

Subscribe



Manchester Journal ⁽¹⁾

Main menu

Sullivan: On passing sound law and the power of saying 'no'

Posted Friday, April 19, 2019 12:54 am

Don't miss the big stories. Like us on Facebook. Like 5.1K

Rep. Linda Joy Sullivan

I have at times been asked, "Why did you vote against such-and-such bill when it seemed to advance a pretty good objective?" Invariably my answer to the question will have everything to do with what I consider to be my most important obligation as a "lawmaker" – to pass good laws, laws that will work well, laws that don't threaten undue burdens on constituents. One recent case in point involved my vote on the "Paid Family Leave" bill.

Because of the way our process works, a vote against a particular version of a bill at the right time can be critical to improving flawed legislation and ultimately making sound law. Here's what I mean.

Before I vote in favor of a bill, I ask myself two sets of questions: First, does the law advance sound public policy? This is usually the easiest question, but it comes with a host of sometimes difficult considerations: Is the overall objective of the bill appropriate? What will be the sentiment of the voters in my district? What's the policy argument against passage? Will the law harm persons, businesses or public institutions?

More often than not I can easily answer these questions to my satisfaction by considering the language and purpose of a bill; by weighing the recommendations of the "policy" committees who voted in favor of passage of the law; and by listening closely to the arguments of the law's detractors during floor debates.

The second set of questions I ask usually require a closer reading and analysis of the wording of the bill: Is the law written in a way that directly advances the intended policy objective? Can the law as drafted be administered fairly and efficiently? Is the law clear in its language or have we left important parts to be defined later by the courts? Or, worse, have we left hard issues to "rulemaking" by administrators who are not directly accountable to voters?

These last questions, in my book, make up the hard part of being a legislator. I can see where at times it has to be tempting to "look the other way" about details of a bill in favor of embracing feel-good policy, particularly when party leadership has taken to cajoling legislators who are otherwise nagged by the answers to these more difficult "implementation" questions.

Unfortunately, we too often see the public debate about a bill cast only in terms of the resolution of the first set of questions. Legislators are asked, "Of course you're going to vote for (or against) such-and-such legislation, as it will (take your pick): clean up our waters; add new education programs for our children; restrict (or reasonably regulate) gun ownership; raise (or, less-likely, reduce) taxes; strengthen our mental health system, etc."

That's understandable — we all have limited bandwidth and sometimes shorthand descriptors of what a bill is about is helpful. But then there's the second question: Is the bill sound law?

ARTICLE CONTINUES AFTER THESE ADS

The Paid Family Leave bill was regrettably an instance of "good policy clothed in bad law." Who can really argue against the notion of providing "paid family leave" to employees needing extended personal time to deal with bereavements, births, difficult family care circumstances? I was (and remain) very public in my support of this policy objective. But I loudly voted against the bill because it simply suffered too many flaws.

It left open entirely whether the plan was going to be operated by the state at great cost or by some third party "plan administrator." It left open whether the State was going to have to construct a brand new IT system to manage this benefits system like the disastrous Vermont Health Connect system that was built after many tens if not hundreds of millions of dollars in cost overruns. It refused to let employees who did not wish to participate in the benefit plan to "opt out," forcing employees unlikely to use it instead to pay even higher payroll taxes. It raised the real possibility in my mind that the plan would actually operate to provide an employer disincentive to hiring women of child-rearing age, etc.

Once again, my vote against this bill did not mean I was even remotely against paid family leave - it meant, if we are going to embrace a comprehensive employee benefits program, let's do it soundly, let's create a model of which we can be proud, one that will serve us for generations.

So I voted "No." But before I did so, I introduced, with my colleague Cynthia Browning, a significantly amended version of the bill. That's because I know that "No" isn't always the last word. A "No" vote coupled with a sound amendment can greatly influence the legislative process.

If, as I believe, our primary obligation as legislators is not just to "feel good" about what we do but to pass laws that are sound and sturdy and that can survive generations, we sometimes have to take seemingly unpopular stances.

Because here's what a "No" vote can do: A vote in opposition can lead to amendments introduced during floor consideration to overcome a bill's shortfalls (such as the one I introduced with Rep. Browning); it can encourage amendment of the bill when the legislation is considered by the other legislative chamber, in this case the Senate; it can lead to favorable amendments during the "conference committee" process when differences between House and Senate versions are reconciled; and ultimately thereby it can avert a veto by the governor.

And, of course, it can lead to a bill's outright defeat, but then hopefully only until the next session when the legislation can be launched in better form.

These things happen all the time in Montpelier. They contribute to the passage of good law. The sometimes unpopular "No" vote is part of any good legislator's toolkit.

Rep. Linda Joy Sullivan serves Bennington-Rutland in the Vermont House of Representatives.

TALK TO US

If you'd like to leave a comment (or a tip or a question) about this story with the editors, please email us (mailto:news@manchesterjournal.com). We also welcome letters to the editor for publication; you can do that by filling out our letters form (https://docs.google.com/forms/d/e/1FAIpQLSfMJyDnKrW5m2FO6AK4tu71Es-CVbHZS2dF33ZhhDrepwWayw/viewform) and submitting it to the newsroom.

Pro Football News (<https://pro32.ap.org/berkshireagle/articles>)

Throwback Thursday: Steelers rare first-round spectators

(<https://pro32.ap.org/berkshireagle/article/throwback-thursday-steelers-rare-first-round-spectators>)

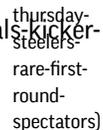
an hour ago



(<https://pro32.ap.org/berkshireagle/article/throwback-thursday-steelers-rare-first-round-spectators>)

Cardinals kicker Gonzales inks 1-year deal to stay with team (<https://pro32.ap.org/berkshireagle/article/cardinals-kicker-gonzales-inks-1-year-deal-stay-team>)

an hour ago



(<https://pro32.ap.org/berkshireagle/article/new-trial-sought-saints-stars-death-over-split-verdict>)

New trial sought in Saints star's death over split verdict

(<https://pro32.ap.org/berkshireagle/article/new-trial-sought-saints-stars-death-over-split-verdict>)

3 hrs ago



(<https://pro32.ap.org/berkshireagle/article/new-trial-sought-saints-stars-death-over-split-verdict>)