

This is Chris Micheli with the Sacramento governmental relations firm of Aprea & Micheli and an adjunct professor at McGeorge School of Law in its Capital Lawyering program. Today's podcast is looking at state budget advocacy. In state budget advocacy, is it similar or different from other forms of lobbying such as advocating on legislation or regulations?

In one way budget advocacy is no different than legislative or regulatory advocacy. The concept is essentially the same which is to educate and ultimately influence lawmakers or administrative officials and staff concerning specific budget appropriations in the main budget bill or provisions of so-called trailer bills that follow thereafter. As other capital observers have noted, the California budget is a bill that the state must pass every single year but it still is a bill. However, what we find is that many advocates do not have budget issues. There are a smaller number of advocates who find it to be intimidating with large numbers and tremendous implications. The state budget process on paper is similar to the legislative process, however, in practical terms, it can be quite different.

The full budget committees of the Senate and the Assembly act mostly as the final arbiter of their respective houses' views when it comes to finalizing the actions of the Subcommittees of the two full budget committees. As you can imagine the legislative leaders can and do impact final budget decisions as well, but the budget bill is rarely modified on either floor of the Legislature. Instead, the five Senate Budget Subcommittees and the six Assembly Budget Subcommittees, act as both the policy and the fiscal committees in determining budget actions as well as trailer bill actions. The Assembly Budget Committee and the Senate Budget and Fiscal Review Committee are charged with adopting the state budget and their respective trailer bills for implementation of California's state budget.

Once the governor's budget proposal is released by January 10th of each year, both budget committee staff prepare a summary overview of the Governor's Budget and a similar document is prepared by the independent legislative analyst's office. Then roughly in early March, the Assembly and Senate Subcommittees begin holding extensive hearings and taking testimony not only from the Department of Finance, but also the LAO, the State Agencies and Departments, and of course, members of the public. This is a critical time to advocate for your client's position on specific budget requests made at the department level.

Most of the work on the California state budget occurs at the sub-committee level. Prior to the sub-committee hearings, the full budget committee staff usually examine the major budget proposals and they prepare agendas that include an explanation of the governor's budget proposals as well as the staff's recommendation whether to accept the governor's budget, reject the governor's budget proposal, modify it in some way or hold it open meaning take further consideration down the road perhaps after the governor's May budget revision has been submitted. In instances where the governor's budget proposals are "Held open," this is to allow for further discussion. It should be noted that the minority party staff also prepare similar information for their members for consideration.

Now, by the time the governor's May revise of the budget is released in mid-May, the sub-committees will quickly have to conclude their deliberations within the next couple of weeks. That is by the end of May. The May budget revision takes into consideration

the April 15th tax receipts for individuals, corporations and, of course, sales and use taxes amongst others. At this point, it's relatively hard for the public to have much more input unless there's an entirely new budget proposal.

As a result, it's important that any communications be done early in the budget process particularly at the sub-committee level. Any differences between the actions of the Assembly and the Senate are usually handled by a two-house Conference Committee. The procedural requirements have sometimes been waived due to time constraints for establishing that two-house budget Conference Committee. The Assembly and the Senate rotate the chairpersonship of the Conference Committee each year. This process is supposed to address the differences. That is the Conference Committee process. The differences between the versions of the budget that were adopted by the Senate and by the Assembly.

While the Conference Committee hearings are open to the public and they're usually broadcast on the Carl channel, there is generally no public comment taken at this point instead advocates rely upon the budget conferees to advocate for a position adopted by one house or the other. Generally, only the Department of Finance and the legislative analyst's office are heard from by the budget conferees.

The Conference Committee sometimes considers changes to the budget that are characterized as conference compromises. After that, they will finish their work on the remaining items and close out the state budget. Thereafter, both houses will vote on the conference report and they'll pass the requisite budget trailer bills to implement provisions of the budget bill. Again, once the budget's on the floor, there's little opportunity to make changes to it. Sometimes there may be an opportunity to modify policy language contained in a trailer bill or a few budget line items that are modified later in what's called a budget junior bill.

On some issues that are inserted at the last minute, they may be technically heard in one or more of the budget committees, but sometimes there's public testimony taken. Instead, the Budget Conference Committee or the Budget Committees of the Assembly or Senate will only hear directly from the LAO and the Department of Finance. This can mean that the only form of public input is when a legislator might ask a pointed question or make a specific point while the committee deliberates its actions.

Although the budget process, the public aspect, is usually just about five months in length, please note that the development of the state budget actually begins shortly after the budget, the prior version, takes effect. California's fiscal year begins on July 1 of each year, which means, of course, that the states fiscal year ends the following June 30th. By way of comparison, the Federal Government's fiscal year runs October 1 through September the 30th.

State departments, prior to this January 10th budget, which is the first time the public gets to see it, state departments must submit their budget proposals to their agencies, who in turn, passes them up to their Department of Finance. This process occurs in the late Summer and early Fall. Thereafter, the DOF makes its recommendations and ultimately the governor and his or her staff will make final determinations in consultation with the Department of Finance in requisite time so that the governor can release his or her budget by the January 10th constitutional deadline.

Observers should note that the governor's budget is on the Department of Finance website, under E-budget tab. The budget today, in 2017, is over 1,300 pages in length and it, of course, contains the details of the governor's proposed budget spending for the upcoming fiscal year. Each budget item is assigned a 10-digit code and includes the State Department, the purpose and the funding source for each budget item.

As mentioned earlier, the legislative budget Subcommittees are known by numbers in the Assembly and the Senate, rather than by their subject matter. For example, the subject matter of education is covered by Senate Sub 1 and Assembly Sub 2. Resources, the environment, and transportation are covered by Senate Budget Subcommittee number two and Assembly budget Subcommittee number three. Health and Human Services is covered by Senate Budget Sub 3 and Assembly budget Sub 1. State government is the same. Senate budget Sub 4 and Assembly budget Sub 4. Then also the same as public safety and the judiciary which is covered by Senate Budget Sub 5 and Assembly budget Sub 5.

As you can imagine there are often tensions when it comes to the state budget negotiations. There are those legislators and interest groups who want to spend more, those who want to spend less, those who want to create new programs, those who want to eliminate existing programs and, of course, many legislators, other elected and appointed officials and interest groups who can be found in between. With a state budget valued well in excess of \$150 billion annually, the California budget has a lot of attention and involvement with a diversified group of interests.

Lobbyists should understand some of the key items in the budget process in addition to the earlier outlined calendar. For example, as opposed to the federal government, the governor of the state of California has blue pencil authority. Specifically, the California Constitution provides that the chief executive has line item veto authority so that the governor can reduce or entirely eliminate any item of appropriation from any bill including the budget bill.

State agencies, it should be noted, submit budget change proposals which are often referred to by their acronym BCP. The BCPs contain proposed expenditures and budget changes to existing levels of service that are used to prepare the governor's budget. The BCPs can be seen on the Department of Finance website under that tab. BCPs are distinguished from deficiency requests. A deficiency request is when an agency or a department has an unanticipated increase in its costs. It doesn't matter for what reason but those costs exceed the funding that was appropriated for that agency or department in the current year's budget. In these cases, the agency or the department will have to request a deficiency appropriation in separate legislation.

There is also budget control language which is known by its acronym BCL. Budget control language is language that's contained in the actual budget bill that provides the conditions upon which the use of specific appropriations are made. There are also finance letters. The finance letters are proposals made by the Director of Finance, and they are sent as letters to the chairs of the budget committees in each house proposing to amend the governor's budget, and the budget bill from the form that was submitted by that January 10th deadline in order to reflect any revised plans of expenditures.

I would lastly note that if line items in the budget are eliminated or reduced by the governor, those are and can be reconsidered separately. In any line-item veto again,

whether it's a reduction or a total elimination may be overridden in the same manner as a bill i.e with a two-thirds vote of both houses of the legislature. I hope you appreciated this brief overview of the California budget process.