



Commonwealth of Massachusetts General Court

LEGISLATIVE PROCEDURE PRIMER. by Steven T. James, House Clerk

FILING AND PUBLISHING

Petitions filed with the Clerk by 4:59 p.m. on the third Friday of January (after the general election) are assigned a docket number. Most of those generally will later receive another number commonly referred to as a “bill” number (even if the number might be assigned to some other type of legislative document like a “resolve”, “order”, “report” or “resolution”). Shortly after receiving the “bill” number, the measure (generally called a petition accompanied by a bill or a petition accompanied by a resolve or some other type of legislative document) will be referred to a committee and be published as a legislative document. Local petitions may be filed at any time and, if determined by the Clerk to be purely local in nature, they are assigned a bill number, published, and referred to a joint committee (usually Municipalities and Regional Government, Public Service, or Consumer Protection and Professional Licensure).

Petitions (other than local petitions) filed after the above stated deadline are considered late files. They are assigned a “docket number”, and are referred to the committee on Rules. In order for a late filed petition to be admitted for consideration, it must be reported by the Rules committee and receive a 2/3rds vote in both branches. If so admitted, the petition will then be assigned a bill number, be referred to a committee, and be published as a legislative document.

Legislative documents are available immediately on the internal LAWS computer system, and those receiving bill numbers are also available on the Internet at <https://malegislature.gov/>.

COMMITTEE ACTION

The committee will hold a public hearing on the measure, at which time interested parties may testify, or submit written arguments to the committee.

The committee will later (sometimes immediately after the public hearing) hold an executive session on the measure. At the executive session a motion may be approved to poll the members of

the committee. When the poll is taken, the committee may vote to report the bill or resolve (which would constitute a favorable report) or make some other type of report. The most popular types of reports are: straight favorable, favorable with changes, favorable as redrafted, adverse (ought NOT to pass), or recommendation for further study. The deadline joint committees (other than the committee on Health Care Financing) have to make reports is the first Wednesday in February of the second annual session. Matters referred to committees subsequent to the first day of the second annual session must be reported by the committees within 30 days of the reference. The deadline for the committee on Health Care Financing to make reports is the last Wednesday of March of the second annual session on all matters referred to them on or before the fourth Wednesday of February of that year, and within 30 days of the reference on matters referred subsequent to the fourth Wednesday in February.

If a favorable or study decision is voted, the report will be made to the chamber where the measure was filed, except that a committee may decide, under the provisions of its own rules, to report to the opposite chamber. This decision is frequently made by mutual agreement of the two chairpersons. If favorable the branch to which the bill or resolve is reported becomes the “branch of origin”, regardless the branch in which it was filed (this is the 1st Reading). Notwithstanding the previous sentence, if the bill or resolve is referred by the Clerk, under Joint Rule 1E, to the committee on Health Care Financing, the first reading and the branch of origin are determined the next time the bill or resolve receives a favorable report.

If the decision is to report, “ought NOT to pass”, the report must be made to the branch where the petition was filed, i.e., House numbers to the House. However, “Money” (tax) bills, whether reported adversely or favorably, must be reported to the House even if they are printed with Senate numbers.

If a joint committee fails to make a report by the deadline, then it is considered a Joint Rule 10 matter, and if the rule is enforced, the matter will be placed on the calendar of the branch where it was filed with an “ought NOT to pass (under Joint Rule 10)” recommendation. In recent years this hasn’t happened too often, because committees often ask for extensions of the deadline.

HERE’S WHAT HAPPENS AFTER A MATTER IS REPORTED

If favorable the Clerk will decide if the bill or resolve should be referred to another committee, based on the following criteria:

- If the bill or resolve pertains to the subject of health care, it must be referred to the joint committee on Health Care Financing. If reported by this committee, and the bill or resolve contains a fiscal note of \$100,000 or more it must be referred to Ways and Means;
- If the bill or resolve would call for a study consisting of members of the Senate and/or House, it will be referred to the Joint Rules committee (technically known as the “committees on Rules of the two branches, acting concurrently”).

- If the bill would require the state to issue bonds to pay for it, then it will go to the committee on Bonding, Capital Expenditures and State Assets. If reported by the Bonding committee, it would have to be referred to Ways and Means.
- In addition to the above three instances [with the exception of reports from Health Care Financing with a cost of less than \$100,000], if it would cost the state money, or if the state would make money, the bill or resolve must go to the Ways and Means committee of that branch;
- If none of the above applies the bill or resolve would be referred by the Clerk to the committee on Steering, Policy and Scheduling.

Also, the bills or resolves that are referred to Health Care Financing; Joint Rules; Bonding, Capital Expenditures and State Assets; and Ways and Means must go to Steering, Policy and Scheduling before they make it to the calendar for floor action. It is not unusual that bills may have to go to more than one of the above committees prior to being sent to Steering, Policy and Scheduling.

STUDY ORDERS

Prior to the Joint Rule 10 deadline for committees to make reports, committees often report petitions and other matters pending before them into study orders as a means to avoid the enforcement of Joint Rule 10. Under the joint rules, study orders are required to go to the Joint Rules committees. The Joint Rules committees have made a practice over the past many sessions of immediately referring study orders to the House Rules committee or the Senate Rules committees. House numbered study orders go to House Rules, and Senate numbered study orders go to Senate Rules. Because House and Senate committees are not subject to the deadlines imposed by Joint Rule 10, they can hold the study orders harmless of Joint Rule 10 for as long as they desire. Occasionally the joint committee that reported the measure into the study order may informally request that the Rules committee send it back to them (technically known as “discharge” and “recommit”). Once the joint committee gets the measure back, it should be anticipated that they will likely report the bill or resolve favorably, shortly thereafter. It is important to note, that although the above business practice is sometimes used for maintaining the viability of legislation long enough for joint committees to do their necessary work on measures, hundreds of matters are never pulled from studies and consequently remain in those study orders at the end of the session.

Should you be concerned when a measure you favor is placed in a study order? Yes. Suggestion: Call or write the primary sponsor of the measure to request information and guidance.

HERE’S WHAT HAPPENS ON THE FLOOR

The first time that bills or resolves appear on the House or Senate Calendar for possible floor action, they are on the Calendar for their second reading. The notation “2d.” will appear in the item’s description. Every matter appearing on the Calendar is assigned a House Calendar Item

number or a Senate Calendar Item number. The Calendar Item number is the number that the Speaker or President will read aloud from the Rostrum when the item is considered. The Senate Calendar differs from the House Calendar in that it contains a “Notice Section” near the end of the document. The “Notice Section” consists of bills or resolves that are scheduled to appear on the next Senate Calendar for a 2nd reading (or in the case of a recommitted bill or resolve, the question being on ordering to a third reading). Also appearing in the “Notice Section” are bills or resolves that have been ordered to a third reading, but have not yet been released for consideration by the Senate committee on Bills in the Third Reading.

For those matters receiving floor action, the procedures in the House and Senate are as follows. After the Clerk reads a bill or resolve a second time, the question before the branch is on “ordering the bill or resolve to a third reading”. Amendments and various motions may be offered at this point.

After a bill or resolve is ordered to a third reading, it is sent to the committee on Bills in the Third Reading (B.T.R.). The committee on B.T.R. of the House consists of three Representatives, while the Senate committee is made up of five Senators. The B.T.R. committees are supported by professional staff of their own; and also the House or Senate Counsels who are responsible for making sure that bills and resolves are properly drafted, that they conform to the General Laws, and that they contains no unconstitutional provisions.

While the bill or resolve is before the committee on Bills in the Third Reading, it will appear on the Calendar every day with a “3d.” notation following the title of the measure and number assigned to the bill or resolve on the Calendar [such bills and resolves, if on the Senate Calendar, will appear in the “Notice Section”, unless they are to be acted upon on that day]. If you’ve watched the House session, you may have heard the Speaker say something like, “all items on pages 1 through 12 are held”. What this means is that those bills and or resolves on pages 1 through 12 of the Calendar have not been released by the committee on Bills in the Third Reading. If a bill or resolve that you are concerned about is in the committee on Bills in the Third Reading, you may want to reach out to the Chair of that committee for more information.

After a bill or resolve is released by the committee on Bills in the Third Reading, it will be read a third time by the Clerk. The main question before the branch will then be on passing the bill or resolve to be engrossed. Once again, as it was with 2nd. Reading, amendments and various motions may also be offered and moved at this point.

Unless a bill was previously passed by the other branch, after it has been passed to be engrossed by the first (originating) branch, it will go to the other branch where a similar process will take place.

If the second branch adopts amendments, the bill or resolve, after passing the second branch, must go back to the branch that first worked on the bill or resolve, the question being on that branch concurring (agreeing) with the amendments. If the first (originating) branch agrees to the amendments the bill or resolve will then go to the Engrossing Division to be prepared for final passage.

If, however, there is a disagreement on the amendments a conference committee might be appointed to discuss the positions of each Chamber and report compromise language. Conference committees consist of three members from each branch. A majority of the members of each branch (2 House members and 2 Senate numbers) must sign the conference committee report for it to be valid. After the conference committee agrees and makes their report; and after both branches vote to

accept the agreement, the bill or resolve is sent to the Engrossing Division to be prepared for final passage.

After the Engrossing Division prepares the bill or resolve, it next goes to the House for a vote on final passage, then to the Senate for final passage, and finally to the Governor's Desk for his approval.

Except that a bill containing an "Emergency Preamble" (which would allow it to take effect immediately) requires a 2/3rds standing vote in the House, and then in the Senate to adopt the emergency preamble prior to final passage as outlined in the previous paragraph.

THE GOVERNOR'S ACTIONS

The Governor then has 10 consecutive days to decide whether to sign the bill or resolve, return it with amendments, or veto the bill or resolve. If the Governor does not return the bill or resolve to the branch of origin within the ten days, it will become law on the eleventh day. Except that after the end of the second year of the two year General Court, a bill or resolve unsigned and still on the Governor's desk becomes a pocket veto on the eleventh day.

If the Governor returns the bill or resolve with an amendment, or a veto, he/she must send it back to the branch where the bill or resolve had its first reading (branch of origin). The Governor may only return a bill or resolve with recommendation of amendment one time. If the Governor does return the bill or resolve with a recommendation of amendment, the bill or resolve is open for other amendments that may be offered by committees or members when the bill or resolve is under consideration. After the amendment(s) have been considered by both Chambers, the bill or resolve must be re-enacted (first in the House then in the Senate) for it to be returned to the Governor's Desk.

A bill or resolve returned to the branch of origin with a veto requires a two-thirds roll call vote in both branches in order to override the veto.