

Hi. This is Chris Micheli with Aprea and Micheli in Sacramento, and an adjunct professor at McGeorge School of Law in its Capital Lawyering Program.

Today's podcast continues with our discussion of common misconceptions about California's legislative process. Today's topic is committee hearings.

What's the first misconception? Because the legislative calendar states, "No committees may meet during the last two weeks of session," is that always the case?

With a rule waiver, policy committees can meet during this time period. Under Senate Rule 29.10 and Assembly Rule 77.2, dealing with bills that have been substantially amended in the other house that are referred back to a policy committee hearing, those committees are not subject to the prohibition on meeting during the last two weeks of the legislative session.

Another misconception, super majority vote bills must pass out of committee by a super majority vote. All bills require only a majority vote in committee for passage, regardless of whether there's a higher vote threshold specified by the Legislative Counsel, for example, a tax increase.

The higher vote threshold requirement only applies on the floor of the State Senate or the floor of the State Assembly.

Misconception. A committee can pass a bill based upon a majority of the committee members present and voting.

The majority vote requirement actually applies to the full membership of the committee. In other words, if there are nine members of a standing committee, five votes are required to pass a bill, even if only seven members are voting on the bill due to abstentions or absences that day.

Misconception. Committees can provide nominal public notice when setting a bill for a hearing.

Absent a rule waiver, pursuant to Joint Rule 62(a), any bill to be heard in committee must be noticed in the Assembly or Senate Daily File for at least four days, including weekend days.

Misconception. The Assembly Daily File or the Senate Daily File notice for all committee hearings on bills is the same.

As set forth in Joint Rule 62(a), each bill in the first committee of reference must be noticed in the Daily File for four days prior to the committee hearing at which the bill will be considered.

At a second or a subsequent committee, a third or fourth committee hearing, a notice of only two days in the Daily File is required. Again, absent a rule waiver.

Misconception. The Joint Rules related to committee deadlines apply to all the committees.

This is, in fact, the general rule, but the rules committees are exempt from these deadlines pursuant to Joint Rule 61(f).

Misconception. Both the Assembly and Senate fill vacancies on committees for each hearing.

The Assembly Speaker may appoint a replacement member for a committee hearing when a member of that standing committee is absent for the day. This is a custom and practice of the Assembly. In the Senate, on the other hand, the Rules Committee does not fill absent slots for committee hearings.

Misconception. Only the subject matter of a bill has to be heard in committee in order for the requirement to be met.

Under Joint Rule 29.5(d), the term "heard" is defined. It means that a printed bill with substantially similar language was in fact before the appropriate committee, and was taken up at a regular special hearing of that committee during the current legislative session.

Misconception. Any committee may establish a Suspense File for bills.

Until 2017, there has been no limitation on suspense files in either house. However, in the Assembly, under the 2017-18 legislative session rules that were adopted, only the Appropriations Committee may establish a suspense file. That's pursuant to Joint Rule 58.2(b).

Misconception. A policy committee chair cannot preside at a committee hearing on a bill for which he or she is the author.

Under Assembly Rule 60, a chair cannot preside where he or she is the sole or the lead author of a bill, except however, this rule does not apply to the Budget Committee Chair when the hearing is on the budget bill of which he or she is the author.

Misconception. Notice of a meeting of a Conference Committee must appear in the Daily File for the same four days as other committee hearings.

Pursuant to Joint Rule 29.5, a notice of a Conference Committee hearing requires only one calendar day notice prior to the hearing. Remember, it's four calendar days for all

other hearings. However, this rule is not applicable to the Budget Bill Conference Committee.

The final misconception, the appropriations committees in the Assembly and Senate are conducted in the same manner.

That isn't the case. The Senate Appropriations Committee allows support and opposition testimony at hearings, even where the bill author waives presentation. The Assembly generally does not do this.

Regarding their Suspense files, the Assembly Committee goes through bills by subject matter, whereas the Senate Committee goes through bills by author name.

In addition, the Assembly Appropriations Committee votes to pass a bill or announce the bills that are held on the Suspense File. On the other hand, the Senate only votes on bills that it will pass off the Suspense File.

Hope you enjoyed this podcast.