

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 our podcast is on common misconceptions about the California legislative process, and specifically regarding bills.

The first misconception is that only urgency clause bills take effect immediately. Well, if we look at Article IV, Section 8(c)(3), it says that statutes calling elections, statutes providing for tax levies, or bills providing appropriations for the usual current expenses of the state, as well as urgency statutes shall go into effect immediately upon their enactment.

Now, just a little background on urgency statutes. Those are generally measures that are considered necessary for the immediate preservation of either the public peace, health, or safety. And urgency clause bills require approval by 2/3 vote of both houses of the Legislature. However, one more exception; the budget bill and other bills that are providing for appropriations related to that budget bill may be passed by a simple majority vote and take effect immediately when signed by the Governor. This is provided for in Article IV, Section 12(e)(1).

Another misconception is that both the Assembly and the Senate only authorize their members to introduce a maximum of 40 bills per two year session. Well, while that's been true the last few years, up until the 2017-18 session, when the Assembly changed its rule to allow the introduction of a maximum of 50 bills per session. That's found now in Assembly Rule 49(a). Nonetheless, the Senate retains a cap of 40 bills per session. And members in either house can request a waiver from the Rules Committee of their respective houses to introduce more than the allowed number of bills in those rules.

Misconception: A bill keyed as a tax levy is always a tax increase measure. While a tax levy is usually used as a tax collection tool by the local or state government, in the California legislative process, a tax levy is actually any bill that imposes, repeals, or somehow materially alters a state tax. It is the Legislative Counsel's office who drafts all bills and amendments, who indicates in the Title and the Digest of a bill whether the bill is keyed as a tax levy.

Misconception: All bills that contain an appropriation require a supermajority vote for passage. That is the general rule, except for three types of bills: education finance bills, special fund appropriation bills, and of course, *the* budget bill and related trailer bills enacted pursuant to Prop 25 in the Constitution.

Misconception: All two-year bills can be considered at any time in the second year of the two-year legislative session. Under the California Constitution, any two-year bill - even those that contain an urgency clause or a tax levy - must still be passed by their house of origin by January 31st of the second year of that two-year session. Note however, that that rule does not apply to constitutional amendments.

Misconception: Like in Congress, the sponsor of the bill is the legislator who introduces the bill. In Congress, and a vast majority of states, the bill author is deemed to be the sponsor of the bill. However, in California the sponsor is different. The sponsor can be the member of the Legislature, a private individual, or a private group that developed the measure and advocates for its passage. Instead the author of the bill is the member of the Legislature who introduces - and thereby authors - the measure.

Misconception: Only bills must cross the desk upon their introduction - and crossing the desk is the formal process by which a legislator, or his or her staff, places the bill or amendments across the desk at the Assembly Desk or the Senate Desk. All measures must be put across the desk upon introduction - so that's all bills. However, each proposed amendment to a bill must also be put across the Assembly Desk or the Senate Desk in order to be considered for formal adoption.

Misconception: Bond measures are approved *only* by the Legislature. A bill authorizing the sale of state general obligation bonds to finance specified projects or activities is a bond measure. Now subsequent to enactment, a G.O. bond - a general obligation bond - *must* be approved by the voters.

Misconception: Double-jointing and contingent enactment are the same thing. They most certainly are not. Contingent enactment means that there's a section in a bill that is to become operative only upon the enactment of another bill that session. On the other hand, double-jointing amendments are amendments to a bill providing that the amended bill doesn't override the provisions of another bill in which both bills propose to amend the same exact code section of law.

Misconception: A bill's Legislative Counsel Digest analyzes a bill's provisions. Prepared by the Legislative Counsel office, the Legislative Counsel Digest summarizes the effect of a proposed bill on current law. So, it summarizes both existing law and the proposed law by that bill. The Legislative Counsel Digest appears on the first page of a printed bill. It does not provide an analysis of the proposed law. That instead is done by policy committee staff in their bill analyses.

Another misconception: Engrossing and enrolling of bills is the same thing. It certainly is not. So when a bill's amended, the printed form of the bill is proofread by the staff to assure that the amendments were inserted properly into the bill. After being proofread, the bill is deemed to be "correctly engrossed" and therefore is in proper form. When a bill passes both houses of the Legislature that bill is ordered to enroll - enrollment. Then in enrollment, the bill is again proofread for accuracy and then finally delivered to the Governor for final action. The enrolled bill contains the complete text of the bill with the dates of passage out of both houses and it is actually certified by signature by the Secretary of the Senate and the Chief Clerk of the Assembly. It is in fact the enrolled version of the bill that the Governor signs, thereby making it law.

Misconception: Only bills impose state mandates. State legislative enactments or even administrative regulations can mandate a new program or a higher level of service on

the part of a local government, thereby creating a state mandated local program. If it is a state mandated local program the costs of that are required by the state Constitution to be reimbursed to local governments.

Misconception: Local governments determine whether a bill creates a state mandate. A bill is designated by the Office of the Legislative Counsel to be a state mandated local program. Again, a state mandated local program requires the state to reimburse to local governments the cost of activities required by legislative or executive acts. That reimbursement requirement? That was established way back in 1972 by SB 90. It was Chapter 1406 of the Statutes of 1972, and that language was further ratified by the adoption of Proposition 4, which was a constitutional amendment adopted at the 1979 General Election statewide ballot.

Misconception: A bill containing an urgency clause requires only one vote for passage. A vote on the urgency clause, which requires a 2/3 vote in each house of the Legislature, must actually proceed a vote on the bill in chief. Now, that's pursuant to Joint Rule 27. Pursuant to Joint Rule 27, there are actually two votes taken on each floor for a bill that contains an urgency clause. The first vote is on the urgency clause, the second vote is on the bill itself, or what we call the bill in chief.

Misconception: Assembly Committees may introduce an unlimited number of bills. Pursuant to Assembly Rule 47(d) - unless the Rules Committee suspends this rule - the Budget Committee may introduce a bill germane to any subject within its jurisdiction. However, any other standing committee of the Assembly may introduce a total of five bills in each year of a two-year session - for a total of ten, of course - that are deemed to be germane to any subject that is within the consideration of that policy committee.

Misconception: Assembly Committees may introduce resolutions and bills. Pursuant to Assembly Rule 47(e) - unless the Rules Committees suspends this particular rule - no committee except the Budget Committee may introduce or author a House Resolution, a Concurrent Resolution, or a Joint Resolution.

Misconception: All measures reported out of committee are placed on the Second Reading file. In the Assembly, pursuant to Assembly Rule 66, all bills that are reported out of committee must be placed on the Second Reading file for the next legislative day. However, note that this rule does not apply to joint or concurrent resolutions. It does apply to bills and constitutional amendments.

Misconception: Budget appropriations bills may be authored by any member of the Legislature. Bills providing for appropriations related to *the* budget bill can only be authored by Senate Budget and Fiscal Review Committee or the Assembly Budget Committee, and that's pursuant to Joint Rule 54. Again, however, this provision too may be suspended by approval of the respective Rules Committee.

Misconception: Senators need a second to move a bill, just like in the Assembly. In the Senate, to vote on a bill only requires the initial motion to move the bill. On the other

hand, in the State Assembly, a motion and a second are actually required before a bill can be voted on by the committee members.

Misconception: A member may not author a bill during a session that would have substantially the same effect as a bill that he or she introduced during that session. This is the general rule - unless that member receives approval by the Rules Committee. Nonetheless, note that under Joint Rule 54, this restriction does not apply in cases where a previously introduced bill was vetoed by the Governor or in instances where the bills' provision were chaptered out by a later chaptered bill.

And the last misconception related to bills: Any bill can be enacted to take care of a specific issue in an individual legislator's district. Pursuant to Article IV, Section 16 of the California State Constitution, that provision states that all laws must be of a general nature and therefore have uniform operation throughout the State of California. As such, a local or special statute is deemed invalid if a general statute can be made applicable.

Thanks for joining this podcast on bills.