

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 on the types of bill amendments that are found in the California Legislature. There are a number of amendments that can be made to legislative measures. These measures include bills, resolutions and constitutional amendments.

To begin, an amendment is defined by the Office of Legislative Counsel as an alteration to a bill, motion, resolution or clause by adding, changing, substituting or omitting language. Now, in order to adopt an amendment to any pending measure, that amendment must be submitted to Legislative Counsel for drafting. Essentially, there are three ways to make amendments to measures. They are: author's amendments, committee amendments, and floor amendments. We'll cover each of those in today's podcast.

Author's amendments. Upon request of the author of any measure, the Chairperson of the committee to which the measure - again, a bill, a resolution or a constitutional amendment - has been referred, may report to the full house, that is the Assembly or the Senate, with a recommendation that amendments that are submitted by the author should be adopted and the measure be reprinted as amended and then re-referred to that committee. There are several instances where an author may make author's amendments before a committee hearing or at a committee hearing or on the floor.

Now, before a committee hearing, the amendments are submitted by the author of the measure to the committee and then submitted by the Senate or the Assembly Desk by the Chair of that committee to which the measures been referred. Then the author's amendments are permitted without the benefit of a committee hearing in recommendation. At a committee hearing or on the floor, amendments may be made by the author in committee or on the floor. Those are supported by the author and they can make those amendments at any time when the bill is before the committee or on the floor of the Assembly or the Senate.

The next type of amendments are committee amendments. The committee amendments are those proposed by the committee or a committee member at a committee hearing. These amendments are adopted by a roll call vote of the committee and they may or may not be hostile to the author, meaning whether or not the author agrees with those amendments. Now, committee amendments to bills are considered upon the second reading of the bill. The amendments are actually adopted by a majority vote of members present and voting. For example, to pass a bill out of a seven-member committee requires a majority, or four members of that seven-member committee, to vote in favor of the bill. On committee amendments, however, it's a majority of those present and voting. Perhaps two of the seven members were absent that day or they were at another hearing, either hearing bills, or presenting bills in another committee, meaning that there were five of the seven members at the committee hearing. If the committee amendments are adopted, they may be done so by three votes, because three is a majority of those members present and voting, a total of five.

Assembly and Senate bills amended on second reading by committee amendments are generally ordered, reprinted, and the bill or measure return to the second reading file for a day before proceeding to the third reading file. Committee amendments must be prepared or approved as the form by the Legislative Counsel's Office. Note that pursuant to committee rules, a specified number of copies of the committee amendments to measures are delivered to the Assembly Chief Clerk desk or the Senate Secretary's desk.

The third type of amendments are floor amendments. It should be noted that any member of the Assembly or Senate may move to amend a measure during its second or third reading. That motion to amend the measure is adopted by a majority vote of the members on the floor present and voting, just like in committee.

Amendments to a measure offered from the floor, except for committee amendments reported with them, those amendments are offered with a motion to amend. Those amendments can delete words, or they can add words, or they can substitute the content of the bills. However, note that amendments previously printed in the daily journal are not in order unless a copy of the proposed amendments have been placed upon the desk of the members on the floor.

A copy of a measure that's been amended only the add co-authors is not required to be placed upon the desks of the members, however. Amendments offered from the floor during a measure's second or third reading must also be prepared or approved as the form by the Office of the Legislative Counsel. Thereafter, whatever is the requirement of the respective house, a specified number of copies of the proposed amendments are delivered to the desk of the Chief Clerk in the Assembly, or the desk of the Senate secretary.

Note that amendments from the floor during a measure's second or third reading that would make a substantive change to the measure must be submitted to the Assembly or Senate desk by the time of adjournment on the business day before the start of the session, on the legislative day at which the amendments were to be considered. After the amendments are submitted to the Assembly or Senate desk, then an analysis is prepared by the committee of origin and a copy of that analysis is distributed to each member of the Assembly or the Senate prior to the beginning of the debate on adoption of those proposed amendments.

Any measure that's amended on the second or third reading file is then ordered re-printed and returned to the third reading file. It may not be acted upon until the measure as amended has been on the daily file for a specified period depending on whatever the appropriate Senate or Assembly rules provide. This requirement does not apply to a bill that's amended to add or delete an urgency clause or to a bill that's amended to make statutory changes to implement the budget bill.

Under the Joint Rules of the Assembly and the Senate, an amendment must relate to the same subject as the original bill, constitutional amendment, or resolution upon consideration of the respective house. This is the so-called germaneness rule. An amendment is not in order when all that will be done to the measures, the addition of a co-author or co-authors unless the committee on rules of the house in which that amendment is offered, grants prior approval to that minor amendment.

Now, there are two unique rules in the Assembly in the Senate that everyone should be familiar with. Under Assembly Rule 77.2, the Speaker of the Assembly may re-refer a bill to a committee for two reasons. Either amendments adopted on the Assembly floor include policy not previously heard in Assembly committee or a bill return to the Assembly for concurrence and Senate amendments contains a policy that has not previously been heard in an Assembly committee.

Of a similar nature is Senate Rule 29.10. Floor amendments to Assembly bills are handled based upon the policy committee's analysis of the floor amendments made to that bill. If the floor amendments are marked 're-write' or 'new bill' then certain rules apply. If the analysis is marked as a 'rewrite' but the subject matter of the amendments is germane to the previous

version of the bill then the measure is sent back to the committee on rules for consideration on a re-referral. If the rules committee on the Senate then re-refers the bill to a standing committee, that standing committee can hold the bill, it can return the bill to the floor, or re-refer the bill to the fiscal committee. Committees may amend these bills as floor amendments only and only during that time that amending on the Senate floor is actually permitted by the rules.

On the other hand, if the analysis is marked 'new bill', then the bill is withdrawn from the Senate floor and it's re-referred to the Senate Committee on Rules. Thereafter, the Rules Committee can either hold the bill or refer the bill to the appropriate standing committee subject, of course, to all the relevant Senate Rules and Joint Rules.

Now, there are other amendments. While amendments to measures can be made in one of the three specified manners that we've just discussed in this podcast, capital observers often hear about two other types of amendments. There are hostile amendments and gut-and-amend amendments.

Hostile amendments can be made in either a committee hearing or on the floor. Amendments that are proposed by another member in committee or on the floor that are not supported by the bill's author are considered to be hostile amendments. In addition, there are gut-and-amends. In this case amendments to a measure remove the current contents of the bill in its entirety and the bill's contents are replaced with different provisions entirely. This type of amendment does raise germaneness questions, which refers to whether the proposed amendment is relevant to the subject matter that's currently contained in the measure. However, while Leg Counsel may opine on the issue of germaneness, the ultimate determination of the germaneness of amendments is decided by the Presiding Officer of the Assembly or Senate and ultimately it's subject to appeal by a membership vote.

However, a majority of the members of the Senate or the Assembly will ultimately decide whether amendments to a measure are germane or not. Again note that hostile amendments or gut-and-amend amendments can be done as author's amendments, as committee amendments or as floor amendments. I hope you've enjoyed this brief look at the different types of bill amendments.