

## *House Committee Procedures: 81st Legislature*

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Art. 3, sec. 37 of the Texas Constitution prohibits legislation from being considered unless it has been referred to and reported by a committee in both houses of the Legislature. Committees serve as the preliminary screening process for legislation and allow the public the opportunity to testify about their views on legislative proposals. Legislation may be examined closely and revised in committee before advancing to the next stage of consideration.

A majority of introduced legislation dies in committee. During the 2007 regular session, for example, 4,248 House bills and joint resolutions were introduced, and 1,928, or 45 percent, were reported favorably from House committees. The odds of favorable committee action improve greatly when legislation passed by one chamber is sent to the other. Of the 988 bills and joint resolutions the House received from the Senate during the last regular session, 850, or 86 percent, were reported favorably from House committees. Senate committees favorably reported 1,074 of 1,339, or 80 percent, of House-passed bills and joint resolutions.

House committees must follow the requirements of the House Rules (HR 2 by Solomons), particularly Rule 4, which deals with committee procedures. Each committee also establishes its own internal operating procedures and practices.

Committees are not required to consider legislation referred to them. If a committee does act, legislation may be left pending or laid on the table subject to call; referred to subcommittee and either reported or left pending; reported favorably without amendment, as amended, or as substituted; or reported unfavorably or on minority report.

This report reviews the rules and procedures used in House committees. It also provides some sample motions used to initiate committee action and includes citations to House rule provisions. For additional information on the legislative process, see House Research Organization Focus Report Number 81-3, *How a Bill Becomes Law: 81st Legislature*, February 16, 2009.

*This report reviews the rules and procedures used in the committees of the Texas House of Representatives.*

## Committee authority

**Referral by the speaker.** The speaker refers all bills and joint resolutions to committee after they are filed with the chief clerk or received from the Senate. Simple and concurrent resolutions also are referred to committee, but congratulatory and memorial resolutions often are considered by the House on suspension of the rules without committee action.

The speaker chooses the committee to which legislation is referred, using the general jurisdictional guidelines for committees found in House Rule 3. The speaker sometimes will correct a referral by switching legislation to another committee. The House also may change a referral by majority vote (Rule 1, sec. 4).

**Authority of the chair.** The speaker appoints all committee chairs. The chair, in consultation with committee members and the leadership, determines the fate of legislation in committee. The chair decides if and when the committee considers legislation. No committee member may make a motion for the committee to act on legislation without being recognized for that purpose by the chair. The chair appoints subcommittee chairs and members (Rule 4, secs. 6, 44). If at least three members object to a ruling by the chair, the ruling may be appealed to the committee (Rule 4, sec. 14).

## Analysis before committee action

The committee staff must distribute a copy of an analysis of a bill or a joint resolution to committee members and the author or House sponsor (of a Senate bill) before the committee first considers the bill. The author of the bill has the option of requesting that the Texas Legislative Council prepare the analysis (Rule 4, sec. 7).

**Fiscal notes and impact statements.** The chair determines whether legislation requires a fiscal note or an impact statement and asks the Legislative Budget Board (LBB) staff to prepare it. A fiscal note is required for legislation that authorizes spending state funds, has a statewide impact on units of local governments of the same type or class, requires spending of local funds, or affects local taxes, fees, licenses, or penalties (Rule 4, secs. 33-34).

Impact statements include:

- *criminal justice policy impact statements*, for

legislation involving a change in punishment for felonies committed by adults;

- *equalized education funding impact statements*, for legislation involving a change in the public school finance system;
- *water development policy impact statements*, for legislation proposing to create certain water districts;
- *tax equity notes*, for legislation that would create or affect a state tax or fee, estimating the general impact on distribution of tax and fee burdens among individuals and businesses; and
- *actuarial impact statements*, for legislation affecting a public-employee retirement system, prepared by the LBB in cooperation with the State Pension Review Board.

Unlike fiscal notes, impact statements need not be completed before legislation is considered in committee (Rule 4, sec. 34(d)).

If a committee substitute or committee amendments change the potential impact of legislation, a new fiscal note or impact statement is required. Original and updated fiscal notes and impact statements must accompany legislation throughout the legislative process, including submission to the governor.

## Committee meetings

Committee meetings begin with the call to order by the chair, who instructs the clerk to call the roll to determine if a quorum – a majority of the committee members – is present. The committee keeps minutes of each meeting showing the time and place of the meeting, the date of the posting of the meeting, a roll call of the members present, recorded votes, actions taken, lists of witnesses, and any other information that the chair determines (Rule 4, secs. 16 and 18).

Committees may act on legislation during public hearings or formal meetings. Committees also may hold work sessions, in which they may discuss legislation but take no formal action. Notice of public hearings must be posted at least five calendar days in advance during a regular session and 24 hours in advance during a special session. Formal meetings and work sessions require two hours' advance written notice, posted and transmitted to each committee member, or an announcement filed with

the journal clerk and read by the reading clerk while the House is in session (Rule 4, sec. 11).

Committees and subcommittees must receive permission by majority vote of the House to meet while the House is in session. Even if permitted to meet, no committee may meet in the House chamber while the House is in session (Rule 4, sec. 9).

Public hearings, formal meetings, and work sessions must be open to the public unless the House by resolution specifically allows a meeting to be closed. However, the General Investigating and Ethics Committee or a committee that is meeting to consider an impeachment or other quasi-judicial matter may meet in executive session for the limited purpose of examining a witness or deliberating, considering, or debating a decision. All votes must be taken in open meetings (Rule 4, sec. 12).

House rules do not require that a public hearing be held before legislation is reported from committee. Senate rules do require a public hearing. However, during regular sessions, House committees usually hold public hearings before acting on House legislation. When Senate-passed legislation is referred to a House committee and the House committee already has held a hearing on the House companion to the Senate legislation, the committee often does not hold another hearing before acting on the Senate legislation.

House members have an unconditional right to testify on the legislation that they author or sponsor and may open and close the testimony on their legislation. No legislation may be acted on adversely unless its author or sponsor first has received an opportunity to testify (Rule 4, sec. 30).

Anyone may testify at a public hearing, subject to certain restrictions, although sometimes hearings are limited to invited testimony only. Those who wish to be recognized to address the committee or to show they are present must fill out and sign a sworn statement, also known as a "witness affirmation form," including at least their name, address, telephone number, the entity, if any, they represent, and, if representing themselves, their business, profession, or occupation. They also must designate if they are testifying for, against, or neutrally ("on") concerning the measure before the committee (Rule 4, sec. 20(a)). All testimony must be recorded electronically (Rule 4, sec. 19).

The chair designates on the statement whether a witness actually was recognized to address the committee. Every person who submitted a sworn statement is listed in an attachment to the committee minutes regardless of whether the chair recognized the person to testify (Rule 4, secs. 18, 20). Legislators and certain "resource witnesses," usually legislative branch or certain other state employees who appear before the committee to provide background or technical information, need not submit a sworn statement and therefore are not listed as witnesses. Committee members desiring to question witnesses must seek recognition by the chair.

House employees may appear as witnesses only by permission granted by majority vote of the committee (Housekeeping Resolution, HR 3 by Geren and Dunnam, sec. 4.09). Government Code, sec. 556.006 prohibits state employees from influencing the outcome of legislation, other than to provide information at the request of a legislator. When state employees appear at public hearings as witnesses, they testify "on" legislation.

Committees may, by record vote of at least two-thirds of the members present, issue subpoenas to compel the attendance of witnesses or require production of information. Anyone disobeying a lawfully issued committee subpoena may be prosecuted for contempt of Legislature, a misdemeanor offense punishable by a fine ranging from \$100 to \$1,000 and a jail term of from 30 days to 12 months (Government Code, secs. 301.024-.027; Rule 4, sec. 21). Without issuing a subpoena, the committee chair may summon the governing board or other representatives of a state agency to appear and testify, although the committee may compel the attendance of those summoned if they fail to appear (Rule 4, sec. 21(b)).

At a committee meeting, the chair may recognize a House member who is not a committee member, or a member of the Senate, to provide information to the committee. Such recognition is solely within the discretion of the chair and not subject to appeal by that member (Rule 4, sec. 23A).

## Committee action

A committee may take no formal action unless a quorum is present. Voting by proxy is not allowed (Rule 4, sec. 16).

Once legislation is laid before a committee, the chair may delay consideration by postponing it, leaving it pending, or referring it to subcommittee. The committee also may take these actions by adopting a motion. Another way to delay action on legislation is to adopt a motion to lay on the table subject to call, which must be approved by majority vote of the committee (Rule 4, sec. 13(b)). The committee may consider legislation left pending without taking any formal action, but legislation that was laid on the table may be considered only if the committee adopts a motion to call it from the table.

While delaying motions are allowed, motions that would prevent a committee from reporting legislation, such as to postpone consideration indefinitely, are out of order (Rule 4, sec. 25). Also, a committee may not adopt a rule that automatically would send all legislation to subcommittee or otherwise would have the effect of thwarting the will of a majority of the committee or subcommittee (Rule 4, sec. 13(b)).

**Subcommittees.** Committee chairs may refer legislation to subcommittee on their own authority, or the committee may adopt a motion to send legislation to subcommittee. The chair may establish and refer legislation to standing subcommittees or may appoint subcommittees ad hoc as needed. Subcommittees need not be of any particular size but usually have a smaller number of members – often three to five – than the whole committee and have an odd number of members to prevent tie votes.

The subcommittee chair, appointed by the chair of the full committee, decides if and when the subcommittee will consider legislation referred to it. Subcommittee hearings are governed by the same rules as committee hearings, except that subcommittees may not issue subpoenas. Any amendment or substitute previously adopted by the full committee is voided when legislation is sent to subcommittee.

After reviewing legislation, a subcommittee may, but is not required to, submit a written report of its recommendations to the chair of the full committee. The full committee may not act on a subcommittee report until 24 hours after the report has been provided to all members of the full committee. At any point before the subcommittee reports, the chair may recognize a member to move that the legislation be recalled from subcommittee (Rule 4, secs. 43-50).

**Offering amendments or substitutes.** A committee may adopt proposed amendments to legislation. Committee amendments only are recommendations to the House, which must vote separately on each committee amendment during floor consideration of the legislation. In the committee report, committee amendments are attached at the end of the original version of legislation on a separate page.

Rather than adopt individual amendments, a committee may adopt a complete substitute to the original legislation. Often when the committee has adopted amendments to legislation, a substitute incorporating the amendments will be prepared. If a substitute is adopted, the substitute, not the original version, is reported to the House. If the legislation is considered on the House floor, the House does not vote separately to adopt the substitute as it does for committee amendments but considers the substitute in place of the original bill.

House rules on germaneness and other restrictions that apply to amendments offered on the floor also apply to amendments and substitutes offered in committee. Amendments and substitutes are in order any time after legislation is laid out. For example, a substitute may be offered and adopted before testimony is heard. Committee members often submit amendments or substitutes in advance to the chair, who lays them out and recognizes the amendment's author for an explanation. Committee members also may seek recognition and offer amendments during committee consideration. Amendments usually are adopted by unanimous consent or non-record vote, but record votes on amendments sometimes occur if several committee members are opposed (Rule 4, secs. 39-41).

## Reporting legislation

Committee work on legislation is considered final when a majority of the committee reports favorably or unfavorably or reports an inability to act (Rule 4, sec. 26). "Reporting" means taking final, formal action.

Typically, the chair will not recognize a member to make a motion to report legislation favorably unless convinced that the motion has majority support. As a result, a motion to report legislation favorably rarely fails. Committees also may vote to report legislation unfavorably, which formally kills it and occurs even more rarely.

In the event of a tie vote or other inability to act on a committee motion to report legislation favorably or unfavorably, the House by majority vote may leave legislation in committee for further consideration, refer it to another committee, or order it printed, in which case the legislation is sent to the Calendars Committee (Rule 4, sec. 27).

When a committee votes to report legislation unfavorably, it officially kills it. If this happens, members of the committee desiring to report the bill favorably may file a minority report and seek the permission of the House to “print the bill on minority report,” thereby sending the legislation to the Calendars Committee (Rule 4, secs. 28-29). This procedure also is rarely used.

**Committee reports.** If legislation is reported favorably, a committee report is printed. Committee reports must be signed by the committee chair or by a majority of the committee members (Rule 4, secs. 6, 32). Committee reports must be addressed to the speaker and must contain:

- the record vote adopting the report;
  - the committee’s recommendations;
  - any recommendation that legislation be sent to the Local and Consent Calendars Committee for placement on the Local, Consent, and Resolutions Calendar;
  - the date on which the recommendations were made;
  - for Senate legislation, the primary House sponsor and all House joint sponsors or co-sponsors;
  - a notation that the legislation has been forwarded for preparation of a fiscal note or impact statement, if applicable;
  - for a proposed constitutional amendment, the bill number of its enabling legislation, or for enabling legislation, the joint resolution number of the proposed constitutional amendment that the legislation would implement;
  - a detailed description, in either summary or section-by-section form, of the subject matter of the bill, including background information on what the bill proposes to do, an analysis of its content, and a separate statement listing each statute or constitutional provision that would be repealed;
  - a statement indicating whether any rulemaking authority is expressly delegated by the legislation and identifying the sections in which the rulemaking is delegated;
- a statement of differences between a committee substitute and the original version, if applicable, or a brief explanation of each amendment adopted by the committee;
  - a summary of the committee action; and
  - a list of persons who submitted sworn statements indicating that they were present at the hearing, the persons or entities that they represented, and their position on the bill.

The author of the bill and the committee may request that the Texas Legislative Council prepare the committee report analysis (Rule 4, sec. 32). The committee chair must provide the House author or sponsor a copy of the committee report analysis as soon as it is complete (Rule 4, sec. 32(e)).

The committee report is attached to a copy of the original version of the bill or committee substitute on “1st Printing,” along with any proposed committee amendments to the original bill and any fiscal notes or impact statements (Rule 12, sec. 1).

**Instructing the committee to report.** After legislation has been in committee for at least six calendar days, any House member may move on the floor to instruct the committee to report it. Adoption of such a motion requires a two-thirds vote during the first 76 days of the session and a majority vote thereafter. If instructed to report by the House, the committee must report within a week. Within seven days after a committee is instructed to report, the House may consider a motion to re-refer the legislation to another committee (Rule 7, secs. 45-46). This procedure is rarely used.

**Referral to calendars committee.** All legislation reported from committee is sent to either the Calendars Committee or the Local and Consent Calendars Committee, which decides if and when legislation will be scheduled for floor consideration. A committee recommendation to send legislation to the Local and Consent Calendars Committee requires unanimous consent (Rule 6, secs. 19, 23). Generally this recommendation is made as part of the motion to report the legislation.

## Procedural issues

According to House precedent, once legislation has been reported from committee in conformity with the

rules, the speaker will not hear points of order referring to parliamentary errors or erroneous rulings allegedly made by the chair during committee deliberations (see Commentary to House Rules, Rule 4, sec. 14).

A motion to recommit legislation to committee may be offered either by a routine motion or during floor consideration of the legislation. During consideration of a motion to recommit, the merits of the legislation are not debatable, unless the motion is to recommit “with instructions,” such as for the committee to report by a particular time or date (Rule 7, secs. 18-20).

Points of order may be raised on the House floor regarding committee actions taken after legislation has been reported. A point of order raised against a committee report analysis will be sustained only if the analysis is materially or substantially misleading (Rule 4, sec. 32(f)). Omitting from the list of hearing witnesses in a committee report those who submitted a sworn statement but were not recognized by the chair to address the committee also would not be a sustainable point of order (Rule 4, sec. 32(c) (10)).

If a point of order is raised and sustained on the House floor that a committee substitute is not germane, in whole or in part, to the original version of a bill, the legislation is returned to the Calendars Committee. The Calendars Committee may have the original version printed and placed on the calendar or may return the legislation to committee for further action (Rule 4, sec. 41).

## Senate committee procedures

Senate committee procedures generally are the same as in the House, but there are some significant differences.

No bill may be reported from a Senate committee without a public hearing. Any senator, regardless of whether the senator is a member of the committee, may question a witness (Senate Rule 11.18).

Notice of Senate committee hearings must be posted at least 24 hours in advance. However, a senator may “tag” a bill by filing a request with the Senate secretary or the committee chair that the senator receive written notice of the time and place for the hearing on a particular bill at least 48 hours before the hearing is scheduled. Tags are used most often near the end of a session to slow down

consideration of, and thereby potentially kill, bills. A tag is not effective if notice of the hearing has been posted for 72 hours and the Senate was in session at any time during the first 24 of the 72 hours (Senate Rule 11.19).

The Senate requires that impact statements be attached to a measure before the final vote in committee; the House does not require this. In the Senate only, the LBB prepares an open government impact statement for bills that may reduce public access to government information or the transaction of public business, unless the author or sponsor certifies in writing to the committee chair that the statement is not needed. Also in the Senate only, the LBB prepares a higher education impact statement, in consultation with the Higher Education Coordinating Board, for legislation establishing or changing the classification, mission, or governing structure of a higher-education institution. Unlike the House, the Senate does not require a water development policy impact statement (Senate Rule 7.09).

## End-of-session deadlines

House committees are affected indirectly by the end-of-session deadlines that prohibit second reading of nonlocal House bills after the 122nd day of a regular session, of local House bills after the 130th day, and of Senate bills after the 134th day (Rule 8, sec. 13). The daily calendar must be placed in each member’s mailbox at least 36 hours in advance of floor consideration on second reading during a regular session (Rule 8, sec. 14). Given the time required to prepare and print committee reports and send them to the Calendars Committee, House committees as a practical matter must report legislation no later than three days before the second-reading deadlines for the legislation to be considered by the House.

The Senate may not pass any bill reported from Senate committee during the final three days of the session (Senate Rule 7.24). A bill may not pass unless it was referred to and reported by a committee of either house before the final three days of the session (Constitution, Art. 3, sec. 37). Since both House and Senate rules prohibit consideration of bills on third reading during the final five days of a regular session, these committee reporting deadlines have no practical effect.

## Motions for Committee Action

Once legislation has been laid out in committee, the chair or any committee member recognized by the chair may make any of several motions. Some committees require a second for certain motions; others do not. Most motions are adopted by nonrecord vote — either without objection or by voice vote.

**Delaying action.** Once legislation has been laid out, action may be delayed by postponing consideration of the legislation, leaving it pending, laying it on the table subject to call, or referring it to subcommittee. In many committees, these motions are made routinely by the chair and adopted without objection. Also, the chair may postpone legislation, leave it pending, or refer it to subcommittee without a motion. For example, a member gaining recognition by the chair may move:

*to leave HB/SB (or HJR/SJR) \_\_\_ pending;*

*to lay HB/SB \_\_\_ on the table subject to call; or*

*to refer HB/SB \_\_\_ to subcommittee.*

**Action on legislation previously laid out.** To renew consideration of legislation that was laid out and then not acted on, the chair or a committee member may move:

*to lay out HB/SB \_\_\_ as pending business;*

*to call HB/SB \_\_\_ from the table;*

*to recall from subcommittee and lay out HB/SB \_\_\_; or*

*to lay out HB/SB \_\_\_ on subcommittee report.*

**Amendments.** Once legislation is laid out and is under consideration, it may be amended. Often the chair will lay out proposed amendments or a substitute. Members seeking to offer amendments must be recognized by the chair.

Often amendments simply are laid out and explained, but a formal motion may be used, such as:

*I move to amend HB/SB \_\_\_ [as substituted] by [brief description of amendment].*

After adopting individual amendments, the committee may incorporate them into a single substitute. Another common practice is to lay out the substitute first, then offer any subsequent amendments to the substitute.

**Reporting legislation.** The wording of the motion to report legislation favorably to the full House varies depending on the committee. The motion to report legislation requires a record vote.

A standard motion for reporting legislation is:

*I move that HB/SB \_\_\_ [as amended, as substituted] be reported favorably to the full House with a recommendation that it do pass and be printed [and sent to the Local and Consent Calendars Committee].*

**Substitute motions.** A member may supersede a pending motion by offering a substitute motion. The committee is required to vote on the substitute motion first. For example, if a motion is made to report legislation to the full House, a substitute motion may be made to refer the legislation to subcommittee.

## House standing committees

Agriculture and Livestock	Environmental Regulation	Pensions, Investments, and Financial Services
Appropriations	General Investigating and Ethics	Public Education
Border and Intergovernmental Affairs	Higher Education	Public Health
Business and Industry	House Administration	Public Safety
Calendars	Human Services	Redistricting
Corrections	Insurance	Rules and Resolutions
County Affairs	Judiciary and Civil Jurisprudence	State Affairs
Criminal Jurisprudence	Land and Resource Management	Technology, Economic Development and Workforce
Culture, Recreation, and Tourism	Licensing and Administrative Procedures	Transportation
Defense and Veterans' Affairs	Local and Consent Calendars	Urban Affairs
Elections	Natural Resources	Ways and Means
Energy Resources		

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