

Legislative Process

THE LEGISLATURE

The California State Legislature is a bicameral (two-house) body composed of an Assembly, whose 80 members are elected to two-year terms, and a Senate, whose 40 members are elected for staggered four-year terms. The Legislature meets for two-year sessions between elections, and each house conducts business in its own chamber within the Capitol, often referred to as the Senate and Assembly “floors.”

The rules of each house of the Legislature establish a number of standing committees with differing purviews. Members of these committees review legislation and recommend amendments to the entire body. When a legislative measure is sent to a committee for review, it is said to be “referred” to that committee. The committee then reviews the legislation and can either make recommendations to the floor for amendments or hold the measure in committee. A bill is “held” in committee by making no recommendation to the floor to pass or amend it. This can happen without a hearing. Technically, only the house floors can (by a majority vote) amend a piece of legislation. However, the committees’ recommendations are nearly always carried out by the floors.

There are two general types of committees: policy committees and fiscal committees. The majority of measures are sent to a policy committee for review of the proposed programmatic or public policy change. Measures that could have a fiscal impact on the State are also sent to a fiscal committee for review of the measure’s financial implications.

In the Senate, there are two fiscal committees: the Budget and Fiscal Review Committee and the Appropriations Committee. The Budget and Fiscal Review Committee deals primarily with the Budget Bill but will also conduct hearings on legislation that would directly amend or otherwise significantly affect the Budget Act or the budget process. The Appropriations Committee hears all legislation outside of the Budget Bill, as well as budget trailer bills that would have a fiscal impact.

The Assembly has two fiscal committees, the Budget Committee and the Appropriations Committee, whose functions correspond to those of their Senate counterparts.

The rules committees in each house are neither policy nor fiscal committees. They focus on “housekeeping” and other matters internal to their respective houses. These committees also assign bills to the standing committees.

Joint committees are comprised of members from both houses. They include the Joint Legislative Budget Committee, whose duties include oversight of the operations of the Legislative Analyst’s Office, the Joint Rules Committee, which develops rules that govern the two houses in addition to the individual houses’ rules, and the Joint Legislative Audit Committee, which oversees the Bureau of State Audits.

Each house may establish special and select committees. These committees generally are established to conduct research into or provide oversight on narrow subject areas. They generally do not hear bills and meet infrequently.

A complete listing of all committees and their memberships can be found in each “Daily File” or on the Internet (<http://www.leginfo.legislature.ca.gov/faces/dailyFileTemplate.xhtml>)

LEGISLATIVE CALENDAR

The Legislature meets in two-year sessions. Each two-year session is considered a regular session. The California Constitution (Article IV, Section 3) prescribes that the regular session shall begin on the first Monday in December in each even-numbered year (i.e., following the election the preceding November) and end November 30 two years later (i.e., after the next election). The sessions are referred to by the two calendar years which they almost encompass (e.g., the session after the election in 2016 is the 2016-17 regular session. It begins in December 2016 and will end in November 2018).

Within the constitutionally prescribed dates of convening and adjourning the session, the Legislature has freedom to set its own calendar of meetings and recesses. Generally, the Legislature begins meeting in January each year and concludes its work for the year in September. During the year, the Legislature traditionally schedules two recesses: a one-week spring recess (which is generally the week before Easter) and a summer recess that typically lasts four weeks.

http://senate.ca.gov/sites/senate.ca.gov/files/senate_legislative_calendar_2017.pdf

In addition to the regular session, the Governor may, by proclamation, require the Legislature to meet in special session. A special session may run concurrently with the Legislature's normally scheduled meeting time and/or during its recesses. During the special session, the Legislature may act only on subjects specified in the proclamation. To handle both the regular session and a special session at the same time, the Legislature may temporarily recess its work in the regular session, convene in the special session, and then reconvene the regular session after temporarily recessing the special session. This recessing and reconvening may happen more than once on the same day.

Aside from the fact that a special session is limited to the subject matter for which it was called, there are no significant differences in process between a regular and special session. However, the effective dates for bills enacted during a special session are somewhat different than those for a regular session. (See Article IV, Section 8 for more details.)

Under Article IV, Section 10 (f), the Governor is authorized to issue a proclamation declaring a fiscal emergency. If such an emergency is declared, the Legislature is automatically called into special session for this purpose. This type of special session is often referred to as a Proposition 58 Special Session. The proclamation must identify the nature of the fiscal emergency and must be accompanied by proposed legislation to address the fiscal emergency.

If the Legislature fails to pass and send to the Governor a bill or set of bills to address the fiscal emergency by the 45th day following the proclamation's issuance, the Legislature is prohibited from acting on any other bill, nor can it adjourn for a joint recess, until that bill or those bills have been passed and sent to the Governor.

LEGISLATION

Measures considered by the Legislature fall into six classes. These are bills, constitutional amendments, joint resolutions, concurrent resolutions, house resolutions, and Rules Committee resolutions. There are differences among these classes in their requirements for passage and the weight of authority they carry.

Each measure is designated as originating either in the Assembly or the Senate and is assigned a number. The first of any given type of measure to be introduced in a session is numbered "1" and the numbering continues sequentially throughout the two-year session. At the beginning of a new session, the numbering starts over. For example, the tenth Senate bill introduced in a session is labeled SB 10, and the third Assembly Constitutional Amendment is ACA 3.

BILLS (AB/SB)

In California, most laws are enacted, repealed, or amended through bills, which are proposals to add new laws or change or repealed existing laws.

To become law, a bill must be passed in both houses by at least a simple majority. The Budget Bill and spending bills related to the budget require a simple majority. Other bills that contain a General Fund appropriation require a two-thirds vote, unless the appropriation is for education, in which case a simple majority is required. In addition, any bill which contains an urgency clause (i.e., a provision that makes the bill effective immediately following signature by the Governor, rather than on January 1, as is normally the case) requires a two-thirds vote. Bills that increase taxes require a two-thirds vote.

After passage by both houses of the Legislature, the bill is sent to the Governor, who may either sign or veto the bill within a specified period of time (either 12 days or 30 days depending on what time of the year it is sent to him/her). If the Governor fails to act on a bill sent to him/her within the prescribed period, the measure becomes law without his/her signature. (For more specifics regarding deadlines for gubernatorial actions on bills, refer to Section 10 of Article IV of the State Constitution.)

CONSTITUTIONAL AMENDMENTS (ACA/SCA)

A constitutional amendment can be initiated by the Legislature if it passes both houses by a two-thirds vote. A proposed constitutional amendment is not sent to the Governor for signature, but becomes part of the constitution only if the electorate approves it in a general election. The Governor may call a special election to consider a proposed constitutional amendment sooner.

When the Legislature adopts a proposed constitutional amendment, it may also adopt a companion bill, which would take effect only if the constitutional amendment is passed by the people. These companion measures generally contain detailed statutory provisions to implement the constitutional amendment.

The constitution can also be amended through the initiative process. The signatures of the requisite number of voters on a petition causes the Secretary of State to place the petition on the ballot. No action by the Legislature is needed in this process, and the Legislature cannot prevent it from occurring.

JOINT RESOLUTIONS (AJR/SJR)

Joint resolutions are initiated when the Legislature wants to comment to Congress and/or the President on a federal matter of concern to the State. These resolutions require a majority vote in both houses. Joint resolutions neither need the signature of the Governor nor have the force of law. They take effect upon their being filed with the Secretary of State.

CONCURRENT RESOLUTIONS (ACR/SCR)

Concurrent Resolutions address state matters that are of concern to both houses. They are often used to adopt the joint rules, create joint committees, request studies, express legislative intent and express the Legislature's congratulations to organizations, persons, or other states. Concurrent Resolutions need a majority in each house to pass. These measures are not sent to the Governor for approval and take effect upon their being filed with the Secretary of State.

HOUSE AND SENATE RESOLUTIONS (HR/SR)

"House" (i.e., Assembly) and Senate resolutions are acted on in one house only. These resolutions are usually congratulatory, but they are also used to adopt and amend the house rules and create house interim committees. These measures are not sent to the Governor for approval.

RULES COMMITTEE RESOLUTIONS

The Rules Committee in each house also takes action by way of the resolution. A majority vote of the committee is required to pass these measures, which usually deal with internal operations.

THE LEGISLATIVE PROCESS

When a legislator wants to propose a measure, he/she must go to the Legislative Counsel to have the specific language of the proposal put in proper bill form. The Legislative Counsel's staff, which provides legal services to both houses in support of the legislative process, will draft the language of the code section amendments to accomplish the author's purpose.

The staff attorney will also write the Legislative Counsel's Digest for the bill, which includes a summary of the current law and what the proposed changes will do. At the end of the digest, Counsel will indicate the vote required for passage of the bill (usually "majority" or "two-thirds"), whether the bill must be referred to the fiscal committees, and whether the bill contains a State-mandated local program.

When the bill is written, it is returned to the author, who will then introduce it in the house of which he/she is a member. From there, the bill proceeds through the legislative process.

The outline below presents the steps a bill typically goes through to become law.

BILL FLOW IN THE CALIFORNIA LEGISLATURE

I. Introduction (first reading)

- A. Author puts a legislative measure "across the desk" of the floor of the member's house.
- B. Measure is given a number (e.g., AB 456, SB 612, ACA 3, SJR 1).
- C. Title of measure is read on the floor of the house of origin. (The state constitution prohibits any bill from being enacted unless it is "read" on three separate days in each house, or unless two-thirds of the members of a house vote to dispense with the reading of a bill. Reading aloud the title of a bill at this point constitutes the first of the three readings.)
- D. Measure is assigned ("referred") to a standing policy committee by the Rules Committee of the house of origin. The committee of assignment is based generally on the subject matter of the bill.

II. Consideration by Policy Committee

- A. Committee holds public hearing.
 1. Date set by committee and published in advance in the Daily File of the house of origin.
 2. Hearing may be scheduled any time beginning 30 days after introduction of the bill unless it is an urgency measure, in which case the 30-day provisions can be waived by a three-fourths vote of the house.
 3. On the day of the hearing, the author presents the bill to the committee and explains why the committee should approve it. The policy committee is concerned primarily with the policy or programmatic features of the bill, not its fiscal consequences. Proponents and opponents also present their views on the measure. In addition, the committee may invite experts on the issue under consideration to testify.

- B. Committee recommendations to the floor, which generally require a majority vote of the committee, are customarily in one of the following forms:
1. **Do pass:** If the committee wants the bill to become law.
 2. **Amend and do pass as amended:** If the committee has rejected the original form of the bill, but has approved it with certain specified changes or amendments.
 3. **Amend and re-refer:** If the committee wants the bill to be considered by a committee again after it is reprinted as amended. "Amend and re-refer" may bring the amended bill back to the same committee or it may specify another committee (usually a fiscal committee) that can properly consider the measure.
 4. **Do pass and re-refer:** If the committee recommends the bill favorably without amendments but sends it to another committee. If the bill has a fiscal impact ("Fiscal committee: yes" at end of Legislative Counsel Digest), it will be re-referred to the fiscal committee.
 5. **Do not pass:** If committee opposes the bill, but prefers to let the house decide.
 6. **To the house without recommendation:** If the committee is divided or uncertain and wants the house to decide the bill on its merits.
 7. **Refer to Interim:** If the committee believes the subject is of sufficient importance to need further in-depth study by a legislative committee before adequate legislation can be written, then this recommendation suggests that the bill receive detailed analysis and hearings during the Legislature's recess (interim) period.
- C. Instead of reporting its recommendation, the committee may effectively kill the bill by voting to "lay it on the table" or by taking no action (i.e., "holding" the bill in committee).

III. Consideration by Fiscal Committee

Essentially the same procedural requirements apply to the fiscal committees as do to the policy committees. However, the focus of the fiscal committees, and the testimony they hear, is primarily (though not necessarily exclusively) on the fiscal ramifications of legislation, not the program or policy issues involved.

IV. Second Reading in House of Origin

- A. The measure is listed in second reading file of the floor of the house of origin, but consideration usually involves no more than reading the bill number to satisfy procedural requirements.
- B. If the committee recommended amendments, such amendments are printed as part of the bill and may be discussed and adopted.
- C. A bill can be on the Second Reading File and read for the "second time" more than once. Every time a bill is amended, it is back on second reading.

V. Third Reading in House of Origin

- A. The measure listed on third reading file is taken up for final passage when the author is ready to present it.
 1. The author of a bill makes the case for approving the bill, and floor debate may take place.

2. Members of the House may ask questions of the author and make statements of support or opposition to the measure.
 3. Vote on final passage of bill is by roll call.
- B. According to the California Constitution, "Any bill introduced during the first (odd) year of the biennium of the legislative session that has not been passed by the house of origin by January 31 of the second (even) calendar year of the biennium may no longer be acted on by the house. No bill may be passed by either house on or after September 1 of an even numbered year except statutes calling elections, statutes providing for tax levies or appropriations for the usual current expenses of the State, and urgency statutes, and bills passed after being vetoed by the Governor."

VI. Procedure After Bill Passes House of Origin

- A. Sent to the other house, where the same general procedure is followed.
- B. If passed in second house, bill is returned to house of origin with a transmittal message stating either:
 1. Bill passed second house and may be enrolled and sent to the Governor, or
 2. Bill passed second house with amendments, and concurrence in amendments by house of origin is requested so that bill may be enrolled and sent to Governor.

An exception to the above is specified in the Constitution: "Until the budget bill has been enacted, the Legislature shall not send to the Governor for consideration any bill appropriating funds for expenditure during the fiscal year for which the budget bill is to be enacted, except emergency bills recommended by the Governor or appropriations for the salaries and expenses of the Legislature."

- C. If amendments are not satisfactory to the house of origin, it appoints members of its house to a Committee on Conference and notifies the other house to appoint its Committee on Conference members (each house appoints three members to a conference committee.).
 1. The conference committee considers the bill and seeks agreement on its final form.
 - a. If conferees cannot agree, a new Committee on Conference is appointed.
 - b. If no agreement is reached on the third conference try, the bill is dead.
 2. The conference committee reports its recommendations to both houses, each of which must adopt the conference report at a roll-call vote (majority or two-thirds, depending upon the nature of the bill) before the bill can be sent to the Governor.

VII. Action by Governor

- A. **Sign or Veto:** Article IV, Section 10 of the California Constitution provides: "Each bill passed by the Legislature shall be presented to the Governor. It becomes a statute if he signs it. He may veto it by returning it with his objections to the house of origin, which shall enter the objections in the journal and proceed to reconsider it. If each house then passes the bill by roll-call vote entered in the journal, two-thirds of the membership concurring, it becomes a statute." This latter action of the Legislature to approve by a two-thirds vote a bill vetoed by the Governor is referred to as a veto override.

- B. **Item Veto:** The California Constitution provides: "The Governor may reduce or eliminate one or more items of appropriation while approving other portions of a bill. He shall append to the bill a statement of the items reduced or eliminated with the reasons for his action. The Governor shall transmit to the house originating the bill a copy of his statement and reasons. Items reduced or eliminated shall be separately reconsidered and may be passed over the Governor's veto in the same manner as bills." Overriding a gubernatorial veto requires a two-thirds vote.
- C. **Deadlines for Action:** The Constitution goes on to specify how much time the Governor has to act on (sign or veto) a bill sent to him/her. If the Governor does not act within that time, the bill becomes law without signature. Generally, the Governor's deadlines are as follows:
1. In the first year of the session:
 - If the bill is delivered to the Governor before the interim recess: 12 days to act.
 - If the bill is delivered after the beginning of recess: 30 days to act.
 2. In the second year of the session:
 - If the bill is delivered before adjournment: 12 days to act.
 - If the bill is delivered on or after September 1: until September 30 to act.

The Governor's timeframe for action begins when the bill is received. The date a bill passes the Legislature usually is not the day the Governor receives it. After passage by the Legislature, the bill must go to "enrolling and engrossing," where it is prepared for formal transmission to the Governor. Sometimes, several days will elapse between the time of final legislative approval of a bill and the time the Governor receives it.

VIII. Effective Dates of Statutes

- A. Under the State Constitution, except for statutes calling elections, statutes providing for tax levies or appropriations for the "usual current expenses of the State," and urgency statutes, "...a statute enacted at a regular session shall go into effect on January 1 next following a 90-day period from the date of enactment of the statute and a statute enacted at a special session shall go into effect on the 91st day after adjournment of the special session at which the bill was passed."
- B. Urgency statutes are those "...necessary for immediate preservation of the public peace, health, or safety." A statement of facts constituting the necessity shall be set forth in one section of the bill (the "urgency clause"). Urgency bills become effective upon enactment unless a different effective date is specified in the bill. An urgency statute may not create or abolish any office or change the salary, terms, or duties of any office, or grant any franchise or special privileges, or create any vested right or interest.

Source: http://www.dof.ca.gov/budget/legislative_process.html