

Ray LeBov: Hi. This is Ray LeBov, and thank you for joining us. Today we'll be addressing working with legislative committees. I'm here with my colleague Chris Micheli who's also going to offer his insights.

Policy committees in the Legislature play a very central role, perhaps the most central role in determining the outcome of legislative policy bills. In addition, working with committees is extremely important and understanding the role that committee staff typically plays is also paramount to your success as a lobbyist.

Chris Micheli: I would agree. And I would also add in fiscal committees of the Assembly and the Senate are of critical importance. Clearly, the committees are where most of the major work of the California Legislature gets done. The role of the committee staff can't be emphasized enough and the importance of lobbyists to work with those committee staff.

I would just note before we get into our discussion that in the Assembly and the Senate Committees, we have the consultants who write the analyses, but let's not forget the committee secretaries - as they call them in the Assembly - and the committee assistants - as they call them in the Senate - because those individuals process the bills and the amendments. They log the letters, they record the votes, they file all the reports. Those assistants or secretaries also play a critical role.

But most of the lobbyist's work is going to be with the committee consultants themselves who draft those analyses.

RL: A couple of things I'd like to say about that. First of all, the point that you make again, as we've stressed over and over again, that the points that you make on any particular aspect that we're talking about apply across the board, and that's in this instance the importance establishing good relationships with everyone. It's not just the committee consultants, as your point, it's all the other staff that works for the committee because they can have a tremendous influence on your success as well.

A couple things that I would like to talk about. The first one is just to mention that unlike what the public might think, and what some maybe new people to the process think, most of the work that you do that is going to affect your success working in committee is done long before the committee hearing.

Testimony at the hearing and other things that occur at the hearing, it doesn't really change very many votes very often. All the work that you do prior to the hearing - lobbying the staff and lobbying committee members and working with other interests, etc. etc. - plays a far more significant and important role in your success than what actually happens at the committee hearing.

You mentioned the committee consultant, and I want to talk a little bit about the respective roles of the committee staff and the minority party consultants to the committee. They play some analogous roles, but mostly very different roles. The

committee consultant, they typically have a huge impact and influence on what's going to happen at the committee hearing. Now, of course, that depends on what their relationship is with the chair of the committee and what's expected of them by the chair and how much power the chair of the committee gives them.

But typically, they are the eyes and the ears of the chair of the committee as well as the Democratic members of the committee and have a terrific amount of influence not just in the analysis that they write, but in conversations and other interaction they have with, particularly the chair, but also the Democratic members of the committee.

They're doing the official committee analysis and the committee analysis; they often start the preparation of it by getting information on an official committee worksheet that's given to the author's office. Now, you as a lobbyist, the best possible situation you can find yourself in is if the author's office hands you that worksheet and says, "Here, you fill this out."

Well that's great because you can frame all the information that they're getting. But the important thing to remember is: do not abuse that privilege. If you abuse that privilege by too much spin or by not being totally straight you will never be asked by anyone to ever fill out one of those again.

The next best thing is that the author's staff says to you, "Here's the information I need so I can fill out the worksheet."

Again, play it straight.

Anyway, when the committee staff does their analysis, they are supposed to be objective and non-partisan. Obviously that's in the eye of the beholder, but that's what they're called on to do. They're analyses are public record. Typically coming out the day of the hearing. Committees have rules. The Joint Rules and the house rules apply to them but each committee has its own rules, and they can adopt whatever rules they want as long as they're not inconsistent with house rules and Joint Rules.

To give one example, every committee has a rule relative to how many days before the hearing you have to get your letter in, in order to ensure that it's going to be listed in the analysis under the support and opposition. Well, unfortunately, in some committees - believe it or not - it's a twelve day rule. Well, if you've got a good relationship with the committee staff, you might say to the committee staff, "You know, I know I'm a few days late. Would you mind still listing me?"

Well, if you've done things for the committee staff, they're going to do things for you. They're going to say, "Remember, the rule doesn't apply to them, it applies to you." They're going to say, "Oh fine, sure. Just don't make it a habit."

Anyway, they prepare the committee analysis. The minority party staff is also preparing an analysis but unlike the committee staff analysis, it's not a public record. You don't

have access to it unless they choose to show it to you. But if you've got that relationship with them, they can show it to you, they can tell you what's in it, you can have a dialogue with them about perhaps changing their position, etc. etc.

And unlike the committee staff, they're doing an analysis that is supposed to be partisan and in fact even makes a recommendation to which the Republican members of the committee pay great deference. So understand the difference between them and what their roles are and how to deal with them.

CM: Let me just interject on the Republican analyses. As you mentioned, they'll often do a very thorough analysis of a bill just like the committee staff does. In the Assembly, they make a recommendation. There's a slight distinction in the Senate. They like to pride themselves on providing a prediction of where their members will be rather than a recommendation. And yet they know their members well enough that in most instances that is in fact where the Senate Republican Caucus will fall. But they always like to point out that theirs is a prediction rather than a recommendation.

I've found that the committee staff are very hardworking, and pride themselves on being truly experts in the field. Some do an incredible amount of independent research on bills rather than relying entirely upon what is supplied by the author's office and proponents and opponents. So even though you try your best to provide a balance of information and certainly show the strongest policy arguments for your side, and try to anticipate and rebut what the opposition will say, and try to provide any studies or data or any relevant information, I always enjoy working with staff who go out there and find some information on their own and bring it forth and raise it in their committee analyses.

The other thing that I wanted to talk about in terms of the analysis is today the policy committee staff in the Assembly are charged with writing the floor analyses as well. As you well know, courts in interpreting statutes rely heavily on those committee analyses as well as, in particular, the floor analyses. So getting them to reflect your point of view, raise issues that are of interest to you and your clients, may come into play later on, perhaps years after the bill has been enacted when courts then look to extrinsic aids, as they say, in trying to interpret what was the intent of the Legislature. You can't emphasize enough in working with committee staff developing an analysis that thoroughly looks into the legislation, provides background on it, and some context as to what the Legislature is enacting that particular bill.

RL: Very good point. Want to add a couple of thing in that regard. The first one is you may get requests from the committee consultant regarding, "Gee, I haven't gotten a letter from you on this."

Well they may be angling for a letter because they have an agenda. They're agenda to either help the bill pass or help defeat the bill and they think a letter from you might help because of the influence of your client or because they haven't been able to get any good letters from anybody else. My rule is, if honoring their request in no possible way

can do any harm to your client, you are always, 100% of the time, giving them what they want because you are building up good will with them.

Good will with them could translate into them highlighting and informing you about a gut and amend at the end of the session that you might've otherwise missed, or calling to your attention a bill that you might've otherwise missed, or some other favor for you. The more you can do for them, the more they'll be inclined to do for you.

Remember, you're never going to cross the line and agree to anything they ask for that could in any possible way harm your client. But if it doesn't, you're always going to do it for them. It will pay great dividends for you.

The other thing I want to mention is another distinction between the committee staff and the minority party staff to the committee is the number of bills that each of them is covering. Typically, a committee might have three or four consultants divided along subject matter jurisdiction within the committee's overall jurisdiction. Let's take a committee that's got 500 bills. Maybe each of the four of them are analyzing 125 bills.

Well guess what, they've got on Republican consultant to the committee who's doing 500 bills, not 125. And in some instances, that consultant is also the consultant, the Republican consultant, to another committee. So maybe he or she is doing 1,000 bills to the 125 that the staff of the committee are each doing. So your expectation as to what their analyses' is going to look like should be tempered by the fact of how many bills they're doing relative to how many bills the committee staff is called on to do. Which therefore means that theirs are going to be much more in depth.