

PROCEDURES AND TACTICS  
FOR  
CHALLENGING SMOKING RESTRICTION LEGISLATION  
AT THE LOCAL LEVEL

D-R-A-F-T

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## INTRODUCTION

Following is a legislative guide containing basic procedures and tactics for challenging smoking restriction legislation at the local level. It covers activities that should be completed before or immediately after an ordinance is introduced, while it is being considered by the local governing body, and after it has been voted on.

Responsibility for the various activities is assigned to three different groups: TI field staff; TI headquarters (State Activities and Public Relations personnel); and local lobbying counsel (if retained). As the guide demonstrates, efforts will overlap and must be fully coordinated among the three groups.

Not all of the activities outlined will be appropriate for dealing with every locality or every piece of legislation. TI field staff will need to determine which tactics are most beneficial in a particular situation.

The procedures and tactics are listed in chronological order as much as possible; however, many will be conducted on an ongoing basis or undertaken simultaneously.

Details on many of the procedures and tactics, in the form of sample materials, are provided in the appendices to this document. Some of them are taken from TI files on past legislative efforts;

others were developed specifically for this book, to organize and systematize our future efforts.

It should be noted that our field staff's needs and experience with local public smoking restrictions varies. Some of you may not be familiar with techniques regarded as common to others. Therefore, what some find elementary about this book will be helpful to others. Refer to it as necessary.

RESPONSIBILITY: TI FIELD STAFF

PROCEDURES

Following are basic procedures that, ideally, should be completed before or immediately after a local ordinance has been introduced. The same activities apply to opposing a Board of Health regulation.

- o Research the local government and its procedures for passing legislation. Include details on:
  - time frame for passage of legislation;
  - county executive or mayor's role in passage of legislation (i.e., does the executive vote and/or have veto power? can the legislature override the veto?);
  - names, committee positions, past voting record, party affiliation, term of office, biographical information, membership in any state or national legislative association, and staff contact for each County Supervisor or member of the City Council. This will be especially important for the sponsor of the bill (try to determine his motive for introducing the legislation);
  - history of any anti-tobacco legislation and legislators' positions for/against it;
  - history of any other controversial legislation (e.g., bottle bills, environmental measures) and legislators' position for/against it;
  - procedures for initiative and/or referendum process (if allowed) and any pertinent history;
  - schedule of session, meeting days.

- o Determine the extent of local anti-smoking group activity (including groups like GASP, Non-smokers' Rights, and local medical associations). If possible, have a third party get on their mailing lists and attend their meetings.
  
- o Research the demographics of the county or city to determine who are legislators' constituents. Use this information in identifying potential allies (below) who will be influential with the legislature.
  
- o Assess present allies and try to identify as many new ones as possible. These might include:
  - tobacco company (and subsidiary) employees;
  - tobacco growers, wholesalers, distributors, retailers, and vendors;
  - TAN activists;
  - convenience stores;
  - The Bakery, Confectionery, and Tobacco Workers Union;
  - other labor unions, especially public employees;
  - restaurant owners and their association;
  - hotel/motel owners and their association;
  - businesses (employing 50+);
  - chambers of commerce and business organizations;
  - manufacturing association;
  - banks and their association;
  - convention center;

- police and fire officials;
- bowling lane proprietors;
- minority groups;
- civic groups (e.g., Rotary, Kiwanis);
- outdoor advertisers.

Initiate contact with these groups, brief them on the potential legislation, and discuss with them how they might help you and how you might help them.

- o Evaluate the need for local lobbying counsel and identify two or three possible candidates. Consider their potential for developing allies on the County Board or City Council who will be most beneficial to us on this issue. (You should eventually evaluate their potential for developing allies on other issues as well).
- o Identify law firms capable of preparing a legal brief on the legislation. Be sure they are willing to submit the brief, in testimony, to the legislature. See tactic on page 8 and Appendix \_\_\_ for more information.
- o Identify firms capable of conducting opinion research surveys to demonstrate there is no mandate for smoking restrictions and economic impact studies to illustrate the harmful effects of such restrictions. Be sure the firms are willing to

testify and/or speak to the media about their findings.  
See tactic on pages 8 and 9 and Appendix \_\_\_ for more details.

- o Evaluate the need for a public relations and/or advertising campaign. Evaluate the benefits of hiring local public relations and/or advertising counsel and identify two or three possible candidates. Identify media opportunities for TI spokespersons.
  
- o Identify local reporters covering the story and collect their stories on the subject. Prepare a media list including names, addresses, and phone numbers of appropriate reporters or editors with the local print and broadcast media. (This procedure might be completed by local public relations counsel, if hired).
  
- o If you are facing a ballot measure, identify individuals willing to serve as head of a citizens coalition against the legislation.
  
- o Obtain a detailed street map of the county or city.
  
- o Based on your research and evaluation, develop an action plan and budget estimate including if/then scenarios detailing activities for each direction the legislation might take. Draft a time-line for activities. See Appendix \_\_\_ for format.

- o Based on the action plan, prepare a TAN action request for company approval. See Appendix \_\_\_ for format.

### TACTICS

Most of the following tactics should already be familiar to you. Some are old stand-bys, others are more recently tested procedures. They are outlined here as a checklist of ideas to help develop an action plan against the bill. If you are facing particularly restrictive legislation in a large county or city you might implement all of these activities; in a smaller area, you are likely to use only some of them.

- o Provide TAN activists with a summary of the bill, a list of arguments against it, and sample letters. Ask them to:
  - write, call, and if appropriate, meet with other potential allies and legislators (phone banks may be established for this activity);
  - attend and/or testify at hearings on the bill;
  - sign petitions against the legislation;
  - write letters to the editor against the legislation.

Additionally, when facing a ballot measure, ask them to:

- deliver absentee ballots;
- transport voters to the voting booths;

- go door-to-door identifying favorable voters and encouraging them to vote and otherwise help;
  - work phone banks calling all registered voters;
  - help with direct mail activities (e.g., folding, stuffing, stamping);
  - hang posters and distribute flyers;
  - take informal exit polls.
- o Write, call, and meet with potential allies (e.g., those listed in the procedure on page 2) to enlist their help. Present them with materials that demonstrate how the bill will affect their industry or well-being. There are a variety of ways these groups can help:
- writing, calling, and meeting with legislators;
  - testifying at hearings;
  - distributing press releases announcing their opposition to the bill;
  - speaking out against the legislation to the media and in any speaking engagements;
  - writing letters to the editor of the local newspaper;
  - participating in an editorial board with the local newspaper;
  - surveying their patrons, clients, or members about the legislation to demonstrate there is no mandate for restrictions;
  - providing phone bank facilities;

- providing names, addresses, and phone numbers of their membership to contact as potential allies (this will be especially beneficial from groups like labor unions and minority coalitions);
- launching their own, full-blown campaign against the legislation (see Appendix \_\_\_ for how to direct restaurants and their association in this kind of effort).

When facing a ballot measure, these allies can help with the same activities outlined for the TAN activists above.

- o If possible, introduce a resolution opposing public smoking restrictions, signed by all coalition members. See Appendix \_\_\_ for sample resolution.
- o Write, call, and meet with legislators. Present them with arguments against the bill and with materials that show public smoking legislation is unnecessary and unfair (e.g., environmental tobacco smoke workshop findings, Lew Solmon's articles, Response Analysis findings, Environetics findings, Covington & Burling's review of legal issues). See Appendix \_\_\_ for sample materials. Testify at hearings and arrange for authors of these materials to testify (e.g., Dr. Schaefer, Lew Solmon, Al Vogel, etc.). See Appendix \_\_\_ for bios on available spokespersons.

- o Arrange an editorial board with the local newspaper for a TI spokesperson and/or the authors of the above materials.
  
- o Circulate a county or city wide petition against the legislation to demonstrate there is no mandate for public smoking restrictions. Use TAN activists to gather signatures or hire a local firm experienced in this activity. Some suggestions for petition drive locations include: train stations, bus stations, bowling lanes, restaurants, shopping malls, retail stores, bingo parlors, clubs or bars, flea markets. See Appendix \_\_\_ for sample petition form.
  
- o Submit a legal opinion of the bill, demonstrating it is problematic. Have TI headquarters prepare the opinion or advise the local law firm you identified. See Appendix \_\_\_ for samples. Regardless of who prepares the opinion, have the local law firm present it to the legislators.
  
- o Implement a local voters survey, based on the prototype survey prepared by TI headquarters, to demonstrate there is no mandate for public smoking restrictions. See Appendix \_\_\_ for prototype survey. Have the local opinion research firm you identified conduct the polling; tabulate, interpret, and summarize the results; present the results to legislators and, if appropriate, the media.

- o Conduct a local economic impact study, based on the prototype study prepared by TI headquarters, to demonstrate the harmful effects of public smoking restrictions. See Appendix \_\_\_\_ for prototype study. Have the local economists you identified complete the study and present the results to legislators and, if appropriate, the media.
  
- o Identify the existence of local voluntary smoking restrictions (e.g., in restaurants, corporations, and government agencies) to demonstrate there is no need for legislation.
  
- o Have TI headquarters arrange for a TI spokesperson to be interviewed by the local media. If you evaluated the need for a public relations campaign to be great (i.e., when you are facing a ballot measure), implement additional activities such as:
  - having TI headquarters arrange for spokespersons such as Lew Solmon and Al Vogel to be interviewed by the local media;
  - hiring local PR counsel you identified to arrange for local business representatives, police officials, minority spokespersons, etc. to be interviewed by the local media.
  
- o When facing a ballot measure, consider organizing and supporting a citizens coalition against the legislation (e.g., San Franciscans Against Government Intrusion). Put the individuals

you identified in charge of all activities which would otherwise be completed by TI field staff.

- o Implement an advertising campaign urging voters to do all they can do to oppose the public smoking restrictions. Use TI headquarters and local advertising counsel you identified to:
  - develop the campaign theme;
  - develop a media plan;
  - produce and place the advertisements.

Such a campaign, including radio and even television advertisements, will be especially important when facing a ballot measure. The benefits may not be cost effective otherwise. See Appendix \_\_\_ for sample advertisements.

- o Distribute flyers and hang posters urging voters to do all they can do to oppose public smoking restrictions. Use TI headquarters and local advertising counsel to develop the materials and TAN activists and other allies to help with distribution. This activity will be especially important when facing a ballot measure. See Appendix \_\_\_ for sample materials.
- o Conduct a direct mail campaign urging citizens to vote against public smoking restrictions. Use TI headquarters to develop the campaign and TAN activists and other allies to complete the mailing. This activity should be implemented

only when facing a ballot measure. See Appendix \_\_\_ for sample materials.

**FOLLOW-UP PROCEDURES AND TACTICS**

- o Once the legislation has passed or failed, prepare an after action analysis and review of expenses for TI headquarters. See Appendix \_\_\_ for standard format.
  
- o If smoking restrictions are passed, continue to monitor local activity and look for opportunities to do the following:
  - publicize any problems with the new law (use local PR counsel);
  - write letters to the editor of the local newspaper in opposition to the law (use local allies);
  - survey affected establishments to show implementation, patron dissatisfaction, etc. (use local polling firm with help from TI headquarters);
  - conduct a local residents survey showing dissatisfaction with the law (use local polling firm with help from TI headquarters);
  - lobby for amendments (or abolishment) of the law.
  
- o If smoking restrictions fail, continue to monitor local activity and prepare to face similar legislation by:
  - maintaining close contacts with supporters who were helpful during the recent fight;
  - expanding the list of potential supporters;

-- implementing any tactics you did not have time to implement during the recent fight (e.g., the petition drive, the voters survey, the economic impact study).

At this stage, such activities will not refer to a specific piece of legislation, but to smoking restrictions in general. They can be used to demonstrate there is no mandate for new legislation.

RESPONSIBILITY: TI HEADQUARTERS

Following are activities which the State Activities and/or Public Relations Divisions will conduct. All efforts should be coordinated with those of TI field staff.

- o Contact government relations personnel at member companies to determine how they (or their subsidiaries) can help defeat local legislation (beyond providing TAN support); e.g., are there any local contacts that can be identified and/or pursued?
- o Obtain company clearance of TAN action requests.
- o Brief local counsel on TI's medical, scientific, PR and federal background and resources.
- o Brief TI speakers (e.g., Dr. Schaefer, Lew Solmon, Al Vogel, Environetics representative, etc.) on local legislation and circumstances. Help coordinate and prepare their testimonies. Arrange any local media interviews.
- o Write a legal opinion of the legislation, demonstrating it is problematic. Or, advise the local law firm hired to prepare the opinion.

- o Provide a prototype voter survey (see Appendix \_\_\_) to demonstrate opposition to the legislation. Help identify local polling firms to adapt and implement the survey.
  
- o Provide a prototype economic impact study (see Appendix \_\_\_) to demonstrate the harmful effects of the legislation. Help identify local economists to complete the study.
  
- o Provide prototype visual aids (e.g., graphs, charts) to present the findings of the voter survey and the economic impact study. See Appendix \_\_\_ for sample materials.
  
- o Develop a local advertising campaign and media plan or advise the local advertising agency hired.
  
- o Develop a local direct mail campaign.
  
- o Help develop any materials needed (e.g., sample letters, flyers, voluntary policies).

RESPONSIBILITY: TI LOCAL COUNSEL

Following are some basic lobbying tactics that can be performed by TI field staff but which will be more effective if undertaken by local lobbyists who are familiar with the community, its priorities, and its legislators.

- o Meet with key members of the legislature.
- o Meet with sponsors of the legislation and try to reduce their numbers.
- o Try to move the bill from the health committee to the ways and means committee, based on economic impact on the local area.
- o Seek delays in the hearings schedule to allow counsel more time to lobby and field staff more time to build resources.
- o Use any existing contacts to assist in opposing the bill.
- o Use the legal opinion of the bill, provided by TI field staff, in direct lobbying efforts.
- o Meet with key staff of county executive or mayor's office, as appropriate, to be prepared to push for a veto of the bill in the event that it passes the legislature.