

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 where we're going to take a brief look at the question "Does the Legislature meet in public or in private?"

California's Constitution in Article IV, Section 7, deals primarily with the proceedings of the houses and committees of the California Legislature. For example, in Section 7c, "The proceedings of each house the committees thereof shall be open and public." Moreover, in that section, "The right to attend open and public proceedings includes the right of any person to record by audio or video means any and all parts of the proceedings and to broadcast or otherwise transmit them." These were as a result of Prop 54. This provision of the California Constitution also allows the Legislature to adopt reasonable rules that regulate the placement and use of the equipment for recording or broadcasting the proceedings from the sole purpose of minimizing disruption of those particular proceedings.

Now, also according to Prop 54, the Legislature must provide audio/visual recordings to be made of all proceedings in their entirety and make these recordings public through the internet and make the proceedings public within 24 hours after the proceedings have been recessed or adjourned for that particular day. They also have to maintain an archive of these recordings which must be accessible to the public through the internet and downloadable for a period of no less than 20 years.

So, despite these rules, having the Legislature meet in public, the Legislature may hold closed sessions. However, these closed sessions may be held solely for the following purposes, to consider the appointment, employment, evaluation of performance, or dismissal of a public officer or employee; also to consider or hear complaints or charges brought against a member of the Legislature or other public officer or employee; or to establish the classification or compensation of an employee of the Legislature.

Second, to consider matters affecting the safety and security of members of the Legislature, or its employees, or the safety and security of any buildings and ground used by the Legislature.

Third, to confer with or receive advice from its legal counsel regarding pending, or reasonably anticipated, or whether to initiate litigation when discussion in open session would not protect the interests of the house or committee regarding that litigation.

Fourth, a caucus of the members of the Senate, the members of the Assembly, or the members of both houses - which is composed of the members of the same political party - may meet in a closed session.

The Legislature must implement all of these provisions of law by a concurrent resolution that's adopted by roll call vote that's entered in the Daily Journal of each house with a two-thirds vote of each house. Additionally, in the case of a closed session, the Legislature must provide reasonable notice of the closed session to the public and state the purpose of the closed session to be provided.

If there's a conflict between a concurrent resolution and a statute, the last adopted or enacted provision therefore prevails.

So, again, this is just a quick look at whether the Legislature meets in public or in private. In most instances, obviously, it meets in public. But there are a number of appropriate occasions where the Legislature can in fact meet in private and outside the public.

Thanks for joining this podcast. I hope you found it useful.