

Crowdsourcing the Law

Brian Heaton | October 28, 2014



Drafting legislation is a task that typically falls to elected officials, their staff members and attorneys. But an increasing number of state and local lawmakers are turning to online crowdsourcing platforms to get the opinion — and in some cases, writing skills — of their constituents in the lawmaking process.

Crowdsourcing legislation took off this year, with California and New York City experimenting with the idea, among others. Although citizens have weighed in on proposed laws in the past, the trend of using online platforms for a more direct connection with residents is still in its infancy. But experts say using crowdsourcing to create and edit legislation is likely to expand and it could be here to stay.

Trond Undheim, crowdsourcing expert and founder of Yegii Inc., which bills itself as an insight network, said crowdsourcing was “certainly viable” as a tool to help legislators understand what constituents are most passionate about.

“I’m a big believer in asking a wide variety of people the same question, and crowdsourcing has become known as the long-tail of answers,” Undheim said. “People you wouldn’t necessarily think of have something useful to say.”

Transparency advocates are also encouraged by the use of crowdsourcing. Rebecca Williams, policy analyst with the Sunlight Foundation, said crowdsourcing legislation provides more opportunities for public engagement in the political process and fosters open government principles. She said if governments don’t engage community members in the future, it’ll be a political decision, rather than a practical one.

California Assemblyman Mike Gatto, D-Los Angeles, spearheaded an effort this year to let residents craft legislation regarding a measure designed to allow a court to assign a guardian to a deceased person’s pet. Gatto used the online Wikispaces platform — which allows for Wikipedia-style editing and content contribution — to let anyone with an Internet connection collaborate on the legislation over a period of several months.

The topic of the bill wasn’t headline-making news, but Gatto was encouraged by the media attention his experiment received. As a result, he’s committed to running another crowdsourced bill next year on a bigger, more mainstream public issue.

New York City Council Member Ben Kallos has a plethora of technology-related legislation being considered in the Big Apple. Many of the bills are open for public comment and editing on GitHub. Kallos said he believes using crowdsourcing to comment on and edit legislation is empowering and creates a different sense of democracy where people can put forward their ideas.

County governments also are joining the crowdsourcing trend. The Catawba Regional Council of Governments in South Carolina and the Centralina Council of Governments in North Carolina are gathering opinions on how county leaders should plan for future growth in the region.

At a public forum in the spring, attendees were given iPads to go online and review four growth options and record their views on which they preferred. The priorities outlined by citizens will be taken back to decision-makers in each county to see how well existing plans match up with what the public wants.

California’s Gatto says he’s encouraged by how quickly the crowdsourcing of policy has spread throughout the U.S. He said there’s currently a disconnect between governments and their constituents who believe elected officials don’t listen. But that could change as crowdsourcing continues to grow.

“When you put out a call like I did and others have done and say, ‘I’m going to let the public draft a law and whatever you draft, I’m committed to introducing it.’ ... I think that’s a powerful message,” Gatto said. “I think the public appreciates it because it makes them understand that the government still belongs to them.”

Challenges

Despite the benefits crowdsourcing brings to the legislative process, there remain some questions about whether it truly provides insight into citizens' opinions on an issue. For example, because many political issues are influenced by special interest groups, what's preventing those organizations from manipulating the bill-drafting process?

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Gatto explained that if a special interest group proposes a law or changes legislation in a blatantly biased way, people would see through it. At that point he said two decisions could be made: The first would be to get involved and cancel the changes, or, if the crowd working on the bill liked the ideas, perhaps the changes would remain, regardless of how the language was influenced.

"I think as long as there is sufficient participation, and that's the big key, then I don't think anyone can pull a fast one," Gatto said.

Not all lawmakers believe Gatto's vision of having citizens draft legislation is the right approach, however. San Francisco Supervisor Mark Farrell, R-District 2, thinks crowdsourcing — at least on the local level — should be used more for information gathering and soliciting opinions.

Farrell said that while city attorneys and other law drafters would be thrilled to receive drafts of proposed ordinances so that they wouldn't have to craft them from scratch, he argues that the value of crowdsourcing is in idea generation, rather than writing and editing proposals.

As a result, anything that increases citizen participation in the issues governments are tackling on their behalf is something Farrell supports. He added that crowdsourcing is all about citizen engagement in the political process.

"Whether it's coming up with ideas about legislation, whether it's commenting publicly on things that are before us at the Board of Supervisors and City Hall, again ... it's all part of the broader theme of how do we bring residents more into the fold, in terms of what we do on a daily basis," Farrell said. "I do believe that from the theoretical perspective of crowdsourcing, the more comments, the more input, the better the end product is going to be."

Looking Ahead

While Gatto was pleased at the reaction his crowdsourced probate bill received, he admitted that only a handful of people really got engaged in the process. To increase participation, he plans to select a more riveting topic next year.

But Undheim had another suggestion: offer rewards. He said policymakers who are considering crowdsourcing legislation may want to give tangible recognition to the most

active participants. Adding gamification elements to the process, for instance, could spur excitement and boost engagement.

Farrell noted that while there are residents who put in their two cents at public meetings, they typically take place during the day, when most people are working. He wants to make it easier for everyone to voice their opinions.

He's hoping to have a platform created that would offer San Francisco residents a user-friendly, interactive format in order to foster greater participation during business hours.

Williams added that technology has made the legislative process more accessible than ever. She hopes further use of crowdsourcing will shed some light on exactly how residents' opinions impact lawmaking.

"Providing transparency about how drafted language or opinion polls factor into the overall legislative process is key to understanding if crowdsourced input is being used in practice," Williams said.

<http://www.govtech.com/local/Crowdsourcing-the-Law.html>