

Learning to Lobby

Steps to successful legislative advocacy

By Judith Bell

In recent years, environmental justice advocates have worked successfully to educate the public about environmental racism and to push policymakers to do something about it. As some of the nation's premier grassroots organizers, EJ advocates have partnered with residents in communities of color to eliminate environmental hazards. They have won an impressive array of lawsuits to extend environmental protections and mitigate harms.

EJ advocates have also lobbied for and against public policy proposals. They have successfully pushed for changes in laws and regulations associated with exposure to lead (and the responsibility to test for it), monitoring cancer incidence, rules for cleaning up brownfields, and a host of other issues. But in the tool kit of advocacy strategies, including organizing, protesting, litigating, and lobbying/legislative advocacy, it is lobbying and legislative advocacy that are perhaps the least used and, for some, continue to present strategic and legal issues.

What is Lobbying?

While grassroots organizing and protesting are part of the "outside game," lobbying is the "inside game" in the halls of government and in legislators' offices. Lobbying seeks to influence legislative decisions in local, state or federal government. When a change in law or regulation is proposed, lobbying works within the structure of the legislative process to impact a pending measure—to defeat it, amend it, or push it through. Lobbying helps frame issues and choices for policymakers by presenting the facts and bringing the people who care and who will be affected by a proposal to lawmakers' attention. It also creates public and political pressure to urge lawmakers to take a stand.

Lobbying can be a proactive or a defensive strategy. Sometimes lobbying is necessary to ensure that a victory is not lost. Too often once referendums, initiatives, or litigation are successful, there is a move to overturn or weaken them with follow-up legislation or regulations. When litigation forced the

state of California in May 2002 to regulate agriculture under the federal Clean Air Act, agricultural interests floated the idea of amending the Act. EJ advocates successfully lobbied to beat back that effort, even before it was officially proposed. In other instances, when EJ advocates successfully lobby for new laws at the local level, legislative proposals to weaken them emerge at the state or federal level.

Lobbying as a proactive strategy strives to advance needed public policy changes. This year EJ advocates have also sought to codify their courtroom victory into state law to regulate agriculture under the Clean Air Act.

Whether aimed at supporting or opposing a proposal, lobbying requires knowing the political terrain or partnering with organizations or individuals that do. A successful public policy campaign requires lobbying in the halls of the legislature and in the districts of elected officials, as well as seeking to sway the hearts and minds of the public. Understanding both the political landscape, (who really makes or influences decisions) and the rules governing the political process (when and where decisions will happen) is the formula for success.

Bringing on Partners

Money is a very powerful force in the political arena. Powerful corporate interests, with their campaign contributions and their access to legislators, often succeed independent of coalitions or a broad base of public support. But for environmental justice advocates to succeed, they need the support of strong

Students lead a march on Washington, D.C., in April 2003, in support of affirmative action as the U. S. Supreme Court considers the programs practiced by the University of Michigan. ©E.A. Kennedy III / The Image Works

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ADVOCACY STRATEGY.

coalitions with large constituencies that are racially, ethnically, geographically, and organizationally diverse, and willing and able to be mobilized. Coalitions should also include diversity in experience, skills, available resources and expertise.

Unusual alliances can bring unexpected power and attention. For instance, this year asthma advocates joined EJ advocates to press for legislation that would prohibit the use of five dangerous pesticides on school grounds, a potential trigger for children with asthma. Legislators were lobbied by EJ advocates, by PTA officials, and by parents of kids with asthma. This new collective voice created additional pressure to support the legislation.

Building coalitions, particularly ones that endeavor to create and strengthen new alliances, takes time: Trust must be built; coalition partners must understand and appreciate the types of strategies and approaches each employs to maximize those skills and power effectively and strategically. From the outset you should decide:

- What are the goals of the partnership (is it a long-term or a one-time, campaign-focused entity)?
- What role(s) will each member assume?
- Who will lead the coalition?
- Who will make key decisions?
- From where will resources come?

The coalition can be the foundation for a viable legislative network of organizations and individuals prepared to take action when asked. To keep coalition members up-to-date and engaged, everyone in the network needs to be kept informed of regular requests for phone calls, letters, e-mails, attendance at events and meetings with legislators. Requests for mobilization should include drafts of letters, scripts for phone conversations, or key messages that coalition leaders can incorporate in testimony or in galvanizing their membership. Developing and nurturing a legislative network is a “must do” to grow a broad base of constituents and interest groups.

Assessing the Political Terrain

Assessing the political viability of any proposal is a priority: it will shape strategies, timelines, and decisions. Part of this process is understanding policymakers—who they are and how they view your efforts and your proposal. The Democracy Center has developed four useful categories for compartmentalizing legislators.

- **Champions:** Your most prominent and reliable allies who are willing to take public stands, reach out to others, urge them to take action, and help you with strategy development and implementation.
- **Supporters:** Can be depended on for votes and statements of support.
- **Fence Sitters:** Key targets for lobbying; persuading them into your camp requires knowing their views as well as their personal stories and history. Some wait to determine momentum of an issue before taking a stand; others like to be power brokers, withholding support so they can participate in key negotiations.
- **Opponents:** Need to be constrained by demonstrations of support for your views in their districts and among their constituents, or from other politically powerful interests, to minimize their visibility and willingness to act aggressively to defeat your efforts.

Lobbying Strategies

The typical legislator is constantly running a political calculus, assessing the views and needs of constituents, vested interests, and political leaders. Above all, most legislators want to keep their jobs—they want to get reelected. The goal of lobbying is to convince legislators that your proposal is a needed change and that supporting your position will be far better for the public good (particularly the legislators’ constituents) than backing your opponents’ position.

Keep in mind that most nonprofits (those incorpo-

Can We Lobby?

Nonprofit groups deemed charitable organizations under Section 501(c)(3) of the Internal Revenue Code (the “Code”) may lobby within certain limits but are absolutely prohibited from endorsing or opposing candidates. The Code defines lobbying expenditures as those associated with legislation. It’s important to note that regulatory action is not covered by the Code’s definition of legislation; therefore, attempts to influence regulatory action (that do not involve specific legislation) are not considered lobbying.

A 501(c)(3) public charity may engage in “substantial” lobbying activities. To clarify the meaning of “substantial,” most public charities (not including churches or private foundations) choose to be governed by another section of the Code that defines permitted lobbying expenditures based on a percentage of the organization’s annual expenditures. (Private foundations are effectively banned from engaging in legislative lobbying entirely.)

For organizations choosing this route, lobbying activities are divided into two types with different limits. Direct lobbying is defined as having four elements: (i) communication with (ii) any member or employee of a legislative body, that (iii) refers to specific legislation, and (iv) reflects a view on that legislation. Grassroots lobbying has five elements: It is defined as (i) a communication with (ii) the general public that (iii) refers to specific legislation, (iv) reflects a view on that legislation, and (v) encourages the recipient to take action on that legislation. This is known as a “call to action” (i.e. “Call Senator X at this number and ask him to vote for SB 10.”) Note that all of these elements must be part of an activity for it to be considered either direct or grassroots lobbying.

Many activities are not considered lobbying. For instance, communicating with legislators about a specific piece of legislation but without expressing a specific point of view on the measure is not considered lobbying. In addition, communicating with the public and expressing a point of view on specific legislation, but not including a call to action, is not considered lobbying.

For charities operating under the direct and grassroots lobbying definitions, there are other activities that are not considered lobbying and are therefore not constrained by the lobbying expenditure limits. These include:

- Conducting and disseminating an unbiased nonpartisan analysis, study or research, even if a particular position or viewpoint is advocated (provided there is no direct call to action);
- Providing technical advice to a governmental body or committee in response to a written request from that body; and
- Communicating with government officials and employees when the charity is not primarily attempting to influence legislation. (For example, talking about issues or organizational priorities.)

In addition to the IRS rules, federal, state, and local jurisdictions may impose registration and/or reporting requirements that use different definitions of lobbying. Both paid and pro bono nonprofit and legal resources are available in most areas to help you follow the rules. (See the list of resources on p. 69 for some starting points.)

Source: Silk, Adler & Colvin, San Francisco

rated under section 501(c)(3) (see the sidebar “Can We Lobby?” page 43) are absolutely prohibited from intervening in any political campaign on behalf of or in opposition to any candidate for public office. So, lobbying efforts should focus on issues and legislation, as opposed to candidates. Efforts to hold politicians accountable—an important component of advocacy—should avoid, even implicitly, endorsing or opposing any candidate’s election.

A variety of lobbying strategies are needed for a successful campaign: letter writing, individual visits, testifying at hearings, actions, and e-mails.

Finding and Assigning Lobbyists

A vital step is determining who will be the lead lobbyist and the group of primary lobbyists to help steer your measure through the policy process. Among the candidates: the staff lobbyists for EJ groups, a hired contract lobbyist working for one or more organizations, and a cadre of lobbyists working for supportive organizations. Pulling the lobbying team together requires committed partners willing to designate organizational resources and staff to your efforts. However, lobbyists, particularly contract lobbyists, should not be the sole lead strategic

Lobbying Your Legislator Face to Face

Getting a meeting with a legislator:

- Be willing to meet the legislator at any of his or her offices.
- Identify which coalition members or lobbyists have relationships with key legislators and ask them to arrange the meeting.
- For legislators whom no partner knows well, have the coalition member with the best connection to them—either by virtue of their membership base or the primary focus of their work—request a meeting.
- If all else fails, visit a legislator who refuses to set up an official meeting in his/her office and seek an impromptu meeting.

Before the meeting:

- Research the legislator's record to determine which interests and

which local or statewide groups or constituencies can help your efforts.

- Establish your agenda and goals. Are you looking for help from a supporter, trying to push a fence-sitter or neutralizing an opponent?
- Prepare the arguments and messages and determine who will discuss each one; practice.
- Bring a one-page summary of the (proposed) legislation and your arguments.

At the meeting:

- Be prepared to wait.
- Be gracious about meeting with staff.
- Stay focused and be brief. Don't expect more than three to five minutes for the entire visit.
- Be accurate. If you don't know, say

so; and promise to get back to the legislator with the answer.

- Assume that everything is on the record and may be repeated later in a public forum. Going "off the record" is a trap; it never works.
- Be careful not to burn bridges (unless you've made a strategic decision that it must be done) or to inadvertently create long-term enemies. Disagreement is fine; threats, particularly personal ones, may be remembered for a long time.
- Before leaving, ask for the legislator's position.
- Express thanks and a willingness to continue talking.

—J.B.

decision makers for your legislative campaign, since contract lobbyists typically want to be considered inside players over the long haul and may be representing multiple clients' interests. The lobbyists' need to be accepted as insiders may run counter to aggressive positions and actions that you may want to choose for your campaign. As previously discussed, lobbyists may be subject to federal, state, and local registration and reporting requirements.

Letter Writing

Each letter sent to a legislator's office is read and catalogued. Legislators pay attention to their mail and presume that each letter reflects the views of many voters. Sometimes staff give legislators folders or binders full of letters with major points or authors highlighted. The most effective letters tell a personal story: Individuals can tell their own stories, while letters from organizations can recount their members' stories.

Key points to remember when writing a letter are: be clear and concise; include your personal connection or perspective; and state the action you desire the legislator to take. (You can also ask for the legislator's

views and suggested actions.) Data can also add weight to arguments, pointing to the results of research or analysis to influence policymakers' views.

Meeting with Legislators

Every meeting with a legislator is a prime opportunity to seek support; it should also be seen as an opportunity to develop a long-term relationship. Because legislators deal with an incredible array of issues and measures (for example, over 2,000 bills are introduced in a typical year in the California legislature), assume that legislators and their staff are not familiar with your issue but would like to be informed and to understand why they should be concerned. You can meet with legislators or their staff in their capitol or district offices; use contacts among coalition partners or lobbyists to schedule such a meeting with a legislator or his or her senior staff person. (See the sidebar, "Lobbying Your Legislator Face to Face," this page.)

Public Hearings

Open forums usually occur in legislative commit-

tees before a vote is taken on a specific bill. Hearings provide another opportunity to expound your ideas and to ensure that they are part of the public record. Remember: your opponents will also testify, so be prepared to answer any of their anticipated arguments.

You should have a good sense of where each committee member stands before the hearing begins. Having a preliminary vote count and a sense of continuing issues and concerns will inform key decisions about who should testify, which critical points should be covered, and what amendments you may need to offer or agree to insert into a bill. Invite the media to attend the hearing then make sure your supporters attend as well, wearing colorful hats or T-shirts as a show of strength to legislators.

Consider your witnesses: A member of your coalition or a partner well versed in the bill and the issues and someone else directly affected by the problem the legislation seeks to address often present the most effective testimony. Experts oftentimes contribute a useful perspective, bringing the credibility of academic credentials, research expertise, and intellectual rigor to the issue. All speakers should be rehearsed and should understand the typical legislative hearing scenario. Lengthy testimony may be unproductive (sometimes not even allowed), and comments may be frequently interrupted with questions.

Know the rules for testifying before preparing your team of witnesses. Remarks should be clear and concise. Speakers should be familiar with their major points and engage their audience without just reading prepared comments. Each speaker should be prepared to speak for as little as one minute and for no more than three, in case commentary is governed by rules or time constraints. Anticipate questions both to prepare effective responses and to help speakers to deal with uncomfortable moments or hostile legislators. Make sure friendly legislators will be present to help you in contentious moments by supporting your position and by asking your opponents hard questions.

Additional Steps

Actions outside the halls of the legislature can have a huge impact on what happens inside. Protests, marches, local endorsements, and other steps to show widespread public support reinforce a sense that the public is holding elected officials responsible and accountable for resolving an important matter.

Keys to Success

Developing the knowledge, skills, and power to make change takes time. Learning to lobby, as a participant or as a leader of an advocacy campaign, can determine the outcome of an environmental or a social justice issue. As you and your coalition master the lobbying game, reach out to kindred organizations with specific expertise or more lobbying experience. Consider providing lobbying training to coalition members and their staffs. Anticipate that you and your partners will need to pace yourselves more as if you are running a marathon than a sprint. Celebrate every success, large or small, to keep everyone energized. Opponents will never disappear, but organizing, litigating, educating, and lobbying can pave the path to success, over and over again. ■

References

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 - *The Democracy Center, Resources for Advocates,* www.democracyctr.org/resources/advocacy.html
 - *Marlow & Company, "A People's Guide To Influencing Congress,"* www.netlobby.com/pgic.htm
 - *Jim Shultz, "The Democracy Owner's Manual: A Practical Guide to Changing the World." Rutgers University Press. New Brunswick, NJ. 2002*
 - *Bob Smucker, "The Non-Profit Lobbying Guide Second Edition," Independent Sector 1999.*
- *For resources on lobbying, see *Resources*, p. 69-70.

Judith Bell is executive vice president of PolicyLink, a national nonprofit research, communications, capacity building and advocacy organization based in Oakland, CA.