

# The Legislative Process

The Colorado Constitution places the power to make laws with the state legislature, the Colorado General Assembly. The General Assembly cannot delegate this power, and no other branch of state government can usurp it. The General Assembly can confer upon state government agencies the power to promulgate rules and regulations, which is considered a quasi-legislative function. The power to make laws is exercised through the process of considering and adopting bills.

## **Laws Begin as Bills**

Proposals discussed by the Colorado General Assembly during the legislative session are presented in the form of a written document called a bill. A bill generally either creates new law, amends existing law, or repeals existing law. Another kind of bill, an appropriations bill, is less permanent in nature, generally effective for one year only. Most appropriations for the funding of state departments, agencies, and institutions are included in the general or "long" appropriations bill although there are many supplemental appropriations which are made in separate bills and are regarded as amendments to the long bill. In accordance with the rules of both houses, all bills must be submitted to the Office of Legislative Legal Services before being introduced. This office of attorneys makes sure that bills conform to the legal style of the Colorado statutes.

***Each bill is assigned a number.*** At the time of introduction, each bill is given a number which designates that proposed piece of legislation for the remainder of the legislative session. Bills are numbered in the order that they are introduced. Senate bills start with the number 1. House bills are numbered from 1001. Since 1990, a prefix has been used to identify the year a bill is introduced. For example, Senate Bill 90-1 refers to Senate Bill 1 introduced in the 1990 session. The same numbering system is used for resolutions and memorials. If a bill that fails to pass during one session is to be reconsidered the next year, it must be reintroduced at that succeeding session.

***All bills have a sponsor.*** The prime sponsor and co-sponsors of the measure are listed on the first page of a bill. Each bill must have a House sponsor and a Senate sponsor. These sponsors shoulder the major responsibility for explaining the bill to their colleagues and shepherding them through the legislative process. In addition to the sponsors whose names appear on the bill when introduced, other legislators may add their names as co-sponsors after passage on third reading in either house. Occasionally, a member will remove his or her name as sponsor of a bill. This happens when amendments change a bill so extensively that the member no longer wishes to be listed as sponsor or co-sponsor.

**The form of all bills is similar.** While the content of bills is very different, the form is similar. Bills are written so that changes to the law can be readily identified. This is accomplished through the use of capitalization and strike type (dashes through words). Capitalization shows new language; strike type indicates deletions from the existing law. When amendments are extensive, existing law is repealed and reenacted or entire new sections are added in capitalized letters.

The usual arrangement of the provisions of a bill are as follows: title, bill summary, enacting clause, new provisions of law, amendments to existing law, repeal of existing law, an appropriation, effective date, and safety clause. New provisions of law, amendments to existing law, and repeal of existing law are the major portions of a bill and are identified by an amending clause. The amending clause cites the statute to be added, amended, or repealed and describes the action to be taken in the following portion of the bill.

- **Bill title.** Each bill contains a brief but comprehensive title. The state constitution requires that a bill contain only one subject, which is to be clearly expressed in its title. A bill title can be amended (or changed) as the bill progresses, as long as any amendment does not broaden the title.
- **Bill summary.** The title is followed by a brief summary of the bill written by the legislative staff attorney who drafted or reviewed the proposal. Although the bill may be amended as it travels through the legislative process, the bill summary is not changed to reflect these amendments. The summary has no legal effect.
- **Enacting clause.** Below the bill summary, there is an enacting clause. The state constitution provides that the style of the laws of this state shall be "Be it enacted by the General Assembly of the State of Colorado." This clause must be included in all bills; failure to do so will invalidate the entire bill. Sometimes legislators will strike the enacting clause, thereby invalidating or "killing" the bill.
- **Substantive provisions.** The sections that follow the enacting clause vary according to the purpose of the bill. The provisions of a bill are so diverse that no definite rules are laid down for their order. For example, when a new government agency or program is established, a bill frequently contains a short title, a legislative declaration explaining the intent of the new law, definitions of terms used in the proposed law, sections covering the main purpose of the proposed law and how the agency or program is to be administered, and penalties for noncompliance with the law.
- **Severability clause.** A severability clause is found toward the end of many bills. This clause provides that if any part of an act is held unconstitutional, the remaining sections of the act are not affected. It is, in effect, a saving clause because it "saves" parts of a law if any other parts of the law are declared unconstitutional through court action.
- **Safety clause.** Another common clause found at the end of bills is a safety clause. This clause originates in the initiative and referendum

provisions of the state constitution. The state constitution provides that a law may be referred by petition to the people for approval "except as to laws necessary for the immediate preservation of the public peace, health or safety." To avoid this procedure, the safety clause is incorporated in a bill. The General Assembly can still refer any act to the people by substituting a referendum clause in place of the safety clause. Or, the General Assembly can elect not to include a safety clause, which allows the voters to petition the measure onto the ballot.

- **Effective date.** The constitution states that "an act of the General Assembly shall take effect on the date stated in the act, or, if no date is stated in the act, then on its passage," meaning the date on which the governor either approves the bill or allows it to become law without his signature.

**The "version" of a bill indicates where it is in the process.** Bills have different names, or versions, depending on where they are in the legislative process. Each bill must be considered by both the House and Senate, and the version of a bill changes as it progresses through each official step: introduction, passage on second reading, and final passage in the first house, and introduction, second reading, and final passage in the second house. The different versions of a bill are as follows:

(1) *Printed bill* - the bill as introduced before any amendments are added.

(2) *Engrossed bill* - the bill as passed on second reading in the house of introduction. It includes any amendments adopted by that house on second reading.

(3) *Reengrossed bill* - the bill as passed on third reading in the house of introduction. It includes all amendments adopted by that house. The reengrossed bill is the version sent to the second house for introduction and consideration by a committee of reference.

(4) *Revised bill* - the bill passed on second reading in the second house. It includes any amendments made to the bill on second reading by the second house.

(5) *Rerevised bill* - the bill as passed on third reading in the second house. The rerevised bill is then transmitted back to the house of origin for enrollment and transmittal to the governor for his action.

(6) *Enrolled bill* - after passage of a bill by both houses, the bill is printed in the form in which it will appear in the session laws. This enrolled bill is the version signed by the President of the Senate, the Speaker of the House, and the Governor.

***The number of bills a member may introduce is limited.*** The General Assembly limits, by rule, the number of bills a member may introduce during a legislative session. The rule provides that members may introduce no more than five bills, excluding measures that make appropriations and bills that are recommended by committees that meet between legislative sessions. With regard to the bills subject to the five-bill limit, if a legislator waits until after December 1 to ask that bills be drafted, the legislator may request only two bills. Legislators elected at the general election who did not serve in the General Assembly during the past session have until December 15 to make requests under the five-bill limit. Exemptions from the bill limitations are granted during the legislative sessions but only by special committees on delayed bills in both houses.

Limitations have also been imposed on the number of bills that may be recommended as a result of interim committee deliberations. The number of bills an interim committee may recommend is limited to the number of members on the committee or eight bills, whichever is greater. Most bills recommended by interim committees must be approved by the Legislative Council, comprised of 18 legislators. Bills or other measures recommended by an interim committee need not be sponsored by a member of the committee making the recommendation.

### **Each Bill is Considered by a Committee**

Committees are often regarded as the workshops of the General Assembly. All bills are sent to a committee -- referred to as a committee of reference -- immediately following introduction (first reading by title). The Speaker assigns bills to committee in the House; the Senate President makes the assignments in the Senate. The details of bills and resolutions are carefully analyzed at committee meetings. It is at these meetings, which are open to the public, that interested citizens express their views. After study, hearings, research and discussion, a bill may be amended, recommended for passage, referred to another committee, postponed indefinitely, or tabled for consideration later in the legislative session. Because of the careful scrutiny given to a bill by committees of reference, the debate on the floor of the respective houses is often brief. In addition to their deliberations on bills and resolutions introduced during the legislative session, the committees of reference keep advised of the activities, functions, needs and budgets of the principal departments of the executive branch of state government.

The House of Representatives has 11 committee of reference, and the Senate has 10 committees of reference. Morning meetings are usually held from 9:30 to noon, and afternoon meetings are held from 1:30 until the committee's agenda is finished. The start of a committee meeting can be delayed when the House or Senate work on the floor.

## **Bills Referred Out of Committee Are Debated by the Entire Body**

The entire membership of the House or the Senate becomes a committee (the so-called "Committee of the Whole") for the purpose of debating bills on its calendar for second reading. Before second reading of a bill, the President or the Speaker steps down as presiding officer and another member of the body assumes the duties of chairman of the committee. This is the time that the entire house considers a bill, the action taken by a committee of reference on a bill, and any other amendments to the bill. Occasionally a bill is sent back to the committee to which it was originally referred or to a different committee. Second reading is usually referred to as General Orders. It can also be referred to as Special Orders if it is scheduled at a different time than it would normally be scheduled. Typically, voice votes are taken during second reading, but roll call votes can be requested.

After the Committee of the Whole has completed its calendar of second reading bills it reports to the Speaker of the House or the President of the Senate. The report is an itemization of the bills considered and action taken on each measure, i.e., whether the bill was passed, amended, defeated, laid over until another day, or referred back to committee. The membership of the body votes on acceptance of the report. Often members attempt to reverse action taken during second reading by offering amendments to the report of the Committee of the Whole. Roll call votes are recorded on amendments to the report.

## **Final Action on a Bill is Taken on Third Reading in Each House**

Third reading is when a final vote is taken on a bill in each chamber. Commonly, less time is given to debate on third reading; amendments are generally not made at this time. This is, however, the time that a recorded vote is made on a bill.

## **The House and Senate May Disagree on a Bill**

There are occasions when the version of a bill adopted by one house differs from that adopted by the other house. When this happens, three options are available:

- (1) the prime sponsor of the bill may request that his or her chamber recede from its position and adopt the bill version of the other house;
- (2) the prime sponsor of the bill may request that his or her chamber adhere to its position (effectively killing the bill unless the other house recedes from its version); or
- (3) the prime sponsor of the bill may request that a conference committee be appointed to reconcile the differences between the two versions of the bill.

Each of these requests must be approved by the full chamber. If the prime sponsor requests a conference committee, three members are appointed from each house, two from the majority party and one from the minority party. The committee's Senate members are appointed by the President of the Senate and House members by the Speaker of the House.

### **Legislative Leadership**

Each body and each party within each body elects members to leadership positions to perform various functions related to the legislative process.

#### **Election of Leadership**

Shortly after the November general election, organizational caucuses are held to select majority and minority party leaders. Representatives and Senators meet separately, with the House majority party members selecting in caucus the Speaker, Majority Leader, Assistant Majority Leader, Whip, and Caucus Chairman. The Speaker appoints a Speaker pro tem. The Senate majority party members select the President, the President pro tem, Majority Leader, Assistant Majority Leader, Caucus Chairman, and members of the Joint Budget Committee.

The minority party in each house holds an organizational meeting in much the same fashion as the majority party; leaders selected include a Minority Leader, Assistant Minority Leader, and a Caucus Chairman for each house.

**House procedures.** While the Speaker of the House is selected informally by the majority caucus, he or she must be elected by a majority vote of the members of the House of Representatives on the first day of the session. Tentative designation of a Speaker at the November meeting enables the person selected to devote time to appointing the chairmen and majority members of the House committees of reference. The Speaker also designates the number of members on each committee and the number from each political party. The Minority Leader appoints minority party members to committees of reference. Majority party members who are interested in serving on certain committees may submit their preferences to the Speaker. The Speaker may consult with members in order to evaluate their background and qualifications for particular committee assignments.

**Senate procedures.** The Senate, by a majority vote of all members elected, elects a member as President of the Senate and another member as President pro tempore. The Majority Leader is charged with determining the number of members on each committee of reference and the number from each political party, and appoints the majority party members. The Minority Leader appoints minority party members.

**Duties of leadership.** The President of the Senate and the Speaker of the House of Representatives preside over their respective bodies. A President pro tem serves as the presiding officer in the absence of the President. The Speaker designates a member to serve in his absence. The duties of the President of the Senate and the Speaker of the House of Representatives include the preservation of order during sessions of the two houses, deciding questions of procedure, referring bills to committees, and signing bills, resolutions, memorials, and tributes. The majority leaders in each house determine the order of business for the body. The Majority and Minority Leader in both houses occupy the two front row seats on the aisle but across from one another.

**Role of the caucus.** Legislative caucuses are held frequently during the session by the parties in each house to discuss positions on important issues before the General Assembly. Legislators are not permitted to commit to vote a particular way during a caucus.

### **The Order of Legislative Business**

An observer unfamiliar with the procedures of the General Assembly might be confused by the daily order of business and the parliamentary maneuvers exercised by members of the legislature. Actually, the parliamentary rules governing legislative procedures enable each house to operate in an orderly manner. The procedures for the two bodies are very similar, but differences do exist.

**Daily order of business.** The regular hour of meeting of both houses is 9:00 a.m., unless otherwise ordered by the President of the Senate and the Speaker of the House. The two houses do not have to convene or adjourn at the same hour. The Senate is called to order by the President of the Senate and the House by the Speaker of the House of Representatives. The usual order of business for the House of Representatives is as follows:

(a) *Call to order by the Speaker of the House.*

(b) *Call of the roll of the members.* Each member must answer to roll call unless the member has been excused. Each member expected to remain until adjournment each day. The names of those present and absent are recorded in a daily record of proceedings called the journal. The Speaker declares the presence or absence of a quorum. A quorum must be present to transact business. A quorum consists of a majority of all members elected: 18 members in the Senate and 33 members in the House.

(c) *Correction and approval of journal.* If a quorum is present, the journal of the preceding day is corrected and approved, and the house is then ready to take up the day's business which is usually conducted in the following order:

(1) *Reports of committees of reference.* These reports detail the action that committees have taken on bills assigned to them by the Speaker. These reports are simply "read across the desk," notifying members that action has been taken on a bill and allowing it to be scheduled for second reading.

(2) *Messages from the Senate, the Governor, or the Reviser of Statutes.* These include notification of Senate action on House bills, and actions of the Governor regarding bills initiated in the House and sent to the Governor for his approval.

(3) *Introduction of bills.* Bills are read by title only, then assigned a number and referred by the Speaker to a committee.

(4) *Introduction of resolutions and memorials.* These matters can be discussed and acted upon the same day they are introduced, laid over one day, or assigned to a committee.

(5) *Third reading of bills.* This is when a final, recorded vote is taken on a bill.

(6) *General orders.* This is the time that the entire house considers a bill, the action taken by a committee of reference on a bill and any other amendments to the bill.

(7) *Conference committee reports.* When there are differences over a bill passed by both houses, a conference committee is appointed consisting of three members from each body. A conference committee report discloses whether the committee was able to resolve differences between the two houses.

(8) *Consideration of resolutions and memorials.* These matters are debated only once and that debate takes place on the floor of the houses. Concurrent resolutions, on the other hand, require a second and third reading in both houses.

(9) *Adjournment for the day.*

***Differences between the House and Senate rules and procedures.*** As mentioned earlier, there are some differences between House and Senate procedures. The following chart highlights some of the more notable differences.

#### **Differences Between House and Senate Rules and Procedures**

HOUSE	SENATE
Consideration of motions	
Seconding a motion required in committee.	No second is required on any motion.



A voting machine is used in the chambers.  In a committee meeting, if a motion is made to report a measure favorably to the Committee of the Whole when the measure is not in the order of business determined by the chairman, the measure, nevertheless, is considered by the committee. If such motion fails to pass, however, the bill is dead.	A voting machine is not used in the chambers.  No similar provision.
<b>Presiding Officers</b>	
The Speaker of the House appoints a member of the House to preside in his absence.	A President pro tem is elected and sits in the absence of the President of the Senate.
<b>Size of Committees</b>	
Speaker of the House determines committee sizes although the House rules prescribe not less than 9 nor more than 19 House members on a committee.	The size of committees and proportion of majority and minority party members on committees is determined by the Majority Leader.
<b>Reporting of Committee Action</b>	
Committee reports must be delivered to the front desk within three days after committee action on a measure, except for committees that meet on Wednesdays and Thursdays, which have two days of actual legislative session.	Committee reports must be delivered to the front desk of the Senate within five days after committee action.
<b>Committee Jurisdiction</b>	
Assignment of bills to committees of reference is made by the Speaker. In recent years, the Speaker has prescribed a routing procedure for bills with a fiscal impact.	Bills are assigned at the discretion of the President. Bills that increase salaries or cause an appropriation must be considered by the Senate Appropriations Committee, while bills that take money from one function to fund another function must be considered by the Finance Committee.
<b>Speaking Time Limitation</b>	
In speaking before the Committee of the Whole, there is no time limit. Unless consent is given, there is a 10-minute limit at all other times.	There is a limit of one hour unless consent is given for longer time periods.
<b>Handling Amendments on 2nd Reading</b>	
The House adopts floor amendments to the committee amendment before adopting the committee amendment.	First adopted is the recommended committee amendment; then floor amendments which amend the committee amendment.
<b>Committee of the Whole Report</b>	

Amendments to bills that are a part of the report can be offered only if the amendments were offered during second reading.	Amendments to the report of the Committee of the Whole may be considered even though they were not made during the second reading debate.
A roll call vote is required on the adoption of the report.	Committee of the Whole report is adopted on a voice vote unless a roll call is requested.

**Joint sessions.** Annually both houses of the Legislature meet for a joint session in order to hear the Governor's message on the condition of the state's economy and a summary of his budget request for the operation of the executive branch of state government. In addition, the General Assembly meets in joint session to receive a report from the Chief Justice of the Colorado Supreme Court on the state of the courts. Although the President of the Senate is the presiding officer, the rules of the House of Representatives govern the joint session. The joint session is recorded in the journal of the House of Representatives.

### **Other Matters Considered by the General Assembly**

Most measures considered by the General Assembly appear in the form of bills. However, the sentiment of the legislature is also expressed through resolutions, memorials, and tributes. In addition, the General Assembly has other, non-lawmaking responsibilities.

#### **Resolutions, Memorials, and Tributes**

The use of resolutions, memorials, and tributes is specified by rules of the House and the Senate. The rules of both chambers are very similar regarding resolutions, memorials and tributes. The three matters can be divided into the following classes:

(a) **Concurrent Resolutions** propose amendments to the state constitution or ratify proposed amendments to the federal constitution. Concurrent resolutions are not subject to the legislative deadline schedule. While bills and other matters before the body require only a simple majority of those elected to approve a measure on second and third reading, a concurrent resolution to amend the state constitution requires a majority on second reading but a two-thirds vote on third reading. The House of Representatives requires a two-thirds vote for ratification of an amendment to the federal constitution while the Senate requires only a majority.

(b) **Joint Resolutions** pertain to the transaction of the business of both houses. They establish investigating committees composed of members of both

houses or express the will or sentiment of both houses on any matter. Most joint resolutions fall into the latter category.

(c) **Resolutions**, which do not require the concurrence of the other house, relate solely to the business of one house or are an expression of will or sentiment of the body.

(d) **Joint Memorials or Memorials** petition the Congress of the United States on any matter, or express sentiment on the death of any person who served as a member of the General Assembly or other positions in government.

(e) **Tributes** offer congratulations for significant public achievements or express appreciation for service to the state or the General Assembly, extend greetings to prominent visitors to the state, or express sentiment on the death of a person who has not served as a member of the General Assembly.

### **Non-lawmaking Powers**

In addition to enacting laws and referring laws or proposed changes to the constitution to the voters, the General Assembly performs a number of other important functions as policymakers.

- As provided in the constitution, most of the significant appointments by the Governor to certain boards and commissions are subject to confirmation by the Senate. This is an exercise of the so called "consent" power. Committees must either favorably or unfavorably refer Senate confirmations to the full Senate which then votes on accepting or rejecting the Governor's appointees.
- Through the budget process, the legislature has the power to influence the level, scope, and operation of executive departments.
- Many executive agencies are directed by statute to submit periodic reports to the General Assembly and the Governor detailing their agency activities and, in some cases, making recommendations for legislation.
- By joint rule, committees of reference of the General Assembly are directed to remain advised of the activities, functions, problems, new developments, and budgets of the principal departments within the subject-matter jurisdictions of each committee. The chairmen of the respective committees invite managers of the departments to advise legislators on departmental activities.
- One or more standing committees may be designated to provide continuing legislative review of boards and agencies subject to termination under the state's sunset law. A review process has also been established to evaluate those groups seeking state recognition under the sunrise statute.
- An agency of the General Assembly has responsibility for the review of administrative rules and regulations. Every rule adopted or amended by an executive agency is examined to see if the rule is within the power

delegated to the agency and consistent with law. If there is a possible problem, a legislative committee addresses the issue at a public hearing. Rules that are identified as inconsistent with law are allowed to expire.

- The legislature has power to expel one of its own members for contempt or disorderly behavior. Impeachment charges may be brought by the House of Representatives.

### **Sources of Information**

***Journals, Calendars, and Status Sheets.*** The agenda and record of proceedings of the legislative session are detailed on a daily basis in the calendars and journals of the two houses. Also published on a daily basis, the status sheet gives a one line history of each bill, resolution and memorial introduced during the legislative session. The status sheet lists the bill number, sponsor, date of introduction, committee assignment, date reported out of committee, date passed on second and third reading in both houses, and whether the bill was amended in each instance. In addition, a comprehensive subject index is available.

Single copies of journals, calendars, and status sheets (as well as bills) are available in the bill room located in the basement of the Legislative Services Building. Individuals or organizations wishing to obtain this information on a regular basis or those needing to have it mailed to them are charged a fee for the service. Adjacent to the bill room is the legislative information center, which is a one-stop location to find information on the status of bills and other measures before the General Assembly. The center, as well as the bill room, are staffed only during the legislative session. Information on bills can be obtained by calling 303-866-3055 or 1-888-473-8136. The best one-stop source of information on legislative activities is the General Assembly's web page at: <http://www.leg.colorado.gov>