

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 is looking at effective versus operative dates of legislation.

There's often confusion in the California legislative process regarding effective versus operative dates. Specifically, some capitol observers inquire when a statute actually takes effect, and when it takes effect can be different than when the statute is actually operative.

January 1 following the year a bill is enacted is the most common effective date and is basically the so-called default effective date of new laws unless the particular statute specifies something different. A common definition of effective date is when the new law actually on the books.

A common definition of operative date is when the new law becomes operative, which commonly but mistakenly is described as when the new law is in effect. Any bill can specify a delayed effective date. There are certain types of bills that are deemed to be in effect upon enactment. And what is the date of enactment? When the Governor signed the bill and the Secretary of State assigns it a Chapter Number.

Therefore, unless the bill calls for an election, contains an urgency clause, or is a budget related or tax levy measure, one can generally presume that the effective date of the statute is January 1 of the following year of enactment.

So, what about operative dates? Here's how the Attorney General, more than sixty years ago, defined an operative date from an effective date. "A statute may be worded so as to provide for an operative date other than effective date. Now, an operative date may be the same as the effective date, or it may be different or later than the effective date." This was according to a 1956 opinion of the California State Attorney General.

The courts, in an appellate court decision in 2012 in *People v. Verba*, the court of appeal in California said unlike a statute's effective date, which is determined according to immutable rules written into the State Constitution, a bill's operative date - which is the date upon which the directives of the statute are actually implemented - are set by the Legislature in its own discretion.

By way of background, in the California Legislature certain bills take effect immediately upon the Governor signing the bill and the measure being chaptered by the Secretary of State. These are tax levies or urgency clause statutes. The general rule for the effective dates of statutes is found in California's Constitution, Article IV, Section 9(c). It provides three subdivisions. Chapter 6 of the California Government Code also deals with the operation of statutes and resolutions.

The general rule concerning the effective date of statutes is found in Government Code Section 9600(a), which provides that a statute enacted at a regular session goes into effect on January 1 next following a 90-day period following the date of enactment of the statute. A statute enacted at a special session shall go into effect on the 91st date upon the adjournment of the special session at which that special session bill was passed.

The exceptions to this general rule are found in Government Code Section 9600(b), which provides that statutes calling elections, statutes providing for tax levies or appropriation for the usual, current expenses of the state, or urgency statutes go into effect immediately upon enactment. One should also be aware of Government Code Section 17580. It provides that no bill, except a bill containing an urgency clause, introduced or amended on or after 1/1/89 that mandates a new program or higher level of service requiring reimbursement of local agencies or school districts shall become operative until the July 1 following the date upon which the bill takes effect unless the bill specifically makes this section of the Government Code inapplicable.

So, under these rules, for example, a non-urgency bill that was passed and signed into law in September 2019 will take effect on January 1, 2020. A non-urgency measure, however, that is enacted in the second year of the two-year session, would go into effect on January 1, following a 90-day period from the date of enactment. By contrast, statutes enacted at a special session take effect on the 91st day after adjournment of the special session.

The delays in the effective dates of the statutes enacted at regular and special sessions provide that 90-day interval between the enactment and the effective date in order to permit the circulation and presentation of a referendum petition that would request that the statute in whole or in part be submitted to the electorate.

As you can see, there are a number of complicated rules regarding effective versus operative dates of statutes, but ones that capitol players should be aware of. Thanks for joining this podcast. I hope you found it helpful.