

Getting it Done in the Legislature:

Insiders Advice – By Michael Robinson: Policy Consultant & Lobbyist

A SHORT HISTORY: LEGISLATIVE PROCESS & POLICY

The legislative process at the federal and state levels has been unchanged since even before the founding of our independence in 1776. Lobbyist and consultants have always been a part of the legislative process and a simple internet search of Ben Franklin “Lobbyist” will reveal how important his lobbying efforts were to Pennsylvania and Massachusetts during the early years of the United States of America.

Another good example is that of the women’s movement. For nearly 100 years the iniquities that women faced had fallen on deaf ears. Up until the late 1950’s and early 1960’s women’s groups had protested in the streets, held large rallies, and had received a lot of front page media coverage yet very little changed. It was not until Betty Friedan, NOW’s first President, arrived on the scene in the early 1960’s did things really start to change for women. Friedan educated women about the importance of training professional full time lobbyists and advocates to take their fight to the hallways of state legislatures across the nation. Betty was wise enough to know that 80 percent of achieving reforms and getting what you want was directly related to what you did inside a state building. She also knew that protests and media coverage only had about a 20 percent effect.

The moral of these stories from history is: those who have full time representatives in the hallways of state capitols (lobbyists and consultants) stand a far better chance seeing their issues are addressed than those who do not. The squeaky wheel does get all of the attention.

Those of us in California who are trained policy consultants and lobbyists cannot think of a single bill or piece of legislation since the mid 1960’s that has been either passed, defeated, or reformed by amendments regarding issues affecting men, women, children and families that did not have a full time consultant and lobbyist working the issue. This appears to apply in all states and at the federal level.

HOW THE LEGISLATIVE PROCESS WORKS

Introducing Legislation:

The legislative process works pretty much the same in every state and at the federal level with the exception of legislative calendars and rules that vary from state to state. Depending on your state, whether it has a full time or part-time legislature is by far the biggest difference. It is extremely important to understand all the legislative deadlines, guidelines for introducing new legislation, and committee rules. Missing a deadline or rule can be fatal to the process. A states legislature’s website will usually have most of the important information on calendars, rules and deadlines.

Nationally for the 2006 legislative calendars alone, there were more than one hundred twenty two thousand bills introduced at the state and federal level. Less than 1 percent received much if any media attention. The process begins when an affected group or individual raises concerns over an existing policy in need of reform, or seek to create new policy to address concerns and complaints. The first step is to get a legislator or staff member interested in the issue. This is generally done through a lobbyist who has many years of experience and contacts in a state building. Groups or stakeholders traditionally have lobbyists on staff or they hire a lobbying

firm to take up their issue. While this is not the only way to get legislation introduced it clearly has proved to be the most effective way to achieve success.

Once a commitment is made by a legislator to carry a bill addressing an issue, the bill drafting process begins. Well-organized groups often have an attorney to help with this. The best approach is to have a draft of the proposed legislation already written along with a background fact sheet that explains why the legislation or amendments to existing policy are needed. The more professional your introduction material is, the better chance you have at getting a legislator to take up your issue and introduce a bill.

What Legislators Expect:

Because legislators and their staff are handling many bills during a single session they cannot do all the work on your bill. There is an expectation by the legislator that the group or stakeholders will do much of the support work. This includes bringing in experts and witnesses, providing data and case law history, finding others who support the issue, and countering opposition arguments. Arguments must be short and sweet, one to two pages. Attaching studies and reports is OK, but don't expect them to be read unless you sit down and go over them with the policy makers.

Legislators prefer to work with people they know and have worked with over time. Trust is important to them. Legislators are no different than any of us; they don't want to look like idiots because of someone else's ignorance and mistakes. This is why they prefer to work with seasoned, experienced lobbyists and consultants, or groups that employ them, and will work hard on their behalf. In any case, with or without a lobbyist, expect to spend a substantial amount of time working the hallways of the state legislature during the process - at least 3 days a week minimum if there is going to be any chance for success.

Also remember that angry, misguided, loose cannon advocates in the hallways can hurt you badly. While personal attacks on policy makers may be the trend in political campaigns, they are not helpful in moving legislation. It is one thing to attack bad policy but when you attack a legislator personally you just cause problems for the author of your bill. Legislators expect those with whom they work to conduct themselves in a respectful, professional manner at all times. If there is going to be any name calling the legislators will do this themselves without your help.

After A Bill Is Introduced:

Now the real work begins – preparation for committee hearings. By now you should have a substantial amount of your research, fact sheets and other materials that support the legislation finished and ready to go. You should also have a list of others who also support your bill. If experts are needed to testify at hearings or for meetings with individual members, you should have arrangements made for these experts to be available. If this involves costs, don't expect the legislator to pay out of his or her budget. Rarely will a legislative member cover these costs, and only if they feel very strongly about an issue.

This is also the time when you begin to learn who your opposition is. Most states have a time period after a bill has been introduced before it can be set for hearings. In California this waiting period is 30 days. During this time no amendment can be made to the bill. It is at this time that the opposition (if there is any) will get vocal about their objections to the bill. You will have to either prepare to amend after the waiting period, or counter the opposition claims with additional fact sheets and other material right away. You cannot afford to let opposition claims go unchallenged and they must be responded to immediately. Response time is very critical to the process.

You should be prepared to meet individually with all of the committee members prior to any hearing dates. Be sure that you have all your printed material ready, along with any experts or individuals impacted by this issue who are willing to go with you. It is best to set up meetings with each legislator's office beforehand. If you have a lobbyist they can make this process much smoother.

A large percentage of bills are either killed or substantially amended in the first committee hearing. You cannot afford to lose here. Often bills require being heard in more than one committee in each house before a floor vote takes place. Usually this is a "fiscal" committee which evaluates the bill based on its potential cost to the general fund.

During private meetings with committee members you can find out where each committee member stands on your bill and how they will vote. You must address any concerns and overcome any objections they may have, and take note of any changes in language they may want before agreeing to support the bill. This will let you know if you have the votes to move your bill out of committee or if you need to amend it in order to get it passed.

Most states have a bill analysis prepared for the committee before the bill gets heard. Sometimes these analyses come out the day before the hearing. While both parties, Republicans and Democrats, prepare their own caucus analysis for each bill, the one that is published for public use is usually the one prepared by the majority party. It is very important that you get a copy as soon as possible to see if the analysis is written in a way that favors the bill or raises a lot of negative concerns. The analysis will also list any opposition groups or individuals.

Committee members are strongly influenced by the analysis, and often will base their vote on what it contains. If the analysis is bad you will want to pull the bill, and if possible reset it for a later hearing while you try to overcome any of the opposition or negatives in the analysis. In California we have a 2 year session; e.g. 2005 / 2006 session. If you introduced a bill in 2005 and it appears you will not be able to move it out of the first committee because of opposition, you may want to pull the bill and make it a 2 year bill. This will give you the rest of the year to work on overcoming any problems and opposition so that you can start fresh with the same bill the next year, or whatever the case may be with your state's calendar. Your legislative author can help you make these decisions.

Tracking Legislation:

One very important part of the legislative process is tracking not just your legislation but also other related bills. There may be other bills that were introduced by the opposition or organizations friendly to your position. Most states have on their legislature's website a key word search function that allows you to find related bills. You can also pay for a bill tracking service to handle this for you such as State Net or Capital Advantage. You want to find out what is out there, so you know what you have to fight against and also where other support and allies may be.

After Your Bill Has Passed By The Legislature:

If you were successful and your bill passes both houses of the legislature, then the bill moves to the governor's desk for a signature or veto. Just because you've made it this far does not mean a Governor is going to sign your bill. Now you have to work with the governor's staff to get this done. Whether or not the bill gets signed or vetoed is a function of many factors including the size of the vote, if your bill passed only by a party line vote, and the activity and influence of your opposition. If there is other legislation that passed that is counter to your

interest then you will be working with the governor's office to veto others legislation. Here again contacts with the Governor's staff will be critical in getting a meeting arranged and having an impact on the Governor's decision.

Why Have A Professional Lobbyist & Policy Consultant:

The answer to this is the most simplistic of all: Most people think that policy is passed or killed because of common sense and a factual analysis. This could not be further from the truth. In the end it always comes down to politics inside the hallways. Lobbyist and policy consultants have very good political instincts and know how to read the political climate. They know what works and what doesn't. They've been in the hallways for many years, are well established, they are well connected and they know how to maneuver in the political minefields. Like them or hate them, they get the job done substantially faster than those without them. Far too often affected stakeholders try changing policy without them, losing year after year only to later employ one before they meet with success.

In Closing:

A single bill can be passed into law if the political timing is right, the issue is right at the right time and played out in a text book manner with a good lobbyist and policy consultant on staff or hired from a firm. Many bills take two, three and sometimes four or more years before the policy is finally passed, depending on how controversial the policy is. Things can get very complex in the political process, and unless you have very experienced people working for you the odds are that you will lose.

Disclaimer: All of the above is only a quick overview and in no way addresses everything that you will encounter during the process. Even with a complete manual and a political science degree, it takes years to learn how to be effective.

Additional information and requests for my services for speaking engagements and consultant fee's can be obtained by reaching me by phone at 916-223-6143 or by email; m.rob@surewest.net.