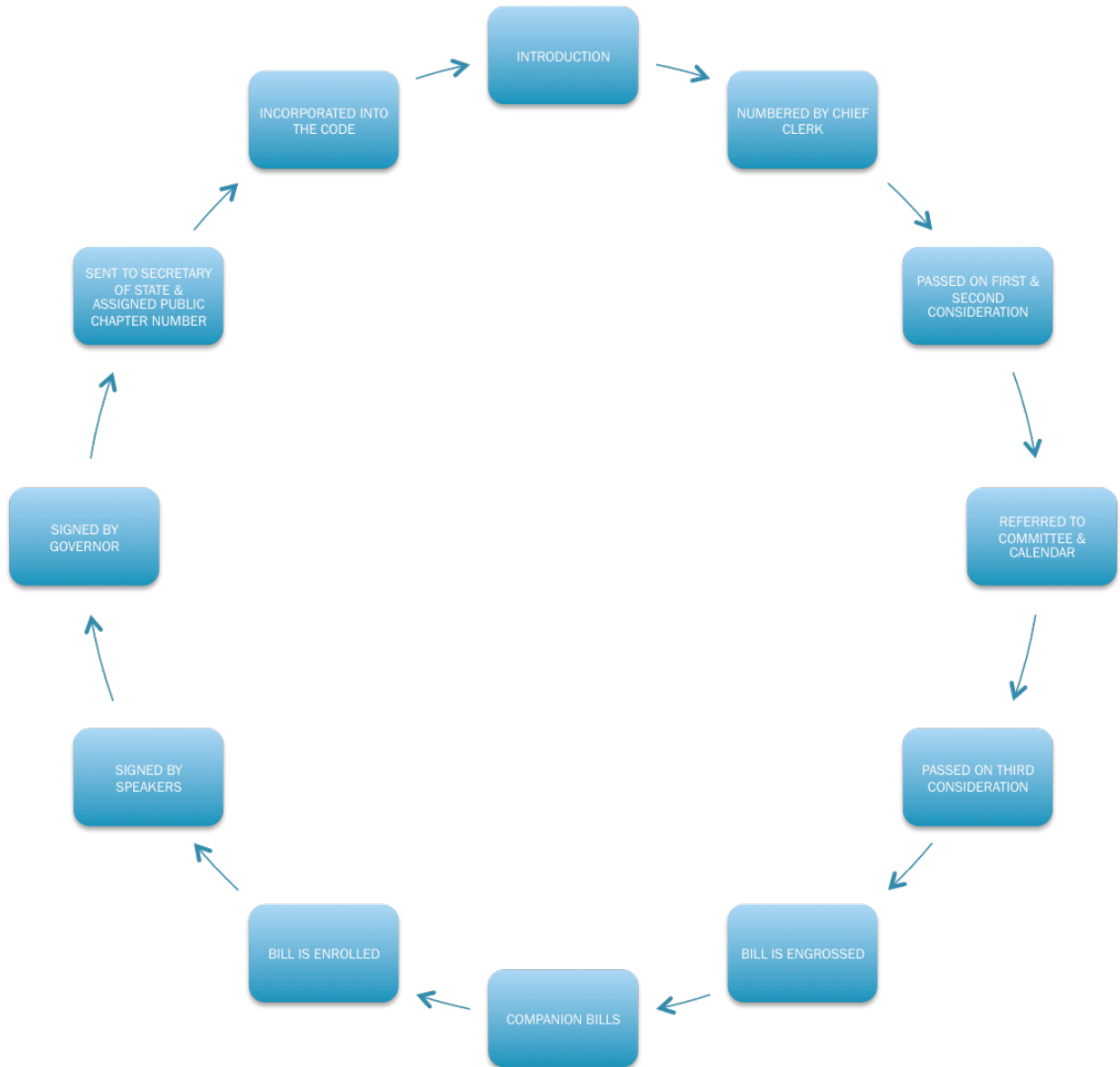


# Bills & Legislation: Structure and Tracking

## Legislation



The following represents the normal procedure in transforming a bill into law. The steps below describe passage of general bills.

## **Reading a Bill**

### **What to Look for When Analyzing a Bill**

This document is intended for persons who are new to analyzing bills in the Texas Legislature. Reading a bill requires more than just the simple ability to understand the words; it also requires an understanding of some of the special phrases used and the structure of the bill.

This paper is designed to help a newcomer to the process. It presents examples of several important items which one should look for when reading and analyzing a bill. The enclosed information is adapted from a manual written by Brian Graham in 1990 for the Comptroller of Public Accounts. The materials contained in this paper are used with the permission of the Comptroller's Office.

### **Bills and Resolutions**

Legislative measures fall into two categories, bills and resolutions. They are the documents by which the Legislature expresses its will and they have to be examined daily during a legislative session.

#### **Bills**

Bills are proposals to change state law by adding a new law to the books or by changing provisions of an existing statute.

A bill can be clearly identified by its basic structure since it always begins with these words printed in the middle at the top of its first page. A Bill to be Enacted

#### **An Act**

Individual bills can be distinguished by a tracking system used by the Legislature to tell one bill from another. Under this system, each bill is assigned a prefix (either HB or SB, depending on if it was introduced in the House or Senate, respectively) and a number that shows when it was introduced.

For example, the first bill filed in the House would be HB No.1, the second HB No.2, and so forth. Similarly, the first bill introduced in the Senate is SB No.1. (Sometimes this is shortened to HB 1, SB 1, etc.) These prefixes and numbers stay with the bill throughout the legislative process and are the easy way to identify a particular bill.

#### **Resolutions**

Resolutions are statements of opinions and, unlike bills, do not have the force of law. Resolutions cover a wide range of issues and come in three different forms: Joint Resolutions, Concurrent Resolutions, and Simple Resolutions.

Joint Resolutions are proposals to amend the Texas Constitution or to ratify a proposed change in the U.S. Constitution. Concurrent Resolutions are usually expressions of the Legislature's feelings on a subject, instructions to state agencies, or proposals to set up a special study of some issue during the interim between legislative sessions. Simple Resolutions are commonly expressions of the Legislature's sympathy upon a death or congratulations to an individual or group for an accomplishment.

The kind of resolution is identified at the very top of the text on the first page of each resolution.

A letter and numbering system is also used to distinguish one resolution from another. For example, the fourth Joint Resolution filed in the House would be HJR No.4, while the fourth Joint Resolution filed in the Senate would be SJR No.4.

Similarly, Concurrent Resolutions and Simple Resolutions that originate in the House are labeled as HCR No. and HR No.; those that start in the Senate are labeled SCR No. and SR No. (whatever the number may be). In the examples given, the resolutions are commonly referred to as HJR 4, SCR 4, and HR 4, omitting "No." Both the House and Senate must adopt Concurrent and Joint Resolutions. Simple resolutions are considered only by the chamber in which they are introduced.

### **Versions of a Bill**

The Versions or Printings of a Bill:

- Filed
- Committee Substitute
- Committee Amendments
- Floor Amendments
- Engrossed
- Conference Committee Report
- Enrolled

When analyzing a bill, it is essential to review the correct version of the bill when an impact statement is being prepared. Bills are constantly changed as they go through the legislative process. If one does not have the most recent version of the bill when doing the analysis, the work could be totally useless.

It is easy to identify the various versions of a bill or resolution, usually all one has to do is to look at the first page.

- The "FILED" version shows the bill as it was when it was first introduced into the Legislature and before it has been considered by a legislative committee. This version can be identified by the fact that the word "Filed" or the word "Introduced" is often printed on the first page.
- The "COMMITTEE REPORT" version shows the bill after it has been considered by House or Senate committees and after that committee has made whatever changes it believed were necessary.

There are two types of committee reports, a "Committee Substitute" and "Committee Amendments."

A Committee Substitute is a complete replacement for the original Filed version. A Committee Substitute is adopted when substantial changes are made to the original bill. It can be readily identified by the fact that the phrase "Committee Substitute for (HB or SB No.)" is printed on the first page by the name of the legislator who offered the substitute in committee. In addition, the letters CS are printed in front of its normal prefix at the top right hand corner of the second and subsequent pages - i.e. - HB No.4 becomes CSHB No.4. A Committee Amendments version shows only the specific changes, usually minor, that the committee has voted to make in the bill and does not reprint the full measure. It can be identified by the fact that the phrase "House or Senate Committee Amendments to HB or SB" are printed on its first page. To analyze the impact of these amendments, one will have to have both the original

Filed version and the Committee Amendments version since the two will have to be compared to see what changes have been made.

Always remember that both House and Senate committees can and do produce Committee Substitutes and Committee Amendments for the same bill. These can be very different so an analysis of a House Committee Substitute cannot be relied upon when an analysis of the Senate's version needs to be done. To distinguish between the two, the word "House" or "Senate" is printed in front of the phrase which identifies a Committee Substitute or Committee Amendments version - i.e. -a House Committee Substitute is identified by the words "House Committee Substitute for. . ." while a Senate version would be "Senate Committee Substitute for...."

The full House or Senate must adopt committee amendments when the bill reaches the Floor for a vote.

- The "FLOOR AMENDMENTS" version shows the specific changes made in a bill or resolution when it was debated on the Floor of the full House or Senate. These versions can be identified by the phrase "House (or Senate) Floor Amendments" printed on the first page, and the word "Adopted" often appears at the top of that page. Again, there can be both House and Senate Floor Amendments versions that can be quite different.
- The "ENGROSSED" version shows the bill as it was when it passed in the house in which it originated. This version incorporates into its text all the changes made to the document in that chamber. It can be identified by the fact the word "Engrossed" is printed on the top of the first page. There is only one Engrossed version of a bill, as a bill can originate in only one of the two legislative chambers. A bill that has passed both legislative houses is called an "Enrolled" bill.
- The "SENATE (OR HOUSE) AMENDMENTS" version shows the changes made by the other chamber. This is the version that would actually be before the House or Senate when it decides to either accept the changes or ask for a conference.
- The "CONFERENCE COMMITTEE REPORT" version shows the bill as it was after it has been considered and approved by a conference committee of House and Senate members. This version can be identified either by a first page, which shows the signatures of the conference committee members who voted for it, or by the phrase "Conference Committee Report" printed on the first page.
- The "ENROLLED" version presents the full text of the bill as it appears after it was approved by both houses of the Legislature and has been sent to either the Comptroller for certification, or to the governor for his/her approval or veto. The word "Enrolled" or "As Finally Passed & Sent to the Governor" is printed on the first page of this version. Joint and Concurrent Resolutions can go through a similar series of versions in the House and Senate. Simple Resolutions (the HSR's and SR's) are only considered by the chamber in which they were originally filed so there is only one filed committee report and floor amendment version.

## **Structure of a Bill**

## **Captions**

Every bill begins with a brief description (known as the "caption") of what the bill proposes to do. This statement can be a quick guide to whether a state agency is affected by the bill, but one should not automatically rule out analyzing a bill just because the agency is not mentioned in the caption.

Two basic forms of captions are now used by the Legislature:

- A brief often one-line long caption that gives only the barest outline of what the bill proposes; and
- A full caption that contains a complete list of all the various provisions in the bill and specifically identifies the various laws it will amend, change or repeal.

The full caption makes it much easier to determine whether an agency is affected by a bill simply because it presents so much information. For example, if an agency is covered by Articles 6.01 through 6.19 of some code and the full caption shows that the bill amends Art. 6.17, one immediately knows that the bill will have an impact on that agency.

The lack of detail in the short caption makes it much harder to identify possible impacts on a state agency. One has to read the entire bill to find the specific agency that might be affected.

## **SECTIONS and Sections (Secs.)**

Bills are usually divided into "SECTIONS" with each presenting a part of the proposed law. This would seem simple, but it is not because bills may also be divided into "Sections" or "Secs. " and it is possible to confuse the two.

The primary difference is that: SECTION-which is always capitalized-is a part of the bill while a Section-with only the first letter capitalized and often abbreviated as Sec.-is a part of the law the bill would enact or change.

Another way to identify the difference between a SECTION and a Sec. is that a SECTION contains a description of what the Sec. is going to do. The Sec. does not. For example, when one sees the word SECTION, it will be followed by a description. On the attached example, the words after the heading "SECTION 1." are action words like "is adopted to read as follows." Other phrases that are commonly used in SECTION headings include "is amended to read as follows," "to repeal" etc. In every case, the phrase is an introduction that tells what the Sec. that follows does.

A bill may have more than one SECTION and, if it does, they are numbered starting with SECTION 1 and going to SECTION 2 and so forth. In every case, the phrase following the heading of SECTION is an introduction that tells you what the Sec. which follows does.

The use of both SECTION and Sec's. can be confusing when you have both a SECTION and a Sec. 2 in a bill. This can cause a problem when one analyzes a bill if there is no understanding of the difference between the two. For example, if there is a problem in a part of Sec. 2 of SECTION 1, it must be made clear that the problem is not in SECTION 2.

Remember that SECTIONS are part of the bill while Secs. are part of the law itself. The word SECTION and the instructions that follow will not be printed in the law books, but the Sec. and the words that follow it will.

## **Articles**

Some bills may also be divided into ARTICLES with SECTIONS and Sec. included within each ARTICLE. This format is usually used on bills that cover more than one subject.

## **Line and Page**

All bills drafted by the Legislative Council are printed in a format that numbers every line and every page of the bill.

Normally, the first page of a bill has 24 numbered lines. The line and page numbering system should be used to identify portions of a bill which may present problems or are of special interest.

It may be confusing to try to identify a troublesome provision in a bill by citing the SECTION number, especially when it is easy to confuse SECTIONS and Sec's. But, if the problem area is cited as being lines 12 through 20 on page 6 of the bill, there will be no question about which provision is being cited.

Always use line and page citations when referring to a part of a bill being analyzed. Sometimes only an amendment needs analyzing, such as an amendment which states only that it is amending bill "x" by replacing or striking the language on line "y" of page "w". One has to know how to use a line and page citation to determine just what the amendment will do and where it fits into the bill. Using the page and line, one can quickly place the change in the proper place; without it, one will have to search through the bill trying to piece it together to make sense out of the changes. Remember that committee reports used on the Senate floor are printed in a single-spaced format while all other versions in both chambers are printed in a double-spaced format. This means that unless you have the single-spaced format, you may still have to refer to the SECTION or Section of the bill to be sure that you have correctly identified a part of the bill.

## **Editing Features**

In reading a bill, it is necessary to identify quickly the changes it would make in existing law. To make the proposed changes in existing law stand out from the rest of the bill, the Legislature uses Underlining, Bracketing and Striking-Through.

### **Underlining**

When some new language, or even a new word, is being added to an existing law, the new language/word is underlined. For example, adding the words "in alternate years" to a sentence that reads "A tax of two dollars per person shall be collected." would result in:

A tax of two dollars per person shall be collected in alternate years.

### **Bracketing and Striking-Through**

For something to be taken out of a sentence altogether, the Legislature uses a system that calls for placing the language to be taken out inside brackets and striking-through the individual words.

Thus, if one wanted to change a law which now says "A tax of two dollars per person and three dollars per family shall be collected in alternate years" so that the tax on families is removed, the bill would then read:

A tax of two dollars per person [and three dollars per family] shall be collected in alternate years.

If one wanted to change the tax from \$2 per person to \$3 per person, one would use both underlining and bracketing/striking as follows:

A tax of three [two] dollars per person shall be collected in alternative years.  
If one wants to change both the amount of the tax and repeal the tax on families and make it collectable only every other year in a law that now says "A tax of two dollars per person and three dollars per family shall be collected" the sentence in the bill would look like:

A tax of three [two] dollars per person [and three dollars per family] shall be collected in alternate years.

Underlining can also be used to add an entirely new provision to a law. Similarly, bracketing and striking-through can be used to remove a complete section from the law and either replace it with a new provision or repeal it entirely. In such a case, one would normally see an entire provision underlined, followed by the old section that would be bracketed and struck-through. Or, if nothing was to be put into the law to replace what is being repealed, simply the bracketed and struck-through section would be shown.

### **Other Ways to Show Changes**

Underlining, bracketing and striking-through are helpful tools in reading a bill since they make it possible to quickly see what the changes are; but sometimes the Legislature uses a different method to show changes.

For example, if the entire bill or section of a bill is new law, it is not necessary to underline it. In such cases, the guide to the fact that it is all new law is in the instructions that follow the SECTION heading.

When the entire section is new law, it may simply say that the old law is "amended by adding Section (a number) to read as follows:" and not underline the words. And, when an entire part of an old law is being repealed, it may not underline the words but simply include a phrase like "is being amended by repealing Section #."

### **Effective Dates**

In analyzing a bill, one should always check to see when the proposed new law goes into effect.

### **90-Day and Immediate Effect Bills**

Most bills are known as "90-day Bills" which do not become law until a period of 90 days after the legislative session has ended. Other bills can go into effect either

earlier than 90 days after the session, later than 90 days, or at the very moment the governor signs them.

One can normally tell when a bill is supposed to go into effect by examining what is known as the "Emergency Clause" found at the end of the bill. This provision can relate whether the bill is to go into effect on the 91st day after the session, or whether it goes into effect the very minute the governor signs it. A bill that goes into effect immediately upon its being signed by the governor is known as an "Immediate Effect Bill."

Most Emergency Clauses for 90-day Bills contain the same basic language, but some extra words are added when the bill is to be an Immediate Effect Bill. On a 90-day Bill, the Emergency Clause normally reads:

SECTION #. EMERGENCY. The importance of this legislation and the crowded conditions of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

When a bill is to be an Immediate Effect Bill, the following words are added to that language: and that this Act take effect and be in force from and after its passage, and it is so enacted.

These words are an automatic signal that the bill is intended to be an Immediate Effect Bill and it must be put into operation soon after it passes.

Just because a bill is intended to be an Immediate Effect Bill does not mean that it will end up that way. In fact, every session a number of bills which start out as Immediate Effect Bills wind up as 90-day Bills. This happens because in the process of being passed by the Legislature, the House or Senate failed to cast a record vote showing that two-thirds of the members of both chambers voted for the bill. Without such a vote, a bill cannot be made effective in less than 90 days after the session ends.

When analyzing the impact of an Immediate Effect Bill, one should not consider the possibility that it could be converted into a 90-day Bill because this is not determined until much later. As such, comments should be based on the belief that it will be effective immediately.

### **Setting Other Effective Dates**

Sometimes the Legislature decides that it does not want a bill to be either a 90-day or an Immediate Effect Bill, but wants it to go into effect on a certain set date of the year. When this happens, it will include a provision - often a separate SECTION in the bill - which sets the date. For example, it may put a SECTION just before the Emergency Clause that says:

SECTION #. This Act takes effect September 1, 1997.

If the bill is intended to go into effect on a fixed date that is less than the 91st day after a session ends, a section setting a specific effective date is usually included in the text of the bill. The language of the emergency clause may be changed to read something like the following:



SECTION #. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force according to its terms, and is so enacted.

Such a bill (sometimes known as "accelerated but not immediate effect bill") also requires a two-thirds vote of the total membership of both houses to sidestep the 90-day rule. This approach is usually used when it is important that the new law take effect in less than 90-days after the session ends, but it is also necessary that it be, for example, on the first day of a month or a first day of the quarter, rather than on the day that the governor signs it.

Sometimes the Legislature decides that it wants part of a bill to go into effect on one date and another part (or parts) to become effective on another date. If so, the bill may include a SECTION near the end that says something like:

SECTION #. SECTION 1 of this Act takes effect on September 1, 1997.  
It may also say that the other sections take effect on some other date or not mention them at all if only SECTION 1 is to take effect on some specific date. In some cases, the special effective date may be included with the SECTION it affects. This is harder to find, but it is something to watch for.

If the bill is broken into ARTICLES as well as SECTIONS, it may also provide that one or more of the ARTICLES will take effect on a special date. The same systems are used to show this, either a special section of the bill setting the date or inclusion of the special date in the text of the ARTICLE.

### **Temporary Laws and Special Instructions**

Similar provisions can be used to show that a provision of the bill is only temporary and is to expire at a certain date. Either this can be shown at the end of the bill in a special SECTION or it can be buried in the text of the bill. If a special section is used to identify a temporary law, it is often identified by a SECTION heading that says something like:

#### **SECTION 7. TEMPORARY PROVISION**

Always look for these provisions since they can affect or change a bill analysis. Also, be careful to look for special instructions buried in the bill - instructions which may require looking at a law other than the bill under consideration in order to fully analyze its impact. These kinds of provisions can also be used as a back-doorway to accomplish something since many people will overlook them if they are included in a bill which appears to be on a different subject.

### **Shall and May**

When reading bills or resolutions, phrases similar to the following may be seen: "The legislature shall do such and such. . ." or "The legislature may do such and such...

When these phrases appear, it is important to note whether the word used is "shall" or may," as the word used may have a major impact on the analysis of the bill. In

fact, any time the word "may" or the word "shall" appears in a bill, it should be noted.

This distinction is important because, depending on which of the words is used, the sentence may be either an order which must be obeyed, or simply something which authorizes the agency to do something if it wants to do so.

When the word "shall" is used, one should interpret it as an order. In this case, one must base the analysis of the bill on the fact that the agency must follow the instructions of the bill. If the word "may" is used, one must not automatically assume that the agency will do it, it is something the agency might do. This can make a difference in determining the impact of the bill and the administrative cost of implementing it.