

Safety & Damage Prevention

...Putting it all together

Stakeholder Advocacy



CGA
Common Ground Alliance

Case Study In Damage Prevention Advocacy: North Carolina

The following is a case study developed by the Common Ground Alliance (CGA) Stakeholder Advocacy Committee on a multi-year effort to rewrite North Carolina's Underground Utility Safety and Damage Prevention Act, which passed the legislature unanimously in 2013. The case study is based on a conversation with Allen Gray of Carolinas AGC (CAGC) and Louis Panzer of North Carolina 811. It's intended to serve as a resource for individuals and organizations conducting or planning to undertake advocacy activity related to state one call and damage prevention legislation.

ORIGIN: What was the basis for advocacy?

Some stakeholders had been trying to rewrite the North Carolina damage prevention statute since the 1990s. The blueprint for the recently passed law began being formed in 2003 when CAGC Utility Division partnered with stakeholders from the construction, telecommunication, electric, gas and cable industries. This coalition met every month through 2006 in an attempt to develop comprehensive underground safety legislation. When some refused to support the law's introduction to the legislature, the effort ceased.

A worst-case scenario in 2009 involving an electrical death prompted the most recent legislative initiative. An investigation by the North Carolina Dept. of Labor found the electrical line was not located and marked properly by the operator for the excavator. Because of the lack of enforcement in the current underground safety law, there was no mechanism to hold anyone officially accountable for the accident. The tragedy highlighted the law's shortcomings and became a rallying cry to have the law updated.

LEGISLATIVE STRATEGY: How did you identify and entice lawmakers to champion the legislative proposal? What materials did you use to advocate?

Following the 2009 tragedy, CAGC staff and members met with legislators and other government officials to educate them about the 811 process and North Carolina's law. PHMSA's Annmarie Robertson made a presentation about the PIPES Act at a North Carolina Public Utilities Commission in November 2009, giving the effort additional momentum.

Representative Mike Hager, Dist. 112, became the legislative champion for rewriting the law after meeting with CAGC. As the chairman of the Public Utilities and Energy Committee, Rep. Hager convened a meeting with all the stakeholders and charged them to work together to present proposed comprehensive legislation by the end of 2012. Rep. Hager assigned Allen Gray to chair the group.

Once the proposed legislation was finalized, Rep. Hager used his status as Majority Whip to gather sponsors and supporters, conducting office visits to other legislators. Materials used in legislative outreach included a one-pager on the issue, minutes of the stakeholder group's meetings, informational handouts including statistics about utility safety, PHMSA's Nine Elements, an overview of CGA Best Practices and the state's one call center.

Coalitions: Was this an effort of an industry and/or government coalition? How was it formed and who were the stakeholders? Were there conflicting goals/positions among coalition members?

It was an effort of many industries working together, at the direction of Rep. Hager. In 2003, when the coalition began first working on the blueprint for what would later become the unanimously passed law, it

used the Common Ground model to invite every conceivable stakeholder to the table. Then, in August 2012, Rep. Hager's office invited stakeholders to the table again.

Because many of the coalition's members had also been involved in crafting the damage prevention legislation that passed in South Carolina, most conflicts between stakeholders in the North Carolina coalition were known in advance. Some small water associations and co-ops needed additional education. Enforcement was one area of the legislation components that presented some surprising conflicts. Some telecommunications stakeholders were concerned that funding an enforcement mechanism would involve charging one call members based on miles of facility, setting a precedent country-wide. Many rural stakeholders also were confused about the enforcement process and funding, requiring additional education.

**Key Players: Who were the leaders of the coalition and how were they selected?
Did coalition leaders have political relationships within the legislature?**

Duke Energy, Piedmont Natural Gas, the North Carolina Utilities Commission, telecommunications companies, contractors and the one call center made up the core of the group. Rep. Hager assigned Allen Gray (CAGC) to chair the coalition when he convened the first meeting in August 2012. Duke Energy's, Dean Yancy, had important relationships and was a champion within the core group. Initially the one call center had not been invited into the group, but was present as a subject matter expert. Eventually the expertise and information provided by the one call center became invaluable to the coalition, and it was formally seated at the table.

**Process/Ground Rules: What ground rules were necessary to keep the coalition together?
How did the group identify key components of the legislation?
Was existing legislation used as a template?**

The group met regularly in a space provided by Rep. Hager, with his staff present to take minutes and keep the process moving. This venue really facilitated the coalition's process, because it was a formal setting where stakeholders felt that they had to work smoothly with one another.

At the initial meeting convened by Rep. Hager, he presented the group with a list of elements he wanted to see included in the legislation, e.g., documented training. The group decided to use Rep. Hager's concerns and the recently passed South Carolina law as a starting point, and that it would follow the consensus process of decision making long adhered to by CGA committees, allowing anyone to weigh in. In looking at the South Carolina law, the group found some elements it wanted to reorganize to identify responsibilities clearly and rework the flow.

Once the group was in agreement with a piece of proposed legislation, Rep. Hager brought in a bill writer to polish the law and make it consistent with the constitution of the state. (For instance, all fines in North Carolina must go to the state education fund.)

**CGA Best Practices and "Nine Elements": Were the Best Practices a central tool of the effort?
Were the Nine Elements of the PIPES Act considered?**

The Best Practices were a reference, useful for putting a finer point on an argument. The group looked to Best Practices for specific elements of the proposed legislation, e.g., locator training and marking standards, tolerance zones and positive response to the one call center. The coalition also used the Best Practices method of reaching consensus, relying on the full experience of prior committee chairs Allen Gray and Louis Panzer.

The Nine Elements were also a resource that guided discussion and were related to actual statutes being proposed. Element 7, fair and consistent enforcement, was our starting point for discussing enforcement models.

Role of lobbyists: Did professional lobbyists participate in the effort, and if so, who did they represent? Did lobbyists help or hurt the effort?

Yes, professional lobbyists who worked for coalition stakeholders were involved, as were association lobbyists. Most lobbyists were not subject matter experts on damage prevention, and as a result, they were not the most vocal participants in meetings, preferring to stay out of the discussion unless pressed for a stance on a specific issue or answering questions about legislative processes. There was a point where they could have derailed the process during the 2012 – 2013 winter because some backtracked on prior agreements or could not make a decision. However, the lobbyists representing large interests stuck together, which kept momentum going and eventually pulled the more reluctant lobbyists to a consensus. The lobbyists were very helpful in pushing the law through once it had been proposed to the legislature, securing unanimous passage in both houses.

Legislative Process: Did your legislative strategy prepare you adequately once the bill started moving?

Yes, the coalition was focused on passing the law. When unexpected arguments from stakeholders arose, they were addressed fully. For example, surveyors weighed in on the bill late in the process. They had not been a part of the coalition as it crafted the damage prevention law. However, the group met with them, heard their concerns and worked their issues into the legislation. Ultimately the surveyors became a part of the legislative working group.

Once the legislation was introduced, non-lobbyist coalition members were a little less involved in the process. They dealt with phone calls and worked things out behind the scenes, while the lobbyists and Rep. Hager educated legislators.

State Executive Branch: Was the Governor's office involved in the process? How were state agency representatives to work with?

No, the coalition never dealt with the Governor's office. North Carolina Utility Commission representatives did attend every meeting, but were not particularly hands-on until the group began addressing enforcement. The group worked out an enforcement model that allowed the Utility Commission to have a hand in enforcement without expending its resources or staff.

Challenges: Where were the roadblocks encountered during the legislative process? How were they addressed and ultimately overcome?

There were times when some stakeholders didn't want to be at the table and didn't seem to want any legislation to go through, but those threats never materialized. The clock was the biggest challenge, because there was a long journey to bill passage after it was introduced. The biggest challenge was probably the surveyors joining the group late in the game. It had the potential to unravel all of the work done before they were part of the conversation, but by really listening to and addressing their concerns as soon as they did join the conversation, the group was able to still achieve consensus. The group worked very hard to make sure that in the end, none of the stakeholders got the short end of the stick.

Lessons Learned: Name a key success and something you would never do again from this experience.

The way the coalition addressed the situation with the surveyors was a key success. A group from the coalition met with them initially, and left with a new ally rather than a new enemy. The biggest misstep the coalition took was holding one meeting at a member facility instead of at the state house under the supervision of Rep. Hager's staff. The change in venue altered the tone and direction of the discussion, costing the group a month's worth of work.