

Ray LeBov: Hello, I'm Ray LeBov. On today's podcast we'll be talking about how to find the right legislator to ask to carry your sponsored bill. Joining me today to provide more insights is my colleague, Chris Micheli. As a sponsor of legislation, one of the most important decisions you'll face is whom to ask to be the author of your bill. The significance of this decision can't be overstated, and it's equaled by its complexity.

I'm often surprised by what little rigor many lobbyists give to the analysis of finding the right person. I, for example, have a checklist that I use. When I talk to other people, I don't insist that they use my checklist, but I give them a very strong urge to use a checklist of some sort to make sure that they're doing the requisite degree of analysis in the formation of this decision. There are many considerations that should be taken into account. None is by itself, dispositive, but each is worth weighing in context with all of the others on the list.

The first question I ask is "Is the potential author in a leadership position in the Legislature?" Sometimes that's exactly who you want, it's always something to look at. Maybe it's not the determining factor.

Chris Micheli: Well and sometimes, the leaders may have different priorities than what your sponsored bill is, and recently the current speaker, Anthony Rendon, from Los Angeles has chosen to author no bills. So the Assembly leader is not even an option for some. I think along the same lines, Ray, certainly is the potential author the Chair or an otherwise influential member of the policy committee or even the fiscal committee. As much as we would all like the Chair of the Judiciary Committee to carry our civil code amendments, sometimes having the Chair is not warranted in every instance.

RL: And another factor to consider is "What the potential author's relationship with members of all four caucuses and the governor in the administration?" They're not working in a vacuum; they may have all sorts of endearing qualities that look like they ought to be a likely author for your legislation, but if they don't have good relationships all around in the Legislature, that could be a fatal flaw.

CM: Well I, had some first-hand experience earlier this year, where an Assembly author had- has a difficult relationship with some of the Senate leadership and so unfortunately his bill got held up this year. Maybe it will get released in 2018, but that was a hard lesson for us and I would add to your point about the Governor's office. It often surprises me how hard legislators and lobbyists work to get a bill through the legislative process but somehow, conveniently or inconveniently, forget about who has the final say i.e. to sign or veto a bill, and how often a relationship with the Governor is not properly pursued.

RL: Perhaps we should have spoken of that when we discussed mistakes that lobbyists make.

CM: Very good point, and sometimes protocol requires going to a specific author, for example, if you want to amend a bill that just got enacted last year or two years ago, the unwritten protocol in the California Legislature is to go to the original author and say "this is a change we're seeking to a bill that you did last year or two years ago. A) Is it acceptable to you, and if so, would you be willing to author that bill?"

RL: Absolutely essential. If you don't do that, you may wind up with their opposition for no other reason than you violated that protocol.

CM: *In background* That's right.

RL: The next one is, "How much does the subject matter or issue matter to the potential author?" You don't want somebody carrying your bill just as a favor to you, it is something they have no interest in and no possibility of any passion for.

CM: I always find that the worst thing is when they author shows up, sits down at the dais, across from the committee members, opens up a folder with a written statement and he or she reads it verbatim without looking up, and it looks- or sounds like they are reading it for the very first time. That often doesn't go over well to their colleagues because they're looking at that legislator thinking, "Well clearly this is not an important item for him or her"

RL: "If they don't care, why should I?"

CM: Absolutely. In fact, I remember when I first started lobbying, I was criticized for getting a Republican Assemblyman to author our R&D tax credit increase bill. Now clearly, a member of the minority party, so other more established lobbyists were questioning, "Why did you choose that person to carry it for you?"

Well, not that year, but two years in a row, we got increases in the R&D credit. Now to be fair, this Republican Assemblyman never had his name on the final bill but this is someone that you didn't have to staff. He didn't need talking points, he was from the Silicon Valley, he worked in the high tech industry, he could really speak first hand to it and he was passionate about it and he literally went door-to-door amongst his colleagues. He had the subject matter expertise, plus a passion for the- for the issue.

RL: “How will the issue play in potential author's district?” That's as important as any - um- asking somebody to carry a bill that's not going to be favored by his constituency is a huge mistake. On the other hand, if it's a bill that is of interest because there is significant interest among the constituency, you're one step ahead.

CM: Well and I would just add to that “how does this issue play in that district?” In other words, if something would not go over well in a particular legislator's district, why even go and propose that he or she author that bill for you? This is part of that doing your homework as you often talk about with lobbyists.

RL: Well not only are they going to tell you “no”, but you've actually painted yourself as somebody who is not very bright about how things work.

CM: Absolutely. I think another good issue is “Who's going to staff that bill in the particular legislator's office?” As you well know working many years in the building, there are clearly some very experienced and substantive staff and it's always great when you know that your bill is going to be assigned to a particular staff member because you have a long-term relationship with that person, or even better, he or she knows their way around the building. They have subject matter expertise, they've done bills in the same subject area, so you're very comfortable, it gives you that level of comfort that you're going to put your heart and soul into the bill, but so is the author's staff.

RL: And I think you could say in some ways that this search for the ideal is a search for an ideal author as well as an ideal staff person.

So the next one we'll look at is "What knowledge does the potential author have of the subject matter?" Now that's not as obvious as you think it might be on its face. Because it really is a complex consideration, we all know that a little knowledge can be more dangerous than none. If a legislator thinks they know a lot more than they do, they are a very dangerous weapon and the weapon is pointed at you.

CM: Well I think as you've pointed out be it leadership or the chair of a committee, sometimes, it's good to have a subject matter expertise, and sometimes it's not necessary with a particular bill. Perhaps as our industry describes a ‘heavy lift bill’, having a subject matter at least experience if not expertise probably is more valuable but as you well know there are some less important bills, if we will- if we can use that term, that don't always need the ‘heavy lift’ or the subject matter expertise.

RL: And I've seen situations where an author who's been selected because they assumedly know about an issue, really think they know far, far more than they do and they get themselves into trouble constantly by being a know it all.

CM: Absolutely, we sort of touched upon it earlier but another key factor is "is what your view of the potential author's ability to present this bill?" As I mentioned in my earlier example, having a legislator who knows the subject matter, doesn't necessarily need talking points, etcetera. And is willing to work his or her bill can make up for some other potential deficits.

RL: That's absolutely true and we've seen this all too often that if somebody does not have that ability, all the other things having lined up are going to not save the day for you.

Let's look at one that really doesn't get as much attention as it should and that is "Will the potential author as his or her bill or your bill?" and that is how much input will you be allowed to have in decisions such as whether to accept amendments, etcetera, many other considerations.

Now, in my view there's a spectrum here. At one end of the spectrum, is a legislator who says "Well thank you for bringing the bill to me. Goodbye." and at the other end of the spectrum is one who says "Thank you for bringing the bill to me. And oh by the way, you are going to do all the work on this."

What you want, and what I want, and what I think every lobbyist should want is something very collaborative and that's right in the middle that gives you the advantage, all the advantages that they have to offer while the at the same time an acknowledgement that they're, that you are the source of this, and should therefore have significant input in it, obviously their name on it, obviously they're the elected person, obviously they get to make the final decisions, but unless you have that sort of collaborative relationship, you're really asking for trouble.

CM: Well as we both know, there's always one or two legislators of 120 who publicly state that they don't take sponsored bills, but as you said, it's figuring out the right balance. In the end, at the end of the day, it's the author, the legislator's name who's on the bill, so I've always taken the approach that the ultimate decision is obviously up to him or her, as to amendments, if you're going to park the bill, etcetera. On the other hand, if you're the sponsor of a bill and bringing it to his or her attention and asking for their authorship, you hope to have certainly some input along the process.

And this also goes to a point that you've often raised as to client expectations, because sometimes there are clients who expect that with their sponsored bill, they dictate every last word of an amendment, or the entire process, but you also have to let your client know that sometimes, "Hey, it's Legislator X, his name is on it, not our name and so really, Client, you have to appreciate that they have the ultimate say."

Something else that very important is, you know, do you want to use a particular author for a particular bill as you often point out, not every bill requires a leader, a policy committee chair, or if you will the most powerful author. What's your thought there?

RL: That's right. You may have a number of bills that you are sponsoring and if this is, the bill is your lowest priority, why would you want to use up a chit with a very powerful author? Similar to that is if it's an easy bill, let's say it's a bill that any of 120 members could get passed, again, you don't want to use up a chit with a powerful author whose power and influence is totally unnecessary for the fate of the bill.

Similarly, can you use the experience with the bill to build a relationship with or to educate an up-and-comer. Many lobbyists make the mistake that they really need an established powerhouse to carry all of their bills. Well they're overlooking a couple of things. And they're related, one is can you use this- there's almost nothing better than building a relationship with someone then having them carry a bill for you. In addition, you don't want to be short-sighted. You need to understand in this post term limit era that at some point new legislators are going to be the powerful, most experienced people and getting an early start with them can a very valuable thing.

CM: I couldn't agree with you more and twice earlier this year, I went to freshman legislators and it was strictly for that purpose. It was unlikely that either bill would ultimately pass, but the client wanted to do it, and I picked two members who were freshman, they are going to be here undoubtedly for the next 12 years, and so it's a great opportunity for us to, you know, build that relationship with them.

I think we'll close on something you've often raised which is, "What's the relationship of that author with both interest groups for and against the bill and other entities that might be involved?" As you know, there are lots of players in this process and there are some 'heavy lift bills' that require a very effective author who can actually bring in interested parties, both proponents and opponents and force a compromise.

RL: You know you've said that so well I don't think I have anything to add to that. But thanks everybody for joining us today for our discussion of how to find the right author for your bill.

