

Alabama. Some legislators reported they regularly dine in groups that include members of both parties. One specifically stated that he did not want the legislature to become as polarized as the U.S. Congress is now.

Alan Rosenthal, who has devoted his life to the study of state legislatures, addresses the question of attitude. He suggests legislators and the public accept the following as essentials of modern representative democracy. (Rosenthal, 1998, p. 343)

1. The public is divided; thus public opinion is divided.
2. Public officials, reflecting the public and their opinions, are also divided.
3. Ordinary people are represented by groups and also by legislators, who do their best to be responsive to their constituencies.
4. Debate is good, allowing as it does opposing sides to be heard.
5. Compromise is essential if consensus is to be built and progress is to be made.
6. Competition and conflict are normal and healthy.
7. People cannot get everything they want.
8. Working through to a settlement takes time.
9. Although settlements are reached, closure is rare; the process continues.
10. Through it all, tolerance helps.

VII. LOBBYING AND INTEREST GROUPS

The primary complaint of citizens about the Alabama Legislature is that it listens to “special interests,” and the lobbyists who represent them, and not to the people. Alabamians are not alone in this conviction, as studies make clear. Scholarly accounts of interest groups, however, offer a somewhat broader definition of interest groups and their activities.

Interest group operations in Alabama fit the main outlines of such groups everywhere, operations that are difficult for citizen groups to change. Information gathered from interviews with legislators, lobbyists, and informed observers can define the particular features of the lobbying landscape in Alabama. Alabama practices can be examined in the context of practices in other states. (Except as noted, page citations and the facts and quotations in this discussion come from Thomas and Hrebenar, 2004, pp.100-128. See *Selected References*.)

Interest Group

“An interest group is an association of individuals or organizations or a public or private institution that on the basis of one or more shared concerns attempts to influence public policy in its favor. . . . Together with political parties, interest groups are a major means by which people with similar interests and concerns are brought together and . . . their views articulated to government. Interest groups act as major intermediaries between citizens and the government by representing the views of their members to public officials, particularly between elections.” (p.102)

Interest groups are major sources of technical and political information for policy makers. They may educate their members and the public on issues. They also may engage in candidate recruitment. Increasingly, groups help finance political campaigns, both candidate elections and ballot initiatives, often through political action committees or PACS. (pp. 105-107)

It is worth noting that most interest groups initially were formed for non-political purposes. For example, groups with a common economic or social interest may have formed for such purposes as publishing a journal or securing cut-rate insurance for their members. Over the last 30 years groups have become increasingly active politically in order to promote or protect their interests. (p. 106)

Interest groups operate in the public policy-making process by lobbying.

Lobbying

Any effort undertaken by a group or individual to contact public officials with the purpose of influencing their public policy decisions. (p. 103)

Categories of Lobbyists

Most groups employ one or more individuals to lobby for them. Not all lobbyists, however, are representatives of the interest groups. Thomas and Hrebener (pp. 113-115) describe five categories of lobbyists they believe to be common to all states. The Alabama interest groups cited serve as illustrations.

Contract lobbyists, often called “hired guns,” receive the most attention, even though in most states they constitute only about ¼ of the lobbying community. The interests they represent tend to spend the most money and have the most political clout. Usually technical knowledge is not their greatest asset. They are political insiders who are hired primarily for their knowledge of the system and their close contact with public officials. They usually possess special and sophisticated knowledge of certain parts of government, such as the budgetary process. This knowledge enhances their ability to assist in policy making. Equally important is the trust they must build and maintain. They organize fundraisers and other election help. The activity of contract lobbyists in Alabama that attracts the most attention is

their management of many PACs through which campaign contributions pass.

In-house lobbyists, often referred to as “association lobbyists,” may be the executive directors, presidents, and employees of a host of organizations and businesses. They represent their employee or organization. These were the first lobbyists to appear, representing railroads and powerful businesses in the nineteenth century. They probably have always constituted the largest segment of capitol lobbyists. Their major asset is usually their unequaled knowledge of their particular interest. This knowledge is often supplemented by campaign contributions from their association and by their ability to mobilize their membership. Education lobbies, as experts point out, have the advantage of influential members in every local community. (Rosenthal, 1998, pp.208-209)

In Alabama very strong in-house lobbyists may define the interests of their principals broadly. Two examples cited in interviews are Paul Hubbert of the Alabama Educational Association (AEA), whose range of interests is described as increasingly broad, and the president of the Alabama Farmers Association (ALFA), who announced that he would limit its lobbying scope to fewer issues than his predecessor addressed. Included among these “association lobbyists” are the Alabama League of Municipalities, the Alabama Association of County Commissioners, and the Alabama State Employees Association.

Government lobbyists, sometimes called “legislative liaisons,” are employees of state, local and federal agencies who, as part of their jobs, represent their agency to the legislative or executive branch. They may be agency heads, senior staff, or officials, elected or appointed. In states that allow hired lobbyists for government departments, they are often recruited from the ranks of former bureaucrats. They, too, represent only one interest. They have one important tool—information about

government operations. Sometimes they can also mobilize constituent groups (e.g., agency clients) for additional clout.

Citizen, cause or volunteer lobbyists represent citizen and community organizations or informal groups, often on an unpaid and ad hoc basis. Although they rarely represent more than one interest at a time, coalitions may form. These lobbyists usually rely on moral persuasion, often coupled with the mobilization of their membership. They may provide information not available elsewhere, but they usually lack the status of political insiders, access to big campaign contributions, and sophisticated public relations organizations. This category contains the highest proportion of women lobbyists, perhaps as high as 75%.

Alabama ARISE, A+, Voices for Alabama Children, the ADEM Reform Commission, League of Women Voters, and Alabama River Alliance would fall into the volunteer lobbyist category. These groups may register one or more lobbyists to maintain a stronger presence in Montgomery. Staff members may serve as registered lobbyists in addition to performing their regular duties.

Private individual, “hobbyist” or self-styled lobbyists act on their own behalf and are not designated by any organization as an official representative. They usually lobby for pet projects or direct personal benefits, or against some policy or proposal that they find particularly objectionable. These lobbyists usually have the fewest resources.

Recent Trends in Lobbying

Modern lobbyists use a broad range of tactics, especially indirect ones, such as mobilizing public opinion to influence the climate in which legislators make their decisions. Direct contact based on carefully cultivated long-term relationships (insider lobbying) will never be replaced. Hospitality looms large in such relationships in Alabama,

but experts state that the “image of the cigar-chomping good ol’ boy lobbyist plying his clients with women, food and liquor is no longer realistic.” (Thomas and Hrebrenar, 2004, pp. 110-113)

To what degree do interest groups and lobbyists dominate the legislature?

In a classification of the overall impact of interest groups in 2002 by Thomas and Hrebner, Alabama is one of only five states in the *Dominant* category, “those states in which groups as a whole are the overwhelming and consistent influence on policy making.” Thus Alabama varies from the national pattern in the degree to which its legislature is judged to be dominated by interest groups.

Most states, 26, were classified Dominant/Complementary; 16 were Complementary; and three were Complementary/Subordinate. In none were interest groups completely subordinate. In states labeled Complementary, “Groups tend to work in conjunction with or are constrained by other aspects of the political system. Most often this is the party system; but it could be a strong executive branch, competition between groups, or the political culture, or a combination of all of these.” (pp. 121-122) Most interview subjects, including legislators from both houses, named the decline of the power of lobbyists as the first benefit to be expected from stronger parties and caucuses in the legislature.

In interviews, an overview question about the legislature’s ability to work for the good of the state produced a significant number of references to the excessive power of interest groups and their lobbyists. Even a lobbyist said, “There is too much influence by lobbyists.” The dependence of legislators on lobbyists for information on public policy decisions is discussed in *Legislative Support: Research and Staffing* and in *Parties and Caucuses*. Comments from the interviews that shed light on the level and forms of interest group dominance are the following from House

members: “Their influence is strongest at the committee level.” “The Senate is more carefully worked because there are fewer members; the effort in the House is directed to the committee chairs.” From senators: “Even though Rules Committee meetings are open, no one can know what has passed between the chair and the lobbyists before the meeting.” “Lobbyists control the Rules Committee and can set the calendar for the day.” In discussing committee assignments, one veteran legislator said, “And of course, special interests will want representation on certain committees by certain [members].”

REGULATION OF LOBBYISTS

Regulations for lobbyists, for their registration and for gift restrictions, are administered by the Ethics Commission under the Ethics Law. (Alabama Code, Title 36, Section 25) The following information is available on the Commission’s web site: www.ethics.alalinc.net

- Guidelines for Lobbyists, including who must register.
- Registration forms for lobbyists and the statement of their Principals
- Lobbyists’ and Principals’ Quarterly Reports
- Lists of Registered Lobbyists with their Principals (under News)

Campaign contributions and expenditures by candidates, including PAC contributions are regulated by the Fair Campaign Practices Act. (Alabama Code, Title 17, section 22A) These are reported to and published by the Elections Division in the Office of the Secretary of State. (www.sos.state.al.us, under Campaign Finance)

An objective source for comparing Alabama’s regulations with those of other states is the Center for Public Integrity. (www.public-i.org)

Disclosures by Legislators

Legislators and candidates are required to disclose their financial interests. The requirement also applies to any “public official” or “public employee,” if that person’s base salary is over \$50,000 and if that person spends public funds. In the Statement of Economic Interests, filers must list, albeit in general categories, their sources of income, partnerships, loans, and other financial interests. The Alabama Ethics Act is widely considered one of the strongest in the nation in this regard.

The Guidelines for filings appear under *Forms* on the Ethics Commission site at www.ethics.alalinc.net/form_master.cfm?Action=ecint

Lobbyists and the Legislative Process: Rules of the House and Senate

No lobbyist is allowed on the floor of either house while it is in session. Former members of the legislature may not be extended floor privileges for lobbying purposes. Lobbyists cannot circulate cloture petitions. Committees are to be diligent to ascertain whether those who appear before them in other than an obviously individual capacity have conformed to requirements for lobbying, like registration. Former members must wait two years before lobbying their house, but may lobby the other house. (Ethics Commission decision AO12, 2003) Lobbyists are expected to be honest and factual. The right to lobby is based on interpretations of the First Amendment and a similar provision in the Alabama Constitution. Lobbyists seeking interpretation of lobbying rules consult the Rules Committee. (*Legislative Process*, 187-194, Joint Rules 26-31)

Gift Restriction

All states agree that giving and receiving gifts are prohibited if they influence official action. Alabama restrictions rely on a

combination of Disclosure Laws and a Bright Line Test.

Methods of Restricting Gifts

(NCSL [Legibrief](#), June/July 2002)

Zero tolerance: No gifts allowed, which removes any ambiguity. Some states exempt food and beverages to enable a legislator to eat with a group he/she is addressing.

Bright Line Test: Used by almost one-half the states; specifies monetary limit for gifts, ranging from \$3 a day in Iowa to \$500 a day in Texas.

Disclosure Laws: Lobbyists can give almost anything of value so long as it is reported. One-third of the states place no restrictions but prohibit gifts “if they influence a legislator’s official action.”

A lobbyist may spend \$249 per day for each legislator and her/his family without reporting the expenditure. Any larger amount must be reported as a gift on the lobbyist’s and principal’s quarterly report with the name of the recipient, date, and itemized expenditures included. Although gifts, usually in the form of trips for the legislator or family members, are reported, the vast majority of the quarterly reports filed merely show a check in the box saying that they have spent no more than the amount permitted without disclosure. These quarterly reports are not published on the internet with other lobbying information. There are no cumulative yearly reports. At present the Ethics Commission staff is unable to monitor these reports. The quarterly reports are, however, public record and may be examined on request at the Ethics Commission.

A reform proposal offered in interviews by both legislators and lobbyists is to lower the threshold for disclosure from \$249 per day per legislator. Legislators often commented, “No one spent that much on me.” The lower amount most often suggested \$100. This amount might require the reporting of dinner for a legislator and family. While no survey

question was asked about lobbying regulations, the question about the reporting threshold was asked in some interviews. In this sample, most favored the change. One legislator doubted the wisdom of requiring extra reporting effort when behavior is unlikely to be changed. A lobbyist said that lobbyists would vote for it, if their votes could be kept secret. Proponents suggested that the lower reporting threshold could lead to more careful spending by lobbyists and to a reduction in what some legislators expect to receive. According to the National Council of State Legislatures, the trend among other states is to lower the reporting threshold. (NCSL, [Legisbrief](#), 2002).

Lobbyist Registration

Lobbyists now must register by January 31 of each year and pay a fee of \$100, which is returned to the General Fund. In broad terms, those who are paid to lobby must register. The Alabama Ethics Commission on its web site offers explanations of who must register and how to register. Registration forms for lobbyists and their principals are accessible at www.ethics.alalinc.net. The Center for Public Integrity approves this publication. The advantages of e-commerce, which would allow electronic filing and paying of fees, are not available at the Ethics Commission, a fact noted by the Center for Public Integrity.

Lobbyists are required to list their clients. The listing of specific areas for their activities is general, for example, health or education. Other states require more detail. If new clients are acquired after January 31, lobbyists have ten days to report the new clients. Depending on an interest group’s assessment of its likely success, that group may hire a new lobbyist who begins work immediately.

Because the Ethics Commission works with a reduced staff due to budget cuts and does not use electronic filing, it may take as long as two weeks for the new registrations to be compiled and published on the Internet. In

interviews some suggested reducing the ten-day limit to two or three days. Some legislators, however, believe the knowledge of a new lobbying contract circulates informally in a timely manner.

Comments on Interest Groups and Lobbyists in the Alabama Legislature

Those interviewed strongly agreed that the most important power of lobbyists is their ability to influence election or re-election. Recruiting and funding candidates to run against legislators who displease them was cited more than once as a lobbying tool used by some lobbyists to sway a vote on a bill. Lobbyists, especially those working for powerful associations, can contribute not only money, but also campaign workers. Contract lobbyists, according to one legislator, reserve 20% of their funds for campaign contributions.

The increasing dominance of contract lobbyists was cited several times as a change that hinders the ability of the legislature to work for the good of the state. One knowledgeable observer noted: "Discussion at the desks and around the chamber often is not on the merits or content of the legislation but identification of the bill as ____'s bill. Once the identification is made with the contract lobbyists, much of the debate and discussion one would hope for stops."

PAC-to-PAC Transfers

A specific reform often mentioned in general evaluations of the legislature and the one most strongly recommended by almost everyone interviewed on the subject of lobbyists was a ban on PAC-to-PAC transfers. Although Alabama may not be entirely alone in allowing these transfers, a conversation with the Center for Public Integrity confirmed that such a system is rare, and enough of a concern for the Center to have informed itself about attempts in Alabama to impose the ban. While

many PACs merely aggregate contributions from their constituent groups, others may be used to obscure the exact source of a contribution. Some lobbyists control multiple PACs, often with names that do not identify their purposes or their sources. Under the current system, it is possible for the candidate to be told the source of the contribution, while the public does not have that information to use in voting decisions.

On lobbyists as sources of information for policy-making, see *Legislative Support*.

On citizen lobbying and public advocacy, see *Citizen Access*.

VIII. CITIZEN ACCESS TO THE LEGISLATURE

Citizen, as used in this publication, refers to individuals who contact their legislators, including public interest groups like the League of Women Voters, as opposed to government lobbyists, contract lobbyists, and in-house or association lobbyists. (See section on *Interest Groups and Lobbyists*.) The League of Women Voters of Alabama legislative study gathered information on this topic through interview questions about *transparency*, chiefly in the context of the committee system. In addition, the information on citizen access in Alabama presented here draws on League experience, supplemented by consultation with members of other public interest groups, and by examination of public web sites, including that of the Legislature.

Most legislators appeared committed to the principle of openness. But they always noted that legislators are careful about taking public stands on difficult issues. Asked whether more transparency is needed and how to secure it, most legislators mentioned the Open Meeting Law passed in the 2005 session as a step forward.