

*Image courtesy of the Capital Square Review and Advisory Board*



Senate Chamber

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## Chapter 5: Enacting Legislation



# Chapter 5: Enacting Legislation

The General Assembly exercises its legislative power principally by enacting resolutions and bills.

## Resolutions

Resolutions, generally, are formal expressions of the opinions and wishes of the General Assembly and do not require the approval of the Governor. Resolutions are of three types: joint, concurrent, and simple. Beginning with the 126<sup>th</sup> General Assembly, resolutions are available at the Legislation link on the General Assembly’s website (<http://archives.legislature.state.oh.us/>).

### Joint Resolutions

Joint resolutions are used to ratify proposed amendments to the United States Constitution, to call for a federal constitutional convention, or when required by custom or a statute. For example, proposals seeking to amend the Ohio Constitution are customarily offered as joint resolutions. Joint resolutions require the approval of both houses and, after approval, must be filed with the Secretary of State.

### Concurrent Resolutions

Concurrent resolutions also require the approval of both houses, but, unlike joint resolutions, they are not filed with the Secretary of State. They are used when required by the Ohio Constitution, a statute, or when the action of both houses is advisable and use of a joint resolution is not required. Cases that typically call for a concurrent resolution include memorializing Congress as to the General Assembly’s position on issues before Congress and determining joint procedural matters such as adjournment. Concurrent resolutions also are used to commend people, groups, and events that are of interest to both houses.

Another subject requiring the adoption of a concurrent resolution is the invalidation of administrative

rules. When the Joint Committee on Agency Rule Review (JCARR) recommends that the General Assembly invalidate a rule that has been proposed or adopted by an executive agency, a member must submit a concurrent resolution in order to put the question of invalidation before the two houses. The resolution briefly describes the rule and the reason why it is being recommended for invalidation. See Chapter 7 for a discussion of the reasons for which the General Assembly may invalidate a rule.

The Ohio Constitution authorizes the General Assembly, by the adoption of a concurrent resolution, to disapprove proposed Supreme Court rules governing practices and procedures in all courts of the state.

### Simple Resolutions

Simple resolutions often relate to the organization, appointments, and officers of the house in which they are offered. Simple resolutions that commend persons, groups, and events of interest to one house

are discussed in Chapter 9.

## Bills

A bill is a document by which a member of the General Assembly proposes to enact a new law or amend or repeal an existing law. The term “bill” is used to refer to the document from the time it is drafted and delivered to the member until it is considered and approved by both the House and the Senate. After passing both houses, a bill becomes an “act” and must be presented to the Governor for acceptance or rejection. If accepted, or if the Governor does not take any action for ten days, it becomes a “law.”

### From Idea to Bill

An idea for a new law or a change in an existing law may originate with a member of the General Assembly, an administrative agency of the state, the Governor, a

special interest group, or a private citizen. Legislation also may be proposed as a result of court decisions or Attorney General opinions, requirements established by federal law, or recommendations made by study committees or task forces.

Whatever its source, an idea first must be written in the form of a bill. The primary source of bill drafting services available to members is the staff of the Legislative Service Commission (LSC).

Bill drafting is a craft combining art with experience. A skilled drafter will explore many issues involved with a member’s idea. Often, a member will not be aware of all the factors that affect the proposal. While a clear



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statement of what a bill draft should accomplish is helpful, generally the staff person drafting the proposal will seek more guidance as questions arise during the drafting process. As employees of a nonpartisan agency, LSC staff do not make decisions on issues of policy. Therefore, a staff person must communicate with a member frequently during the drafting process to ensure that the member’s views are incorporated into the bill.

Although courts grant all legislative enactments a presumption of validity, sometimes proposals raise constitutional issues. It is important to know at the outset if a bill draft may be in conflict with the United States or Ohio Constitution. Legal research sometimes suggests the likely outcome of a constitutional challenge. Some issues are obvious, especially in the areas of due process and equal protection of the law. However, proposals may raise issues that have not been decided by the courts or are so subtle as to defy accurate prediction of what a court would decide.

For example, does a proposal requiring that blood types be printed on drivers’ licenses (thus conditioning an important societal privilege on obtaining a blood test) constitute such a deprivation of liberty as to violate a person’s right to due process of law under the Fourteenth Amendment to the United States Constitution? If not, might a religious objector to blood tests nevertheless successfully claim that such a requirement violates guarantees of religious liberty under the First Amendment? Even if legal research discloses that the proposal probably would not violate



the First Amendment, the member might prefer to avoid the problem at the outset by including an exemption for good faith religious objectors.

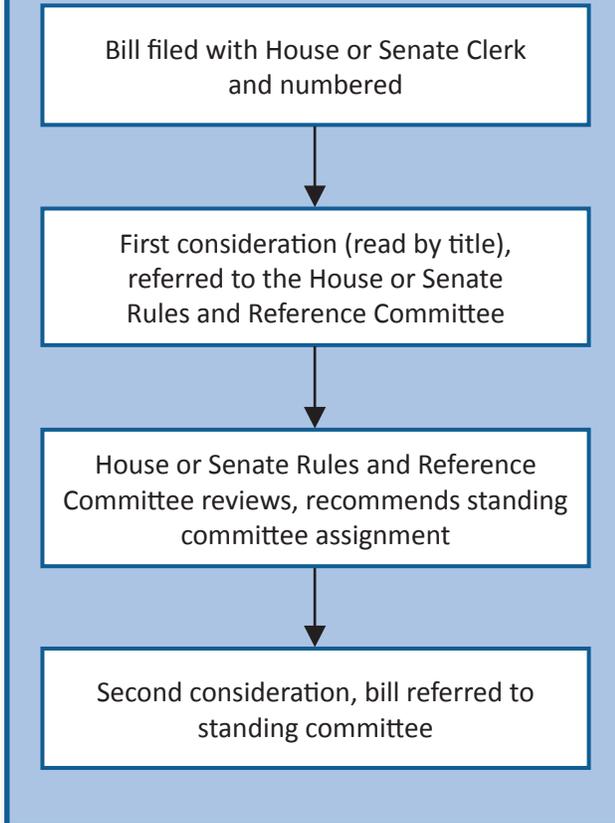
The legislative drafter also must account for general rules of construction and statutory definitions that apply throughout the Revised Code. For example, the term “person” is defined in section 1.59 of the Revised Code for use throughout the Code as including “an individual, corporation, business trust, estate, trust, partnership, and association”; the drafter need not define the term in a new bill draft unless a different meaning is needed. Similarly, section 1.50 of the Revised Code establishes an all-encompassing severability clause stating that if any part of a section of the Revised Code is held invalid, that part is severable and does not affect the other provisions of the section or related sections that can be given effect without the invalid part. Therefore, the drafter does not need to include a severability clause in each bill draft.

Although LSC staff engage in bill drafting on a full-time basis and are highly trained and experienced, any bill draft can contain inadvertent errors or fail to meet a member’s objective. Therefore, members should read all drafts carefully and ask the drafter for explanations whenever something seems incorrect or confusing.

**The Legislative Process**

The lawmaking process in Ohio, as in most other states, involves several steps, including introduction,

## How a Bill Becomes a Law in Ohio: Part 2



committee action, floor action, defeat or enactment, approval or disapproval by the Governor, and possible legislative reaction to the Governor's action. Since Ohio's General Assembly is a bicameral, or two-house, legislature, several steps must occur in each house consecutively; that is, after the first house completes action on a bill, the bill is sent to the second house where the process is repeated. Enactment occurs after both houses have passed and agreed on identical bills. Of course, enactment of a bill does not necessarily mean that the proposal becomes law. Action by the Governor and possible legislative reaction will occur after enactment.

This chapter describes the major steps in the enactment of a law. Although the discussion refers only to bills, the same steps, excluding action by the Governor, apply to the adoption of joint and some concurrent resolutions. It should be noted that most bills do not become law. Most bills survive only a few of the steps required for enactment. For example, the 131<sup>st</sup> General Assembly enacted 181 of 1,004 introduced bills. In the 132<sup>nd</sup> General Assembly, 172 of the 1,144 bills that were introduced became law.

## Introduction: First Consideration

During its preparation by LSC staff, a bill draft is assigned an individual "L" number. The assigned "L" number is found at the top of the draft. The draft is numbered to coincide with the session of the General Assembly for which the draft is prepared and then is numbered consecutively. For example, "L\_133\_0167" at the top of the draft indicates that the draft was prepared for the 133<sup>rd</sup> General Assembly and was the 167<sup>th</sup> bill draft request received. When working on a bill draft with an LSC staff member, it is useful to refer to this "L" number.

Once drafted, a bill draft is forwarded to the member making the request. The member should carefully review the draft and ask any questions necessary to make sure the bill achieves the member's goals. Once the member is sure the bill draft complies with the member's request, it is ready for formal introduction.

The Ohio Constitution requires that each bill receive consideration on at least three different days by each house before enactment. The members of the house considering a particular bill may, by a two-thirds majority, vote to suspend this requirement.

The first consideration of a bill consists of a reading of the bill's title by the appropriate clerk on the day of introduction. The process of introduction and first consideration differs slightly in the two houses.

A Senator may introduce a bill by filing four copies with the Senate Clerk at least one hour prior to the next convening session of the Senate. Senate Rules specify that a bill must include the name of the bill's author or

## Order of Business

During a floor session, the House and Senate follow a specific order of business determined by House or Senate Rules. For example, bills may be introduced only at a certain point in the order of business. The order of business may be changed during floor session on a particular day by a vote of the members. The Rules governing the order of business may change from session to session.

authors (sponsor or joint sponsors) and any co-authors (co-sponsors). When the time for introduction of bills is reached in the regular order of business during a Senate floor session, the Clerk reads the bills in the order received.

A Representative introduces a bill by filing it with the House Clerk in a number of copies or electronically, as determined by the Clerk. The Rules specify that bills must be filed at least one hour prior to the time set for House session. The Clerk must keep a complete record of each bill, including such information as its number, author (sponsor) and subject. When, in the regular order of business during House floor session, it is time for introducing bills, the Clerk reports them in the order received.

In the House, if opposition to a bill is expressed on introduction, the Speaker of the House or presiding officer puts the question of rejecting the bill to a vote. For the bill to be rejected, the question must receive a majority vote of the members present. If it is not rejected, it proceeds in the regular order. The question of rejecting the bill must be decided without debate. It should be noted, however, that virtually all bills are accepted for introduction in the House without opposition.

When a bill is filed with the Clerk, it receives its official bill number from the appropriate House or Senate Clerk. This number differs from the LSC bill draft “L” number assigned by LSC staff. House and Senate bill numbers are assigned consecutively in the order in which bills are filed. The assigned number identifies the bill during its progress through the legislative process. A bill retains its assigned number throughout the legislative session in which it is introduced. For example, the 13<sup>th</sup> bill introduced in the House of Representatives during a session will be known for the remainder of that session as “H.B. 13”; the 60<sup>th</sup> bill introduced in the Senate will be known as “S.B. 60.” However, if the bill is not enacted and is introduced again in a subsequent biennial session of the General Assembly, it receives a new number according to the order in which it is filed.

If a special session is called by the Governor or the leadership of the General Assembly, the bills introduced during that special session in each house are numbered consecutively beginning with 1. At the end of a special session, the previous consecutive numbering process resumes for the duration of the regular session. The most recent special session was called by the Governor in December 2004.

## Committee Assignment: Second Consideration

The second consideration of a bill occurs when the House Rules and Reference Committee or the Senate Rules and Reference Committee, to which bills are sent following introduction, reports it back to the committee’s house with a recommendation for assignment to a

standing committee. The report, if accepted by the house, constitutes the bill’s second consideration.

## Committee Action

### Hearings

Following committee assignment, a bill may, but does not always, receive consideration by the standing committee to which it has been assigned. House Rules require that all House bills and resolutions introduced on or before May 15 of the second year of the two-year session be referred to a committee and scheduled for a minimum of one public hearing. Senate Rules require that all Senate bills and resolutions referred by the Rules and Reference Committee on or before April 1 of the second year be scheduled for a minimum of one public hearing.

A major portion of the work of a standing committee involves hearing testimony by persons with a direct interest in the proposal. For this reason, committee meetings generally are referred to as hearings. Although not a requirement, the common practice in both houses is to hold at least two hearings on each measure, one for proponents and one for opponents. The number of hearings held on a bill depends on interest in it, its complexity, and timing, among other factors. House Rules for the 133<sup>rd</sup> General Assembly require the sponsor of a bill or resolution to appear at least once before the committee considering the bill or resolution unless he or she has been excused from appearing by the committee chairperson or the Speaker of the House.

### How a Bill Becomes a Law in Ohio: Part 3

Standing committee: holds public hearings; may amend or create a substitute bill; may refer bill to subcommittee or postpone, defeat, or favorably report bill. May be discharged of further consideration of bill

The times and dates of committee hearings and listings of the bills to be considered at the hearings are available on the General Assembly’s website. House Rules require that chairpersons attempt to give five days’ notice, but must give at least 24 hours’ notice, of a committee hearing. Senate Rules mandate that the clerk post in the Senate Clerk’s office, except in the case of

Rules and Reference Committee meetings or in case of necessity, two days' notice of any meeting at which a bill or a resolution proposing a constitutional amendment will be heard for the first time. In both houses, notices typically (1) identify the committee and chairperson, (2) state the date, time, and place of the meeting, and (3) set forth an agenda for the meeting. Committee chairpersons usually announce imminent committee hearings at the end of daily floor sessions.

Most members of the General Assembly serve on more than one standing legislative committee. Overlapping committee schedules sometimes preclude a member's attendance at some meetings. The House and Senate set up regular committee meeting schedules early in the session to minimize such conflicts. Generally, each committee meets at a specific time on the same day of the week. Conflicts most often occur late in the session when the rush of business intensifies and committees begin holding meetings in addition to the regularly scheduled meetings. A committee meeting cannot be held during a floor session except by special leave of the House or Senate, as appropriate; however, a committee may meet during a recess from a floor session.

The rules of both houses provide that members cannot vote on a matter in committee unless they are present or have been present at the committee meeting at which the vote is taken. Since a member may have a conflict that prevents attendance at the entire committee meeting, the roll call on a motion to recommend a bill for passage may be held open. In the Senate, at the discretion of the chairperson, the roll call may be left open until 10:00 a.m. on the next calendar day. In the House, the roll call may be continued by motion until no later than noon the following day. If the roll call has been left open, a member who was recorded as present for a part of the meeting before a vote was taken but who missed the vote may still vote on the measure by signing the committee report, provided that the member's vote does not change the initially reported committee action. Proxy votes are not permitted.

### **Courses of Action**

A committee may take several different actions on a bill. It may report a bill favorably with no changes; adopt amendments and report the bill as an amended bill; redraft the bill or adopt numerous or lengthy amendments and report it as a substitute bill; combine two or more bills into one amended or substitute bill; indefinitely postpone the bill, thereby defeating it; or take no action at all. An affirmative vote of a majority of the committee members is necessary either to report a bill favorably or to postpone it indefinitely.

### **Amendments**

Proposed changes to a bill are drafted as amendments to the bill. Amendments may be offered in committee only by members of the committee. House Rules specify that members must be present at the committee meeting when an amendment is voted upon in order for the member to vote on that amendment. An affirmative vote of a majority of the quorum present is necessary to adopt a proposed amendment. Assistance in preparing amendments for a bill is available from the LSC staff person who is assigned to follow that specific bill in committee.

Generally, amendments are prepared before the committee meeting at which they will be offered so that copies may be made available to the other members of the committee. Sometimes, however, amendments are offered without advance preparation and without time for advance distribution. The procedure to be followed in such cases is largely a matter for determination by the committee chairperson. When requesting an amendment, it is helpful to give LSC staff as much advance notice as possible.

If a committee adopts a few amendments that are not lengthy or complex, it usually reports the bill back to the full house as an "amended bill," and the prefix "Am." is added to the bill's number. In such a case, the Clerk of the appropriate house is responsible for engrossing the bill, that is, preparing a new copy of the bill with the committee's amendments incorporated in it. If a committee reports a bill as an amended bill, the text of the amendments adopted by the committee will appear in the committee report that is printed in the *Journal*.

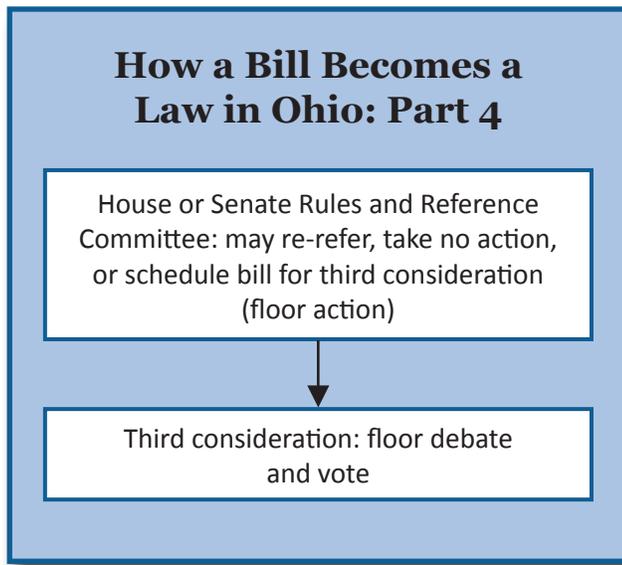
### **Substitute Bills**

If the committee redrafts the bill without adopting individual amendments, the committee reports the bill back to the full house as a "substitute bill." If the committee adopts amendments that are numerous, lengthy, or complex, then the committee may report the bill as an amended bill, but usually reports it as a substitute bill. When reported as a substitute bill, the prefix "Sub." is added to the bill's number. The LSC staff person who is assigned to follow a particular bill in committee prepares all substitute versions of that bill for the committee, whether they are for consideration by the committee during its deliberations on the bill or are for the committee's report to the appropriate house. If the committee reports a substitute bill, the text of the changes will not appear in the *Journal*. The *Journal* entry simply will indicate that the committee has reported the bill as a substitute bill. To determine the changes made by the committee, a member will need to compare the

text of the bill referred to the committee with the text of the substitute bill reported by the committee.

## Subcommittees

The chairperson of a committee may decide that a bill is very complex and would require too much time for consideration by the full committee. The chairperson then may designate a few members of the committee to serve on a subcommittee to consider the bill while the full committee goes ahead with other business.



A subcommittee proceeds in much the same manner as the full committee. It may hold hearings on a bill and vote for it, with or without amendments, vote against it, or propose a substitute bill. After the subcommittee has finished its deliberations, it reports its findings and recommendations to the full committee. Members of the full committee then vote on whether to accept the subcommittee's report. If the vote is favorable, the question then is on the disposition of the bill as reported by the subcommittee. If the full committee chooses not to accept the subcommittee's report, the chairperson may decide either to appoint another subcommittee or simply proceed with the bill as though the subcommittee had not been appointed.

## Committee Reports

When a committee completes its deliberations on a bill, it votes to take one of the courses of action described earlier. If the committee reports the legislation back to the full membership of the house, it issues a committee report. Along with a signature page containing the signatures of all committee members who voted for or against the measure, the report consists of the bill with any amendments attached to it, or if a substitute bill was reported, the new version of the bill. The report must

be filed with the Clerk. The bill then goes to the Rules and Reference Committee of the House or Senate for consideration of possible floor action.

## Committee Chairperson

The committee chairperson exerts substantial influence over proposed legislation assigned to the committee. The chairperson determines the agenda of the committee, presides over the hearings, maintains order, puts issues before the committee for consideration, determines if and when the committee will vote on a bill, and directs the clerical work of the committee.

## Discharging a Committee of Further Consideration of a Bill

Once a bill has been assigned to a committee, it cannot be considered by the full house until the committee reports it back to the house. The only way the membership can take action on a bill that has not been reported is to relieve the committee of further responsibility for it. Under the rules of both houses, a member of the appropriate house may file with the Clerk a motion to discharge the committee of further consideration of a bill that was referred to that committee at least 30 calendar days previously. The motion must be signed by a majority of the members of the appropriate house. Only one such motion may be entertained for each bill.

According to Senate Rules, each member who signs the motion must do so in the presence of the Clerk or one of the Clerk's assistants. Under House Rules, the Clerk or an assistant of the Clerk must confirm with the office of each member who signed the discharge motion that each member intended to sign the motion. After a majority of House members sign the motion, the bill must be considered at the next House session at which bills are given third consideration.

## Floor Action: Third Consideration

The House and Senate Rules and Reference Committees operate much like a traffic controller. Their function is to select from the many bills reported by the standing committees those that will be scheduled for floor debate and a vote by the full house. The chairperson of the House Rules and Reference Committee usually is the Speaker of the House or a leader within the majority caucus. The chairperson of the Senate Rules and Reference Committee is the President of the Senate.

When the Rules and Reference Committee schedules a bill for floor debate and a vote, it places the bill on the *Calendar* above a black line. The bill at this point receives its third consideration — floor action. On third

consideration, bills may be amended, laid on the table, referred back to a committee, postponed, approved, defeated, reconsidered, or acted on in several other ways as specified in the rules of each house. Bills listed below the black line on the *Calendar* have not yet been scheduled for a floor vote.

When a member seeks to speak on an issue during a floor session, the member rises and addresses the presiding officer. When more than one member rises at the same time, the presiding officer names the member who is given permission to speak. Members should avoid reference to personalities in their comments and confine their remarks to the question under debate. House and Senate Rules may contain limitations on the amount of time and how often a member may speak during floor debate on bills. Members in both houses are normally permitted to quote or read from books or other materials during the time they are speaking.

The rules of parliamentary procedure also govern actions on the House or Senate floor. The various procedures and requirements of parliamentary debate are beyond the scope of this *Guidebook*. However, the Legislative Glossary and the House and Senate Committee and Floor Guides in Appendix F of this *Guidebook* contain basic definitions of and votes needed for several routine motions and questions used in parliamentary procedure. It should be noted that these are not all-inclusive and that other motions and questions also are used in parliamentary procedure. Complete understanding of the use of certain motions and comprehension of when those motions are in order or out of order require reference to the rules of the particular house and to the specific parliamentary procedure manual designated in those rules.

### Roll Call

Most votes taken in the House of Representatives are recorded electronically. Results are registered at the Clerk's desk and on listings of members on the walls of the chamber. The Senate continues the tradition of calling the roll aloud.

### Action in the Second House

When a bill is passed by the first house, it is forwarded to the second house where it undergoes essentially the same process of introduction, referral to committee, committee hearings, and floor action. The second house may take no action on the bill, pass the measure without change, amend it, prepare a substitute bill, indefinitely

postpone it, or defeat it just as with bills originating in that house.

## Resolving House-Senate Differences

### Concurrence in Changes

If the second house adopts a bill in any version other than that adopted by the first house, the bill is returned to the first house for concurrence with the changes. If changes in committee in the second house were adopted as amendments and a substitute bill was not prepared, the amendments must be printed in the *Journal* of the originating house. All floor amendments also must be printed in the *Journal*.

The question of concurrence in the changes adopted by the second house is considered during a floor session in the originating house. The members must vote either to concur or not to concur; they cannot propose additional changes. The same number of votes is required for concurrence as was required to pass the measure originally. If the originating house concurs in the changes made by the second house, the bill is enacted. If it does not concur, it must send a formal notice to the second house that it will not accept the changes made by the second house. The second house may recede from its amendments, which has the effect of passing the bill in the form adopted by the originating house, or it may insist on its amendments. If it insists on the amendments, either house may call for a committee of conference, but usually it is the second house that does so. On rare occasions, the second house will adhere to its amendments, thereby precluding a conference committee and effectively killing the bill.

### Conference Committee

A conference committee generally consists of three members from each house appointed respectively by the Speaker of the House and the President of the Senate. The chairperson of the conference committee is the first named member of the members appointed from the house in which the bill originated. A conference committee may consider amendments pertinent to the bill and include amendments in its report if the amendments relate exclusively to the original matters of difference between the houses. If the members of a conference committee are unable to reach an agreement, subsequent conference committees may be appointed.

If the conference committee members resolve the differences between the two versions of the bill, the committee issues a conference committee report. The report contains a listing of the changes that resolved the differences, written in the style of amendments. To be

Majority Rules		
Type	Minimum Number of Votes Required	
	Senate	House
<b>Majority (or simple majority)</b> (the next whole number that is over 1/2 of the membership of the House or Senate)	17	50
<b>3/5 majority</b> (the next whole number that is over 3/5 of the membership of the House or Senate)	20	60
<b>2/3 majority</b>	22	66

Majority Rules	
Examples of measures that require different majorities in order to prevail	
Measure	Type of Majority
<b>Quorum</b>	Simple majority
<b>Bill</b> (without an emergency clause)	Simple majority
<b>Emergency clause</b>	2/3 majority
<b>Overriding Governor's veto</b> (except for bills needing 2/3 majority for passage)	3/5 majority
<b>Joint resolutions proposing amendments to the Ohio Constitution</b>	3/5 majority

accepted, a conference committee report must be agreed to by at least a majority of the members appointed from each house.

When a conference committee report is submitted to the House and Senate, the members of each house then must vote on whether to agree to the conference committee report. No changes to the report may be considered. The only question posed to the members of the House and Senate is whether or not to accept the report. If the membership of either house fails to ratify the agreement reached by the conference committee, that house must notify the other house of its action and may request that another conference committee be appointed. If no conference committee negotiates an agreement acceptable to the membership of both houses, the bill is defeated. However, if both houses approve a conference committee report, the bill is enacted.

### Signature by Presiding Officers

Once a bill is enacted, an enrolled version of the bill, or final printed copy, is prepared and signed by the Speaker of the House and the President of the Senate. At this point, the bill becomes an act and is sent to the Governor for approval or disapproval.

### Action by the Governor

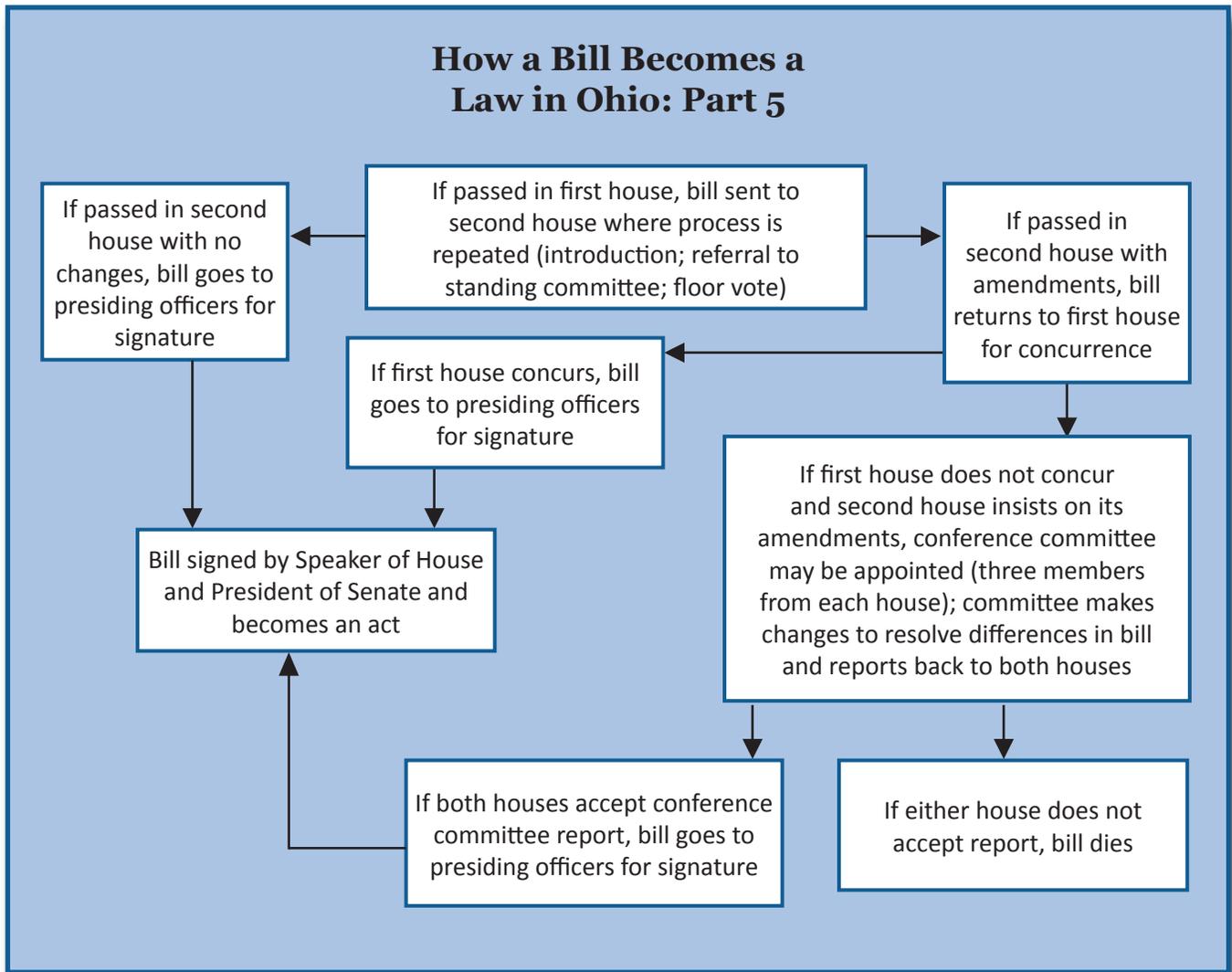
The Ohio Constitution requires that each act passed by the General Assembly be presented to the Governor for approval before it becomes law. If the Governor approves, he or she signs the act, whereupon it becomes law and is filed with the Secretary of State. If the Governor

fails to sign the act or to return it with a veto within ten days after receiving it (Sundays excluded), it becomes law as if it had been signed.

The Governor does not have a “pocket veto,” as does the President of the United States. If Congress adjourns within ten days after presenting an act to the President and the President has neither signed the act nor returned it to Congress, the act does not become law. In Ohio, if the General Assembly, by its adjournment, has prevented an act's return, the act becomes law unless, within ten days after the General Assembly's adjournment, it is vetoed by the Governor and filed with the Governor's objections in the office of the Secretary of State.

As noted, the Governor may disapprove any enactment of the General Assembly. In addition, the Ohio Constitution authorizes the Governor to disapprove items in any act containing appropriations. If the Governor so acts, the disapproved act or item does not become law unless the General Assembly overrides the Governor's veto.

Upon vetoing an act or a part of an appropriation act, the Governor must return it to the originating house along with written objections. That house must publish the objections in its *Journal* and may reconsider the bill notwithstanding the Governor's veto. If three-fifths of the members vote to override the veto, the act is sent to the second house, again with the Governor's written objections. The second house also must decide whether or not to override the veto. If three-fifths of the members of that house vote to override the veto, the act becomes law in spite of the Governor's objections. The exception



to the three-fifths requirement covers such matters as emergency measures and court bills that originally required a two-thirds majority for passage. In those cases, the same extraordinary majority vote is required to override a veto.

After these steps are completed, the act is filed with the Secretary of State. The Secretary forwards the act to the LSC Director for approval of the Revised Code section numbers. Finally, the act is returned to the Secretary of State to be filed permanently.

### Effective Date

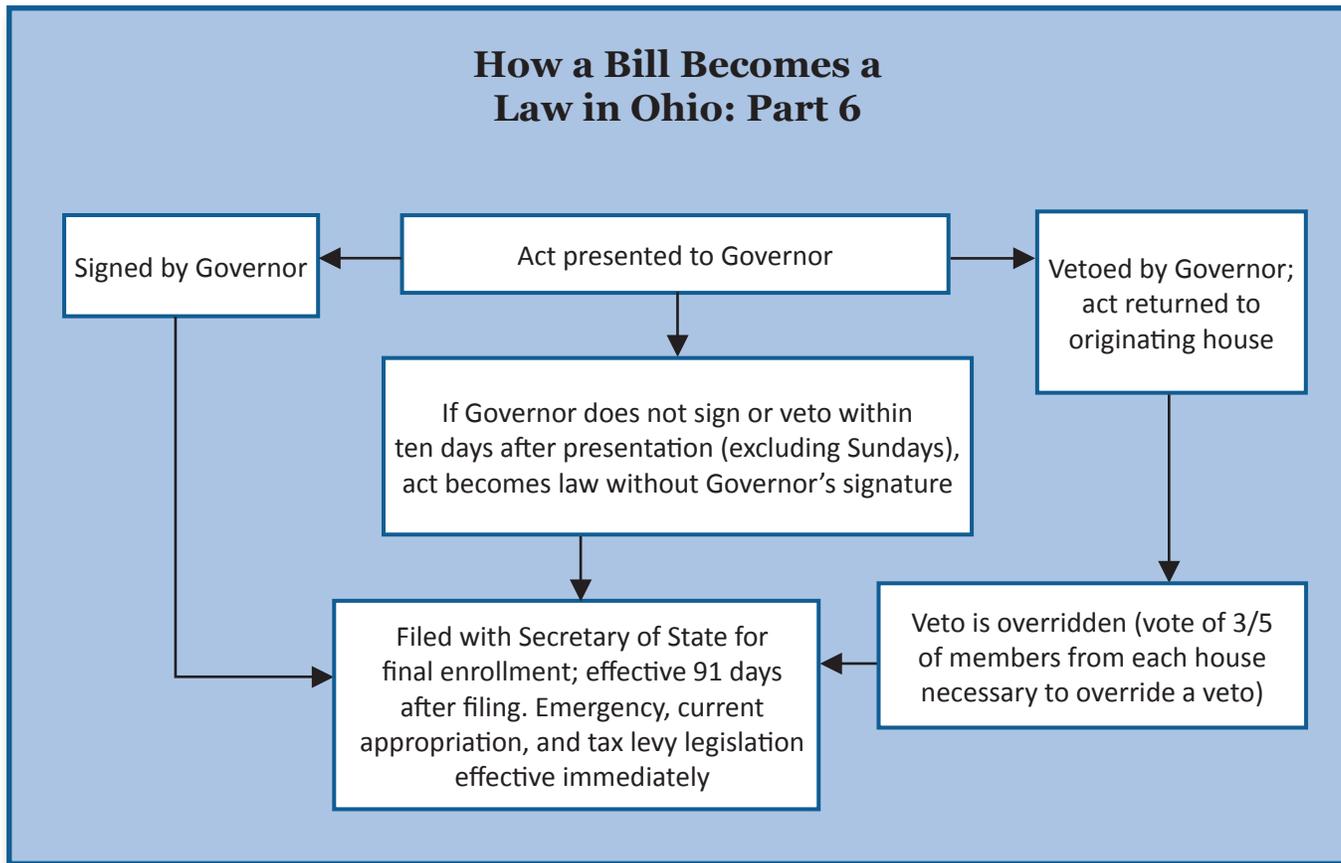
The Ohio Constitution requires that 90 full days elapse before a law goes into effect in order to permit any possible referendum petition to be circulated and filed by the electorate. This makes the normal effective date of a law the 91<sup>st</sup> day after its filing with the Secretary of State. However, the Constitution also stipulates that appropriations for the current expenses of state government, tax levies, and

emergency laws necessary for the immediate preservation of the public peace, health, or safety go into immediate effect and are not subject to the referendum.

### Appropriations

Section 1.471 of the Revised Code expands on the constitutional provision regarding the effective date of appropriations for current expenses by adding that a provision of law, in an act that contains an appropriation for current expenses, also takes immediate effect. The referendum does not apply if the provision of law is an earmark of an appropriation for current expenses or the provision's implementation depends on an appropriation for current expenses. The statute states that the General Assembly is to determine which sections go into immediate effect. However, the constitutionality of R.C. 1.471 has been called into question, although not explicitly overruled, by the Ohio Supreme Court.

## How a Bill Becomes a Law in Ohio: Part 6



### Tax Levies

Section 1.471 of the Revised Code deals with the effective date of appropriations only, not with acts that provide for tax levies. “The Ohio Supreme Court has held that for a tax-related law to be exempt from the referendum requirement, and thus go into immediate effect, the law must actually provide for a tax levy and be self-executing. A law that merely relates or pertains to a tax is subject to the 90-day effective date requirement. Based on prior decisions by the Ohio Supreme Court, it appears that if an act contains both an “actual, self-executing levy” and other provisions, the levy portions will go into effect immediately upon the Governor’s approval and the other provisions, subject to the right of referendum, will take effect 91 days after filing.”

### Emergency Laws

The Constitution requires that an emergency law include a separate section setting forth the nature of the emergency. This separate section, generally called an “emergency clause,” must be voted on with a separate roll call. Both the emergency clause and the law as a whole must receive the affirmative vote of two-thirds of the members of each house. An emergency clause is drafted in accordance with constitutional guidelines and is an uncodified section of law.

### Delayed Effective Dates

Occasionally, the members of the General Assembly want a law or certain sections of a law to take effect sometime after the constitutionally established effective date. In such situations, the General Assembly can enact an uncodified section of law specifying the desired later effective date.

### Legislative Publications

Various publications are available to assist members in the legislative process.

### Bill Analysis

The Legislative Service Commission’s Office of Research and Drafting (ORD) staff prepare a detailed description of each bill that is scheduled for a hearing in committee. This bill analysis is updated as the bill moves through the legislative process. An analysis usually is easier to understand than the bill itself because it is a summary of the bill that is written in narrative style and organized by topic, with the bill’s key provisions described first.

A bill analysis does not present arguments for or against a bill, nor does it discuss any political implications of passing or defeating a bill. However, because it

contains an impartial and nonpartisan description of a bill's contents, it is useful in understanding the bill.

## Fiscal Note and Local Impact Statement

The Legislative Service Commission's Legislative Budget Office (LBO) staff are required to prepare a fiscal note prior to a vote on a bill in the first committee, generally for the second hearing. The fiscal note is updated for a floor vote in the first house and before any committee and floor votes in the second house. Fiscal notes contain estimates of a bill's revenue or expenditure implications for the state and local governments. As with bill analyses, the purpose of fiscal notes is to provide impartial information to legislators.

State law also requires LBO staff to make a local impact determination for every bill that is introduced and referred to committee, except major appropriations bills. If the staff determine that a bill could result in a net additional cost to school districts, counties, townships, or municipal corporations, a local impact statement must be prepared within 30 days after the bill is scheduled for its first hearing in the committee in the house in which it was introduced or within 30 days after the chairperson of that committee requests it. In practice, the fiscal note and local impact statement are combined in one document.

The law requires a local impact statement to contain the most accurate estimate possible of any net additional cost to local governments. A bill for which a local impact statement is required cannot be voted out of committee until the committee members have received the statement or, if the bill was amended by the committee, a revised statement unless the bill is voted out by a two-thirds vote of the membership of the committee.

## Synopses

When a bill or joint resolution proposing a constitutional amendment is returned to the originating house for concurrence, ORD staff prepare a synopsis of amendments adopted by a committee in the second house. The synopsis is made available to each member of the first house. (Floor amendments adopted in the second house are not included in the synopsis. The appropriate clerk is responsible for providing copies of any floor amendments to specified members of the first house at the time of that vote.) True to its name, a synopsis of committee amendments is a brief document. The changes adopted by a committee in the second house are presented in their order of importance and are not explained in detail.

Additionally, whenever a committee or subcommittee notice indicates that a substitute bill is

to be offered in a House committee or a subcommittee for consideration, the House Rules require that ORD staff prepare a comparative synopsis that summarizes each substantive difference between the substitute bill and the preceding version of the bill. LBO staff also must prepare an updated fiscal note that summarizes the difference in fiscal impact between the two versions of the bill. Both the synopsis and updated fiscal note must be made available to the committee before the committee or subcommittee considers the substitute bill unless the committee or subcommittee chairperson or the sponsor of the substitute bill orders otherwise. For a conference committee report, House Rules require LSC staff to prepare a synopsis of conference committee recommendations. The Senate Rules do not contain a requirement that such synopses be prepared.

## Status Report of Legislation

Members of the General Assembly may easily determine how far along a bill or resolution is in the legislative process. The status of an individual bill or a resolution introduced in the current legislative session is available on the General Assembly's website (<https://www.legislature.ohio.gov/legislation/search>). The status link for an individual bill or resolution appears after opening the bill record. The information on the status link includes the action taken (for example, introduction, referral to committee, or passed), the committees to which the bill or resolution has been referred, and the dates of any legislative action.

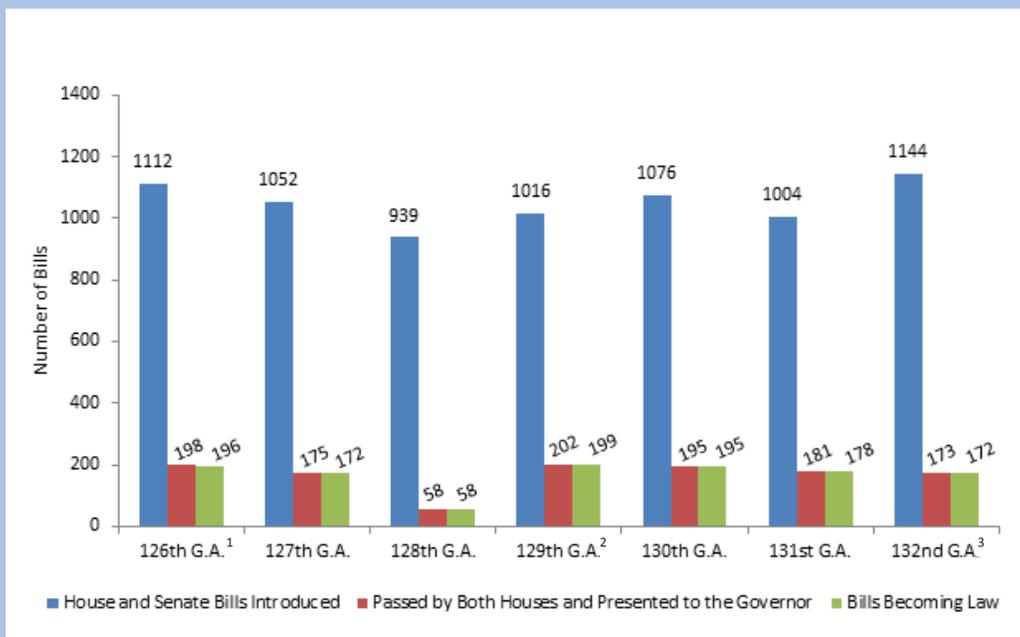
The Status Report for the current General Assembly that includes all bills, joint resolutions, and concurrent resolutions can be found at the Legislation link on the General Assembly's website (<https://www.legislature.ohio.gov/legislation/status-reports>). Also available at this site are final status reports for past General Assemblies (1983-2018). Earlier status reports are available in the LSC library.

## Journal

The House and Senate *Journals* are records of the activities of the two houses. They are prepared by the House and Senate Clerks' offices following each daily session and are available at the Session link on the General Assembly's website (<https://www.legislature.ohio.gov/session/journals>).

All roll call votes are recorded in the *Journal*. Similarly, copies of some resolutions, committee reports, floor amendments, and official messages from the other house are printed in the *Journal*. However, floor speeches and transcripts of oral debate are not included in the *Journal*. (Video archives of voting sessions are available in their

## Calculating the Odds



<sup>1</sup>Three bills enacted by the 126<sup>th</sup> General Assembly were vetoed. The General Assembly overrode one of the vetoes, and the Ohio Supreme Court declared another veto to be invalid. A fourth bill, H.B. 694, although not vetoed, was invalidated by the 10<sup>th</sup> District Court of Appeals in April 2009.

<sup>2</sup>The Governor vetoed one bill, the voters rejected another in a referendum vote, and one was repealed before it took effect.

<sup>3</sup>The Governor vetoed four bills, and the General Assembly overrode three of the vetoes.

entirety online at [www.ohiochannel.org](http://www.ohiochannel.org) or links on the House and Senate websites. For more information about the Ohio Channel, see Chapter 10.) *Journals* from past General Assemblies are available in the LSC library.

### Calendar

The Clerk of each house has a *Calendar* prepared for its members before the opening of a voting session. The *Calendar* contains the agenda for the day as well as a listing of all bills favorably reported by standing committees. The House and Senate *Calendars* are available online on the House website ([www.ohiohouse.gov](http://www.ohiohouse.gov)) and Senate website ([www.ohiosenate.gov](http://www.ohiosenate.gov)).

In both the House and the Senate, the *Calendar* indicates bills for third consideration, concurrence votes on bills returning from the second house, and special orders of the day. The *Calendars* also may show other business or information relating to the functions of the houses that the presiding officers wish to bring to the attention of the membership.

Each *Calendar* lists, below a prominent black line, all bills that have been recommended for passage by standing committees but that have not yet been scheduled by the House or Senate Rules and Reference Committee for a floor vote. These bills are listed in this section of the *Calendar* until scheduled for a floor vote, at which time they will appear above the black line. Accordingly, the daily agenda involves only those matters listed above the black line on the *Calendar*. In both houses, when no vote is taken on a bill that is scheduled for third consideration that day, it is carried over to the next voting session and retains its place on the *Calendar* above the black line.

### Final Analysis and Fiscal Note

When a bill is enacted, LSC staff prepare a final analysis and fiscal note and local impact statement of the act. The final analysis and fiscal note and local impact statement describe and analyze the bill as enacted, reflecting any changes made on the floor of the second house or in conference committee. Both are prepared as quickly as possible after a bill's enactment.

## ***Digest of Enactments***

ORD staff edit all final analyses and convert them to digest form. The digests are compiled and published in a Digest of Enactments. This publication is prepared annually at the end of each year and contains a brief summary of each bill enacted during that year, including those that were vetoed by the Governor. Editions published prior to the 121<sup>st</sup> General Assembly were in a different format entitled the Summary of Enactments.

## ***Bulletin***

The Senate Clerk is responsible for compiling the *Bulletin*, a publication that contains various types of legislative information relating to both houses. The *Bulletin* lists in numerical order all bills and resolutions introduced in either house. It includes a short description of each bill or resolution followed by a summary of the actions taken during its progress through the legislative process. The *Bulletin* also provides cross-references to the *Journal*. For example, if a bill is amended, the *Bulletin* refers to the date and page of the *Journal* where the amendment may be found.

At the back of both the House and Senate sections of the *Bulletin* is a list of the House and Senate members, as appropriate, along with the bill and resolution numbers of legislation each member sponsored or cosponsored. Also listed are sections of the Ohio Constitution and the Revised Code affected by resolutions and bills that were introduced during the period covered by the *Bulletin*. In addition, the *Bulletin* lists special legislative committees and the members appointed to those committees. Finally, the *Bulletin* contains a subject matter index of all bills to assist in locating legislation by specific topics. *Bulletins* are available in the LSC library.

## ***Laws of Ohio***

The Secretary of State is required by statute to publish the session laws, known as *Laws of Ohio*, in a paper or electronic format at the end of each biennial session of the General Assembly. This is a compilation or list of all acts passed by that particular General Assembly. The acts appear in numerical order and in act form. They are available on the Secretary of State's website (<https://www.sos.state.oh.us/legislation-and-ballot-issues/laws-of-ohio>). *Laws of Ohio* is the only official publication of the enactments of the General Assembly.

Checking historical legislation is especially useful if a member is attempting to learn how earlier acts affected a particular section of the Revised Code or what the exact changes were in an act from a previous General Assembly.

The General Assembly website (<http://archives.legislature.state.oh.us/>) posts acts beginning with the 122<sup>nd</sup> General Assembly with links to related legislative documents. In addition, bound volumes of *Laws of Ohio* for past General Assemblies through the 126<sup>th</sup> General Assembly (2005-2006) are available in the LSC library.

## How a Bill Becomes a Law in Ohio

