

Hi, this is Chris Micheli, with the Sacramento governmental relations firm of Aprea & Micheli and an adjunct professor at McGeorge School of Law in its Capital Lawyering program. Today we continue with common misconceptions about the California legislative process and this podcast deals specifically with bill amendments.

The first misconception is that an urgency clause can be added to any bill at any time upon a vote of legislators. Pursuant to Article IV, Section (8) (d) of the California State Constitution, an urgency statute may not create or abolish any office; an urgency statute cannot change the salary, term, or duties of any office; it can't grant any franchise or special privilege; and an urgency clause cannot create any vested right or interest.

Misconception: A bill returning on concurrence can be amended. Nope. A bill cannot be amended when it returns to its House of Origin for a concurrence vote. The amendments can either be concurred in or not concurred in. If they're not concurred in, that generally results in the formation of a conference committee to resolve the differences between the two versions of the bill.

Misconception: Submitting bill amendments is the same process in both houses. Well, the Assembly requires amendments to be submitted by 5pm or by the close of session the day before a specified deadline, however, the Senate doesn't have a similar rule.

Misconception: Committees adopt bill amendments. Actually, committees make motions that a bill be passed with the recommendation that the floor adopt the specified amendment or amendments to a measure.

Misconception: Bill amendments need a majority vote of a committee or the entire floor for adoption. Actually, amendments to a measure can be made by a majority vote of those present and voting rather than a majority of the floor members or a majority of the committee members.

Misconception: A bill cannot be amended during the 30-day period following a bill's introduction. Well, the Assembly has a slightly different interpretation of the 30 Day in Print Rule, which is currently contained in Article IV, Section (8) (a) of the California Constitution. The Assembly says that once a bill has been referred to committee then the Assembly will permit a pre-committee author's amendment to that bill, even if it falls within the 30-day period. The Senate, on the other hand, does not permit this.

Misconception: All amendments must be germane to the original bill. While this is technically true, germaneness is actually determined on the floor of each of House by a majority vote of that House's membership. So, according to the rules, although the Legislative Counsel may be asked to opine on whether amendments are germane to the bill in chief, the final determination of that matter is up to the full Assembly or the Senate Committee on Rules.

Misconception: The requirement that substantially amended bills must be returned to policy committee applies to all bills. Well, actually, under Senate Rule 29.10, this requirement does apply to all bills other than the budget bill. That's the one exception.

Misconception: A conference committee cannot approve substantial policy changes if that proposed change was defeated in a policy committee. That is in the fact the general rule, however, it doesn't apply to the budget bill or any of the budget trailer bills. The substantial policy change had to have been defeated in a policy committee during the current legislative session, by the way. So, you can review this rule, for example, in Assembly Rule 68.9, subdivision (a).

Another misconception: Floor amendments may be made at any time. Well, in actuality, there are limitations to the making of floor amendments to bills. For example, under Assembly Rule 69, a motion to amend on the floor is not in order during the last two days before the January 31st House of Origin deadline nor is such a motion in order the last 7 days before the interim recess or the final recess unless that rule is suspended by a 2/3 majority in both houses. The rule however, does not apply to adding or deleting an urgency clause or adopting chaptering amendments. Of course, this provision is now subject to Prop 54, which is the 72 Hour in Print Rule.

And the last misconception is: A bill cannot be amended to just a co-author. Well, under Joint Rule 9, an amendment is not in order when all that would be done to the bill is the addition of a co-author, unless the respective Rules Committee grants prior approval to such an amendment.

Thanks for joining this podcast on bill amendments. Hope you learned something from it.