

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 birthing 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 lobbyist and advocates to take there 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 & 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, been defeated, or reformed by amendments regarding issues affecting family, men, women and children that did not have a fulltime 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 calendar’s and legislative rules that vary from state to state. Depending on your state, whether it has a fulltime or part-time legislature is by far the biggest difference. It is extremely important to understand all the legislative deadlines, rules for introducing new legislation and committee rules. Missing a deadline or rule can be fatal to the process. A states legislature’s website will have most of the information on calendars, rules and deadlines.

Nationally for the 2006 legislative calendars alone, there were more than 122 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 a need 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 lobbyist 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 affective 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 is 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 a bill. There is a level of expectation by the legislator from the group or stakeholders to do much of the support work. This includes bringing in experts, witnesses, provide 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 are ok but don't expect them to be read unless you sit down and go over them with policy makers.

Legislators prefer to work with people they know and have worked with over time. Trust is an important quality to them. Legislators are no different than any of us. They don't want to look like an idiot because of someone else's ignorance and mistake. This is why legislators tend to be more willing to work with, and take stronger stands when they know they are working with seasoned, experienced lobbyists and consultants, or groups that have them. 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 at minimum if there is going to be any chance for success.

Also remember angry misguided, loose cannon, advocates in the hallways can hurt you very badly. While personal attacks on policy makers may be the trend for 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 whom they work with 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 material that supports the legislation already finished and ready to go. You should also have a list of others who also support your bill. If experts are needed for hearings and meetings with members you should have arrangements made for them to be available. If this involves costs don't expect the legislator to pay for this out of his or her budget. It is rarely that a legislative member will cover these costs and it only occurs if the member feels so strong about the issue that he or she is willing to use some of their budget.

This is also the time when you start 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. Most likely opposition if there is any will start to get vocal about what they don't like about 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 to go unchallenged and they must be responded to immediately. Response time is very critical to the process.

You also should be prepared to meet individually with all of the committee members prior to any hearing dates. You will want to have all your printed material ready along with experts or actual individuals who are impacted by this issue to meet with committee members before the hearings. 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 policy committee. 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 who evaluates the bill based on its potential cost to the general fund.

During these private meetings with committee members you want to 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 notes of any changes in language they may want in order 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 usually the only one that is published for public use is the controlling parties analysis. 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 and often vote on based on the analysis. If the analysis is bad you will want to pull the bill and reset it if possible for a later hearing and see if you can 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 the bill 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 will help 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 other 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 know 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 met with success and your bill passes both houses of your 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 on the governor's staff to get this done. Whether or not the bill gets signed or vetoed is a function of a lot of 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 on the governors' office to veto others legislation. Here again contacts with the Governor's staff will be critical to getting a meeting 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 experience people working with or for you the odds are you will lose.

Disclaimer: All of the above is only a quick overview and in no way represents all 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; wm_robinson@comcast.net