



Capitol Journal

THE KYLE GROUP

Serving the Public and Government Affairs Needs of Business and Associations

The Capitol Journal would like to extend our deepest appreciation to all those who have provided us with valuable feedback and continued support throughout the year!

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A Friend at the Capitol: The Importance of Utilizing a Contract Lobbyist

by Henry "Corky" Kyle, The Kyle Group

Whether you are the manager of a large trade organization or the concerned owner of a small local business, it pays to take a closer look at the benefits to utilizing a professional contract lobbyist. Clients employ contract lobbyists to gain access to oftentimes unobtainable government offices and to assist in developing strong relationships with their elected representatives. A contract lobbyist will provide experience, suggest strategies and disperse professional advice that can bring about proactive changes for the client or firm.

What Does A Contract Lobbyist Do?

First and foremost, a contract lobbyist works to identify the issues important to the client and delivers on-site intelligence on these issues. Furthermore, a contract lobbyist provides knowledge of the legislative process and offers clear insight into the unique culture of that particular legislative body. Only by bringing the credibility that a local, trusted participant in the process has earned through years of interaction with legislators and regulators can one develop a concise strategy for their legislative campaign. In short, a contract lobbyist serves as a dedicated advocate for your position, day in and day out.

Characteristics of a Contract Lobbyist:

A good lobbyist should possess a clear understanding of the legislative process and have a strong working knowledge of the specific area of law that pertains to your issue. A record of compliance with the lobbying ethics law helps to indicate that the lobbyist is fair and honest, and will work in a just manner to promote the cause of your firm or organization. In addition,

qualities to look for in a lobbyist should include:

- Access to key players
- Strong communication skills
- Ability to "sell" an idea or concept
- Ability to develop strategy
- Ability to take on multiple tasks
- Time to devote to your project
- Ability to build and work with coalitions
- Top-notch reputation
- Number of years in the business
- No conflicts of interest

That last one is of particular importance. It is crucial that you communicate to the lobbyist what your position is and what you hope to achieve in order to ensure that your business partnership is mutually beneficial.

House Gives Approval to Charitable Giving Act

On Tuesday, August 10th, the House Ways and Means Committee approved the Charitable Giving Act (H.R.7), legislation that, among other things, would allow for charitable deductions by nonitemizing taxpayers. A similar provision was included in the CARE Act, a bill that passed the full Senate earlier this year. ASAE has been a long-time supporter of this effort and is pleased to see it included in both bills.

The House version also contains compromise language pertaining to private foundations calculating administrative expenses toward the 5 percent annual distribution. The original measure exempted all administrative expenditures; however, the provision, as passed by committee, now exempts certain specified administrative costs from this distribution. The full House is expected to take up H.R. 7 as early as late August.



FCC Grants Stay of New Regulations Governing Faxes

After several weeks of discussions with ASAE and others, the **Federal Communications Commission (FCC)** reconsidered the effective date for some provisions of its new "do-not-fax" rules. The FCC's new effective date is **January 1st, 2005**. The new rules would have required associations and other businesses to seek the express prior written consent of each recipient before transmitting any faxes considered "commercial" in nature. The FCC stayed the effective date of the prior written consent requirement to allow groups more time to obtain required permission and comply with the new rules.

A new issue which has emerged, regarding approval of certain portions of the FCC's new rules by the *Office of Management and Budget (OMB)*, has drawn particular attention. As part of the Paperwork Reduction Act, the FCC must submit for approval those do-not-fax regulations that impose information collection requirements. Under the Act, all agencies are required to submit to OMB estimates of the time and expense involved in complying with new rules pertaining to the collection of information. Such rules cannot go into effect until OMB approves the estimate, provides a control number, and publishes a notice in the Federal Register. Business groups and associations

* Point of Note...

*ASAE and the association community believed that the FCC overreached in response to the current public sentiment against phone solicitations (including Internet "spam"), placing a severe administrative burden on businesses by eliminating the "established business relationship" provision in rules governing unsolicited faxes. The amended fax regulations would have a **significant** impact on how trade and professional organizations communicate with their members, as well as the foundational business-to-business communications of a great number of American companies.*

have asked OMB to deny the FCC's request for approval of a one hour per year time estimate to fulfill the paperwork requirements associated with the regulations. However, it remains unclear as to what authority OMB ultimately has over the FCC and the effect an OMB denial would have on the FCC's promulgation and enforcement of the regulations.

ASAE has submitted a letter urging OMB not to approve the FCC's do-not-fax rule requiring prior express written consent from the intended recipient on the grounds that the FCC's time and expense estimates to comply with the consent requirement, as well as the definition of the established business relationship (EBR), are grossly inaccurate.

On the legislative front, ASAE will continue to brief Congressional leaders on the details of this FCC issue and its importance to the association community, and will seek to determine the best course of action.

Should you have any questions, please do not hesitate to reach ASAE's Public Policy Division by email at publicpolicy@asaenet.org

Senate Blocks DOL Overtime Changes

The Senate voted on September 10th 54-45 in favor of an amendment to stop a **Department of Labor (DOL)** proposal impacting overtime pay for certain white-collar jobs. Six Republicans were sufficiently persuaded to break ranks with the White House and vote in favor of the amendment. Specifically, the DOL proposal redefines long-standing rules about who qualifies for overtime pay, at time-and-a-half, when working beyond 40 hours a week. Many low-income workers who currently do not qualify would have overtime pay extended to them, while many higher-paid workers who currently receive it would have it denied to them. Earlier this year, the House opposed a similar measure. The White House-led proposal was to be part of the FY04 *Labor-HHS appropriations bill*, but was strongly opposed by Democrats on the basis that the changes would unfairly strip workers of overtime protection and allow companies to make them work more than a 40-hour week without appropriate additional compensation.

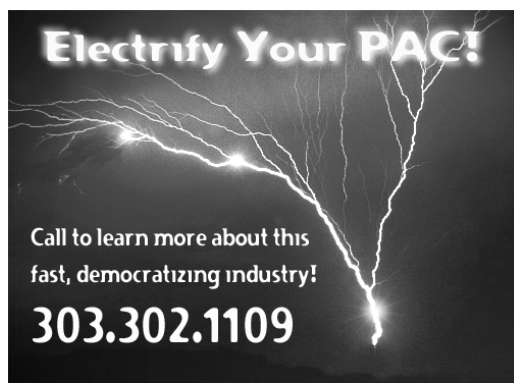
Corporate Members May Collect for PAC

On August 28th, the **Federal Election Commission** (FEC) voted 6-0 to allow corporate members of trade associations to collect and forward contribution checks to a trade association's political action committee (PAC). The **American Bankers Association** (ABA), on June 23rd, 2003, had submitted an advisory opinion request (AOR 2003-22) to clarify the rules regarding how far corporate executives can go in helping raise money for a trade association's PAC.

While AORs technically apply only to the entity asking the question, in practical terms they apply to all entities with the same set of facts. In this case, the clarification benefits all trade associations where corporate members are involved in collecting and distributing contributions to a trade association PAC.

The **American Society for Association Executives** (ASAE), acting on behalf of its 24,000 plus members, sent a letter to the General Counsel's office at the FEC on Tuesday, August 26th, supporting the AOR submitted by the ABA. Additionally, on August 29th, **America's Community Bankers** (ABC) petitioned the FEC to amend its rules and allow payroll deductions to be used to make contributions to a trade associations PAC. Currently, FEC's rules specifically prohibit payroll deductions from being used to collect funds for a trade association PAC.

For more information, contact ASAE's public policy staff at publicpolicy@asaenet.org.



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Snowe Issues "Wake-Up Call" to AHP Legislation

In a September 9th press release from Sen. **Olympia Snowe** (R-ME), she states that the recent news on the increase in health insurance costs should be "a wake up call for the Senate" to finally approve the *Association Health Plans* (AHPs) legislation, S. 545. ASAE is a strong supporter of the effort to permit associations to provide insurance to association members and their members' employees under the *Employee Retirement Income Security Act* (ERISA), which preempts state mandated benefits. The House approved similar legislation earlier this year and President Bush, on a number of occasions, has voiced support for this initiative.

Form 990-T's Considered for Paperwork Reduction

In compliance with the *Paperwork Reduction Act*, the Treasury Department recently submitted to the **Office of Management and Budget** (OMB) for review the Form 990-T information collection requirements. The Form 990-T is the income tax form used to calculate and report unrelated business income tax imposed on exempt organizations. As part of the paperwork reduction effort, the **Internal Revenue Service** earlier this year called for public comments on the information collection process. The OMB is accepting comments on the submission until September 29th.

More Time for Machine-Readable Passports

The U.S. State Department recently announced a delay in the implementation of its requirement that citizens traveling to the U.S. from the 27 countries that are part of the *Visa Waiver Program* carry machine-readable passports until October 26th, 2004. Previously scheduled to take effect October 1st, 2003, this delay now allows effected countries, such as Spain and France, more time to better prepare for and understand the change, while hopefully preventing further negative impact to the U.S. travel industry and to the U.S. economy as well.





Internet Strategies for Crunch Time

Article appears courtesy of e-advocates

It's late August, the proverbial *calm before the storm* in government relations circles and the right time to plan your end-of-session grassroots strategy. The advent of online advocacy gives grassroots strategists more time and tools to make a difference. So take off your sunglasses, pick up your laptop, and get ready to shift your grassroots program into high gear.

Internet advocacy campaigns are ideally suited for crunch time: websites can be updated with fresh, timely information; e-mail alerts can be mailed to tens of thousands of supporters, who instantaneously can send messages to Congress by e-mail, fax, or mail-even by hand.

If your message is persuasive and your Internet advocacy tools are fully operational, you can turn a last-minute policy push into a massive dump of constituent communication with key policymakers. You can even turn that pile of digital messages into hard copies for your lobbyists to hand deliver to key legislators. Consider adding the following Internet advocacy strategies to your priority to-do list.

Keep your site fresh

More than any other time in the session, your advocates are counting on you for the latest news on the issues important to them. Keep your online content current and give your activists what they need: meaningful actions they can take *now*. To draw extra attention to your policy agenda, create and prominently feature a special section highlighting your final legislative push on your home page.

Expand your activist base

As the final votes on your legislative issues approach, look beyond your "obvious" constituents—that is, your members and employees. Other issue allies are likely to be concerned about the final push and open to coordinated action. As you look to expand your base, reach out to those who have a vested interest in your issue or your core constituency. For example, if your core constituents are teachers, reach out to parents and students. It is also important to publicize your position in other online issue forums. Promote your policy message on these forums and use your postings to drive people

to your website. Make it easy for coalition partners to join your legislative push by providing them with copies of e-mail alerts to pass on to their activist networks.

Activist base: Informed and ready to act

Your activist base is a powerful resource. Keep these individuals informed about your campaign and they will be prepared when you need them. Educate them on the possible need to send several messages as a bill heads toward a final vote. Send e-mails to your supporters encouraging them to contact their legislators to discuss how the proposed policy may help or hurt them. There is nothing more compelling to a lawmaker than real stories from real constituents. Encourage your constituency to recruit friends to assist with your campaign. Most important, be sure to thank them and tout their successes each time they act on your behalf.

Online and offline coordination

As you gather forces for your final push, be sure to coordinate your online and offline efforts into a consistent, reinforced message. For example, print out hard copies of all e-mails, faxes, and letters sent to lawmakers, and have lobbyists deliver them in person to each representative and senator.

Swing votes and swing voices

At crunch time it's more important than ever to focus your resources where they are most needed. Dedicate your time and energy—and that of your activists—where they will make the most impact. Focus attention on mobilizing constituents in swing districts where votes could tip the scale in your favor.

Don't forget your activists

You need your activists now *and* when the session is over. Keep them informed, and let them know how they can continue to help move *their* issues. Grassroots advocacy isn't a destination; it's a process of engagement and activation. As sure as August is the eighth month, you will need your advocates and your crunch-time legislative strategy year after year.

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