

## **A Citizen's Guide to Advocating at the State Legislature – Some of What Citizen Advocates Must Know, Do, and Expect**

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(with gratitude to family and friends who reviewed this guide)

To help support citizen advocacy, I want to share some of what I learned about a state legislature before retiring after three decades as nonpartisan counsel to a house policy committee. This guide is for anyone who wants to contact state legislators and persuade them to introduce, support, or oppose a bill. A bill is a proposal to adopt a new law or amend or repeal an existing law.

### **Introduction**

*Effective citizen advocates must know how to access and persuade lawmakers and what to expect*

For a democracy to flourish, citizens must know about their government and the laws integral to daily life and engage with their elected officials. Citizen advocacy, whether at the federal, state, or local level of government, is essential to that engagement.

State legislatures enact laws to help govern the state and its residents. Citizen advocates must know how a state legislature operates and understand the house and senate act independently of each other and the governor acts independently of the legislature, among other checks and balances.

*Money can be a factor in citizen advocacy*

Citizen advocates seeking funding or other donations to support their advocacy may find policy or legal conditions attached to the money. For example, citizen advocates may want to hold fundraisers or reach out to donors for financial support or develop a base of members and supporters. Donors and funders may want their money used for a specific purpose or outcome or may not give money unless citizen advocates have a fiscal sponsor or are a nonprofit organization.

### **Contents**

This **three-part guide** describes some of what citizen advocates must know and do to gain access to and persuade state legislators and what citizens can expect when advocating for policies at the legislature. A brief summary and examples of online information and resources to help citizen advocates learn about a state legislature and how to contact legislators and other officials follow.

A **longer guide** with explanations and examples for the legislature's informal operating rules and procedures included here is **available upon request**.

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**What Citizen Advocates Must Know About Structure, Politics, and People at the Legislature – Part I**

**- STRUCTURE -**

*The legislature has both formal and informal operating rules and procedures*

The state legislature has both formal and informal operating rules and procedures. Knowing about both kinds of rules and procedures helps citizen advocates understand and influence what happens at the legislature. This guide describes some of the legislature's informal and unwritten operating rules and procedures. Links to examples of a legislature's formal operating rules and procedures appear at the end of the guide.

*The majority caucus makes many important procedural decisions*

A caucus is composed of legislators who belong to one political party. The comparative number of legislators affiliated with each political party determines which party holds the majority and is known as the majority caucus.

The majority caucus determines session deadlines and schedules; the substance, tenor, and timing of public debates; what happens to bills; and how the caucus majority votes in committee and on the house or senate floor, consistent with procedural rules.

*Committees are integral to making law*

Policy and finance committees cover many areas. Once a bill is introduced, it is referred to a committee based on the bill's topic and the committee's purview. It is important to know how receptive a committee chair and committee members are because a receptive chair and committee are more likely to act favorably on a bill.

Legislators serving on particular committees develop expertise on topics within that committee's purview and can inform and influence other legislators' decisions in committee and on the floor.

### *A deliberative committee process is the ideal*

Ideally, a deliberative committee process with public input helps ensure the substantive and technical integrity of a bill and build a base of support for a bill, and helps ensure the intent of a law is realized. A law must be well constructed, adequately supported, and appropriately implemented to fully succeed.

### *The majority controls the committee process*

Policy and finance committees and committee chairs are integral to majority control. Committee chairs advance bills the chair or caucus favors and prevent or obstruct bills the chair or caucus opposes. The majority caucus controls which policy and finance bills are heard and passed. Committee chairs and a committee's voting majority support and advance their caucus members' bills.

### *Committee chairs and majority members decide what happens to bills*

The legislature sets session deadlines for hearing and passing bills. A committee hearing is key to getting a bill passed. The timing of the bill hearing is important. A bill heard after a deadline likely won't advance during that session. Placing a bill last on a long committee agenda helps avoid scrutiny and debate by leaving little or no time to fully consider the bill or accommodates an author who wants a hearing but whose bill won't pass.

The majority caucus may plan and convene a hearing to publicly support or oppose a policy or interest or help a "vulnerable" legislator in a competitive district pass a popular bill. In such cases, legislators' unscripted discussions or objections and witnesses' public testimony have limited effect.

Strict rules about submitting amendments help a chair control a committee hearing. Sometimes legislators must submit an amendment before a hearing begins. This lets the chair plan how to respond during the hearing. A chair may not want or accept other amendments during a hearing.

### *Form can prevail over function in the legislative process*

House floor rules may create "gotcha" politics for the nightly news and oppositional literature for the next campaign. Advocates must work with legislators to ensure a bill is well drafted before it goes to the floor to minimize the need to make corrections later.

Improved technology allows more bills to be introduced and processed but at a cost

Improved technology allows legislators to introduce and quickly process and transmit more and bigger bills. Committee chairs vary in their willingness to hear all the bills referred to their committee.

Increased work and speed mean:

- less time for legislators to draft or understand bills and amendments
- more mistakes and unintended consequences
- limited transparency and debate
- fewer personal interactions even though politics is all about people and personal relationships

**- POLITICS -**

Change is constant

The individual legislators holding office can change with each election. Each political party has different philosophies and priorities, bringing policy and personnel changes with each new majority. Control of the legislative process gives more responsibilities and advantages to the majority party.

The majority's interests prevail

Advocates and interests aligned with the majority caucus are more likely to succeed. Bureaucrats' success depends on how well political and policy interests of the legislative and executive branches, whether controlled by the same or different political parties, align at the end of the legislative session.

The manner of control varies by caucus

Republicans appear more hierarchical and Democrats appear more inclusive. Both approaches are valuable at different times. Early in the session, widespread participation and input informs, improves, and builds support for a bill. At the end of the session, it's usual for just a few legislators to meet with the governor to negotiate agreements.

A caucus may pursue incremental or far-reaching changes

A majority caucus may pursue incremental or ambitious changes. Sometimes legislators make changes in response to a natural disaster, financial calamity, or overwhelming public outcry. Changes campaign contributors want can take priority

over constituent interests. Elected officials may not regard all their constituents as equally important.

*The majority can advance its legislative agenda, usually without minority participation*

The majority caucus often acts without minority caucus participation. Uncompetitive house and senate districts that vote overwhelmingly for one party remove legislators' incentive to "move" to the middle.

Occasionally, a topic is so politically fraught the majority caucus will want "buy-in" from the minority caucus. A caucus with a slim majority has more incentive to work with the minority caucus.

*Fiscal notes may help a party support and maintain its majority*

Fiscal notes estimate the costs of bills and influence whether bills pass. Fiscal notes are supposed to be objective but may signal administration or party support for, or opposition to, a bill or bill author.

To offset a fiscal note, a bill author may allow rather than require an agency to do something, for example. This can minimize the cost shown in the fiscal note but thwart the real intent of a law.

*The majority can champion contentious and controversial bills*

The majority caucus can pass contentious or controversial bills if

- the governor and the majorities in both houses of the legislature are from the same party and agree
- different majorities in the house and senate are willing to compromise with each other and the governor in order to pass a major initiative
- political expediency enables the opposing caucus, house, or the governor to make an accommodation.

*Legislators' incentives to compromise are limited*

Partisan and polarized politics, gerrymandered districts, and voters sorting themselves into geographic clusters prevent compromise. These factors make many house and senate races uncompetitive except in a primary election where an incumbent legislator runs against a candidate more extreme than the incumbent.

Conference committee agreements may depend on “global agreements”

Conference committees meet at the end of session to reconcile differences between major house and senate bills. Real negotiations are not public. Conferees may wait to “close” their bills until legislative leaders and the governor resolve major issues.

There is method to the end-of-session chaos

Minority caucus members complain about end-of-session chaos but neither party wants to change the practice. The chaos gives the majority’s leaders, and other influential legislators and the governor, a more unfettered opportunity to reach the agreements they want, and the pretext for doing so, just before adjourning.

Speed prevails over transparency, accuracy, and accountability at the end of the session

Majority leaders, able to quickly process and transmit electronic copies of big bills to the floor, come ever closer to the adjournment deadline before finishing their work. Sometimes legislators and the public see a major bill just before a vote and can’t review the bill. This makes it harder to hold individual legislators accountable.

**- PEOPLE -**

The legislature has both new and experienced members and staff

Voters often change the party controlling either the house or senate or the governor’s office. These changes in party control affect what happens at the legislature. New legislators and their staff undergo a steep “on the job” learning curve and become more effective with time and experience.

Neither party has all the good or bad ideas

While each party has distinct policies, goals, and constituencies, neither party has all the good or bad ideas about a policy or program. Partisanship, with limited communication, little collaboration, and few compromises between members of opposite parties, poorly serves public interests.

Legislators’ approach to legislating can vary

Legislators who approach the legislative process with some humility learn about the legislative process – for which experience is key - more quickly. Along with personality, an unending stream of supplicants seeking to curry legislators’ favor and legislators’ proximity to power can affect that humility.

Many different people advise and influence legislators

Many people with knowledge, experience, and continuity participate in the legislative process:

- partisan and nonpartisan legislative staff
- professional employees in state agencies and the offices of constitutional officers
- political appointees such as commissioners, assistant commissioners, and legislative liaisons who generally belong to the same party as the governor
- lobbyists advocating on their clients' behalf
- local government officials.

Citizen advocates must know an issue well to be effective. Good relationships with legislators and legislative staff are key to successful advocacy. Partisan legislative staff, executive branch employees and appointees, lobbyists, and local government officials can be excellent resources and allies for citizen advocates.

A few political leaders make major end-of-session decisions

Power is about “being in the room” with other legislative leaders and the governor at the end of session when major decisions are made privately. “Being in the room” means being physically present or having an effective advocate physically present.

<b>What Citizen Advocates Must Do to Access, Persuade, and Prevail at the Legislature – Part II</b>
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**- ACCESS -**

Legislators respond first to constituents, supporters, and district interests

Legislators prefer to work with constituents, supporters, and district issues and respond more to personal visits than phone calls or emails. Still, any reasonable form of contact is better than no contact.

A legislator who represents an advocate’s district or champions a particular interest can be a good bill author. Legislators in politically “safe” districts may want to work with constituents and interests who are their supporters.

Advocates benefit from effective and politically well-connected bill authors

Advocates are more likely to succeed when:

- effective, politically well-connected legislators author a bill and, if needed, persist with it beyond the current session and after the law is enacted
- caucus leaders and committee chairs give public and behind-the-scenes support

**- PERSUADE -**

Legislators get information from advocates they know and trust

Legislators acquire timely information by listening to advocates they know and trust. Much legislative business is transacted before and after hearings, in hallways, and in other “casual” conversations.

Busy legislators make situational decisions about whether and how much to rely on an advocate’s advice. Sometimes legislators rely on input from outside or national organizations. Advocates who misinform or mislead a legislator have limited success and a poor long-lasting reputation.

Input from all key stakeholders benefits legislators and constituents

Ideally, because laws are important, complex, and hard to make, legislators hear and consider the input of all key stakeholders before making decisions. The public is better served when this occurs.

Personal testimony can be compelling

A credible witness who tells a committee a compelling story can persuade committee members to support a bill or idea the witness supports. Legislators may find personal stories more compelling than data.

A minority caucus’ limited role affects its constituents’ options

Being in the minority leaves minority caucus members with a limited, oppositional role. If the governor and the minority caucus are from same party, minority caucus members can help advocate the governor’s position on issues or bills.



## - PREVAIL -

### A long-term perspective helps

At the legislature

- a just cause does not guarantee success
- success is a long road interrupted by disappointment and disillusionment
- preparation, focus, and persistence are needed
- good timing is critical and usually short-lived
- building more support for later may be better than trying to pass a bill in an unfavorable session or biennium
- luck is part of every “win”
- “winning” may not achieve everything advocates want
- complex or dynamic laws can change in later sessions

### A state law must be the right solution

When issues are pre-empted by federal law, the state can't act. Sometimes local officials can resolve an issue better than state legislators. To resolve local issues, a caucus' constituent services staff works with legislators to help constituents find information and contact appropriate officials.

### Legislators and advocates must decide how to respond to change

Sometimes legislators and advocates want to keep the status quo to prevent an unwelcome change from occurring. Sometimes resisting change reflects inertia or an unwillingness to make a constructive change, which limits the input legislators and advocates have in making that change.

### Good strategy is key to success

Advocates must have short and long-term strategies. As majorities change, advocates must re-evaluate how much they want or think they can achieve, what outcomes they can expect or accept under the current majority, what constitutes a “win,” and whether it is better to wait for a change in the majority to pursue a bill.

A bill can be:

- initially more expansive or expensive than what advocates want if the bill author expects to make concessions
- what advocates really want if the bill author thinks it is more effective to appear reasonable from the outset

A bill author may have to:

- introduce and publicize a bill in one session and have the bill heard, debated, and revised in later sessions
- build more consensus and support among stakeholders
- change authors to help with a bill's substance or politics
- postpone advancing the bill until a key factor like timing, funding, or politics changes

Sometimes legislators and advocates must decide between repealing and amending a problematic policy or program with important or vocal supporters or beneficiaries.

*Decisions to enact, amend, or repeal a policy, program, or structure can have significant long-term consequences*

Many legislative actions, including enacting or repealing a major state policy, program or structure, have significant and long-term consequences.

### **What Citizens Can Expect When Advocating for Policies and Why Policies are More Episodic than Linear – Part III**

*Various reasons explain why policy development is episodic*

Episodic or halting policy development occurs when:

- a key legislator loses an election, retires, or changes priorities
- a legislator sees law making as a chance to write on a blank slate rather than amend an existing policy or program, which can be a rookie mistake or a practitioner's calculated strategy to weaken or nullify existing law
- a legislator's caucus loses the majority and the power to control bills
- current events or the proximity of an election make it a better or worse time to pursue a policy or program
- the amount of available funding or the priority for expending funds changes
- legislators agree to a pilot study or one-time funding to satisfy a constituent or because an idea has limited support

*Absent and poor quality program evaluations hinder continuity*

Laws without a meaningful evaluation can't show the value of a policy or program. Budget concerns or a caucus' resolute support of a program are reasons to forego an evaluation. Other problems include uneven evaluation reports that not all legislators read and poor evaluation measures.

*Ignoring details and disregarding words have consequences*

Inattention to detail or wording has unintended and unwelcome consequences, including ineffective laws or laws that give a state agency or local officials vast leeway to decide the contours or effects of a program or policy.

Sometimes the meaning of a law turns on one or a few words or punctuation. For example, the presence or absence of the word “not” or the difference between “must” and “may” is important, as is the presence, absence, and placement of a comma.

*Ambiguity helps effect compromise but lets a law be interpreted in multiple ways*

Ambiguous language brings lack of clarity or uncertainty and helps achieve compromise by letting opposing interests claim victory. Ambiguous language also lets a statute be interpreted in multiple ways. A passive sentence creates ambiguity. By directing a result without imposing a duty, it can be helpful or problematic depending on what legislators and advocates want. Remaining silent on an issue is another way to effect compromise, with a similar result.

*A law must be carefully drafted and properly implemented to have its intended effect*

To achieve its effect, a law must be consistently applied regardless of the current administration. When drafting a bill, legislators and advocates must decide how much flexibility to give a commissioner or other official charged with administering an ongoing program or policy.

A law can be undone by unintended or inconsistent applications of that law, or by individuals unwilling or unable to carry out the law.

*Law lags behind what technology allows*

Technology has procedural and substantive implications. It lets legislators come ever closer to self-imposed and constitutional deadlines before making decisions. Unfortunately, technology can’t markedly increase how fast people read and understand bills.

Technology also affects legislation, leaving unanswered and complicated questions about how technology and law interact in areas like student speech and data practices.

## Summary

Effective citizen advocates: learn as much as possible about the legislative process and the substance and legislative history and politics of “their” issue; develop good working relationships with legislators, legislative staff, other participants in the legislative process such as lobbyists and public employees and officials, and other interested stakeholders; recognize the importance of preparation, focus, and persistence, and hope and work for good timing and luck; and identify sources of funding and seek support.

## Online information and resources can help citizen advocates.

Online information and resources inform citizens about their state legislature and its formal rules and procedures and how to contact legislators, other state officials, and lobbyists. For example, links to information and resources on the Minnesota legislature include:

FAQs about the MN Legislature

<https://www.leg.state.mn.us/leg/faq/faqtoc?subject=2>

Contact and other information about current state legislators

<https://www.leg.state.mn.us/leg/legislators>

State publications on the legislative process and how a bill becomes law

<http://www.senate.leg.state.mn.us/departments/scr/treatise/legpro.pdf>

<https://www.leg.state.mn.us/leg/howbill>

<http://www.house.leg.state.mn.us/hinfo/govser/GOVSER6.pdf>

<https://www.senate.mn/publications/billlaw.pdf>

<http://www.sos.state.mn.us/about-minnesota/minnesota-government/passing-laws-in-minnesota/>

Minnesota Legislative Reference Library (always a great source for information on the legislature and legislative issues)

<https://www.leg.state.mn.us/lrl/about>

Lobbyists listed with the Campaign Finance and Public Disclosure Board

[http://www.cfboard.state.mn.us/lob\\_lists.html](http://www.cfboard.state.mn.us/lob_lists.html)

Contact and other information about the governor and other state officials  
<https://mn.gov/portal/government/state/governor-and-officials/>