

# Interest groups often write legislation

By Laurel Rosenhall, Sacramento Bee

At first glance, the role interest groups play in crafting laws in California seems easy to spot.

Unlike in many states, legislative analyses list “sponsors” for many bills, indicating that a lobbyist suggested – perhaps even wrote – and marshaled forces for the measure.

But a *Bee* review of sponsored bills found that the forces behind legislation are often masked, leaving the public in the dark about the interests driving the creation of some new laws.

No rule requires disclosing when a bill is sponsored. Legislative committees are inconsistent about listing sponsors in legislative reports. Lobbyists and lawmakers decide privately whether to highlight or hide an interest group’s involvement.

“If the firefighters or the nurses or small-business owners support your bill, then you trumpet that support,” said Dan Schnur, director of the Unruh Institute of Politics at USC.

“If it’s tobacco companies, probably less so.”

The *Bee* worked with Capitol Track, a company that monitors legislation, to assess how pervasive sponsorship is in California’s Legislature. The organizations analyzed data from the 2011-12 legislative session – the most recent completed session – and found that 27 percent of the roughly 4,800 bills introduced list a sponsoring interest group.

In the Democrat-controlled Legislature, labor unions and liberal public interest groups, such as those that advocate

for the poor, civil liberties, gay rights or animal welfare, are most commonly identified as bill sponsors. Local governments, state agencies and trade associations also appear frequently.

But the number of bills written by lobbyists, or at their request, is higher than the data reflects. Some bills do not show up because legislative staff did not flag them as sponsored when writing bill analyses, or because lawmakers completely rewrote the bill in the final days of the session. Some lawmakers are reluctant to describe the bills they carry as sponsored by outside interests.

A bill making its way through the Legislature illustrates the confusing state of sponsorship. Senate Bill 598 by Sen. Jerry Hill, D-San Mateo, establishes a protocol for dispensing a new type of drugs called "biosimilars" once they are approved by the federal government.

Unlike generic cold medicine or pain relievers, biosimilars are not identical to the brand-name drug they replace. Already used in Europe, they are substitutes for more complex medications that are injected into the body, such as those used in treating cancer.

A legislative analysis says the bill is supported by several drug companies, including Amgen and Merck, and opposed by pharmacies and makers of generic drugs. It also says the bill is not sponsored by any interest group, a point Hill reiterated in an interview with the *Bee*.

"I've certainly met with Genentech. I've met with Amgen. I've met with many drug companies, and they all have some input into this process," Hill said.

"But I don't take sponsored bills."

Yet California's SB598 contains several key paragraphs that are almost identical to passages in similar bills introduced

this year in Indiana, North Dakota and Virginia. Lawmakers in those states told the New York Times that Genentech and Amgen brought them the bills.

Across the country, bills about biosimilars have pitted drug companies against makers of generic drugs.

At a hearing earlier this month on the California bill, an Amgen representative and Genentech lobbyist flanked Hill as the three answered questions from lawmakers on the Senate's Business and Professions Committee.

The drug companies argued that the bill would protect consumers who receive biosimilars, while makers of generic drugs said it would make it harder for patients to get the lower-cost replacements.

In the last election cycle, Hill received almost \$55,000 in campaign contributions from pharmaceutical companies and their industry groups. He told the *Bee* that SB598 stems from his experience on the Assembly Committee on Biotechnology and knowledge gained through representing South San Francisco, a biotech industry hub where Genentech is headquartered.

The bill was written by California's legislative counsel's office, Hill said, adding that any similarities to bills in other states come from a desire to be consistent in crafting health policy.

"I've never seen a bill from Amgen or Genentech," he said. "Nobody handed me a bill and said, 'Here.'"

One interest group is trying to do just that with another piece of legislation. The San Manuel Indian tribe is drafting an Internet poker bill it expects to be carried by Sen. Lou Correa, D-Santa Ana.

Look in the Legislature's public record for Senate Bill 678 and you'll find a "spot bill" just five sentences long. No

mention is made of a sponsoring interest group, nor is there any detail on how a legal Internet poker system would work.

The gambling interests that want Internet poker to become legal, however, have plenty of proposed content. In April, a representative of the California Nations Indian Gaming Association sent an email to member tribes containing a draft of SB678. It is 53 pages long.

“The San Manuel Band of Mission Indians is asking California’s Tribal Governments to review the attached working draft for an Internet Poker bill and provide comment as soon as possible,” said the April 4 email from Susan Jensen, the group’s director of communications.

“Please note that the proposed language has not been submitted to the Legislature. This is purely a working draft.”

Correa declined to talk to the *Bee* about the bill.

Whether or not it’s disclosed, sponsoring bills is big business in the capital city, where there are more than 10 registered lobbyists for every state lawmaker.

When a group sponsors a bill, its lobbyists frequently serve as pseudo-staff to legislators – drafting bill language, researching issues and rounding up people to testify at hearings. Many times, the sponsoring interest group has drafted a bill before a lawmaker has even signed on.

“We write a fact sheet, we go knocking door to door to legislators, to those we think might have an interest in the issue – committee chairs if possible,” said Michelle Castro, a lobbyist for the Service Employees International Union. “If they don’t want to be associated with a union bill, then they decline, they don’t do our bill.”

SEIU was listed in legislative records as sponsoring two dozen bills last session, more than any other interest group. They

included measures to take away fingerprinting requirements for recipients of in-home care and a resolution creating a special day honoring “justice for janitors.”

Lobbyists sometimes know the bills they sponsor better than lawmakers do. It is not uncommon for legislators to send out news releases directing media to call a sponsoring interest group for more information on a bill.

One example: A news release about a bill by Sen. Kevin de León, D-Los Angeles, that would put new breastfeeding protocols in place at hospitals that deliver babies lists the sponsoring interest group, the California WIC Association, as a resource for reporters seeking interviews and information.

But political need, more than the public’s right to know, guides how much lawmakers say about the interest groups for whom they carry legislation.

Earlier this year, Correa called a news conference to tout his Senate Bill 289, which would make it easier to prosecute people who drive under the influence of drugs. The event put Correa, who is raising money for a 2018 run for attorney general, on the podium alongside the police chiefs, sheriffs and narcotics officers sponsoring the bill.

He allowed them to answer questions from a reporter who asked how the measure proposed to punish drivers under the influence of drugs.

“It will be very similar, on par, with drunk driving,” Scott Seaman, president of the California Police Chiefs Association, said from the stage.

“There will be actions against your license, there will be criminal prosecution.”

“And treatment programs,” the group’s lobbyist, John Lovell, called out from the audience.

In an interview afterward, Correa said the bill's sponsors help boost its odds of success.

"Carrying a bill like this is going to be a heavy lift. And by myself I think it would be very difficult to do it," he said. "But having sponsors such as these individuals really gives the effort credibility."

The *Bee's* analysis supports the contention that sponsored bills are more likely to become law. During the 2011-12 session, about 60 percent of the bills identified as having sponsors were signed into law, roughly double the success rate of bills without interest group sponsorship.

Sen. Mark Leno, a San Francisco Democrat, said politicians who have already written bills sometimes seek sponsors to increase the likelihood it will be signed into law.

For example, he said, a current bill that would reduce punishment for drug possession addresses an issue that heavily affects black and Latino communities.

For that reason, Leno said he asked the NAACP to sign on as a sponsor. The group is one of seven sponsoring organizations touted on a news release for SB649.

Although Democrats dominate the Legislature, they are not the only ones who carry bills sponsored by groups popular with their constituencies.

Last August, as the Senate prepared to vote on a bill to extend the length of race car-carrying trucks permissible on state roads, two GOP senators ribbed each other about their ties to the racing industry.

"I wondered how you got this bill, because I'm the NASCAR guy," then-Sen. Doug La Malfa, a Richvale Republican, said to Sen. Mimi Walters, who was carrying the bill sponsored by the National Hot Rod Association and two other motorsports groups.

Walters, R-Laguna Niguel, smiled across the chamber and replied: "Well, I hate to break the news to you, but the NASCAR people like me better."

The Senate approved SB1174 without a single "no" vote, and Gov. Jerry Brown signed it into law less than three weeks later.

California's culture of listing interest-group sponsors in bill analyses is rare among statehouses nationwide, said Brenda Erickson, a senior research analyst at the National Conference of State Legislatures.

Most states do not ask lawmakers to disclose who wrote the bills they introduce, though some provide a place for them to say who requested the legislation.

"But that's only in a few states and a few occasions where they do that," Erickson said. "The majority of bills, you don't know."

Still, California should do a better job of informing the public about the interest groups backing legislation, said Phillip Ung, an advocate with California Common Cause, a government watchdog group that also sponsors bills.

Ung said lobbyists should be required to disclose bills they sponsor in the quarterly reports they file with the secretary of state. He said legislative staff should be required to list sponsors in the bill analyses they write, eliminating inconsistencies among committees.

"Being able to get that disclosure helps bring some transparency to the sponsorship process," he said.

But lawmakers seem disinterested in changing.

Three years ago, after the *San Jose Mercury News* wrote a series of stories about sponsored bills, legislators discussed ideas to both limit the practice and require more disclosure.

Nothing came of it in the end.

“People have the right to advocate their position,” said Senate President Pro Tem Darrell Steinberg, D-Sacramento.

“Where they give money to candidates, where they give money to a ballot measure, where they provide any kind of support to an elected or appointed official – all that must be reported. But beyond that, I don’t know how you regulate the fact that some company or entity might be gathering a group of like-minded entities to talk about what their position may be on a bill.”

Veteran lobbyist Jim Gross, who represents Genentech as well as other health industry clients, said labeling a bill “sponsored” is more of an advocacy tool than a technical definition.

“Here’s the thing about sponsorship: It’s a term that has no legal meaning,” Gross said. “An author can say, ‘I want to call somebody a sponsor,’ or ‘I don’t.’”