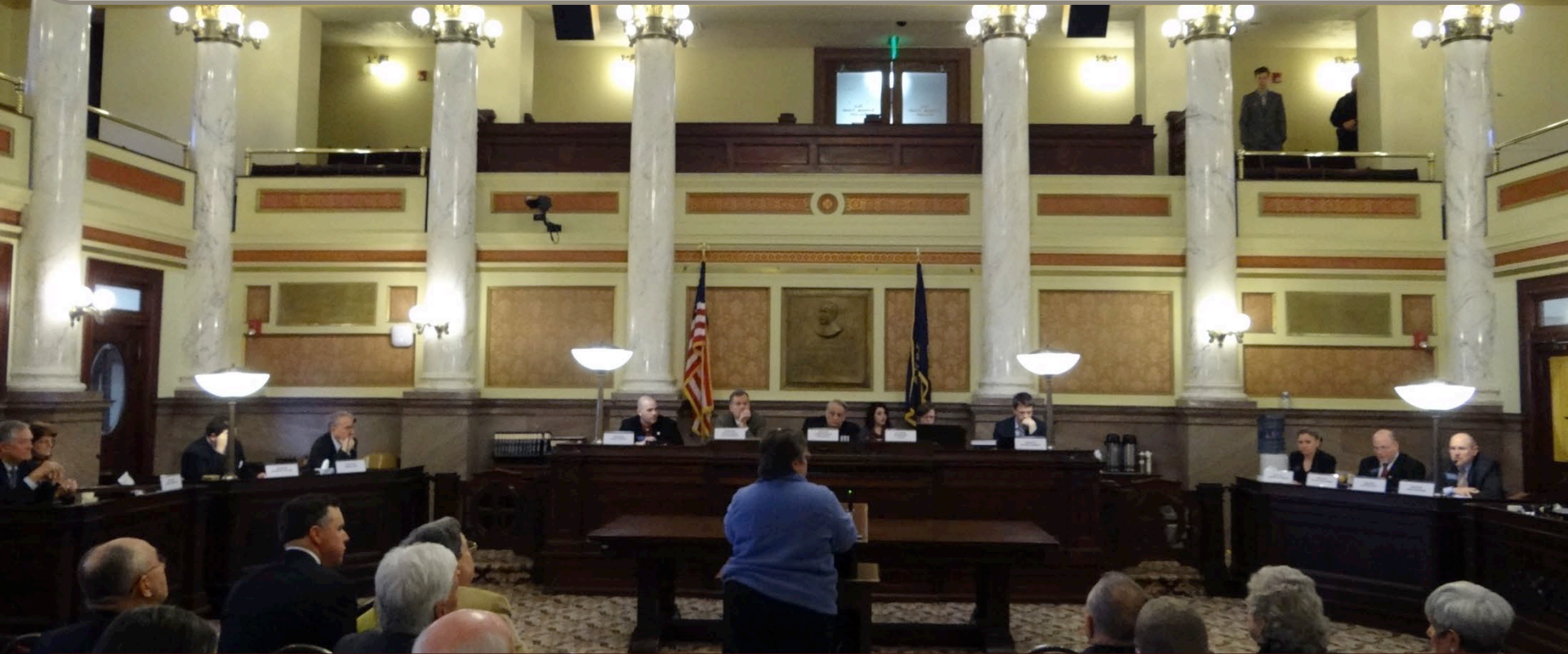


Legislative Rules: Committee Rules and Procedures



Legislative Rules Training
January 26, 2022

Rules, Rules, Rules



Why we have rules ...

Rules, Rules, Rules

Think in terms of principles first, details will follow.

Unless constitutionally or statutorily prescribed, failure of the legislature to comply with its own adopted rules does not invalidate the actions of the legislature. The legislative process is a self-healing process.

Navigation Tools:

- Rules Booklet – Tab it!
- Internet
- PDF Files
- MCA Folios – search constitution and statutes
- Mason's
- Take two aspirin and call me

Role of Committee: Where the Policy Rubber Meets the Road

- If you ever live in a country run by a committee, be on the committee. *William Graham Sumner*
- Primary forum for participation by citizens in the legislative process.
- Members review, analyze, and make recommendations on the disposition of bills.
- Opportunity for citizens to observe the workings of representative democracy.

General Principles on Committees (Mason's)

- The committee must have the authority to take the action it purports to take.
- There must be a meeting of the committee.
- Proper notice of the meeting must be given to all members and the public.
- There must be a quorum present at the meeting.
- There must be a question before the group upon which it can make a decision.
- There must be opportunity to debate the question.

General Principles on Committees (Mason's) – Continued

- The question must be decided by taking a vote.
- There must be a majority vote to take an action or decide a question.
- There must be no fraud, trickery, or deception resulting in injury to any member.
- To be valid, any action or decision of a body must not violate any applicable law or constitutional provision.

Sources of Committee Rules

- Constitutional provisions – examples:

- Article V, Sec. 10:

- Section 10. Organization and procedure. (1) Each house shall judge the election and qualifications of its members. It may by law vest in the courts the power to try and determine contested elections. Each house shall choose its officers from among its members, keep a journal, and make rules for its proceedings. Each house may expel or punish a member for good cause shown with the concurrence of two-thirds of all its members.
- (2) A majority of each house constitutes a quorum. A smaller number may adjourn from day to day and compel attendance of absent members.
- (3) The sessions of the legislature and of the committee of the whole, all committee meetings, and all hearings shall be open to the public.
- (4) The legislature may establish a legislative council and other interim committees. The legislature shall establish a legislative post-audit committee which shall supervise post-auditing duties provided by law.
- (5) Neither house shall, without the consent of the other, adjourn or recess for more than three days or to any place other than that in which the two houses are sitting.

Sources of Committee Rules

- Constitutional provisions – examples:
- Section 11. Bills. (1) A law shall be passed by bill which shall not be so altered or amended on its passage through the legislature as to change its original purpose. No bill shall become law except by a vote of the majority of all members present and voting.
- (2) Every vote of each member of the legislature on each substantive question in the legislature, in any committee, or in committee of the whole shall be recorded and made public. On final passage, the vote shall be taken by ayes and noes and the names entered on the journal.
- (3) Each bill, except general appropriation bills and bills for the codification and general revision of the laws, shall contain only one subject, clearly expressed in its title. If any subject is embraced in any act and is not expressed in the title, only so much of the act not so expressed is void.
- (4) A general appropriation bill shall contain only appropriations for the ordinary expenses of the legislative, executive, and judicial branches, for interest on the public debt, and for public schools. Every other appropriation shall be made by a separate bill, containing but one subject.
- (5) No appropriation shall be made for religious, charitable, industrial, educational, or benevolent purposes to any private individual, private association, or private corporation not under control of the state.
- (6) A law may be challenged on the ground of noncompliance with this section only within two years after its effective date.

Sources of Committee Rules

- Constitutional provisions – examples:
- **Article II, Section 8. Right of participation.** The public has the right to expect governmental agencies to afford such reasonable opportunity for citizen participation in the operation of the agencies prior to the final decision as may be provided by law.
- **Article II, Section 9. Right to know.** No person shall be deprived of the right to examine documents or to observe the deliberations of all public bodies or agencies of state government and its subdivisions, except in cases in which the demand of individual privacy clearly exceeds the merits of public disclosure.

Sources of Committee Rules

- Statutes – examples:
 - All of Title 5, MCA, on the Legislative Branch
 - Ethics requirements (2-2-112 & 2-2-135, MCA)

Sources of Committee Rules (Continued)

- Adopted rules: Joint, Senate, and House
- Custom, usage, and precedents
- Adopted parliamentary authority
 - Mason's Rules of Legislative Proceedings (2010)

Rules on Presiding Officers of Committees

Duties (Generally):

- Responsible for maintaining order within the committee room.
- Scheduling hearings and executive action.
- Supervising committee work and staff.
- Authenticating committee reports and minutes.
- Appointing subcommittees.

(Sources: H30-20, H30-40, H30-60, S30-50, S30-60, and S30-80)

Ex Officio Members

Senate: Each floor leader is an ex officio non-voting member of all committees in order to establish a quorum. (S30-40)

House: The Speaker, majority leader, and minority leader are ex officio, nonvoting members of all House committees. They may count toward establishing a quorum. (H30-30)

House Committee Meetings

- **Quorum:** A majority of the committee must be present to act officially. A quorum of a committee may transact business, and a majority of the quorum, even though it is a minority of the committee, is sufficient for committee action. (H30-30).
- **Assembly:** hearings, official action, or work session with no formal action. (H30-40)
- **Open meetings:** all committee meetings must be open to the public at all times, subject to the power and authority of the chairman to maintain safety, order, and decorum. (H30-40)
- **Notice:** date, time, and place of committee meetings must be posted. Committee shall provide for and give public notice, reasonably calculated to give actual notice to interested persons of time, place, and subject matter of regular or special meetings. All committees are encouraged to provide at least 3 legislative days notice to members of committees and the general public. However, a meeting may be held upon notice appropriate to circumstances (H30-40).

House Committee Meetings (Continued)

- Minutes: all meetings must be recorded and the transcribed minutes must be available to the public within a reasonable time after the meeting. (H30-40)
- Public Testimony: testimony from proponents, opponents, and informational witnesses must be allowed on every bill or resolution before a standing or select committee. Any person wishing to offer testimony to a committee hearing a bill must be given a reasonable opportunity to do so, orally or in writing. The presiding officer can order the hearing room cleared if there is disorderly conduct. (H30-40)
- Procedures: presiding officer must notify the sponsor of any bill pending before the committee of the time and place it will be considered. Committee may not take up referred legislation unless the sponsor or one of the cosponsors is present or unless the sponsor has given written consent. (H30-50)

House Committee Meetings (Continued)

Privileges of Committee Members:

- to participate freely in committee discussions and debate
- to offer motions
- to assert points of order and privilege
- to question witnesses upon recognition by the chair
- to offer any amendment to any bill
- to vote, either by being present or by proxy if authorized by the committee.

(Source: H30-50(15))

Senate Committee Meetings

- **Quorum:** A majority of the committee must be present to act officially. A quorum of a committee may transact business, and a majority of the quorum, even though it is a minority of the committee, is sufficient for committee action. (S30-40, also S30-40).
- **Committee Hearings:** A bill or resolution may not be considered or become a law unless referred to a committee.
- **Notice of Committee Hearings:** posting the date, time, and subject of the hearing in a conspicuous public place not less than 3 legislative days in advance of the hearing, except:
 - Prior to 3rd day of session;
 - Less than 10 days before transmittal;
 - Gubernatorial appointment; or
 - Due to appropriate circumstances (S30-60)
- **Member Privileges** – same as House Rules (S30-70)

Committee Hearings Generally,

- Opening statement by sponsor of legislation
- Public Testimony: testimony from proponents, opponents, and informational witnesses (S30-80, H30-60)
 - A person must be given a reasonable opportunity to present testimony.

Committee Hearings (Continued)

- An informational witness may provide information to the proposed legislation. Chair may determine that the witness is really a proponent or an opponent.
- Committee Questions – Subject to recognition by chair, members may ask questions related to the bill of the sponsor, witnesses, or others.

Committee Hearings (Continued)

- Closing statement of sponsor. The sponsor may waive the right.
- Closing the hearing. The chair may announce when the committee will take executive action.

Executive Action – Public Participation

- Executive session is open to public, but is not a public hearing.
- Procedures related to asking questions of observers vary by committee (usually if there is no objection from the committee).
- Committee procedural rules should have standard of fairness.

Executive Action

Committee action and recommendations on Bills

- The committee shall act on each bill in its possession by:
 - Reporting the bill out of committee:
 - With the recommendation that it be referred to another committee;
 - Favorably as to passage or unfavorably; or
 - By tabling the measure in committee. (S30-70, H30-50)
- A Committee may not report a bill to the House or Senate Floor without a recommendation.
- In the Senate and the House, at the written request of the sponsor, a committee may finally dispose of a bill without a hearing. Not so in the House. Note that a bill may not be reported out of committee without a hearing.

Executive Action--Motions

- Move do pass or concur.
- Move to amend (only one amendment motion or subsidiary motion at a time).
- Move to table (non debatable - used to dispose of bill without consideration - keeps bill that receives unfavorable recommendation from finding its way to the Committee of the Whole).
- Move to take from the table (by a majority of members present at meeting).
- Move to reconsider the committee's action (action formally taken by a committee may not be altered in the committee, except by reconsideration and further formal action of the committee).
- Substitute motion (if passed, original amendment moot; if not, move to the previous amendment).
- Dividing a question (not a motion, but a matter of right or privilege; the question is divided if it includes two or more distinct propositions that can be separated and if at least one substantive questions remains after one substantive question is removed. Nondebatable, Chair makes decision).
- Motion to segregate.
- Move the previous question or call for the question -nondebatable (closes debate -- The "I've heard enough" motion or the "We all know where this is going" motion).

Absentee Voting

- Pairs in Senate committees are not allowed, but committees may authorize senators to vote in absentia reflected in the minutes (S30-100)
- Senate and House members may vote by proxy, using a standard form or through the vice chair (S30-70(13)(f)H30-50(15))

Substitute Bill

- A committee may recommend that a bill be changed with entirely new material--must be relevant to the title and subject of the original bill.
- Strike everything after the enacting clause, substitute new material, and make necessary changes to the title.
(JR 40-120)

Committee Reports and Minutes

- A committee report must make a recommendation (H30-50, S30-60).
 - Report is printed in the daily journal.
 - Reports from standing committees are recommendations, subject to approval by Committee of the Whole.
- Committee secretary prepares minutes of meetings. The Montana Constitution (Art. V, sec. 11(2)) requires "Every vote of each member of the legislature on each substantive question in the legislature, in any committee, . . . shall be recorded and made public." (JR10-40, JR10-150)

Potpourri

- Chair decides questions of order, subject to committee appeal (S30-70 (12), H30-50 (14)).
- A House committee may recommend bill approved unanimously be placed on the consent calendar (H30-50(5)). Not permitted in the Senate.
- Committee may conduct work session without official action.

Potpourri (Continued)

- Chair may appoint subcommittee to work on bills. Rules governing committees apply to subcommittees.
- Committee Legislation:
 - Senate: to request the introduction of committee legislation, $\frac{3}{4}$ of all committee members must vote in favor of the question to allow the request to be made. (S30-120) Exception, Finance & Claims, majority vote.
 - House: to request the drafting or introduction of committee legislation, $\frac{3}{4}$ of all committee members must vote in favor of the question to allow the request to be made. (H30-50(13)) Exception, House Appropriations, majority vote.

Parting Thoughts

- Contrary to Popular Belief, Legislative Rules Have a Modicum of Logic to Them.
- Help is at your fingertips.
 - Use MT legislative rule book and searchable rules available online at leg.mt.gov.
 - Contact the Todd Everts via email at teverts@mt.gov or by phone: 444-4023.