

OHIO STATE BAR ASSOCIATION STANDARDS FOR REVIEW OF LEGISLATION

One of the most important functions of the OSBA is to represent the interests of OSBA members and their clients with the Ohio General Assembly and other government entities. This includes keeping members informed of developments in the legislature.

OSBA legislative proposals are initiated by OSBA committees and sections and approved by the OSBA Council of Delegates.

All other legislation, close to 1,000 bills in each two-year session of the General Assembly, is reviewed by OSBA staff and, as necessary, by one or more of the OSBA's committees and sections.

Significant bills are sent to the legislative review subcommittee of each appropriate committee or section for comments and a recommendation; each committee and section should have a legislative review subcommittee. Bills are then submitted to the Government Affairs Committee of the Board of Governors to review and recommend the OSBA position to the full Board. Once the Board has approved a position, it becomes the official position of the OSBA, and is communicated to the General Assembly. The OSBA also provides expertise and testimony on legislation, and facilitates resolution and agreement on a variety of legislative issues.

The role of OSBA committees and sections and their legislative review subcommittees is vital. The Board and staff need your expertise in developing our OSBA position on legislation.

OSBA Standards for Review of Legislation

Almost all legislation affects lawyers and their clients to some extent (in some way). In addition, lawyers, because of their training and experience, are often called upon to address a wide range of social or public policy issues, as well as related substantive and procedural issues.

Committees and sections are asked to review to review many bills to determine whether the OSBA should comment or take a position. The key question is whether the OSBA, as an organization, should review, comment, or take a position on legislation.

Although much of the time it is relatively easy to determine whether the OSBA should get involved in a bill issue, sometimes it can be very difficult.

In reviewing legislation, committees and sections, the Board of Governors, and staff should consider the following factors:

1. Does the bill/issue materially affect:
 - a. the administration of justice;
 - b. the operation of the Ohio court system; or
 - c. the practice of law in Ohio?
2. Does the bill/issue affect the interests of OSBA members and clients in such a way that the OSBA as an organization should become involved?
3. Does the bill/issue address a largely social issue that is better for the legislature to decide? (This can be a very difficult question. Purely social issues, like gun control, are better left to the General Assembly. However, some social issue legislation may raise legal issues. For example, the “Defense of Marriage” Act may raise issues relating to employment, custody, inheritance, and equal protection.)
4. Does the OSBA have an institutional interest in the bill/issue – does the OSBA have a “dog in the fight?”
 - a. Is this a bill/issue that the OSBA is uniquely equipped to address?
 - b. Has the OSBA been asked to address the bill/issue?
5. How should the OSBA approach the bill?
 - a. Should the OSBA take a position in support of or opposition to the bill/issue?
 - b. Should the OSBA raise issues or ask questions about the bill/issue?
 - c. Are there different constituencies within the bar that are likely to have different views on the bill/issue?
 - d. Are the issues raised substantive or procedural?

NOTE: This is not a perfect science. Sometimes a committee or section cannot agree among its members. Also, committees and sections may not agree among themselves.

Committee and Section Reports

Committee and section legislative reports are critical to the OSBA’s ability to articulate a position on a bill or issue. It is extremely important to have a thoughtful, comprehensive review and analysis of the bill by the committee or section; this is more important than a recommendation to support of oppose. **Rationale is critical. The committee’s rationale**

will assist the Government Affairs Committee and the Board in adopting an official position. The rationale will also assist staff and witnesses in articulating a clear OSBA position and making the OSBA's case with the legislature. Identification of issues, questions, concerns with, and possible amendments to the bill, are also important.

The report should include the following:

1. Committee/section and name of person submitting the report;
2. Bill number;
3. Committee recommendation, if any: support, oppose or no position;
4. Rationale (at least a paragraph to a page);
5. Issues/concerns/questions that the legislature should consider;
6. Details on how problems can be addressed, including suggested amendments, if appropriate; and
7. Minority position, if appropriate.

Adopted by the OSBA Board of Governors December 10, 2004