What is Public Policy and What is the Legislature’s Role?

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I. MANY WAYS TO DEFINE PUBLIC POLICY

A. GERSTON: THE BASIC DECISIONS OR ACTIONS BY THOSE WHO HOLD OR AFFECT GOVERNMENT POSITIONS OF AUTHORITY

B. MORE DIRECT DEFINITION: PUBLIC POLICY IS HOW PEOPLE CHOSEN TO GOVERN MANAGE THE PUBLIC GOOD WITHIN THE BOUNDARIES OF THEIR AUTHORITY.

C. BOTTOM LINE: PUBLIC POLICY CONNECTS PEOPLE WITH PROGRAMS AND SERVICES. GOVERNMENT SERVES AS THE CONDUIT OR AGENT FOR THOSE ACTIVITIES.

II. PROPERTIES OF PUBLIC POLICY

A. ACTION STEP BY GOVERNMENT AUTHORITIES—IT’S THE EXERCISE OF LEGITIMATE POWER

1. THE STATE LEGISLATURE ENACTS A LAW THAT PROTECTS ELDERS AND INCAPACITATED ADULTS FROM ABUSE (2009)

2. THE GOVERNOR ISSUES AN EXECUTIVE ORDER, PERHAPS A STATE OF EMERGENCY AS THE STATE FIGHTS A WILDFIRE

3. THE NEVADA SUPREME COURT RULES THAT NEVADA BASEBALL TEAM OWNERS ARE PROTECTED FROM LAWSUITS (2008)
4. BUREAUCRACY--THE NEVADA STATE BOARD OF EDUCATION ADOPTS REGULATIONS FOR ADULTS EARNING HIGH SCHOOL DIPLOMAS

5. THE PEOPLE PASS INITIATIVES AND REFERENDA

B. IT’S ALSO COERCIVE—ONLY GOVERNMENT CAN LEGITIMATELY COMPEL US TO DO SOMETHING AGAINST OUR WILL

1. GOVERNMENTS REQUIRE YOU TO HAVE A DRIVER’S LICENSE, HUNTING PERMITS.

2. A STATE TROOPER CAN FORCE YOU TO PULL OVER—AND USE FORCE IF YOU DON’T.

WHO CAN GIVE AN EXAMPLE OF WHERE GOVERNMENT MAKES YOU DO SOMETHING YOU WOULDN’T OTHERWISE DO?

1. LOBBYISTS MUST REGISTER WITH THE STATE AND REPORT THEIR ACTIVITIES.

2. A COMPANY OR INDIVIDUAL MUST OBTAIN A BUILDING PERMIT BEFORE BEGINNING A CONSTRUCTION PROJECT.

3. THE STATE REQUIRES THOSE WHO PRACTICE LAW, MEDICINE AND OTHER VOCATIONS TO HAVE A LICENSE.

C. POLICY CAN BE SUBSTANTIVE OR SYMBOLIC

1. SUBSTANTIVE—MAJOR CHANGE

2. SYMBOLIC—MINOR CHANGE, IF ANY

D. INTENTIONAL ACTIVITY

1. EFFORTS ARE ACTIVE, NOT PASSIVE—THE IDEA IS THAT PEOPLE IN POWER WILL ACT
2. THERE ARE OBJECTIVES, GOALS TO BE SATISFIED

3. WHY DON’T LEGISLATORS GET MOREDone?
   a. PERSONAL CONFLICTS
   b. INERTIA—IT’S JUST TOO HARD TO MOBILIZE SUPPORT
   c. DIFFERENCES IN POLITICAL VALUES
   d. INSTITUTIONAL BLOCKS
      (1) THE GOVERNOR VETOES
      (2) THE COURTS OVERTURN
      (3) THE PEOPLE PASS A REFERENDUM
      (4) THE BUREAUCRACY DOESN’T FOLLOW THROUGH

E. ASSOCIATED WITH CONFLICT—SCARCE RESOURCES

1. OVER MONEY

2. OVER VALUES

3. OVER LIVES—ORDERING THE NATIONAL GUARD TO UDERTAKE DANGEROUS ACTIVITIES

CAN ANYONE THINK OF A PUBLIC ISSUE DEALING WITH A SCARCE RESOURCE—SOMETHING VIEWED DIFFERENTLY BY COMPETING INTERESTS?

Answer: DEBATE OVER THE LEGALITY OF PROSTITUTION

Answer: WHAT TO DO ABOUT SAME SEX MARRIAGE

Answer: HIGH SCHOOL GRADUATION REQUIREMENTS

Answer: WHETHER MINING TAXES OR GAMING INDUSTRY TAXES ARE HIGH ENOUGH OR TOO HIGH
F. RARELY NEUTRAL—WHAT HELPS/PLEASURES ONE GROUP OFTEN
HARMS/OFFENDS ANOTHER

1. LEGISLATION THAT TIGHTENS FRACKING REGULATIONS WILL PLEASE ENVIRONMENTALISTS AND ANGER ENERGY INTERESTS

2. LEGISLATION THAT ALLOWS INDIVIDUALS TO CARRY WEAPONS INTO STATE PARKS (2011) WILL PLEASE GUN RIGHTS ENTHUSIASTS BUT ANGER GUN CONTROL ADVOCATES

NOTE: LEGISLATORS WILL OFTEN BRING OPPOSING INTERESTS TOGETHER TO FIND COMMON GROUND, BUT SOMETIMES IT’S JUST IMPOSSIBLE

G. RARELY PERMANENT

1. MEDICAL MARIJUANA (ENACTED BY THE VOTERS IN 2000) MAY STAY ON THE BOOKS UNLESS/UNTIL THE FEDS ACT

2. NEVADA’S CHARTER SCHOOL LEGISLATION, WHICH MADE IT EASIER FOR CHARTER SCHOOLS TO FORM IN 2011, MAY CHANGE IF TESTS AND OTHER PERFORMANCE MEASURES DON’T LIVE UP TO EXPECTATIONS.

III. WHO ATTEMPTS TO INFLUENCE THE PUBLIC POLICYMAKING PROCESS?

A. CITIZENS—THINK ABOUT

1. THE TEA PARTY MOVEMENT;

2. A HOMEOWNER TRYING TO REFINANCE

3. A GENEROUS CAMPAIGN CONTRIBUTOR

4. SMALL BUSINESS OWNER

B. INTEREST GROUPS
1. NEVADA RESORT ASSOCIATION
2. TRANSPORT WORKERS
3. CULINARY UNION
4. AARP
5. REAL ESTATE AND FINANCE GROUPS
6. EDUCATORS

NOTE: SOME OF YOU WORK IN THESE SECTORS AND WILL CONTINUE TO DO SO DURING YOUR TENURE AS LEGISLATORS.

--MANY OF THESE GROUPS WILL PROVIDE YOU WITH SPONSORED BILLS, PROPOSED LEGISLATION THEY HAVE WRITTEN, WHICH ARE INCREASINGLY PART OF THE LEGISLATIVE PROCESS; THEY REPRESENT THE EFFORTS OF PRIVATE INTERESTS TO DEFINE THE PUBLIC GOOD

C. MEDIA

1. LAS VEGAS REVIEW JOURNAL AND THE CONSTRUCTION DEATHS AT CITY CENTER
2. OR THE HOMEOWNER ASSOCIATION CASES (2012) WHERE AN ATTORNEY AND BUILDER REFERRED CASES TO EACH OTHER REGARDING CONSTRUCTION DEFECTS

D. POLITICAL PARTIES

1. PARTY PLATFORMS
2. RESOLUTIONS AT CONVENTIONS

E. ELECTED OFFICIALS—APPEALS FROM COLLEAGUES FOR SPONSORSHIPS, VOTES; DEMANDS FROM GOVERNMENT OFFICIALS AT OTHER LEVELS
1. A DEMOCRATIC LEGISLATURE AND REPUBLICAN GOVERNOR POSE INTERESTING POTENTIALLY INTERESTING PROBLEMS

IV. WHO MAKES PUBLIC POLICY

A. THOSE IN POSITIONS OF PUBLIC AUTHORITY

1. LEGISLATORS
2. GOVERNORS AND OTHERS ELECTED TO THE EXECUTIVE BRANCH
3. JUDGES
4. BUREAUCRATS—GIVEN THE AUTHORITY BY OTHERS

B. THE MOST SUCCESSFUL PUBLIC POLICIES ARE THOSE THAT HAVE BEEN CRAFTED BY ALL OR MOST OF THE PLAYERS—OFFICIAL AND OTHERWISE

1. LEGISLATURE AND STAFF
2. GOVERNOR’S PEOPLE
3. AFFECTED INTEREST GROUPS
4. AFFECTED LOCAL GOVERNMENTS
5. THE PUBLIC

V. TWO CHALLENGES TO THE NEVADA LEGISLATURE

A. TERM LIMITS

1. SOME STATES HAVE PASSED TERM LIMITS BECAUSE

   a. THE TOOL IS VIEWED AS THE ONLY WAY TO TURN OUT INCUMPETENT OR CORRUPT LEGISLATORS—BECAUSE THE VOTERS WON’T
   
   b. IT’S A VALUABLE WAY TO PERPETUALLY INSTALL NEW IDEAS INTO
THE LEGISLATIVE PROCESS

2. THE COSTS OF TERM LIMITS
   a. TERM LIMITS THROW OUT GOOD LEGISLATORS ALONG WITH THE BAD
   b. KNOWING THAT THEY CAN’T MAKE A CAREER IN THEIR PARTICULAR
      OFFICE, LEGISLATORS FREQUENTLY SKIP TO OTHER OFFICES,
      CREATING INSTABILITY
   c. THE LEGISLATURE LOSES INSTITUTIONAL MEMORY ABOUT PREVIOUS
      BILLS, ISSUES, CONFLICTS
   d. IT IS HARDER TO CHECK THE GOVERNOR WHO IS ON SITE FULL TIME
      TO BEGIN WITH
   e. WITH ELECTED LEGISLATORS COMING AND GOING, NON-ELECTED
      LOBBYISTS AND BUREAUCRATS ACCRUE MORE POWER

CONCLUSION: FOR MANY TERM LIMITS CAUSES MORE PROBLEMS THAN
IT SOLVES, AND CERTAINLY IMPLIES DISTRUST OF THE VOTERS’
CAPABILITIES

B. PART-TIME STATUS.
   1. 40 OF THE 50 STATES HAVE PART-TIME LEGISLATURES, BUT ONLY 4 HAVE
      PART-TIME LEGISLATURES THAT MEET FOR A SHORT TIME EVERY OTHER
      YEAR—NEVADA, NORTH DAKOTA, AND TEXAS.
   2. THAT PLACES AN INORDINATE AMOUNT OF POWER IN THE GOVERNOR
      AND STATE BUREAUCRATIC MACHINERY.
3. WITH LEGISLATORS RARELY IN SESSION, IT ALSO BRINGS INTO QUESTION WHETHER NEVADA REALLY HAS A SYSTEM THAT INCLUDES CHECKS AND BALANCES.

VI. FEDERALISM: POLICY MAKING OUTSIDE THE BUBBLE

A. NEVADA’S ISSUES ARE SOMETIMES ADDRESSED BEYOND THE STATE’S BOUNDARIES. UNDER THE CONCEPT OF FEDERALISM,

1. STATES HAVE SOME POWERS—CHIEFLY STEMMING FROM ARTICLE IV AND THE TENTH AMENDMENT.

2. THE NATIONAL GOVERNMENT HAS SOME POWERS—CHIEFLY STEMMING FROM ARTICLE I, SECTION 8 AND THE ARTICLE VI, AND

3. THE TWO GOVERNMENTS SHARE SOME POWERS

4. THIS DIVISION OF POWERS WAS ESTABLISHED LOOSELY IN THE U.S. CONSTITUTION, ALTHOUGH THE COURTS OFTEN HAVE TO SETTLE DISAGREEMENTS

B. INTERACTION WITH OTHER STATES—SOMETIMES CALLED HORIZONTAL FEDERALISM

1. ORGANIZATIONS—FOR NETWORKING, FOR LEARNING BEST PRACTICES, FOR COMBINING FORCES
   a. NATIONAL GOVERNORS CONFERENCE
   b. NATIONAL COUNCIL OF STATE LEGISLATURES

2. INTERSTATE COMPACTS
   a. COLORADO RIVER COMPACT
b. TAHOE REGIONAL PLANNING AGENCY

3. RENDITION
   a. COOPERATING WITH OTHER STATES ON THE RETURN OF SUSPECTS

4. RESPECT FOR OTHER STATE’S LAWS, e.g
   a. MARRIAGE
   b. PROPERTY OWNERSHIP
   c. JUDICIAL DECISIONS IN CIVIL SUITS

C. THE FEDERAL GOVERNMENT—VERTICAL FEDERALISM

1. THE COURTS DEFINING THE RELATIONSHIP
   a. U.S. SUPREME COURT UPHOLDS NEVADA’S ETHICS LAW (2011)

2. CONGRESS DEFINING THE RELATIONSHIP
   a. SEAT BELT REQUIREMENTS
   b. UNWILLINGNESS TO PURSUE THE YUCCA MOUNTAIN NUCLEAR FUEL PROJECT

NOTE: NEVADA LEGISLATORS HAVE A UNIQUE OPPORTUNITY TO CONNECT WITH THE STATE’S MEMBERS OF CONGRESS

(1) BOTH PARTIES ARE REPRESENTED IN EACH HOUSE
(2) SENATE MAJORITY LEADER HARRY REID IS A POWERFUL FORCE

3. THE PRESIDENT DEFINING THE RELATIONSHIP
   a. PRESIDENT OBAMA SIGNING AN EXECUTIVE ORDER ALLOWING UP TO 800,000 YOUNG UNDOCUMENTED IMMIGRANTS TO REMAIN IN THE U.S. FOR AT LEAST TWO YEARS
4. FEDERAL BUREAUCRATS IMPACT NEVADA THROUGH THEIR ADMINISTRATIVE ORDERS AND POWERS
   a. FDA AND FOOD INSPECTION RULES
   b. EPA WITH POLLUTION RULES

VII. SUMMARY

A. PUBLIC POLICY IS WHAT THOSE IN POSITION OF AUTHORITY DO ON BEHALF OF SOCIETY

   1. IN THIS CASE, LEGISLATORS ARE PUT IN OFFICE TO ACT ON BEHALF OF THEIR CONSTITUENTS AND THE STATE AS A WHOLE

B. INCLUDES

   1. EXERCISE OF LEGITIMATE POWER
   2. INTENTIONAL ACTIVITIES
   3. RESPONSE TO ISSUES/CRISIS
   4. ASSOCIATED WITH CONFLICT
   5. RARELY PERMANENT
   6. COERCIVE

C. THOSE WHO ATTEMPT TO INFLUENCE THE POLICY PROCESS INCLUDE

   1. CITIZENS
   2. INTEREST GROUPS
   3. POLITICAL PARTIES
   4. OTHER ELECTED STATE OFFICIALS
   5. BUREAUCRATS
6. AND IN ADDITION, THE FEDERAL GOVERNMENT CAN CARRY LARGE SWAY OVER WHAT NEVADANS WANT OR THINK IS BEST FOR YOUR STATE

7. BOTTOM LINE: POLICY MAKING IS A LOT MORE COMPLEX THAN IT SEEMS