

Finding a Middle Ground – Legislative Compromise Can Be a Hard Sell

One thing that nearly all legislative work has in common is compromise. Without compromise, the work of legislating would almost always grind to a halt from the friction of opposing viewpoints. But compromise can be difficult to achieve.

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The 2025-26 Wisconsin legislative session is quickly approaching its conclusion. The last few months and weeks of the session are when most of the legislative work culminates. Legislation thought to be dead can be quickly resurrected, and bills expected to pass can fail without warning. Hundreds of bills pass in just a few days, some with substantial debate and others with little to none. It is an overwhelming and complicated process that lacks a good analogy to provide a common, everyday explanation. One thing that nearly all legislative work has in common, however, is compromise. Without compromise, the work of legislating would almost always grind to a halt from the friction of opposing viewpoints.

Wisconsin is statistically one of the most purple states in the nation. The last three presidential elections have been decided by less than one percentage point. Wisconsin is also rare in that it is one of only a few states that presently have a divided state government, with a Democratic governor and Republican majorities in the Senate and the Assembly. Divided government is a trend that may continue into the 2027-28 session, as redistricting has led to more competitive elections in numerous legislative districts. And with the announcement that Governor Tony Evers won't run for reelection in 2026, resulting in a wide-open race for the executive branch, all Wisconsin residents will likely be inundated with campaign literature and advertisements over the next seven months.

No matter the election results in November, the consensus is that whoever controls the executive branch will be dealing with very narrow legislative majorities for either party. There is

also the possibility of split houses, meaning one party controls one chamber and the other party controls the other house, something that hasn't happened in Wisconsin for a full legislative session since the 2007-08 session. With smaller majorities possible in the 2027-28 session, more bipartisanship and compromise will likely be needed to successfully pass legislation.

Compromise Isn't Always the Easiest Path

As the United States celebrates the 250th anniversary of the Declaration of Independence this July 4, it's worth remembering that much of what will be celebrated about the United States' form of government and Bill of Rights came about through compromise. The Constitutional

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Convention was an exercise in compromise, debate, and give-and-take. Democracy at its very core is about reconciling diverse thoughts and opinions. That task has only escalated over the past decade, with the advent of social media and the instant information age amplifying new voices and ideas. Compromise gives each side something that they want and likely something they did not want.

Earlier this legislative session, compromise was at the forefront of the biennial budget deal between the governor and legislative leaders. Wisconsin is unique in that it does not have government shutdowns if an agreement is not reached by the end of the fiscal year (June 30). The state simply continues to operate using the prior budget. While a continuing appropriation can work for a while, it also creates issues about how schools or local municipalities will set their budgets and how state employees, such as assistant district attorneys and public defenders, will receive the raises they need. The budget agreement was necessary to avoid a prolonged process for deciding what comes next and the possible consequences of being unable to do anything.

How the State Bar Works to Build Consensus

The State Bar of Wisconsin has a unique role and opportunity to advocate for the policies of the State Bar’s Board of Governors and those section boards that choose to engage in the lobbying program. As a professional association, the State Bar has a distinct membership that spans the entire state and beyond and reflects all constituencies.

This session, a legislative effort to adjust and increase court fees (Assembly Bill 320) was introduced. The proposal as drafted was designed to take every statutory court fee, apply a formula based on when it was first adopted, and adjust the fee to current dollars using inflation from the time of implementation to today. Based on the proposal,

some fees saw an increase of over 300%. Additional language in the bill would then continue to adjust fees to inflation every five years. The State Bar’s Board of Governors opposed the effort and representatives testified at a public hearing against the proposal.

At the conclusion of the hearing, several legislators and other advocates reached out to the State Bar to discuss the legislation and possible paths forward. Proponents of the bill continued to highlight that a vast majority of court fees have not been adjusted since the 1980s, while court services and funding needs have only increased. However, the original drafted bill didn’t directly appropriate the increased fees back to the court system, which, at a bare minimum, was a nonstarter for the State Bar.

As with any negotiated issue, as lobbyists, we start running through the political calculations of the pros and cons of each strategy and its possible outcomes. These are hard choices, as the risk of watching something pass without providing any alternative wouldn’t be the best result. It was equally difficult to know that increased court fees would negatively impact clients, especially indigent clients who need access to the justice system. Running through all the different scenarios and doing as much work as possible to contact and communicate with all the various stakeholders, it was determined to start with a conversation with the bill sponsors and share possible middle-ground solutions. At the very least, having a meeting to lay all the issues on the table was fair to all participants.

The core of the State Bar’s position on AB 320 was to work to lessen the largest increases to a more manageable level, reduce the impact of the compounding nature of fees and surcharges, remove any indexing for future increases, increase awareness and publication of fee waivers for some litigants, and, most importantly, require any fee increases to exclusively fund court operations. After months of back-and-forth meetings, a final

compromise was reached that aligned with the State Bar’s core positions and principles, and the State Bar took a neutral position on passage of the bill.

The bill has passed both legislative houses and is now on its way to the governor’s desk, and it is expected he will sign it into law. There will be more work to be done in the coming months, no matter the bill’s outcome. Work on funding civil legal needs and on educating legislators about the value of adequately funding the justice system during the next budget cycle will continue.

Conclusion

As the 2025-26 legislative session comes to a close and the bill moves forward, it’s important to acknowledge that while this wasn’t a win, the compromise was a much better result than the alternative. More importantly, efforts like these will help the State Bar have more opportunities to sit at the table and lead when issues like these arise in the future. It is crucial that those in the Capitol know that the State Bar is a willing and able leader in the law and an advocate for justice. **WL**



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