

# Legislators' Frequently Asked Questions

(And The Answers)



**This booklet contains questions commonly asked of the Office of Legislative Legal Services by members of the General Assembly. Questions generally relate to the bill drafting function of the Office but also include information concerning Colorado statutes, the legislative process, and other services provided by the Office.**

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2012 Edition

## **Main Contact Numbers - Legislative Staff Agencies**

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Legislative Information Services. . . . .	(303) 866-5849
Office of Legislative Legal Services. . . . .	(303) 866-2045
Office of the State Auditor. . . . .	(303) 869-2800

## **Resources Available Online**

The following New Member Orientation resources prepared by the Office of Legislative Legal Services are available online at <http://www.colorado.gov/lcs> under "New Member Orientation":

- Complete Deadline Schedule for the 2013 Legislative Session
- OLLS Internal Bill Drafting Deadlines for the 2013 Legislative Session
- How a Bill Becomes Colorado Law
- Bill Titles - Single Subject and Original Purpose Requirements
- Guidelines for Releasing Documents Prepared for Members of the General Assembly
- Office of Legislative Legal Services General Overview
- Safety Clauses and Effective Date Clauses
- OLLS Guidelines for Working With Lobbyists
- Open Meeting Requirements of the Colorado Sunshine Law
- Ethics Laws and Rules for Members of the General Assembly

For numerous additional online resources prepared by the Office of Legislative Legal Services, please visit:

- The OLLS website at: [http://www.state.co.us/gov\\_dir/leg\\_dir/olls/index.htm](http://www.state.co.us/gov_dir/leg_dir/olls/index.htm)
- Colorado LegiSource Blog at: <http://legisource.net>

## **Preface**

The Office of Legislative Legal Services (OLLS) is a nonpartisan agency of the Colorado General Assembly that provides services to all 100 members.

The OLLS prepares the bills, resolutions, and memorials introduced in the General Assembly. In addition, most amendments and all conference committee reports are prepared by the OLLS. The OLLS staff is also frequently requested to perform legal research for members of the General Assembly.

Immediately after the adjournment of each legislative session, the OLLS indexes and publishes all the bills and concurrent resolutions passed during that session, together with the resolutions and memorials designated by the House of Representatives and the Senate. The OLLS then edits, collates, and revises the laws enacted each session, with annotations, and prints them each year.

The OLLS coordinates litigation involving the General Assembly, reviews every rule adopted or amended by an executive agency to determine if the rule is within the power delegated to the agency and consistent with law, and prepares written comments on initiative petition drafts.

As a part of new member orientation, the OLLS staff provides members with information relating to the bill drafting process as well as information about other services provided by our office. Because of the volume of information, the OLLS has attempted to put some of that information in this booklet, as well as some information that was not covered. The booklet uses a question and answer format consisting of questions commonly asked by members as they begin their service in the General Assembly. The booklet has been divided into sections for ease of use. Each section includes notes indicating which staff members may be called for additional help if a particular question is not answered or if additional assistance is needed.



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## Session Laws and Statutes

*What does C.R.S. stand for?*

C.R.S. stands for Colorado Revised Statutes, which is the compilation of statutory laws and nonstatutory material such as court case annotations and editors' notes. The abbreviation "C.R.S." is used for internal references in the statutes.

*What is the difference between the session laws and the statutes?*

The session laws are the official compilation of the legislation that was passed by both houses of the Colorado General Assembly and was either signed by the Governor or allowed by the Governor to become law without his or her signature during the annual legislative session. This includes bills that amend the Colorado Revised Statutes, appropriations bills that provide funding for various state agencies, institutions, and programs, concurrent resolutions that propose amendments to the State Constitution for voter approval, resolutions that establish committees composed of members of both houses or express the will of one or both houses on a particular matter, and memorials that pertain to an expression of sentiment on the death of a person who has served in some public capacity.

The Colorado Revised Statutes, on the other hand, contain all the laws of a general and permanent nature in the state.

*What is the difference between the constitution and the statutes?*

The constitution forms the basic law of the state. It establishes the legal framework of the government, delegates powers and responsibilities, and defines rights and liberties. The constitution may be amended only by a vote of the people. The statutes are more comprehensive and detailed and can be changed as needed by the General Assembly. The statutes are a collection of legislatively created laws arranged by subject.

*What is the difference between a statute and a law?*

There is no difference between a statute and a law. Members of the General Assembly pass laws

which then become part of the Colorado Revised Statutes.

*Is everything that is printed in the session laws also printed in the statutes?*

No. Only a compilation of the "general and permanent" laws amended or created and passed during the legislative session are printed in the statutes. Examples of measures not found in the statutes are resolutions, memorials, the long bill (the annual budget bill), supplemental appropriation bills, land acquisitions, and other bills that do not amend the statutes.

*Is there ever a time when you amend session laws instead of the statutes?*

Yes. In order to amend law that did not become a part of the statutes, it is necessary to amend the session laws. The long bill and supplemental appropriation bills from previous years are typically amended in succeeding years by amending the session laws. Less frequently amended items include effective dates and applicability clauses.

*When would I ever use my session laws?*

You would use your session laws to find all laws of both a permanent and temporary nature (for example: The long bill, supplemental appropriation bills) enacted at a legislative session, proposed constitutional amendments and laws referred to the people during that session, and constitutional amendments and initiated laws adopted at the general election held prior to the printing of the Colorado Revised Statutes. Most bills will show the changes made to the law in strike-type or in capital letters. You would also find most joint resolutions and certain other resolutions and memorials for a prior session.

*I've noticed that some statutes are divided into different paragraphs preceded by a "(1)" or an "(a)" or a "(I)." What do these different designations mean?*

The designations basically make up the outline of a C.R.S. section. Ordinal numbers such as (1) indicate a subsection; lower case letters such as (a) indicate a paragraph; Roman numerals such as (I) indicate a subparagraph; and capital letters such as (A) indicate a sub-subparagraph.

*Does every bill have to amend a statute that is in the C.R.S.?*

While there are some bills, such as the rule review bill and appropriations bills, that do not amend a statute in the C.R.S., any bill whose purpose is to make a change to existing law must either amend or repeal current statutes or enact new ones.

*What information is provided in an editor's note and a cross reference?*

Editor's notes clarify or give information about provisions of law that might not otherwise be obvious to the reader. Such information can include how an act or acts affect the statutory provision, when the provision takes effect, to what the provision applies, how to find amendments to the provision prior to its repeal, and why the provision appears differently in the statutes than it does in the session laws. Cross references refer readers to other Colorado statutes, the session laws, constitutional provisions, or federal laws or regulations that relate to the statutory provision.

*What is a source note?*

A source note shows the legislative history of a C.R.S. section. The source note is located immediately after the text of the section and is arranged chronologically. The source note identifies the years in which a section was amended as well as the page of the session laws and the section of the act in the session laws where each such amendment to that C.R.S. section can be found.

*What are case annotations?*

Case annotations are brief summaries of the law and facts of state and federal court decisions construing, interpreting, or applying the constitution, statutes, or court rules. They are intended to illustrate or explain the meaning of a constitutional or statutory provision or court rule.

*For additional information on the session laws and C.R.S., contact Jennifer Gilroy, Revisor of Statutes, Kathy Zambrano, OLLS Publications Coordinator, or any other member of the OLLS Publications Team. Written information on how to access legislative information through the session laws, digest, and C.R.S. may also be found in the "The Colorado General Assembly's Official Website" brochure produced by the OLLS, but.*



## Other OLLS Services

### Legal Research and Other Information

*What if I need some legal research?*

The OLLS staff can conduct legal research for legislators. These services range from an "off the cuff" verbal response to a fully researched, written legal memo reviewed by senior staff. Pursuant to statute, §2-3-505, C.R.S., a legal memo is considered work product and its confidentiality will be maintained. However, a legal opinion can be released if the legislator waives the work product privilege.

*If I request a research project, will it be assigned to a team like my bill request is?*

If the research project is not too involved, the OLLS administrative staff may handle the project. If the research is more extensive, the project will generally be assigned to the appropriate subject matter team.

*What are the confidentiality protections for materials that are not legal opinions?*

Sometimes the OLLS prepares handouts or charts of factual information for a legislator. Under the confidentiality statutes, the final versions of documents containing factual data that are not prepared as a part of a bill request or an amendment or a legal opinion are considered public records and may be released by the OLLS staff. However, a legislator may request that these documents remain work product pursuant to section 2-3-505 (2) (e), C.R.S., in which case the OLLS staff will not release them.

*What other information can I get from the OLLS?*

Legislators often ask the OLLS for the following materials:

- A list of their bill requests
- Court opinions
- Access to past legal memos that are not considered work product by the legislator who originally requested the memo
- Computer word searches of statutes
- Memos of a general nature concerning the legislative process
- Suggested State Legislation (a publication of the Council of State Governments)
- Legis Briefs (short research briefs on topics prepared by the National Conference of State Legislatures (NCSL) with an emphasis on how different states approach different issues)

→ Portions of the House and Senate Journals

*What if I need help explaining my bill?*

The drafter of the bill is available to help you in explaining the bill after it is introduced. Upon request, the drafter can provide written materials, such as a brief, objective explanation of the bill or any amendments to the bill, a side-by-side comparison of bills on the same topic or a comparison of the bill to current law, or an unofficial version of the bill that merges the amendments with the original bill.

Sometimes legislators ask a drafter to help explain the bill in committee. Drafters are available to give objective explanations of a bill or answer technical questions; however, the drafter cannot reveal confidential conversations with a bill or amendment sponsor and cannot advocate for passage or defeat of a bill or amendment.

*If you need legal research done, contact the OLLS Front Office or any OLLS attorney.*

**Constituent Questions and Legal Advice**

*What if a constituent has a question?*

The Legislative Council Staff has a unit that answers constituent questions and most requests can be referred to them.

The OLLS staff may be able to answer constituent questions of a general nature about Colorado law. The OLLS staff, however, cannot provide legal advice to a constituent. Where appropriate, the OLLS will refer questions from the public to the appropriate agency in state government or to legal agencies or bar associations that provide legal advice, such as Legal Aid, Thursday Night Bar, etc.

*What constitutes legal advice?*

Legal advice consists of applying the law to a specific set of facts. Legal advice would include such things as telling a person how a statute applies to them directly, how to file a case, whether the circumstance they are facing would give them grounds to file a law suit, or what steps they should take to resolve a legal matter. As mentioned above, the OLLS staff cannot give legal advice to a constituent. If it appears that the person may have a matter requiring legal advice, the OLLS will suggest that he or she consult with an attorney.

*For additional information on constituent services, contact Susan Liddle with the Legislative Council Staff or any OLLS staff attorney.*

### **Review of State Agency Rules**

*Someone has contacted me about a state agency rule that they do not like. What should I do?*

The OLLS performs a legal review of every new or amended rule adopted by a state agency, board, or commission to determine if the entity has exceeded its statutory authority or if the rule is in conflict with a state law. However, the review does not address whether the rule is good or bad policy. The OLLS works with the entities to resolve rule issues and takes any rules found to have problems to the Committee on Legal Services for its review. The Committee sponsors a bill each year with its recommendations of which rules should expire because they are not authorized or conflict with state law.

In addition to this process, you may request the OLLS to review a particular state agency rule to see if it is authorized or conflicts with state law.

*For additional information on the rule review process, contact Debbie Haskins, OLLS Assistant Director, or Chuck Brackney, OLLS Senior Staff Attorney.*

### **Member Subpoenas/Service of Process**

*I have been served with a subpoena or a summons and complaint in a case that involves my legislative duties. What should I do?*

You should notify the OLLS immediately. If appropriate, the Committee on Legal Services will be consulted about whether legal counsel should be retained to represent you or the entity on behalf of which you have been served. Generally, legislators are protected from testifying in court on matters relating to their legislative duties. Due to the short time frame for response, in some instances the legal staff of the OLLS may enter an appearance on behalf of the legislator to attempt to get the action dismissed on grounds of legislative immunity.

*For additional information, contact Dan Cartin, OLLS Director, Sharon Eubanks, OLLS Deputy Director, or Jeremiah Barry or Bob Lackner, OLLS Senior Attorneys.*

## **Initiative Petitions**

*What does the OLLS do on initiatives?*

The OLLS participates in the review-and-comment process for proposed ballot initiatives. However, the OLLS has no statutory authority to draft initiative measures for the proponents of initiatives nor to edit, approve, or reject any initiated measure. Sometimes legislators participate in the initiative process as proponents or as consultants to proponents.

Recognizing the conflict of interest issues involved in having drafters prepare initiative language for legislators, the Committee on Legal Services has adopted a policy that a member of the General Assembly should not ask the OLLS staff to provide drafting assistance for an initiated measure. The OLLS does draft measures that the General Assembly refers to the voters.

*For additional information on the initiative process, contact the Legislative Council Staff or any OLLS staff attorney. Written information on the initiative process and initiative rules adopted by the Legislative Council may be found on the Legislative Council web page (within the "Service Agencies" section of the General Assembly's public home page) under "Ballot & Blue Book" or under "Ballot Issues" within the "General Legislative Information" section of the General Assembly's public home page.*

# The Legislative Process

## Explanation of Process

*Can you provide me with a brief explanation of the steps my bill will go through from beginning to end?*

For your bill to become law, it must jump through many "hoops" along the way. As the prime sponsor, you will be guiding your bill through the "hoops" in the house of introduction while your opposite house prime sponsor will take over when the bill gets to the opposite house. The following is a short explanation of the "hoops."

## House of Introduction

✓ **Committee of Reference** → When your bill is introduced, it is assigned to a committee of reference (or maybe two). During the committee hearing, you or any other legislator who sits on the committee may offer amendments to your bill. After a hearing, for your bill to continue on, it must be referred out of the committee favorably to another committee of reference, to the Appropriations Committee, or to the Committee of the Whole (COW). The committee of reference may recommend that your bill be referred as amended by the committee.

✓ **Appropriations Committee** → Your bill may have been assigned to the Appropriations Committee when introduced or referred to appropriations by the committee of reference if the fiscal impact of the bill requires that it go to appropriations. During the committee hearing, you or any other legislator who sits on the committee may offer amendments to your bill. To continue, the Appropriations Committee must refer your bill out favorably to the COW. (Under some circumstances, the Appropriations Committee may "rerefer" a bill back to a committee of reference where the process above is repeated.) The Appropriations Committee may recommend that your bill be referred as amended by the committee.

✓ **COW (Second Reading)** → Your bill must pass on second reading. The amendments recommended by the committee of reference and appropriations (if applicable) will be considered as well as floor amendments offered by individual members.

✓ **Third Reading and Final Passage** → Your bill must pass on third reading. Generally, only technical amendments are offered on third reading.

**Opposite House** - Same as above

- ✓ **Committee of Reference**
- ✓ **Appropriations Committee**
- ✓ **COW (Second Reading)**
- ✓ **Third Reading and Final Passage**

**Return to House of Introduction**

✓ **If there were no amendments in the opposite house** → Your bill will

be sent to the Governor.

✓ **Consideration of opposite house amendments -- 3 options**

**1) Amendments accepted and bill repassed** → If you recommend that your colleagues accept the opposite house amendments, you need them to vote to concur with the opposite house amendments. If the first motion passes, you need to make a second motion to repass the bill. If the second motion also passes, the bill is sent to the Governor.

**2) Amendments rejected and house of introduction adheres to its position** → If you are not in favor of the amendments and do not want to try to compromise on changes, you can have the house of introduction adhere to its position. If the motion to reject the amendments and adhere passes, the bill is then returned to the opposite house. If the opposite house also adheres to its position, your bill will be deemed lost. On the other hand, the opposite house can recede from its position (thereby taking its amendments off the bill) and return the bill to the house of introduction unamended. Your bill would then be sent to the Governor.

**3) Amendments rejected and conference committee requested** → If you are not in favor of the amendments but want to try to work out a compromise on changes, you can have the house of introduction reject the amendments and ask for a conference committee. If the motion to reject the amendments and request a conference committee passes, a message will be sent to the opposite house. The opposite house must accede to the request for a conference committee. *(For additional information on conference committees, see page 14.)*

### **Opposite House**

✓ **Consideration of Conference Committee Report** → Once the conference committee has come to an agreement, a report is written. The opposite house considers the report first. The report must be adopted. If the report is rejected, a second conference committee may be formed but the rejection of the second report will cause your bill to be deemed lost because third conference committees are not allowed.

✓ **Repassage of Bill** → If the conference committee report is adopted, another vote is taken to repass the bill. If that motion passes, the bill is then returned to the house of introduction.

### **House of Introduction**

✓ **Consideration of Conference Committee Report** → The report must be adopted by the house of introduction. If the first report is rejected, a second conference committee may be formed but the rejection of the second report will cause your bill to be deemed lost because third conference committees are not allowed.

✓ **Repassage of Bill** → If the conference committee report is adopted, another vote is taken to repass the bill. If the bill is repassed, the bill is sent to the Governor.

## **Governor's Action - Override of Governor's Veto**

When a bill is sent to the Governor, he or she has three options:

- 1) **Sign the bill** → Your bill becomes law.
- 2) **Let the bill become law** → If the Governor does not sign or veto the bill within the allotted time frame, your bill will become law without the Governor's signature.
- 3) **Veto the bill** → If the Governor vetoes the bill while the General Assembly is still in session, he or she will return the bill to the house of introduction along with the veto message. For your bill to become law, both houses of the General Assembly must override the veto by a two-thirds vote. If the General Assembly has adjourned, there is no opportunity for an override.

*For additional information on the process for passing a bill, contact the Chief Clerk of the House, the Secretary of the Senate, or any member of the OLLS staff.*

## **Deadlines**

*What is the deadline for making bill requests?*

Assuming that each member wishes to request a total of 5 bills (the maximum normally allowed), *returning* members must request 3 of those 5 bills by December 3, 2012. *Newly elected* members must request 3 of their 5 bills by December 17. The remaining 2 bill requests for *all* members must be received by the OLLS by January 15, 2013.

For purposes of the 2013 session, any legislator who was a member of the Sixty-eighth General Assembly, is considered a '*returning*' member, even if he or she was elected to a new legislative seat or to a different legislative chamber at the 2012 election. Similarly, any legislator who is appointed to fill a vacancy prior to the 2012 election is a member of the Sixty-eighth General Assembly and therefore considered a '*returning*' member.

A member is not required to make 5 requests, but no more than 2 may be requested after December 3 (for returning members) or December 17 (for newly elected members).

*What happens if I don't make the deadline?*

Bill requests cannot be made after the bill request deadline without special permission from leadership through the "delayed bill" process. *(For additional information on delayed bills, see page 30.)*

*Is there a deadline for making resolution and memorial requests?*

In general, except for resolutions and memorials that concern the business of either house, resolutions and memorials must be

requested by the 97<sup>th</sup> day of the session (April 15, 2013) and introduced by the 100<sup>th</sup> day of the session (April 18, 2013). If, however, a resolution creates an interim committee, it must be requested by the 70<sup>th</sup> day of the session (March 19, 2013) and introduced by the 73<sup>rd</sup> day of the session (March 22, 2013).

*Are there other deadlines that I should remember?*

Yes. In addition to request deadlines, there are introduction deadlines. One of the first 3 bills requested must be "prefiled" -- that is, given to House or Senate Front Desk staff for introduction on the first day of session -- by January 4, 2013. The other 2 of the first 3 must be introduced by January 11 (in the Senate) or January 15 (in the House). All remaining bills (normally, the last 2 of the 5 allotted to each member) must be introduced by January 25 in the Senate and January 30 in the House.

Other deadlines apply to passage of bills out of committee, final passage, and other important milestones. A complete deadline schedule for the 2013 session can be found on the General Assembly's public home page under "Legislative Deadline Schedules" within the "General Legislative Information" section.

*What happens if I forget to give a bill to the House or Senate Front Desk prior to the introduction deadline?*

If you forget to give a bill to the House or Senate Front Desk by the established introduction deadline for the bill, you will not be allowed to introduce it unless you get a delayed bill request signed by the House Committee on Delayed Bills or the Senate Committee on Delayed Bills waiving the introduction. For this reason, the OLLS suggests that, unless you have a good reason for wanting to turn the bill in personally (such as obtaining additional bill sponsors), you may wish to give staff permission to take it directly to the front desk and have it introduced on your behalf. *(For additional information on bill sponsorship, see page 31.)*

*For deadline questions, contact the Chief Clerk of the House, the Secretary of the Senate, or any member of the OLLS staff.*

## **Versions of Bills**

*I know the introduced bill is called by other names as the bill moves through the legislative process. What are these other names and what do they mean?*

Once a bill is introduced and begins to move through the legislative process the name of the version of the bill changes as follows:

**Engrossed:** The bill has passed second reading in the house of introduction, either amended or unamended.

**Reengrossed:** The bill has passed third reading in the house of introduction, either amended or unamended.

**Revised:** The bill has passed second reading in the opposite house, either amended or unamended.

**Rerevised:** The bill has passed third reading in the opposite house, either amended or unamended.

**Enrolled (An Act):** The bill has passed both houses of the General Assembly, either amended or unamended, and has become an act that is now ready to go to the Governor for signature.

*How do I get a copy of the new version of a bill?*

As soon as any new version of a bill is printed, House and Senate staff file copies in each member's filing cabinet next to his or her desk on the chamber floor. Copies are also available online, either through the General Assembly's public home page or Intranet home page.

*What is a preamended bill?*

A preamended bill reflects the amendments recommended by a committee of reference before the committee report has been voted on by the Committee of the Whole. This is done to expedite the preparation of the bill for printing following its passage on second reading.

*Is the preamended version of a bill available to me?*

Yes. Preamended versions of the bill are available on the General Assembly's public home page and Intranet home page. It is not an official version of the bill and cannot be amended.

*Why isn't there a version of the bill as amended by a conference committee?*

Once a conference committee report is adopted in both houses and the bill is repassed, there is no time to prepare a final version as it is immediately sent through the enrolling process to be prepared as a final act.

*For additional information on the different versions of bills, contact the House Enrolling Room, the Senate Enrolling Room, or any member of the OLLS Publications Team.*

## **Procedural and Parliamentary Questions**

*What if I have a procedural or parliamentary question?*

You should consult first with the Chief Clerk of the House and the leadership in the House of Representatives or the Secretary of the Senate and the leadership of the Senate. You may ask the OLLS Director or senior legal staff for information concerning the history

of, or prior interpretations concerning, a particular legislative rule or legislative procedure.

## **Conference Committees**

*What is a conference committee?*

After a bill is amended and passed by the second house, the house of introduction may accept or reject the second house's changes. If the house of introduction rejects the changes, a conference committee is formed to work out compromise language. A conference committee is composed of members of each legislative house who work to produce a report consisting of amendments that reconcile the versions of the bill. Upon completion, this report will be sent back to each house for consideration. The houses may accept or reject this report, but may not make amendments to it.

*Do all bills go to conference committee?*

No. A bill only goes to conference committee when the second house amends the bill and the first house rejects the amendments.

*If my bill goes to conference, will I be on the conference committee?*

Not necessarily. Each conference committee consists of three members from each house. There is no rule that guarantees that the sponsor of the bill will be appointed to the conference committee. However, in practice, the sponsor is usually a member of the conference committee, but not necessarily the chairman if the sponsor is a member of the minority party.

*What does "beyond the scope of the differences" mean?*

The "scope of the differences" includes only those amendments made in the second house. Generally, a conference committee may only consider matters that are within the scope of the differences. However, a conference committee, with the consent of a majority of members elected to each house, may go "beyond the scope of the differences." A conference committee authorized to go "beyond the scope of the differences" may consider any language in the bill, recommend new provisions concerning the subject matter of the bill, or even rewrite the bill so long as the rewrite fits within the bill title. Although a conference committee may talk about issues "beyond the scope of the differences" before obtaining the required consent, it must get the consent before signing the conference committee report.

*Can a conference committee decide not to adopt a report?*

Yes. There are two situations in which a conference committee may decide not to adopt a report. A conference committee that cannot reach agreement on the differences will not necessarily report. However, the bill will then be deemed lost. A conference committee in this situation may wish to report that it is unable to reach an agreement on the differences between the two houses and

ask to be dissolved and either a second conference committee be appointed or no new conference committee be appointed.

In addition, a conference committee does not need to adopt a report if the committee decides to accept the changes made by the second house and adopt the rerevised bill. In this situation, a member of the house of introduction can make a motion requesting that the conference committee be discharged and that the house of introduction recede from its position on the bill and concur in the changes made by the second house and repass the bill.

*What happens if the conference committee can't come to an agreement and adopt a report?*

If the conference committee cannot come to an agreement and adopt a report, the committee members can return to their respective houses and ask for dissolution of the committee. At this point, both houses may appoint a new conference committee to consider the measure, either house may vote to recede from its position and adopt the bill with the other house's language, or either house may decide not to appoint a second conference committee and to adhere to its position. If one of the houses adheres, the bill will be deemed lost unless the other house recedes from its changes and accepts the version passed by the adhering house.

*How many reports can a conference committee adopt? What is a minority conference committee report?*

Generally, each conference committee may adopt one "majority report," which is a conference committee report approved by at least two conference committee members from each house. If necessary, a conference committee may adopt a second majority report as a "corrected report" for the sole purpose of correcting technical matters, including changes, errors, conflicts, or inconsistencies, appearing in the first report. In addition, any member of the conference committee may request a "minority report;" however, no minority conference committee report can be considered in either house unless it is approved by at least one member of the conference committee from each house.

*What happens after a conference committee adopts a report?*

The opposite house considers the report first. It may adopt the report and repass the bill or reject the report and ask for appointment of a second conference committee. If the other house does not agree to the appointment of a second conference committee, the bill will probably be deemed lost. (As an alternative to consideration of the report, the opposite house could adhere to its position on the bill or recede from its position on the bill and agree to adopt the house of introduction's version of the bill.)

If the conference committee report is adopted by the opposite

house, the bill is returned to the house of introduction for consideration of the conference committee report. It may adopt the report and repass the bill or reject the report and ask for appointment of a second conference committee. If the opposite house does not agree to the appointment of a second conference committee, the bill will probably be deemed lost. (As an alternative to consideration of the report, the house of introduction could adhere to its position on the bill or recede from its position on the bill and agree to adopt the opposite house's version of the bill. If the house of introduction recedes from its position on the bill, the bill goes back to the other house for reconsideration of adoption of the report, i.e., that they are not adopting the conference committee report and then that body takes a vote to repass its version of the bill.)

In most cases, both houses adopt the conference committee report and repass the bill. The bill is then enrolled and sent to the Governor for his or her consideration.

Neither house can request or agree to appointment of a third conference committee.

*For additional information on conference committees, contact any OLLS staff attorney.*

### **Interrogatories**

*What is meant by "sending interrogatories to the Supreme Court?"*

Section 3 of article VI of the State Constitution provides that the Colorado Supreme Court "shall give its opinion upon important questions upon solemn occasions when required by the governor, senate, or the house of representatives...." By sending interrogatories to the Colorado Supreme Court, the Governor, the Senate, or the House of Representatives is asking the Court for an opinion on the constitutionality of proposed legislation or on questions relating to purely public rights.

*At what stage of the legislative process can interrogatories be sent to the Colorado Supreme Court?*

To show the Court that the bill at issue is likely to be enacted, the interrogatories are usually submitted between Second Reading and Third Reading in the second house or while the bill is pending in conference committee.

*Does the Colorado Supreme Court always take interrogatories submitted by the General Assembly?*

No. The constitutional provision requires the Colorado Supreme Court to take interrogatories "upon important questions on solemn occasions...." However, the Court decides what are "important questions on solemn occasions," and may therefore decline to

answer interrogatories submitted by the executive or legislative branches.

*For additional information on interrogatories, contact Dan Cartin, OLLS Director or Sharon Eubanks, OLLS Deputy Director.*

## **Interim Committees**

*What is an interim committee?*

An interim committee is any committee created by statute or resolution that meets during the interim. Bills and resolutions that create interim committees have specific request, introduction, and passage deadlines to meet in order to be considered by the Legislative Council. There are limitations on the number of interim committees.

*Are there certain committees that meet every interim?*

Yes. Committees like the Transportation Legislation Review Committee and the Capitol Development Committee meet every interim. There are also other committees that are appointed to meet for several interims such as the Water Resources Review Committee.

*How are other interim committees determined?*

Interim committees are often requested by a member or members concerned about a specific issue. The member requests a bill or resolution that calls for appointment of an interim study committee, advisory committee, commission, or task force. The scope and purpose of each interim committee, including their ability to recommend legislation, must be approved by the Legislative Council and the General Assembly.

*Does every legislator serve on an interim committee?*

No. The statute or resolution that creates an interim committee specifies how many members of the General Assembly will serve on the interim committee and who will appoint them. The person making the appointments will select who among the members of the General Assembly will serve on the interim committee.

*For additional information on interim committees, contact the Legislative Council Staff or any OLLS staff attorney. Written information on interim committees may be found under "Interim, Year-Round, and Select Committees" link under the "General Legislative Information" section of the General Assembly's public home page.*



# Resolutions and Memorials

## Concurrent Resolutions

*What is a concurrent resolution?*

A concurrent resolution is a resolution that proposes one of the following:  
1) Changes to the State Constitution; 2) ratification of an amendment to the U.S. Constitution; or 3) a constitutional convention.

*Is there a limit on the number of concurrent resolutions I can introduce?*

Yes and No. Pursuant to House Rule 26 (g), members of the House of Representatives may not introduce more than two House concurrent resolutions during any regular or special session. There is no such limit for the members of the Senate. Also, the State Constitution only allows six articles of the Constitution to be referred to the people for amendment at any biennial regular general election.

*Is there a deadline for making requests for concurrent resolutions or for getting them introduced?*

Yes. Concurrent resolutions must be requested by the 97<sup>th</sup> legislative day (April 15, 2013) and may not be introduced after the 100<sup>th</sup> legislative day (April 18, 2013) without permission of the Committee on Delayed Bills.

*Do concurrent resolutions get assigned to committees of reference?*

Yes. Concurrent resolutions are treated like bills and assigned to one or more committees of reference and may be additionally assigned or referred to the Appropriations Committee.

*What is the vote requirement for concurrent resolutions?*

Before a concurrent resolution that proposes an amendment to the State Constitution is submitted to the people for a vote, it must pass by a two-thirds vote of both the House of Representatives and the Senate. However, the ratification of an amendment to the U.S. Constitution requires a two-thirds vote of the House of Representatives but only a simple majority of the Senate.

*Is there a limit on the number of concurrent resolutions that the General Assembly can pass?*

No. However, as mentioned above, the State Constitution only allows six articles of the Constitution to be referred to the people for amendment at any biennial regular general election.

*Do concurrent resolutions get sent to the Governor for his or her signature?*

No. A concurrent resolution does not go to the Governor for signature. Concurrent resolutions that propose amendments to the State Constitution go to the Secretary of State to be placed on the ballot at the next election.

*At what election cycle can a concurrent resolution proposing an amendment to the State Constitution be referred to the voters for approval?*

Amendments to the State Constitution are referred to the people at the

biennial regular general election unless the amendment relates to state matters arising under Article X, section 20 of the Constitution (TABOR), in which case it can be referred at the odd-year election.

*What happens if the voters don't approve a concurrent resolution amending the State Constitution?*

The provision of the State Constitution proposed for amendment remains unchanged.

### **Other Resolutions and Memorials; Tributes**

*What is the difference between a concurrent resolution, a joint resolution, and a resolution?*

Concurrent resolutions are limited to changes to the State Constitution, ratifying an amendment to the U.S. Constitution, or recommending a constitutional convention.

Joint resolutions concern transactions of business between both houses, the establishment of investigative committees, or an expression of the will of both houses on any matter not mentioned in Senate Rule 30A or House Rule 26A. Both concurrent and joint resolutions must be adopted by both the House of Representatives and the Senate.

A simple resolution does not require action by the second house and therefore only requires a majority of votes in the house of introduction for passage. Typically, a simple resolution concerns business transactions of a single chamber or an expression of the will of the chamber not mentioned in Senate Rule 30A or House Rule 26A.

*How is a memorial different than a resolution?*

In contrast to the description of resolutions above, a Memorial or Joint Memorial may honor a deceased member of the General Assembly, past or current. A Senate Memorial may also honor other designated deceased persons or may memorialize Congress to act on a particular matter.

*Is there a limit on the number of resolutions and memorials I can introduce?*

Pursuant to House Rule 26, Representatives may not introduce more than two House resolutions or joint resolutions (total) during any regular or special session, except with permission from the House Committee on Delayed Bills. There is no limit on the number of joint memorials or memorials a Representative may introduce. Similarly, under Senate Rule 30, Senators may not introduce more than three Senate Joint Resolutions or Senate Resolutions during any regular or special session. A Senator may seek permission from the Senate Committee on Delayed Bills for permission to introduce more than the allowed number. The Senate does not limit the number of joint memorials or memorials that a Senate member may introduce.

*Is there a deadline for making requests for resolutions and memorials or for getting them introduced?*

Yes. In general, unless resolutions and memorials concern the business of either house, they must be requested by the 97<sup>th</sup> legislative day (April 15, 2013) and may not be introduced after the 100<sup>th</sup> legislative day (April 18, 2013) without permission of the Committee on Delayed Bills. If, however, a resolution creates an interim committee, it must be requested by the 70<sup>th</sup> legislative day (March 19, 2013) and introduced by the 73<sup>rd</sup> legislative day (March 22, 2013).

*Do resolutions and memorials get assigned to committees of reference?*

Generally, Memorials that concern a deceased member of the General Assembly, past or current, or other deceased designated person have not been assigned to a committee of reference. Senate Memorials memorializing Congress, Senate Joint Resolutions, Senate Resolutions, House Resolutions, and House Joint Resolutions may be assigned to a committee of reference at the discretion of the President of the Senate or the Speaker of the House.

*What is the vote requirement for resolutions and memorials?*

Joint resolutions, resolutions, joint memorials, and memorials require a majority vote for passage.

*Do resolutions and memorials get sent to the Governor for his or her signature?*

Some statutorily required joint resolutions go to the Governor for signature. Most resolutions or memorials, however, do not go to the Governor for signature.

*What is a tribute, and how do I request one?*

Tributes are non-legislative actions that do not require introduction or floor action. They are used to express the sentiment of one or both of the houses in situations such as recognizing individuals' service in the military, greeting prominent visitors to the state, offering congratulations on significant public achievements, and commemorating an individual or organization for a significant event or accomplishment. More detailed information about tributes can be found in House Rule 26A and Senate Rule 30A.

Unlike resolutions and memorials that are drafted by the OLLS staff, tributes are issued by the Secretary of the Senate or the Chief Clerk of the House and written by the staff of each house's enrolling room. To request a tribute, you should contact the Secretary or Chief Clerk, as applicable, or the enrolling room staff of your chamber. The enrolling rooms are located adjacent to each chamber.

*For additional information on concurrent resolutions and other resolutions and memorials, contact any member of the OLLS staff. For additional information on tributes, contact the Secretary of the Senate, the Chief Clerk of the House, or any member of the OLLS staff.*



# Amendments

## Requests for Amendments

*When can my bill be amended?*

A bill can be amended at many different stages of the legislative process by any member of the General Assembly. In the house of introduction, the first opportunity to amend a bill is in the committee(s) of reference to which the bill is assigned. The next opportunity arises at the time of Second Reading when the body sits as the Committee of the Whole. A bill can also be amended on Third Reading; however, this is usually allowed only for necessary technical changes and is more the exception than the rule.

A bill can then be amended at the same stages of the process in the second house. The final opportunity to amend a bill may be in conference committee, which is when the house of introduction does not agree with the amendments adopted by the second house and the bill is referred to a committee made up of three members from each house to work out their differences. However, not all bills go to conference committee.

*Someone has contacted me about an amendment to my bill. What should I do if I need an amendment drafted?*

You should contact the drafter of the bill (the drafter's name appears at the top left corner of the first page of your bill). The drafter prepares amendments for the bill both for the sponsor and for other members of the General Assembly.

*Will the OLLS keep my amendment confidential?*

Yes. The same rules of confidentiality that apply to a bill request apply to an amendment. Therefore, unless the drafter has the express permission of the member requesting the amendment to release the amendment or to speak to people outside the OLLS about the amendment, the drafter will maintain the confidentiality of that amendment.

*Can a lobbyist ask for an amendment on my behalf?*

The OLLS will accept a request for an amendment from a lobbyist on behalf of a legislator only if the lobbyist has the legislator's authorization, in writing, to propose the amendment or if the legislator has personally told the OLLS that the lobbyist has such authority.

*I'm told that I may request an amendment from the "amendment clerk." Who is that and where can I find him or her?*

Amendments clerks are available during House and Senate floor sessions for last-minute amendments. The amendment clerk desks are located at the front of the House and Senate chambers and are staffed by senior legislative assistants from the OLLS. The drafter of a bill can also be called to the floor to assist the amendment clerk and the sponsor in drafting amendments.

*Can any member amend my bill?*

Yes. Any member of the House or Senate can propose amendments to your bill.

*If another member is trying to amend my bill, will the OLLS tell me about the amendment in advance?*

Pursuant to section 2-3-505 (2) (a), C.R.S., the OLLS is required to keep any amendment confidential until the amendment is offered, unless the amendment sponsor consents to its disclosure. Thus, the OLLS may not be able to tell you about proposed amendments to your bill. Usually, employees of the OLLS will ask the amendment sponsor if he or she will allow the OLLS to release a copy of the proposed amendment to you. However, if the amendment sponsor does not grant permission, the OLLS cannot tell you about the existence of the proposed amendment before it is offered.

*What if I need an amendment to the long bill or other appropriation bill?*

Because the Joint Budget Committee (JBC) Staff prepares the long bill and all the supplemental appropriation bills, the JBC Staff generally writes all amendments to those bills. If you submit an amendment request to the OLLS, the staff member will ask your permission to pass the amendment request on to the JBC Staff. The OLLS staff does, however, write the amendments to the legislative appropriation bill.

*Is there a deadline for submitting amendments for legislation scheduled for Second Reading?*

There are no deadlines for submitting amendments for legislation scheduled for Second Reading in the Senate. In the House, previous majority leaders have required that any amendments longer than one page be given to the front desk by 4:00 p.m. the day before the bill is scheduled to be heard on Second Reading. The House rules also provide deadlines for submitting requests for amendments on the long bill to the Joint Budget Committee Staff.

*I'm told that I must ask for permission to offer a Third Reading amendment. How do I ask for permission?*

Prior to the floor vote on Third Reading, a member must inform the majority leader that he or she intends to offer a Third Reading amendment. When the bill is brought up for a floor vote on Third Reading, the member must ask the body for permission to offer the Third Reading amendment. If permission is granted by a majority of the members, the member may move the amendment for consideration.

*What is a COW amendment?*

COW is an acronym for Committee of the Whole. The body dissolves itself into the Committee of the Whole for debate and consideration of matters on Second Reading. At the end of the Committee of the Whole session, the body adopts a Report of the Committee of the Whole. Amendments to the Report of the Committee of the Whole are called COW amendments. In the House, no amendment can be offered as a COW amendment unless it was offered as a Second Reading amendment.

*For additional information on amendments, contact any member of the OLLS staff, the House or Senate Amendment Clerk, the Chief Clerk of the House, or the Secretary of the Senate. For information on amendments to the long bill and supplemental appropriation bills, contact any member of the Joint Budget Committee Staff.*

## **Title Questions**

*What if someone argues that my amendment "does not fit under" or "is outside" the title of a bill?*

Under article V, section 21 of the State Constitution, the title of a bill must have a single subject that is clearly expressed in the title. Sometimes an issue arises about whether a proposed amendment fits within the single subject expressed in the title of the bill. You may consult with the drafter of the bill regarding the title. Sometimes legislators ask for an opinion from the OLLS as to whether an amendment fits under the title of a bill.

The Executive Committee of the Legislative Council directed the OLLS to follow this policy on title opinions: A drafter should consider title questions carefully when drafting bills and amendments and should advise legislators when they request amendments that may be beyond the title of the bill. Once a bill or amendment is drafted, the drafter can provide the legislator with advice on title questions, but the legislator should understand that the opinion is advisory only and is not binding on a committee chair or the chair of the Committee of the Whole. The OLLS cannot give title opinions if a ruling regarding the title has been made. Formal title opinions will only be provided following consultation with the members of the Executive Committee from that legislator's house prior to writing the opinion.

*Who makes the final decision on whether an amendment fits under the title?*

The presiding officer of the house in which an amendment is proposed makes the final decision on whether the amendment fits under the title. Thus, the presiding officer may rule an amendment out of order if he or she determines that it violates the "single subject" or "original purpose" requirements for amendments. Most decisions are made in committee by the committee chairman or in the Committee of the Whole by the chairman.

*For additional information on title questions, contact an OLLS staff attorney. Written information on bill titles can be found in the OLLS memo entitled "Bill Titles -- Single Subject and Original Purpose Requirements." You may access a copy of the memo on the OLLS web page (within the "Service Agencies" section of the General Assembly's public home page) under "Legal Topics", then "Memos of Interest."*



## Bill Requests - Bill Drafting

### Making Bill Requests

*Who do I contact about a bill request? Who will work on my bill request?*

You should contact the OLLS for all bill requests. Each bill request is assigned to a drafter, who is an attorney and will be responsible for drafting the bill and following it throughout the legislative process. Each bill introduced in the General Assembly is approved by the OLLS as to legal sufficiency and form.

*I'm told the OLLS is divided into subject matter teams. What does that mean?*

The three OLLS subject matter teams are:

- BUS Team: Business, Health Care, Natural Resources, and Environment Team
- GOV Team: Fiscal Policy, Infrastructure, Elections, Education Finance, and State and Local Government Team
- LAW Team: Civil and Criminal Law, Education, and Human Services Team

This specialization allows the OLLS staff to gain expertise in particular areas of law, and allows those persons with the most knowledge about and experience in an area of law to address any needs you have concerning that area of law. In addition to the three subject matter teams, the OLLS has an Administration Team that provides general assistance to the General Assembly, other legislative staff agencies, and the general public. Also, the OLLS Publications Team specializes in matters related to the publication of the Colorado Revised Statutes and the Session Laws of Colorado.

*How do I know what subject matter team my bill will be assigned to?*

Bill requests are assigned to the subject matter team that specializes in the subject matter of your request. To find out which team has been assigned your request or which drafter, contact the OLLS Front Office.

*Can I choose a specific attorney to draft my bill?*

Yes. You may request a specific drafter to draft your bill. The OLLS will make every effort to fulfill your request. However, it is at the discretion of the team leader of the team to which your bill has been assigned to assign your bill to the appropriate drafter. The team leader will consider workload and subject matter expertise in determining the assignment of your bill.

*How much do I need to tell the drafter?*

Before drafting a bill, the drafter needs to understand what you, as the bill sponsor, want to accomplish. If the idea is conceptual and you have not provided a draft or outline of the proposed bill, expect the drafter to ask you questions to flesh out what you are trying to accomplish or the nature of the problem you are seeking to address. It is the drafter's job to devise appropriate statutory language in proper form to carry out your objectives.

It will help the drafter produce a draft that accomplishes your intent if you are as specific about the legislation as possible. Also, if you have received background information from the Legislative Council Staff, please let us know, and we will coordinate with them.

The OLLS makes every effort to let you know if what you've requested is already covered in the law or if there is a duplicate bill request by another legislator. (See subsequent questions on this specific issue.)

By law, a bill request is confidential prior to introduction. The drafter will maintain the confidentiality of the bill request and speak to people outside the OLLS about the bill **only** with the express permission of the legislator.

Pursuant to statute, the OLLS does release drafts of the bill to the Legislative Council Fiscal Note Staff so they can begin preparation of the fiscal note. However, the Fiscal Note Staff will send the draft to affected state agencies **only** with your permission. The OLLS will specifically ask you if the Fiscal Note Staff can contact affected state agencies regarding the fiscal impact of your bill. This helps the Fiscal Note Staff get the fiscal note ready in time for the bill's committee hearing.

*What does it mean when I get a letter that says I have submitted a bill request by subject only?*

A bill request submitted by subject only is known as an SBSO. Pursuant to Joint Rule 24 (c), you need to furnish enough information to the OLLS within 5 days of making a bill request so that the OLLS can proceed with drafting. If you submit a request by subject only, you will receive a phone call and possibly a letter. If you fail to provide the needed information to the OLLS within the 5 days, your request will be deemed withdrawn and the number of bills you can introduce will be reduced by one. The OLLS will begin sending letters to all members with SBSOs once the bill request deadline has passed (the December 1 or December 15 deadline or the January 17 deadline).

*Can I have a lobbyist file my request?*

Yes, but the OLLS can't start work on your bill request without your direct permission. We will take information from a lobbyist, but the bill request is not considered filed by you until you actually contact the OLLS in person, by phone, or in writing, which includes e-mail.

*I'm not sure what approach to take on a bill request. Can someone help answer questions or give me the background on a subject before I commit to a bill request?*

You can request that the OLLS research an idea or topic for proposed legislation or research and discuss with you the history of prior legislation or legislative efforts on a particular topic. At your request, a drafter can also meet with interested persons or lobbyists to work on drafting the legislation. The Legislative Council Staff is also available to work on general research requests that may lead to a bill.

*What does it mean to put in, submit, or file a bill "title?" If I submit a "title" to the OLLS, does it become the title of the bill and not subject to change?*

The language "submitting a title" is used by some people to refer to submitting a bill request to the OLLS. It does not mean that the language you submit will become the title of the bill, nor does it mean that no changes can be made. It is important to note, however, that a member can make changes to a bill request only if the changes do not change the subject or category of the bill originally requested. There is no limit on the number of requests that relate to any particular subject or category. Therefore, it is not accurate to say that a member has "reserved" a bill title.

*What happens if I make the same bill request as another member?*

The drafter will let you know that your bill request is a duplicate of a request made by another member. You will be asked whether you want to waive confidentiality. If you agree to waive confidentiality, the drafter will tell the sponsor of the duplicate bill your name. If you do not waive confidentiality, the drafter will not tell the sponsor of the duplicate bill about your request. If you waive confidentiality, the drafter will ask the sponsor of the

duplicate bill if he or she wants to waive confidentiality. If the sponsor of the duplicate bill waives confidentiality, the drafter will tell you the name of the sponsor of the duplicate bill. You and the duplicate bill sponsor can then decide whether to contact each other and see if you can work together on a single bill. If you decide to work together, the member withdrawing his or her bill request will be allowed to substitute another bill request in its place. The substitute request needs to be made to the OLLS as soon as possible following the withdrawal of the original request. If neither one of you waives confidentiality or if you decide not to work together, both your bill requests will go forward. There is nothing that prohibits similar or identical bills from being introduced.

*What happens if I change my mind about a bill request after the deadline for making bill requests has passed?*

The OLLS will let you change the bill request as long as it relates to the **same** general category as the original request, i.e., water bill request for water bill request, insurance bill request for insurance bill request. The OLLS will not let you substitute a bill request that has no relation whatsoever to the original request. In this case, the original request would be withdrawn and in order to submit a new bill request you would need to get permission from the Committee on Delayed Bills to waive any applicable bill request deadlines. If you ask to make the change close to the bill introduction deadline and the drafter does not have sufficient time to finish the bill, you may need to also have the bill introduction deadline waived.

*What happens if the drafter finds a problem with my bill request but the bill request deadline has passed?*

The drafter of your bill will make every effort to determine whether your bill is covered by existing law or conflicts with the State Constitution or U.S. Constitution or federal law -- hopefully before the bill request deadline. If the deadline has passed and you decide to withdraw your bill request because of the information received from the drafter, you will be allowed to substitute another bill request. This request can be on the same general category as the original bill request or an entirely different category. The substitute request needs to be made to the OLLS within a short time following the withdrawal of the original request -- generally no later than 24 hours.

*I know I can only introduce 5 bills, but is there a limit on how many bill requests I can make?*

Pursuant to Joint Rule 24 (c) a member cannot have more than five bill requests (excluding interim committee or appropriation requests) filed with the OLLS on or after December 1 or December 15, whichever is applicable, without the permission of the Committee on Delayed Bills for the house of which he or she is a member.

*Can I ever introduce more than 5 bills?*

Pursuant to Joint Rule 24 (b) (1) (A), a member of the General Assembly may introduce five bills in a regular session of the General Assembly. A member may also sponsor interim committee bills, appropriations bills, and exempt committee bills which come from the legislative committees created in article 3 of title 2, C.R.S., and the committees of reference performing the duties required in §§ 24-1-136 and 24-34-104, C.R.S. These bills do not count against the 5-bill limit. To exceed the 5-bill limit, a member must receive permission from the Committee on Delayed Bills for the house of which he or she is a member.

*For additional information on making bill requests, contact any member of the OLLS Front Office.*

## **Delayed Bills**

*What is a delayed bill?*

The term "delayed bill" refers to 3 different situations:

- Bills in excess of the 5-bill limit
- Bills within the 5-bill limit requested after the bill request deadline
- Bills for which an introduction and/or post-introduction deadline has been waived

*Who authorizes delayed bills?*

The Senate Committee on Delayed Bills (the President of the Senate, the Majority Leader, and the Minority Leader) authorizes delayed bills for members of the Senate. The House Committee on Delayed Bills (the Speaker of the House, the Majority Leader, and the Minority Leader) authorizes delayed bills for members of the House.

*What is the process for requesting a delayed bill in the House? In the Senate?*

The OLLS Front Office will work with the Speaker of the House and the President of the Senate after the organizational caucuses in November to establish procedures for each house.

*How many delayed bills can I request?*

There is no limit on the number of delayed bills you request; the number of requests granted is up to your house's Committee on Delayed Bills.

*How will I know if my request for a delayed bill has been granted?*

The OLLS has a record of all delayed bill requests and the status of each request. The OLLS Front Office or the drafter assigned to the bill can advise you whether or not the request has been granted.

*For additional information on delayed bills, contact a member of the OLLS Front Office.*

## **Confidentiality**

*I know my bill requests are confidential until introduced. Who in the OLLS knows about my requests? Who outside the OLLS knows about them?*

Pursuant to section 2-3-505 (2), C.R.S., bill requests are confidential until introduced. The OLLS will not release a bill draft or even confirm the existence of a bill request without the express authority of the member who submitted the request. Every member of the OLLS has access to the bill request information, however, we abide by our statutory and ethical duty not to reveal any information about individual requests and drafts. A drafter will consult with the member about the bill request and will ask who, if anyone, the drafter may use as a resource or from whom the drafter may request information. Without this express permission, the bill draft will remain completely confidential between the OLLS and the member. Legislative Council Fiscal Note Staff will also be notified of your bill request, in order to allow them to prepare an estimate of the proposed bill's fiscal impact on the state's budget, and the OLLS staff will ask you whether you will authorize the Fiscal Note Staff to share information regarding your bill request with any state agencies that may be affected by the legislation. Absent your permission, the Fiscal Note Staff cannot share information regarding your bill request. *(For more information on this matter, see the next question.)*

*What does it mean when I'm asked if the Legislative Council Fiscal Note Staff can release my bill to affected agencies for purposes of preparing the fiscal note?*

The Legislative Council Fiscal Note Staff prepares estimates of the fiscal impact of proposed legislation on the state's budget. The Fiscal Note Staff transmits the bill drafts to state agencies that would be affected by the proposed legislation to determine the bill's overall fiscal impact. Because section 2-3-505 (2), C.R.S., binds the OLLS to maintain the confidentiality of the member's request, the OLLS will specifically ask the member if the Fiscal Note Staff may release the bill draft before introduction to prepare the fiscal note. The release of the bill draft before introduction allows the Fiscal Note Staff to prepare the fiscal note in a timely manner for the committee hearings. However, the member may refuse the early release of the bill draft, in which case the Fiscal Note Staff cannot send the bill draft out to affected state agencies.

*For additional information on confidentiality, contact any OLLS staff attorney. For information about confidentiality relating to the preparation of fiscal notes, contact any member of the Legislative Council Fiscal Note Staff.*

## **Sponsorship**

*Do I have to have an opposite house prime sponsor when my bill is introduced?*

No. You do not need an opposite house prime sponsor when your bill is introduced. You must, however, have an opposite house prime sponsor before your bill can pass on third reading in the house of introduction. Talk to the Chief Clerk of the House or the Secretary of the Senate about the form you need to have filled out when you have secured an opposite house prime sponsor. The opposite house prime sponsor's name will appear on the reengrossed version of the bill. *(For information on the different versions of a bill, see page 12.)*

*How do I get other members to sign on as sponsors of my bill prior to introduction?*

While your bill is still in possession of the OLLS, any member may let the office know that he or she wants to be a sponsor. The member can notify the OLLS in person, by phone, or in writing, which includes e-mail. Once your bill is delivered to the front desk, no more sponsors will be added before it is printed. However, if your bill is delivered to you by the sergeant-at-arms, you may have other members sign on as sponsors by having them sign their names on the sponsor sheet inside the back cover of your bill. The names of all members that sign this sheet will be added to the bill by the House or Senate Enrolling Room before it is printed. **Remember, you cannot add sponsors to a bill that is delivered directly to the front desk.** *(For information on delivery of bills, see page 38.)*

*Can another member add my name as a sponsor on his or her bill without my permission?*

No. Your name will not go on any bill unless the OLLS has received **your** permission to be added as an additional sponsor or as the opposite house prime sponsor. It is best for you to contact OLLS directly if you want to be a sponsor on another legislator's bill. However, in many cases, the sponsor of a bill or a lobbyist may tell the OLLS that you will sponsor the bill. In these cases, unless you've already given your approval to be added as a sponsor, you will most likely receive a call, an e-mail, or a personal visit from a member of the OLLS staff stating that the office is trying to "verify" you as a sponsor on Member A's bill on XYZ. This procedure for getting your permission is called "sponsor verification." You can then say "Yes" or "No." You may ask to see a copy of the bill before you say "Yes" or "No." The OLLS will then get permission from Member A to give you a copy. If you still

can't decide whether to say "Yes" or "No," you should probably talk directly to Member A.

*Is there a limit on the number of bills on which I can be an additional sponsor or the number of bills for which I can be the opposite house prime sponsor?*

No. You are only limited with respect to the number of individual bills for which you are the prime sponsor or joint prime sponsor in the first house. You may be the prime sponsor on as many interim committee bills as you like and may sign on as an additional sponsor or be the opposite house prime sponsor on as many bills as you like. However, you may want to consider the time commitment that you are making when you agree to be the opposite house prime sponsor.

*Can I add my name as a co-sponsor after the bill is introduced?*

Yes. When the bill passes on third reading, the Speaker of the House or the President of the Senate will ask for co-sponsors. If your name was not on the bill as a sponsor when introduced, you can add it to the bill after third reading. You may also get a second chance when the bill is returned to the house of introduction for consideration of opposite house amendments. Co-sponsors are added after concurrence with the opposite house amendments and repassage or, if the bill is sent to conference committee, after adoption of the conference committee report and repassage. (Basically, you have the opportunity to have your name added as a co-sponsor whenever there is a recorded vote on the bill.) However, your name will not appear on the bill until the bill passes both houses and is enrolled for presentation to the Governor.

*What is joint prime sponsorship and what does it mean?*

"Joint prime sponsorship" is when two members in the same house are considered the prime sponsor of a bill. The bill counts against each member's five-bill limit, and both members are responsible for the bill as it moves through the legislative process.

Under House Rule 27A and Senate Rule 24A, a prime sponsor in the house of origin may elect to designate one other member of the house of origin to act as a joint prime sponsor of a bill. One opposite house joint prime sponsor may also be designated by the opposite house prime sponsor. On the first page of the introduced bill, the names of the joint prime sponsors are listed together, e.g., Representatives Black and White, followed by any other sponsors of the bill. For purposes of the 5-bill limit that limits the number of bills a member may request or introduce, a bill with joint prime sponsors will be counted against the bill limit of both joint prime sponsors. If either joint prime sponsor has already requested or introduced the total number of bills authorized within any bill limitation, such sponsor must obtain permission from the Committee on Delayed Bills to exceed such limits prior to requesting or introducing such a bill. Both joint prime sponsors are responsible for the handling or processing of a bill in the legislative process. Either or both may present a bill in committee or on the floor and may request and offer, when appropriate, amendments to the bill.

*For additional information on bill sponsorship, see the Chief Clerk of the House, the Secretary of the Senate, or any member of the OLLS Front Office.*

## **Bill Format**

*What are the different parts of a bill? What are their purposes?*

**Title** - A clear expression of the single subject of the bill.

**Bill Summary** - An objective explanation of the changes to existing law contained in the bill, as it was introduced. (Note: The OLLS posts updated bill summaries on the General Assembly's website after the bill passes in the first house and before the bill is heard in committee in the second house.)

**Enacting Clause** - Language required by the State Constitution to be included in all bills.

**Body of the Bill** - Changes to the existing law.

**Appropriation Clauses** - Identification of the amount and source of state moneys to be spent to implement the bill.

**Special Clauses** - Safety or referendum clauses, effective date clauses, or applicability clauses that indicate when a bill takes legal effect and the circumstances to which the bill applies.

*Is the bill summary changed as the bill moves through the legislative process?*

No. The bill summary reflects the bill as introduced. The OLLS posts updated bill summaries on the General Assembly's website after the bill passes in the first house and before the bill is heard in committee in the second house.

*Can a bill summary contain arguments "for" my bill?*

No. A bill summary is an objective explanation of the changes to existing law contained in the bill, not the reasoning or justification for those changes.

*What is an "enacting clause"?*

Section 18 of article V of the State Constitution requires every bill to contain the following enacting clause: "Be it enacted by the General Assembly of the State of Colorado:." The "enacting clause" is placed immediately before the first section of a bill. Its wording cannot be varied since it is fixed by the Constitution. A bill without an enacting clause is invalid. If a member amends a bill to "strike the enacting clause" and the amendment is adopted, the bill is deemed lost because it does not meet the constitutional requirement.

*What is an effective date section?*

An effective date section indicates when a bill takes legal effect.

*Is it necessary to have an effective date section on my bill?*

An effective date clause is not necessary if the bill contains a safety clause. If the bill does not contain a safety clause, an appropriate effective date clause should be substituted.

*If there is no effective date section, when does my bill take effect?*

Assuming that the bill is not a referred measure and that the bill has a safety clause, it will take effect upon the signature of the Governor. If the Governor allows the bill to become law without his or her signature, the bill will take effect 10 days after presentation of the bill to the Governor by the General Assembly if the General Assembly is in session or 30 days after presentation if the General Assembly has adjourned sine die.

A bill without a safety clause cannot take effect prior to the expiration of the 90-day period following adjournment of the General Assembly.

*What is an applicability clause?*

An applicability clause specifies that new statutory material in a bill will apply to certain events or transactions.

*When are applicability clauses necessary?*

An applicability clause should be added to any bill that regulates conduct or affects contracts, contractual relationships, or court proceedings. Bills concerning tax liability should specify the earliest date upon which they should take effect, either in a separate applicability clause or in the body of the bill.

*What is a safety clause?*

A safety clause is the final section of the bill. The safety clause evolved from section 1 (3) of article V of the State Constitution and reads as follows: "The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety." A bill that does not contain a safety clause is subject to referendum.

*I need to decide whether to put a safety clause on my bill. What are the reasons for and against having a safety clause on my bill?*

Bills without a safety clause cannot take effect prior to the expiration of the 90-day period following adjournment of the General Assembly -- usually in early August. Certain bills may need to take effect on July 1 or before. These could include bills imposing new criminal penalties and bills that relate to fiscal or tax policy that are intended to apply to either the current fiscal year or to the entire upcoming fiscal year.

The use of a safety clause, however, prevents a referendum on the bill. Some members feel that it is inappropriate to preclude a referendum by the people on a bill where the act is not truly necessary for the immediate preservation of the public peace, health, and safety.

*When will my bill take effect if there is no safety clause?*

Bills without a safety clause cannot take effect prior to the expiration of the 90-day period following adjournment of the General Assembly. Instead of a safety clause, the drafter will include a clause at the end of the bill that indicates that the bill is subject to petition. If no referendum petition is filed against the bill, the earliest the bill can take effect is when the 90-day period for filing a referendum petition has run. The special clause in the bill may specify an effective date that is later than the 90-day period, in which case the bill will take effect upon that later specified date. However, if a referendum petition is filed against the bill or a portion of the bill, it has the effect of suspending the bill or that portion from taking effect until the bill or portion of the bill is voted on and approved by the people, in which case the bill or portion of the bill will take effect on the date of the official declaration of the vote by proclamation of the Governor or on a specified effective date that is later than the date of the official declaration of the vote by proclamation of the Governor. If a referendum petition is filed against the bill or a portion of the bill and if the voters do not approve the bill or portion, the bill or that portion of the bill never takes effect.

*For additional information on bill format, contact any member of the OLLS staff. Written information on the use or nonuse of safety clauses can be found in the OLLS memos entitled "Use of Safety Clauses" and "Safety Clauses and Effective Date Clauses." You may access a copy of these memos on the OLLS web page (within the "Service Agencies" section of the General Assembly's public home page) under "Legal Topics", then "Memos of Interest."*

## Bill Titles

### *Why is the title of the bill so important?*

The title of a bill serves as notice of the contents of the bill. The State Constitution requires that the subject matter of a bill be "clearly expressed in its title..." and that the bill contain only one subject. The title must also state the purpose of the bill. This means the title must accurately reflect the substance of the bill without being so broad as to violate the Constitution's single subject requirement.

### *What happens if a title is too "broad?"*

Under the State Constitution, a bill must have a single subject clearly expressed in the title, and amendments to a bill may not change the bill's original purpose. Generally, a title that is broad may lend itself to a wide variety of amendments, even ones that a bill sponsor does not want.

You, as a bill sponsor, may desire a "broad" title to allow flexibility and latitude in the addition of amendments during the course of the bill's passage. Taking into consideration the practices of the General Assembly and the rulings in court cases over the years, there is considerable leeway allowed in the development of a "broad" bill title. One frequently used test to help determine whether a "broad" title is acceptable is the "common denominator" approach. As a practical matter, this involves reviewing all the sections of the bill and determining a single subject to which all sections of the bill have a logical connection. If a broad single subject title statement is required, the common denominator should be broad as well.

### *What happens if a title is too "narrow?"*

If a title is too "narrow," it may cause problems in the legislative process or even after a bill becomes law. In the legislative process, if a member objects to a proposed amendment to a bill, the chair of the committee may determine whether an amendment "fits under the title" or meets these constitutional requirements by making a finding about whether the subject or purpose of the amendment is "germane" or "closely allied" or contains a "close logical connection" to the single subject of the bill as expressed in the title of the bill. If the chair of the committee rules that the amendment does not "fit under the title," such a ruling prohibits consideration of the amendment. But even upon passage by the General Assembly, the Governor may object to part of a bill containing an amendment that appears to be overly broad and this may constitute a reason for a veto of the bill. Finally, even if the Governor signs a bill, it may be subject to legal challenge, and the court may rule the offensive provisions of the legislation unconstitutional. In the judicial process, the courts tend to take a somewhat less restrictive approach than the General Assembly and tend to presume the constitutionality of legislation enacted by the General Assembly.

### *Can the title of my bill be amended after it is introduced?*

In order to ensure that the single subject and change of purpose sections of the State Constitution are not violated, the general rule is that a title of a bill may not be amended if the amendment broadens the subject matter of the introduced bill. However, a title may be amended if it is being narrowed by adding words of limitation to the subject. Also, amendments to the title may be made if they include subject matter that was added to the bill by amendment or to cover the original purpose of the bill as extended by amendments. The subject matter must be applicable to the original subject of the bill and must not change the original purpose of the bill.

*Why must a bill have a single subject?*

Article V, section 21 of the State Constitution provides that "No bill, except general appropriation bills, shall be passed containing more than one subject, which shall clearly be expressed in its title; . . ." Courts have indicated that the object of this provision is twofold: First, to avoid surprise by the insertion of matters that are not mentioned in the title; and, second, to prohibit putting together two or more unrelated provisions for the purpose of enlisting support thus securing enactment of measures that could not be carried on their own merits.

*Can you give me an example of a single subject and a multiple subject?*

The key issue is whether the various topics addressed in the bill can be said to have a "common denominator" that links them into a single unifying theme. A bill whose title was "A bill for an Act concerning apples and oranges" would violate the single subject requirement because apples and oranges are two distinct and separate topics. However, by changing the title to read "A bill for an Act concerning fruit," the two topics are brought together under a single subject that includes both. Thus the State Constitution's single-subject rule is met.

*What does "change of original purpose" mean?*

Pursuant to Article V, section 17 of the State Constitution ". . . no bill shall be so altered or amended on its passage through either house as to change its original purpose." In short, the prohibition prevents a bill dealing with one subject from being amended to deal with an entirely different subject. Original purpose preserves the integrity of the single subject rule contained in Article V, section 21 of the State Constitution and supports the prohibition on introducing a bill by title only contained in Article V, section 19 of the State Constitution.

*For additional information on bill titles, contact any OLLS staff attorney. Written information on bill titles can be found in the OLLS memo entitled "Bill Titles -- Single Subject and Original Purpose Requirements." You may access a copy of the memo on the OLLS web page (within the "Service Agencies" section of the General Assembly's public home page) under "Legal Topics", then "Memos of Interest."*

## **Fiscal Impact and Appropriations**

*If I know my bill is going to have a fiscal impact, must I include an appropriation section in the bill when it is introduced?*

A sponsor may choose to include or omit an appropriation section in a bill when it is introduced. This is true even if the sponsor knows that the bill, as introduced, will have a fiscal impact. If a bill with a fiscal impact is introduced without an appropriation section, the section can be amended into the bill at a later time. This would typically occur in the Appropriations Committee of the first house. If the exact fiscal impact of a bill is unknown at the time of introduction, an appropriation section can still be included in the introduced bill with blanks inserted for dollar amounts. The exact dollar amounts can be amended into the bill at a later time.

A sponsor may choose to omit an appropriation section from an introduced bill for any number of reasons. The sponsor may anticipate that the bill will be amended in a way that will affect its fiscal impact, or the sponsor may want to focus debate preliminarily on the substance of the bill rather than its cost.

*When does my bill have to go to the Appropriations Committee?*

If the Speaker of the House or the President of the Senate assigns a bill to the Appropriations Committee, then the bill must go to the Appropriations Committee. In addition, Senate Rule 25 (d) (1) specifies that each bill that provides directly for the increase of any salary or that causes an appropriation from the state treasury shall be referred to the Senate Appropriations Committee prior to its consideration by the Senate or by the Committee of the Whole.

In prior sessions, the legislative leadership in both houses have issued directions to the committees of reference that certain bills with a fiscal impact, such as an increase or decrease in general fund revenue or general fund expenditures or an increase or decrease in cash fund expenditures must be referred to the Appropriations Committee and/or to the Finance Committee. These policies usually have set a threshold amount of state revenue impact that triggers the referral.

*What happens if my bill is assigned to the Appropriations Committee, but it is later determined to have no fiscal impact?*

If a bill has been assigned to the Appropriations Committee, it must be referred to that committee by the committee of reference even if the Legislative Council Fiscal Note Staff has prepared a memo indicating that a bill has no fiscal impact or if an amendment has removed any fiscal impact. The Appropriations Committee will then act on the bill.

*What does it mean if I'm told my bill has a TABOR impact?*

The "Taxpayer's Bill of Rights" (TABOR) is a constitutional provision that places a number of restrictions on the state and upon local governments in Colorado. Although it contains numerous provisions, TABOR is perhaps best known for requiring voter approval to create or increase taxes and for limiting the revenues that the state and local governments can collect and expend each fiscal year.

When someone mentions that a bill has a TABOR impact, it may indicate that the bill is affected by any of the provisions of TABOR. More commonly, it means that a bill affects the amount of revenues collected by the state that are subject to TABOR's revenue limits or that the bill affects the amount of moneys available to refund to taxpayers as excess revenues that have been collected by the state.

*What is the difference between a bill that has a general fund impact and a bill with a cash fund impact?*

A bill that has a general fund impact contains an appropriation of money from the general fund. A bill that has a cash fund impact contains an appropriation from a cash fund. A cash fund is a special funding mechanism for a bill, by which revenue needed to implement the bill is collected and credited to a special fund rather than the general fund. Cash funded programs support themselves through fees or charges and are usually created for purposes of separately accounting for the fees or charges collected. Cash funds are not subject to the limit on growth applied to general fund appropriations.

*My bill increases the penalty for an existing crime. I'm told the bill needs a "5-year appropriation." What does that mean?*

Section 2-2-703, C.R.S., requires any bill that results in a net increase in periods of imprisonment in state correctional facilities (generally, those that involve felony crimes) to include an appropriation "sufficient to cover any increased capital construction costs and

any increased operating costs which are the result of such bill in each of the first five years in which there is a fiscal impact as a result of the bill." The Appropriations Committee, using information provided by the Legislative Council Fiscal Note Staff, estimates the amount of money necessary to cover the increased costs and then the General Assembly determines how much money will be appropriated in the bill from the general fund in the years affected. Generally, this type of appropriation is included in the substantive text of the bill rather than in a separate appropriation section.

*For additional information on appropriations and the fiscal impact of bills, contact any OLLS staff attorney, any member of the Joint Budget Committee Staff, or any member of the Legislative Council Fiscal Note Staff.*

## **Delivery of Bills**

*What is a "prefiled" bill?*

Upon approval of the prime sponsor, a "prefiled bill" is a bill that is deposited with either the Chief Clerk of the House of Representatives or the Secretary of the Senate by Legislative Legal Services staff prior to the first day of the legislative session. Joint Rule 23(a)(2)(C) requires that members designate one of their bills to be "prefiled" prior to the first day of the legislative session.

*Can I still have bills delivered directly to the front desk even after the session has begun?*

Yes.

*If a bill is delivered to me, how long can I wait before giving it to the front desk?*

Bills are required to be deposited with the House or Senate Front Desk on or before any applicable deadline. The date that a bill must be filed with the front desk is usually stamped on the cover sheet attached to the bill. **Be sure to check the date when the bill is delivered to you** and make sure you file it with the House or Senate Front Desk prior to or on such date.

*What happens if I forget to give a bill to the front desk?*

Generally, if the bill is not deposited with the House or Senate Front Desk by the date specified on the cover sheet attached to the bill, you will have to obtain a delayed bill form from the applicable Committee on Delayed Bills requesting that the introduction deadline be waived. Historically, announcements are made on the House and Senate floors reminding members that bill introduction deadlines are approaching and how late in the day the House or Senate Front Desk will accept bills.

*Do I have to introduce a bill if it is delivered to me?*

No. Once a bill is delivered to you, you have the option of declining to introduce it. If you choose not to introduce a bill, it is important to inform either the drafter of the bill or OLLS Front Office so that appropriate records may be kept in the General Assembly's bill tracking system.

*For additional information on the delivery of bills, contact any member of the OLLS Front Office.*

## Special Types of Bills

*I'm a Senator. I'm told my bill "raises revenue." What does that mean?*

Section 31 of article V of the State Constitution, the so-called "origination clause," states that all bills for raising revenue "shall originate in the house of representatives." This right of the lower house to control the purse strings is based on a similar provision of the U.S. Constitution and originated in Britain's Parliament. Under Colorado case law, a bill raises revenue if it "provides for the levy and collection of taxes for the purpose of paying the officers and of defraying the expenses of government." Later case law has clarified that raising revenue must be the principal object of the bill; if the revenue aspect of the bill is merely an incident to some other purpose, it does not "raise revenue."

*Can I introduce a "revenue raising" bill in the Senate if I want to?*

If your bill has been determined to raise revenue, long-standing practice dictates that it cannot be introduced in the Senate. Doing so would violate the origination clause and would give the bill's opponents grounds to oppose its enactment. If the bill nevertheless became law, it would be subject to legal challenge. Although Colorado courts have given the origination clause a narrow interpretation and no Colorado decision has invalidated a law upon this basis, a court could do so if presented a suitable case. You may wish to amend the bill so that it does not raise revenue or seek a Representative who can introduce it in the House.

*How can my bill "raise revenue" if it reduces the amount of revenue received by the state?*

In 1966 the Colorado Attorney General issued Opinion No. 66-3941, which concludes that the origination clause prohibits the Senate from introducing a bill that decreases revenues. Historically, the legislative leadership has also taken this position and the Opinion was confirmed by the Attorney General in 1999.

*I want to regulate an occupation that is not currently regulated. I'm told I need a "sunrise" report. What does that mean?*

Regulation of occupations occurs within the Department of Regulatory Agencies (DORA). Section 24-34-104.1, C.R.S., requires anyone proposing regulation for any unregulated professional or occupational group to submit the following information to DORA:

- A description of the group to be regulated, including a list of associations, organizations, and other groups representing the practitioners in Colorado, along with an estimate of the number of practitioners in each group;
- A definition of the problem and the reasons why regulation is deemed necessary;
- The reasons why certification, registration, licensure, or other type of regulation is being proposed, and why that particular regulatory alternative was chosen;
- The benefit to the public that would result from the proposed regulation; and
- The cost of the proposed regulation.

A statement of support for the proposed regulation signed by at least ten members of the professional or occupational group to be regulated or, alternatively, ten individuals who are *not* members of such group, needs to accompany this proposal. DORA is then charged with analyzing and evaluating the proposed regulation, and must submit a "sunrise" report on this analysis and evaluation to the proponents of the regulation and the General Assembly by 120 days after the date the regulation proposal was submitted.

*What does it mean to "sunset" a governmental board or commission?*

In an effort to control the proliferation of regulatory agencies, each division, agency, board, or commission (and in some cases, certain functions performed by a division, agency, board or commission) is required to have a scheduled termination or "sunset" date. The sunset schedule is contained in section 24-34-104, C.R.S. Any bill that creates a division, agency, board, or commission will include two sections: First, an amendment to the appropriate subsection of 24-34-104, C.R.S., that will limit the duration of the regulatory entity; and second, a section with a date of automatic repeal of the statutory provisions that created the entity. Be aware that any such termination date can be extended or shortened by a subsequent act of the General Assembly in a later legislative session. Prior to the automatic repeal date for the board or commission, the Department of Regulatory Agencies prepares a "sunset" report.

*What exactly is this "sunset" report?*

Before the scheduled termination date of a division, agency, board, or commission, the Department of Regulatory Agencies is required to conduct an analysis and evaluation of the performance of the regulatory entity.

No later than October 15 of the year before the scheduled termination date, the Department of Regulatory Agencies is required to prepare and submit a report to the OLLS based on its analysis and evaluation. This report is commonly referred to as a "sunset" report. The "sunset" report contains the Department of Regulatory Agencies' recommendations about whether the regulatory entity should be allowed to continue as it is, be changed, or be allowed to terminate.

The OLLS then drafts legislation before the next legislative session based solely on the recommendations contained in the "sunset" report. The draft legislation is submitted to the appropriate committee of reference for consideration. If the General Assembly does not enact legislation that extends the scheduled termination date of the regulatory entity, it will be allowed to terminate. Upon termination, the entity is required to continue in existence until July 1 of the next succeeding year for the purpose of winding up affairs.

*For additional information on special types of bills, contact any OLLS staff attorney.*

## **Declaration of Special Factors**

*What is an accountability clause?*

An accountability clause is a noncodified provision that directs legislative staff agencies to conduct a review of the implementation of the bill either two or five years after the enactment of the bill based on the legislative declaration in the bill stating what the General Assembly intended to achieve through the bill. Any bill with an accountability clause also includes a future appropriation clause to account for the estimated costs of conducting a post-enactment review and a trailer at the end of the title that reads "AND REQUIRING A POST-ENACTMENT REVIEW OF THE IMPLEMENTATION OF THIS ACT.". An accountability clause and the related legislative declaration are included in a bill only when requested by a legislator.

*Are there special requirements if I want to fund my bill with gifts, grants, and donations?*

Sometimes a bill is funded by gifts, grants, and donations made by organizations outside of state government. Because this funding source is not always reliable, the General Assembly

has implemented requirements to ensure that programs that have not received sufficient gifts, grants, and donations are repealed. Bills that are funded through gifts, grants, and donations must include standard language that authorizes the agency to seek such gifts, grants, and donations. In addition, the bill must include language that indicates its funding source and an automatic repeal if sufficient gifts, grants, and donations are not received. An agency with a program that is funded through gifts, grants, and donations reports to the Legislative Council staff when it has received sufficient funding for the program. Legislative Council staff reports to leadership and the Revisor of Statutes the programs for which notice of sufficient funding was not received. The Revisor of Statutes then prepares a bill or bills to repeal those programs.

## **Constitutionality**

*If there is a question about the constitutionality of my bill, will the OLLS staff attorney tell me?*

Yes. The drafter of your bill will consider whether the intent or effect of your bill might violate federal or state constitutional provisions and will do everything possible to discuss with you any issues or concerns that might affect the success of your bill. While your drafter is responsible for bringing constitutional issues to your attention, you alone have the final decision whether or not to go forward with the bill.

*Can I introduce a bill even if there is a question about its constitutionality?*

Yes. Be sure to discuss any questions you have about the bill's constitutionality with the drafter. The drafter may also raise these issues with you so that you can make a fully informed decision regarding whether to introduce the bill. Ultimately, however, the choice to introduce such a bill rests with you.

*Will the OLLS attorney tell anyone but me that there is a question about the constitutionality of my bill?*

OLLs attorneys are covered by the Colorado Rules of Professional Conduct governing all attorneys in Colorado. Thus, conversations between a member and an OLLS attorney are covered by the attorney-client privilege, and the attorney may not reveal to anyone, without your consent, the substance of any conversation with you. Thus, even if an OLLS staff attorney raises with you an issue concerning the constitutionality of your bill, the staff attorney will not, unless asked, raise that issue with anyone else. If, however, the staff attorney is asked by another member about the constitutionality of the bill, without disclosing anything about his or her conversations with you, the staff attorney may discuss with the other member the issue of the constitutionality of your bill.

*Can I request an attorney general opinion on the constitutionality of a bill? What is the process for requesting an attorney general opinion?*

Requests for legal opinions from the Attorney General must come from House or Senate leadership since the General Assembly is charged by the Attorney General for costs associated with the giving of the opinion. If you wish to request a legal opinion, you should make your request known to the Speaker of the House or the President of the Senate. The OLLS can help you prepare the documents required to be submitted with the request.

*For additional information on constitutionality questions, contact any OLLS staff attorney; for additional information on attorney general opinions, contact Dan Cartin, OLLS Director, Sharon Eubanks, OLLS Deputy Director, or Bart Miller, OLLS Assistant Director.*

## Referendum and Ballot Questions

*What does the power of referendum under the state constitution mean?*

The power of the referendum is reserved to the people in article V, section (1) (3) of the State Constitution. There are two types of referendum. The people may order a referendum by filing a petition against any act or item, section, or part of any act of the General Assembly thereby submitting such legislation to a vote of the people. The type of referendum exercised by the voters is referred to as a "rescission referendum". If a referendum petition is filed with the requisite number of signatures to place the bill or any portion of it on the ballot within ninety days after the adjournment of the session, it has the effect of suspending the bill or portion of the bill from taking effect until the bill or portion is approved by the electorate. If the voters do not approve the bill or portion of the bill at a referendum election, the bill or portion does not become the law. The second type of referendum is where the general assembly refers statutes to the voters in a statewide election by including a referendum clause on the bill rather than a safety clause. This is called a "referred bill". In that situation, the bill will not take effect unless the voters approve the bill at a general election and the effective date of the bill is the date of official declaration of the vote by proclamation of the Governor, unless there is a later specified effective date.

The power of the referendum does not extend to laws necessary for the immediate preservation of the public peace, health, or safety and to appropriations for the support and maintenance of the departments of state and state institutions. Therefore, if a bill is passed with a "safety clause" declaring the necessity of the act "for the immediate preservation of the public peace, health, or safety", a petition seeking a referendum vote cannot be filed with the Secretary of State seeking a referendum vote against the bill or portion of the bill.

*Can any bill be referred by the General Assembly to the voters for approval or rejection?*

Yes, a bill can be referred by the General Assembly to the voters for approval or rejection, with limited exceptions. If the bill has a "safety clause" (the law is necessary for the immediate preservation of the public peace, health, or safety) or the bill contains appropriations for the support and maintenance of the departments of state and state institutions, the bill is not subject to referral by the General Assembly. The inclusion of a "safety clause" on a bill prevents the right of the people to exercise the right to file a referendum petition.

*Is a bill that is referred to the voters for approval by the General Assembly sent to the Governor?*

No. The initiative and referendum provisions of the State Constitution provide that "The veto power of the governor shall not extend to measures initiated by or referred to the people." Accordingly, bills referred to the people by the General Assembly have not, as a matter of practice, been sent to the Governor.

*What is the difference between a referred bill and a bill with a referred ballot question?*

A referred bill is a bill that is put to a vote of the people by direct referral from the General Assembly. A referred bill does not take effect unless approved by the voters.

A bill with a referred ballot question is a bill passed by the General Assembly and signed by the Governor (or allowed to become law by the Governor). The substantive law in the bill will ordinarily direct the Secretary of State to place a "question" concerning a state matter arising under section 20 of article X of the State Constitution (TABOR) on the ballot, without reference to the bill containing the "question." The text of the bill, other than the

question, is law and is not referred to the voters. If the voters do not approve the question, the statutory provisions contained in the bill still remain in law but the statutory authority granted cannot be utilized. The most recent example of legislation containing a referred ballot question is SB 03-236, concerning water infrastructure revenue bonds, §37-60-201, et seq., C.R.S.

*Is there a limit on the number of bills or ballot questions that can be referred to the voters at the same election?*

No.

*Is there a limit on the number of amendments to the state constitution that may be submitted to the voters by the General Assembly?*

Yes. Under section 2 of article XIX of the State Constitution, each General Assembly can only submit to the voters amendments to six articles of the Constitution. More than six separate measures may seek to amend the State Constitution within the two-year election cycle, but the cumulative impact of all the measures cannot amend more than six articles of the Constitution.

*At what election can a bill or ballot question be referred to the voters for approval?*

Referred measures are voted upon at the next biennial regular election (even-numbered years). However, a ballot question, non-recall petition, or referred measure that involves a state matter arising under section 20 of article X of the State Constitution (TABOR) can be voted on in odd-numbered years as well as at regular elections in even-numbered years.

Matters arising under TABOR include: (1) Approval of a new tax, tax rate increase, valuation for assessment ratio increase for a property class, or extension of an expiring tax, or a tax policy change directly causing a net tax revenue gain; (2) approval of the creation of any multiple-fiscal year direct or indirect state debt or other financial obligation without adequate present cash reserves pledged irrevocably and held for payments in all future fiscal years; (3) approval of emergency taxes; (4) approval of revenue changes; (5) approval of a delay in voting on ballot issues; and (6) approval of the weakening of a state limit on revenue, spending, and debt.

*What happens if a referred bill or a referred ballot question is not approved by the voters?*

A referred bill does not become law if it is not approved by voters. Any action for which a referred ballot question is trying to get voter approval cannot be taken, but the substantive law containing the ballot question remains in effect.

*Do conflicting bills or ballot questions ever get sent to the voters? If so, what happens if the conflicting bills or ballot questions both pass?*

Conflicting bills or ballot questions may be sent to voters. If conflicting provisions are adopted by voters, the provisions will be harmonized to the extent possible. Where harmonization is not possible, the provision that receives the greatest number of affirmative votes shall prevail.

*For additional information on referendum and ballot questions, see any OLLS staff attorney.*



## Open Meetings and Open Records

*What if members of the press want to attend a meeting? Do I have to let them in?*

The Open Meetings Law, §24-6-402, C.R.S., applies to all meetings of **two or more** members at which **any public business is discussed** or at which **any formal action may be taken**. With a few exceptions, that means that, if there are two or more legislators meeting and discussing public business, the press is entitled to attend. The Open Meetings Law also requires that notice be given of certain meetings.

The OLLS has prepared a short summary of the Open Meeting Requirements of the Colorado Sunshine Law. You may access a copy of the summary on the OLLS web page (within the "Service Agencies" section of the General Assembly's public home page) under "Legal Topics", then "Law Summaries." If you have questions about interpreting the Open Meetings Law, please contact any OLLS staff attorney.

*What if a member of the press wants to look at my records or my e-mail?*

Access to such documents or e-mail may depend upon whether the information being sought is work product and whether you have waived the work product privilege. It may also depend upon whether the material is constituent correspondence.

You should consult with the OLLS regarding whether a particular document needs to be released or is protected under the Public Records Law.

The OLLS has prepared a document entitled "Guidelines for Releasing Documents Prepared for Members of the General Assembly." You may access a copy of the document release guidelines on the OLLS web page (within the "Service Agencies" section of the General Assembly's public home page) under "Legal Topics", then "Memos of Interest." If you have questions about the guidelines, please contact any OLLS staff attorney.

*Does the General Assembly have a set policy regarding public records and e-mail?*

Yes. In addition to the statutory requirements of the Public Records Law, the General Assembly has adopted specific policies related to public records and e-mail. A document containing these policies is posted on the General Assembly's website, at the "Open Records Policy & Requests" link within the "General Legislative Information" heading. The policies address issues such as how open records requests must be submitted, how public records may be inspected, and what types of documents are considered to be public records. In addition, the policies provide recommendations for classifying e-mails for retention or deletion. A legislator may follow these recommendations or may establish in writing his or her own system for classifying e-mails for retention or deletion.