



Wisconsin Briefs

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GUIDE TO RESEARCHING WISCONSIN LEGISLATION

The Wisconsin Legislative Reference Bureau (LRB) is an important resource for researching Wisconsin legislation. The LRB attorneys are responsible for drafting all bills and resolutions introduced into the legislature, and the LRB library collection includes many publications and records to aid in investigating legislative history. As part of their research duties, the LRB legislative analysts are expert in helping patrons understand the legislative process and find pertinent materials.

This brief describes what information is available and offers suggestions for researching the evolution of Wisconsin's constitutional and statutory law. It is written for attorneys and others who are searching for the meaning of statutory language or the legislature's intent in enacting a legal change. The procedures described here are not designed for generalized or academic research. Historians or political scientists may find the information useful, but it is specifically focused on techniques for determining the meaning of a law.

I. DRAFTING RECORDS

A drafting record contains all written materials, letters and memoranda given to or created by the legislative drafting attorney in the process of drafting a bill, resolution or subsequent amendments. These records are not designed to document legislative intent. Rather, they are a by-product of the drafting process.

Record Contents. Individual drafting files vary considerably in their content and detail. Some are more comprehensive than others. If the proposal passed both houses, the enrolled version will be the first item in the file. After that, the record contains the original proposal and associated documentation, followed by each amendment or substitute amendment and related documents, in order of introduction. At minimum, the file includes a "drafting request", containing the name of the requester, date of the request, the drafting instructions (which may be self-contained or may refer to other documents) and certain other information, plus at least one version of the draft and a file copy of the proposal as it was introduced.

If the attorney was given written instructions by the draft requester, these will be inserted in the file. The requester may also forward correspondence or model bills to assist the drafting. Any written materials produced by the drafting attorney must be included, but, except for limited information, the file cannot contain anything not in the attorney's possession when the draft was prepared. Thus, copies of correspondence received after the proposal's introduction would not be part of the file unless they were related to drafting of subsequent amendments.

Current and Past Records. Each bill, resolution and joint resolution introduced into the legislature since 1927 has its own drafting record. Records are filed by session year and the act (chapter) number, or proposal number, if the measure did not pass. Drafting records for joint resolutions and simple resolutions are filed under the number given them at introduction, rather than the enrolled number assigned them after passage.

A drafting record is unique to a particular session. If a proposal is reintroduced in a subsequent session, a new drafting record must be created. When a drafting record is based on a proposal introduced in a previous session, the researcher should check the earlier record for pertinent material. Similarly, since constitutional amendments require legislative approval of the same wording by two consecutive legislatures, two drafting records must be examined – one for each joint resolution passed prior to the referendum.

Drafting files for proposals introduced in the current session must be reviewed in paper form at the LRB. Those for prior sessions are available on microfiche at the LRB, the State Law Library and the State Historical Society in Madison and the Milwaukee Public Library and Marquette University Law Library in Milwaukee. Individuals may purchase microfiche copies of drafting records from the LRB. Most drafting records are complete on one fiche.

II. LEGISLATIVE HISTORY SOURCES

Session Laws and History Notes

The Wisconsin Legislature currently meets in biennial session. (Prior to 1883, the legislature met annually.) Each biennial session opens in and is identified by the odd-numbered year. Thus, the 1997 Legislature may pass laws throughout 1997 and 1998, but each act will be identified as a 1997 Wisconsin Act. All laws passed in the 1997-1998 biennium eventually are published in bound volumes, titled *1997 Wisconsin Session Laws* (labeled “Laws of Wisconsin” on the binding).

Session Laws. Session laws are written to make alterations to the existing Wisconsin Statutes, which are the state’s general public laws in codified form. The new act may create, amend, repeal or renumber existing sections of the statutes. The key to investigating the legislative history of a statutory section is to determine which session law made the statutory change under consideration. Session laws can also contain important “nonstatutory provisions”, such as temporary provisions, applicability, or effective date clauses that explain when and to whom the law first applied. Occasionally, a nonstatutory provision may contain a statement of legislative findings or intent. Nonstatutory provisions have the force of law, but they do not appear in the statutes.

Before 1983, each session law usually was numbered sequentially and referred to as a “chapter”. Beginning with the 1983 session, the separate law was called an “act” to avoid confusion with the “chapter” headings used in the Wisconsin Statutes. Prior to 1949, special session bills that became law were numbered in a separate series (e.g., Special Session of 1933, Chapter 1). Today, they are simply assigned the next number in the sequence.

Session laws are cited as follows: L. 1981, c. 39 (indicating Chapter 39, Laws of 1981) or 1987 a. 312 (for 1987 Wisconsin Act 312). The citation may include the act section number as well: 1995 a. 275 s. 403. The organization of a bill follows the order of the sections in the Wisconsin Statutes, e.g., material amending Section 14.50 will precede that creating Section 14.52. Bills also have their own section numbers, including numbered sections that contain the nonstatutory material.

History Notes. A list of the statutory changes made since 1970 follows each statute section in a “history note”. (*West’s Wisconsin Statutes Annotated*, commercially published by West Publishing Company, gives similar information in a “source” note.) The note lists the year and number of any session law which affected that particular statutory section, but it does not break down information by subsection. It may also list citations for court cases, opinions of the

Attorney General, and law review articles. Any sources described as “committee notes” in *West’s* annotations are likely to be the work of the Legislative Council or the Judicial Council rather than a standing committee of the legislature.

History notes in the current volumes of the Wisconsin Statutes cover only the period 1971 to date, but the Revisor of Statutes publishes a separate volume, *Wisconsin Annotations*, which offers a complete history of each statute section from 1848 to 1970. *West’s* annotations usually give a complete history in the source notes, but the researcher should remember to check the pocket materials in a *West’s* volume for updated information.

Bills

A bill must pass both houses of the legislature in identical wording before it can be submitted to the governor for signature, but it is always identified by its house of origin, i.e., an “Assembly Bill” or a “Senate Bill”. The heading of each session law lists the number of the bill that created it. Useful pieces of information, such as fiscal estimates, reports of joint standing committees and proposed amendments, normally accompany each bill.

Fiscal estimates have been required since 1957 for any bill that could alter state government expenditures or revenues. Fiscal effects on local government have also been estimated since 1971. These estimates are prepared by the appropriate executive branch agency and include the agency’s assumptions about the intent and effect of the legislation.

Beginning with the 1967 session, the text of each bill has been preceded by a brief analysis of the bill. This analysis, written by the legislative drafting attorney, is designed to assist both legislators and the public in studying the proposed legislation. Researchers are cautioned that the analysis summarizes only the original bill and probably will not be accurate if the bill is amended. Analyses are not written for amendments.

Budget Bills

Budget bills, as well as budget adjustment bills (which are passed in the second year of the biennium and sometimes called “mini-budgets” or “budget review bills”), follow basically the same legislative process as other bills, but their size and complexity make researching individual bill sections difficult. In Wisconsin, budget bills contain many changes to the law that have little or no fiscal effect but significantly alter public policy. Researchers are urged to ask LRB legislative analysts for assistance with the specialized documentation and techniques associated with reviewing a budget bill.

The original draft of the budget bill is developed at the request of the governor, in conjunction with the Division of Executive Budget and Finance in the Department of Administration. The budget office, which is part of that division, prepares the explanatory material for the governor’s budget proposal, and the Legislative Fiscal Bureau (LFB) provides summary information and produces a broad variety of papers to assist legislators in studying the budget and the extensive amendments to it. Printed materials from both of these agencies are available in major university and public libraries, as well as at the LRB and the State Historical Society. Some LFB papers are posted on the Internet at <http://www.legis.state.us/lfb/index.html>.

Bill Jackets

When a bill or resolution is introduced, a jacket envelope is prepared by the LRB to store the *official* copies of the proposal and any amendments. The chief clerk’s official notations about the procedural history of the proposal are recorded on the cover of the jacket. (This information also appears in the *Bulletin of Proceedings*.) Bill jackets are separate files and should

not be confused with drafting records. Normally, for proposals introduced from 1927 to date, there is nothing in a jacket that is not available in one of the sources already listed. Prior to 1927, the first session for which drafting files are available, jackets and legislative journals are the only official records available. The jackets for recently concluded sessions are kept by the Secretary of State. Older jackets are filed with the State Historical Society.

Journals

Each house publishes its own journal, which provides a procedural record of legislative action. These journals do not contain a verbatim report of floor debate, but they do include roll call votes, messages from the governor and, occasionally, other communications. Roll call votes can indicate how controversial a proposal or amendment was and whether it passed or failed on a party-line vote. Journals are available as part of the Legislative Service (see Section III below) and can also be found in major state libraries. The LRB library collection includes journals for all legislative sessions since the territorial period.

Bulletin of Proceedings

The *Bulletin of Proceedings of the Wisconsin Legislature* is a multivolume publication specific to the legislative biennium. It contains procedural histories for all introduced proposals, a subject index to all bills, resolutions and session laws, a listing of the statutory sections affected by the session laws, and legislators' names and committee assignments. (In early years this publication was called the "Index", and it was printed as an appendix to the journals.)

The *Bulletin* reports the procedural history of each proposal by house of origin (in its Senate Bulletin or Assembly Bulletin), along with the number of the house journal page on which action is officially recorded. Procedural histories indicate dates the proposal and any amendments were introduced, dates of committee action, which amendments were adopted, and dates and results of floor votes. In the case of roll call votes, totals are reported, but legislators are not listed by name.

Committee Records

Each committee maintains a simple procedural report of its work, called a "committee record". In addition to reporting roll call votes by the committee, the record names the persons who registered at the public hearings. The listing gives information about the affiliation of the registrants, whether they supported or opposed the measure, and whether they spoke. Records exist for committee hearings held since 1951 and, except for the current session records which are retained by the chief clerk, copies are available at the LRB.

The Wisconsin Legislature does not keep verbatim or summary records of committee deliberations or the testimony presented at public hearings. Committees report their recommendations regarding passage of individual proposals, but they do not provide explanations of the measures or the rationale for final committee action. They also do not maintain permanent records of written testimony or correspondence submitted to them.

Standing committees of the Wisconsin Legislature do not have permanent offices. Instead, they operate from the office of the chairperson of the committee. Committee chairpersons may be able to provide copies of correspondence or testimony for current or recent proposals. Some donate their papers to the State Historical Society, so older records may be available.

Legislative Council Bills

The Legislative Council is composed of legislators, and it functions through study committees that include legislators and public members. The study committees investigate various

problems at the request of the legislature or the council and offer their recommendations in bill form to the council. The council then decides which bills it will introduce in the legislature. Council bills typically include explanatory notes. In addition, the study committees usually record their meetings on tape and provide printed summaries of testimony offered. Printed minutes of study committee meetings are available at the LRB, the Legislative Council and the State Historical Society, and audio tapes from the current session may be reviewed at the council offices. Many other information bulletins prepared by Legislative Council Staff can be found in the LRB collection.

Judicial Council Bills

The Judicial Council serves the judicial system, much as the Legislative Council assists the legislative branch. Its committees also prepare bills with explanatory notes. The LRB files copies of the minutes of Judicial Council meetings.

Other Intent Information Sources

Sometimes the bill or material in the drafting record will indicate that a special committee was the source of the bill. Frequently, this type of committee is established at the initiative of the governor. Both the LRB and the State Historical Society catalog materials published by state agencies, including the reports of governors' task forces and committees.

In addition to the formal research sources already described, a number of informal sources may be tapped by the imaginative researcher. For example, the LRB's extensive newspaper clipping collection, filed by subject, may contain accounts of what was said at public hearings, on the floor of the legislature, or by the governor in signing a bill. Occasionally, there will be press releases or letters to the editor by the bill's author or bill proponents or opponents. Because the clippings are filed chronologically, it helps to check the *Bulletin of Proceedings* for the dates of key committee or floor activity. The archives of the State Historical Society may contain letters or memoranda by legislators. Contacting persons who testified before committees may be useful. For example, lobbying organizations may have file copies of testimony they presented.

III. DOCUMENT AVAILABILITY

Bills and Resolutions

The LRB reading room has reference copies of all bills and resolutions introduced in every legislative session from 1897 to the present; the Division of Archives at the State Historical Society of Wisconsin, 816 State Street, Madison, Wisconsin 53706, has copies of all bills and resolutions from the territorial period to the present. Legislative proposals introduced in the current session are available on the Internet, from the LRB or from the Legislative Documents Room, 1 East Main Street, Madison, Wisconsin 53701, or call (608) 266-2400. Subscribers to the complete Legislative Service will receive these materials automatically as they are introduced.

Published Laws

The *Wisconsin Statutes*, *Wisconsin Annotations*, and volumes of session laws may be purchased from Document Sales Unit, P.O. Box 7840, Madison, Wisconsin 53707. They can also be found in county courthouses and major public and academic libraries across the state. (*West's*

Wisconsin Statutes Annotated is available in many county courthouses and law firms.) The LRB reading room has copies of all these reference books.

Legislative Service

The legislature offers a set of publications, referred to as the “Legislative Service”, to track on-going legislative action during the biennium. The service distributes the journals of daily activity in each house; copies of proposals and their amendments; announcements of scheduled committee hearings; the *Bulletin of Proceedings* that encompasses a variety of indexes and summaries; and copies of all the laws and resolutions enacted by the legislature during the biennium. Subscriptions to the service are available from the Wisconsin Department of Administration, Document Sales Unit, at (608) 266-3358. Most major libraries in the state subscribe.

Subscribers may order the entire service or a combination of parts. They also receive copies of “slip laws” (pamphlet copies of individual acts) at appropriate intervals, sometimes on a weekly basis when there are numerous bill signings. This service is the fastest way to get printed copies of all new acts. West Publishing Company publishes the session laws in a multi-volume softbound format issued at intervals throughout the legislative session.

Internet Sources

Current session bills and resolutions, acts, the statutes, and most of the documents available in the Legislative Service are also available on the Internet at <http://www.legis.state.wi.us>. Drafting records are not available on the Internet.

The Revisor of Statutes periodically updates the Internet version of the Wisconsin Statutes to incorporate laws passed in the current legislative session. Thus, the Internet version may be more current than the printed version, which is published only at the end of the biennial session. Searchable databases for the statutes, bills and resolutions, and acts, along with other legislative material, are available at <http://folio.legis.state.wi.us>.

Access to legislative documents requires installation of Adobe Acrobat Reader. (A free copy of Adobe Reader can be downloaded from on the Wisconsin Legislature’s site.) Using the Adobe format assures that the documents printed from the Internet will match the style, format, and paging of the original.

IV. STEPS IN TRACING LEGISLATIVE HISTORY

The following steps outline the procedure for researching Wisconsin legislation:

1. Decide what session law created the statutory or nonstatutory language.
2. Determine what bill created the session law.
3. Examine the bill, its amendments, fiscal estimates and accompanying analysis.
4. Review the drafting record.
5. Check the procedural history of the bill during its passage.
6. Locate and review any additional material.

If you have questions about using the resources, call the LRB at (608) 266-0341 between 7:45 am and 5:00 pm, Monday through Friday.