



# LAWYERS AND THE LEGISLATIVE PROCESS

BY JIM PENROSE, ESQ.

In a society governed by the rule of law, our rights and obligations are largely defined in statute. As attorneys, we are regularly called upon to review and interpret the language of statutes. In so doing, have you ever muttered under your breath about statutory language that was ambiguous or confusing?

Have you ever been dismayed by legislation that seemed to benefit the interests of a few at the expense of the public? Or have you ever been surprised to find that some critical issue was not addressed in statute at all? If so, what have you done about it? What *can* you do about it? This article offers a few suggestions about the role any attorney can play in the work of the Nevada Legislature.

## The Interim Between Legislative Sessions

Our legislature meets in regular session only on odd-numbered years, beginning in early February and continuing for 120 days or fewer, until early June. Your first opportunity to influence legislative action arises during the period between sessions, when various interim committees carry on their work or conduct policy studies directed by the legislature.

I suggest that you look at the Nevada Legislature's website, one of the best of its kind in the country, to determine whether there is an interim committee considering an issue of interest to you. Interim committees are usually charged with making recommendations for legislation. The meeting dates and agendas for each committee are posted on the website, along with rosters of committee members and staff. After doing some homework about the mission and composition of the committee, you should feel free to contact the committee chair or primary staff person in order to explain your interest in their work and your desire to appear before the committee. Even if the chair had not planned to consider your specific issue, he or she will generally be willing to listen if your issue falls within the committee's jurisdiction. In my experience, an appearance before a

committee is much more effective than a written submission alone.

During the interim, committee meetings are usually held in Las Vegas or Carson City, with a videoconference connection between the meeting rooms so that a speaker can appear in whichever location is most convenient. If you have written materials relating to your testimony, I recommend that you submit those to the committee staff at least a week before the meeting, so that they can be distributed among the committee members and posted on the legislature's website. I also recommend explaining your suggestions for legislative action as briefly and concisely as possible, both in your written materials and your spoken testimony.

You should also consider reaching out to a legislator from your district or one who has previously demonstrated an interest in the subject that concerns you. The latter can be identified by reviewing the bills the legislators have sponsored in previous legislative sessions or the legislative committees on which they have served. Again, the legislature's website is the ideal resource for this purpose.

The legislature's list of bill draft requests (BDRs), which is updated weekly, begins to appear on the website several months before a session. Unfortunately, most of the BDRs are described in cryptic terms: e.g., "Revises provisions relating to education." However, even this short

description may allow you to identify the requests and requesters of potential interest to you. Not infrequently, a BDR is simply a placeholder for a legislator, who may know that he or she intends to request a bill relating to education, for example, but at present has only a general idea regarding what the bill should accomplish. This provides an opportunity to contact the legislator and suggest some more specific input for the substance of the bill.

If a legislator seems receptive to your suggestions, it is important that you put your thoughts in writing for use by the legislator and legislative staff. A draft of statutory language is often less helpful in this regard than a clear description of what you are seeking to accomplish with your proposal. Feel free to note the existing provisions of statute that may need to be amended, but it's more important to describe the objective of the proposal. Don't forget to include your contact information on any written submissions, so that the legislator or staff can contact you with questions.

## The Legislative Session

Until the general election in November, most legislators are occupied with their day jobs and such practical concerns as getting reelected. Thus, legislative action does not begin in earnest until after the election. Bills from non-legislative requesters (e.g., executive branch agencies and local governments) are prefiled by the Legislative Counsel in late November and become available to the public at that time. Legislators may also request that their bills be prefiled before session. Prefiled bills are held for introduction until the legislature convenes, but the text of the bills is available on the legislature's website. This availability permits you to identify and analyze any prefiled bills that may be of interest to you.

As noted above, the legislature convenes in early February and bill introductions begin immediately. As each bill is introduced in the Senate and Assembly, it is referred to the standing committee with jurisdiction over the subject of the bill.

Once a bill of interest has been identified, its progress can be most easily followed with Personalized Legislative Tracking: the legislature's bill-tracking service. The cost of a subscription to the service is relatively minimal, depending on the number of bills the subscriber is following. Subscribers to the service will be notified of upcoming committee hearings on selected bills and receive a daily report on the current status of those bills.

The progress of a bill in committee is a matter for the committee chair, acting at the direction of the house leadership. Thus, a bill referred to committee may or may not receive a hearing or, even if it is heard, be acted upon by the committee. If a bill is to be heard and you've been involved in the preparation of the bill, the staff of the committee may contact you about scheduling the hearing. Otherwise, at least until the session nears its end and the rules are suspended, the bill will be posted for hearing on the committee's meeting agenda. Subscribers to the bill-tracking service should receive notice of the hearing.

Legislative committee meetings are conducted during session in basically the same way they are during the interim. Generally, one can appear before a committee in person in the Legislative Building in Carson City or via videoconference from the Grant Sawyer Building in Las Vegas. Committee meetings can also be viewed online, through a link on the legislature's website. If you intend to appear and have written materials in support of your testimony, you must submit the materials before the hearing—generally at least 24 hours prior—or as otherwise provided by the committee's rules. The committee's staff will post the materials on the Nevada Electronic Legislative Information System (NELIS), which is linked to the legislature's website. You should check the committee's page on NELIS or contact the committee staff to learn about the procedure for submitting materials.

If you intend to appear in order to testify in opposition to a bill as drafted, legislative protocol generally requires that you at least attempt to contact the

sponsor of the bill before the hearing to discuss your concerns. The contact information for each legislator is available on the legislature's website, and most legislators check their email messages frequently. If you're in Carson City, stop by the sponsor's office in person to see if you can schedule a brief meeting with him or her. What has been said above applies equally here; put your views in writing, explain the purpose of any proposed amendment to a bill and include your contact information in your submission.

The bills on which a committee chair intends to act are scheduled for committee work sessions, which occur with more frequency as deadlines for committee action approach. For each such bill, a work session document is prepared by the committee's staff, under the direction of the chair; the document is posted on NELIS prior to the work session. For any bill with which you are concerned, you should review the work session document and any proposed amendments posted as exhibits for the work session. Testimony is generally not taken during a work session unless the committee has a question about the bill or a proposed amendment; in other words, any question or concern that has not previously been aired should be communicated to the committee chair before the work session.

Of course, even those bills that receive a "do pass" or "amend and do pass" recommendation from committee and are adopted by the house of introduction remain in play until the end of session. They are subject to amendment in the other house, to a veto by the governor and to amendment by an entirely different bill. You should continue to monitor the progress of any bill of interest to you until the legislature has adjourned and the governor has acted on the bill. **NL**



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