



Wisconsin State Capitol
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State Engineering
Association
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STATE ENGINEERING ASSOCIATION DAY

Open, efficient government.

Ethical campaigning.

Good-faith bargaining.

Sensible civil service rules.

Those are the issues that matter most to the more than 1,100 men and women who work for the State of Wisconsin and are represented by the State Engineering Association. We submit that they are the issues that should also matter most to our state elected officials, state managers, voters, news media and opinion leaders.

SEA members are proud of our professions and of our work. We care about doing a great job. But we're also taxpayers and residents. We want state government that works for citizens, and does the right thing. Read this special issue of the SEA newsletter as we share our concerns and suggestions.

Special Newsletter

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HOW TO USE THIS NEWSLETTER

SEA members: Use this newsletter as a source of information to educate the public, to motivate your discussions with elected officials, and to inspire further participation and action.

News media: Feel free to quote from this newsletter and to use it as background in your reporting.

Legislators and other state officials: Please look at the issues we've summarized in this newsletter and review the questions we've developed. Bear them in mind as you make critical decisions on policies addressing our state's many needs.

For more details on the issues discussed in this newsletter, as well as other talking points, stop by Room 411 South in the Capitol on SEA Day. Handouts and face-to-face help will be available.

An introduction

Dear SEA members, legislators, citizens:

The State Engineering Association (SEA) is pleased to bring you this special newsletter, discussing the critical issues facing our association, state government and the citizens of Wisconsin.

SEA members annually visit the Capitol as a group on State Engineering Association Day to talk with legislators. All of us have an interest in making government work better.

This newsletter goes out to all SEA members, state legislators, other public officials, and news media. We have no secret agenda. SEA believes the best government is open and widely participatory government.

SEA members remain very concerned by evidence that the state continues to wastefully outsource work that could be done more efficiently by its employees. And we remain disappointed that the state once again continues to engage us at a snail's pace to reach a new collective bargaining agreement.

Last time, SEA endured years of slow motion meetings before the state mustered a reasonable compensation package – so slow, two contract periods had expired. The contracts were barely signed before we were again faced with the arduous task of dealing with negotiators who open and prolong talks saying they just can't offer us much of anything. This approach is, simply, unfair.

Besides taking employee contracts more seriously, SEA believes the state should strive hard to treat its employees fairly in the workplace. Equitable compensation is essential if we are to retain superior professionals and maintain morale in the workplace. So is equitable treatment based on tenure and professional ability.

All of us must ensure that the state follows its own rules and does the right thing. In particular, the process of contracting and running state programs in general must be done as openly as possible, so that taxpayers can better measure government effectiveness.

Respectfully,

The State Engineering Association Board

Tom Mugan, Leroy Stublaski, Gretchen Wheat, Duane Hubeler, John S. Bolka, Khader Abu Al-eis, Thomas Peronto, Dawn Marshall, Tony Allard, Jeremy Tomesh, Mohamad M. Hayek, John Lund, Brian Mattson, Sandy Anderson, Larry Legro, Bob Schaefer

MORE ON SEA CONCERNS

1. Contracting out

Studies consistently show that contracting out engineering work costs taxpayers more than having state employees do the work. In 2004, a DOT study confirmed taxpayers pay 18% more when such work is contracted out. SEA supports thorough cost benefit analysis via Act 89 and other ways to ensure work is assigned to provide the best value for taxpayers.

2. Reorganization / downsizing

State employees are often first to feel the brunt of state budget cuts. Agency reorganization and down-sizing especially cause concern. SEA has raised this issue in bargaining and to state agencies, legislators and the governor.

3. Labor agreements

SEA bargains for its members in a positive, professional manner. We expect the state to do likewise, operating in good faith and proceeding on a timely basis.

4. Wages , expenses , benefits

SEA member salaries have fallen below wage data averages available from the government and private surveys of the employment market. This trend penalizes career state employees and worsens hiring and retention problems. State agencies increasingly rely on special funds to help lure new workers, creating compensation inequities and further pressure on veteran staff. We support the creation of a progressively salaried, technical career ladder.

- Mileage reimbursement / travel expenses: Use of state versus personal autos has been a SEA issue for years. The state obliges some employees to drive their own cars while receiving far less mileage reimbursement than needed to cover costs.

- Sick pay conversion: SEA has no formal opinion on benefits for elected officials; we do recognize the need to attract competent, dedicated state employees, but benefits must be properly disclosed.

5. Retirement

SEA will continue to be a watchdog of the Wisconsin Retirement System. We endorse stable WRS benefits for past, present and future members. SEA also will work with other organizations to improve benefits, ensure adequate staffing, and promote the integrity of the fund.

Collective bargaining is broken *State public employees deserve better*

If state legislators go away from SEA Day with but one idea, here it is: Collective bargaining for Wisconsin public employees no longer works as once intended. The system is all but broken, after being left to wither.

Good-faith bargaining is the formal legal duty to approach negotiations with a sincere willingness to work out differences, meeting at reasonable times and sharing relevant information. Good faith is especially vital in the public sector because public employees generally are prohibited from going on strike and so have less leverage than represented workers in the private sector.

From the President

The good-faith standard doesn't require that either party make a particular concession or agree to every proposal, but it does require real cooperation and not just mere posturing. When one side (in this case, the State of Wisconsin) slaps offers onto the bargaining table with what amounts to a take-it-or-leave-it ultimatum, that's not just bad-faith bargaining, it's not really even bargaining at all. Which is to say: It all but amounts to an unfair labor practice.

Once upon a time, the good will between the State of Wisconsin and its represented employees was sufficient to ensure that employees did not have to worry about seemingly endless talks and years of stagnant compensation. Both sides worked hard to reach an accord. Each knew their limits, respected the limits of the other, and worked out something that was mutually if not wholly acceptable.

Those days seem very quaint, and very long ago.

When the State Engineering Association last agreed to a contract with the state, nearly three years had elapsed since the previous contract's expiration. That's indicative of a disturbing trend unfavorable to state bargaining units. SEA's current contract expired more than nine months ago. And yet the State of Wisconsin does not seem in any particular rush to do anything to advance the ball, unless it's an eight ball.

Good-faith bargaining requires give and take, and yet we sit at what is effectively a one-sided bargaining table, in effect being told we've no choice but to give and not take. Another state employee bargaining unit recently was so frustrated with its similar treatment that it summarized the sessions so far in one short sentence: "Management agrees to nothing of substance." ►

Truly, smoke and mirrors come easier to the bargaining table these days than concrete proposals.

An impasse is when in bargaining there is no prospect of change in position by either party. Wisconsin law provides no recourse for dealing with an impasse in negotiations involving public employees. The good news is that the state cannot declare an impasse and unilaterally impose a contract. The bad news is that the state doesn't need to, because it can just sit on its hands and hope to run out the clock, wasting the limited time off work allowed bargainers for the employee side, who, after all, need at some point to get back to their jobs.

Aside from administrative laissez-faire, the overriding cause of this increasingly insurmountable contract roadblock is that collective bargaining for State of Wisconsin employees takes a back seat to the state budget, the most recent edition of which took many months of wrangling by our elected state officials.

Lacking an approved budget providing for compensation adjustments, the state's negotiators hold back. They're part of a larger system that renders them powerless to act until the blood letting of the budget process takes its course. It's a built-in excuse to do nothing.

This approach is politically popular because for some observers doing nothing a.) is easy, and b.) can be sold as sticking it to public employees. The second point plays on the inaccurate notion that state workers have it cushy. This myth persists even though state employees often haven't seen compensation or benefits increases for years at a time (in a few cases even extending beyond a decade). Yet they are (in this popular theme) supposedly ripping off taxpayers.

The real rip-off: inefficiencies and uncertainties that this system forces upon state programs. Short of staff, state agencies hire private consultants, who often cost more. Or they defer projects, leading to disasters perhaps including last year's deadly I-35 bridge collapse in Minnesota.

Meanwhile, states find it harder to recruit new talent

and retain experienced professionals, as the private sector continues to outbid them in the salary market.

Claiming credit for a "balanced" budget (only balanced because of creative accounting and hugely optimistic revenue forecasts) is now the main motivation for elected representatives. But while this swell-sounding goal might work in the short run, it's hollowing out government in the long run.

In a rational system, the Legislature would not use the Compensation Reserve to set maximums for state employee raises. But because allocations in recent budget cycles have been -- by the necessity of Wisconsin's structural deficit -- cut to the bone, this fund has ceased to be a "reserve." In a rational system, contract agreements would drive the reserve amounts placed into that fund. After all, in agreeing to a contract, the state logically agrees to pay for it.

Yet the Legislature has shown it's capable of effectively vetoing such deals in advance by failing to adequately fund the compensation reserve. Some bargaining. Some good faith.

We'll say it again: An honest day's work deserves an honest day's pay. Every bit as much as private employers, the public sector needs to better respect the rights of its workers in particular, and labor law in general.

The vast majority of public employees are dedicated, highly skilled and hard working. They should not be nickel and dimed, or forced to serve as political pawns in a recurring game of budget chicken. That's wasteful and demoralizing and a very bad example to the rest of the society.

When a bridge collapses, we spare no expense to rebuild it. We examine why it failed and come up with a fix to prevent it from failing again, likely spending more in the process than if we'd simply maintained it properly to begin with. Perhaps it's likewise time we acknowledge that the public collective bargaining process has collapsed, and come up with a fix to prevent it from collapsing again and again.



Tom Mugan, SEA president:

"Short of staff, state agencies hire private consultants, who often cost more. Or they defer projects, leading to disasters perhaps including last year's deadly I-35 bridge collapse."

Legislative Update

By Gretchen Wheat

Second Vice President

Dual views on campaign finance, election reform

1. An open letter

Campaign finance and election reform must not remain ignored

Honorable Wisconsin State Senators and Representatives:

As a member of the State Engineering Association (SEA), I urge you to act to reform campaign financing and elections for Wisconsin. Everyone knows our election system is broken. Your challenge is to fix it. SEA contends this is the single most important thing you can do to improve government.

Even the integrity of the Wisconsin Supreme Court is at stake, as witnessed by the last two court elections, most recently on April 1, 2008. The public is especially outraged at the twisted ugliness that has entered this election arena.

Historically, Wisconsin has championed ethical, open government. But look where we are today. We have rivers of election spending and state debt. Might the two be related? **Lead us forward out of this mess!** You have the power to invoke honest government.

We know a great number of proposals have been introduced that could have made improvements, but it's also clear that there was ultimately insufficient support among legislators to produce movement. I request your response to the following questions:

Q: What is your position on campaign finance and election reform?

Q: In your view, were any worthy reforms, however small, enacted in the 2007-2008 Legislative Session?

Q: Do you believe campaign funding sources are impeding citizens from interacting with their government?

Q: If you do not support the status quo, what action have you taken?

Q: What do you think are the three most essential elements to create successful campaign finance and election reform in Wisconsin?

Q: Would you support a special session this summer on campaign finance reform?

Q: How can I best communicate my concerns to other elected officials?

Thanks for your consideration of this important issue.

Sincerely,

A SEA member

2. Analysis

No movement on campaign reform

Today, elections in Wisconsin (and across the US) are virtually 100% privately funded. On the state and national level, citizens are agitating on behalf of campaign finance reform. Arizona and Maine have passed legislation to provide full public financing for state races.

In Wisconsin two years ago, special interest groups spent \$18.97 million on individual candidate donations and undisclosed issue ads in the races for governor, lieutenant governor, attorney general, state Assembly and Senate. This was a huge leap from the reported \$6.2 million in spending by special interest groups in 2002, and a colossal jump from the \$1.67 million reported in 1998. (*source: Wisconsin Democracy Campaign*) ►

On average in 2007, the Legislature met only about once every three weeks, much less frequently than legislators gathered for fund raisers. A record \$3.1 million in campaign contributions were collected, greater than in any previous non-election year.

(Wisconsin Democracy Campaign)

Understandably, many legislators and the public are quite aware of the need for campaign finance and election reform. A great number of legislative proposals to address the issue were introduced in the Senate or Assembly in 2007. Some proposals even enjoyed companion bills in both houses.

Many bills were introduced in early 2007, and most of

those initially were reported out of committee more than 10 months before the end of the legislative session on March 21, 2008. At least a few of the bills had strong committee support.

The variety of proposals and early time lines should have provided opportunity for some improvement. Yet there was no forward movement. How was this important work left undone?

Gov. Doyle attempted to convene a special session on campaign finance reform last December but nothing happened. With several weeks of the legislative session still remaining, why did Speaker Mike Huebsch say in January 2008 that the Assembly would not take up campaign finance reform this legislative session?

Does this issue divide Republican and Democrats especially with regard to state Supreme Court races, as some news media have reported? Or, have elected officials simply been so busy fund raising that too little time remains for legislative work?

Citizens want to know.



INSIST ON TRANSPARENCY

State government must be open and very accountable

After the State Engineering Association sought documents from the Wisconsin Department of Transportation on its outsourcing practices, DOT Secretary Frank Busalacchi admitted in a 2006 deposition that he never takes notes at meetings. He also testified that he does not insist that anyone on staff take them.

The documents in question were disturbing enough. They revealed that DOT's own analysis showed outsourcing state highway work cost 18 percent more on average than doing it in-house. More troubling than that, however, was the secretary's startling testimony. It was Wisconsin government's equivalent of a federal administration that deletes public emails and otherwise deliberately seeks to forget its own history, for political convenience.

Busalacchi's words suggest that while in charge of a \$2 billion per year state agency, he never documents the decisions he makes. ►

WHO IS SEA?

The State Engineering Association is a bargaining unit for about 1,100 engineers and engineering-related professionals employed by more than a dozen Wisconsin state agencies. Annually for the past decade, SEA members across the state have set aside a day of personal time to visit Madison and exchange views with their legislators. We are a group of people dedicated to ensuring the quality and safety of life of everyone in Wisconsin.

Professional Integrity

Every SEA member is a professional, committed to the practice of engineering and dedicated to providing the best value and quality of service.

Stewardship

State employees not only pay taxes, we are charged with overseeing and spending taxpayer dollars to get best value. SEA members take ownership of the work we do. We are committed to protecting the public interest. Our value is unsurpassed: contracting work to private consultants is often much more costly than using SEA members to perform design and construction work at state agencies.

Quality

We influence quality of life for everyone in Wisconsin by: protecting health, safety and welfare; enforcing safe construction standards for facilities and infrastructure; designing and maintaining transportation systems; enforcing laws and ensuring environmental standards.

SEA ORGANIZATION

We are an independent association unaffiliated with other state or national labor organizations. This enables us to act independently while developing alliances with other groups on specific issues and common goals.

Legislators and government watchdogs need to ask whether this represents the type of accountability that the public expects when their tax dollars are being spent. And it's likewise fair to ask every elected representative this question: **Does such a casual approach to public documentation meet your expectations? The public's expectations?**

Nor is this an isolated matter. The behavior is not limited to the DOT. There is reason to believe a similar laissez-faire approach to record keeping occurs in all state agencies. That leads to another disturbing question, namely whether this is a policy implicitly or explicitly approved by the Office of the Governor.

The laws of this state say, in effect, that sunlight is the best disinfectant, and that secret government is not good government. How are taxpayers to know if the state is spending and investing wisely if the basic details are not, in essence, an open book?

Taxpayers expect that all levels of government should be good stewards of their dollars. They expect decisions to be made based on the public interest, by professionals who employ solid principles and actually make use of supporting data.

Taxpayers also expect that public input will be a standard component of such decision-making -- and by "input" they don't mean hearings that are held after the decision has been made in private.

The foundation of public trust in government is openness and transparency. Without those two components, public faith declines and it becomes increasingly difficult to win support for necessary programs.

Unless the underlying goal of policymakers is to wreck government, they need to do business in ways that reassure the public, which will in turn bolster their own credibility. Rhetoric alone is not enough. Secrecy is at best only a corrosive and delaying tactic.

Open records laws in theory are a big solution to the transparency problem, but they are often only useful after the fact. Also, it's very hard to obtain certain kinds of documents concerning top-level policies and

decision-making processes that have led to any particular employee's assignments (or lack of them, as outsourcing continues).

SEA found that out when it required more than two years and court involvement to obtain the DOT's outsourcing report – a document theoretically belonging

to the public. State law says such documents shall be produced promptly and not unreasonably withheld. And yet, that is not always the case.

Indeed, a no-paper-trail attitude at the executive level is being

pushed deep into the ranks of the entire DOT.

Directors, section chiefs and supervisors regularly "encourage" staff not to document decisions or policy directives.

This custom is in direct opposition to the Wisconsin ideal of clean and open government. It amounts to no less than an end run around state open record laws.

Through hearings and document requests and other means -- even up to and including audits -- legislative leaders need to reinvigorate and enforce a process by which leaders of state agencies are compelled to document the decisions they make. It's supposed to be the norm for publicly traded corporations, and it should also be the norm for government. To allow otherwise is to ensure the next Enron scandal, or its government equivalent.

The basic information that should be documented in the public record includes:

- * **The purpose of the project or description of the issue.**
- * **What information was considered in formulating the decision, and what information was rejected.**
- * **The final basis of the decision -- what factors or items were discussed that lead to a plan of action.**
- * **Who made the decision.**
- * **What direction was provided to staff.**
- * **Time-line for the action, discussed or directed. ►**

This custom is in direct opposition to the Wisconsin Ideal of clean and open government. It amounts to no less than an end run around state open record laws.

Legislators and third-party watchdog groups are well within their rights to ask that state agencies voluntarily begin following the above standards, instead of seeking to suppress information. Legislators should introduce and support a transparency bill that requires this of all state agencies.

The bill should close all known record-keeping and open-records loopholes. But even while that's being considered, legislators and other opinion leaders should insist that state agencies begin providing this information. Doing the right thing should not require a law, although it probably will.

Legislators also need to support and monitor the state's new fraud, waste and mismanagement hot line, where citizens and state workers can anonymously blow the whistle on questionable if not outright bad behavior.

Legislators should not assume the hot line actually fulfills its mission. The Legislative Audit Bureau, which runs the hot line, is a state watchdog agency of some repute, but it is still a state agency.

As citizens interested in promoting good government, our last question should always be: **Who watches the watchers?**



Watching state's contract process

Agency outsourcing clearly worth a very close inspection

Thanks to the efforts of the State Engineering Association, other bargaining units and concerned legislators, Wisconsin has a new tool to monitor whether the state's contracting of work out to private firms makes economic sense.

The answers aren't all in, yet, but statistical and anecdotal information suggest that the Legislature and watchdog groups need to keep the outsourcing agenda squarely in their sights.

Under 2005 Wisconsin Act 89, agencies must examine

in advance whether outsourcing work to the private sector makes sense. Outsourced work either must be done more cheaply or the agency must demonstrate that state employees can't do the work because of under-staffing or lack of expertise.

The law was enacted after an open records lawsuit by SEA revealed that a state Department of Transportation (DOT) study indicated that state engineers are at least 18% more cost effective than private consultants. Yet the state continues to sign no-bid contracts that provide annual four to six percent increases to consultant engineers, while stubbornly arguing over more modest salary increases for its own employees.

Act 89 required that agencies develop administrative rules to formally analyze outsourcing decisions in advance. SEA not only provided its views to two state agencies on what such a process should look like, but also has exercised its right to receive copies of all such documents and to confer with agencies on how they are filled out and what they show. As the body of Act 89 related documents grows, SEA expects there will be room for improvement.

When one SEA member asked a DOT official what the agency planned to do with the data it was creating, the official's answer was rather startling: *DOT has no plans*. In other words, DOT views the filling out of Act 89 forms as, apparently, just a bureaucratic exercise and not an earnest attempt to truly analyze the costs versus benefits of outsourcing.

That's unfortunate. DOT oversees about a billion dollars a year in federal transportation funding for local units of governments, primarily counties and towns. DOT required its staff to oversee this work. However, the department can't hire sufficient staff because of legislative budgeting decisions. Plus, the agency has a growing list of other chores.

The agency dealt with this problem by outsourcing to the private sector the entire local funding program without regard for cost or effective government. By the DOT's own reckoning, outsourcing the work would cost more than if state employees did it, but the DOT cited lack of staff.

Roughly one DOT employee in every region spends part of their work time overseeing the private ►

consulting firm's work. Meanwhile, the consulting firm oversees other, subcontracting consulting firms.

In practice, the state employees who are assigned to oversee this private work remain mostly out of the loop. Consultants that work under another contractor in one region may oversee the same firm in another.

When one SEA member asked a DOT official what the agency planned to do with the data it was creating, the official's answer was rather startling: DOT has no plans.

SEA is unaware of any specific problems with this arrangement, but it's clearly a potential conflict of interest. Consultants understandably don't want to look bad

doing their work. If they oversee each other, it's arguably less likely that they will be inclined to report on sub-quality work.

The public interest in making sure the state gets good value back for every contract it lets out is more than just casual. Earlier this year, the Federal Highway Administration said the West Virginia Department of Transportation's substantial federal highway project funding could be jeopardized by loss of state staff knowledge and experience.

The FHWA cited a federal regulation requiring states to "be responsible for ensuring that such projects receive adequate supervision and inspection to ensure that projects are completed in conformance with approved plans and specifications."

According to a news story in the Charleston Gazette, the letter said federal reviews in recent years "have noted a significant and substantial loss of knowledge and experience in WVDOT due to retirements and/or resignations. This problem is compounded by the DOT's inability to attract, replace or retain staff with similar experience in a timely manner."

So not only might Wisconsin be spending too much money on consultants, its own funding could be jeopardized by its lack of professional in-house expertise.



Legislators: Will you help state workers with their mileage reimbursement and fleet issues?

The facts:

1. State workers can't keep driving personal cars on \$.32 per mile, because costs exceed reimbursements; arguably, no state employee is profiting from driving their own cars until they exceed the IRS rate of \$.505. Below that, they're putting un-reimbursed wear on their cars. [And just the other day, AAA reported it now costs \$.541 cents per mile to drive.]
2. Staff who live outside Madison and leave from home to statewide work sites save the state and taxpayers time in doing so, and they often do it despite taking the Turndown Rate hit.
3. Employee exceptions to mileage policy should become easier to justify, given a valid reason; i.e., an employee who lives other than in Madison, with valid work-duty justification, should be considered as temporarily headquartered from home. Allow more flexibility for employees who leave from home for temporary work sites.
4. The Turndown Rate (\$.32/mile) needs to be increased, possibly to the Standard Rate (\$.465/mile). This would allow some employees to use their own cars, retaining a customer base of those who prefer to use the state fleet. Less use of state cars equals savings to the state, but a higher Turndown Rate might balance the savings out.
5. Legislators should speak with JCOER members and to DOA Fleet Enterprise management to inform them of this issue.
6. The system must be managed fairly, with no abuses, for all state employees.
7. A state employee driving a personal car pays \$.309 per gallon in state gas taxes, \$.184 of federal excise tax and two cents of environmental fees. These taxes are potentially deductible as un-reimbursed, itemized business expenses, but the reality is that the state makes some extra money off its workers. -- Larry Legro

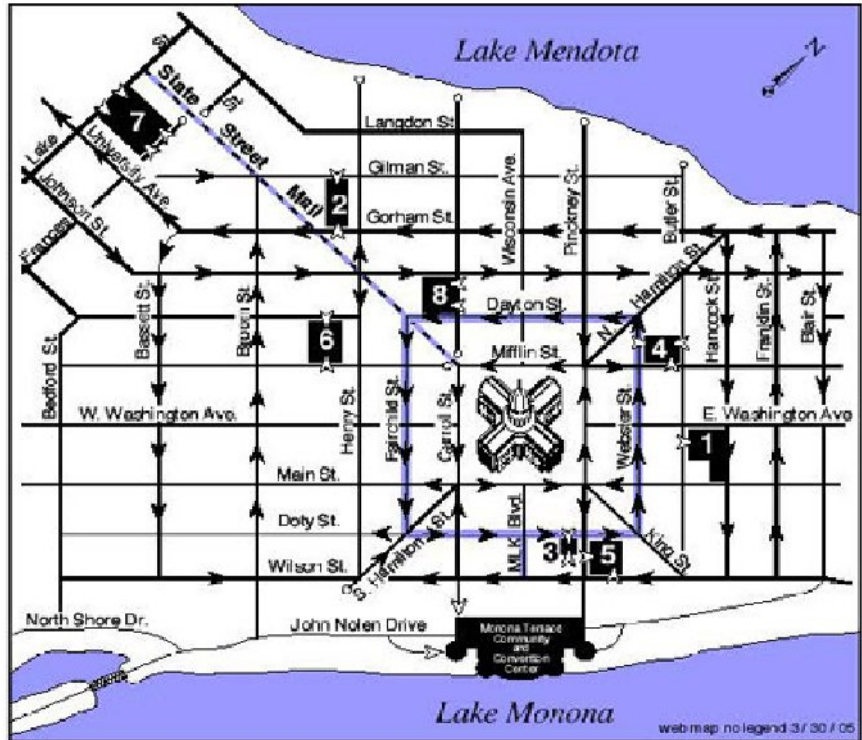
SEA DAY SCHEDULE

SEA members will meet Wednesday, May 7 from 9 am to 10 am in Room 411 South in the State Capitol to share information of concern about bargaining, outsourcing, and the need for election and campaign finance reform. Afterwards, SEA members meet with their legislators.

Directions: From N. Hamilton St. / North Wing entrance, take N.E. elevator to the 4th floor and stay left.

Parking: Capitol Square spaces are limited and strictly enforced. See lots / ramps marked on map. Recommended: Ramp #4, enter from E. Mifflin St., N. Butler St. or N. Webster St. (takes Visa, MC, cash). Lots 2 and 3 are NOT suitable because they have maximum two-hour meters and you risk a ticket.

Vending: North Wing basement.



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