

# Testifying Before The Legislature... An Important Part of the Process

By James McCarley

Principal, James McCarley Consultants

The Texas Constitution requires biennial legislative sessions, often supplemented by special called sessions as determined by the governor. Additionally, numerous committees and study groups hear testimony on a continuing basis regarding specific issues.

Local elected officials and appointed staff often are called to testify and present information during the formal sessions of the legislature or at interim committee meetings. This is a very important part of the legislative process.

With each legislative session, city officials become more concerned about the activities of the Texas Legislature. Hundreds of bills have the potential to negatively impact local situations. Local governmental officials must understand the process and participate in it to maintain local flexibility and control for their cities and constituencies.

There is often confusion and a feeling that little is accomplished by providing testimony; however, it is important for officials to understand why participation is essential and how to achieve the best results.

Everyone has an idea about the most effective method of testifying, but here are a few tips to remember.

## Before You Testify

**KNOW SOMETHING ABOUT THE ISSUE AND ITS LOCAL IMPACT!** While this may seem trite and simplistic, local officials often have very short notice when called upon to testify and, as a result, come ill-prepared to testify for or against proposed legislation. It is sometimes better not to testify than to appear uninformed or confused about the local impact of the legislation.

Usually you will be provided information by local staff members or the Texas Municipal League (TML) regarding specific comments and points to bring forth in your testimony. Legislative committee members will often follow up on your testimony with specific questions for you to answer. If you do not know the answer, it is better to say "I don't know" than to "beat around the bush" and evade the question. Often you may refer to other witnesses or staff members at the committee hearing to testify as "resource witnesses," providing detailed information or clarifying a technical issue.

Credibility is very important when testifying before legislative committees. If you know one of the representatives or senators serving as a member of the committee,

give his/her office a call prior to your committee appearance. It really helps if you have a friend or ally on the committee to pose good follow-up questions and elicit comments in support of your position. Most representatives and senators depend heavily upon their staffs to provide briefing papers and key points about proposed legislation. Anything you can do to edu-

cate the elected official and his/her staff prior to appearing before the committee results in more informed comments during the process.

If you do not know anyone on the committee, make contact with your local representative or senator and ask him/her to call someone on the committee. Again, credibility is an important part of the process, and most representatives and senators have friends or contacts on committees and in staff positions. Discuss the issue with your representative/senator and try to get him/her to understand and support your position. If possible, invite your representative/senator to attend the committee meeting with you... this could really improve your credibility and accelerate your slot on the agenda.

If the issues about which you are testifying have been ongoing, you need to constantly reinforce your position with local representatives and senators. Provide them, for review by their staff, any relevant material to solidify your position and show local impact of both sides of the issue.

When you are requested to appear by your staff or TML, get familiar with the background of the issue. It is important to understand why the sponsor (representative or senator) introduced the bill. The sponsor may be on the committee before which you are testifying and will usually have a great deal of information from which to draw for follow-up questions or to challenge your comments.

If time permits, a written copy of your testimony should be made available to all members of the committee and the committee clerk. While the importance and necessity of doing so varies from issue to issue, it tends to show an increased level of interest to some of the committee members and will allow their staffs to review your position.

## Committee Hearings and Testimony

The legislative process tends to be very frustrating and time-consuming, especially during the last few weeks of the session. While there are certain posting rules for committee hearings and bills to be reviewed, this is often changed



at the last minute due to unexpected scheduling problems in the House or Senate or at the request of sponsors of the bills.

You will be given a location and time for the committee meeting. Most standing committees meet at the same time and place each week, although subcommittees are often appointed to do follow-up on legislation and meet at odd times depending on activities of the legislature. The sponsor of the bill and the committee clerk will have the latest information on the status of a hearing. Don't hesitate to call and ask. Know the bill number, especially if you are calling the committee office, since often there can be as many as several hundred pending bills.

If you are testifying in support of a bill, it is wise to make certain the sponsor knows you will be there. The sponsor will usually orchestrate supporting testimony, and the committee chair will usually honor the sponsor's request regarding who testifies. Many committee hearings will be cut short for various reasons, and a request will be made for people appearing in support of an issue not to speak but rather to simply let the record reflect (based on a testimony card you have filled out) that you were there in support of the issue. This often disappoints officials traveling to Austin to testify, but it is part of the process. This particular situation also emphasizes why you should take extra effort to make prior contact with elected officials on the issue.

Upon arrival at the hearing, be sure to complete the witness card provided at the back of the hearing room or available through the committee clerk. Once you have completed the witness card, turn it in to the committee clerk, even if you arrive late. There will usually be an agenda available to show bills under consideration, although the order is routinely changed due to availability of sponsors and other legislative activities.

### Testifying

When you are called to provide testimony, be certain you are sworn in by the committee chair or clerk at the beginning of the committee meeting, prior to submitting testimony. This is a standard part of the process.

Regardless of your position and status, it is essential to treat committee members and staff with respect and courtesy. A professional approach is the most effective way to get your message heard by committee members and staff. In addition to the representatives/senators on a committee, most committees have an attorney assigned to provide legal counsel. Although elected officials do the voting, input from committee staff and the general counsel is often crucial to the legislation.

With few exceptions, committees do not enjoy hearing someone read from prepared text. While you may submit written comments, it is best to summarize and focus on

the high points in a complete and succinct manner. The attention spans of committee members, coupled with their usual heavy workloads, mean it is best to give short presentations. If you are testifying on behalf of a bill for one of the sponsors, you need to make key points as determined by that sponsor during the testimony. If you are testifying in opposition, remember you will probably be challenged by the sponsor or a committee member as to your reasons for opposition.

Once your testimony is concluded, offer to respond to questions. Should questions be presented, even in a negative or accusatory tone by a committee member, maintain a professional and courteous response. Again, no points are made by alienating any member of the committee.

It is not unusual for committee members to come and go during a hearing. They may be going to other committee meetings or leaving the room to meet with constituents. It is often difficult for them to get the gist of your testimony, and this again re-emphasizes why it is important to inform committee members prior to your attendance about your position.





Occasionally a piece of legislation is complex and requires additional hearings. You may be asked to submit follow-up information based on your testimony and, possibly, to reappear for further testimony. Many times a "committee substitute" of the bill is presented prior to your testimony or during the committee hearing. This means someone has proposed a version of the bill that differs from the bill upon which your testimony may have been based. Depending on the issue and length of this revision, you may want time to review the committee substitute to make certain your testimony or comments are still on target and necessary. Your staff or a TML representative at the hearing can clarify any changes.

Do not be disappointed if the committee does not take action at the conclusion of the hearing or after your testimony. A standard process of some committees is to refer bills to subcommittees for additional review and recommendations. This can be viewed as good or bad, depending on whether the chairman of the committee appoints a "favorable" or "unfavorable" subcommittee.

If you have not already been informed as to what may happen by appropriate staff, make note of the subcommittee and attempt to follow up by contacting those representatives/senators on the issue.

If you think these hearings are sometimes confusing and unorganized, you are probably correct. This is certainly not intentional on the part of the legislators or the process itself. It is a reality of the system, which processes several thousand bills during a session. Remember, hearings are only one part of the process, with much of the work to pass or defeat a piece of legislation being conducted through direct contact and lobbying efforts of various special interest groups.

### Follow-Up to the Hearing

To solidify comments or information you presented during the hearing, follow through with a letter or phone call to the committee members within a day or two after the hearing. This allows you to reinforce your comments, provide additional information, and ask them to support your position on the issue. While some representatives/senators already have a position or may be sponsors of the bill, local elected officials making contact can often change their viewpoint or solidify their vote. The same is true with staff of the representatives/senators on the committee. If they have been especially helpful or you have maintained some degree of contact, a note, letter, or phone call can help you on the issue and at other times when you need information or wish to provide input.

If you want to track results of the bill or know how a particular subcommittee recommended back to the full committee, your local staff or TML can help. Also, one of the best sources of information and a method to allow you continuing contact with your local representative/senator is to ask him/her to let you know the outcome/progress of the issue. Contact such as this allows you to continue maintaining that relationship with your local representative/senator, if that is appropriate.

If the bill, good or bad, makes it from the committee and is recommended for consideration by the full House and/or Senate, the work is really just beginning. Depending on whether the bill initiated in the House or Senate, another committee in the alternate body will review the bill again. At times you may be called upon to testify at that hearing, although most of the major testimony is at the first committee hearing on the bill.

If you are called to testify again, update your facts and information, as the bill may have been changed several times through substitutes presented at the other committee or subcommittee. Again, all the same suggestions apply, including the follow-up contact if the vote is not taken on the bill in the committee hearing at which you are testifying.

### Conclusion

As mentioned above, the legislative process is often chaotic and appears less than the most effective means to create a law. Yet, with all this, it is one of the best systems to provide citizen representation and input into the process.

Local elected officials can have a dramatic impact on what comes out of Austin in the way of municipal legislation. If the legislature is to be held accountable, local officials must be aware of the process and participate. Participation is not just showing up; it is being informed about the issue and making sure every effort is exerted to prevail, either for or against, as the legislation makes its way through the process. ★

**Editor's Note:** *James McCarley is a legislative consultant. He is a former assistant city manager and a past president of both the Texas Police Chiefs Association and the Texas Police Association. Mr. McCarley has frequently testified on behalf of TML before legislative committees.*