

House Committee Procedures: 84th Legislature

2 Committee authority

2 Analysis before committee action

2 House standing committees

3 Committee meetings

4 Committee action

5 Reporting legislation

6 Procedural issues

7 Senate committee procedures

7 End-of-session deadlines

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 screeners for legislation and give 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.

Most introduced legislation dies in committee. During the 2013 regular session, for example, 4,080 House bills and joint resolutions were introduced, and 1,767, or 43 percent, were reported favorably from House committees. The odds of favorable committee action improve when legislation passed by one chamber is sent to the other. Of the 964 bills and joint resolutions the House received from the Senate during the last regular session, 852, or 88 percent, were reported favorably from House committees. Senate committees favorably reported 773 of 1,005, or 77 percent, of House-passed bills and joint resolutions.

House committees must follow the requirements of the *Texas House Rules* (HR 4 by Smithee, 84th Legislature), particularly Rule 4, which deals with committee procedures. Subject to this, each committee may also establish additional internal operating procedures and practices (Rule 4, sec. 13(a)).

Committees are not required to consider legislation referred to them. If a committee does act, available motions include leaving legislation pending; referring it to subcommittee and either reporting it or leaving it pending; reporting it favorably without amendment, as amended, or as substituted; or reporting it unfavorably or on minority report.

This report reviews the procedures used in House committees and includes citations to House rules. For additional information on the legislative process, see House Research Organization Focus Report Number 84-2, *How a Bill Becomes Law: 84th Legislature*.

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. Congratulatory and memorial resolutions are referred to the Rules and Resolutions Committee but also sometimes 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 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, who in turn appoint subcommittee chairs and subcommittee members (Rule 1, sec. 15; Rule 4, secs. 6, 44). The committee chair consults with committee members and the leadership to determine the fate of legislation in committee and 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 by the chair.

If at least three members object to a chair's ruling, they may appeal the ruling to the committee (Rule 4, sec. 14). The procedures for appeal of a chair's ruling follow the procedures for such appeals in the House (Rule 1, sec. 9).

Analysis before committee action

The committee staff must distribute an analysis of a bill or joint resolution to committee members as soon as possible but not later than the first time the measure is brought before the committee. Unless the analysis was prepared by the Texas Legislative Council, the committee must distribute the analysis to the author or House sponsor (of a Senate bill) as early as possible but not later than 48 hours before the committee first considers it.

The bill's author may request that the Texas Legislative Council prepare an analysis to be provided to the author and the committee staff at the same time. The author of a bill may request that the analysis include a written statement from the author with any additional information the author considers appropriate. (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

House standing committees, 84th Legislature

- Agriculture and Livestock
- Appropriations
- Business and Industry
- Calendars
- Corrections
- County Affairs
- Criminal Jurisprudence
- Culture, Recreation, and Tourism
- Defense and Veterans' Affairs
- Economic and Small Business Development
- Elections
- Energy Resources
- Environmental Regulation
- General Investigating and Ethics
- Government Transparency and Operation
- Higher Education
- Homeland Security and Public Safety
- House Administration
- Human Services
- Insurance
- International Trade and Intergovernmental Affairs
- Investments and Financial Services
- Judiciary and Civil Jurisprudence
- Juvenile Justice and Family Issues
- Land and Resource Management
- Licensing and Administrative Procedures
- Local and Consent Calendars
- Natural Resources
- Pensions
- Public Education
- Public Health
- Redistricting
- Rules and Resolutions
- Special Purpose Districts
- State Affairs
- Transportation
- Urban Affairs
- Ways and Means

(LBB) 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 that would 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;
- *actuarial impact statements* for legislation affecting a public-employee retirement system, prepared by the LBB in cooperation with the State Pension Review Board; and
- *dynamic economic impact statements* for the general appropriations bill, estimating the number of state employees affected and the impact on private sector and local government employment in Texas due to any change in state spending from one fiscal biennium to another.

Unlike fiscal notes, impact statements need not be completed before a committee considers legislation (Rule 4, sec. 34).

If a committee substitute or committee amendment changes the potential impact of legislation, a new fiscal note or impact statement is required. (Rule 4, secs. 33(d), 34(d)). Original and updated fiscal notes and impact statements accompany legislation throughout the legislative process, including delivery 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, 18).

Committees may act on legislation during public hearings or formal meetings. Committees also may hold work sessions, where 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, a committee may not 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).

Unlike in the Senate, House rules do not require that a public hearing be held before legislation is reported from committee. 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. All testimony must be recorded electronically (Rule 4, sec. 19). Those who wish to be recognized to address the committee or to show that they are present must execute a sworn statement, also known as a witness affirmation form (WAF), including at least their name, address, and 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)). Witnesses register at touch-screen kiosks located in the Capitol Extension or via certain mobile devices.

The chair provides a record of whether a witness was recognized to address the committee. Everyone 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, in limited circumstances, certain other state employees who provide background or technical information — need not submit a sworn statement or be listed as witnesses. Committee members desiring to question witnesses must seek recognition by the chair.

House employees may appear as witnesses if a majority of the committee votes to grant permission (Housekeeping Resolution, HR 3 by Geren, 84th Legislature, sec. 4.09). Government Code, sec. 556.006 prohibits state agencies from attempting to influence the outcome of legislation. A state employee may provide public information or information in response to the request of a legislator. When state employees appear at public hearings as witnesses, they testify “on” legislation, not for or against it.

Invited witnesses who are not physically present at a hearing may testify via the Internet or other videoconferencing system. They must complete and file electronically the required sworn statement. Both the witness and the committee members must be clearly visible and audible to each other (Rule 4, sec. 20(g)).

A person serving as an interpreter for a witness before a committee must complete a form prescribed by the committee coordinator that includes the name of the

interpreter and the witness whom the interpreter is serving (Rule 4, sec. 20).

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 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, and 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 senator or a House member who is not a committee member 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. A motion to lay a bill on the table subject to call must be approved by majority vote of the committee (Rule 4, sec. 13(b)).

While motions that delay action 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 thwart the will of a majority of the committee or subcommittee (Rule 4, sec. 13(b)).

Subcommittees. Committee chairs may refer legislation to subcommittee. The chair may establish and refer legislation to standing subcommittees or may appoint subcommittees 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 an odd number of members to prevent tie votes.

The committee chair appoints the subcommittee chair. The same rules apply to subcommittee hearings as to full 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 (Rule 4, sec. 48).

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 all members of the full committee have received the report (Rule 4, secs. 43-50).

Offering amendments or substitutes. A committee may adopt proposed amendments to legislation. Committee amendments are recommendations to the House, which must vote on each committee amendment during floor consideration. 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. When the committee has adopted amendments to legislation, a substitute incorporating the amendments may be prepared. If a substitute is adopted, the substitute, not the original version, is reported to the House. If the House considers the legislation, it considers the substitute in place of the original bill (Rule 4, sec. 40).

House rules on germaneness and other restrictions that apply to floor amendments also apply to amendments and substitutes offered in committee. Committee members sometimes submit amendments or substitutes in advance to the chair, who lays them out and recognizes the author for an explanation, or they may seek recognition and offer amendments during committee consideration of the legislation. Amendments may be adopted by unanimous consent or by record vote (Rule 4, secs. 39-41).

A substantive committee may post for the public on the Internet a substitute or amended bill or nonconfidential written testimony submitted by a state agency that relates to a measure referred to the committee (Rule 4, sec. 18A).

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. 26-27).

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, although this action rarely occurs. If it does happen, committee members 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.

If a tie vote or other inability to act on a committee motion to report legislation favorably or unfavorably occurs, 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).

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 and the date they were made;
- any recommendation that legislation be considered for placement on the Local, Consent, and Resolutions Calendar;
- for Senate legislation, the primary House sponsor and all House joint sponsors or cosponsors;
- 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 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 of whether the bill or resolution creates a criminal offense, increases a punishment for an existing crime or category of offenses, or changes a person's eligibility for probation, parole or mandatory supervision;
- a statement indicating whether any rulemaking authority is expressly delegated by the legislation and identifying the sections where it 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 bill's author and the committee may request that the Texas Legislative Council prepare the committee report analysis (Rule 4, sec. 32(d)), which the council must provide to the author and committee staff at the same time. The committee chair must provide any committee report analysis not written by the Texas Legislative Council to the House author or sponsor as soon as it is complete (Rule 4, sec. 32(e)). The bill's author may request that the analysis contain a statement written by the author that includes additional information the author considers relevant.

The committee report is attached to a copy of the original version of the bill or committee substitute on its first 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 instructing a committee 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 part of the motion to report the legislation rather than a separate motion.

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 possible parliamentary errors or erroneous rulings 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 offered during the daily order of business (Rule 6, sec. 1(a)(8)) 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).

On the House floor, points of order may be raised regarding actions taken by a committee after it reported legislation. The speaker may overrule a point of order raised for violation of a rule concerning committee reports or minutes or accompanying documentation if the purpose of the rule was substantially fulfilled and the violation did not deceive or mislead (Rule 1, sec. 9(d)). It is not a sustainable point of order if a committee report omits from the list of hearing witnesses someone who submitted a sworn statement but was not recognized by the chair to address the committee (Rule 4, sec. 32(b)(10)).

If a point of order is raised and sustained on the House floor that a committee substitute is not germane wholly or partially to the original version of a bill, the bill 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 similar to those in the House, but with 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 bill’s hearing 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. 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

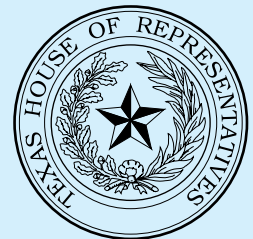
business unless the author or sponsor certifies in writing to the committee chair that the statement is not needed. Also in the Senate only, the LBB consults with the Higher Education Coordinating Board to prepare a *higher education impact statement* for legislation establishing or changing the classification, mission, or governing structure of a higher-education institution. Unlike the House, the Senate does not require a *water development policy impact statement* or a *dynamic economic 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 (House Rule 8, sec. 13). The daily calendar must be posted electronically at least 36 hours before floor consideration on second reading during a regular session (Rule 8, sec. 14).

Under Texas Constitution, Art. 3, sec. 37, 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. However, because both House and Senate rules prohibit third-reading consideration of bills during the final five days of a regular session, these committee reporting deadlines have no practical effect (Rule 8, sec. 13; Senate Rule 7.25).

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