

Hi, this is Chris Micheli with the Sacramento governmental relations firm of Aprea & Micheli, and an adjunct professor at McGeorge School of Law in its Capital Lawyering program.

As a follow-up to my earlier podcast on Governor Newsom's 2021 final bill actions, I wanted to tape this podcast to discuss some of the major reasons that Governor Newsom vetoed bills this past session.

I think the most common reason is the fiscal cost, which many of you would probably suspect. I looked over and read the 66 bill vetoes that Governor Gavin Newsom concluded with at the end of the 2021 legislative session. And I found several themes from those veto messages to the members of the Legislature, the members of the Assembly and Senate about their bills and some of his reasons for issuing those vetoes.

Now, these are just some of the major themes. It obviously isn't an exhaustive list, but nonetheless, first and foremost, probably the budget process should be used when bills result in cost to the state. What did we see? One message was, "This bill would create significant new costs not included in the 2021 Budget Act." Another is, "I am concerned that this bill will have potentially significant general fund costs that were not contemplated in the state budget."

He also was concerned about measures that would be a permanent ongoing source of fiscal impact to the state. For example, he said, "I cannot support a permanent extension of this policy at this time, as it will result in significant ongoing general fund cost pressures in the tens of millions of dollars that were not included in the state's current spending plan."

A second theme I found in the governor's vetoes, that he would prefer state agencies to work with the Legislature on a solution. So for example, he said in one bill, "I'm directing a specified agency to work collaboratively with all relevant stakeholders to develop new policies for legislative consideration to address this next year." Also, he said, "I encourage the author to continue engaging my administration to find innovative pathways to achieve our collective goal."

Another theme is that the bill might have conflicted with or created confusion with existing state or federal laws. For example, he said, "There's significant overlap between this bill and another bill or existing law, which may cause confusion for the regulated community." Similarly, he said, "The bill lacks clarity in key areas, which may render it subject to misinterpretation, or even a lack of enforceability." And in a third bill, he said, "This bill creates confusion with well settled law, which is likely to result in increased litigation."

Another theme for vetoes is that an existing state agency is already addressing this issue regulatorily. For example, "Ongoing efforts by my administration are better suited to achieve this intent of this particular bill." Or he said, "This bill is duplicative of work already underway by our agencies." He also said, similarly, "This bill is duplicative of effort already underway, which would create unnecessary, bureaucratic burden instead of material change."

Now, along those same lines, he also expressed concerns about some bills that would interfere with the work of an existing state agency. For example, he said in one veto that, "The bill would eliminate administrative flexibility to direct funding where it is needed most."

Sometimes he applauds the benefits of the program, but nonetheless it results in a veto. For example, "While the aims of this bill are noble and noteworthy, the work in this bill would be duplicative of the work already being done by my agencies."

Another one is potential conflict with federal law. We saw that in a few instances. For example, he said, "It would be imprudent to codify these requirements in state law in the event the federal agency revises them." Or he said, "Consideration should be given to whether a patchwork of state and federal regulations is the most effective way to approach an issue of this magnitude."

He also expressed in a few instances the potential adverse impact on the private sector. For example, if there were a mandate on the regulated community. For example, he said, "This bill's extensive requirements would create a significant burden on California businesses, particularly on small businesses."

In other instances, the governor says that he wants further study or refinement before this particular bill would become law. So for example, he cited in more than one instance a currently ongoing pilot project that might be underway. And if the state hasn't had the opportunity to sufficiently assess the impact or results of the project, this pilot project, this study, then it would be premature to propose something else along the same lines.

The governor also, as with prior governors, continued to veto bills that had been previously vetoed. For example, he said, "These are the same concerns I had with a previous nearly identical bill, which I also vetoed." And then in other instances, Governor Newsom said, "There should be additional discussion to take place."

And then lastly, there were a few instances where he wanted the collective bargaining process to be respected. And so he said in one bill veto, "This bill should be addressed through the collective bargaining process."

Now, as I noted from the outset, there are obviously other sometimes more detailed or even unique or particular to a bill reasons for Governor Newsom to veto a particular bill. Nonetheless, what I've covered here are some of the major themes of his bills' vetoes. And again, the most common reason, as with other governors, is the fiscal cost of a proposed bill.

Thanks for joining this brief review of some of the reasons for Governor Newsom's 2021 bill vetoes.