

# NOTICE OF OPEN AND CLOSED MEETING

## Wisconsin Ethics Commission

101 E. Wilson Street, Wisconsin Room

**Public Appearances by Teleconference Only: (608) 316-9000, 53081594#**

Madison, Wisconsin

Tuesday, June 16, 2020, 9:00 a.m.

### Open Session Agenda – Updated 11:00 am 6/15/2020

- A. Call to Order
- B. Report of Appropriate Meeting Notice – Administrator
- C. New Commissioner – Scot Ross
- D. Selection of Chair and Vice Chair
- E. Approval of Minutes of Prior Meetings
  - 1. Open Session Minutes for Meeting on February 25, 2020 Page 3
  - 2. Open Session Minutes for Meeting on March 10, 2020 Page 9
  - 3. Open Session Minutes for Meeting on April 20, 2020 Page 11
  - 4. Open Session Minutes for Meeting on May 8, 2020 Page 13
- F. Personal Appearances
- G. Review of 2017 ETH 03 Page 15
- H. Requests for Advice to be Issued by the Commission
  - 1. 2020 RA 05 Contributions to Partisan Elective State Officials by Lobbyists Page 33
  - 2. 2020 RA 10 General Public Exception and Permissible Use of Attendance Criteria Page 61
- I. Administrative Rules Update and Hearing Page 71
- J. Review of Ethics Opinions of Previous Boards Page 111
- K. Reissuance of Lobbyist License During Same Legislative Session Supplemental
- L. Staff Report Page 131
- M. Consideration of Future Agenda Items
- N. Closed Session
  - 1. Requests for Advice
  - 2. Complaints and Investigations
  - 3. Personnel Matters
- O. Adjourn

Future Ethics Commission Meetings Scheduled:

- Tuesday, August 18, 2020 at 9:00 AM
- Tuesday, October 13, 2020 at 9:00 AM
- Tuesday, December 8, 2020 at 9:00 AM
- Tuesday, February 23, 2021 at 9:00 AM
- Tuesday, May 11, 2021 at 9:00 AM
- Tuesday, July 27, 2021 at 9:00 AM
- Tuesday, October 12, 2021 at 9:00 AM
- Tuesday, December 14, 2021 at 9:00 AM

*The Ethics Commission will convene in open session but may move to closed session under WIS. STAT. § 19.85(1)(c), (g), (h), or WIS. STAT. § 19.851. This notice is to inform the public that the Commission intends to convene in open session, but may move to closed session. The Commission plans to return to open session following that closed session, as outlined in the above agenda. WIS. STAT. § 19.85(2).*

WIS. STAT. §§ 19.50 & 19.55(3) No employee of the Commission may disclose information related to an investigation or prosecution under ch. 11, subchapter III of ch. 13, or ch. 19.

WIS. STAT. § 19.85(1) Any meeting of a governmental body, upon motion duly made and carried, may be convened in closed session under one or more of the exemptions provided in this section. The motion shall be carried by a majority vote in such manner that the vote of each member is ascertained and recorded in the minutes. No motion to convene in closed session may be adopted unless the chief presiding officer announces to those present at the meeting at which such motion is made, the nature of the business to be considered at such closed session, and the specific exemption or exemptions under this subsection by which such closed session is claimed to be authorized. Such announcement shall become part of the record of the meeting. No business may be taken up at any closed session except that which relates to matters contained in the chief presiding officer's announcement of the closed session. A closed session may be held for any of the following purposes:

- (c) Considering employment, promotion, compensation or performance evaluation data of any public employee over which the governmental body has jurisdiction or exercises responsibility.
- (g) Conferring with legal counsel for the governmental body who is rendering oral or written advice concerning strategy to be adopted by the body with respect to litigation in which it is or is likely to become involved.
- (h) Consideration of requests for confidential written advice from the elections commission under s. 5.05 (6a) or the ethics commission under s. 19.46 (2), or from any county or municipal ethics board under s. 19.59 (5).

WIS. STAT. § 19.851(2) The commission shall hold each meeting of the commission for the purpose of deliberating concerning an investigation of any violation of the law under the jurisdiction of the commission in closed session under this section.



# Wisconsin Ethics Commission

Campaign Finance | Lobbying | Ethics  
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**DATE:** For the Commission Meeting on June 16, 2020

**TO:** Members, Wisconsin Ethics Commission

**FROM:** Caroline M. Russell, Ethics Specialist

**SUBJECT:** Reissuance of Lobbyist License During Same Legislative Session

## FOR COMMISSION ACTION

For this agenda item, the Commission may:

1. Authorize staff to use the Eye on Lobbying lobbyist application process to issue a lobbying license to a lobbyist that has surrendered his or her license during that legislative session; or
2. Take some other action as determined by today's discussion.

## Introduction

While the statutes are silent about “surrendering” a lobbyist license, the Eye on Lobbying (<https://lobbying.wi.gov>) website allows a lobbyist to “surrender” his/her license. In practice, a lobbyist will surrender their license when they no longer wish to engage in lobbying. To surrender, the lobbyist must complete all reporting requirements and certify that they will not engage in lobbying for the remainder of the session.

Lobbyists who have surrendered their license may request to have a lobbying license again during the period between the date that they surrendered their license and the end of that legislative session. Predecessor agencies have adopted internal policies to address this issue, but the Ethics Commission has not. The Eye on Lobbying website does not allow a person to submit a subsequent lobbying license application during the same legislative session. Staff would like guidance from the Commission regarding how to address issuing another lobbyist license to an individual.

## Past Practice

The Commission's predecessor agency, the Government Accountability Board (“GAB”), adopted internal policies to address the surrendering and reinstatement of a lobbyist license, that seem to stem from the principal cessation process. A GAB audit memo concerning prohibited lobbyist contributions in 2012 discusses agency practices for surrendering a lobbyist license in the case of two specific audit results. The memo states that “board staff has required lobbyists who wish to make campaign contributions to surrender their license formally using the GAB-809 form.” The memo then explains that “...the requirement to use form GAB-809 to formally surrender their license is a staff policy, and not codified in statutes or administrative rules.”

*Wisconsin Ethics Commissioners*

Paul Connell | Mac Davis | David R. Halbrooks | Scot Ross | Pat Strachota | Timothy Van Akkeren

*Administrator*

Daniel A. Carlton, Jr.

Supplemental 1

While staff could not locate a blank form GAB 809, we did find form GAB 806 (Attachment A). The form contains language to certify that all reporting obligations have been met, and the lobbyist will not engage in lobbying activity for the remainder of the legislative session. Copies of filed forms GAB 809 confirmed that the language was identical. This language appears verbatim in the current Eye on Lobbying site when a lobbyist surrenders their license (Attachment B). Additionally, staff located a document titled “Lobbyist License Reinstatement Form” (Attachment C). It is unclear whether any lobbyist actually used this form to “reinstate” their license.

The GAB launched the Eye on Lobbying Site in 2012. At that time, the internal staff policy to allow lobbyists to surrender their licenses was included in the development. When the Commission was created, the Eye on Lobbying site was inherited as is. Therefore, the practice of allowing lobbyists to surrender their licenses has continued. The issue with the system, however, is that it will not allow a person who was a licensed lobbyist and surrendered his/her license to submit a new application. However, staff can go into the system and essentially “reactivate” a lobbyist license. This process would include the normal background checks and require payment of fees via check. The question presented is whether the Commission would authorize staff to do this as a workaround for the system deficiencies.

### Relevant Statutes

The licensing process for lobbyists is established in [WIS. STAT. § 13.63](#). That statute states:

#### **13.63 Licenses for lobbyists; suspension or revocation.**

##### **(1) LICENSES.**

**(a)** An applicant for a license to act as a lobbyist may obtain an application from and file the application with the commission. Except as authorized under par. [\(am\)](#), an applicant shall include his or her social security number on the application. The applicant shall, under the penalty for making false statements under s. [13.69 \(6m\)](#), sign the application. The applicant shall submit with the application the applicable fee under s. [13.75 \(1g\) \(a\)](#) or [\(am\)](#). Upon approval of the application by the commission, the commission shall issue a license to the applicant. A license issued under this paragraph entitles the licensee to practice lobbying on behalf of each registered principal for whom or which an authorization for that lobbyist, as required under s. [13.65](#), has been filed and for whom or which the authorization fee under s. [13.75 \(1g\) \(d\)](#) has been paid. A license issued under this paragraph shall expire on December 31 of each even-numbered year.

**(am)** If an individual who applies for a license under this section does not have a social security number, the individual, as a condition of obtaining that license, shall submit a statement made or subscribed under oath or affirmation to the commission that the individual does not have a social security number. The form of the statement shall be prescribed by the department of children and families. A license issued in reliance upon a false statement submitted under this paragraph is invalid.

**(b)** Except as provided under par. [\(am\)](#), the commission shall not issue a license to an applicant who does not provide his or her social security number. The commission shall not

issue a license to an applicant or shall revoke any license issued to a lobbyist if the department of revenue certifies to the commission that the applicant or lobbyist is liable for delinquent taxes under s. [73.0301](#) or if the department of workforce development certifies to the commission that the applicant or lobbyist is liable for delinquent unemployment insurance contributions under s. [108.227](#). The commission shall refuse to issue a license or shall suspend any existing license for failure of an applicant or licensee to pay court-ordered payments of child or family support, maintenance, birth expenses, medical expenses or other expenses related to the support of a child or former spouse or failure of an applicant or licensee to comply, after appropriate notice, with a subpoena or warrant issued by the department of children and families or a county child support agency under s. [59.53 \(5\)](#) and related to paternity or child support proceedings, as provided in a memorandum of understanding entered into under s. [49.857](#). No application may be disapproved by the commission except an application for a license by a person who is ineligible for licensure under this subsection or s. [13.69 \(4\)](#) or an application by a lobbyist whose license has been revoked under this subsection or s. [13.69 \(7\)](#) and only for the period of such ineligibility or revocation.

(c) Denial of a license on the basis of a certification by the department of revenue or the department of workforce development may be reviewed under s. [73.0301](#) or [108.227](#), whichever is applicable. Except with respect to a license that is denied or suspended pursuant to a memorandum of understanding entered into under s. [49.857](#), denial or suspension of any other license may be reviewed under ch. [227](#).

**(2) REVOCATION OF LOBBYING PRIVILEGES.** No lobbyist whose license has been revoked under s. [13.69 \(7\)](#) may engage in lobbying as a lobbyist for any principal until such person has been reinstated to the practice of lobbying and duly licensed.

[WIS. STAT. § 13.63\(1\)\(b\)](#) provides that “No application may be disapproved by the commission except an application for a license by a person who is ineligible for licensure under this subsection or s. [13.69\(4\)](#) or an application by a lobbyist whose license has been revoked under this subsection or s. [13.69\(7\)](#) and only for the period of such ineligibility.” The conditions for denial of the license are limited to an applicant that is: delinquent on taxes; delinquent on unemployment insurance contributions; failure to pay court-ordered child or family support, maintenance, birth expenses, medical expenses or other expenses related to the support of a child or former spouse; failure to comply with a subpoena or warrant issued by the Department of Children and Families or a county child support agency related to paternity or child support proceedings; or suspension or revocation for a violation of the lobbying laws. If none of those conditions is present, the Commission must issue a lobbying license.

Nothing in the statute addresses when a lobbyist can apply for a license. There is no deadline to apply. Licenses are issued at any time during a legislative session.<sup>1</sup> The statute does not limit a lobbyist to having only one license during a legislative session.

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<sup>1</sup> Notwithstanding that lobbyists lobby executive branch agencies, the Legislature tied lobbyist licenses to two-year periods that correspond with the biennial session of the Legislature.

## Commission Action

Because the current website does not allow staff to accept a subsequent application for a lobbyist license during the same legislative session, staff requests authority to use existing processes in the computer system to issue a second lobbying license to a lobbyist within a legislative session.

### Attachments:

- A. Form GAB-806, 2009-2010 Legislative Session
- B. Screenshot of Lobbyist License Surrender in Eye on Lobbying
- C. Lobbyist License Reinstatement Form



### Lobbying Surrender Status

Upon receipt of this form and the filing of withdrawals of authorization by all organizations on whose behalf you are currently authorized to lobby, the Wisconsin Ethics Commission will terminate your listing as a licensed lobbyist. File this form if you are terminating all lobbying activity on behalf of all organizations for the remainder of the 2019-2020 legislative session and you will not, prior to January 1, 2021, be preparing to influence state legislation or administrative rules.

File this form if you are terminating all lobbying activity on behalf of all organizations for the remainder of the 2019-2020 legislative session and you will not, prior to January 1, 2021, be preparing to influence state legislation or administrative rules.

Please choose one of the following: \*

- I have furnished each organization for which I have been authorized to lobby a time report for the current reporting period.
- I have not engaged in lobbying activity during the current reporting period.

### Lobbyist Certification

I certify that I am no longer authorized to lobby on behalf of any organization, that I have ceased all lobbying activities on behalf of all organizations, and that I will neither attempt to influence state legislation or administrative rules during the remainder of the 2019-2020 legislative session nor, prior to January 1, 2021, prepare to influence state legislation or administrative rules.

Lobbyist Name

State of Wisconsin Ethics Board  
44 East Mifflin Street, Suite 601  
Madison, Wisconsin 53703

DATE

I \_\_\_\_\_, certify the statement below to be true and accurate.

I wish to withdraw my request to surrender my lobbying license for the 2005-2006 legislative session. I certify that from the date that I submitted the form surrendering my lobbying license to date, I have not engaged in any activities that would be in violation of Subchapter III, Chapter 13 of the Wisconsin Statutes (lobbying law) had I held a lobbying license during that time.

Sincerely,