

LOBBYING AND INTEREST GROUPS

Citizens' primary complaint about the Alabama legislature is that it listens to "special interests" and the lobbyists who represent them and not to the people. Alabamians are not alone in this conviction, as studies make clear. Interest group operations in Alabama fit the main outlines of such groups everywhere, operations that are difficult for citizen groups to change. Information gathered from interviews with legislators and informed observers can define the particular features of the lobbying landscape in Alabama and suggest possible modifications, usually small ones. (Except as

noted, page citations and the facts and quotations in this discussion come from Thomas and Hrebener (2004) See *Selected References*.)

Interest Group

"An interest group is an association of individuals or organizations or a public or private institution that on the basis of one or more shared concerns attempts to influence public policy in its favor. . . . Together with political parties, interest groups are a major means by which people with similar interests and concerns are brought together and . . . their views articulated to government. Interest groups act as major intermediaries between citizens and the government by representing the views of their members to public officials, particularly between elections." (p.102)

Interest groups are major sources of technical and political information for policy makers. They may educate their members and the public on issues. They may also engage in candidate recruitment. Increasingly groups help finance political campaigns, both candidate elections and ballot initiatives, often through political action committees or PACS (pp. 105-107). It is

worth noting that most interest groups initially formed for non-political purposes. For example, groups with a common economic or social interest may have formed for such purposes as publishing a journal or securing cut-rate insurance for their members. Over the last 30 years groups have become increasingly active politically in order to promote or protect their interests (p. 106).

Interest groups operate in the public policy making process by the use of lobbying. Most groups employ one or more individuals to lobby for them. Not all lobbyists, however, are representatives of the interest groups. Thomas and Hrebener (pp. 113-115) describe five categories of lobbyists. These groups are described below in combination with information about Alabama gained from interviews.

Lobbying

Any effort undertaken by a group or individual to contact public officials with the purpose of influencing their public policy decisions. (p. 103)

Contract lobbyists, often called "hired guns," receive the most attention, even though in most states they constitute only about one-quarter of the lobbying community. The interests they represent tend to spend the most money and have the most political clout. Usually technical knowledge is not their greatest asset. They are political insiders who are hired primarily for their knowledge of the system and their close contact with public officials. They usually possess special and sophisticated knowledge of certain parts of government, such as the budgetary process. This knowledge enhances their ability to assist in policy making. Equally important is the trust they must build and maintain. Also they organize fundraisers and other election help. The activity of contract lobbyists in Alabama that attracts the most attention is their management of many

ambiguously named PACS through which campaign contributions are passed to conceal who gave the contribution. PAC-to-PAC transfers obscure fund sources even more.

The increasing dominance of contract lobbyists was cited several times as a change that hinders the ability of the legislature to work for the good of the state. One interview subject noted: “Discussion at the desks and around the chamber often is not on the merits or content of the legislation but identification of the bill as _____’s bill. Once the identification is made with the contract lobbyists, much of the debate and discussion one would hope for stops.”

In-house lobbyists, often referred to as “association lobbyists,” may be the executive directors, presidents, and employees of a host of organizations and businesses, represent only one interest—their employer or organization. These were the first lobbyists to appear, representing railroads and powerful businesses in the nineteenth century. They probably have always constituted the largest segment of capitol lobbyists. Their major asset is usually their unequaled knowledge of their particular interest. This knowledge is often supplemented by campaign contributions from their association and by their ability to mobilize their membership. Education lobbies, as experts frequently point out, have the advantage of influential members in every local community.

In Alabama very strong in-house lobbyists may define the interests of their principals broadly. Two examples cited in interviews are Paul Hubbert of the Alabama Educational Association (AEA), whose range of interests is described as increasingly broad, and the president of ALFA, the Alabama Farmers Association, who announced that he would limit their lobbying scope to fewer issues than his predecessor addressed. Included among these “association lobbyists” are those working on behalf of county and municipal governments through the Alabama League of Municipalities and the Association of County Commissioners. The Alabama State Employees Association represents the interests of state government employees.

Government lobbyists, sometimes called “legislative liaisons,” are employees of state, local and federal agencies who, as part of their jobs, represent their agency to the legislative or executive branch. They may be agency heads, senior staff, or officials, elected or appointed. In states that allow hired lobbyists for government departments, they are often recruited from the ranks of former bureaucrats. They too represent only one interest. They have one important tool—information, although they can mobilize constituent groups (e.g., agency clients) for additional clout.

Citizen, cause or volunteer lobbyists represent citizen and community organizations or informal groups, often on an unpaid and ad hoc basis. Although they rarely represent more than one interest at a time, coalitions may form. These lobbyists usually rely on moral persuasion, often coupled with the mobilization of their membership. They may provide information not available elsewhere, but they usually lack the status of political insiders, access to big campaign contributions, and sophisticated public relations organizations. This category contains the highest proportion of women lobbyists, perhaps as high as 75%.

Alabama ARISE, A+, Voices for Alabama Children, the ADEM Reform Commission, League of Women Voters (when in advocacy mode), and the River

Alliance would fall in this category. These groups may employ one or more lobbyists to maintain a stronger presence in Montgomery. For some, staff members serve as registered lobbyists in addition to performing their regular duties.

Private individual, “hobbyist” or self-styled lobbyists act on their own behalf and are not designated by any organization as an official representative. They usually lobby for pet projects or direct personal benefits, or against some policy or proposal that they find particularly objectionable. These lobbyists usually have the fewest resources.

Recent Trends in Lobbying

Modern lobbyists use a greater range of tactics, especially indirect ones, mobilizing public opinion to influence the climate in which legislators make their decisions. Insider lobbying, direct contact based on carefully cultivated long-term relationships will never be replaced. And hospitality looms large in such relationships in Alabama. But experts state that the “image of the cigar-chomping good ol’ boy lobbyist plying his clients with women food and liquor is no longer realistic.” (pp. 110-113).

To what degree do interest groups and lobbyists dominate the legislature?

Alabama does vary from the national pattern in the degree to which its legislature is judged to be dominated by interest groups. In a classification of the overall impact of interest groups in 2002, Alabama is one of only five states in the *Dominant* category, “those states in which groups as a whole are the overwhelming and consistent influence on policy making.”

Most states (n=26), were classified Dominant/Complementary; 16 were Complementary; and 3 were Complimentary/Subordinate. In none were interest groups completely subordinate. In states labeled Complementary “groups tend to work in conjunction with or are constrained by other aspects of the political system. Most often this is the party system; but it could be a strong executive branch, competition between groups, or the political culture, or a combination of all of these.” (pp. 121-122) It should come as no surprise that most interview subjects, including legislators from both houses, named the decline of the power of lobbyists as the first benefit to be expected from stronger parties and caucuses in the legislature.

In overview questions about the legislature’s ability to work for the good of the state, significant numbers referred to the excessive power of interest groups and their lobbyists. Even a lobbyist said, “There is too much influence by lobbyists.” The dependence of legislators on lobbyists for information on public policy decisions is discussed elsewhere. Comments from the interviews that shed light on the level and forms of interest group dominance are the following from House members: “Their influence is strongest at the committee level.” “The Senate is more carefully worked because there are fewer members: the effort in the House is directed to the committee chairs.” From senators: “Even though Rules Committee meetings are open, no one can know what has passed between the chair and the lobbyists before the meeting.” “Lobbyists control the Rules Committee and can set the Calendar for the day.” Perhaps the most telling comment came, not in a question about lobbying, but almost casually in a

discussion about choosing committee chairs: “Special interests will want some representation on certain committees by certain [members].”

REGULATION OF LOBBYISTS

Most regulations for lobbyists, their registration and gift restrictions, are administered and published by the Ethics Commission. The Ethics Law is contained in Title 36, Code of Alabama, Section 36-25. (See *Appendix for Ethics Commission’s explanation of who must register as a lobbyist.*) Campaign contributions are administered and published by the Elections Division in the Office of the Secretary of State. An objective source for comparing Alabama’s regulations with those of other states is the Center for Public Integrity (www.public-i.org).

The most important mechanism for preventing corruption falls slightly outside this study’s focus on the legislative process--financial disclosure by legislators. They must list, albeit in general categories, their sources of income, partnership, loans, and other financial interests. The Alabama Ethics Act is widely regarded as one of the strongest in the nation in this regard. (See Ethics Commission web site for forms.)

Lobbyists and the Legislative Process: Rules of the House and Senate

No lobbyist is allowed on the floor of either house while it is in session. Former members of the legislature may not be extended floor privileges for lobbying purposes. Lobbyists cannot circulate cloture petitions. Committees are to be diligent to ascertain whether those who appear before them in other than an obviously individual capacity have conformed to requirements for lobbying, like registration. Former members must wait two years before lobbying their house, but may lobby the other house. (Ethics Commission decision AO12, 2003). Lobbyists are expected to be honest and factual. The right to lobby is based on interpretations of the First Amendment and a similar provision in the Alabama Constitution. Lobbyists seeking interpretation of lobbying rules consult the Rules Committee (*Legislative Process*, 187-194, Joint Rules 26-31).

Gift Restriction

All states agree that giving and receiving gifts is prohibited if they influence official action. Alabama restrictions rely on a combination of Disclosure Laws and a Bright Line Test. A lobbyist may spend \$249 per day for each legislator and her/his family without reporting the expenditure. Any larger amount must be reported as a gift on the lobbyists and principals’ quarterly reports and the name of the recipient, date, and itemized expenditures included. Although gifts, usually in the form of trips for the legislator or family members, are reported, the vast majority of the quarterly

Methods of Restricting Gifts

(NCSL [Legibrief](#), June/July 2002)

Zero tolerance: No gifts allowed. Removes any ambiguity. Some states exempt food and beverages to enable a legislator to eat with a group he/she is addressing.

Bright Line Test: Used by almost one-half the states; specifies monetary limit for gifts, ranging from \$3 a day in Iowa to \$500 a day in Texas.

Disclosure Laws. Lobbyists can give almost anything of value so long as it is reported. One-third of the states place no restrictions but prohibit gifts “if they influence a legislator’s official action.”

reports filed merely show a check in the box saying that they have spent no more than the amount permitted without disclosure. These quarterly reports are not published on the Internet with other lobbying information. There are no cumulative yearly reports.

The lunches for various legislative groups, dinners in restaurants, and the like fall under the \$250 reporting threshold. Most legislators doubt lobbyists spend that much: "No one spent that much on me."

Possible Recommendation: Lower the threshold for reporting from \$250 to \$100.

Pros: Many states have lower thresholds than \$250. The check off would become less automatic and greater care would be required. The fact that the quarterly reports are available to journalists and others conducting investigations may influence actions. A record is available should others events raise questions.

Cons: The Ethics Commission's budget cuts prohibit monitoring reports. Why tighten the rules if the current ones cannot be monitored and offenders punished. Some argue the recording of smaller amounts is inconvenient to lobbyists -- dinner at a Montgomery restaurant for legislator and family might exceed \$100.

While no survey question was asked about lobbying regulations, the question about the reporting threshold was asked in a number of interviews. No one disagreed with this proposed change. One lobbyist said that lobbyists would vote for it if their votes could be kept secret.

Lobbyist Registration and other Disclosures

Lobbyists now must register by January 31 of each year and pay a fee of \$100, which is returned to the General Fund. In broad terms, those who are paid to lobby must register. Adequate explanation of who must register and how, considered a necessary requirement by the Center for Public Integrity, is provided by the Ethics Commission and posted on its web site. The registration forms for lobbyists and their principals are accessible in the same place. (See *Appendix* for copies of the registration and quarterly report forms for lobbyists and principals.) The advantages of e-commerce, which would allow electronic filing and paying of fees, are not available, a fact noted in the Center for Public Integrity's grading.

Lobbyists are required to list their clients. The listing of specific areas for their activities is general, for example, health or education. Other states require more detail. If new clients are acquired after January 31, lobbyists now have 10 days to report the new clients. Because the Ethics Commission works with a reduced staff due to budget cuts and does not use electronic filing, it may take as long as two weeks for the new registrations to be compiled and published on the Internet.

Possible Recommendation: Reduce the 10-day requirement to 2 or 3 days.

Pros: In interviews objective and informed observers cited this change as needed. Ten days is a long time in a legislative session. Even if the legislators are told the

organization the lobbyist is lobbying for, expedient public disclosure of this information is one means of making the policy process transparent to the public and other groups thereby increasing legislative accountability to the public.

Cons: Some legislators stated that legislators already have the information; the posting is just a formality. At the end of the session, including the last day, even 2 to 3 days limits will not result in timely disclosure.

How to reduce the power of interest groups and lobbyists in the legislature?

All those interviewed strongly agreed that the root of lobbyists power is their ability to influence election or re-election. One said large lobbyists reserve 20% of their funds for campaign contributions. Recruiting and funding candidates to run against legislators who displease them was also cited more than once. One interview subject explicitly noted that some lobbyists use the threat of recruiting and funding an opponent in a primary election fight as a tactic in attempting to sway votes on legislation. Lobbyists, especially those working for powerful associations, can contribute not only money but also campaign workers.

The unanimous recommendation for reform from almost everyone interviewed on the subject of lobbyists was to ban PAC-to-PAC transfers. LWVAL has supported the ban on PAC-to-PAC transfers since 1995 on the basis of its Campaign Finance position, which requires disclosure.

***Recommendation to consider:* LWVAL should adopt a position stating explicitly its support for a ban on PAC-to-PAC transfers.**

This position might be placed under the Campaign Finance position or in the study position under lobbyists. Campaign Finance as such was not a topic of the study.

Note to Members: Strong support for adequate funding for the Ethics Commission is already a specific part the League's Ethics positions.

Related topics

On lobbyists as sources of information for policy making see *BP: Legislative Support*.

On citizen lobbying and public advocacy see *BP: Citizen Access*.