

Hi, this is Chris Micheli with the Sacramento governmental relations firm of Aprea & Micheli, and an adjunct professor at McGeorge School of Law. Today's podcast on constitutional amendments in the California Legislature.

What is a constitutional amendment? Although California's constitution provides for the amendment of this document, the constitution actually does not define this term. A traditional definition of a constitutional amendment is some sort of a modification to an existing constitution.

California's Legislative Counsel defines a constitutional amendment as a resolution proposing a change to the California Constitution. It may be presented by the Legislature or by initiative, and it's adopted upon voter approval at a state-wide election.

Now in California, note that there is a legal distinction between amending the constitution and revising the constitution. However, there is not a definition in our state constitution to distinguish between these two types of modifications.

The courts have defined the difference and Article XVIII of the California Constitution sets forth the difference between amending and revising. In Section 1 of Article XVIII, the Legislature is granted the authority to propose either an amendment or a revision to the constitution.

Both proposed amendments and revisions require a vote of the people. If a revision is requested by the Legislature and the voters approve it, then a Constitutional Convention must be convened, and in Section 3, the people are only allowed to amend the constitution not revise it.

For constitutional amendments here in the state of California, there are two methods of doing so. The first is those proposed by the Legislature, and the second is those proposed by the people. Let's look at each of these in turn.

By the Legislature, for constitutional amendments proposed by the legislature, they're mentioned just once in Article IV. You can see it in Section 8.5, which includes a provision for a constitutional amendment proposed by the Legislature. Again, the term is not defined anywhere in the state constitution.

Thereafter in Article XVIII, Section 1, it provides that the Legislature by roll call vote, two-thirds required, they may propose an amendment or revision of the constitution. In the same manner, may amend or withdraw their particular proposal. Each amendment must be prepared and submitted to the electorate for a vote.

As a result of these provisions in the state constitution, the Legislature can propose amendments so long as both the Assembly and the Senate vote by a two-thirds majority to place that proposed constitutional amendment on the state-wide ballot.

Note that the Governor does not have a formal role in the adoption of proposed amendments to the constitution because constitutional amendments are not presented to the governor for signature or veto. Of course, in the end, the constitutional amendment proposed by the Legislature is subject to a majority vote approval by the people for adoption.

Let's look at the second way, by the people. Now for constitutional amendments proposed by the people, the process is clearly set forth in Article II, Section 8. It states in 8a, that the initiative is the power of the electors to propose statutes and amendments to the constitution and to adopt or reject them.

In Section 8b, initiative measures may be proposed by presenting a petition to the Secretary of State, and that petition has to set forth the text of the proposed amendment to the constitution, and it also has to be certified to have been signed by the electors and there are specified percentages.

For statutory provisions it's five percent of the votes for all candidates for governor at the last gubernatorial election, but for amendments to the constitution in the state, it's eight percent of the votes for all candidates for governor at the last gubernatorial election.

As a result of Article II, Section 8, the state's electors can propose and adopt amendments to the constitution without approval by the Legislature or the Governor. Just like with amendments proposed by the Legislature, however, those proposed by the people are also subject to majority vote approval of the entire electorate before they can be adopted.

That's our brief look at constitutional amendments in the state of California. Thanks for joining.