

**Chris Micheli:** Hi, this is Chris Micheli of the Sacramento Governmental Relations firm of Aprea & Micheli. I'm an adjunct professor at McGeorge School of Law in its Capital Lawyering Program. Today's podcast is a look at the governor's role in the legislative process.

As you well imagine, California's governor is a key player in the legislative process, even though the bulk of legislation is done by the elected members of the legislature in the assembly and the Senate. It's important to appreciate the various roles that the state's chief executive plays in this process.

Some of these commonly known roles include, the governor can identify issues for the legislature to address. He or she has the authority to call the legislature into extraordinary or special session. Of course, he or she has the final say, absent a veto override, over individual bills.

The governor proposes the state budget and has line item veto authority over budget and appropriations bills. As you can see the governor has multiple roles. Because of the governor's multiple roles in the legislative process, he or she can lead and influence public policy development, as well as often set the major legislative agenda items for the legislative session.

He or she can do that by engaging in the following activities. Making major policy addresses to the legislature such as the required State of the State Address each January. The governor can call the legislature into extraordinary session to address specific issues.

He or she can meet with legislative leaders, especially those of his or her own party, in an attempt to reach compromise on major legislation or advance particular bills. He or she can meet and communicate with individual legislators in attempts to secure their votes and reach compromise on legislation or prevent certain bills from reaching his or her desk.

The governor can bring legislative leaders together with major stakeholders to discuss and fashion legislation. The governor can lay out the parameters of legislation, what the chief executive will support or oppose, the issues that should be addressed or not be addressed, and the use, or exercise, or threat of exercising the veto.

The governor can propose specific legislation that a member of the California Legislature carries on behalf of the governor. Of course, the governor can propose specific legislation to take to the voters through the initiative process.

In a quick look at the administration and the legislative process, we know that the governor of California has a significant impact both with regard to specific legislation as well as the budget and funding priorities of the state.

As such, it's critical that interested parties work with the administration throughout the legislative process, including the members of the governor's office, the Department of Finance and relevant state departments and agencies.

When we talk about the role of a governor in the legislative process, we must include not only the governor and his staff but also the control agencies including the Department of Finance and the appropriate departments or agencies.

As the governor's chief lobbyist and legislative advisor, his or her legislative secretary is one of the most influential persons in the governor's office regarding pending legislation, along with the Chief of Staff. As a result, all the legislation adopted by the legislature and sent to the governor's desk runs through the legislative secretary and his or her deputies.

The governor's legislative deputies, who work under the legislative secretary, each have multiple subject matters as part of their individual portfolios. They advise the governor and his or her senior staff on legislation and regulatory matters in their respective subject matters.

These deputies play a critical role as both the liaison to the legislature and other interested parties, as well as to the relevant agencies and departments regarding bills and regulations within their subject matter expertise.

The governor's legislative deputies also consult with the Department of Finance and agencies regarding positions on bills. Then these deputies ultimately present their recommendations directly to the governor. The governor can sponsor legislation. The administration can and does sponsor bills.

A significant source of sponsorship is the individual departments and agencies within California state government. A department may feel that if a particular statute is amended, or repealed, or anyone enacted then some of the functions performed by that department will be done more efficiently or effectively or the program will be enhanced.

If this is the case, the department will request a member of the legislature to introduce a bill. No department under the authority of the governor may sponsor legislation without the prior approval of that department's agency secretary as well as the governor's legislative secretary.

All proposals to introduce bills from the departments under the control of the governor are sent to the governor's legislative unit for approval after the agency secretary approves. The legislative unit in the governor's office usually forwards copies of the proposals to the Department of Finance for review and comment.

In addition, a department's proposal may also be forwarded to other departments that may be affected by the proposal for their comment and feedback. The preparation of bill analyses. Another important role for the administration's agencies and departments in the legislative process is the preparation of bill analyses.

The purpose of these bill analyses is to provide the governor and his or her staff, the agency secretaries and department heads, and the Department of Finance with relevant information concerning the programmatic and fiscal effects of pending legislation. Typically, these bill analyses recommend a position that the administration should adopt on the proposed legislation.

However, until approved by the governor's office, all bill analyses prepared by departments under the administrative authority of the governor are not public documents and they may not be made available to anyone outside of that review process.

However, once a position has been approved by the governor's office and that analysis that's consistent with the position taken is generally made available to the public and the author of the bill in particular.

Concerning legislation on the governor's desk, when a bill is passed by the legislature and sent to the governor an enrolled bill report, or EBR, is prepared for the governor's office by the departments and agencies with subject matter jurisdiction, as well as the Department of Finance when there's a fiscal impact to the bill.

This EBR serves essentially the same function as a legislative bill analysis, except that it recommends to the governor what action he or she should take on the particular bill. Those allowable actions are to sign, veto, or to allow a bill to become law without the signature of the governor.

Now, as opposed to the legislative bill analyses, enrolled bill reports are considered confidential communications with the governor and they are not public documents. Consequently, even if approved, EBRs are not released to the public by anyone without the governor's office prior approval.

The Department of Finance as well as relevant departments and agencies prepare these EBR's for all bills that are enrolled to the governor and particularly those that have a fiscal impact. However, EBRs are not prepared for constitutional amendments and resolutions because these types of legislative measures are not actually sent to the governor for his or her approval.

When legislation gets to the governor's desk, the governor is presented with a bill file including the relevant enrolled bill reports, the actual bill, its earlier versions, support and opposition letters, the Department of Finance's analysis and recommendation, the Senate Floor Analysis, and the agency's analysis and recommendation.

The legislative deputy then presents the bill to the governor verbally and makes a recommendation whether to sign or veto the measure. Of course, the critical role that the governor plays is the formal action taken on roughly a thousand bills each year that are sent to the governor's desk.

Remember that the governor can take one of three official actions on any bill on his or her desk sign, veto, or allow the bill to become law without his or her signature. Let's now look at those three formal actions by the governor on bills sent to his or her desk.

Signature by the governor. In general, the governor has 12 days in which to act on a bill sent to him or her from the Senate or the Assembly. That 12 day period begins once the bill has been delivered to the governor, not the day that the bill actually passed the Senate or Assembly

because it still has to go through the engrossing and enrolling process before a bill is delivered to the governor.

Note that California has a pocket signature rule, as opposed to the president's pocket veto. In other words, if the governor does not act on a measure within the allotted time then the bill becomes law without the governor's signature.

This 12 day signing period is applicable to all bills that are presented to the governor 12 or more days prior to the date that the legislature adjourns for a joint recess in the first year of the two year session or on or before August 20th of the second year of the two year session, when it is required by the constitution to adjourn by August 31st.

The applicable calendar date in the first year is based on the date that both houses of the legislature consent to adjourn for the interim recess. It is subject to change and the date is set forth in the Joint Rules found in Joint Rule 61.

In contrast, the recess date in the second year of the two year session is fixed by the state constitution. Bills that are passed before September 1, in the second year of the two year session and which are in the governor's possession on or after September the 1st must be signed or vetoed by September 30th of that year or they become law without the governor's signature.

Any bill passed by the legislature in a special session that is in the governor's possession on or after the adjournment date of the special session becomes law unless the governor vetoed that bill within 12 days by returning the vetoed bill to the Senate or the Assembly.

When the Governor approves a bill, he or she signs it, dates it, and then transmits it to the Secretary of State. This copy of the official record and law is then the official one for the state. The Secretary of State assigns the bill a number, which is known as the chapter number. This chaptering by the Secretary of State is the last but ministerial role for a bill.

The bills are numbered consecutively in the order in which they have been received and chaptered. The resulting sequence is the order in which the bills were approved by the governor and transmitted to the Secretary of State. There is only one sequence of bill chapter numbers maintained for each year of the session of the legislature.

As a result, the chapter numbers do not continue in the second year of the session. Also a separate set of chapter numbers is maintained for each special or extraordinary session of the legislature.

If a bill presented to the governor contains one or more items of appropriation, he or she may eliminate entirely or reduce any or all of those appropriations while approving other portions and appropriations of the bill.

When the governor uses this line item veto authority, sometimes called the blue pencil authority, he or she appends to the bill at the time of signing it a statement of the items to which he or she

objects and the reason or reasons for that objection. Then a copy of this statement is transmitted to the house in which the bill originated.

The items then may be separately reconsidered and the vetoes can either be sustained, meaning approved, or they can be overridden in the same manner as other bills which have been vetoed by the governor. Again, note that, under California law, the governor can allow a bill to become law without his or her signature.

This is in contrast to federal law in which the president has a pocket veto. That is, if he or she does not act upon a bill within the specified time, then the bill is vetoed, again in pocket. In California, the rule is a pocket signature.

The next action by the governor is vetoes. When the governor vetoes a bill, he or she returns it with his or her objections to the bill with the house of origin to either the Senate secretary or the Assembly Chief Clerk. This is pursuant to the state constitution.

The house of origin then may consider the veto immediately or place it on its unfinished business file, in which case the legislature has 60 calendar days to act upon the vetoed bill, assuming that they are in session. If no action has been taken during the 60 day period, then the measure is stricken from the file and the veto is sustained.

Note that veto overrides in California are quite rare. The legislature has not overridden a governor's veto since 1979. The result of the sustaining the governor's veto or failing to consider it in the allotted time effectively kills the bill, or reduces or eliminates the appropriations as recommended.

If two thirds of the elected members of each house of the legislature disagree with the governor, then the bill is passed by the legislature, becomes law notwithstanding the governor's veto. When the legislature successfully overrides a gubernatorial veto, the bill or the items are authenticated as having become law by a certificate attached to it.

The bill or statement so authenticated is then delivered to the governor and, by him or her, is deposited with the laws in the office of the Secretary of State. Those bills in the office of the Secretary of State are given a chapter number in the same manner as bills approved by the governor.

The governor can also sponsor ballot measures. The governor has the ability to sponsor these measures, such as Governor Jerry Brown did in 2012, pursuant to Prop. 30, which increased the sales and personal income tax rates in the state, as well as in 2016 when he sponsored Prop. 57 to reduce criminal sanctions.

In California, the governor may propose specific legislation to take to the voters via the initiative process. This can be accomplished through legislation, which requires a two thirds majority of vote of both houses of the legislature or the governor can seek collection of signatures to place the measure on the next statewide ballot.

The final way the governor can influence the legislative process is through the governor's reorganization plans. A little known provision of the California Constitution grants the governor, subject to the approval by the legislature, with the authority to "Assign and reorganize functions among executive officers, and agencies, and their employees."

These reorganizations of the executive branch of government are called governor's reorganization plans or governor's reorg plans, often cited as GRPs. The GRPs are actually bills with normal bill language that are submitted to the legislature for approval, which is done after consideration by the Little Hoover Commission at least 30 days prior to the GRP submission to the legislature.

Then each house of the legislature has 60 calendar days to act on the governor's reorganization plan. The GRP takes effect on the 61st day after submission of the GRP to the legislature unless a resolution rejecting the GRP has been adopted by both the Assembly and the Senate by at least a majority vote.

I hope you enjoyed this opportunity to look at some of the roles of the governor, with particular attention to the chief executive's role in the legislative process. Remember that the governor has many tools and powers to control and influence legislation. As a result he or she plays a prominent role in any lawmaking by the legislature.