

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. Thanks for joining today's podcast on enrolled bill reports and gubernatorial actions on bills.

Once an enrolled bill reaches the Governor's desk for final action, enrolled bill reports, or EBRs are produced for the Governor and his senior staff to consider the merits of the bill pending on the Governor's desk. An enrolled bill is the final version of the bill that has passed both houses of the legislature and is pending final action by the Governor.

As you're probably aware, California's Governor has three choices with a bill that reaches his or her desk: sign the bill, veto the bill, or allow the bill to become law without his or her signature. Note that California has a pocket-signature rule versus the President who has a pocket veto. The enrolled bill report, or again most often referred to as an EBR, is the analysis of a bill with information and a recommendation for action by the Governor by staff. While agency or department bill analyses, including those issued by the Department of Finance, can become a matter of public record once they have been approved for distribution by the Governor's officer, the EBRs remain confidential as private communications with the Governor.

EBRs are prepared for bills but not for constitutional amendments or resolutions because these measures are not acted upon by the Governor. Generally, there are at least 3 EBRs that are prepared for the Governor's review with each bill that reaches his or her desk. The first is from the Department of Finance, the second is the relevant agency that has jurisdiction over the subject matter of the bill, and the third is by the legislative counsel.

The DOF prepares an EBR that primarily focuses on the estimated fiscal impact of the bill to the State. An important aspect of this fiscal analysis is whether the fiscal impact of the bill has been accounted for in the State budget. If it is not, the general rule is that the Department of Finance usually opposes the bill, purely on fiscal grounds because the bills enactment would result in additional un-budgeted revenue loss to the State. Although DOF's focus is primarily fiscal in nature, occasionally the DOF does raise policy concern with a bill now and then. In terms of bill analyses versus EBRs, the general rule is that for bills that were opposed during the legislative process, the DOF's EBR generally turns into a veto recommendation. On the other hand, if the DOF supported a bill during the process, then it's recommendation in the EBR is usually to sign the measure. DOF can also take a neutral position and not recommend a signature or a veto.

Now in addition, the second EBR is from the relevant State agency that makes a recommendation in its EBR submitted to the Governor's office. In most circumstances, the department, board or commission that has jurisdiction over a bill's subject matter or the

department that is directly or impacted by the particular bill will submit an EBR to agency. Naturally, the Governor and staff want to understand the regulator's view of the bill and how it would impact their existing programs. However, there is another level of review before the Governor's office receives an EBR. The EBR goes to the agency that oversees that particular department, board, or commission. For example, the Department of Conservation prepares and EBR with its analysis and recommendation which is thereafter forwarded to the Natural Resources Agency and its agency that then decides what the final recommendation will be to the Governor's office that will be contained in that EBR.

Finally, the Legislative Counsel prepares and EBR for each bill that the Legislature sends to the Governor to, among other things, identify any conflicts between this particular bill and any other bills passed by the Legislature in the same legislative session. This is done to ensure that later enacted bills do not chapter out earlier enacted bills effecting the same code section or sections. So, for example, the Legislative Counsel's EBR may recommend the order in which the Governor signs bills, effecting the same code section. In addition, a copy of the Legislative Counsel's analysis is delivered to the bill's author, which is required by the joint rules of the Assembly and the Senate. This EBR does not make a policy or fiscal recommendation on the bill by the Legislative Counsel. Instead, again, this EBR addresses the ministerial aspects of the bill for the benefit of the Governor and his or her staff.

Finally, the Governor's bill file normally contains letters from outside parties that are urging the Governor to sign or veto the particular bill. They're often submitted by interest groups that has supported or opposed the bill as the measure traveled through the legislative process. Now their letters of support become letters requesting the Governor's signature on the bill while letters of opposition generally become letters requesting the Governor to veto the bill. Often times the bill's author will also send a letter requesting the Governor's signature of the bill. and the Governor's staff may have their own notes from meetings they've held with proponents and opponents of the bill. Some Governor's staff have included the Senate Floor Analyses in the bill file, and sometimes independent bill analyses and studies that they have collected. Of course, the final version of the bill is in the file as well for the Governor to review the actual language of the measure.

All of these documents are clearly intended to provide the Governor and his or her staff with the information that they need to make an educated decision about whether to sign or veto the bill. Depending on the bill and how the particular Governor approaches decisions on pending legislation, these EBRs can be the critical basis for whether the bill gets signed or vetoed that year. Thanks for joining.