

SAM - BUDGETING

THE LEGISLATIVE PROCESS

6945

(New 2/1998)

When a legislator wants to propose a measure, she/he 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 she/he is a member. From there, the bill proceeds through the legislative process.

The following 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.

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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 3/4 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 rejected the original form of the bill, but 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 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.

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- 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, these committees' attention, and the testimony they hear, is focused 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.

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."

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VI. Procedure After Bill Passes House of Origin ¹

- A. Sent to other house where 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 Governor² 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.²

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 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. 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. 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.

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¹ Simple resolutions (HR and SR) require no further action than acceptance by the house of origin.

² Neither resolutions nor constitutional amendments require the signature of the Governor. Constitutional amendments, however, must receive a favorable vote at the next statewide election before they become effective.

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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.
- C. 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.
- D. 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.

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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.