



Society Strategies

Federation of Genealogical Societies

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Set II Strategies for Presidents

A Strategy for Legislative Change

by Jack Brisse

Supplemental Page

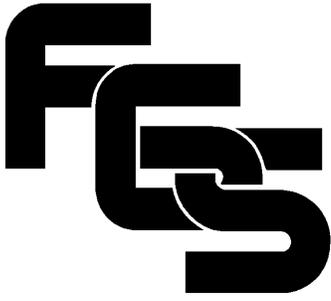
This strategy paper, written some years ago, is an FGS *Classic* that contains ideas and strategies still relevant today in society management.

This paper discusses the strategy for local and state societies for initiating legislation and getting it enacted into law.

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Set II: Strategies for Presidents A Strategy for Legislative Change by Jack Brisse

The purpose of this paper is to provide state and local societies with a strategy for initiating legislation and getting it enacted into law.

BACKGROUND

Law governs the creation and management of public records. Retention, rights of access, publication of records, and fees are either specified in law or in regulations which are based on law. Genealogical societies are fully within their rights to seek new laws, changes to existing laws, or repeal of laws that relate to the preservation and/or use of public records for genealogical and historical research.

This strategy is based on experience in Wisconsin where a little-known provision in a state law caused certain vital records to be closed to photocopying. The strategy changed a law and reopened the records. Certain procedures may be unique to Wisconsin, but the principles can be adapted for almost any state.

POLITICAL CONSIDERATIONS

Regardless of personal political orientation or affiliation check it at the door. If your efforts become identified with a political party or movement, opposition is assured.

Be aware of the political environment in which you will be working. Is the legislature evenly divided or is one party dominant? Within a party, which legislators

are at odds with each other? Such concerns influence whom you will ask to sponsor your bill.

One political stratagem is voter contact with lawmakers. But letters, e-mail, phone calls, and faxes that are emotional or accusatory, or sent at the least effective time, only hurt the cause. Instead, keep the genealogical community informed as to the status of the legislative efforts and direct an intelligent, controlled communications campaign.

THE ORGANIZATION PHASE

Define your problem and your objectives carefully. Does the problem result from an existing law or from the lack of a law? Be specific about the cause.

Establish a task force concentrating on a specific problem rather than a committee which absorbs much time and effort and sometimes degenerates into a discussion group. Give the task force the authority to do the job.

THE PREPARATION PHASE

Study the current law. Get a copy of any law(s) pertaining to the problem. Sources are law libraries of colleges and universities (or a friendly law firm), state legislative support agencies (e.g., in Wisconsin the Legislative Reference Bureau assists legislators in drafting laws and operates a state law library available to the public), and state legislative Web sites.

A Strategy for Legislative Change

Watch for the cross connections with other laws. The state version of the Freedom of Information Act is likely to be in a different part of the state statutes than the one in which you are primarily interested.

Pay particular attention to what the law says about funding and fees that may apply. For example, in Wisconsin a portion of the fees for copies of birth certificates goes to a child abuse prevention program whose director testified that our proposal could result in lost revenues for her program.

Learn the legislative process. Perhaps the legislature publishes something on this (in Wisconsin there is a whole chapter on the legislative process in the “Blue Book” [see below]). Another source is groups such as the League of Women Voters. Learn the steps in the process and the hoops through which you will jump.

Get a copy of the legislative calendar. Legislatures are elected for a given term. During a term certain times may be designated for introduction of bills, floor debate, action by the governor, veto review, etc. At the end of the term, generally, bills that have not been enacted into law die. They are not carried over to the next term. If you enter the process too late, you may waste your time.

Get a guide to state government. In Wisconsin this is titled the “Blue Book,” and is published every two years to coincide with the legislative terms. The Missouri version also appears biannually but is titled the “Official Manual, State of Missouri.” These books provide information about state government, and list all legislators and other elected state officials with their party affiliations, committee assignments, office locations with telephone, fax and e-mail addresses, and biographies. This is essential information and the book is likely to be one of your most frequently consulted resources. Try to get a copy for every member of the task force. In Wisconsin they are distributed free to constituents by state legislators.

Prepare a list of all the interested parties that might relate to your legislation. Identify not just friends and enemies, but also those who seem neutral. Besides the agencies most directly affected by the law, consider organizations such as historical societies and media groups who could favor open access to records.

THE DRAFTING PHASE

Coordinate with all the interested parties before finalizing your proposal. That means preferably talking with them face-to-face. It is as important to talk to those you may have identified as “enemies” as it is to “friends.” Competing interests can sometimes be reconciled, and compromises reached. If nothing else, you will be better positioned to deal with their arguments. Also, keep personnel turnover in mind and don’t hesitate to recheck organization/agency positions on the issues. In Wisconsin we consulted with a certain agency head who indicated a neutral position. By the time legislative hearings began she had been replaced, and the agency blind-sided us with a statement opposing our bill. Had we gone back to consult with the new agency head, we might still have had opposition, but we would have been much better prepared for it.

The proposed legislation will undoubtedly be massaged into “officialese” by some legislative support agency before the legislature begins to consider it, but you need a fairly well developed version for them to work from. Begin with a proposal in general terms, something that all members of the task force can agree on; this may suffice for initial coordination with the friendlier interested parties. When you get to those who are less likely to be helpful, however, be certain what you want in the legislation. If you then make changes, go back for their reaction(s) as a courtesy.

GETTING PROPOSED LEGISLATION INTRODUCED

Proposed legislation must be introduced to the House or Senate by a member who then becomes that bill’s sponsor. In Wisconsin, the sponsor refers the proposal to the Legislative Reference Bureau (LRB) for drafting in appropriate legislative language. The LRB also prepares a “plain language” analysis of the bill identifying its purpose, how it will work, and how it relates to existing legislation. The sponsor may then officially introduce the bill and usually becomes the floor manager who guides the bill through the legislative process. Finding the right sponsor(s) is a very important step. While it is not uncommon for a legislator to introduce a bill at the request of a constituent or an organization, his or her heart may

A Strategy for Legislative Change

not be in it. Look for legislators with an interest in genealogy or history.

Bills may also have cosponsors. The more cosponsors the better. Cosponsors are not obligated to vote for a bill, they may simply “sign on” to ensure a constituent's interests are at least heard, but having become cosponsors they are far more likely to vote for it than against.

Political balance is another consideration. Genealogists’ bills are, or at least should be, nonpartisan. Therefore, it is desirable that sponsors and cosponsors come from “both sides of the aisle.” However, the political fact is that bills introduced by a member of the majority party are more likely to survive the process than those introduced from the minority.

The technique used in Wisconsin was to find a majority party member to be the principal sponsor in each house (the Senate was Democrat, the Assembly Republican), and then to enlist as many cosponsors of both parties as possible. In the Assembly we were fortunate in finding active genealogists to be both sponsor and primary cosponsor, one Republican, one Democrat. In both Senate and Assembly the sponsor was the assistant majority leader. Lining up cosponsors was the first occasion for unleashing letter-writers. Prior to this, all letter writing should be discouraged. As soon as the LRB assigned an initial identifying number to the proposed bill we asked every genealogical society in the state to have members write and/or call their State Senators and Representatives to request they become cosponsors of the bill. The sponsors allowed a set period of time before formally introducing the bill into both the Senate and Assembly to allow other legislators to sign on as cosponsors. This created a deadline for our work.

COMMITTEE HEARINGS

After a bill is introduced into the Wisconsin legislature, it is referred to a committee for public hearings and recommendations. Many bills die in committee. The committee chair decides if and when a public hearing will be held, then decides if and when “executive action” (committee recommendations and vote) will be taken. The committee may recommend passage, amendment, or rejection, in which case it is

likely to simply not report the bill out. Sometimes animosities between a bill’s sponsor and a committee chair (even of the same party) may result in no committee action, a factor worth considering when looking for a sponsor.

The public hearings permit the sponsor, and cosponsors if desired, to make a statement as to why the bill should be enacted. Organizations and agencies with an interest and any member of the public may also testify for the bill, against it, or “for information.” The last may be very important because testifying “for information” means “not opposed.” From the right agency that is as good as being in favor. In Wisconsin all it takes to testify at a public hearing is to show up and to sign a request slip indicating one’s desire to testify. One may also sign the slip indicating he or she does not want to testify but is present to support the bill. In lining up witnesses to testify for the bill, who testifies (and whom they represent) is more important than how many testify. However, it is important to make an impact with numbers of non-testifying supporters.

Testimony is effective if done properly. Legislative committees usually hear a number of bills at the same session. Thus, testimony should be brief and direct. Providing a written statement is wise because members are in and out of the hearing room and are not always paying close attention to testimony. Reading from that written statement is *not* wise, as some members may think you are wasting their time. Use oral testimony to emphasize key points. Submit a written statement after the hearing to clarify and rebut testimony.

Although the committee chair controls the sequence of witnesses, being last on the list can be advantageous because you have the opportunity to rebut opponents. However, being last on the list may also mean you have less time and may possibly receive less attention.

It is strongly recommended that the principal witnesses for a genealogical bill should attend at least one other hearing conducted by the committee before testifying. Having an idea of procedures and of the idiosyncrasies of the committee members can be a real advantage.

Usually both houses of a bicameral legislature will hold hearings on your bill, particularly if the bill is introduced into both houses, as was the case in Wisconsin. Each house identified the bill separately so that the Assembly considered Assembly Bill 709 while the Senate

A Strategy for Legislative Change

considered Senate Bill 393, even though they were identical. Having two hearings permits both proponents and opponents to sharpen their testimony and/or to work out compromises that can be reported out of the later committee as a recommended amendment to the bill.

The committee hearings provided a second opportunity for letter writing. This time the letters were directed to the chair of the committee and to any members of the committee of whom the writer was a constituent, and urged the committee to recommend the bill for passage. Letter writers were able to add arguments for the bill to reinforce testimony given at the hearings. In addition to letter writing, some carefully directed telephoning was employed in the Wisconsin action. Wherever possible we identified genealogists, or friends, who were constituents or acquaintances of committee members (and committee chairs, in particular) to contact them directly to encourage support for the bill and answer questions if appropriate.

GETTING THE BILL TO A VOTE

Once a bill is reported out of committee for passage it is scheduled for floor action. If the bill is non-controversial there is often no debate before a vote. In Wisconsin a bill must be “read” three times before it can be voted on. Usually a “reading” is a perfunctory reading by the clerk of the bill’s number, title, and a brief summary. The first reading comes when it is introduced and is followed by referral to committee. The second reading comes after the bill is returned from committee and is scheduled for action (placed on the Calendar) by the Rules Committee or the leadership. At the second reading amendments may be offered, debated, and voted on after which there is a vote to “engross” the bill (i.e., put it in final form).

After a required delay to allow for any reconsideration of the vote to engross, the bill is read for the third time. It is common for the rules to be suspended so that the third reading follows immediately after the vote to engross. After the third reading the bill is available for debate and for a final vote for passage. After passing one house the bill is “messed” to the other house where the same basic procedure is followed. In the case of the Wisconsin situation the Assembly version of the bill passed first and was messaged to the Senate. The Senate was able to act rapidly because the committee hearings on the companion (identical) bill had already been conducted.

The foregoing is the procedure as it is meant to work. However, the Wisconsin situation had an additional complication: an impasse between the bill’s proponents (the genealogist task force) and the state vital records office. The latter wanted to impose certain restrictions on use of copies that the genealogists found unacceptable, and succeeded in getting the Assembly Committee to consider recommending them as an amendment to the bill. The bill’s sponsor objected because the genealogists had not been consulted on the amendment. Thus, the impasse. Because the Senate sponsor was committed to helping get the bill through, he called a special meeting of all the parties concerned to discuss the issues.

A compromise was quickly reached. The vital records office was willing to withdraw the most restrictive language if the genealogists would accept provisions having to do with labeling photocopies and posting copies of vital records on the Internet. The genealogists would have preferred to strike both these provisions, but reasoned that it was better to restore the right to copy the records in question at the cost of these provisions than to have the bill completely withdrawn. It took one day for the Legislative Reference Bureau to prepare the necessary amendment to the bill. The point is that compromise is a necessary part of the whole process and we must be prepared to accept a less than perfect solution.

Agreement on the compromise unleashed the next-to-last phase of the communication campaign. This time, a straight-forward request was given to Wisconsin genealogists to contact their legislators urging them to vote for the bill. The bill passed both houses on a voice vote.

IT AIN’T OVER TIL IT’S OVER

The final hurdle in achieving legislative success is to gain the governor’s signature on the bill. In Wisconsin the governor may veto an entire bill or he may use a line-item veto to actually change the bill. Because bills passed by the legislature are still subject to review and recommendation by state agencies, it was quite possible that the vital records office could have, if they so desired, canceled the right to copy the vital records in question. Thus, the final letter-writing project was to write or call the governor’s office urging him to sign the bill as it reached his desk. He did. The entire process took fifteen months from task force organization to governor’s signature.