

Hi, this is Chris Micheli, a principal at the Aprea & Micheli lobbying firm here in Sacramento, and I'm also an adjunct professor at McGeorge School of Law. Thanks for joining today's podcast on tracking and analyzing California legislation and regulations.

As you can probably imagine, an important role for any lobbyist is to track and analyze legislation and regulations. Tracking and monitoring doesn't just mean new bills and regulations. It also means amendments to those bills and regulations, budget actions, gubernatorial actions, monitoring executive branch activities.

There are over 200 rulemaking bodies in the state of California -- different administrative agencies, departments, boards, and commissions. According to our Office of Administrative Law here in California, those administrative agencies promulgate about 600 regulations each calendar year. As well, those agencies issue interpretations, executive orders, and formal guidance throughout the calendar year as well.

In terms of legislation, our legislature introduces on average 2,500 bills, with about 1,000 of them getting to the governor's desk, and he signs between 85- and 90-percent of those measures. There's also, according to our Legislative Counsel Office, between 8,000 and 10,000 amendments to those 2,500 bills each year, so it's quite a number of bills and amendments to track and analyze.

Of course, in terms of regulations and other regulatory activities, it's also wise for a lobbyist to keep aware of the judicial branch and appellate court decisions on the different areas, subject matters that are of interest to them and certainly their clients.

Then obviously, in an election year, there are state and local ballot measures that often will impact policy areas and individual client interests. Let's get a little bit more in-depth on the tracking and analyzing bills and then regulations.

For bill information, there are both public and private options for tracking California legislation. There's certainly the website of our California Legislative Counsel who drafts all the bills and amendments. There, an individual can conduct bill searches and bill tracking. You can review the full text of the bills, resolutions, constitutional amendments.

You can see their history, their status, the votes, the analyses, any veto messages. You can track them so that you're notified as to any actions, whether they're amended, set for hearing, when they pass or fail committee, etc.

You can also search bill information by legislative session, depending on the house of origin, the bill number, any keywords, or certainly the author's names.

Also, the Legislative Counsel provides a written publication, and of course one electronically on their website, a bill index, which lists all the bills introduced in the Assembly and the Senate each year.

In addition, they have the table of sections affected, and then of course, there are the daily histories and the weekly histories. Of course, there are some daily updates that are provided where legislative activity can be tracked on a daily basis.

On the private side, there are also subscription services. They are of course optional. There's a free one, again, on the California Legislative website that can aid members of the public as a convenient way to maintain lists of measures and receive automatic email notifications.

Again, on the private side, there are also commercial bill tracking services. For example, there's LegiScan. It's a national data service. They pride themselves on real-time, legislative tracking. Of course, it's used by both the public and private sectors all across the nation, large, small.

It's a paid service, and they monitor every bill, not only of the US Congress, but also the 50 states. The benefit there is that the paid users can have a centralized and uniform database with the ability to easily track legislative information with multiple subject matters and in multiple states.

There's also CapitolTrack. Their software takes data from the Legislative Counsel and other sources, and there you can customize your bill tracking to filter things through and get a personalized report for each client, for example, a list of bills by committee on each floor, etc.

Now in terms of obtaining information on regulations, the best source is certainly the Office of Administrative Law, which is charged with interpreting and enforcing our state's Administrative Procedure Act, our APA, which is patterned largely upon the federal law's equivalent APA.

There are a number of methods for lobbyists to track regulatory actions by one or more administrative agencies and departments in the state. For example, there's the California Regulatory Notice Register. It's OAL's weekly publication that contains the notices of proposed regulatory actions and other relevant notices and issues by state agencies.

To assist the public in understanding the APA, interested parties can purchase from OAL its document, its publication called California Rulemaking Law Under the Administrative Procedure Act.

It's an annotated compilation of the rulemaking aspects of the state APA and covers the implementing regulations, and of course, the relevant provisions of the government code that provides for the APA.

Individuals can request to be on an agency or department's interested mailings list. They all publish a rulemaking calendar which is required by law, in which it's an annual list compiled of projected rulemaking activities for the upcoming calendar year.

Of course, as I mentioned before, you can have your name added to their interested parties mailing list so that you receive ongoing regulatory updates.

There is also by subscription the Barclays Official California Code of Regulations. You can purchase the entire 28 codes of regulations and obtain a subscription service so that the regulations are updated each quarter. Just so that you know that, the Code of Regulations is available on the OAL website as well.

Let's spend just a moment in terms of analysis. There are essentially two types of legislative and regulatory analyses in my mind. The first, the initial one is to determine whether a particular bill, regulation, or amendment, etc., impacts your organization or your client.

For example, if your client's regulated by, say, the California Department of Fish and Game, then obviously you're going to monitor legislation that affects the department, as well as the laws that it is in charge of interpreting and enforcing.

Then obviously, you want to be aware and be on an interested parties mailing list for Fish and Game Department to figure out any regulatory activity that that department undertakes.

You might have broader natural resources-related interests in legislation and monitoring, and so you might go one step up and not just monitor the department, but also, the resources agency under which DFG sits.

Then, it's the second kind of analysis with a broader analysis which is, what is the impact of that pending legislation or pending regulations.

For example, you want to look at what's the problem that that legislation or regulation is attempting to address, what's the factual basis for it, what types of sources are they using to document the problem and suggest one or more solutions.

Then you want to look at some specific questions. Does the bill or regulation properly address the documented problem? Does it do so in a narrow or broad manner? Is it too restrictive? Maybe it's not restrictive enough.

How is the proposed solution going to be implemented, particularly by a regulatory agency? How does it complement or perhaps contradict any existing laws or regulations currently on the books?

Then you probably want some additional analysis, for example, to look at the potential fiscal impact of a proposed bill or regulation. These impacts could consider both the public sector cost as well as the private sector cost associated with the proposed bill or regulation.

The way some state agencies, for example, have put together an analysis of pending measures is they generally start with a summary of what the proposal does, what sort of history there is on the issue.

Have there been any prior bills or regulations on this topic? What are the policy considerations behind this proposal? What are potential opposition concerns that have been raised? Then certainly, are there any implementation or technical considerations with the particular proposal?

It's not an exhaustive analysis, but those are certain from a high level some of the general and specific items that you'll want to take a look at in terms of tracking and analyzing both bills and regulations.

Thanks so much for joining this podcast. I hope you found it helpful.