legislators. The authorization, whether oral or written, should relate to a specific proposal. This ensures that legislators know about all proposals initiated under their names, and it helps avoid misunderstandings.

B. The Drafting Process

Deciding to Request a Bill Draft

In recent years, only 40 percent of the drafts prepared by the LRB have been introduced in the legislature. Every drafting request, however, must receive the same careful attention. There are several ways a legislator can help reduce individual delays and assist the LRB in its efforts to provide prompt and efficient drafting services. First, each legislator can help by carefully screening legislative proposals and judging in advance whether the draft will be introduced as a bill.

Second, it is helpful if the legislator can identify in advance the specific problem to be addressed by the draft and how the problem should be addressed. The LRB attorneys need to know the nature of the problem before they can suggest an appropriate solution that satisfies the requester's intent, meets the requirements of the state and federal constitutions, and is both legally sound and administratively feasible. Because drafting assignments are often complex and require detailed knowledge of background information and related law, the LRB assigns drafts on the basis of the subject area expertise developed by each legislative attorney. Therefore, legislators are encouraged to talk to the subject area specialist whenever possible.

Designing the Drafting Request

Legislative attorneys use their legal knowledge and drafting skills to express the requester's ideas in appropriate statutory form and language. However, the requester must furnish the raw material for a draft. A clear-cut statement of what the proposal is intended to accomplish is very helpful.

The LRB encourages legislators to provide as much pertinent information as possible when submitting drafting requests. Although the LRB attorneys cannot make basic policy choices or comment on a proposal's desirability, they will be happy to discuss a problem and suggest possible solutions. The LRB attorney may have researched the issue already or may be able to point out a relevant statute that answers the problem.

LRB research analysts are also able to aid the requester and the drafting attorney in obtaining background information. Like the LRB attorneys, they are required to assist legislators on a strictly confidential, nonpartisan basis. If a state agency, local public employe or any other party has background information about the drafting request, the requester can help the legislative attorney by authorizing contact with that source. Without this authorization, the attorney cannot discuss the request with any outside party.

Drafting Priorities

The LRB handles approximately 15,000 drafting requests during a legislative session. Of these, more than 5,000 are requests for bills. There are certain peak periods in which the bureau receives a particularly large number of drafting requests. For example, at the beginning

of each biennial legislative session, both new and returning legislators want to start working on their legislative agendas. This is also the point in the session when the LRB must give high priority to drafting the executive budget bill. During this time, it is especially helpful to both the requester and the LRB to know which bills should be given preference.

Legislators can expedite drafting requests by deciding which of their requests have the highest priority and informing the drafting attorneys about these priorities. Legislators should be aware that drafts requested in their names by staff, lobbyists or others receive the same priority as those they personally request, unless they specify otherwise. They should know the nature and subject matter of drafts requested on their behalf and, if necessary, limit the number of those requests. This will help both the LRB and the legislators by permitting the bureau to devote its time and effort to preparing drafts that legislators consider most important.

C. The Work of the Legislative Attorney

Bills

Legal drafting work varies according to the scope of the proposal, the complexity of the legal problems involved, and the extent to which the statutes already treat the subject. If there are existing statutes that pertain to the subject, the legislative attorney may have to develop language to amend or repeal some of them. If no statute exists, it will be necessary to create one or more provisions that fit into the entire body of statutes. Any statutory change that the draft creates must conform with the state and federal constitutions, federal laws and regulations, and pertinent court cases. Finally, the draft must take into account any common law principles upon which Wisconsin law is based.

When the initial draft is returned to the requester, the legislative attorney often provides a drafter's note explaining problems or issues that require the requester's attention. The note may point out constitutional problems, substantive or technical matters that need attention, helpful background material or similar important information. After reviewing the initial draft and any drafter's notes, the requester may suggest revisions. The LRB attorney will re-draft the proposal as many times as necessary to achieve the result the requester desires. When the legislator decides that the bill is satisfactory, the LRB prepares the documents necessary to introduce the measure in the legislature.

Bill Analyses

All bills, as well as most joint resolutions and simple resolutions, include an analysis written by the legislative attorney who drafted the proposal. The analysis explains the effect of the proposal in clear and concise language and must be factual and complete. It must also be impartial and not advocate passage or rejection of any part of the proposal.

The requester should read both the analysis and the substantive provisions of the bill, joint resolution or resolution carefully before introducing the proposal to determine whether or not they reflect the requester's intent. If there is some question about the analysis or any portion of the proposal, the requester should talk to the attorney.

Substitute and Simple Amendments

In addition to bills, the LRB's Legal Section prepares substitute amendments (complete alternate proposals) and simple amendments. Frequently, amendments become necessary or desirable after a proposal has been thoroughly aired at a public hearing. Although simple amendments can be offered from the floor without prior review by the Legal Section, the LRB urges legislators to request amendments in advance, if at all possible, so that an attorney can prepare each amendment in proper form before it is submitted to a vote. The LRB gives high priority to amendment requests, especially when a proposal is on the current calendar. Amendments are almost always drafted by the same legislative attorney who prepared the original bill, and requests for amendments should be transmitted to this person whenever possible. (The attorney's initials are given in capital letters in the upper right corner of the bill.)

The Legal Section can also assist legislators by drafting amendments to a bill when it is on the floor. The legislative attorney who drafted the bill will be able, in many cases, to prepare a floor amendment immediately in proper form. For the best service, however, the LRB urges that amendment requests be submitted before a bill reaches the floor.

D. Fiscal Estimates

Every bill that increases or decreases fiscal liability or revenues of state or local government must carry a reliable estimate of its fiscal effect, called a "fiscal estimate". Therefore, when the LRB drafts a proposal, the legislative attorney must make a tentative decision about whether the measure requires a fiscal estimate.

If so, the legislator may ask the LRB to obtain a fiscal estimate *during the drafting stage*. In this case, the draft is sent through the Department of Administration to the agency or agencies responsible for the program or having the greatest knowledge of the subject. The agency determines what the revenues or costs would be. Often it is desirable to obtain the fiscal estimate during the drafting stage, before introduction of the proposal. At this point, the estimate will give the requester increased knowledge of the proposal's fiscal effects and an opportunity to modify it, if desired.

The fiscal estimate is returned and, when approved by the requester, is printed with the proposal. If the requester does not agree with the fiscal estimate, he or she should consult with the legislative attorney who drafted the proposal and decide whether to: 1) drop the proposal;

2) redraft it to change the fiscal effect; or 3) contact the agency that prepared the estimate and attempt to convince it that the estimate should be revised.

The agency is given no information about the identity of the requester when it prepares the estimate. If the requester wishes, the legislative attorney can continue to preserve that confidentiality by contacting the agency on the requester's behalf.

The requester may decide against obtaining a fiscal estimate at the drafting stage. *After introduction*, however, one copy of the proposal is automatically sent to the Department of Administration for a fiscal estimate. The fiscal estimate is returned to the LRB, and the requester has 5 working days to review it. If a requester disagrees with a fiscal estimate, several options are available, and the legislative attorney can help the requester decide which is the most appropriate. After the 5 working days, the fiscal estimate is printed and attached to the proposal in the same manner as an amendment.

E. Other Legal Services

When the legislature is in session, the LRB must give priority to previously assigned drafting work. However, if a legislator requests and time is available, legislative attorneys can attend committee hearings or meetings to offer impartial analyses of drafts or to explain legal matters pertinent to pending proposals. The attorneys are also willing to meet with the legislator, his or her constituents or other interested persons at mutually convenient times to explain drafts and discuss possible redrafts or amendments.

To gain and maintain the expertise necessary to perform drafting services as promptly and accurately as possible, legislative attorneys also perform additional legal functions, including:

1. Preparing summaries of new state laws and significant court decisions for publication by the LRB;
2. Answering general legal questions from legislators and public officials;
3. Assisting attorneys and others concerned with questions of legislative intent and statutory construction;
4. Preparing legal memoranda and opinions at the request of public officials or public agencies;
5. Engaging in public speaking or instruction on legislative functions and other subjects;
6. Staffing conference committees and other ad hoc committees; and
7. Aiding state agencies with legal writing and certain other legal services upon request.

Increasingly, legislative attorneys attempt to maintain contact with administrators, legislators and other sources concerning the operation of new legislation in order to suggest improvements in the law and to prevent past problems from recurring in future legislation.

These "follow-through" services are the result of the increasing professionalism of legislators and their concern that the proposals be properly implemented after enactment. To aid the LRB, legislative attorneys conduct research and write memoranda about legal issues raised by particular types of proposals and methods of drafting. The attorneys are also responsible for attending seminars and conducting the research necessary to stay abreast of developments in their areas of legal expertise.

IV. REFERENCE, RESEARCH AND LIBRARY SERVICES

A. Services for Legislators

Statutory Services

Section 13.92 (1) (a) of the Wisconsin Statutes makes the LRB responsible for collecting information about government and making it available in the most suitable form to aid legislators and others in performing their duties. This section of the law also directs the LRB to use its materials to prepare studies and reports about subjects that are or may become matters of concern to the legislature. The LRB's research analysts regularly compile information about existing and pending legislation and government in general.

Information for Bill Drafts

The legislator may find it helpful to contact a research analyst to obtain more detailed information about the topic of concern, either before contacting a legislative attorney or during the drafting process. All requests to research analysts are handled in a nonpartisan, confidential manner.

To assist requesters, the LRB research analysts can:

1. Prepare reports containing background information, historical development, and current legislation related to the drafting proposal;
2. Locate studies made by other states or federal agencies and other information on the topic through:
 - a. the LRB's extensive collection which specializes in information about government activities in all 50 states and related federal agencies;
 - b. LEGISNET, the automated clearinghouse of research information maintained by the National Conference of State Legislatures;
 - c. LEXIS-NEXIS data base, which includes a variety of periodicals and publications; and
 - d. other state and national sources;
3. Provide laws enacted in other states on the topic; and
4. Survey and summarize pertinent legislation pending in other states.

Assistance with Reference Searches and Constituent Requests

By statute, the Reference Section of the LRB must "perform reference services for all members of the legislature equally and impartially". It is also bound to be strictly nonpartisan and to maintain confidentiality regarding the reference requests it receives.

Though much of the research done by the analysts involves long-term studies, they answer many questions that require immediate checking of readily available library sources or use the expertise developed through past research. They also help legislators and their staff use the LRB library to do their own research. The analysts can either compile information to help legislators or staff answer constituent letters or, when requested, they can answer such requests on the legislator's behalf.

Informational Reports

Part of the LRB's statutory mandate is to prepare informational reports about government problems, with special reference to Wisconsin. Some are prepared at the suggestion of individual legislators, legislative interim committees, or administrative agencies. Other topics are chosen by the LRB itself.

1. *Wisconsin Briefs* — relatively short, concise summaries of materials about subjects of high immediate interest. Recent examples include:

- Brief 93-1 Brief Biographies 1993 Wisconsin Officers. January 5, 1993
- Brief 93-2 Profile of the 1993 Wisconsin Legislature As of January 4, 1993. January 1993
- Brief 93-3 "Mace" and Tear Gas Weapons. February 1993
- Brief 93-4 Constitutional Amendments and Advisory Referenda to be Considered by the Wisconsin Voters April 6, 1993. March 1993
- Brief 93-6 An Introduction to Wisconsin. September 1993
- Brief 94-1 Current Status of Synthetic BST. February 1994
- Brief 94-2 Motorcycle Safety. February 1994
- Brief 94-3 State Officers Appointed by the Governor As Required by Statute, March 15, 1994. March 1994
- Brief 94-4 Executive Vetoes of Bills Passed by the 1993 Wisconsin Legislature From January 26, 1993, Through March 25, 1994. May 1994
- Brief 94-5 Telecommunications Regulation and the Information Superhighway. May 1994
- Brief 94-6 Candidates: Primary Election, September 13, 1994. August 4, 1994
- Brief 94-7 Executive Agencies, Boards, Councils, and Commissions Created, Abolished or Altered by the 1993 Legislature (Acts 1-497). September 1994
- Brief 94-8 Candidates: General Election, November 8, 1994. September 16, 1994
- Brief 94-9 The Regulation of the Sale and Use of Tobacco in Wisconsin. October 1994
- Brief 94-10 1995-1996 Wisconsin State Officers. November 1994

2. *Informational Bulletins* — comprehensive reports, normally dependent on secondary sources. Examples include:

- IB-87-1 The Homeless: A Primer. January 1987

- IB-87-2 The 65 MPH Speed Limit. May 1987
- IB-87-3 The Partial Veto in Wisconsin — An Update. October 1987, Revised August 1988
- IB-88-1 Drugs in the Workplace: A Discussion of Issues. February 1988, Revised May 1988
- IB-88-3 A Thumbnail History of Wisconsin Veterans' Legislation. August 1988
- IB-88-6 Electronically Monitored Home Confinement: A New Alternative to Imprisonment. December 1988
- IB-89-2 The Ground Rules of a Special Session. October 1989
- IB-90-1 Capital Punishment in Wisconsin and the Nation. January 1990
- IB-90-3 "Let the People Decide"—Initiative and Referendum in Wisconsin and Other States. April 1990, Revised September 1991
- IB-90-4 Financing State Mandates. November 1990
- IB-92-1 Wisconsin's Role in Electing the President. September 1992
- IB-93-4 A Study Guide to the 1993-1994 Wisconsin Blue Book. October 1993
- IB-94-1 Use of Midlevel Practitioners for Primary Care. September 1994
- IB-94-2 An Overview of AFDC in Wisconsin. September 1994
- IB-94-3 The Gun Control Debate — An Update. October 1994

3. Research Bulletins — the result of major studies of problems pertinent to Wisconsin state government. Examples include:

- RB-88-1 Childbearing by Contract: Issues in Surrogate Parenting. March 1988
- RB-91-1 Chippewa Off-Reservation Treaty Rights: Origins and Issues. December 1991
- RB-94-1 A Health Insurance Primer. January 1994
- RB-94-2 The Evolution of Legalized Gambling in Wisconsin. March 1994
- RB-94-3 Summary of the 1993-94 Wisconsin Legislative Session, 1993 Wisconsin Acts 1 to 497. August 1994
- RB-94-4 Wisconsin Legislative District Almanac. June 1994

Wisconsin Blue Book

Another function of the LRB research analysts is to prepare the Wisconsin Blue Book for biennial publication in the fall of odd-numbered years. This publication, which is a detailed almanac of Wisconsin government, constitutes a major part of the state's effort to keep the electorate informed.

The Blue Book is very helpful in answering constituent questions about Wisconsin government. It provides biographies and pictures of state-level elected public officials in the legislative, executive and judicial branches, as well as Wisconsin members of the U.S. Congress. It also contains articles describing the responsibilities, organization, and history of the state agencies which make up Wisconsin's state government.

The book offers almost 200 pages of basic statistical information about topics such as population, school enrollment, agriculture, industry, elections, local government, social services, and state finance. Each edition also contains the Wisconsin Constitution and a feature article on a subject of general interest. To increase the Blue Book's usefulness in classrooms, the LRB

publishes a study guide to supplement the current edition of the Blue Book. This guide is available through the LRB and individual legislative offices.

The Blue Book is distributed by Document Sales, Department of Administration, P.O. Box 7840, Madison, Wisconsin 53707. The price reflects the cost of production; for the 1993-1994 edition, the cost is \$6.70 plus Wisconsin sales tax and county sales tax, if applicable (\$8.15 plus taxes by mail). Checks should be made payable to Document Sales. By law, copies are sent to all public and private schools in Wisconsin, as well as to public libraries and government officials. State legislators receive a specified number of complimentary copies to distribute as they wish. Suggestions for improvements to the Blue Book are welcomed and may be made by contacting the editor.

B. Services for Attorneys

Attorneys in private practice often ask LRB research analysts for assistance in determining the legislative intent of particular sections of the Wisconsin Statutes. Although research analysts are not permitted to interpret the law and cannot engage in extensive research on private requests, the bureau does have various records that attorneys may find useful. Attorneys are welcome to visit the LRB and become acquainted with the resources available to assist them in researching the legislative history of statutes. The LRB also offers training sessions for attorneys, law clerks, and law librarians on the basic elements of legislative bibliography and process. By understanding the LRB's functions, attorneys in private practice can make effective use of the bureau's services. The following descriptions of material available at the LRB will be helpful to that understanding.

Bill Drafting Records

When legislative attorneys prepare bill drafts, the LRB keeps records of each step of the process. After a proposal is introduced, its drafting record is open to public inspection. The LRB has a complete set of all such records since 1927 on microfiche. It also maintains the original copies of draft materials for the acts passed and bills introduced in the past 3 legislative sessions. Although drafting records do not circulate outside the LRB offices, persons conducting legal research may inspect and copy these materials in the second floor reading room. Photocopies from the microfiche are available at a charge of 20-cents per page. It is also possible to obtain microfiche copies of drafting records by specifying the year and bill or act number and remitting \$1 per fiche plus \$2 for postage and handling. Several major libraries also have complete copies of drafting records on microfiche: Marquette University Law Library, Milwaukee Public Library, the State Law Library (Madison), the State Historical Society (Madison), and the University of Wisconsin-Madison Law Library. LRB research analysts occasionally will prepare summaries describing the contents of specific drafting records for persons who do not have access to these locations.

Drafting records are not intended to provide a statement of the legislature's intent in enacting a particular law, although they sometimes contain useful background information about the source or purpose of a draft. The record is primarily a compilation of all the documents related to the drafting of a bill or resolution. They may have only minimal information. However, they sometimes contain correspondence suggesting the purposes of a proposal, notes about the nature of the drafting request, copies of earlier bills that were used as models for the final version, records of the sponsoring group or individuals, and clues about who requested the legislation or the objective in proposing the measure.

Prior to the 1983 legislative session, each law enacted by the legislature was called a "chapter" and given a consecutive number in order of enactment. Since January 1983, the term "Wisconsin Act" has replaced chapter. Drafting records of bills enacted into law are filed by their respective chapter or act numbers. Records of bills not enacted are filed by house of origin and bill number. It is essential, therefore, that attorneys who write or call for information from a drafting record:

1. Cite the specific session law that made the statutory change. (If it is not possible to find the session law, the attorney can help the research staff by indicating the statutory sentence or phrase being researched and the approximate date the language was changed.)
2. Provide a complete and accurate citation to the section, subsection, and paragraph of the statute in question.
3. Briefly state the question to be answered or explain the problem, so the research analyst can determine which materials in the drafting record are relevant.

Other Records

LRB resources also include:

1. The name of the author of a bill and the procedural history of the bill in the legislature (from the "Bulletin of Proceedings of the Wisconsin Legislature").
2. Copies of relevant parts of bills and amendments of current and past sessions.
3. Reports by the Legislative Council, Judicial Council, and governors' task forces relating to legislation introduced at the request of these bodies, sometimes in the form of notes to sections of the bill.
4. Meeting minutes for Legislative Council committees and the Judicial Council.
5. Names of persons appearing or registering at public hearings since 1953.
6. Newspaper clippings which relate to the bill under investigation and, in the case of controversial measures, may include floor debates and testimony at public hearings.

Some types of information which patrons request simply does not exist. For example, the LRB cannot provide:

1. Copies of floor debates on bills in the Wisconsin Legislature, because, unlike the *Congressional Record*, the journals of the Wisconsin Legislature merely record procedural action, not debate.

2. Copies of testimony at legislative committee hearings, because testimony is not recorded in Wisconsin. (As noted, however, the names of persons testifying for or against a bill are available.)

3. Detailed legislative committee reports. Committee reports to the legislature usually contain only the committee's recommendation for adoption or rejection of amendments and its recommendation for passage or indefinite postponement (concurrence or nonconcurrence in the case of a bill received from the other house). Committees normally keep a procedural record showing action taken on bills and the vote of committee members.

4. Drafting records for legislation considered before 1927. The 1927 session is the first in which drafting records were preserved.

C. Services for All Patrons

Although the principal mission of the LRB is to serve the Wisconsin Legislature, its reference services are available to other patrons, including public officials, students of government and citizens generally. The LRB devotes a major portion of its time to helping persons seeking information about a specific bill or Wisconsin government in general, students looking for resource material for term papers, and employes of Wisconsin agencies or legislative service bureaus in other states. This assistance may be limited by LRB resources and the current legislative workload.

Each day research analysts answer reference and spot research questions for the general public about Wisconsin state government, other state governments, and congressional matters. They also make periodic presentations to professional organizations, civic groups, and students to keep them updated on LRB research services and show them how to use the LRB library collection.

Legislative Library Collection

Circulating collection. The Dr. H. Rupert Theobald Legislative Library contains a wealth of information on public policy issues and constitutes the most comprehensive single source of information on Wisconsin legislation available anywhere. The LRB's specialized collection of published materials is essential to the agency's research and reference services. The collection consists primarily of current materials augmented by many basic reference works and a small number of other books. It contains official reports of administrative agencies in Wisconsin and other states; studies of social, economic, and governmental problems; and legislative records. To facilitate its use, the collection is cataloged in detail by subject and author.

The collection emphasizes state and local governments, but covers, in addition, a broad range of social science topics that have a direct bearing upon the operation of state and local governments. Major subject areas include legislative procedure, state finance, economic development, education, state administrative organization, environmental concerns, local government finance, social services, agricultural conditions, crime, and transportation.

Patrons may borrow most materials in the LRB collection for 2 weeks and may renew loans if necessary.

Clipping collection. An unusual part of the LRB library is its vast collection of clippings in the areas of legislation and public administration. Clippings provide current information that is often unavailable from other sources. This collection, which grows by about 20,000 new items per year, is classified by subject and filed for use in the library. Clipping files do not circulate, but they can be photocopied.

Reference collection. The noncirculating reference collection includes the Wisconsin Statutes, session laws, legislative journals and indexes, Supreme Court reports, and opinions of Attorneys General — covering the period since Wisconsin became a territory in 1836 — and all bills introduced in the legislature since 1897. It also contains the *Wisconsin Administrative Code*, the *U.S. Code*, U.S. census publications, the *Congressional Record*, and a small number of other common reference works such as the *Book of the States*, the *U.S. Government Manual*, *Statistical Abstract of the United States*, *World Almanac*, encyclopedias, the *Congressional Quarterly Weekly Report*, and the *State Tax Guide*.

In the reference room, patrons will also find a card index to all legislation introduced since 1897. Entries are filed chronologically by subject. There is, in addition, a card index to all statute sections affected by bills introduced since 1951.

Wisconsin state document collection. The document collection consists of the drafting records of all legislation introduced in the Wisconsin Legislature since 1927 and one copy of each publication issued by Wisconsin state government agencies. Materials in the document collection do not circulate.

State agency publications in the document collection are kept in a special section of the library stacks where they are filed alphabetically by issuing agency. Each agency's materials are organized so that all reports of a given type, such as biennial reports, are together. Similarly, the separate catalog of state documents files publications alphabetically by issuing agency and then by title under the agency.

Current Wisconsin state publications can be found either on the regular shelves, arranged by subject and available for loan, or in the state document collection, arranged by agency and

available for reference purposes only. Rare publications and infrequently used items are housed only with the state document collection.

Office copier. Some materials in the LRB collection do not circulate. For example, clipping files, reference works, drafting records, and state documents can be used only in the library. To reduce the inconvenience to patrons, the LRB provides a copier on which a limited number of copies can be made if necessary.

Microfiche reader. All bill drafting records, as well as the entire clipping collection through 1970, have been microfilmed. (Most clippings from 1971 to date exist in hard copy only.) Persons wishing to use the microfiche at the LRB have access to microfiche readers in the reference room (2nd floor) or library (1st floor). Copies of individual fiche are available at a reasonable charge. In addition, the LRB will provide one free copy of any item on microfiche to any Wisconsin state or municipal agency or agencies of other state governments. Other patrons must pay a 20-cent per page charge for copies made from microfiche.

Subject and Author Index

LRB librarians prepare the subject and author index to the legislation and legislative journals of the Wisconsin Legislature. This cumulative index is issued every Tuesday morning during legislative floor periods and is updated at irregular intervals when the legislature is not in session. Under subject headings and under the names of primary authors and cosponsors, the index provides an abstract of each bill, resolution, and joint resolution introduced in the Wisconsin Legislature. It also lists lobbyists and provides subject indexes for the legislative journals and to all bills enacted.

Voting Records of Legislators

Due to time and staff limitations, the LRB cannot supply the voting record of all legislators on a number of proposals or of a particular legislator on all measures. Similarly, it cannot fill broad requests for voting records on "all important measures" or "all measures relating to schools". We will, however, assist patrons in using legislative documents to locate this information. In response to a specific request for a vote on a bill, the LRB will provide a copy of the Journal page on which the roll call vote appears.

Requests from Students

School children from all parts of the United States write to the LRB requesting information about Wisconsin. In a democratic system, which depends on well-informed citizens, providing such information is essential. The LRB staff will be able to serve these young researchers more effectively if they observe the following guidelines:

- Please do not ask the LRB to find information that can be found in any encyclopedia or general reference work.

- Every school and public library in Wisconsin receives the *Wisconsin Blue Book*, which presents comprehensive material about Wisconsin government. Please use the Blue Book to answer as many questions as possible.
- When possible, use the Blue Book to identify which state agency handles the type of activity being researched (for example, the Department of Transportation is responsible for issuing drivers' licenses). Then, address questions directly to the agency itself.
- Because the LRB does not have sufficient quantities of its publications to permit wholesale distribution, the staff prefers to receive requests indicating that a publication will be used by an entire class and will become part of the class or school library for use by future classes. The LRB provides its publications without charge, but the public pays for preparation and distribution.

V. HISTORY OF THE LEGISLATIVE REFERENCE BUREAU

In 1901, the Wisconsin Legislature enacted Chapter 168, which authorized the Free Library Commission "to maintain in the state capitol, for the use and information of the legislature, the several state departments, and such other citizens as may desire to consult the same, a working library, as complete as may be, of the several public documents of this and other states; and to purchase for said library standard works of use and references." Before that, the Historical Library and the State Library, both located in the capitol, had filled these needs. However, when the Historical Library moved to its new building on the university campus and the State Library changed from a general library to one specifically designed to serve the Wisconsin Supreme Court, there was no resource center for materials related to the legislative process. The 1901 law provided one.

Creation of the Legislative Reference Library marked the first effort in the nation to provide professional staff assistance to a state legislature. Although New York had established a legislative reference library as a section of the state library in 1890, Wisconsin expanded the concept of service to the legislature by collecting and making immediately available many kinds of informational material and providing drafting and research assistance. This concept has proven successful. Since its inception, the Legislative Reference Library — now the Legislative Reference Bureau — has gradually increased its size and scope of activities. As a pioneer, it served as the primary model for similar agencies in other states, as well as the Legislative Reference Bureau (now the Congressional Research Service) of the Library of Congress.

The Wisconsin Free Library Commission was the governing body of the Legislative Reference Library from 1901 until August 1, 1963. The commission's main functions in relation to the reference library were selection of the agency's chief under the classified service, annual review of the agency's work, and approval of its budget.

Chapter 238, Laws of 1903, extended the bureau's duties by directing the Free Library Commission to maintain a legislative reference room in the capitol. Chapter 508, Laws of 1907, added a specific appropriation for bill drafting, although the bureau had performed this service from the beginning. Chapter 508 also instructed the LRB to index session laws, statutes, private and special laws, bills, and documents and journals from the beginning of the state's history.

Chapter 772, Laws of 1913, further enlarged the bureau's duties by authorizing it to "collect, summarize, and index information of a legislative nature relating to legislation of foreign countries, of states of this country, the federal government and municipalities." The library could also "make such investigation into statute law, [and] legislative and governmental institutions as will aid the legislature to perform its duties in the most efficient and economical manner."

Chapter 149, Laws of 1963, renamed the Legislative Reference Library as the Legislative Reference Bureau and, on August 1, 1963, placed the LRB under the supervision of the Joint Committee on Legislative Organization (JCLO). The JCLO consists of the Speaker of the Assembly, the President of the Senate, and the majority and minority leaders and assistant majority and minority leaders of both houses. The joint committee, acting as the policy-making body for the LRB and the other legislative service agencies, determines the types of tasks to be assigned to each. The JCLO also selects the LRB chief under the classified service, considers and approves the agency's budget, and may adopt regulations for its operation.

The LRB expanded its bill drafting services in response to Chapter 554, Laws of 1965, which instructed the agency to enroll all measures passed by the legislature. Enrolling means preparing a text that incorporates all amendments agreed to by both houses before submitting the measure to the governor. Chapter 43, Laws of 1967, directed the LRB to prepare a "plain language" analysis of the original draft of each bill to be printed with the measure when it is introduced.

Editing the Blue Book became an LRB function with passage of Chapter 194, Laws of 1929, which directed the agency to prepare that publication biennially. The Blue Book was to contain "lists of senators and assemblymen" and "statistical and other information". The book was supposed to be useful for school civics classes, and its size was limited to 800 pages or less. That limit was increased to 900 pages in 1966 and the current 1,000 pages in 1971. Chapter 82, Laws of 1971, also changed the book's publication date from even-numbered to odd-numbered years.

Since its inception, the LRB has performed its duties on an impartial, nonpartisan, confidential basis. Charles McCarthy, the first director of the Legislative Reference Library, recognized at the outset that, to serve the legislature effectively, the agency must have protection

from partisan or political pressures. In 1906, he advised officials of other states: "The department must be entirely non-political and non-partisan or else it will be worse than useless. If you have the choice between establishing a political department and no department at all, take the latter." (*Wisconsin Library Bulletin*, July-August, 1906, p. 55)

Thus, the legislature initially placed the agency under a nonpartisan commission and placed the staff in the classified service. Later, when the LRB was transferred to legislative supervision, its staff remained in the classified service after some heated debate. Governor John Reynolds asserted: "We have had great men as directors of the reference library in the past. It would be a shame if it now became a partisan matter. Each party should have faith in the impartiality of the reference library. If the director is chosen on a party basis, it will wreck the reference library, and that is what I am concerned about." (*The Capital Times*, November 4, 1963)

VI. CHIEFS OF THE LEGISLATIVE REFERENCE BUREAU

Only 5 persons have served as chief of the Legislative Reference Bureau since its inception in 1901.

H. Rupert Theobald, 1963-1994

Born in Berlin, Germany, on March 12, 1930, the LRB's fifth and longest-serving chief attended colleges and universities in Germany before coming to Wisconsin. While a graduate student at the West Berlin *Freie Universitaet* with concurrent majors in journalism and political science-law, he had achieved "candidate of philosophy" standing and had begun his doctoral dissertation. He won a scholarship to the University of Wisconsin as a journalism trainee-special student in 1950-51 and became a U.S. citizen in 1955. He earned both of his graduate degrees in political science from the University of Wisconsin-Madison, the M.A. in 1960 and the Ph.D. in 1971. His dissertation focused on legislative and congressional reapportionment.

Dr. Theobald joined the LRB staff in 1957 as a research associate. He was appointed coordinator of reference and research in 1960 and was named acting chief in 1963. He was selected by the Joint Committee on Legislative Organization as the bureau's chief in January 1964.

During his 30 year tenure as chief he pioneered the development and installation of the nation's first computerized system for bill drafting and statutory retrieval. Dr. Theobald was also a trusted consultant to the legislature and the courts because of his expertise in redistricting, parliamentary procedure, the legislative process, and state government organization. He assisted the Wisconsin Supreme Court in drafting a legislative redistricting plan in 1964 and during the 1965-67 interim served on the Governor's Executive Branch Reorganization Committee which developed a far reaching plan for the functional reorganization of the executive branch of Wisconsin state government.

Dr. Theobald served as a member and officer of a number of national organizations including the National Legislative Conference, the National Conference of State Legislatures and Committee on Suggested State Legislation of the Council of State Governments. He also served on the Commission on Interstate Cooperation from 1963 to 1984. His contributions were recognized by the Council of State Governments in 1986 when he was made the first recipient of the Charles McCarthy Award for Leadership in Information Services, a special honor since the national award itself was named for the LRB's founder.

When he retired in July 1994, Rupert Theobald was the longest serving director of a legislative service agency in the nation. In recognition of his many accomplishments and years of service to the citizens of Wisconsin, the Legislature directed that the LRB library be renamed the "Dr. H. Rupert Theobald Legislative Library" and that a bas relief be commissioned in his honor and permanently installed in the Assembly Chamber.

Marinus G. Toepel, 1950-1963

The LRB's fourth chief was born in Sheboygan, Wisconsin, on November 11, 1905. He received a B.A. from the University of Wisconsin in 1927 and an M.A. in political science in 1936. After teaching high school for a short time, he worked as a research assistant at the University of Texas and as a field investigator and senior rating board examiner for the U.S. Civil Service Commission.

After serving in military intelligence in the U.S. Army, Toepel became educational coordinator for the Wisconsin Taxpayers Alliance. He later was expeditor for the University of Wisconsin Extension Center at Racine and the first director of the Green Bay Extension Center. From 1947 to 1949, Toepel served as executive secretary of the Wisconsin Education Commission. He directed the University of Wisconsin Extension Division's Bureau of Government until he was appointed chief of the LRB in June 1950. He remained at this post until his death on July 12, 1963. During his tenure as chief, Toepel emphasized legislative research and began publishing LRB research in a series of bulletins.

Howard Ohm, 1933-1949

Born on September 9, 1891, in Spalding, Michigan, Howard Ohm attended elementary and high schools in Milwaukee. He entered the University of Wisconsin-Madison in 1908 and received his law degree 5 years later.

While practicing law with the firm of Riley and Ohm, Ohm specialized in legislative research, bill drafting, and law revision. He also served as counsel for a number of legislative interim committees and did legal work for the Board of Public Affairs. From 1927 to 1931, Ohm served as an examiner for the Workmen's Compensation Division of the Industrial Commission. In 1933, he was appointed chief of the Legislative Reference Library.

Ohm also was the first president of the Legislative Service Conference and helped found and organize the Madison Chapter of the American Society for Public Administration. He died on October 5, 1949, in Madison.

Edwin E. Witte, 1922-1933

The LRB's second chief was born on a farm near Watertown, Wisconsin, on January 4, 1887. In 1905, he entered the University of Wisconsin, where he majored in history and earned a Ph.D. in economics in 1927. After working as an aide to Congressman John M. Nelson and serving 5 years as secretary of the Wisconsin Industrial Commission, Witte became chief of the Legislative Reference Library in 1922.

In 1933, Witte returned to the University of Wisconsin as a professor of economics and in 1934 became executive director and research synthesizer for President Franklin D. Roosevelt's Committee on Economic Security. While working in this capacity, Witte drafted the federal Social Security Act of 1934-35. Previously, he had made significant contributions to the drafting of the Norris-LaGuardia Anti-Injunction Act of 1932. In succeeding years, Witte served as a member of the President's Committee on Administrative Management, the War Labor Board, the Advisory Council for Employment Security, and the Atomic Energy Labor Relations Panel.

Witte published a book in 1932 entitled *The Government in Labor Disputes*. In 1948, he organized and became the first president of the Industrial Relations Research Association. In 1955, he was elected president of the American Economic Association.

From 1936 to 1941 and again from 1946 to 1957, Witte chaired the Department of Economics at the University of Wisconsin, and Witte Hall, a major dormitory at UW-Madison, was named in his honor. He died on May 20, 1960, in Madison.

Charles McCarthy, 1901-1921

Charles McCarthy, the first chief of the agency now known as the Legislative Reference Bureau, was born to Irish immigrant parents on June 29, 1873, in Brockton, Massachusetts. He achieved distinction as an All-American football player at Brown University, and later coached football at the University of Georgia for 2 seasons before attending the University of Wisconsin where he earned a Ph.D. in political science in 1901. His thesis, which dealt with the Anti-Masonic Party, received the Justin-Winsor Prize from the American Historical Association in 1902.

In 1901, the Free Library Commission established a library for the legislature in the Capitol and appointed McCarthy to fill the position of "document clerk" at a salary of \$83.33 per month.

An advocate of the Progressive movement, McCarthy strongly supported "The Wisconsin Idea" as a way of expressing the statewide service mission of the University of Wisconsin.

Later in his career, McCarthy served the federal government as the first director of the U.S. Commission on Industrial Relations and as a personal aide to Herbert Hoover in the Food Administration. An early exponent of farmers' cooperatives for purchasing and marketing, he influenced the system of state regulation of railroads and public utilities. He also urged municipal budget reform, the commission type of city government, and widening the state's educational opportunities through the University Extension program. He died in Prescott, Arizona, on March 25, 1921.