

Hi, this is Chris Micheli with the Sacramento governmental relations firm of Aprea & Micheli, and an adjunct professor at McGeorge School of Law. Today I take a quick look at whether legislative intent language can somehow overcome statutory language.

Now, I've seen a few instances where a bill in the California Legislature contains both statutory changes - you know, those that amend, add, or repeal Code Sections - as well as legislative intent statements - usually in the form of findings and declarations.

In most instances, we expect these two types of bill provisions to coincide with each other, in words, to be consistent, because with a well drafted bill, although it may not be necessary for a court to resort to findings and declarations in order to determine intent, sometimes legislators and interest groups want that additional assurance of the legislative branch to ensure that the judicial branch will properly interpret the statute in the manner that they desire.

This conclusion would seem obvious to both bill drafters and observers alike. However, what happens in the case where statutory language doesn't comport with the legislative findings and declarations, or vice versa? How should a court treat that type of occurrence?

By way of background, there's a presumption that a statutory amendment was intended to change the meaning of the statute so long as there was a material change that was contained in the language of the amended statute. In other words, a statute can only be changed by a material amendment to the statutory language itself, but certainly not merely by legislative intent language. At least, one would hope that's the case.

However, there are some instances when the Legislature has enacted findings and declarations that appear to be inconsistent with what the bill actually does or doesn't change in the Codes. For example, if the proposed statutory changes were changes out of the bill, but the legislative findings and declarations remained in the bill and were subsequently enacted as either codified or uncodified language, what should a court do in this instance?

To me, it would make sense for the court to not rely upon the legislative intent language, but rather to determine whether the underlying statute was actually changed, and then give effect to those statutory changes. In other words, if the Legislature intends to change the law, i.e. another statute or amending a statute, then it must do so by enacting a bill that adds, amends, or repeals sections of the Code.

In most instances courts have ruled, for example, that the amendment of a statute is evidence of an intention to change a law, and the fact that a legislature knew there were decisions of an appellate court, and they still made substantial changes to a statute, the courts have said indicates an intention to effectuate a change of that statute's meaning. In other words, in both of these cases, there were changes made to the statute. In this regard, there's no need for intent language to be considered or resorted to by the courts unless there was some ambiguity in this changed statutory language because, in theory, the purpose of legislative intent is provided there in those amendments.

Note that that California Supreme Court has said that if there's no ambiguity in the language, then we presume the Legislature meant what it said, and the plain meaning of the

statute governs our interpretation. In fact, even the US Supreme Court Justice Scalia once said, "We are governed by laws, not by the intention of legislators."

As a result, in my mind, the logical conclusion would be that legislative intent language can't overcome statutory language, particularly in an instance when no changes were made to the underlying statute. Nonetheless, there may be instances where there are folks who advocate before the courts to accept legislative findings and declarations would somehow overrules any statutory changes or lack thereof.

It'll be interesting to see if the appellate courts end up having to decide such a question. Thanks for joining today's podcast. I hope you enjoyed it.