CHAPTER 10: PARTICIPANTS IN THE PROCESS

> What I want is to get done what the people desire to have done, and the question for me is how to find that out exactly.
>
> --Abraham Lincoln, 16th President of the United States

Introduction

The rights of citizens to participate in and observe government deliberations are articulated in Article II, sections 8 and 9, of the Montana Constitution (see Chapter 6).

The Bill of Rights Committee of the 1972 Montana Constitutional Convention provided the following comments on the right to participate:

> In part, it is also a commitment at the level of fundamental law to seek structures, rules and procedures that maximize the access of citizens to the decision-making institutions of state government.[9]

LOBBYISTS, EXECUTIVE BRANCH EMPLOYEES, AND CITIZENS ARE A SIGNIFICANT SOURCE OF INFORMATION FOR LEGISLATORS.

Further comments of the Committee continue to be relevant more than 38 years later.

> It is hoped that this provision will play a role in reversing the dissatisfactions increasingly expressed regarding bureaucratic authority insulated from public scrutiny and participation.[10]

This chapter explains how various "citizens" participate in and know about the deliberations of the Legislature.

Influence and Information

Lobbyists, citizens, and other legislators seek to persuade legislators to sponsor, support, oppose, or modify proposed legislation. This is how legislators learn about ideas for legislation, understand the effects of proposed legislation, identify ways that legislation might be improved, and gauge opinions about proposed legislation. Those who lobby play a substantial role in the legislative process; consequently, they are sometimes referred to as the "Third House".

Lobbyists, Executive Branch employees, and citizens are a significant source of information for legislators. In the following pages, each of these groups is discussed in more detail.

Lobbyists

Lobbyists may be paid by government, nonprofit organizations, and for-profit entities. Lobbyists who receive payments from one or more persons that in total equal or exceed a certain annual threshold* are regulated under statutes and administrative rules. Likewise, entities that make payments to one or more lobbyists (i.e., principals) that exceed the annual threshold are subject to regulation. An overview of the requirements in general terms is presented below. The reader should refer to the statutes and rules for specific requirements.

- ✓ **Licensing.** Lobbyists must be licensed by the Commissioner of Political Practices.
- ✓ **Reporting of expenditures.** Principals must report lobbying expenditures at specified times.
- ✓ **Report to legislators.** The Commissioner of Political Practices is required to make a report available to each legislator monthly during the legislative session. The report must include the names of registered lobbyists, the names of principals represented by the lobbyists, and the subjects of legislation in which each principal is interested. This information is also available to the public.
- ✓ **Reimbursement by legislators.** When a lobbyist invites a legislator to attend a function or offers a legislator a gift, upon request, the lobbyist must supply the legislator with the benefit's true or estimated cost and allow the legislator to reimburse the lobbyist. (These benefits are subject to ethics laws. See Chapter 4 for more information.)
- ✓ **Unprofessional conduct.** Lobbyists and principals may not engage in or authorize unprofessional conduct. Unprofessional conduct includes:
  - violating the lobbying laws;
  - instigating action by a public official for the purpose of obtaining employment;
  - attempting to influence the action of a public official on a measure that is pending or to be proposed by promising financial support or making public unsubstantiated charges of improper conduct on the part of a lobbyist, a principal, or a legislator; or
  - attempting to knowingly misrepresent pertinent facts of an official matter to a public official or knowingly deceive the official in regard to those facts.

Executive Branch Employees

Executive Branch employees may lobby or may simply provide information. State agencies that engage in lobbying are subject to the requirements of Montana's lobbying

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* The annual threshold for calendar years 2007 and 2008 was $2,300 and has not changed. The threshold is adjusted for inflation following each general election. (ARM 44.12.204)

statutes. Provision of information by a state employee at the request of an individual legislator or legislative committee is not an activity subject to these requirements.

State agencies, belonging to the branch of government that implements laws, offer a broad spectrum of valuable information. The Executive Branch is a major repository of statistics. Furthermore, agency staff can explain how programs are operated and can often identify effects of proposed legislation. A legislator who wants information from a state agency may ask a bill drafter, committee research or fiscal analyst, or committee attorney to request the information. Legislators may also contact the agency's director, who will ensure that the appropriate staff person responds to the request.

A substantial amount of information is available on the websites for state agencies.

Citizens

Citizens may lobby, provide information, or observe legislative proceedings in many ways:

- ✓ Citizens may attend committee hearings to observe or may participate in committee hearings by providing testimony. Committee hearings are the primary forum for face-to-face citizen participation in the process of making laws.
- ✓ Citizens may communicate with legislators about potential or proposed legislation in person, by using the Internet, by telephone, or by mail.
- ✓ Citizens may observe daily floor sessions in the gallery.
- ✓ Through TVMT (discussed later), citizens will increasingly have an opportunity to observe floor sessions and committee hearings on television or the Internet.
- ✓ Citizens can read bills and resolutions and monitor their status and obtain comprehensive information about the Legislature by using the Internet or by telephone.
- ✓ Citizens often join organizations whose members have common interests and that are represented by lobbyists.

Legislators may wish to help their constituents understand how they can participate in and observe the Legislature. Resources available to citizens are described in Chapter 13 and Appendix A.

News Media

Registered press representatives have access to all public meetings, including committee meetings, daily floor sessions, and political party caucuses.

A representative of the press may not be prohibited from photographing, televising, or recording a legislative meeting or hearing. Reporters and TV cameras are present during floor sessions and may be present during committee hearings. However, their presence doesn't guarantee coverage. Reporters are most likely to use comments when they are succinct and pertain directly to the bill or topic under discussion.

There are press tables in the chamber of each house and press offices in the Capitol. The Legislative Information Officer keeps current lists of media representatives and organizations statewide that are available to legislators upon request.

■ Seeking News Coverage

Legislators may wish to convey information through a news release or a news conference. A few tips for legislators who desire coverage of an issue are presented below.

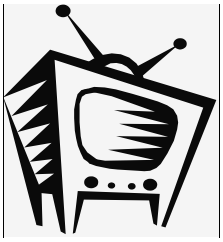
- ✓ Talk with the editor or political reporter of your local newspaper before the session convenes to see if either would like you to provide regular updates on the session.
- ✓ Show the media how the news directly affects people's lives.
- ✓ Include information about "who, what, where, when, how, and why".
- ✓ Learn about media deadlines; timing is important.
- ✓ Present information that is easy to understand.
- ✓ Keep material focused on legislation or how constituents can be involved in the process or a particular issue that will be heard during the session. News releases and guest columns focusing on issues are more likely to be published than are overtly political pieces focusing on only one side of an issue or taking one political party to task.
- ✓ Take initiative; get to know reporters, and contact them to inform them about what you are doing.[11]

■ Getting Interviewed

Legislators will be contacted by reporters who are gathering information for a story. A few tips for legislators who are interviewed by representatives of the press follow.

- ✓ Be candid; answer questions directly.
- ✓ Assume that what you tell a reporter is on the record, unless the reporter agrees beforehand not to identify the source or use the information. Never say anything that you would not want to see in print or on the news.
- ✓ If you believe that a reporter has misrepresented your statements, discuss your concerns with the reporter.[12]

Bringing the Legislature to the Citizen: TVMT



The 2001 Legislature established Television Montana (TVMT), a state public affairs television and Internet broadcasting service. According to statute, the purpose of TVMT is "to provide Montana citizens with increased access to unbiased information about state government deliberations and public policy events through unedited television coverage and other communications technologies". The Legislative Services Division is responsible for administering this program, including executing a contract with a private, nonprofit organization for

production services. The Legislative Council is required to assist the Division in monitoring the contract to ensure that broadcasts conform with the principles of good conduct enumerated in law.

During the session, TVMT will provide gavel-to-gavel daily coverage of the Senate and House floor sessions and several committee meetings. This C-Span style programming will be distributed on closed circuit television within the Capitol and to cable television subscribers in many communities in Montana through HCTV, a local community access station, if sufficient technology and funding are available.

Links to audio and video recordings of legislative committees and proceedings are posted to the legislative website.