



KNOWING THE LEGISLATIVE PROCESS: An Effective Advocacy Tool

An understanding of the legislative process is an important tool for effective lobbying. It is necessary to know when contact with a Member of Congress will be helpful and when it will be less productive. An obvious rule of thumb is the earlier in the process you become involved, the better. If you express a concern or state a position with regard to bill when it is first introduced, or when hearings begin at the subcommittee level, you will have a greater opportunity to effect changes (and will deal with a more responsive staff) than if you wait until later in the process.

CATEGORIES OF LEGISLATION

There are three major categories of bills debated and enacted by Congress.

1) AUTHORIZING BILLS establish particular programs and outline what the programs intend to accomplish. The language of authorizing legislation often reflects special emphasis or restrictions that Members of Congress wish to include. These laws generally "authorize" the maximum amount of money that may be spent to implement any given program. Thus, the authorized amounts in these bills are the spending "ceilings." Congress may also "ear-mark", or set aside, money for specific purposes; an ear-mark establishes a spending "floor" which is often expressed as a percentage of the funding provided (i.e., "not less than 7.5 percent of the funding provided each year shall support programs in general dentistry"). Authorizations generally cover a three to four year time span, although between "reauthorizations," amendments to authorizing bills may be enacted.

2) APPROPRIATIONS BILLS provide funding for all authorized programs. They specify how much money will actually be spent for a given federal fiscal year (October 1st through September 30th). Supplemental appropriation bills often become necessary at the end of a fiscal year to cover unforeseen expenses. Congress uses the appropriations process to review the implementation and effectiveness of specific programs; therefore, appropriations committees often enact changes in programs that would appear to fall under the jurisdiction of the authorizing committee.

3) BUDGET BILLS set the suggested levels of government spending. The budget resolutions are usually non-binding; however, they can include instructions that restrict the appropriations committees in setting funding levels. The budget activity is conducted according to a schedule established by the Congressional Budget Act of 1974, which was altered by the "Gramm-Rudman-Hollings" Balanced Budget and Emergency Deficit Control Act of 1985 and most recently by the Budget Enforcement Act of 1990. In past years, appropriations committees have had to wait until Congress passed a budget resolution before working on their appropriations bills. The new process allows the full House to consider appropriations legislation any time after May 15th, whether or not the budget committees have completed their resolutions.

SOURCES OF LEGISLATION

There are numerous sources of legislation. While, a Member of Congress must introduce legislation, organizations like AADR-ADEA, or agency of the executive branch of government may recommend legislative proposals to individual Members for their introduction. The proposal

might address a need, call for a change in existing law, or create a new program. A Senator or Representative can introduce legislation at any time when Congress is in session.

THE PATH OF LEGISLATION

The first step in the legislative process is the introduction of a bill and its referral to a committee. Members try to recruit as many co-sponsors of a bill as they can prior to introduction. They often aim at bi-partisan support, and focus first on support from members of the committee to which the bill has been referred.

Once a bill is introduced, it is assigned a number and referred to one of the "standing" committees (17 in the Senate, 19 in the House) depending on its content. The committee may then, if necessary, refer the bill to one of its subcommittees. If a bill contains language that involves more than one committee, it may be "jointly" referred to other committees.

ROLE OF COMMITTEES

Committees are the heart of the legislative process. The size of the Senate (100) and the House of Representatives (435), in addition to the number of bills pending at a given time, make it extremely difficult for Members to consider each piece of legislation individually. Consequently, each chamber has established a committee and subcommittee system, so smaller groups of members can review legislation. Membership ratios on committees between the majority and minority parties are determined at the beginning of each Congress. A caucus of the respective parties assigns individuals to committees. The Member of Congress having the most years of service in Congress is often given the first right of refusal to chair a committee. The Member of the minority party with the most seniority is usually designated as the "Ranking Minority Member."

The chairman of a committee or subcommittee is a dominant figure in the legislative process because he or she can determine which issues are considered, and the pace at which legislation proceeds. Each year, many bills are introduced. Most of these will never become law because they do not have sufficient Congressional support. The committees and subcommittees control whether a bill will be given a hearing, thereby increasing the chances for that legislation to garner additional support.

CONGRESSIONAL STAFF

Members of Congress have professional staff to assist them with their work, both on their personal staff and for their committee assignments. The generic term "congressional staff" is also used to describe those who work in the various "arms" of the legislative branch, e.g., the Office of Technology Assessment (OTA), the Congressional Budget Office (CBO), or the Congressional Research Service (CRS). The degree to which a Member of Congress depends upon his or her staff varies greatly. However, it is generally true that congressional staff play an important role in the legislative process. It is therefore imperative to establish and maintain good working relationships with staff.

CONGRESSIONAL HEARINGS

Once a legislative proposal is developed, hearings may be held. The hearings provide the opportunity for representatives of executive branch agencies, interested organizations, and individuals to formally present their views on a given topic. Members of Congress also convene "oversight" hearings to monitor and evaluate the execution of various laws so they can see if additional or modified legislation is necessary and "impact" hearings to determine the effect of a particular policy on a given group of people. Depending upon the nature of the bill or subject, hearings may last for a few hours or weeks.

LEGISLATIVE MARK-UP

The step following a hearing is the "mark-up," where a bill is amended to reflect concerns or issues revealed in the public hearings and to include other modifications made by Members of Congress. The bill then advances to the full committee level where a similar process takes place. When the full Committee completes its "mark-up," the bill is "reported out" to the House or Senate for a floor vote. The term "reported out" comes from the fact that a report accompanies a bill from a committee. The report generally outlines the legislative history and describes congressional intent. Because laws are sometimes written in vague language to allow flexibility in program administration, the legislative intent becomes important when the executive branch agencies are writing the regulations to implement a law.

FLOOR ACTION

There are several procedural steps that must be taken prior to a bill going to the floor of the House or Senate for a vote. In the House, a bill must first be granted a "rule" by the Rules Committee. The rule establishes how much time will be allotted for debate, and what types and how many amendments may be offered. In the Senate, a bill may be debated endlessly with no limit on the number of amendments. Two ways that the Senate often limits legislative debate on a bill is through a "unanimous consent agreement" to which both the minority and majority leadership has agreed that set the limits for debate. In extreme cases, a move to invoke "cloture" must be approved which requires sixty (60) votes that closes debate. Once a bill is passed on the floor, it is sent to the other chamber for its consideration. Rarely do both houses pass identical bills. If both bills are the same, they can be sent directly to the President. If they are dissimilar, they go to a "conference committee" comprised of Members selected by each chamber who fashion a compromise.

CONFERENCE COMMITTEE

Conferees are limited during their deliberations by what is contained in the bills; they cannot debate an issue beyond what has already been approved by one of the two houses. If the conferees are unable to agree, the bill effectively "dies" in conference. When a conference committee reaches agreement, the bill returns to the floor of the House and Senate where members vote for or against the final bill.

PRESIDENTIAL ACTION

After a bill is formally "enrolled" (written on parchment), it is sent to the President for action. The President has four options:

- Sign the bill, enacting it into law;
- Formally veto the bill within ten days after receiving it;
- Allow the bill to become law without his signature by not acting on it within the established ten-day period; or
- "Pocket" veto the bill by doing nothing at the end of the second session of a Congress where the 10-day period extends beyond the date of the final adjournment of Congress.