

WORKING EFFECTIVELY WITH YOUR STATE LEGISLATORS

A BULLET POINT SUMMARY OF DO'S AND DON'TS

INTRODUCTION

The Georgia Economic Developers Association, like many other professional organizations, carries out a “grassroots” efforts to provide the membership with information and resources regarding important issues. This includes developing issue-specific communications channels, providing usable, short summaries of proposed legislation and its impact on economic development (pro and con), and helping the membership to better communicate with legislators.

If you or your organization wish to participate in these “grassroots” efforts, then you should be knowledgeable about some of the basic rules and principles. A threshold issue is whether an organization that enjoys a special tax-exempt organization status under federal income tax law can participate in these efforts, and if so, to what degree. Here are some examples-

- “Section 501(c)(6) organization”- permitted to engage in lobbying, so long as the lobbying serves the common business interests of the members of the organization. Might have to divide membership dues between deductible and nondeductible portions (lobbying expenditures are not deductible).
- “Section 501(c)(3) organization”- political activity (for example, supporting or opposing candidates for public office) is absolutely prohibited. Regarding the possibility of other types of activities, get professional advice!

If you are a public body, state law should be consulted. For example-

- “Georgia law strictly prohibits governmental agencies from expending public funds to support any campaign committee, political action committee, or other political organization for any purpose [O.C.G.A. § 21-5-30.2(b)]. More importantly, the board of commissioners and the city councils are further prohibited from spending public funds for advertisements, flyers, mailings, or any other direct promotion in support of passage of the SPLOST.” (from the ACCG SPLOST Manual)

This Summary is concerned with Do’s and Don’t s, so here’s the first “Do” that cuts across all others-

- You and your organization should always keep abreast of what the law (federal and state, tax law and substantive law) permits, requires, or prohibits, and ensure compliance!

Here are the others-

DO'S

- Know if you are considered a “lobbyist” under state law. 2011’s HB 232 basically reversed a March 7, 2011, advisory opinion issued by the State of Georgia Government Transparency and Campaign Finance Commission. This opinion was widely viewed as casting much too broad a net in characterizing persons as “lobbyists”. HB 232 redefined “lobbyist” in a way that would allow most non-professional lobbyists to participate in “grass roots” efforts free of the registration, reporting and other requirements of the Ethics in Government Act. Per HB 232-

- “lobbyist” now means, among others:
 - Any natural person who, either individually or as an employee of another person, is compensated specifically for undertaking to promote or oppose the passage of any legislation by the General Assembly, or any committee thereof, or the approval or veto of legislation by the Governor.
 - applies only where the person in question spends more than 10 percent of his or her working hours engaged in the activities described
 - provides rules to deal with single-employer and multi-employer situations, as well as time spent on planning, researching or preparing for activities

and also means

- Any natural person who makes a total expenditure of more than \$1,000 in a calendar year, not including the person's own travel, food, lodging expenses or informational material, to promote or oppose the passage of any legislation by the General Assembly, or any committee thereof, or the approval or veto of legislation by the Governor.

Note that the above is state law and does not control any lobbying analysis under federal income tax law.

- Expend your efforts, year-round, not just during the Session, which only lasts 40 days.
 - During the other 325 days of the year, this is happening-
 - Committees of the General Assembly meet
 - legislators meet with constituents
 - Legislative Counsel, lobbyists and their counsel, and others are busy drafting bills
 - Special interests are cutting deals
 - You and your organization need to be part of this!
- Do your homework. You need to know who your legislator is.
 - Not just if you are in his or her district, and not just his or her contact information, but his or her background, interests, affiliations, and voting record.
 - After the Session, you need to hold your legislator accountable.
 - Did he or she cast his or her vote the way it was promised?
- Communicate with your legislator.
 - If more than one represents you, work with the one with whom you can establish a rapport.
- Quantity matters with communications.
 - Call, write and send emails, particularly when the legislator asks for them to help him influence his or her colleagues.
- Personalize the communication.
 - How does it affect you personally? How does it affect your community? Who else is impacted by it?
- Factoids matter.
 - Know the facts, and communicate them concisely.
- Ask for the “ask.”
 - Say clearly what it is you want.
 - Ask for his or her vote on your issue.
- Get aided by the aide.
 - The legislator’s staff members are important, and more accessible.
 - Build a relationship.
 - Become a reliable source of information on issues.
- “Can I get a witness?” Make the answer- “Yes!”

- Take advantage of public testimony opportunities, particularly when the legislator asks for your support to help him show public support for your issue.
- “Talking Points”- Prepare them, take them with you, and leave them with the legislator.
 - You need fact sheets to explain your issue and provide backup for your position.
 - Use them to clarify what’s in a bill and help its sponsor explain it to his or her colleagues
 - Make the media work for you. If there have been favorable or supporting articles about your issue, make sure your legislator has them.

DON'TS

- Don't think that anything happens in the General Assembly without someone making it happen. If you want it, you've got to work for it!
 - Personalize your issue, but don't be personal.
 - Reason, don't argue.
 - Be informed, not opinionated.
- Don't expect to get what you want in one Session of the General Assembly. Expect to work though at least two Sessions, maybe more.
- Don't drop your guard until the Session is over. Surprising things happen on the last day of every Session.
- Don't drop your guard even when the Session is over. Even if a bill passes both chambers of the General Assembly, a bill becoming a law is not automatic.
 - Governor can sign or veto legislation. Must act within six days of passage during Session (40 days after sine die adjournment). Otherwise, bill becomes law anyway.
- If you draft a bill, don't be surprised if Legislative Counsel changes it.
 - Don't be surprised if the change is not an improvement!
- Don't forget your legislator after the Session. If he or she supports you, then he or she deserves your support.
- “Never, never, never give up!” (Winston Churchill)

This Summary is a quick-reference guide for economic developers and their advisors. The information in this Summary is general in nature. Various points which could be important in a particular case have been condensed or omitted in the interest of readability. This Summary does not express any opinions on legal or tax matters. Specific professional advice should be obtained before this information is applied to any particular case. Any tax information or written tax advice contained herein (including any attachments) is not intended to be and cannot be used by any taxpayer for the purpose of avoiding tax penalties that may be imposed on the taxpayer. (The foregoing legend has been affixed pursuant to U.S. Treasury Regulations governing tax practice.)

Additional information concerning this topic, including a copy of HB 232, as well as White Papers and references on other topics, can be found at <http://danmcræ.info/>.

If you have any specific questions or comments, we would be pleased to provide more information.

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