

Hi, this is Chris Micheli with the Sacramento governmental relations firm of Aprea & Micheli, and an adjunct professor at McGeorge School of Law. Thanks for joining today's podcast on legislative intent in the California courts. In determining the intent of the Legislature in enacting state laws, California courts have historically taken a limited view of legislative materials that can be utilized to determine the intent of the Legislature. State courts generally rely upon certain types of legislative history documents to gain an understanding of the meaning of a statute and ultimately to apply the legislature's intent when interpreting that particular statute.

The determination of legislative intent is important because there are instances in which there are legitimate legal disputes between the parties as to what statutory language may mean or what was intended by the language. In these cases, both parties will attempt to argue that their interpretation is the correct one that should be adopted by the court. Obviously then it's up to the judiciary to determine whose view is the correct one. The concern from this author's perspective is that the courts utilize an unrealistic viewpoint in determining which legislative intent materials can be properly used by a court, to make a determination.

For example, the courts have determined that documents available to all legislators are the proper ones to use. Of course, this is based upon the assumption that's not likely correct that all legislators read all of the materials before casting their votes on a particular bill. That assumption's probably not a realistic view of what actually happens in the state legislative process. You should understand that this statement is not meant as a criticism of the Legislature, or any individual legislators, or even their staff.

Instead, it's simply an acknowledgment that legislators cannot be expected to read every bill and all of the background materials and the analyses and thoroughly understand the intent behind each and every measure and the particular wording that's used in the legislation when they're voting on thousands of bills each year. The other point that I would make is that California's legislative history is lacking, particularly in comparison to the materials produced by the federal government in a similar manner to the prior concern expressed, this is not a criticism of the California legislative process nor the staff involved. Rather, it's an acknowledgment that there is limited though insightful material produced in conjunction with the consideration of legislation in the California Legislature.

For example, in Congress, they use a committee markup session to delve deeply into the legislative language that's being used in the particular federal bill. They review in detail the language and they discuss and debate it and there are transcripts of those hearings. In the California Legislature, on the other hand, committees rarely get into the details of bill language.

There may be debate generally over the public policy of a particular bill, but rarely any discussion about the bill's actual language. In addition at the federal level, there's the benefit of the Congressional Record, which is basically a verbatim transcript of debate and discussion regarding pending legislation. It's obviously very helpful for reviewing legislative history and intent. However, the Assembly Daily Journal and the Senate Daily Journal do not have anything in detail regarding the legislative debate over particular bills being considered. As such the main source of legislative intent in the California Legislature is found in the committee and floor analyses.

Unfortunately, these committee had floor bill analyses, rarely provide details or insights into why specific bill language was or was not used in a bill. Generally, these bill analyses explain existing law, changes to the law being proposed by the bill, arguments for and against the bill, and a few staff comments regarding the bill's provisions. However, rarely a specific language discussed and the reasons why that particular language was used. As a result, there are definite limitations in gleaning insights into the language used by the Legislature when it comes to particular bills.

Because of these factors, California courts' reliance on certain legislative materials is important, but the state courts often take an unnecessarily narrow view of which items of legislative history can be appropriately used to determine the intent of the Legislature. One possible reason is that the judicial branch does not have a fundamental understanding of the legislative process. In making determinations regarding which documents are properly considered by a court of law in determining legislative intent. The state courts have shown of limited understanding of the process.

They need to have greater familiarity with the legislative process in order to properly determine what true and accurate statements of legislative intent are and how they're made by members of the Legislature. As we live and operate in a legal world dominated by statutes today, it's of increasing importance for our state courts to properly interpret those statutes and to determine what particular legislative language means or was intended to mean. Our state statutes sometimes have ambiguities and the state courts must look to the legislative history to determine what those words are intended to mean.

Sometimes a statute's plain reading can be followed, but at other times that may not be so easy and the courts will have to rely upon the limited evidence of legislative intent that is available to them to use. Thanks for joining today's podcast on finding legislative intent.