

CITIZEN ACCESS TO THE LEGISLATURE

Citizen, as used here, refers to individuals who contact their legislators and to public interest groups like League, as opposed to government lobbyists, contract lobbyists, and in-house or association lobbyists. The League study gathered information on this topic through interview questions about *transparency* and chiefly in the context of the committee system. In addition, the information on citizen access in Alabama presented here draws on League's experience with advocacy, supplemented by consultation with a member of another public interest group and examination of public web sites, including that of the Legislature.

Most legislators appeared committed to the principle of openness, with the major caveat that they must always be concerned about taking public stands on difficult issues. Asked whether more transparency is needed and how to secure it, most legislators mentioned the *Open Meetings Law* passed in the 2005 session.

<p style="text-align: center;">Transparency</p> <p>Availability of information on governmental officials, activities and decisions in a form that is easy to understand and access.</p> <p>In the legislative context this would include: access to committee meetings, hearings, and legislators; information about the membership, legislative procedures and rules, bills under consideration, vote outcomes at all stages of the legislative process; and more.</p>
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How the Open Meetings Law Affects the Legislature

- Tells the Legislature to base its rules on the Constitution. In Article IV, sections 57, 58 require that the doors remain open and that neither house change its meeting place (or adjourn) without notice to the other.
- Permits the House and Senate bodies to make their own rules—a reasonable exemption from the rule for other bodies that requires 10 days notice of a meeting.
- Applies the rules for notice explicitly to sessions, to meetings of standing committees and subcommittees, and to all permanent and joint legislative committees.

Transparency Issues for Citizens Attending the Legislature

Several aspects of current operations at the Legislature limit citizen access to the Legislature and its operations. As a result transparency is not achieved. Specific issues include, but are not necessarily limited to the following:

1. Committee meeting rooms too small for observers, a major problem that can make transparency only theoretical.

An extreme example is the Senate Rules Committee, which meets in the office of the chair because it often meets during a session and has no adequate room on the 8th floor with the Senate chamber. The door is open, but lobbyists, public and press are clustered at the door unable to get in. Approximately 60% of House members and 66% of Senate members responding to the League survey called space for committee meetings inadequate. Interview subjects usually cited the space problem first when asked to

evaluate the transparency of committee meetings. Those who did not list it first always included it in their answers.

2. Short advance notice of committee meetings and agendas.

The House requires 24 hours advance notice; the Senate requires 4 hours wherever possible. In practice House committee meetings with agendas are published on ALISON by 5 pm Friday. Senate meetings are posted more irregularly and often without agendas. These House-Senate differences are reflected in the survey responses. Approximately 85% of House members agree announcements of meetings are timely and 79% agree that meeting agendas are provided in a timely manner. Only 41% of Senators agree that announcements are timely and only 22% believe that meeting agendas are provided in a timely manner.

3. Public hearings, the chief vehicle for citizen commentary, are difficult for those who must prepare to testify and travel to them.

House rules, which permit any member of the chamber to request a public hearing in writing *before* the meeting is posted, require communication with a committee member well ahead of time. Requests from the public may prompt a Senate chair to schedule a public hearing at the last minute.

4. For ordinary citizens the broader underlying problem is intrinsic to the legislative process. The unpredictable pace of action depends on the time required to reach agreements and the need to move through the session expeditiously once agreements are achieved. Those who are outsiders or groups without a constant presence in the State House are at a disadvantage.

Transparency to Prevent Abuses: Budgets

Although budgets are difficult for the public to follow, transparency in the spending of public funds is a fundamental protection against abuse. The document *Background for Study of the Alabama Legislature* distributed to Local Leagues in 2003 explains the elements of a Transparency Report Card for state budgets, addressing what should be disclosed and how. Most experts and many legislators favor publication of state budgets on the Internet.

The legislative budget is also a candidate for publication. As of this writing searches for the details of the Legislative budgets would present the citizen with only the gross outlines of how much money the legislature appropriated for its operations during the Special Session passage of the General Fund Budget—how much goes to LRS, LFO, the Speaker, etc. but no information on specifics of how the money is spent. Clarity on how current funds are spent could help the legislature move toward more public accountability than can be provided by lump sum distributions from discretionary funds.

The staffing needs described in *BP: Legislative Support* argue for a more efficient use of current revenues. Public knowledge of the chamber, leadership, and committee budgets would provide sounder information for evaluation than can be gained from partisan exchanges.

Participating in the Legislative Process to Influence Decisions

There are many ways citizens can impact decisions. Three of these are described below.

Defining the issues and contributing to legislation

Before bills arrive in the legislature, citizens do have opportunities to contribute through membership in such organizations as Alabama Citizens for Constitutional Reform or Alabama ARISE both of which conduct meetings around the state to consider legislation. Groups like League or the press may identify state problems, suggest reforms, and encourage public discussion to set the climate for the legislature's taking up an issue. Once the legislature is considering the bill, informal coalitions can promote the causes of citizen lobbyists.

Following the Bills

A difficulty for amateurs in asking legislators to support or oppose a bill is the modifications that occur as the bill progresses. A longtime legislator said, "My worse moments came when I'd meet someone on the street who said, 'You didn't vote the way you promised on that bill.' I'd say, 'By the time the bill got to a vote, it was a different bill.' But they rarely understood." ALISON, on the legislature's web site enables the public to follow the action very closely through amendments and substitutes. The effort may be time consuming and strenuous. (See the *Appendix* for advice in *Getting Around on ALISON*.) League members and others may follow bills the League supports by going to site www.lwval.org/LWVALAction/ALIssues%202005.html on the LWVAL web site.

Getting into the Back Room

As all legislators made clear, citizens can never know what takes place outside of open meetings (e.g., legislators lobbying each other or lobbyists having a word with the committee chair in his/her office). A good portion of the discussion of bills between committee meetings may, however, be useful dialogue about technical matters and the impact of the bill on "stakeholders" aimed at finding compromises to present to the committee. An example of this occurred in 2004 when League's legislative liaison arranged an invitation to "sit at the table" on the Home Rule bill in an informal meeting in the office of the House Constitution and Elections Chair. Also present were lobbyists for the Alabama County Commission Association and for ALFA. League credentials may have been established earlier in testimony to the Joint Hearings on the new Governor's constitutional reform proposals. League's President emphasized the League's 30-year participation in the constitutional reform effort and explained League's position on Local Government.

Mobilizing Public Pressure

Legislators assert in studies and in interviews that constituent views weigh heavily with them. While phone calls and emails can be burdensome to them, occasionally public pressure works. In the 2005 session the House bills to banning PAC transfers and the Ad Disclosure bill were assigned to a "graveyard" committee. When the chair finally called a meeting, League observers had no doubt about his displeasure

with the public pressure he had endured. In the study interview one senator confirmed that public pressure caused consideration of the bill.

Citizen and Legislator Relationships, or What Kind of Citizen Participation Is Best?

Both legislators and constituents say they want better communication. The major barriers to this communication are time and also some lack of understanding. (Legisbrief 12, #21, 2004 NCSL)

Technology as a partial solution to the time problem was noted in the interviews. According to the surveys, 76% of legislators find their laptop computers useful for communicating with those they represent. (Additional staff for constituent contacts is discussed in *BP: Legislative Support: Research and Staffing*)

Lack of understanding is more complex. In most cases the decisions legislators must make are not clear cases of right or wrong. Their constituents usually do not hold unanimous views. Few votes are easy. In addition to representing their constituents, many recognize a responsibility to consider the common good, the welfare of the state as a whole. In the course of their work, they often have information and understand problems in ways ordinary citizens do not. A good number interviewed commented that their constituents often did not understand the issues they addressed. A larger number complained of the media's tendency to sensationalize legislative events rather than to educate. Grassroots activism and blogs that promote it are on the increase. It is interesting that both houses have a rule that no vote may be taken in a committee in the same meeting as a public hearing.

The choice to be made is somewhere along a continuum defining two different ways of representing—as delegate or as trustee. At one extreme is the *delegate*, who attempts to reflect constituents' wishes and opinions, even if they conflict with her/his own best judgment. At the other end of the continuum is the *trustee*, who considers constituent opinion and interests but gives precedence to the general public interest. Alan Rosenthal and the National Conference of State Legislatures (NCSL) believe the latter model promotes deliberation and consensus building. (Rosenthal, 1998, pp. 8-10; Rosenthal et al., 2001)

The influences on a legislator's decision are “complex, highly interrelated and almost impossible to isolate on any given issue.” Among the many explanations offered in *The Case for Representative Democracy: What Americans Should Know About Their Legislatures* (Rosenthal et al., 2001), which was published by NCSL, these influences are listed as:

- Legislators' core principles and beliefs and their public records
- The merits of the issue
- Constituents
- Organized interest groups and campaign contributions
- Legislative leaders and political parties
- The executive branch
- Legislative committees or trusted colleagues
- Family and personal friends.

An understanding of these influences may prove useful in attempts to interact with one's legislator.