

IN DEPTH: LAWS IMPACTING BUSINESS

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Firms Embracing Public Law, Lobbying Services

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Businesses today cannot afford to simply ignore the legislative process and adjust to new laws once they are passed. To be successful, businesses must stay current on legislative issues that could have repercussions on their industries, and they must seek to effectuate change where appropriate. An increasingly number of businesses are turning to law firms to accomplish these tasks. Consequently, many law firms, especially in Texas, are establishing public law/lobbying practices to better serve the needs of their clients. Historically, businesses only became involved in government relations if legislation was needed to improve their industries or if they needed to fight proposed legislation that threatened their businesses. Yet, taking a reactive approach to industry legislation, businesses often learned that it took an extraordinary amount of time, effort and resources with little chance of success to undo what was already written in the law books. This is particularly true in Texas, where the Legislature only meets once every two years -- except in instances of special sessions, which are typically limited in scope.

Law firms acting as lobbyists have the advantage of working with their clients year-round, keeping them plugged into legislative politics while staying abreast of industry developments. More full-service law firms are assisting clients with traditional legal matters and matters involving government relations and public law. There are several reasons for this. Oftentimes, legal issues and strategies must be incorporated with public law strategies to ensure success in business. One recent example of this has been the tort reform issue. Many businesses experiencing skyrocketing litigation and insurance costs have sought to reverse this trend by securing legislation to discourage frivolous lawsuits.

Secondly, most lawyers providing legal work for their clients in a wide variety of arenas know the intricacies of their clients' businesses and industries. As a result, it makes good business sense for the law firm to work as a team on those matters in which business and government regulation of industry overlap. This is especially true in the tax and corporate law arenas. Much of what the state and local governments require from business entities must be tied in with public law strategies to take advantage of all branches of government and their respective departments.

Finally, there is more widespread realization that as government has become bigger and more complex, the private sector can play a role in assisting the government in coming up with solutions to societal problems. Business entities have access to resources that governments do not have and can provide valuable input to decision-making at an early stage in legislative development. With tort reform, businesses went to government seeking relief from skyrocketing costs. With school finance, however, government has turned to business saying the economy has changed and businesses need to chip in.

A prudent public law business strategy would include three essential elements:

- Identifying areas in which your business can provide input that is useful to the local or state government.
- Assisting your corporate lawyers in providing the above information and navigating it through the legislative process. Often, governmental relations lawyers can work with their clients and various agencies to solve problems that may exist. If, for example, a tax client is having a problem with the comptroller's office regarding a specific tax policy, the lawyer can work with the right policy director to possibly effectuate change in the policy.
- Making early contact with government officials to ensure that your business' voice will be heard in the legislative process. Early contact is important before irrevocable decisions are made.

Any business striving to be a legislative success in the future needs to incorporate these issues into its business plan. In today's business world, government and business cross over -- and full-service law firms have geared up to provide services in both arenas.

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