

Hi. This is Chris Micheli, a principal with the Sacramento governmental relations firm of Aprea & Micheli and an adjunct professor here at McGeorge School of Law.

Thanks for joining today's podcast on voting on a referendum, which is one of the three forms of direct democracy in California. I note that there are a few unique aspects of the referendum process in California.

The referendum is provided in the California Constitution in Article II, Section 9, which states, "The referendum is the power of the electors to approve or reject statutes or parts of statutes except urgency statutes, statutes calling elections, and statutes providing for tax levies or appropriations for the usual current expenses of the State."

A referendum is commonly used to refer to the practice of submitting a question or a measure to a popular vote of the electorate such as Brexit in England. However, in the states that have direct democracy, about two dozen of them, the referendum is used by the electorate to overturn a statute that was enacted by the state legislature.

In other words, after the legislature has passed a law, the state's citizens can collect signatures on a referendum petition, and then the voters themselves can decide whether to maintain the law, or repeal it entirely, or repeal part of it.

There are a couple of unique aspects of the referendum process in the State of California. The first unique aspect is that, once a referendum qualifies for the ballot, then the statute that was enacted by the legislature is essentially stayed, meaning it doesn't take effect, and it's essentially on hold until the state's citizens cast their ballots on that referendum petition.

The second unique aspect of the referendum is that the proponents of a referendum measure have only 90 days after the enactment of the statute in order to collect the requisite number of signatures on that referendum petition. Note that the signature threshold is equal to five percent of the votes for all the candidates for governor at the last gubernatorial election.

The third unique aspect is that the referendum petition can seek the entire statute or just a part of the statute to be submitted to a vote of the electorate. Note that Section 9 of Article II reads in part "to approve or reject statutes or parts of statutes." Now as a result, if those pursuing the referendum want to overturn the entire law or just a part of it, then they can do either one.

The fourth unique aspect is the meaning of the yes or the no vote on the referendum itself. This vote is counter-intuitive because once on the ballot the law is repealed if voters cast more no votes than yes votes on the referendum in question. In other words, if a majority votes no, then the law never takes effect.

The fifth unique aspect is that certain types of statutes are specifically excluded by the constitution from the referendum process. This means that certain enacted bills are simply not subject to a referendum at all. Those measures are urgency statutes, statutes calling elections, and statutes providing for tax levies or appropriations for the usual current expenses of the State of California.

Those are some unique aspects of voting on a referendum here in California. Thanks for joining.