

Hi, and thanks for joining. This is Chris Micheli with the Sacramento lobbying firm of Aprea and Micheli and also an adjunct professor at McGeorge School of Law and its capital lawyering program. Today's topic is one of my favorites, legislative lingo.

It probably doesn't come as much of a surprise that my colleagues and I, those who work in and around California's state capital, use a number of different terms or lingo to describe different aspects of the California legislative process. I've tried to compile a short list of some of the more common terms used in the California legislative process.

Let's get started. The first one is "41st Senator." There are 40 members of the California State Senate who are duly elected to represent the 40 Senate districts across the state of California, about 950,000 constituents each.

Due to the power of some of the staff in the upper house of the Legislature, there are a few staffers, particularly with committees or leadership offices, who are often viewed as being almost as powerful, if not as powerful, as some of those elected members of the State Senate. That's why we use the term, 41st Senator.

28.8. What does that mean? A bill is subject to Senate Rule 28.8 if it's in the Senate Appropriations Committee. What that Senate Rule allows -- and by the way, there isn't an equivalent in the Assembly -- Senate Rule 28.8 basically says that the Senate Appropriations Committee Chair in his or her sole discretion can waive a hearing and actually report a bill out of the Fiscal Committee and directly to the Senate floor.

How does he or she make that determination? It's when the staff provides information as to the fiscal effect and basically determines there's very little state fiscal effect to the bill. If that fiscal impact is so nominal, if non-existent, then again, the Chair can simply waive off the hearing and send the bill directly to the Senate floor.

We sometimes use that in the following manner, "My bill got 28.8'd out of the Appropriations Committee." Another rule, and there are companion rules in the Senate and the Assembly, is Senate Rule 29.10, as in, "My bill got 29.10'd," or Assembly Rule 77.2, meaning, "Your bill got 77.2'd back to committee."

These two rules come into play when bills are substantially amended in the other House. That is, Assembly bills substantially amended in the Senate and returning to the Assembly for a final vote or Senate bills substantially amended in the Assembly being returned to the Senate for a concurrence vote.

Senate Rule 29.10 says the Senate Rules Committee may refer a bill to policy committee for a hearing if that bill has been substantially amended. In a similar vein, Assembly Rule 77.2 provides that the Speaker of the Assembly may refer a bill back to a policy committee for an additional hearing.

The major distinction is in the Senate, the five members of the Senate Rules Committee make the re-referral. In the Assembly, one person, i.e., the Speaker, gets to do it.

The next term is -- and these now are in alphabetical order as opposed to those that were numeric -- starting with the As, "Across the desk." What does that mean? When bills are introduced or amendments are put into bills, they are placed across the desk, which is the official act of either introducing a bill for the first time or making amendments to an existing bill.

It's across the desk because the legislator or his or her staff actually walk up to the Assembly desk for Assembly bills or Senate bills or to the Senate desk and hand the amendments or the actual bill across the desk to the desk staff at the Assembly desk or the Senate desk.

The acronym BCP. It stands for Budget Change Proposal. This is a formal document prepared by a state agency or department in the Department of Finance, where they propose and document budget changes to either maintain an existing level of service or to change the level of service. Rarely do people call them budget change proposals. They refer to them as BCPs.

Blue pencil. The term blue pencil is used to refer to the Governor in the State of California has an ability to line-item veto, specific items of appropriations, either in the budget bill itself, which has numerous thousands of appropriations or individual appropriation bills.

The President of the United States does not have line-item veto authority, but California's Governor is one of those states that provides it. The line-item veto authority can only reduce or eliminate items of appropriation. The Governor does not have authority to increase items of appropriation.

Caucus. What's a caucus? A caucus can either be a group of legislators. For example, the Assembly Democratic Caucus, or the Senate Republican Caucus, or the Legislative Women's Caucus, or the Legislative Black Caucus.

It can also refer to a private meeting of legislators. In both the Senate and the Assembly, all the Democrats caucus were gathered together once a week at least, Tuesdays generally, and Republicans. In both houses, they've chosen Tuesday.

Generally, when the Legislature's in session, Tuesday afternoons, during the lunch hour when they don't have floor sessions, legislators of those individual political parties and in those individual houses get together as group to talk about issues or receive briefings over the lunch hour. Those are called caucuses as well.

You might hear for example on the Assembly or Senate floors that the presiding officer will say, "Democrats are caucusing now in the rules committee room," or, "In the members lounge," for example. Again, there are two types of caucuses.

Chapter out. What is a chaptering out? This is basically an occurrence where a new law's provisions override or chapter out any conflicting provisions in existing law.

Each bill, when it's been passed by the Legislature and signed into law by the Governor receives a chapter number from the Secretary of State, that's the chaptering process. The very formal, but ministerial process where a bill receives a chapter number.

When a later enacted bill amends or repeals the same section of a prior bill in that same session, that earlier bill is chaptered out by the later bill.

A companion bill. A companion bill is when two bills are identical in wording and they're introduced in each house of the Legislature in the Assembly in the Senate. As oppose to Congress, this doesn't happen very often in California.

One clear example of companion bills is the state budget. Both the Assembly budget chair and the Senate budget chair introduced the identical budget bill based upon the January 10 budget proposal of California's Governor that's done by constitutional requirement.

A district bill. A district bill is a bill that was introduced by a legislator that affects just his or her district. Again, it's a district bill because it generally affects only that particular legislator's district, as oppose to the entire state.

Frankly, when legislators introduce a district bill, they expect their colleagues to defer to them in determining what's best for his or her district.

Double joint or double jointing. This refers to bill language that is an amendment that's added to an existing bill that makes that bill's passage contingent upon another bill's passage so that one bill doesn't chapter out the other.

Remember in the C's, we covered chaptering out. In the D's, we have the double jointing language. Again, the double jointing language precludes one bill chaptering out another bill.

Effective date. What's the effective date? The effective date is the date that a bill, a measure takes effect. It's generally January 1 of the following year. For example, the bills enacted this year in the 2017 legislative session generally take effect on January 1, unless the bill has an urgency clause in which case it takes effect immediately when the Governor signs it.

Or a different effective date is specified, generally something prospective. For example, the legislature might want to give a state agency an extra six months or maybe even an extra year to prepare for the implementation of a particular bill.

Engrossing and enrolling. Two different terms, although, they are often used interchangeably, which is incorrect. Each legislative house, the Assembly and the Senate both have an engrossing and enrolling unit but there is a distinction between the two. It is pretty simple.

Engrossing is the final processing of a bill by either the Chief Clerk of the Assembly or the Secretary of the Senate and his or her staff and this processing occurs before the

bill is sent to the Governor and it actually refers to when staff looks at the text of the final version of the bill to check if there were any errors.

For example, were all the amendments actually done? Are there any typos of the bill? That's the engrossing process.

The enrolling process is the point at which the Governor is actually sent the bill. Did you know that when the Legislature passes the bill, absent what they call, immediate transmittal, the bill has to go through the engrossing and enrolling process before it goes to the Governor's desk? It's not like the Legislature passes a bill today and then that evening the bill gets to the Governor's desk.

It often takes several days at the end of session when the two houses are processing hundreds of bills that were adopted in the last few weeks of the session. It could be a week or even two weeks before a bill gets down to the Governor's desk.

Fiscal committee. What's the fiscal committee? There are actually two fiscal committees in both houses of the Legislature, one is the Appropriations Committee that ironically doesn't appropriate money. The budget does that.

The appropriations committees are the true fiscal committees because they consider the fiscal impacts of legislation of the bill. When a bill is keyed fiscal, meaning it's presumed to have some sort of fiscal effect after it passes one or more policy committees, it then goes to the Appropriations Committee, the fiscal committee where the fiscal impacts are considered.

The other fiscal committees of each house is the budget committee. In the Senate, the Appropriations Committee is the Appropriations Committee. Same with the Assembly. On the budget side, the budget committee is in the Assembly i.e. the Assembly Budget Committee.

In the Senate it's called the Senate and Fiscal Review Committee. Slightly different wording on the budget committees in either house but again the appropriations committees have the same name in both the Assembly and the Senate.

Gut and amend. It sounds rather ominous, doesn't it? What's a gut and amend? This is when amendments to a bill remove the current contents of the bill in their entirety. It's gutted -- the bill is gutted -- and it's amended, that is the language is replaced with entirely different provisions that are unrelated to the original contents of the bill. That's a gut and amend.

Again, it sounds ominous and it's not done too often because California does have a germaneness rule. What does that mean? Generally amendments have to be germane to the current contents of the bill but that determination is made by a vote of either the Assembly or the Senate and bills are rarely challenged as not being germane.

Held in committee. A bill is held in committee when it's not voted upon. In other words a vote isn't taken because legislators in a committee can vote to pass a bill. They can vote

to defeat a bill. They could even vote to hold a bill in committee but generally a vote isn't taken when a bill is held in committee.

It usually means it's not ready. It's likely to fail passage if it's forced to a vote. So a legislator who's facing almost certain defeat of his or her bill might ask that the committee simply hold my bill in committee.

Hijack, hijacking. Again, another ominous term. Hijacking means when one member takes over another member's bill during the legislative process and usually amends different language into that bill and then uses it as his or her own vehicle. Hijacking doesn't occur too often and usually it's done with the consent of the current bill author.

Hostile amendments. Hostile amendments are those amendments that are proposed by one legislator in committee or on the floor that aren't supported by the bill's author. In other words, hostile amendments are done over the objections of the bill's author and they're hostile because they're hostile to the author of the bill. That is he or she doesn't want those particular amendments in his or her bill.

Inactive file. A bill can be placed on the inactive file on either the Assembly floor or the Senate floor and it can be done in one of two ways.

In most cases it's done at the bill author's request. They're just not ready to take the bill up or the bill has failed passage and they just want to park it or they don't want to take it to a vote because they fear it might fail passage and so they have the bill moved to the inactive file.

But there's also an instance where because a bill has been passed on file, meaning it's on the daily file for multiple days in a row and the author has chosen not to take the bill up. If after three times it hasn't been taken up, it's generally moved to the inactive file.

A bill can be removed from the active file with a two-day file notice, which basically means the public is informed that the bill is being removed from the inactive file and it has to sit there for two days before it can be taken up.

The journal. What's the journal? The journal is the official record of the proceedings of the Senate and the Assembly. They're there done separately so there is in fact a Senate Daily Journal and an Assembly Daily Journal. Again, these include the votes and other important information as it relates to business that was conducted on the floors of the Senate and Assembly.

May Revise. Harkening back to the state budget, the Governor is required by law to update his or her January 10 budget after those April tax receipts have come in. Remember, just like at the federal level, your state taxes are due by April 15th, generally.

What happens is, is that the Governor's Department of Finance recalculates what they think will come in in terms of state revenue. As a result of those changes in revenue,

either up or down, the Governor revises his or her budget proposals as was introduced in January. That is the May Budget revision. The shorthand is the May Revise.

Markup. A markup is an unofficial copy of a bill that has proposed amendments in it. The purpose of providing a markup is so that either interested parties or fellow legislators can look at a bill in the form in which it is going to be amended.

This helps fellow legislators see what it is that they're voting on, or interested parties can review it to see whether or not they still support or oppose a bill.

Move a call. Moving a call can occur either in committee, or on the floor of the Assembly, or the Senate. To move a call, that's done by a legislator. It doesn't have to be only the bill's author. It can be other legislators on the floor or in committee. Basically, it's a parliamentary maneuver that delays announcing of the vote.

In most instances -- not all, but in most instances -- a legislator moves the call when the bill is short of votes, either because there aren't sufficient number of people in committee or on the floor to cast a majority vote, or a two-thirds as may be required, or because folks are reluctant to vote on a bill. This gives a legislator more time to work on his or her call.

That we call "working a call," so a legislator can work a bill while it's on call. Keep in mind that a call must be lifted in order for a final vote to be recorded on the bill, either that the bill passed or that the bill failed. A measure cannot be on call forever. All calls must be lifted before the adjournment motion either of a committee or on the floor can occur.

Omnibus bill. An omnibus bill refers to a big bill, a major piece of legislation that generally concerns or contain numerous provisions, changes in law or appropriations. A budget bill could be an omnibus bill, but usually we refer to an omnibus bill as one that usually includes noncontroversial code maintenance or code cleanup provisions.

On call. This is similar to move a call. Moving a call means, "I place a bill on call." On call is when a measure has been heard but didn't garner enough vote for passage, and so the bill author or a fellow legislator will place the bill on call until the legislator is successful in garnering additional votes.

Pass on file. I referred to that earlier in term of the inactive file. Pass on file is when a bill's author can request a measure that's pending either on the Assembly floor or on the Senate floor, and he or she doesn't want the bill taken up but still have that bill retain its place on the daily file for consideration tomorrow or the next legislative day when they're in session.

Put over. A bill is put over generally to a subsequent hearing, and as you can imagine, a bill is put over generally at the request of the bill's author, but it could also be put over at the request of the committee.

One more, reconsideration. Reconsideration is also a parliamentary maneuver where either a measure or an actual motion hasn't been successful, and the bill's author or the legislator making the motion, is given another opportunity to either have that bill or that motion considered.

It's reconsidered because it's considered a second time. Generally, a bill cannot be reconsidered more than twice absent a rule waiver.

Thanks for joining me on this quick trip through legislative lingo. I hope you enjoyed it.