

A Candid Interview with Assemblyman Roger Niello

Roger and Me...

By Perry Hartline

This interview with Assemblyman Roger Niello was initiated at the height of the California budget battle, continued on a hit-and-miss basis through the fight, and was completed when both parties signed-off on the budget, and after Governor Schwarzenegger had marked specific items for deletion.

Hartline: California's economy is the 8th largest in the world. In your opinion are we a model for America and for other countries?

Roger Niello: We are, because of what we've done and not done to solve our economic problems.

Hartline: Is California pointing the way to recovery or is the current budget utterly defensive?

Niello: It's entirely defensive, it's a forced reaction to external economic forces. But the good news is, we've been compelled to reform many practices that caused the challenges California faces.

Hartline: The Assembly, Senate and the Governor have fought over the budget for two decades. Politicians and political observers say the problem is "structural." What does "structural" mean?

Niello: "Structural" describes the budget deficit, the year-to-year gap between the costs of financing programs with revenue we don't have.

Hartline: With that in mind, what's the single largest obstacle to passing a budget on time?

Niello: The problem is the process. It defies the rules. Since the final budget requires a two-thirds majority to pass, minority party [Republican] input and votes are needed. But the budget hearings in each house only need a simple majority to pass. After that, all issues are reconciled by a joint conference committee, which also require only a simple majority to pass. The final package is usually completed days, and sometimes hours, before the constitutional deadline of June 15. It allows no time for minority party input. Our side has to move like it's on fire to find and prevent damage. The process has "dysfunctional" built into it.

Hartline: Since the early 1990s the cost of state government has rocketed high above the inflation rate, why?

Niello: Beginning In the early 90's an increasing percentage of tax revenue has been dependent on California's highly progressive personal income tax.

Hartline: 'Progressive' meaning the more you earn the higher percentage of it the state takes? Now I understand why the Left calls itself 'progressive.' (Laughs)

Niello: Yes, exactly. But understand: *this drives volatility*. Revenues grow rapidly when times are good and business is booming, and they drop, sometimes wildly, when business slows.

When money's pouring in the state spends all of it and more, but there's no "rainy day" fund. There's no money in the bank when the economy drops, nothing to keep up the spending commitments. That's when borrowing, gimmicks and temporary reductions begin, and we legislators pray for a quick economic recovery so we can catch fill the spending holes. That's the spending deficit in a nutshell. We're spending above and beyond the revenue the state brings in. It's deficit spending like the federal government. The difference between California and Washington is California can't print money.

Hartline: Setting a one-year budget is a fist-fight, and it goes on longer than the law permits. What about writing a two-year budget?

Niello: I favor a two-year budget, but either way we need a spending cap. It would kill the dysfunction I mentioned a moment ago. Also, a two year outlook exposes problems sooner. Bear in mind, the issues don't change much, and a two-year plan would not be twice as hard to create.

Hartline: Does that mean you favor a part-time Legislature?

Niello: The part-time alternative is a difference without distinction. Normally we're in session January through June, and for a month spanning August and September. Then there's district and constituent obligations that must be met. But seven months is hardly full-time. Because of the extraordinary issues and special sessions, we've been very close to full-time in recent years. I understand the public's angst with the Legislature's behavior. I

have no problem cutting back to five or even three months in normal times. We can get the work done.

Hartline: The Left has been marching around beating the tubs for a tax on services. That means a tax on everything from haircuts to legal counsel. Is there a service tax in the near future?

Niello: The broader based the tax, the less damaging it is. Any tax must be set at the lowest possible rate. With broad based taxes ability to pay is built in, and taxes are shared fairly. I believe property tax is the most damaging of all taxes, and should be particularly low.

These two points indicate a service tax might be reasonable, but only if the rate for all taxes is significantly lower. And if it's done it must be revenue neutral.

Hartline: What about a flat tax? The Governor sent up that smoke signal in June and again in September.

Niello: A flat tax brings real benefits. A flat rate of, say, 5% before deductions is revenue neutral. It would tame volatility and simplify tax form filing. (Laughs) A thorough consideration of supply-side economics would mean a lower tax rate than 5%. To me 5% is a high number.

Hartline: The Left resents the cuts the governor blue-penciled out when finalizing the plan and is in court contesting the [line item] vetoes and attempting to restore the cuts. Apparently they're still negotiating the deal after signing the contract. Will the vetoes stand? If not, is the budget wrecked?

Niello: Our severe budget challenge necessitated severe solutions. There's something in the cumulative effect of the February and July budget deals for everyone (note I don't say "almost" everyone) to hate. The Democrats aren't the only ones to challenge the deal.

The difficulty is that the budget reductions are necessary. Success on the part of those who want to save any individual interest group from the hard effects of these reductions will only serve to move California toward the insolvency that we're struggling to avoid.

Hartline: This budget feels like more of the same, only smoother and it doesn't smell as bad. What separates it from past budgets? What would you have done differently?

Niello: It stinks less than many prior budgets. There are gimmicks and borrowing I wouldn't support. But the only alternative was to cut spending further, and we'll have to deal with that in next year's budget.

Hartline: California is renowned for its generous social programs. Our safety net has become a permanent expectation for some people. Worse, a second and third generation of a "poor" underclass has been spawned, and fraud is estimated at 25%. Republicans capped the time people can stay on welfare and shrank administrative costs. This puts more money in the hands of the truly needy. Is it a step toward state welfare reform? How would you reform welfare?

Niello: The Welfare Reform Act of 1995 worked. Caseloads are reduced and there are fewer permanently dependent people. But you're right, California is too generous and we have a higher proportion of welfare recipients than other states as a result. Our goal is to help those who've been knocked-down in tough times, and help them up quickly.

Reform must emphasize putting people to work, not increasing benefits or dependency. I've authored legislation giving counties flexibility in assisting recipients find and keep jobs, rather than mailing them checks. In present economic conditions it's the best I can do for the people who need help and for the people who pay the taxes.

Hartline: Before the economic crash the Legislature was inventing and funding new social programs every session. At one point even the Governor devised a universal health care plan [Cal-Care]. Isn't the Great Recession real to the Left and to soft Republicans? Have they learned they can't budget against projections, and can't spend money we don't have?

Niello: That's the point: *What do we do?* We need broad reform. We need a spending cap. We must limit spending when revenue is up, and establish a reserve for the [inevitable] downtime. If revenues weren't volatile, we could reform taxes easily, as we discussed earlier.

This year I authored a performance-based budgeting bill that will lead to a rational budgeting process. Performance-based budgeting means establishing goals and objectives for each program. Every year all agencies report their results compared to the defined goals and objectives. It requires the Governor and Legislature to review and revise programs, and eliminate them if they don't get results.

Hartline: State employees are paid more than any in the nation. They enjoy deeper benefits and broader retirement plans than the private sector. Why?

Niello: The problem is unfunded retiree benefits. The sum total of unfunded pension and retiree health benefits exceeds \$100 billion. This is the next financial crisis, and it's heading directly at us.

Hartline: Do state employee unions have an exceptional relationship with California beyond the private sector unions and employers?

Niello: State public employee unions can elect allies to their policy boards that govern the agency their members work for. They bring volumes of cash to the election, and their candidates win. Unions in the private sector can't do that. I think you could call that "unique."

Hartline: Only New York and New Jersey can boast harsher business environments than California. All three states rank last as places to do business. They shakedown large and small businesses and many have fled to flee to neighboring states. How would you improve the state's business environment?

Niello: The Left continually disputes these rankings, but that's unimportant. What's important is what businesses say. The California Republican caucus hosted a town hall meeting in Reno to learn from businesses that relocated in Nevada. Surprisingly, taxation wasn't the primary problem. The core problem was government regulation and hostility, specifically at state and county levels. Frustration with our business environment drove them out and keeps them out.

These business people were over-restricted at state and county levels. When businesses challenged a bad government call or needed help, they were met with ambivalence *at best*. The open-arms, let-us-help you welcome they got in Nevada excited and inspired them.

In significant support of this, a report studying the cost of regulations to small business, requested by the Legislature, was recently released. That cost is pegged at a staggering \$493 billion per year. That's about one-third of the state's gross product. All of this cries out for less regulation and real cost/benefit justification for any regulations kept or added.

Hartline: How would you end the hostility?

Niello: I'd correct two regulations immediately. First, I'd change the workweek hours and meal and rest break rules. Employers and employees must be allowed the flexibility to work other than an eight-hour day before overtime pay kicks in. Overtime needn't begin until forty-hours are completed in a week. Meal and rest break rules are so harsh the issue is now the number one source of class action lawsuits against businesses.

Second, I'd review and correct environmental regulations. They're devastating to business. For example, the requirements to retrofit or replace perfectly serviceable diesel trucks deemed 'too dirty' by the California Air Resources Board will bankrupt large and small transportation companies. The proposed regulations to meet

California's misguided and convoluted Global Warming Act will ruin even more businesses, not just transportation. We must consider our economic health while hunting for environmental purity.

Hartline: If you were a business owner, what would you do?

Niello: After endless attempts to change the workweek, meal and break rule, and with Global Warming regulations about to land on us like a ton of lead, things look terrible. Small and large business owners must join with legislators pushing for attitude adjustment in Sacramento. Business owners are the soldiers in the trenches every day, they've got to show us the way to win a better business attitude in politics and in the state.

The Left resents Proposition 13 and wants it killed. Because it's highly popular that won't happen immediately. But separating commercial property and taxing it at a higher rate is on their menu. What's the likelihood of Split-Roll taxing?

Niello: Let them try. It's not at all likely.

Hartline: Is Split-Roll an attempt to do an end-run around Proposition 13?

Niello: That's exactly how it will be viewed, and why it won't succeed.

Hartline: California's public schools take half of every tax dollar, yet it's not enough. The schools need more money every year. Today we're ranked near the middle, [23rd] in per-student expenditure and teacher pay is ranked a bit higher [16th], yet we're near dead last in achievement. This makes no sense. Parochial and private schools do twice as much on half as much. Why can't our public schools? Do we have too many high-salaried managers? Is it an allocation problem? Have we taken on too many extra-educational responsibilities?

Niello: I don't have all the answers, but I do know too much influence is wielded by those working in the system to protect everyone else working in the system. This is done at the expense of students' education. I believe the solution is competition, and not just the charter school option. Competition forces correction within the protected monopoly that our public school system has become. Next, parental involvement increases school performance. But parents must have broad choices in where and how their kids are educated. Lastly, the Legislature needs to back off and stop trying to manage the system with mandates.

A huge comprehensive study by Stanford University determined the system needs *more funding*. It also described a desperate need for top-to-bottom reform. But their bottom line was, is without reform increased funding is wasted money.

Hartline: The feds are giving money to many municipal and state agencies, particularly law enforcement. Will this free up state money to pay for something else?

Niello: Maybe in some cases, and that's the risk.

Hartline: How so? Are you saying the federal government's buying control over the states with this money?

Niello: Of course it is, and here's the danger:

There are three basic categories of "federal stimulus" funds, each bringing an increased level of concern. First are "infrastructure" funds. These come without strings and help the state and local governments fix much needed infrastructure projects. The money can't be spent on anything else. This benign funding doesn't worry me.

Next are the funds intended to assist but not supplant. The funds are aimed at allowing the state to maintain a high level of spending while state revenues are falling. Problem is, it allows the state to avoid the cuts that must be dealt with when federal funding is withdrawn. Accept the funds and you're marching into history with your back turned. It lets us avoid hard choices until the day comes when we have to turn around and face them.

Third, and the most dangerous, are funds that establish new programs created in Washington. In some cases there are requirements to continue the program at state cost when the federal money is withdrawn. This type of "stimulus" is merely Washington imposing their policies and programs on states. The problem is easy to see. It's seductive, highly politicized and impossible to get rid of - and it adds to our burden.

Hartline: Even with the budget cuts California will struggle for years. What happens if revenue drops further?

Niello: We'll be forced to cut further. It's that simple.

Hartline: California's official unemployment number is 12.2%. It doesn't count those whose benefits have run out (and are therefore employed in the eyes of EDD); those who've not registered with EDD, like the housewife trying to enter the workforce to help the family income; and it doesn't include recent graduates or people who are underemployed. According to economists the true number is 19.3%. How should we view the official number? It reflects only those drawing their unemployment benefits. Is the 19% number more near the truth?

Niello: The 18% number is pivotal. The greater the spread between these two numbers the more painful and difficult the recovery. Both are dangerously high and are a weight on the economy. Growth can't occur with unemployment like this. The numbers indicate emotional and financial anguish in individuals and households, but that can never be truly measured. All of this is a constriction on freedom and growth.

Hartline: With one of the America's highest unemployment rates, and the highest cost of living, California's not only broke, it's in debt and our credit's shot. Do you see a day of reckoning coming? If so, how will it look?

Niello: I must refrain from making predictions. I'm no good at predictions, especially when they're about the future (laughs).

Seriously though, we're not broke. It's simply a matter of how the state spends money. Historically we're a resilient and vibrant state. It's what we're known for and why people come here. When Californians are allowed to work and innovate freely we'll beat any state or country.

We must create an environment that encourages our imagination and determination. We've discussed some possibilities that encourage that one way or the other. Rather than fret the specifics of the downside, I'll do all I can for the upside. I think you understand. It's our duty for the future.

SUGGESTED PULL- QUOTES:

"We're spending above and beyond the revenue the state brings in. It's deficit spending like the federal government. The difference between California and Washington is California can't print money."

"The proposed regulations to meet California's misguided and convoluted Global Warming Act will ruin even more businesses, not just transportation. We must consider our economic health while hunting for environmental purity."

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