

Hi, this is Chris Micheli with the Sacramento Governmental Relations firm of Aprea and Micheli and an Adjunct Professor at McGeorge School of Law in its Capital Lawyering program.

Today, we continue with our podcast on common misconceptions about California's legislative process. Today's subject is miscellaneous items.

Our first misconception here is that constitutional office appointments require confirmation only by the State Senate, which has the power of advice and consent on Gubernatorial appointments.

For nominees to any of the state constitutional offices, those individuals must be confirmed by both the Assembly and the Senate. Now, the Senate does confirm specified Gubernatorial appointments, but in the Assembly, this role is limited to only the confirmation of nominees to fill a vacancy of a constitutional office.

Misconception. Committee jurisdictions are the same in both houses. In other words, if my insurance bill went to the Senate Insurance Committee, then it'll be referred to the Assembly Insurance Committee.

There are 32 Assembly committees and 22 Senate committees. Not all Senate bills in the insurance area are in fact referred to the Assembly Insurance Committee and vice versa.

Many committees are the same between the two houses, both in their name and in the subject matter jurisdiction. However, there are a few important differences. For example, Workers Compensation insurance bills go to the Assembly Insurance Committee. However, in the State Senate, they go to the Senate Committee on Labor and Industrial Relations.

Misconception. A statute is in effect until the voters cast a vote on the referendum that was filed to overturn that statute.

A referendum that qualifies for the next statewide general election actually stays the effective date of any newly enacted bill. If the referendum fails, then the statute takes effect not retroactive to its originally scheduled effective date but rather after the Secretary of State certifies the referendum vote.

Misconception. An adjournment motion is always an order on the floors or in committee.

Although, that is the case under Robert's Rules of Order, which generally govern in the California State Legislature, in the Legislature, an adjournment motion is not in order if bills are on call. For example, under Senate Rule 42, once those calls are lifted on pending bills then and only then is a motion to adjourn in order.

Misconception. The Legislature and the people through the initiative process can make the same sorts of statutory changes.

As you may be aware, an initiative is a proposal to change statutory law or the California Constitution. Initiatives are submitted directly by members of the public rather than the Legislature. Initiatives, of course, require a simple majority of the voters for approval at a statewide election.

However, the Legislature can only put forth proposed constitutional amendments, because they pass bills and those bills make statutes. Those bills can add, repeal or amend existing laws. The one exception to this rule, however, is a bond measure. A bond measure is placed on the ballot by a bill that's been passed by the Legislature and signed by the Governor and the voters must also approve bond measures.

Misconception. The Assembly and Senate always meet separately.

From time to time, the Assembly and Senate do meet together. That usually takes place in the Assembly chambers, which is considerably larger and this occurs in what are called joint sessions. The purpose of a joint session is to receive special information such as the Governor's State of the State address, or to hear from a foreign dignitary.

Misconception. The Senate leader appoints all committee members.

In practical terms, the Senate President Pro Tem selects those who will be sitting on Senate committees. However, technically, the members of the Senate Rules Committee are elected to their positions by the members of the Senate.

Thereafter, the Senate Rules Committee selects the membership of the remaining committees along with the chairs and vice chairs. This is pursuant to Senate Rule 11.

Misconception. Like Congress, committee membership is based on seniority.

Under Senate Rule 11, the Rules Committee must give consideration to seniority, preference and experience of State Senators, as well as give equal representation to all parts of the State when they make committee appointments. However, seniority doesn't play as great a role as it does in the US Congress.

Misconception. The Legislative Counsel provides legal advice to the Governor and all the other constitutional officers.

While the Legislative Counsel primarily provides legal advice to members of the Legislature, that office also provides legal advice to the Governor, but no other constitutional officers.

Misconception. A motion to table a bill or the amendments to a bill requires a majority vote.

A motion to table any measure requires 41 votes of the Assembly. However, a motion to lay an amendment on the table is a majority of those members present and voting. See Assembly Rule 86.

Misconception. Resolutions used by the Assembly and the Senate are essentially the same.

Actually, there are three types of resolutions used in the California State Legislature. Those are House Resolutions, titled HR or SR. Those deal with matters of a single house either the Assembly or Senate. Concurrent resolutions which are titled ACRs or SCRs and these relate to matters to be treated by both houses of the Legislature. Finally, there are joint resolutions titled AJR or SJR. These relate to matters connected with the federal government.

Another misconception. The orders of business in the Assembly and the Senate are the same.

They are not. The Senate order of business is the following. Roll call, prayer by the chaplain, Pledge of Allegiance, privileges of the floor, communications and petitions, messages from the Governor, messages from the Assembly, reports of their committees, motions, resolutions and notices. The introduction and first reading of bills, consideration of the daily file.

By the way, the order of consideration of the daily file is second reading, then special orders, unfinished business and then third reading. Next come the announcement of committee hearings, then leaves of absence and finally adjournment.

On the other hand, the Assembly's order of business is the following. Roll call, prayer by the chaplain, reading of the previous day's journal, presentation of petitions, the introduction and reference of bills, the reports of committees, messages from the Governor, followed by messages from the Senate, motions and resolutions, business on the daily file, announcements and finally adjournment.

Misconception. The Republican leaders in both houses get to pick the Vice Chairs of all standing committees.

Under the custom and practice of the two houses, the Senate Minority Leader usually gets to pick the Vice Chairs and the committee assignments of the Republican members. On the other hand, the Assembly Minority Leader merely makes suggestions to the Assembly Speaker regarding committee assignments and those who will be chosen as Vice Chairs.

Misconception. Any resolution introduced by a member of the Legislature is heard by a committee.

As a general policy, the Assembly Rules Committee does not hear resolutions that weigh on matters of foreign policy but the Senate has no such limitation.

The final misconception. A letter to the Daily Journal must be published in both houses of the Legislature in order to be in effect.

A letter to the Journal, in either the Assembly Daily Journal or the Senate Daily Journal, is generally used to express legislative intent or to explain the purpose of the bill and those letters are published in the Journal of the bill's house of origin.

These letters are usually signed by the bill's author and they require approval by both the majority and minority leaders in that house. However, in the end, they only require a majority vote of all the members of the Assembly or all the members of the Senate in order to be published in the respective journals.

Hope you enjoyed this podcast on common misconceptions.