

Hi, this is Chris Micheli with the Sacramento governmental relations firm of Aprea & Micheli, and an adjunct professor here at McGeorge School of Law in Sacramento. Today's podcast is a brief look at the Governor's role that's provided in the state constitution. Most of the powers of the executive branch of California's state government are found in Article V of the California Constitution. The following is a description, briefly, of those constitutional provisions affecting the Governor and his or her administration.

Section 1 vests the executive power in the Governor, who is then charged with faithfully executing the law.

Section 2 provides that the Governor is elected every four years at the same time that Assemblymembers are, and that he or she holds office beginning the Monday after January 1st. The Governor must be a United States citizen and a resident of California for the past five years, and the term of office is capped at two terms.

Section 3 requires the Governor to report to the Legislature each year on the condition of the state, which is usually referred to as the State of the State speech.

Section 4 provides the Governor can require officers and agencies to furnish information to him related to their duties.

Section 5 allows the Governor to fill a vacant office by appointment. This applies to other constitutional officers as well. That individual is then confirmed by a majority vote of both the Assembly and the Senate. That person shall complete the term of office for which he or she was appointed by the Governor. If the person is not confirmed or refused confirmation by both houses within 90 days of appointment, then the individual takes office.

Section 6 authorizes a statute to allow the Governor to reorganize functions among state agencies other than those of the remaining constitutional offices. This is generally known as a Governor's Reorganization Plan, or GRP.

Section 7 provides that the Governor is the commander in chief of the state militia, and may call upon the militia to execute the laws of the state.

Section 8 provides the Governor with authority to grant a reprieve, a pardon and commutation, except for cases of impeachment. The Governor must report to the legislature any grants, and provide the facts and reasons for doing so. There are no pardons for persons twice convicted of felony, unless the Supreme Court recommends it. The Governor may review decisions of the California Parole Board or the parole authority within 30 days of their recommendation, and the Governor may affirm, modify or reverse the decision of the parole authority based upon the same factors which the parole authority is required to consider. The Governor must report to the Legislature each parole decision that he or she has acted upon.

Section 9 of the Constitution of Article 5 requires the Lieutenant Governor to have the same qualifications as the Governor. The Lieutenant Governor is the president of the Senate, but may only cast a vote on a tie.

Section 10 provides the Lieutenant Governor will become the governor when a vacancy in the office occurs. He or she shall act as the Governor during an impeachment proceeding, when the Governor is out of state, or when the Governor has a temporary disability. There is an order of precedence for succession to the governor's office or temporarily exercising the governor's function. The Supreme Court has exclusive jurisdiction under this section to address any questions.

Section 11 provides that the Lieutenant Governor, the Attorney General, the Controller, the Secretary of State, and the Treasurer are elected at the same time as the Governor, and are limited to two terms in office as well.

Section 13 provides that the Attorney General is the chief law officer of the state, and it's his or her duty to uniformly and adequately enforce the laws of the state.

In Section 14, it provides that no state officer shall knowingly receive any salary, wages, commissions, or other earned income from a lobbyist, or a lobbying firm. If any amount is received, then the state officer cannot make or participate in making for one year, any action that would have a direct and significant financial impact on the lobbyist employer and would not impact the public generally. No state officer may accept any honorarium. The Legislature is required to enact laws that ban or strictly limit accepting a gift that would create a conflict of interest. No state officer may knowingly accept any compensation for appearing before, or taking any action on behalf of another person before a state government board or agency. If any amount is received and the state officer cannot make or participate in making for one year, any action that would have a direct and significant financial impact on that person, and would not impact the public generally. The Legislature is required to enact laws that prohibit state officers' agency secretaries and department directors from lobbying the Executive Branch for 12 months after leaving office. This is the so-called revolving door prohibition.

Capital observers should be familiar with the provisions of Article V in order to understand the powers and duties, as well as the limitation on powers of the executive branch of state government. Thereafter, you should review relevant provisions of the Government Code in order to determine further laws that affect the Governor and his or her administration.

Thanks for joining this podcast on the Governor's constitutional powers.