

HOUSE AND SENATE RULE DIFFERENCES

INTRODUCTION

This memorandum reviews major differences between House and Senate rules in effect during the 1997 legislative session. The rules compared are those rules adopted by the Senate and House on December 5, 1996, and amended by the Senate on January 10, 1997, and amended by the House on January 9, 10, and 27, 1997. Except for the House rules amendments adopted on January 27, these rules were published in the 1997 Rules and Committees Book. Instances in which specific rules were suspended, e.g., 1997 House Journal (HJ) page 394; suspended for one legislative day, e.g., 1997 HJ page 544; suspended until a specific date, e.g., 1997 HJ pages 501 and 762; suspended for specific measures, e.g., 1997 HJ pages 280 and 799 and 1997 Senate Journal (SJ) page 323; and "amended" to change a legislative day, e.g., 1997 SJ pages 251, 380, 457, 627, 658, 697, 760, and 919, are not considered as permanent amendments of the rules for purposes of this memorandum.

There are a number of differences between the rules, particularly with respect to terminology unique to the chambers, such as references to the Chief Clerk of the House and the Secretary of the Senate and special provisions with respect to the Lieutenant Governor as presiding officer of the Senate, e.g., voting (Senate Rules 323 and 339). These are also similar provisions, which are numbered differently, in each chamber, e.g., the Committee of the Whole (House Rules 328 and 701 through 704 and Senate Rule 510), and provisions unique to one chamber, e.g., consideration of executive nominations by the Senate (Senate Rules 501(6) and 701). In addition, there are a number of minor grammatical differences between the rules. This memorandum concentrates on those other matters in which the House and Senate rules differ.

Attached as an appendix to this memorandum is a side-by-side table of the House and Senate rules, with differences underscored.

NO SMOKING AREAS - SMOKING IN CHAMBER

House and Senate Rules 105 provide that no person may smoke in the chamber. House Rule 105 also provides that no person may smoke in House committee rooms. Both rules define "smoke" as carrying a lighted cigarette, lighted cigar, or lighted pipe, but the definition in House Rule 105 also includes the carrying of "any other lighted smoking

equipment." (In 1991, Joint Rule 804 provided that except for the legislative study room on the first floor during a legislative session, no other space in the State Capitol which is used by the Legislative Assembly, including the chambers, committee rooms, halls, passageways, and restrooms, may be designated as a smoking area. Both houses adopted different versions of this rule during the 1993 session; thus, the joint rule was never adopted by the 1993 Legislative Assembly nor was it adopted by either the 1995 or the 1997 Legislative Assembly.)

DUTIES OF PRESIDING OFFICER

House Rule 201 has subsections providing for the Speaker to appoint House committees, except as provided by House Rule 501, which provides for a House Committee on Committees, and sign vouchers for payment of money out of the appropriation for the Legislative Assembly while the Legislative Assembly is in session. Senate Rule 201 does not provide such duties for the President of the Senate (the Senate Committee on Committees appoints committees under Senate Rule 501, and the President Pro Tempore signs vouchers under Senate Rule 202).

ABSENCE OF PRESIDING OFFICER

House Rule 202 provides that the Speaker may leave the chair and appoint a member to preside, but not for longer than one day, except by leave of the House. Senate Rule 202 provides that in the absence of the President of the Senate, or during refusal of the President to act, the President Pro Tempore is to exercise all rights and prerogatives of the President. In addition, while the Legislative Assembly is in session, the President Pro Tempore is to sign vouchers for payment of money out of the appropriation for the Legislative Assembly while the Legislative Assembly is in session (this responsibility is given to the Speaker under House Rule 201).

DUTIES OF SERGEANT-AT-ARMS - LEGISLATIVE GUESTS

House and Senate Rules 205(3) provide that the sergeant-at-arms is to clear the floor of the chamber in front of the railing of all persons, except legislators, legislative employees, legislative guests, and properly identified representatives of the media. House Rule 205(3) also requires legislative guests to have passes, also provides an exception for former members of the Legislative Assembly who have passes, provides the period to clear the floor also

includes noon to 1:00 p.m. on any legislative day, and provides that the sergeant-at-arms is to clear a designated area of the balcony of all persons, except legislative guests who have passes, during the daily session. House Rule 205(3) provides that a legislator may have only one guest per day on the floor. Senate Rule 205(3) provides that a legislator may have only one guest at a time on the floor.

EMPLOYEE POSITIONS

House Rule 206 provides for three assistant Appropriations Committee clerks. Senate Rule 206 provides for one assistant Appropriations Committee clerk.

CALL OF RESPECTIVE HOUSE

House Rule 303 provides that 32 members of the House may cause a call of the House. Senate Rule 303 provides that eight members of the Senate may cause a call of the Senate.

VOTES REQUIRED FOR CERTAIN QUESTIONS

House Rule 318(2) includes in the listing of questions that require a majority vote of the members-elect of the House adoption of a clincher motion, as provided in House Rule 348. (The 1989-90 interim Legislative Management Committee recommended that a clincher motion be approved by a majority of the members-elect. Although the House and Senate adopted the recommended amendment to House and Senate Rules 318(2) and 348, the Senate on January 8, 1991, amended Senate Rules 318(2) and 348 to eliminate the reference to a majority vote of the members-elect.)

House Rule 318(5) lists four questions that require unanimous consent of the members of the House. Senate Rule 318(5) lists the only question requiring unanimous consent--Senate Rule 508, which concerns recalling a measure from committee.

VOTE BY MEMBERS

House and Senate Rules 321 provide that every member who is present is to vote unless excused, and provision is made for disclosure of a personal or private interest in any measure. Senate Rule 321 further provides that if a member has not voted before the key is closed, the member may vote before the vote is announced.

SUSPENSION OF RULES

House and Senate Rules 324 provide that no standing rule or order of the respective houses may be reconsidered or suspended except by a two-thirds vote of the members-elect. House Rule 324 further

provides that no motion to suspend the rules and pass a bill may be entertained except by unanimous consent, unless the bill has first been printed and considered by a committee, nor may any standing rule or order requiring unanimous consent be reconsidered or suspended without unanimous consent.

REFERRAL TO COMMITTEE

House and Senate Rules 328 require bills and concurrent resolutions to be referred to committee. Senate Rule 328 specifically includes resolutions for constitutional amendments within the term "concurrent resolutions." House Rule 328 also allows referral to the Committee of the Whole.

REFERRALS TO APPROPRIATIONS COMMITTEE

House and Senate Rules 329(1) provide for referral or rereferral of all bills or resolutions carrying an appropriation of \$5,000 or more to the respective Appropriations Committees. Senate Rule 329(1) further provides for such referral of measures effecting a change in the audit or fiscal procedures of a state agency or institution.

WITHDRAWAL OF MEASURES

House and Senate Rules 331 provide that after referral to committee, a measure may not be withdrawn without unanimous consent of the House. House Rule 331 also provides that after placement on the calendar after receipt of a committee report, a measure may not be withdrawn.

AMEND OR REFER FROM THE FLOOR OR ON SECOND READING

House Rule 333 requires unanimous consent to amend a bill or resolution on second reading, except for amendments to titles, or to make a floor amendment on the sixth order. House Rule 333 also provides that no amendment of a measure reported from conference committee may be made on second reading. Senate Rule 332 provides that any amendment other than amendment of a measure reported from conference committee may be received on second reading, but, upon request of a member, a floor amendment must be submitted in writing and distributed to each member.

ENGROSSMENT

House and Senate Rules 335 provide for engrossment of bills amended in committee. Senate Rule 335 further provides for engrossment of bills amended by floor amendment.

SETTING TIME CERTAIN FOR FLOOR DEBATE

House Rule 336 provides that the committee chairman, after consultation with and approval of the Speaker of the House, may request the majority leader to set a time certain for floor debate on amendments, a bill, or a resolution and the majority leader may set an exact time when the issue will be debated. Senate Rule 336 provides that the committee chairman, after consultation with and approval of the President of the Senate and the majority and minority leaders, may set a time certain for floor debate on amendments, a bill, or a resolution and is to request the presiding officer to set an exact time when the issue will be debated.

RIGHT TO CHANGE VOTE

House and Senate Rules 341 allow a member to change the member's vote before the presiding officer has announced that the vote is closed. Senate Rule 341 further provides that a member may change the member's vote for purposes of reconsideration after the vote is closed but before it is announced. If the vote is changed for purposes of reconsideration, that announcement is to be printed in the journal with corrected totals of ayes and nays.

CLINCHER MOTION

House and Senate Rules 348 provide that a clincher motion has the effect of preventing reconsideration except upon a two-thirds vote of the members-elect. House Rule 348 requires a clincher motion to be carried by a majority vote of the members-elect. Senate Rule 348 does not refer to a majority vote of the members-elect requirement, and thus the motion is carried by a majority vote of the members under Senate Rule 318(1)(j). (The 1989-90 interim Legislative Management Committee recommended that a clincher motion be approved by a majority of the members-elect. Although the House and Senate adopted the recommended amendment to House and Senate Rules 318(2) and 348, the Senate on January 8, 1991, amended Senate Rules 318(2) and 348 to eliminate the reference to a majority vote of the members-elect.)

RETURN OF MEASURE WITH AMENDMENT

House and Senate Rules 350 provide the procedure to be followed upon the return of a measure that was amended by the other house. Senate Rule 350 requires the chairman to recommend, by motion on the floor, whether to concur in the amendments. House Rule 350 is silent on whether a motion is to be the method of making the recommendation. House Rule 350 additionally provides that without objection the motion to accept recommendations to not concur

and to appoint conference committees must be voted on in a single vote.

INTRODUCTION OF GUESTS

House and Senate Rules 359 provide that the introduction of guests is limited to those individuals called on to address the respective house. House Rule 359 further provides for the introduction of former members of the Legislative Assembly, while Senate Rule 359 further provides for the introduction of individuals of statewide, national, or international prominence and others in the discretion of the President. House Rule 359 further provides that no person may be admitted to the floor of the House except state officers, justices and judges of the Supreme and district courts, present and former members of Congress, present and former members of the Legislative Assembly, present officers and officials, all employees of both houses, reporters for newspapers, and any other person granted admission by the Speaker. House Rule 359 further provides that no member may have more than one guest per day on the floor (see also House Rule 205(3)) and that guest must be seated with the member and defines the floor as the first floor of the House chamber in front of the railing.

TELEPHONES

House Rule 360 provides no private telephone is allowed on the floor of the House. Senate Rule 360 provides no wireless telephone is allowed to be used in the Senate chamber during a floor session or in a Senate committee room during a committee meeting in that room.

DETERMINATION OF SENIORITY SEATING IN HOUSE CHAMBER

House Rule 361 provides a procedure for determining seniority for purposes of selecting seats in the House chamber. The Senate does not have a comparable rule.

WHEN INTRODUCED

House Rule 402(1) provides that after the sixth legislative day no member other than the majority and minority leaders may introduce more than five bills and no bill may be introduced after the 11th legislative day except upon approval of the Delayed Bills Committee or upon two-thirds vote of the House. Senate Rule 402(1) provides that no member other than the majority and minority leaders may introduce more than three bills after the 11th legislative day and no bill may be introduced after the 16th legislative day except upon approval of the Delayed Bills Committee or upon two-thirds vote of the Senate.

STANDING COMMITTEES

House and Senate Rules 501 provide for standing committees in the respective houses and the subject matter to be considered by the respective committees.

House Rule 501(2) provides for appointment of three divisions of the Appropriations Committee. Senate Rule 501 does not contain a comparable provision.

LIMITATIONS ON COMMITTEE MEMBERSHIP

House and Senate Rules 502 provide for limitations on committee membership. Both rules provide that each member is to serve on two standing committees, except the majority leaders and the members of the Appropriations Committees are not to serve on any other standing committee. House Rule 503 further provides that the Speaker is not to serve on any standing committee. Both rules provide that the majority and minority leaders may participate in all standing committees but not vote therein except that the minority leader may vote on the committees to which the minority leader has been appointed. House Rule 503 further provides that the Speaker may participate in all standing committees but may not vote therein.

COMMITTEE PROCEDURES

House and Senate Rules 506 provide that a majority of a committee constitutes a quorum. Senate Rule 506 further provides that 50 percent of the membership of a committee with an even number of members constitutes a quorum.

RECALLING BILL FROM COMMITTEE

House and Senate Rules 508 provide that the chairman of a committee must report a measure back

to the house when ordered by a majority of the members present. Senate Rule 508 requires the motion to be made by the majority leader or the chairman of the committee.

COMMITTEE REPORTS

House and Senate Rules 601(1) provide that the report of a committee must provide for one or more of the following recommendations: do pass, do not pass, be amended, be rereferred to another committee, or be placed on the calendar without recommendation. House Rule 601(1) further provides that when a committee fails to adopt any of the recommendations due to the lack of a majority, the chairman is to report the bill to the floor with whatever minority reports individual committee members may request. House and Senate Rules 601(3) concern placement of committee reports for amendment on the calendar. House Rule 601(3) further provides that without objection proposed amendments on the sixth order must be voted on in a single vote.

CONFERENCE COMMITTEE REPORTS

House and Senate Rules 605 provide that the provisions of other rules do not prohibit the reading of a conference committee report and adoption or rejection of any recommended amendments, nor the placing of any bill or resolution affected by the conference committee report on the calendar for final action on the same day the conference committee report is received. House Rule 605 further provides that if the conference committee report is to adopt recommended amendments, adoption of the report is adoption of the amendments and if the conference committee report is to reject recommended amendments, adoption of the report is rejection of the amendments.

ATTACH:1