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A memorandum from the Wisconsin legislative
reference library to the patrons of its
bill drafting service who are not
members of the legislature

1958

Brief no.68

BRIEF NO. 68. A MEMORANDUM FROM THE WISCONSIN LEGISLATIVE REFERENCE LIBRARY TO THE PATRONS OF ITS BILL DRAFTING SERVICE WHO ARE NOT MEMBERS OF THE LEGISLATURE.

Prepared by the Wisconsin Legislative Reference Library
October 1958

INTRODUCTION

Although many of the patrons of the bill drafting service of the Legislative Reference Library are familiar with its scope and nature by reason of many years of experience, each year a few new people who do not know the limitations of our services are engaged as legislative counsel. Furthermore, as time goes on some of our processes are revised due to changes in the law or rules under which the legislature operates. In order to acquaint the new patrons with our bill drafting services and to review our procedures for the old patrons we have prepared this memorandum.

THE PRINCIPLES UNDERLYING OUR SERVICES

In a period just 2 years short of 60 years the Legislative Reference Library has developed 4 characteristics which form the principles upon which its operations are predicated. These principles which underlie both our major functions, bill drafting and reference work, and in which we take considerable pride, are as follows:

1. Our services are nonpartisan. They are available on an equal basis regardless of party or position in a party.
2. Our services are confidential. We do not disclose what any patron has asked for or who has asked for particular information. All bill drafting requests are handled on a confidential basis until after the proposal has been introduced.
3. Our work is tailor-made to the specific request.
4. We are a service agency staffed by people with the desire to be of help.

FOR WHOM DO WE PROVIDE BILL DRAFTING SERVICES

For many years the Legislative Reference Library has adhered to the following limitations in terms of those for whom bill drafting service is available:

1. Members of the legislature at their own request.
2. Members-elect of the legislature at their own request.
3. Legislative interim committees including the Legislative Council and standing committees at their own request.
4. Agencies of government at their request.
5. Certain state-wide governmental organizations such as:
 - A. League of Municipalities
 - B. County Boards Association
 - C. Towns Association
 - D. Public Employes Associations

6. Others at the specific request of a legislator or a standing committee of the legislature

Legislative counsel almost invariably fall in category 6, those for whom we draft only at the specific request of a legislator.

PROCURING AUTHORITY TO HAVE A PROPOSAL DRAFTED

It should be obvious that if our services were available without restriction, the work load would be overwhelming and many proposals which can gain no legislative support might be drafted. A check of the records of the past 2 sessions reveals that of the many requests made each session by persons other than legislators, several hundred were never introduced. To draft these requests is a tremendous waste of man power. In addition, each session we have a few cases in which a legislator not only categorically disclaims any knowledge of a proposal initiated under his name, but objects rather violently to any implication that he was associated with such a proposal.

It is therefore necessary to require that those who are not directly associated with the governmental process secure some prior approval. All we ask is that some member or standing committee authorize us to prepare a draft for the person or group interested. Such member or committee has no obligation by reason of such authorization to introduce the measure. They merely authorize us to make the draft.

How is such authorization procured? Our sole concern is that such authorization is authentic. We prefer that it be in writing, but recognize that it is not always easy to get such written approval. We do not favor blanket approvals. We will accept a letter, note or just the words "OK" and a signature on a tentative draft you may have, as well as a telephone call or a verbal approval given in the corridor or the rear of the legislative chambers. We have no obligation to prepare legislative proposals for some one to take out and peddle to whomever will accept it.

It is essential that the requestor secure permission from the member to have the proposal drafted in his name before contacting the bill draftsman. It is, in our opinion, improper for a legislative counsel to use the name of a legislator without prior approval. The legislator may not wish to be identified with the proposal. He should not have to defend himself against the statement that he authorized a draft unless he did, in fact, give prior approval.

Legislative counsels are therefore alerted to the fact that if they use a member's name without his express authorization, and he subsequently objects, such legislative counsel will thereafter be required to submit all authorizations in writing.

SUBMITTING A REQUEST FOR A DRAFT

Armed with the authorization, the patron submits his request to a bill draftsman located in Room 211N of the Capitol.

Patrons are urged to provide as much pertinent information necessary to the preparation of a proper draft as possible. Bills cannot be drafted in a vacuum.

It is advisable to include a clear-cut statement of what the proposal is intended to do. This may prove very valuable to students of the proposal in years to come.

If you submit a tentative draft prepared in advance, you should tell the draftsman who prepared it unless there is a compelling reason for not disclosing the source.

URGENCY OF THE PROPOSAL

At the time the request is submitted, the requestor should indicate whether there is any real urgency in the matter. It takes time to prepare good drafts of most proposals, and the sheer mechanics of preparing a draft requires some time.

If there is a real reason for speed, the draftsman may mark a proposal "rush". This should be used sparingly. If everyone insists that all his requests are urgent, the net effect is that all are delayed. We urge you to pace your requests so that there are several days between the request and date wanted.

If you have an impelling need for a rush draft, you should make every effort to pick it up when it is to be ready. We take a dim view of making the effort to comply with a request for speed only to have the requestor come in a week later for the "urgent draft".

AUTHORITY TO DISCUSS THE PROPOSAL WITH EXPERTS

Proposals cannot be drafted without some very specific information as to what is intended. It is our task to put your solution to a problem in proper language, not to evolve the solution. Because we cannot disclose the nature of requests without the express authority of the requestor, we are prevented from asking others about the problem. It therefore follows that if you do not have all the facts necessary to prepare a draft, you should authorize us specifically to talk to competent authority regarding the problem.

SUBMISSION OF THE FIRST DRAFT

Copies of the completed first draft are submitted to the member whose name appears on the request through the legislative mail and to such others as are expressly listed on the request to be recipients of a copy, if their addresses are known. Thus, if you wish to have a copy of the draft when it is completed, you must notify the draftsman when making the original request. If you do not do that, you will not get a copy. You must be a participant in the request or have specific authorization from the requestor to get a copy at this stage. You are not entitled to a copy or to see the draft at this stage simply because you are interested.

EXTRA COPIES

It is our policy to type 7 copies of each version of a draft. Not less than 5 of these copies are officially designated for specific purposes. Thus there are only one or two extra copies. Therefore, if you need extra copies so that several people may see them, you must so inform the draftsman when you make your original request. The inconvenience of typing a rerun can be avoided if you will remember to tell the draftsman if you need extra copies. Please confine your requests for extra copies to one or two.

IDENTICAL OR COMPANION PROPOSALS

If you intend to introduce a proposal in identical form in both houses, you should notify the draftsman when you make the request in order that an adequate number of copies can be made of the typewritten draft. If you do not inform us in advance, an unnecessary delay will result and additional work will be required to make another run.

PICKING UP COMPLETED DRAFTS

Frequently members or other requestors will pick up drafts at the counter in Room 213N before we have a chance to submit them. The members or other requestors may do this. If you wish to pick up a draft which you have requested, be prepared to identify yourself during the early part of the session when our record clerks are learning your names. No one but the legislator under whose name the proposal is recorded or his authorized representative, such as a messenger or committee clerk or the actual requestor is ever given access to a proposal by our office prior to introduction unless we have explicit instructions from the legislator or requestor to do so.

SHIFTING MEMBERS ON A REQUEST

Although a member may have authorized you to have the proposal drafted in his name, he has no obligation to introduce the measure. Thus you may be required to shift members if you want to get the measure introduced. It is your responsibility to inform the original member that the measure is no longer under his name, and to secure permission from another member to put it in his name. Such a shift must be reported to the record clerks in Room 213N. The same rules regarding authority to draft apply in this case as in the case of the original request.

MEMBERS' NAMES AT DEADLINE

The titles to all proposals which are to be introduced during the session without restriction must be in the hands of the Legislative Reference Library by a specific date which through the 1957 session was the end of the fifth week of the session. They must also be under the name of the member who will introduce them. Only the person named on the request can introduce them. Thus, before the deadline you must be sure that all titles you have requested are under the names of members who will introduce them if you hope to get them before the legislature. After the deadline, you cannot shift a proposal from one member to another. Only the person whose name is on the request at the time of the deadline may introduce that measure although others may be added as joint authors.

FILLING TITLES UNDER THE DEADLINE

If you submit a title in the name of a legislator prior to the deadline to assure his authority to introduce the measure without restriction, you must provide all the necessary data to permit us to prepare the draft within the next 2 weeks. Failure to do this means that the request dies.

APPROVING DRAFTS

After a bill is drafted, it is submitted to the member under whose name it appears, and to such other persons as are expressly enumerated in the request. Sometimes the member will approve the

draft and order it jacketed before you have a chance to check it. He may also cancel it without your knowledge. It is part of your task to keep in touch with the member so that you work together.

PICKING UP DRAFTS

Once a draft is prepared, you may pick it up at the counter in Room 213N. All records are kept in this room.

REDRAFTS

If, after reviewing the first draft, you desire some changes, you may check in the record room to determine who drafted the bill and then go directly to the draftsman who did the first draft with your corrections. If corrections are made, a new draft will be submitted both to the member and to others who are to get copies of such subsequent drafts.

JACKETING THE PROPOSAL

Once the proposal meets the approval of the legislator and you, it is ready for introduction. Either you or the member may request that it be jacketed, and if you withdraw it in the name of the member, you must sign for it in the name of the member and in your own name. You must remember that after the deadline, the bill may be introduced only by the member under whose name it then appears in our records.

FISCAL NOTES

All proposals which increase or decrease the revenue or costs of state government must carry a fiscal note which is affixed to the proposal before it is jacketed. No proposal requiring a fiscal note can leave our office for introduction until the proper note is attached.

If a proposal requires a fiscal note, the words "Fiscal Note Required" are stamped on all drafts. When the member approves the draft, it is automatically processed for a fiscal note. When the note is ready, the legislator or chairman of the standing committee introducing the proposal must approve it before the proposal is jacketed. In order to expedite matters, be prepared to obtain such approval when the fiscal note is ready.

When the fiscal note has been approved by the legislator, the proposal can be jacketed. If you or the legislator introducing the measure do not like the fiscal note, you can do 3 things. You can drop the whole idea. You can cause the proposal to be redrafted to change the fiscal effect. You can go to the department which prepared the note, and try to convince them to change their minds, bearing in mind that while they have seen the proposal, they have no information as to the requestor.

If you do not believe that a fiscal note is required in the first place, you must convince us as we make the original tentative decision. If we decide against you, you may still be vindicated by the Department of Budget and Accounts or the department required to provide the fiscal note since they may return the proposal indicating that no fiscal note is required.

The fiscal note is a statutory requirement and must appear on the measure precisely as prepared by the department.

THE CONFIDENTIAL NATURE OF OUR SERVICES

Until a proposal has been introduced or the legislature has adjourned sine die, all of the records incidental to the bill drafting process are confidential. They will not be opened to anyone without the express authorization of the person requesting the proposal. Our staff is admonished not to disclose who has requested a proposal or what proposal has been requested.

The walls, however, have ears, and if you have a proposal which you do not wish to have publicized prematurely, arrange to talk to a draftsman during an hour or day on which the traffic is lightest, and the opportunity for others to overhear your instructions is smallest. We are responsible for preventing our staff from disclosing your proposals. We have no responsibility to keep you from disclosing your apparent secret.

Even though your proposal becomes common knowledge due to your own inability to keep a secret, we will not open a file or disclose any information regarding your proposal without your express consent until the proposal has been introduced. Once the measure is introduced, the drafting records are public.

CHECKING YOUR REQUESTS

Our system of record-keeping is as perfect as we can devise, to find the proper request as quickly as possible, but it should be obvious that it is sometime difficult to identify a request among the more than 4,000 proposals which we handle during a session. While our record clerks are efficient, accommodating and accustomed to working under pressure, there is a limit to what they can do.

You can help us a great deal by timing your visits to the counter in the record room to coincide with the lulls in business. If possible, stay away in the morning period before the session begins. Mid-afternoon is the period when there usually is less congestion at the counter. Our office is open from 7:45 a.m. to 5:30 p.m. or longer if either house is in session.

If you wish to check your requests, choose a time when the business at the counter is slack.

SUMMARY

As a service agency we are paid to give prompt and efficient service. We pride ourselves in the maintenance of a reputation for such service. You, as representatives of various segments of the public and taxpayers, are entitled to such service. We will do everything we can for you, but all things we do must be within the rules. If you like our service, tell the staff; if you don't, tell the chief.