

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's podcast is comparing the President and the Governor in the lawmaking process. For those interested in the legislative process at either the federal or state levels, we can get a better understanding of the role of the chief executive by looking at their specific roles. There's tremendous value in understanding the role of the chief executive in the lawmaking process.

At a fundamental level, what the US President and California's Governor draw their authority from their respective federal and state constitutions, and the roles that are enumerated in those constitutions for the President and the Governor in the lawmaking process.

As you would imagine, both federal and state statutes also provide additional duties and responsibilities for the chief executive in the adoption of laws.

The respective roles of the President and the Governor are similar regarding the legislative and budget processes, but there are a few differences. I think that appreciating the similarities and differences will help you better understand the role of the chief executive in the lawmaking process.

As I said, the executive branches of the state and federal governments play similar roles but they also have different aspects. The Governor and the executive branch of state government are based in large part upon their federal counterparts, the President and the executive branch of the federal level.

In relatively broad terms, both the federal and the state chief executives are extensively involved in the lawmaking process because they can propose legislation, they can propose and sign budgets, of course, they sign or veto legislation, and they make appointments to executive branch agencies and departments. Those agencies and departments interpret and administer federal and state laws.

To start off, both the US President and the California Governor make major policy addresses to their respective bodies, that is, the US President makes his or her standing State of the Union speech each January pursuant to the US constitution. Similarly, the California Governor makes his or her State of the State speech each January.

In these speeches, the State of the Union and the State of the State, each chief executive sets forth his or her priorities for the upcoming year. They often outline major policy initiatives and certainly mention their major budget priorities. These policy speeches help direct legislators because they understand the wishes of the chief executive.

Now, this brings to me one of the first differences between the Governor and the President. The California Governor can call the legislature into extraordinary session or

what we more often call special session to address specific issues -- a natural disaster, a budget crisis, or some other high profile public policy issue. However, no such authority is vested in the US President.

Because the Governor can call legislators into these special sessions, it's a clear way for the Governor to prioritize an issue or set of issues, and perhaps dictate the ultimate outcome of this particular legislation needed to address a particular policy issue.

The President and the Governor, in similarity, propose their respective budgets to fund the operations of the federal and state governments, and, of course, the legislative branches review and modify those proposed budgets.

The Governor through his Department of Finance, the DOF, also actively participates in the legislature's review and adoption of the state budget by both providing details and analysis of the Governor's priorities, but also by directly participating in both the Senate and Assembly Budget Subcommittee works by providing testimony in those subcommittee hearings.

In a similar vein, the US President through his Office of Management and Budget, the OMB, attempts to persuade the Congress to adopt the President's budget proposals. Here too, the OMB works interactively with both houses of Congress to naturally advance the president's spending priorities for the upcoming budget year.

By the way, as it concerns the budget, the federal government's fiscal year runs October 1 through September 30th. However, the California fiscal year runs July 1 through June 30th. California law gives its Governor significant authority to reduce or control expenditures of the state in particular when it comes to the executive branch of government.

More importantly, and a big distinction between the state and federal governments, is the California Constitution in Article 4 Section 10(e) provides the Governor with line item veto authority. What does this mean? It means California's Governor can reduce or entirely eliminate any of the thousands of individual appropriations that are found in California's annual budget bill.

As you can imagine, this authority makes the Governor quite powerful in budget negotiations because he or she can reduce or even eliminate budget appropriations. As such, California's Governor truly has the final say over budget expenditures.

Now, technically, the legislature can override any of the Governor's line-item vetoes by a two-thirds vote. That rarely occurs especially when the Legislature is controlled by the same political party as that of the Governor.

Other provisions of state law give the Governor authority to reduce or control expenditures during the budget year itself, especially again with respect to the agencies under the Governor's control.

Through proposed funding and what they call budget control language, as well as the use of line-item veto authority, California's Governor can encourage or discourage policymaking by particular state agencies and certainly, the Governor can influence legislative authority and activity over those state agencies.

The Governor can use his or her personal persuasion and any positive or negative publicity to perhaps goad state agencies into action.

Now in a similar vein, the President of the United States is required to annually prepare and submit a comprehensive federal budget to the United States Congress for that fiscal year that begins on October 1st. This requirement is found in 31 US Code 1105.

The President sets out his or her priorities and proposes policy initiatives in the federal budget soon after the Congress convenes in January, similar to the Governor. However, unlike the Governor of California, the US President does not have line-item veto authority.

This fact, I believe, creates more of a level playing field between the federal executive and legislative branches of government in the final adoption of the federal budget.

As I noted earlier, the OMB, Office of Management and Budget, is the implementation as well as the enforcement arm of presidential policy.

It plays the following roles; the budget development and its execution, the coordination and review of significant federal regulations that are promulgated by the executive branch agencies of the federal government, and legislative clearance and control and coordination.

What does that mean? Basically the OMB reviews and clears all agency communications with Congress including testimony before committees and drafting bills. At the state level, this is done through the Governor's office and the members of the Governor's cabinet, which are staffed by the agency secretaries.

In both of these regards, there are actions of the OMB at the federal level and the Governor's office at the state level ensure consistency of agency legislative views and proposals with the chief executive's policy. While the Governor's Department of Finance has similar duties to that of the federal OMB, it doesn't achieve the same level of power that's vested by federal law in the OMB.

As a result, in my mind, the OMB plays a very critical role in both the legislative process and the budget process at the federal level with this very broad portfolio.

Now, as part of the detailed lawmaking process involved in the legislative branch, both the President and the Governor meet with legislative leaders as you would expect especially those of his or her same political party.

They do this in an attempt to reach compromise on certainly key legislation, as well as sometimes the initial introduction of executive branch priorities that will need legislation at the federal or state levels.

The chief executives, again, the President and Governor also meet and regularly communicate with individual legislators either to secure their votes on particular bills, to reach compromise on bills, or certainly at it comes to the state budget. The President and Governor will often bring the legislative leaders together certainly with major stakeholders to discuss and fashion legislation.

For priority issues, we often find the President and Governor proposing specific legislation and they have to find a legislator in Congress for the Legislature to carry one or more bills on their behalf.

In California, the governor may propose specific legislation to take to the voters via the initiative process, a method of direct democracy. Although you would often think that this method of direct democracy, the initiative, is reserved to the people, which it certainly is in the California Constitution, the Governor too can utilize the initiative route to propose legislation.

It would require a two-thirds of vote of both houses of the Legislature or the collection of a sufficient number of signatures to place that measure on the statewide ballot.

Now, these ballot measures are not available to the President. As a result, he or she can only work directly with Congress on legislation. Taking a measure directly to the people for a vote is not an option reserve at the federal level.

Nonetheless, similar to the Governor at the state level, the President has considerable authority to move and influence legislation.

The President has the power of recommend legislation that's found in Article 2 Section 3 of the United States Constitution where it says, "Such measures as he shall judge necessary and expedient," as well that section, "allows the President to give to Congress information of the State of the Union."

The President through a member of Congress, therefore, can introduce legislation. In fact, the federal administration frequently drafts the text of legislative proposals, which are then introduced by leaders, or members of the president's party.

Now, one other important distinction. In terms of final actions on legislation, the President has a pocket veto, that is, a bill is vetoed if it is not acted upon within the required period of time by the President.

On the other hand, in California, the Governor has a pocket signature rule, that is, a bill becomes law at the state level if the Governor does not act upon it within the required period of time.

In both the federal and state branches of government, the President and the Governor have a specified period of time in which to sign or veto legislation sent to his or her desk. While the chief executive at the federal and state levels rarely utilize the pocket veto or pocket signature, it is available.

I hope you enjoyed this brief overview of comparing and contrasting the roles of the President and the Governor in the lawmaking process. Look forward to talking with you again.