

This is Chris Micheli with the Sacramento governmental relations firms of Aprea & Micheli and an adjunct professor at McGeorge School of Law in its Capital Lawyering program. Welcome to today's podcast on challenges to lawmaking in California.

Individuals and groups engaging in California's lawmaking process may find several challenges in their legislative endeavors. There are certainly institutional challenges as well as political challenges that complicate the legislative process. These challenges must be overcome to achieve a successful outcome in enacting state legislation.

An initial challenge in California's lawmaking process is with its bicameral legislature as well as the three separate branches of government. Naturally, in our form of government these separate branches are intended to provide a system of checks and balances on the other branches. In other words, our system of government with its two houses and 120 legislators that comprise the legislative branch of government means that there's a natural tension in the lawmaking process. As two houses have an equal say in adopting legislation and as such both houses must lobby to be successful in passing a bill.

In addition, the state's three branches of government create challenges in the lawmaking process. This is due to the involvement of the other two branches of government, the executive and judicial, both of which have an impact on the legislative process. For example, the judiciary interprets the laws and can give effect or perhaps nullify the Legislature's enactment of a statute. Judicial decisions can lead to legislation to either amend or restore a law that was effected by an adverse court decision.

Of course, the Governor plays a critical role in the legislative process because he or she gets to sign or veto legislation which often gives the state's chief executive the final word on bills. Although the Legislature can override a gubernatorial veto with a supermajority vote that has not happened since 1979 here in California. As such, the position of the Governor in support or opposition to legislation most often decides the ultimate fate of these bills. Without the Governor's support it's not likely any challenge can be overcome.

In addition there are other institutional issues that can cause gridlock and create challenges in the lawmaking process. For example: term limits [and] the lack of bipartisanship are certainly two of the most commonly cited factors. For term limits, those who are newly elected versus those who are in their final term of office are undoubtedly going to view each other's role differently. In addition, more seasoned legislators often are committee chairs, leaders, or otherwise in more influential positions to effect the outcome of pending legislation.

Moreover, in these times of political extremes from both sides of the political aisle the lack of bipartisan cooperation in the Legislature, as well as between the legislators themselves in the two houses, makes lawmaking ever more challenging. Without beneficial relationships coming to consensus is harder and laws enacted along party lines sometimes are less stable because not everyone agrees that they're the best answer to addressing the particular public policy issue.

An additional institutional factor that makes lawmaking challenging is the sheer volume of legislation which can often be overwhelming to legislators who are not used to dealing with the

number and diversity of measures - roughly 2,500 bills per year. Even for those who have had prior elected or lawmaking experience such as having worked as a local official on a City Council or Board of Supervisors. One complaint that we often hear is the difficulty that legislators face to give appropriate attention to all of these different bills and issues during the single legislative session.

Legislative rules can also create hurdles for achieving lawmaking success. For example, our state's constitution requires a supermajority vote for passing tax increases in each house of the Legislature. The burden of achieving a higher vote threshold often increases the likelihood of failure with certain pieces of legislation.

In addition to these institutional factors we've covered there are also political reasons that can make the legislative process in the state of California evermore challenging. While constituents, the public generally, and certainly the media expect quick action by the Legislature several of the political factors that we'll discuss briefly, as well as the previously mentioned institutional ones impact the ability of legislators to respond in a timely fashion.

When added to the other factors that hamper lawmaking the problems can be exacerbated. One such factor is the electoral process, and certainly politics in general. In California, Assembly Members run for office every two years while Senators run for office every four years. As a result, these legislators are continually in a campaign mode and raising funds for their political races. Now, as a practical matter this can mean soliciting interest groups for campaign contributions - including those who regularly appear before legislators. Some of these legislators find it difficult to vote against their friends, especially those who might be helpful in their reelection efforts.

Other factors include the initiative process and voter approved ballot measures that constrain state spending and limit the ability of legislators to address public policy issues as well as competing funding priorities that are established by initiative for the state. These provisions of state law make it more difficult for legislators to craft solutions to public policy solutions facing the state because they often find their hands are tied by these constitutional or budgetary restrictions imposed by the voters.

Now as would be expected, competing interest groups on key issues also provide conflict for legislators and their staff. This often means taking sides and choosing between friends. The inability to please everyone on all issues makes lawmaking particularly challenging and achieving compromise among these varied interests can often be difficult for elected officials. It's an unenviable position to be faced with making difficult public policy choices on complicated matters with these competing factions.

Now in the end, there's not a single factor that makes lawmaking in California difficult. Instead it's a combination of factors that impact the resolution of public policy issues by the Legislature and that often result in gridlock and lack of success in lawmaking. The result can increase the partisanship in the Legislature, which then in turn creates hurdles, as both sides of the political spectrum engage in sometimes rigid ideology that in turn can create a lack of desire or need to compromise.

Thanks for joining today's podcast.