

Nonprofits Can Influence the Budget Process

With budget cuts at the state and federal level showing no signs of slowing, it is vital that nonprofits speak up on behalf of their constituents and communities. Many nonprofits that serve vulnerable populations depend in part on government funding to continue providing services, and the communities they serve and advocate for often rely on government programs for healthcare and other needs. There are many opportunities for nonprofits and members of the community to get involved in helping policymakers and the public understand the very real impact the budget has on all of our lives.

Because the budget counts as specific legislation, efforts to influence its path through the legislative process will likely (but not always) count as [lobbying](#). Nonprofits can and should lobby, but 501(c)(3) public charities need to stay within their annual [lobbying limit](#).

The Budget Process

There are several points in the process where nonprofit advocacy can have an impact on the budget as it moves from proposal to law. First, the executive (the president, governor or mayor) offers a proposed budget, which the legislature reviews. This proposed budget is not binding law. It usually takes the form of a proposed bill, to be introduced, amended and approved by the legislature.

The legislature then reviews the executive's budget and drafts its own budget proposal. Budget committees and/or subcommittees in each house of the legislature usually perform the task of drafting the legislature's budget(s). Subcommittees will often conduct public hearings and this is usually the best opportunity for input.

After a committee passes a budget, it goes to the floor of that chamber for amending and voting. Because both houses of the legislature have to agree on the final budget, there is usually a process in which representatives from both chambers smooth out the differences between the two budgets. Both houses will then vote on the final, unified budget.¹ The executive then signs or vetoes the budget.

Ways to Affect the Budgeting Process

There are a number of ways in which nonprofit organizations commonly influence the budget process. Whether each of these actions counts towards the organization's lobbying limit depends on whether the organization uses the [501\(h\) expenditure test](#) or the insubstantial part test. The major distinction between the two is that under 501(h), only the organization's expenditures count against the lobbying limit. Under the insubstantial part test, the total amount of time and money spent (this includes volunteer time) influencing legislation counts against the limit.

- **Attend Public Hearings:** Many executive branch agencies and legislatures conduct public hearings at some point in the budget process to gauge public opinion on budgetary issues. Individuals and representatives from groups can attend these hearings and voice their thoughts and concerns. The California Partnership organizes trips for low income residents to testify at the state's budget hearings. In 2011, members of the California Partnership made several dozen visits to the state legislature, helping to advance the organization's efforts to save several important programs, including CalWORKS, child care, and economic support for

¹ In Rhode Island and Arkansas, a supermajority vote is required for the budget to pass. All other states, as well as Congress, require only a simple majority for normal budget passage.

immigrants. 501(c)(3) public charities should be aware that under the 501(h) expenditure test, only the staff time and expenses associated with sending representatives to testify at public hearings will count towards the organization's lobbying limits. Under the insubstantial part test, the time spent by volunteers will count as well.

- **Direct Lobbying:** In New York, the Legal Action Center meets regularly with New York City and state officials to discuss budget provisions that affect their mission. The LAC has recently had success in obtaining over \$3 million for alternatives to incarceration funding (one of the organization's major areas of work) in the New York City budget. LAC's communications with City Councilmembers to express a view about the budget would count as lobbying under both tests.
- **Calls to Action:** In Texas, the National Alliance on Mental Illness (NAMI) directs visitors to contact their state representatives to voice their support for mental health funding through a "How You Can Help" section of their website. This type of activity will likely count as grassroots lobbying under 501(h), but with so few costs associated with this type of work it will hardly register against the lobbying limit. Under the insubstantial part test, these costs would likely count against the organization's lobbying limit, but there is no distinction between direct and grassroots lobbying.
- **Targeted Calls to Action:** Calls to action will be particularly effective when the legislators who serve on the relevant budget committees or subcommittees are targeted. The Federation of State Public Interest Research Groups (U.S. PIRG) included a form email on its website that visitors can use to contact the United States Senate to include more money for high speed rail projects highlighting legislators whose states will benefit most from high speed rail. This type of activity will likely also count as grassroots lobbying under 501(h) and lobbying under the insubstantial part test.
- **Educating Budget Committees:** Legislators occasionally seek out expert testimony, or nonprofits may decide to offer their views to legislative committees. Nebraska Appleseed provides testimony to legislative committees on a range of subjects, including the effects of budget cuts on vulnerable populations. If a 501(c)(3) organization is invited in writing by someone who is authorized to act on behalf of the committee to present its views to a budget committee, this activity may not count towards the 501(c)(3) organization's annual lobbying limit, since it could be considered within one of the exceptions to the [definitions](#) of lobbying under 501(h). The insubstantial part test offers a similar, but more limited, exception that excludes testimony only when the analysis is a fair representation of both sides of the issue and the organization does not advocate the adoption or rejection of the legislation.
- **Educating the Public:** In California, Health Access produces fact sheets that break down the impacts of the proposed California budget. Since budgets are often large and extremely complex documents, providing fact sheets that simplify budgetary issues can help raise awareness about the ways in which budgetary issues impact vulnerable communities. Under both 501(h) and the insubstantial part test, educating the public in a fair and non-partisan manner without asking them to take action on the budget will likely not count as lobbying.

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