

Hi. This is Chris Micheli. A principal with the governmental relations firm of Aprea & Micheli in Sacramento and an adjunct professor at McGeorge School of Law in its Capital Lawyering Program. Today's podcast is to provide a broad overview of the Legislature's constitutional authority. Now, most of the provisions pertaining to the California Legislature can be found in Article IV of the California State Constitution. Although provisions affecting the legislative branch of government appear in nearly half a dozen other articles of the state constitution and are covered in another podcast. The California Constitution is generally looked at in order to determine whether it prohibits an action by the Legislature rather than as a source of power for the legislative branch of state government.

The following is a brief description of the main constitutional provisions that affect the Legislature that are found in Article IV. Section 1 vest the legislative powers in the Legislature, which is bicameral, meaning, two houses with an Assembly and a Senate. The powers of the initiative and referendum are reserved to the people of the state. In Section 1.5, there are findings and declarations related to having a representative government based upon free and fair elections, but also requiring term limits, restricted retirement benefits, and limits on resources for legislative staff.

Section 2 provides for the Senate, consisting of 40 members who are elected to four-year terms, and of the Assembly, which has 80 members who are elected to two-year terms. Legislators may serve a maximum of 12 years in either house or in both. They are elected in November of even-numbered years and they must be residents of their district at least one year, as well as a citizen of the US and a resident of California during the last three years. The Governor calls a special election when a vacancy in the legislative office occurs. Section 3 specifies the legislature convenes at noon on the first Monday in December in the even-numbered year and then adjourns on November 30th two years later.

Extraordinary sessions, which are commonly referred to as special sessions, are those that are proclaimed by the Governor. Legislators can only legislate on the subject of the proclamation. Section 4 prohibits the legislators from receiving any salary or earned income from lobbyists or lobbying firms or anyone with a contract with the Legislature for the past 12 months. Travel and living expenses are passed by two thirds, majority votes of both houses of the Legislature. Such expenses may not be received if the Legislature is in recess for more than three calendar days. These are termed per diem sessions.

Section 4.5 of Article IV requires the legislators elected after November 1990 to participate in Federal Social Security and the state pays for that. However, no other pension benefit can accrue to legislators. Section 5 provides that the Senate and Assembly judge the qualifications in elections of their members and may expel a member with a two-thirds majority vote.

No legislators can accept any honorarium and the Legislature is required to enact strict limits on gifts. Legislators are prohibited from accepting compensation or taking any other action on behalf of another person before a state agency or board. Legislators may act on their own behalf and advocate without compensation or they make inquiries for information on behalf of other persons before a state agency or board, but legislators are prohibited from lobbying the Legislature for 12 months after leaving office. This is the revolving door prohibition. The Legislature is required to enact laws

prohibiting the legislators from engaging in activities that conflict with their official duties.

Section 6 requires the state to be divided into 40 senatorial and 80 assembly districts with one of each elected officials to represent each district. Section 7 grants authority to each house to choose its officers and rules. A quorum is based upon a majority of members. Each house keeps its own journal and all committees and proceedings are required to be open and public. Closed sessions are allowed for specified purposes including employment decisions, safety, and security, as well as litigation.

The legislative caucuses may meet in closed session. The rules related to this section must be adopted by a two-thirds majority vote. Neither house can recess for more than 10 days without the other house's consent. Section 7.5 provides that total spending for the compensation of members of the legislature may not exceed \$950,000 per member. Each year, the amount is adjusted by an amount equal to the percentage increase in the state's appropriation limit.

Section 8, provides that only the budget bill may be heard or acted upon sooner than 30 days after its introduction, unless the house dispenses with this rule by a three fourths majority vote. Statutes are made by bills. Bills must be read three times in each house, although this rule can be dispensed with a two-third majority vote. Bills cannot be passed unless the amendments have been printed and distributed to legislators. Bills must be passed by a majority vote.

Statutes generally go into effect on January 1 of the following year except for special sessions statutes which go into effect on the 91st day after adjournment of the special session. A statute goes into effect unless a referendum petition affecting a statute is submitted to the Attorney General. This provision does not apply the statutes affecting legislative districts, statutes calling elections, statutes providing tax levies or appropriations, or urgency statutes that go into effect immediately upon their enactment. Urgency statutes are those necessary for the immediate preservation of the public peace, health or safety. Bills with urgency clauses must contain a statement of facts constituting the necessity. Urgency statutes cannot create or abolish any office or change salaries, the terms or duties or grant special privileges or vested rights.

Section 8.5 deals with acts amending initiative statutes, the issuance of bonds and constitutional amendments. They may not include or exclude political subdivisions of the state or contain alternative or cumulative provisions. Section 9 requires statutes to embrace one subject which is expressed in its title. The section of a statute may not be amended unless the section is reenacted as amendment.

Section 10, requires each bill passed to be presented to the Governor. It becomes a statute if it is signed. The governor may veto a bill by returning the bill with a list of objections.

Each house by a two-thirds majority vote can make the bill become a statute over the Governor's objections. If a bill is not returned within the specified period, then it becomes a statute without the Governor's signature. The general rule is that the Governor has 12 days to act on a bill, except at the end of a session when he or she has 30 days.

If the deadline is a Saturday, Sunday or a holiday, then the period is extended by another day. Any bill introduced in the first year must be passed out at the House of Origin by January 31st of the second year. No bill may be passed after September 1 in an even numbered year unless it calls an election, provides a tax levy or appropriation, or is an urgency statute.

No bills may be presented after November 15th in the second year of the session. The governor may reduce or eliminate one or more items of appropriations while he or she approves the rest of the bill. A statement of the reasons must be included and submitted to the House of Origin and items reduced or eliminated must be voted upon separately for an override.

If the general fund revenues decline substantially below the estimate for the fiscal year, then the governor may issue a proclamation declaring a fiscal emergency and call the Legislature into special session. If the legislature fails to pass a bill to address the fiscal emergency within 45 days, then no other bill may be acted upon, nor may the Legislature adjourned for recess.

Section 11, provides that either house may adopt a resolution to select committees. Section 12, requires the governor to submit a budget within the first 10 days of the calendar year, along with an explanatory message and itemized statements for expenditures and estimated state revenues. If the state's expenditures exceed its revenues, then the governor must recommend sources for additional revenues.

The governor can require a state agency or employee to furnish any information that he or she deems necessary to prepare the state budget. In addition, the budget must be accompanied by a budget bill. The budget bill must be introduced immediately at each house by the respected budget committee chairs. The Legislature must pass the budget by June 15th of each year. The Legislature cannot send any other bill that appropriates funds until the budget bill has been enacted except by so-called emergency bills that had been previously recommended by the Governor. No bill except the budget bill can contain more than one item of appropriation and for one expressed purpose.

Appropriations for the budget bill in public schools may be passed by a majority vote. Budget trailer bills identified as related to the budget bill may be passed by a majority vote. The Legislature controls a submission, approval and enforcement of budgets in the filing of claims for all of the state agencies, departments, boards and commissions. If the budget is not passed by June 15th then no salary or reimbursement for legislators may occur until the day that the budget bill is passed and the missed paying expenses are thereafter forfeited.

Section 12.5 provides that within 10 days following the submission of the budget and following the enactment of the budget, the Director of Finance must submit to the legislature the estimates of general fund revenues and expenditures. Section 13 provides as a legislator may not hold any officer appointments under the state other than elective office during his or her term in the Legislature.

Section 14 states that a legislator is not subject to a civil process during the session of the Legislature. Section 15 prohibits a person from even seeking to influence action by the Legislature by the use of bribery, intimidation or other dishonest means. A

violation of this section is a felony. Section 16 provides that all laws of a general nature have uniform operation. A local or special statute is invalid if a general statute can be made applicable.

Section 17 of Article IV the state constitution provides the Legislature has no power to grant or to authorize local agencies to grant extra compensation to a public officer or employee after service has been rendered or a contract has been performed. Section 18 grants the sole power of impeachment to the Assembly. Impeachments are tried in the Senate. A person can only be convicted by the Senate by a two-thirds majority vote. Statewide elected officials, Board of Equalization members and state court judges are subject to impeachment for misconduct in office and they can be removed from office by the Senate.

Section 19 prohibits the Legislature from authorizing lotteries. The Legislature may regulate horse racing and wagering. Cities and counties may provide bingo games but only for charity and the California state lottery is established. Section 20 states that the Legislature may divide the state into fish and game districts to protect fish and game. It also creates a Fish and Game Commission, the five gubernatorial appointees who serves six-year terms. These individuals may be removed by majority vote of each house of the Legislature.

Section 21 provides the legislature with the power to fill offices of the Legislature and Governor if a certain number are killed or disabled due to a war or enemy activity, as well as convening the legislature and hold elections to fill offices under such extreme circumstances. Section 22 requires at the convening of each session as well as the close of the session, a report from the four legislative leaders on their house's goals and objectives for that session.

There are no sections 23 to 27. The last section is 28 which prohibits any urgency statute that appropriates monies for altering or modifying the historically restored areas of the state capital or for the purchase of furniture for these areas. This provision does not apply to ordinary repair and maintenance of the state capital building.

As you can hear, the California constitution provides a laundry list of specific powers and limitations on powers based upon the Legislature. Article IV should be consulted first to determine whether the legislature is acting within its authority. Thereafter, provisions of the California Government Code need to be reviewed.

I hope you enjoyed this summary, an overview of the constitutional provisions related to the California State Legislature and the legislative branch of state government. Thanks for joining.