

CALIFORNIA LEGISLATION: A BASIC PRIMER

Revised February 2010

There are now 49 Democrats, 29 Republicans, 1 Independent and one vacancy (63rd District) in the 80-seat Assembly; and in the 40-seat Senate 25 Democrats, 13 Republicans and two vacancies (1st and 15th Districts).^{1*} Animal bills historically have tended to be partisan based on party of the author. This may have been as much a function of political strategy of animal activists' electioneering as party philosophy, because nationally a wide array of animal bills can arise anywhere across the partisan spectrum. While many Democrats might favor issues appearing to promote "social justice," Republicans favor use of government police power to reduce government costs and preserve public safety, i.e. "law and order." In California, Democrats can and do check the most egregious civil rights infringements promoted by activists such as "automatic right of entry" trumping the Fourth Amendment or property forfeitures so excessive as to bring out the American Civil Liberties Union.

While the partisan numbers are now more lopsided than past years due to non-competitive districting, the result of term limits brings in new Assembly members with little or no voting history on animal issues. All current Senators have some voting record on animal issues due to longer terms and typical migration from the Assembly. Despite the partisan imbalance, recent years have seen bi-partisan opposition to ill-conceived bills (2007-08 AB 1634, 2009 SB 250) and support for justified bills (2009 SB 762), even in the face of activist opposition. Activists responded in 2010 by forming the bi-partisan California "Legislative Animal Protection Caucus" co-chaired by Senator Dean Florez, D-16, Shafter, Senator Tony Strickland, R19,-Thousand Oaks, and Assemblymembers Cameron Smyth, R-38, Santa Clarita, and Pedro Nava, D-35, Santa Barbara. One key to their success will be whether other legislators perceive an acceptable balance between "animal protection" and protection of human rights at an acceptable standard in this minority majority state.

California legislators use the "not voting" option to avoid recording a specific vote. Critics decry this practice, but this is reality and the equivalent of voting no. Only 41 and 21 votes are needed to pass most bills the respective houses. The only effective strategy to prevent passage of a Democrat authored animal activist sponsored bill that is moving is to prevent it from obtaining the required votes. Authors try to avoid a failing vote, but some will keep even a failed bill alive as long as possible trying to get the required votes. Never assume that any vote is a given. This same strategy applies in committees with the number of votes needed based on a simple majority of committee members as of the day of the vote.

At the end of any day, legislation is a numbers game.

¹ Senator Dave Cox (R-1) passed away on July 13, 2010. 7/14/2010 annotation. Juan Arambula, Assembly Member from the Fresno area is now Independent, formerly Democrat. 4/11/10 annotation; Senator Abel Maldonado appointed Lt. Governor. Dr. Bill Emerson (R) to Senate District 37, Mike Gatto (D) elected to ASM District 43.

Policy committees of each house conduct hearings on bills assigned to them subject to postponement, amendment and an author's decision not to proceed. Each committee has staff controlled by the chair, all Democrats. Committees have Republican Vice-Chairs and varying minority percentages of Republican members. Bills are assigned to a committee consultant, who prepares an analysis including a list of support and opposition based on express requests for listing. Organizations are listed by name and individuals typically by numerical count. The analysis is available on the day of the hearing (or sometimes before) and must be reviewed immediately to assess the author's and supporters' arguments and rebut these at the hearing. If a hearing is postponed and the bill amended prior to hearing, the deadline for listing is extended and there is an opportunity to change position. Once the bill is out of committee, the Bill Analysis is not amended, even for erroneous listings, and remains on the bill's permanent record. The published Assembly Floor Analysis does not include the support/opposition list (readily available in the bill documents.) The Republican Caucuses also analyze bills for their members, but this is not a public process although it does include support/opposition lists.

Prior to a hearing, contact with members' staffs or the members should give an idea of concerns or members' willingness to pursue issues at the hearing. For example, a member might ask specific questions about a bill with technical or enforcement issues. Committees schedule many bills on the same day, especially early in the year, and the bills are heard in the order of author sign in, usually depending on the author and his witnesses' availability. The author presents the bill followed by his prepared witnesses, varying in number, sometimes limited by the committee and followed by additional supporters merely stating name and affiliation – depending on the committee directive. Then the opposition presents its arguments and is more likely to be limited in the number of witnesses allowed to present testimony. Depending on the time of day and other bills, a hearing can be very rushed. Members may be distracted or out of the room. The tendency is to read prepared statements as is done in Congress, but it is also important to rebut supporting arguments, particularly when these involve questions of fact. If the author is relying on experts, their testimony ideally would be rebutted by an opposing expert or reference to submitted written opposition if the person is not available as is often the case. Then additional opponents are able to state name and affiliation, again depending on committee directive at the hearing. Committee members may ask questions or make offhand remarks that need response. Simple amendments may be agreed to in committee or the bill deferred for further work. Otherwise, an immediate vote is taken. If the bill does not get the required votes, it is placed “on call” with the bill's fate uncertain. Committee members may be unwilling to commit themselves initially, think things over, talk to the author during the day, talk with staff or others including opposition. Committee members also go in and out of the meeting to attend to other business or may only return to vote. Toward the end of the hearing, the on call bills are taken off call for an additional vote. What may have looked promising earlier can change very quickly amid mumbled confusion as votes change in ways that may or may not make sense. Authors of on call bills may request reconsideration or not, and if so, the committee usually grants this unanimously as a courtesy. This means that even a failed bill can come back on a later date for another vote. Nothing is over until it is *really* over, sometimes months later.

Most bills then go to the house's appropriations committee. Bills without state money appropriation typically pass without fiscal issues, but votes on controversial or very partisan bills begin to reflect this and might be placed in the suspense file for further consideration and later release, or if passed give a clue about the floor sentiment. Bills then go the house's "floor" for a vote of the entire house. This process can be quick or long, because an author tries to line up the required votes before the bill is actually voted. If the bill fails on the first vote, the author may request and be granted reconsideration for another floor vote before the calendar deadline. The Assembly floor Analysis for each bill is prepared and controlled by the consultant for the policy committee that heard the bill. Senate policy committees have their own consultants who prepare their own analyses, and the Senate Floor has its own, separate Office of Senate floor Analyses. As a bill progresses, each committee vote is included in the progressing analyses, and these are an indication of strength or weakness. A strong bill can progress quickly through the entire process, but a weak bill that survives can struggle through the summer or become a "2 year bill" to be heard again next year. (This only happens in the first year of the 2-year legislative sessions, i.e. 2009-2010 Legislature.) The veto request process is the final step for opposition. Each step in the process presents an opportunity for timely and strategic action by opposition to present, build and strengthen its position.

All documents and history for each bill are available on the Legislature's web sites, <http://www.leginfo.ca.gov> or <http://www.legislature.ca.gov> You can subscribe to updates on each bill followed and also send a message to a bill author's directly from the bill information page for that bill.

The Rules for each house as well as the "Joint Rules" are also available on the Legislature web sites. Bill histories may reference rule provisions for specific procedural and calendar considerations.

* CALIFORNIA CONSTITUTION, ARTICLE 4, LEGISLATIVE

SEC. 2. (a) The Senate has a membership of 40 Senators elected for 4-year terms, 20 to begin every 2 years. No Senator may serve more than 2 terms.

The Assembly has a membership of 80 members elected for 2-year terms. No member of the Assembly may serve more than 3 terms.

Their terms shall commence on the first Monday in December next following their election.

(b) Election of members of the Assembly shall be on the first Tuesday after the first Monday in November of even-numbered years unless otherwise prescribed by the Legislature. Senators shall be elected at the same time and places as members of the Assembly.

(c) A person is ineligible to be a member of the Legislature unless the person is an elector and has been a resident of the legislative district for one year, and a citizen of the United States and a resident of California for 3 years, immediately preceding the election.

(d) When a vacancy occurs in the Legislature the Governor immediately shall call an election to fill the vacancy.