

# Lakes in Action Civics 101 The Legislative Process

October 21, 2016 – Lake Leaders Institute, Session 3  
Durwards Glen

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## Levels of Government

- Federal
- State
- Local (County, City or Town, Lake District)



# Federal

Don't deal with much in Wisconsin because:

- EPA delegated authority to manage waters under Clean Water Act to state

# Local

- Similar process to state
- Hard to discuss in general because it varies by jurisdiction
- Terminology may be different (e.g. “ordinances” vs. “laws”, but concepts are the same)

# State

- Sources of authority
  - Delegated by United States via Clean Water Act (EPA)
  - State Constitution – the “Public Trust Doctrine”

## “Laws” vs “Rules”

- Laws (statutes) are passed by the legislature and signed by Governor
- Rules (administrative code) are developed by agencies
  - Must be authorized to do so by a statute
  - Governor approves concept, agency develops rule, Governor and Legislature approve
  - E.g. Shoreland zoning – Wis Statute 59.692 authorizes shoreland zoning rules in NR115

# Formation of a Law

- Bill is introduced by a legislator and submitted to a committee
- Committee chair decides if and when to hold public hearing
- After public hearing, committee may or may not vote on bill
- If bill passes committee, goes to full house of legislature
- Bill passes one house, is sent to other for the same process
- If the same language passes both houses, goes to governor for signature



## Two types of legislation

- Budget bill
- Everything else



## Legislative timeline

- Legislative session is two years
- Budget is worked on Feb-June of 1<sup>st</sup> year of session
- Other legislation is before budget work, and then winter-spring
- Floor periods are limited



## Timeline for state budget development

A horizontal timeline diagram with a blue background and a yellow arrow pointing right. Seven white boxes with blue borders are positioned below the arrow, each with a blue upward-pointing arrow above it. The boxes contain the following text: 'Fall 2016 Agencies submit budget requests to Governor', 'Feb 2017 Governor announces Executive Budget Proposal', 'Mar 2017 Legislature's Joint Finance Committee Hold Hearings with Agencies and Public', 'April 2017 Joint Finance Committee votes on each section of the budget', 'May-early June Full legislature votes', 'June 2017 Governor signs in full, vetoes in full, or exercises line item vetoes', and 'June 2017 Legislature can override vetoes (rarely happens)'.

↑  
Fall 2016  
Agencies submit budget requests to Governor

↑  
Feb 2017  
Governor announces Executive Budget Proposal

↑  
Mar 2017  
Legislature's Joint Finance Committee Hold Hearings with Agencies and Public

↑  
April 2017  
Joint Finance Committee votes on each section of the budget

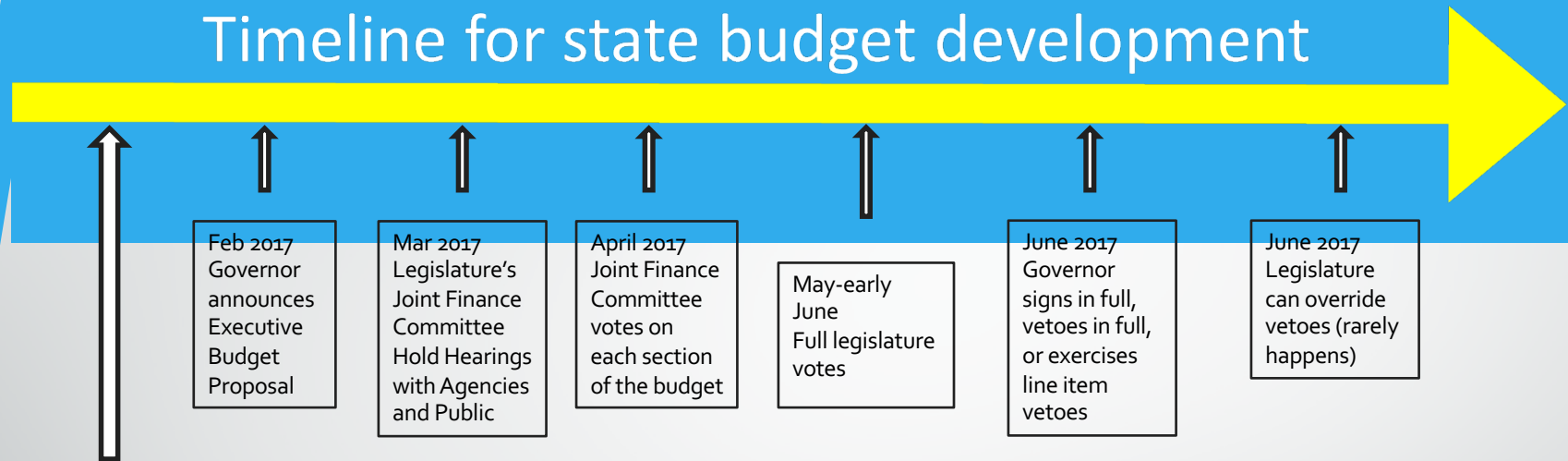
↑  
May-early June  
Full legislature votes

↑  
June 2017  
Governor signs in full, vetoes in full, or exercises line item vetoes

↑  
June 2017  
Legislature can override vetoes (rarely happens)

- State budget is biennial – 2 years (July 2017-June 2019)

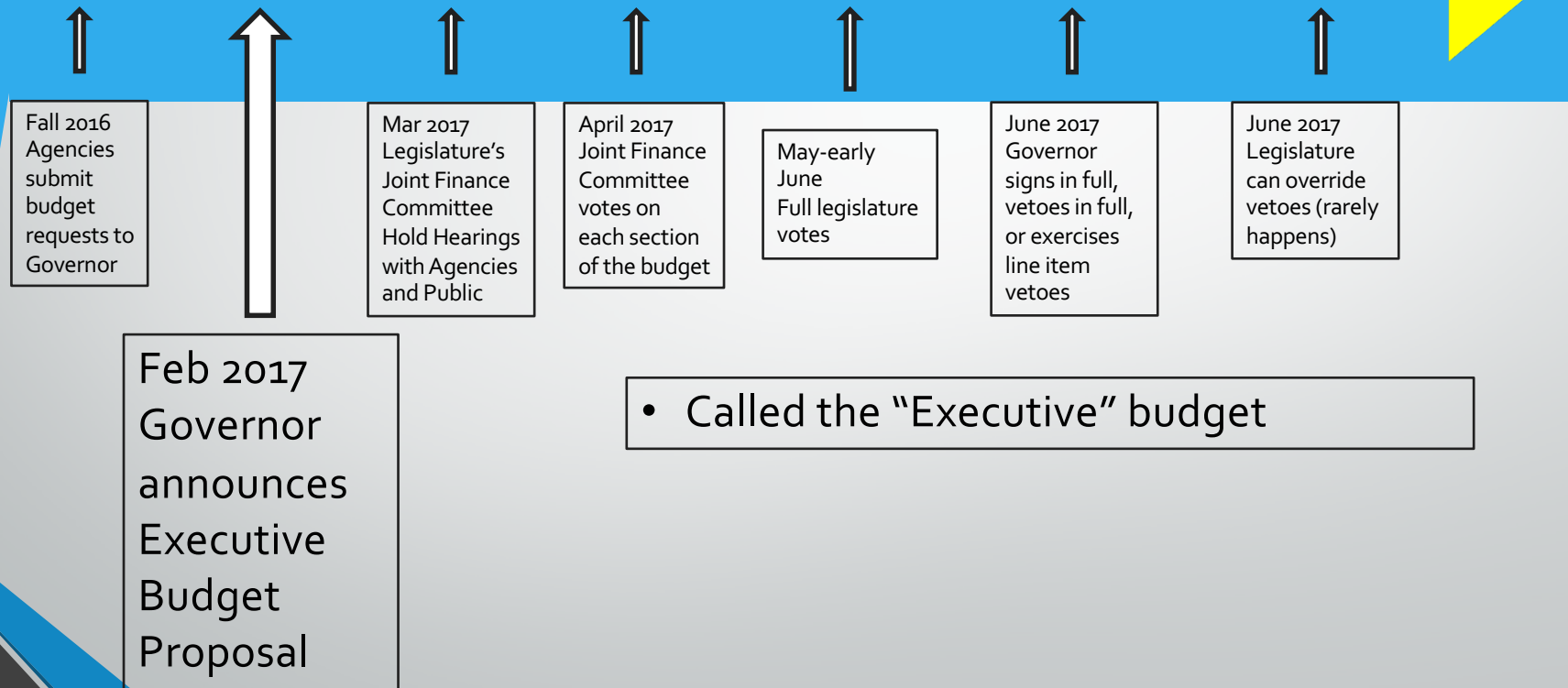
# Timeline for state budget development



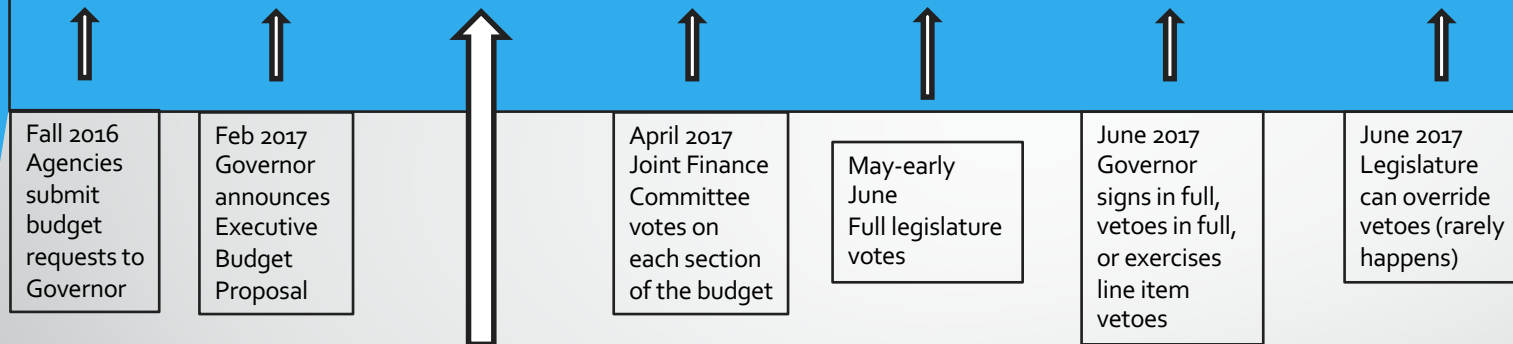
Fall 2017  
Agencies  
submit budget  
requests to  
Governor

- Agencies started work back in early 2016, submitted budgets to Governor's office in fall of 2016
  - This would indicate any changes in programs or needs for increased or decreased funding
  - DNR's submission made few changes from last budget – small decrease in funds, -9.5FTE

# Timeline for state budget development



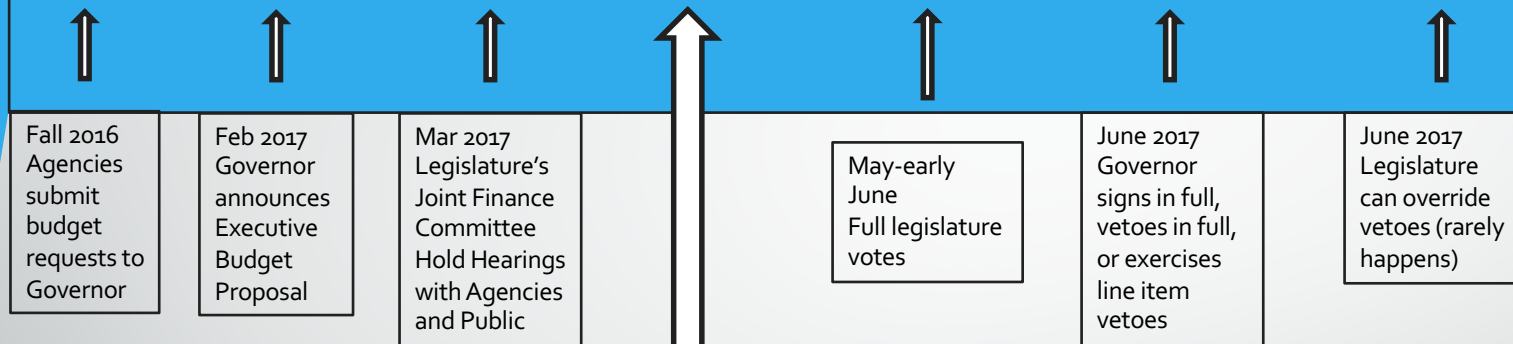
# Timeline for state budget development



Mar 2017  
Legislature's Joint  
Finance Committee  
Hold Hearings with  
Agencies and Public

- Agency hearings allow legislators to ask questions of agency heads – can be more theater than informational

# Timeline for state budget development



Fall 2016  
Agencies submit budget requests to Governor

Feb 2017  
Governor announces Executive Budget Proposal

Mar 2017  
Legislature's Joint Finance Committee Hold Hearings with Agencies and Public

April 2017  
Joint Finance Committee votes on each section of the budget

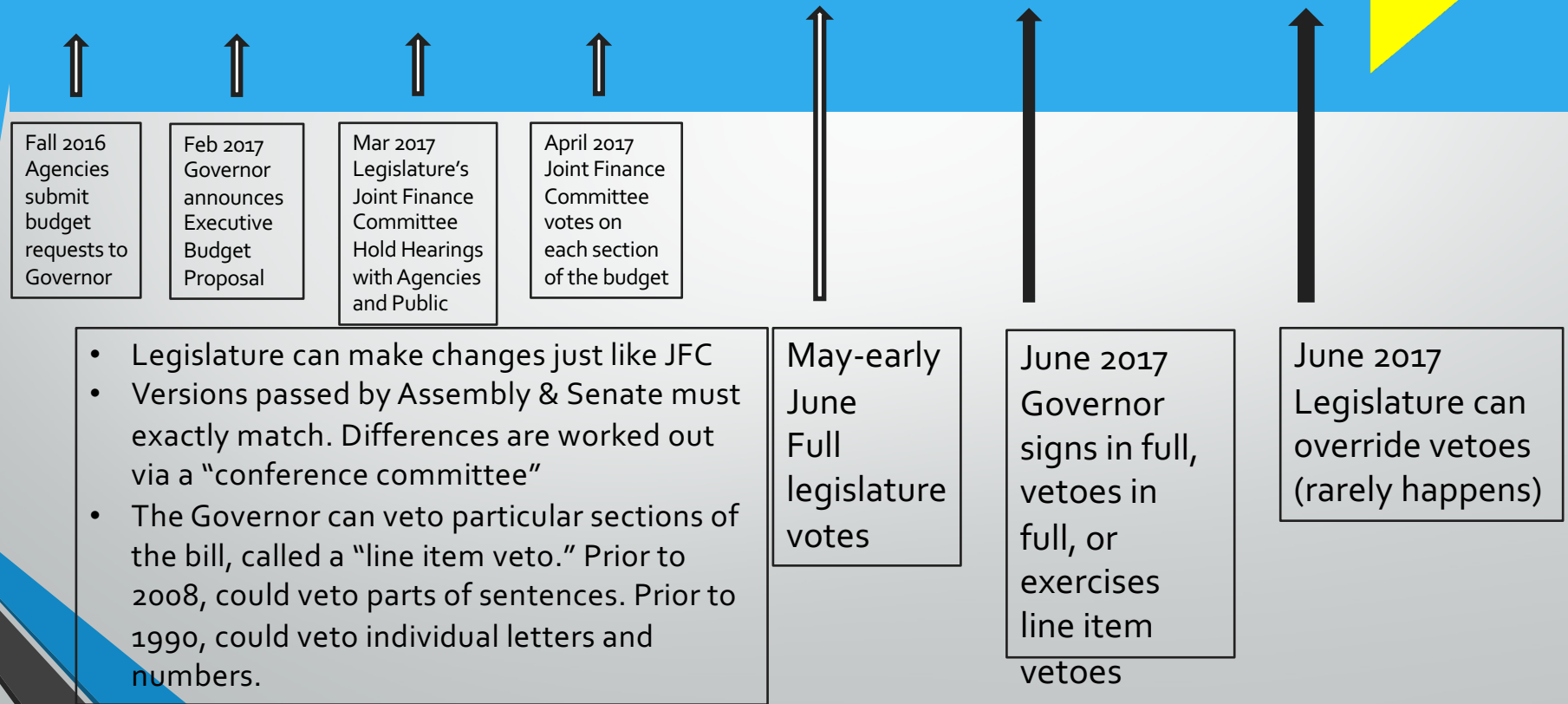
May-early June  
Full legislature votes

June 2017  
Governor signs in full, vetoes in full, or exercises line item vetoes

June 2017  
Legislature can override vetoes (rarely happens)

- Takes place over several weeks
- JFC can add, delete, and change items

# Timeline for state budget development



# Water Related Wisconsin Statutes

- Chapter 30: Navigable waters, harbors, and navigation
- Chapter 31: Regulation of dams and bridges affecting navigable waters
- Chapter 33: Public inland waters (lake districts)
- Chapter 59.692: Shoreland zoning
- Chapters 279-299: General Natural Resources:
  - 281: Water and sewage (Water quality, groundwater, grant programs)





# Administrative Rulemaking

Don't worry, I'll make this fun...

## Definition of Administrative Rule

A regulation, standard, policy statement, or order of general application promulgated by a state agency:

- To make specific, implement, or interpret provisions of statutes that are enforced or administered by the agency
- To establish procedures for the agency to follow in administering its programs



# Rulemaking Authority

- Create new rules, or amend or repeal existing
- Rule must be authorized by a specific grant of authority to the agency by a statute
- Rule cannot be based on a statute that grants *general* authority to an agency
- Rule cannot be more restrictive than a statute



# Steps to Rulemaking

1. Scope statement approved by Governor, and agency governing board
2. Rule drafting
3. Economic Impact Analysis
4. Legislative Council Clearinghouse Review
5. Public Hearing by agency
6. Initial Regulatory Flexibility Review
7. Final approval by Governor
8. Review by legislative standing committee
9. Review by Joint Committee on Review of Administrative Rules



## Step 1: Scoping Statement

- Sets forth objective of rule, statutory authority, and a description of who will be affected
- Must first pass review by Governor
- Then must pass review by governing body of agency
  - For DNR this is the Natural Resources Board

## Step 2: Rule Drafting

- Rules are to be drafted in “concise, simple sentences, using plain language that can be easily understood.”

## **Step 3: Economic Impact Statement**

- Describes potential economic effect on business and state economy in general
- Must include a comparison to neighboring states



## Step 4: Clearinghouse Review

- Rule proposal is sent to Legislative Council Clearinghouse
- Leg council documents the proposal
- Reviews for statutory authority, “plain” language
- Can make suggestions to the agency

## Step 5: Public Hearing

- Hearing must be held for all rules except:
  - Emergency rule promulgation
  - Rulemaking to bring an existing rule into conformity with a statute or judicial ruling

## **Step 6: Initial Regulatory Flexibility Review**

- Essentially a statement on the impact of proposal on small business
- Often included as part of public notice of public hearing

## Step 7: Approval by Governor

- Final rule draft must be approved by Governor before being introduced to the legislature

## **Step 8: Review by legislative standing committee**

- Rule is assigned to a standing committee of both Assembly and Senate
- Generally, if no action in 30 days, rule is approved
- Limited reasons to deny the rulemaking

## Step 9: JCRAR Approval

- Final legislative approval by a joint committee with members of both houses: Joint Committee on Review of Administrative Rules
- Also 30 days to act, generally; same powers as standing committee
- If approved by JCRAR, rule takes effect

*Hope you had fun!*



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