

**Jon Wainwright:** Hi everyone. This is going to be Part 2 of our conversation with Tristan Brown and his and CFT's quest to kill AB 1217 here in the 2017 legislative cycle. If you want to get more of a background on the bill itself or on the way public education is structured in California, please refer back to [Part 1 of this interview](#) for this. Again we're going in depth on lobbying tactics when it comes to killing a bill. Hope you all enjoy.

[Music]

**JW:** This is basically, we go back to that baby dropped on the door step ... This is what you got dropped on your door step in July right before break, is here, here's this bill that from your perspective is a total stinker of a bill.

**Tristan Brown:** Sure.

**JW:** So where do you go from there in terms of next steps in fighting this bill - that now you've gone from we're going to monitor it but we're generally in favor of this thing to holy smokes, this thing is horrible. What are the next steps? Obviously, you're going into break so you can't do a ton of going directly at the legislators? What are you doing in that month or so when you're not having any access to the legislators because they're all at home?

**TB:** this is when you have to act so fast. In a world where the change that happens in the political world is a bit like molasses, I think to most people. When we want something fixed, we want it now, and there's a process. There's a whole legislative process, and I know for some folks you might feel like you're not getting anywhere very fast.

This part of the legislative making process we are turning things around like race car drivers. We just cannot wait. So we started building our coalition. Like any good legislative advocate, you're going to think about who else cares about this issue and we're going to go have a conversation with those folks. And, if I pick up the proverbial "Bat-phone" and call people and say, "I've got a 911-level bill that we just saw right before break is happening. Can I grab coffee with you?" I don't bust that out on any old day of the week. We reserve these sort of emergencies for genuine emergencies.

So, who do we call? The California Teachers Association, California School Employees Associations, the School Board Association, the Association of California School Administrators, the School Business Officers, like, I can go on for ...

**JW:** So the whole slew of alphabet soup related to education in California?

**TB:** Yeah. And there's a mega group called the Education Coalition that everyone in the Capitol knows when the Ed Co - Ed Coalition - is together on something - that is labor, and that is management, and also we brought on the PTA so we had the major voice for parents and teachers there on that grassroots side. We even had other civil rights

groups that were very worried about what this does to set up a third tier public education that really is a private entity with public dollars, again. And this, really sets off some red alerts for discrimination, cherry picking students, getting rid of students that don't really fit your format - and there's due process rights for students in public education.

And not to make this a Con Law class, but, you know, you have to go through a series of hearings and notifications before a student would be, before their access to education is taken away. That doesn't necessarily happen in this sort of set up, in this arrangement with a private board running a school. So, everybody saw the same problem and joined in and it was like if you were having breakfast with your partner and the partner was like, "Alright, I'm going to work and, uh, oh I'm flying to Hawaii at the end of the night. Bye!" And you're like, "Wait! Wait! What?" You know like, you want to say hang on; you can't just drop this on me and leave." And that's what they were doing with this bill.

We ran outside, screamed and said come back and we need to talk. So we actually had two authors, the co-authors - Senator Portantino from the northeast LA area and Assembly Member Bocanegra also from the LA area. They were co-authors of this bill and we asked, "What the heck are you doing with this bill?"

Now, if we want to get into some inside baseball.

**JW:** Inside baseball is fine. So, is Constitutional Law. This is a law school podcast, that's not out the realm of possibility here.

**TB:** Of course. Bills have to go through normal processes. To have a gut and amend of this size, normally you need some sign off from leadership - by leadership I mean the Senate Pro Tem, or the Assembly Speaker - has to say, "OK, you're disrupting the normal flow. It's my job to make sure nothing happens to that flow, so, this is okay."

So we knew that leadership was involved peripherally and knew that this was happening. And in this case it was Kevin de Leon, again, also from Los Angeles and the President Pro Tem of the Senate. We arranged a meeting, both those offers and representatives from the Pro Tem's office were there and we vented our concerns. They let us know that they would work with us and they hear us. We even presented a couple of amendments to kind of shore up some of the questions. And I wouldn't say that this would get us to a positive vibe with this bill. It was more like...

**JW:** It gets you away from the "no" to a "we're not going to try to actively kill this thing?"

**TB:** You know that's even too far. It's like, I lost my leg and this is going to cauterize the wound to stop the bleeding. It's not even a fake leg to help me walk again. It is bad.

So, we're just stopping bleeding with these amendments. We still were not going to like the idea of a third school system, again being run by private individuals. So, we're still

going to oppose it on principle, because again, we want to have the accountability of a board to the parents - to the voters - to run the school. That's just how it should work.

So, we had our meeting, they listened to us, and they said: We'll work over the break and figure this out. One week goes by and sure, you got to go to your district, kiss some babies, shake some hands - we get it. Two weeks goes by, we're getting a little antsy. Three weeks goes by, nothing has come back from those offices, and we've got one week left until we're back in session when this bill starts to move again and we realize that there probably would not be a very constructive conversation anymore. After our last check in, realizing that our amendments were not going to be taken, we withdrew those amendments and said: Alright, this bill is a real stinker and we are coming in to the last couple weeks of session when all kinds of craziness happens ... we have so many other pots on the fire here that we've got to attend to, and now you bring us this? No. You've got a whole other year in this session, all of next year - is another seven, eight months of time - for us to figure out this issue and really what you want to do.

Because, the other thing is, if you wanted a STEM school, you could open a STEM school you did not need a new state school system to do this. In LA, we just had a huge school board election and I think the view of most folks is that the school system - or the school board there - is a majority pro-charter board. So they could've created a charter school very easily that accomplishes the same goals as bringing the STEM education in. We were also told that they wanted to work with members of higher education to come teach classes - which is not unheard of. There are a lot of partnerships between schools and local community colleges and four-year institutions where a faculty member can come and teach a course - called dual enrollment. It's easy to set up if everybody is in agreement on the same goal. And so, there was an idea that Caltech professors would come teach some of the STEM curriculum to the school. Well, great! They can make a charter school and make that arrangement, and we don't have to have this other weird new system.

We did see amendments, then, at the end of summer. They added a position on this board for someone from Caltech. And it's like, okay, Caltech is a private education institution. So you're adding another private person on to this supposed public school - another red flag. And then with any good bill, you're going to go ask the Governor - at least the Governor's staff - what do you think about our idea? It became clear that the Governor might not be so into this idea, I suspect, because their next amendment was adding two appointments to the board by the Governor. Good way to get your bill past the veto line.

So, again, we've got a real hodgepodge of folks that get to run this school. If a parent from LA ... how are you going to come up to Sacramento and talk to the Governor about the appointee that he or she makes about this school? It's not feasible.

**JW:** At least, in the short-term, you've got a State Senator, a State Senate Pro Tem, and an Assembly Speaker are both from the LA area, so theoretically, a parent could drive down the street to Downtown LA or Paramount and talk to either of them -or their

staff in their district offices. But, again, we're looking at four people where there's a clear tie to a public official or public agency on a board of about ten is what it sounds like at this point.

**TB:** Right, well they did start to limit the board to seven. But the chances still of a parent going to Paramount and getting an audience with the Speaker of the Assembly - insert joke about me doing enough MBE questions to pass the Bar the first time. Sure, it can happen, it does for some people, but not for everyone. And you're talking about a population that you're supposed to be serving - poor black and brown students. So how are their parents going to pack up get to have this, you know, I have a hard time getting an audience with the Speaker as a lobbyist for a major teacher's union. How is a parent going to fit in to the schedule? And that's not dissing Anthony Rendon. That's just the system. It's hard to get time. I'm sure he would love to talk to all the parents in his district, of course, but just not going to be a thing that happens.

So here we are now, and we've got about three weeks left of session.

**JW:** Nature of the beast with coming back from recess and deadline being mid-September, break ends late August. And also, you're in a situation now where you've got this bill, but there's also, at least two or three other major priorities the Legislature is also dealing with. This was the big year where housing is still something they're working on going into the final stretch.

**TB:** There are people with pitchforks because of the gas tax that they just passed. We've been looking at the housing package. We've got the California Values Act to set up California as a quote-unquote Sanctuary State. There were a number of high, top headline grabbing bills and issues that they were working through. And here is this really random school bill to set up a STEM school. You know, we were not at the top of anybody's agenda in the last three weeks of session to talk about a school bill.

But, given the coalition, given how many folks were a part of it, we did have an excellent team that could divide and conquer exceptionally well with great efficiency. If you have enough people, you can hound an office and coordinate your talking points, make sure you're all relaying the same information and then bringing back a report from that office and knowing who is understanding your issue, who just doesn't want to hear it.

And this bill also had some backing by a billionaire who is very interested in school choice, a huge proponent of charter schools. And you know, a huge billionaire in LA - and there a lot of members from LA - it's not someone you really want to tick off coming into an election year. I think everyone in the Building is an upstanding public servant and they are making their votes based on the policy choices, but we all know that there are real political ramifications with certain votes.

So it was not an easy discussion to have with a lot of people. But we did it. We looked like an interesting little mod squad. If any of you have been in the Capitol, or maybe if you haven't, go to the third floor, go around the pretty Rotunda, which, it's funny. If you

go in the Capitol the old side has different floor numbers than the new side. It's very confusing.

**JW:** It's like my alma mater. There's one building where half the building is, the floors are labeled with letters, and the other half they're labeled with numbers, and at no point in that building do the letters match up with the corresponding number. A is not equal to 1.

**TB:** Yeah, it's the same thing in the Capitol. Second floor of the old style side in the Rotunda is actually the third floor of the new side of the Building. I say new because it was built in the '80's.

**JW:** New compared to early 1900's.

**TB:** And there's a little area we call the gate. That's where most of the Senators and Assembly Members go in and out of their houses. Not the huge front doors that you might think of - this grand entrance to the Senate - but around the corner behind it. It's a nice little side exit, and that's where we line up. We were probably ten, fifteen lobbyists all together. Pro public education folks, and when a Senator would pop in or out, we got our letter with all of our logos on it - it looked like a NASCAR racing car. And we'd put it in their face and say, "Senator So and So, we really need to talk to you about AB 1217. It's a real dangerous third education system in the state."

I joked with some of the members of the Ed Committee that if I come in just one more time, I should've been given a free Subway sandwich.

**JW:** Frequent customer.

**TB:** Yeah. Very obnoxious. And that's really the job as a legislative advocate. You have to get in there as much as possible. It's not like in court where someone can send you an objection and you let the judge sustain or overrule it. You just get to be annoying and honest and plead your case as much as possible. We were in the Building twelve hours a day, at least, that last week.

It's super interesting how the calendar goes in the last week of session, and how they work through the file - the hundreds and hundreds of bills that get debated on the floor. And sometimes they need amendments and sometimes they need a committee to hear those amendments and we're way past the date for that so they bend the rules and send things back and ... I mean we are getting 15,000 steps on our Fitbits every day just following these bills around. So it's a very exciting time.

And it went to the last day of session. It was a Friday. They're notorious for going late on the last night of session. It's a lot of fun. It's probably - I remember going to Back to School Night as a kid and it's like, "Oh, I'm in my classroom but there's no sun out. This is weird and cool. And all my friends are here and we're going to run around and play at night" - it was kind of like that on the last night of session.

You're there until midnight.

**JW:** Or later.

**TB:** Or later. I was there until two in the morning this last year. And you just hope that everything you've worked for falls into place. We were never sure when they were going to bring the bill up because we're obviously on the other side, so we're not getting intel from the author's office. They're moving through the file, they skip around, and we have no idea what's happening. But we know that when it does happen we're going to spring into action and make sure that we keep as many Senators off of that floor vote as possible.

And finally at five o' clock, they, Senator Portantino moves to have the bill put on the Inactive File. Now, the Inactive File is something where bills, if you, you basically get, like baseball, three swings of the bat once your bill comes up on the floor. And if you pass and retain on file once, that's fine. If you do it twice, then they're supposed to put it on the Inactive File. That didn't necessarily happen with this bill.

Again, when you have leadership's wink and nod not every rule is as followed as some other bills.

**JW:** For every rule there is an exception.

**TB:** Of course. So we knew that anything could happen at any moment. Once it went on the Inactive File, technically, to bring it off the Inactive File, you have to give a day's notice and it goes back to what we call Second Reading. Anything on Second Reading is a chance for everyone to check out what's new on the bill, take a breath and figure out your strategy and then once it comes on Third Reading the next day, that's when it can be voted on. You can't vote on a bill that's on Second Reading.

But in the last night of session, you might see a bill go from Second Reading to Third Reading in a matter of minutes just because it's the last day of session and there is exceptions for every rule. So we knew that just because it was on the Inactive File, we were feeling good. But it's funny - you watch the other lobbyists on the other side of your issue. Once they're kind of huddled up and in a hallway then you know you can't go home. Who knows what they're up to? Are they just mulling over their defeat or are they saying ...

**JW:** We've got one last Hail Mary left in 'em.

**TB:** And if those guys go home and we can throw that ball, no one's going to be defending our receiver and boom, we score. That's a real threat. That's why we had to stick around until two in the morning on the last night of session to make sure that that bill didn't get taken off the Inactive File.

Now, all of this was a Hollywood finish for us in the last week of session, but all that means is it's just dormant through this winter break. And as all the legislators are back in their districts to kiss more babies and think up new bills to bring out in January, this bill is just sitting there, on Inactive, on the floor, ready for a moment's notice to spring back into action. So our work is not done until the stroke of midnight next year on the last night of session where then your bill is really dead and we'll have to monitor this thing all year and see if there's a compromise that's brought up, or hey, maybe a billionaire gets his charter school that does STEM and he finds another way and congrats to him. It will be a part of the actual, traditional - not traditional - actual public school system at that point.

**JW:** Because there is an established system to create a charter school in California already. There wasn't a need to go and try to utilize this third system within public education in California? There is a set way to do that already, for charter schools?

**TB:** You can set up a charter with your local school district. They said no? You can appeal to the County Board of Education, and if they say no - which is more rare - but if they say no, the State Board of Education will hear your final appeal. And they are notorious for having a 100% approval rating of every appeal that comes to them. So, I'd say to anyone, if you want to start a charter school, it's darn near impossible to not actually start it.

I think that folks that have an idea and think the charter school route is for them - it's a great way for parents and teachers to work together to bring in new ways to teach kids. We should try any kind of innovative education delivery service but we hope that the workers are respected at that place. We hope that students are respected at that place. And that it's done with full transparency and accountability for the money they spend. There are some horror stories where that doesn't happen at certain charter schools. That's a whole other podcast, probably.

**JW:** I think so.

**TB:** And then, to their point of wanting to have an even broader school that wasn't linked just to LAUSD or LA County, and they wanted to work with other institutions of higher education, you can have a county-wide charter. You can have a statewide charter. This is all already in Ed Code so that you can create a school that has a special niche that is not being filled locally for those parents and students.

So, it's very possible for these folks, these advocates, to start a STEM school for this population and have a dual enrollment agreement with entities like UCLA, Caltech, USC even, and start bringing in those faculty members to help teach whatever aspect of STEM education they want.

There's, I think, on an aside, an important part of this. Often what we heard was, "Well, what if Zuckerberg wants to come in and teach these kids how to code for an online forum?"

**JW:** Not a horrible thought. He's fairly well known for doing just that, coding. Created one of the most preeminent social media sites out there right now. If not the most preeminent one.

**TB:** And how cool would it be for a classroom to say we met the founder of Facebook and we got to create our own little mini-campus online forum? That would be awesome. No one, none of us would say no. However, myself even, having a JD from McGeorge - thanks McGeorge - and being a practitioner of legislative advocacy - knowing about Con Law. You got to know, it's the weirdest things that come back when you are a lobbyist and I've had to pull out my torts book and teach staffers in the Building about the difference between negligence and strict liability and the language they're using that creates one or the other.

It's fun, but, I could not walk into a classroom right now and start teaching high schoolers or middle schoolers about, let's just say, Civics 101. Because I don't know, I don't have the cultural competency that I've learned that teachers have, the training that teachers have gone through to learn how to work with a student who, maybe didn't sleep last night because they're father was banging around and left and there was no breakfast for them. There are kids that go through hell and back that go to the same school, and you need to know how to deal with that. You need to know how to connect with students. You need to know how to connect with someone who's dealing with, maybe, they're own sexual identity. Maybe, how do you know when a kid has dyslexia versus just being a bad coder?

There's a ton of things that teachers learn how to teach that in all respect to Mr. Zuckerberg's intelligence when it comes to coding, I don't know if he has the training to connect with kids in the same way. And that's why it's important to have an actual certificated teacher in the classroom, and that's why it's important to have classified staff making sure it's safe and clean in the classroom. So we should partner with these agencies, but we can't just create a school and expect for all of these engineers to come and be able to teach. It's a whole new world.

**JW:** Interesting. So it sounds like AB 1217, asleep, not dead. That's the joy of the two year session in California. It'll be something definitely worth keeping an eye on. Obviously, a lot of big priorities got checked off in the first half of this session, so we'll see if it moves up the radar or if other new big priorities pop up in January with the next State of the State and the next budget.

But, thank you so much for coming in and talking with us today about AB 1217, Tristan.

**TB:** Always fun. Great to be here. Thanks so much.

**JW:** Yeah, and if you want to learn more, you can always check out any of the other posts and podcasts we have on [CAPimpactca.com](http://CAPimpactca.com). Also feel free to check out our Twitter, we're @CAPimpactCA. CAP·impact and these podcasts are a production of the



Capital Center for Law and Policy at McGeorge School of Law and Focused Decisions. For more on the Capital Center, you can check them out on Facebook, Twitter - @McGeorgeCapCtr and on the web at [go.mcgeorge.edu/capitalcenter](http://go.mcgeorge.edu/capitalcenter) and that is Capital with an A. Focused Decisions is also online, [www.focuseddecisions.com](http://www.focuseddecisions.com).

I'm Jon Wainwright, and this has been California Lawmaking In Depth. Thanks for listening.