

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 looking at some possible reforms to California's legislative process.

Capitol observers often complain about a number of procedural aspects of California's lawmaking process.

What I did is I undertook a very informal poll by asking a number of my lobbying colleagues as well as staff in the legislature from both sides of the aisle and in both the Senate and the Assembly, and asked them for suggestions on how to make things, perhaps, operate better or more efficiently.

I thought it interesting that by far the most common criticisms that were lodged by both lobbyists and legislative staff focused on the state budget process. The second most common one was how legislative committees operate. Let's take a look at some of those proposed reforms.

The first, again, is concerning the budget and budget bills. The most commonly cited reform would be to require the Budget Conference Committee to follow the general rule of all conference committees.

Which is that a bill or an issue cannot be considered in the budget as part of a budget trailer bill unless that subject matter has actually been heard and approved in the policy committee that has jurisdiction over the subject matter in both houses of the legislature.

In other words, budget trailer bills should have to be heard and voted upon in policy committees in addition to being passed by the relevant budget subcommittees.

The next one is that there's a belief that there should only be one budget act per year. Another reform would require budget trailer bills to be adopted prior to the beginning of the new fiscal year, which is July 1, which means adoption by June 30th, or at least within 15 calendar days of passing the main budget bill.

You may recall that the state constitution requires the main budget bill to be adopted by midnight on June the 15th.

A number of capitol observers were also surprised by how many state agency department budgets are actually placed on the consent calendar on a budget subcommittee's agenda, which means it gets lumped in with a number of other items that are resolved with a single vote and never actually even heard or considered.

An additional suggested reform is to require a separate budget trailer bill for each topic rather than allowing multiple unrelated provisions in a single trailer bill. As such, the germaneness rule would be strictly enforced by each house when it comes to budget trailer bills.

As I mentioned before, there's a strong sentiment that there should be only one budget act per legislative year. This doesn't mean that the budget act can't be changed. Of course it can.

But it would just be considered as a normal appropriations bill, which means that single items of appropriations could be considered, not multiple ones, and it would be subject to a two-thirds majority vote rather than a simple majority vote.

One interesting suggestion that was made is that the governor's proposed trailer bills, which language can generally be found on the Department of Finance website, would actually be introduced by the two budget committees in the Assembly and Senate.

Thereby, allowing the governor's trailer bill language to be in print for all the public to see and for the budget subcommittees and the general policy committees to analyze, debate, and consider testimony before any votes are cast on the governor's proposed trailer bill language.

The second area of possible reforms is dealing with legislative committees, the standing committees. It was probably the second most common area of concern that was expressed by both legislative staff and lobbyists.

The most common one was the so-called two-and-two rule. What that means is that a committee limits two proponents and two opponents to speak as a matter of substance on a bill which, of course, reduces the amount of substantive testimony that can be provided by legislative committees.

Most observers that, again, I informally surveyed, suggested actual elimination of the rule. Others said, "Let's, at least, increase the number of persons who can testify and actually for how long that they can testify."

Certainly, I believe that witnesses should be admonished that they should keep their remarks brief. In other words, you should be able to communicate in a couple of minutes, rather than 15 or 20. Certainly, witnesses should not repeat testimony that's already been provided.

However, most of the folks that I surveyed said that substantive testimony should not generally be limited by the policy committees, particularly when a bill is in its house of origin in its first policy committee hearing, as opposed to when it's in the other house. Perhaps, then more limitations on testimony might be appropriate.

The other point that was raised by almost everyone is that the rules on testimony should be consistent with all Assembly and Senate standing committees.

Another reform is that there should be both reasonable and uniform -- again, uniform in both houses -- involving Assembly and Senate standing committees for the submission of letters to the policy committees. Those letters are in support or opposition to bills that are going to be heard by those committees.

Most legislative committees use a deadline of roughly a week before the bill's scheduled hearing. A few allow slightly shorter, and some are even longer.

In fact, there's one Senate policy committee that requires position letters 12 days in advance of the hearing, which is pretty unprecedented.

Another reform that was common is to reduce the number of committees that a legislator can sit on. This has been suggested to limit the amount of overlap for legislators, and so that they'll hopefully come into committee and remain for the duration of the committee hearing and hear all the substantive testimony.

The most common recommendation in my informal poll was to limit members to sitting on three standing committees.

By the way, another helpful suggestion that I heard was to require all committees to post support and oppose letters online prior to a bill's hearing. Most staff and lobbyists also suggested that so-called intent bills or spot bills that don't have any substantive language could not be voted upon.

Instead, there has to be a substantive policy change that's contained in the bill before votes can be cast on those bills, either in committee or on the floor.

The final committee change was that there be better proportionate political representation of legislators on each committee. For example, there's one Senate standing committee that has five members -- four Democrats and one Republican.

The next area where there's been a lot of discussion amongst capitol observers is on fiscal bills. One of the issues there is to amend the Joint Rule. It's specifically Joint Rule 10.5 that would provide clearer guidance to the legislative counsel when they determine whether a bill is fiscal or not.

The concern is that the language of the current Joint Rule is very specific and doesn't take into consideration all the potential fiscal impacts of bills.

The other suggested reform is that the two appropriations committees in the Assembly and the Senate should be limited to fiscal issues and that they shouldn't act as a policy committee that defeats bills on a policy rationale or a policy basis when those bills have already passed out of the policy committee that has subject matter jurisdiction.

In other words, the Appropriations Committee shouldn't act as a second policy committee. The two fiscal committees in the Senate and Assembly should simply vote aye or no, based upon the bill's fiscal impact.

The next area of certainly popular reform is just the bill limits themselves. Now that legislators can have a possible 12-year tenure in either house, there clearly is adequate time to consider issues and the priorities for the legislator.

As a result, the number of bills that should be introduced should be limited. It's currently 40 bills for a two-year session in the Senate and a cap of 50 bills for a two-year session in the Assembly.

You should note, of course, that as with all legislative rules, there are waivers allowed. When it comes to the bill limits under the existing rules, a lawmaker can petition his or her respective Rules Committee for a waiver of the bill introduction limit to allow them to do one or more bills.

By the way, the most commonly suggested bill cap was 30 bills per legislator per two-year session. It reduced the number in the Senate from 40 to 30 and the Assembly from 50 to 30.

The last item that I got a lot of consensus from legislative staff and lobbyists concerned floor action. In that regard, one reform that was often suggested was that no resolutions may be considered for floor debate during the final week of the legislative session.

That's because the two houses of the legislature are processing up to 400, 500, even 600 bills that last week. They shouldn't be debating resolutions that have no force or effect of law.

The suggestions that were made was that any resolution that's considered during the last week of session would have to be on consent so that lawmakers' limited time on the floors wouldn't be spent processing resolutions.

Instead, they would be focused again on the several hundred bills that will come up for debate and final votes during that last week of session.

I hope you enjoyed some of these proposed reforms to California's legislative process. There are undoubtedly dozens more that are out there and could and should be considered, but these are some of the ones that there seem to be consensus on with both legislative staff as well as lobbyists.

I hope you enjoyed this podcast. Thanks for joining.