

Guide for Committee Chairs

88th Legislature



**Guide for
Committee Chairs**

*88th Legislature
2023*

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House of Representatives

88th Legislature

Sharon Carter
Hugh L. Brady
PARLIAMENTARIANS

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INTRODUCTION

Committees serve as agents of the House of Representatives, and house rules govern committees and their conduct of business referred to them. The House Rules of Procedure impose general procedural requirements and prohibitions on committees while also granting committee chairs latitude in deciding how to conduct business. Committees must comply with all house rules governing committee procedure.

This guide summarizes the House Rules of Procedure for the 88th Legislature and house practice that relate to procedure in house committees. This summary is limited to those provisions of general applicability. This summary does not cover any:

- (1) special provisions governing committees during special legislative sessions;
- (2) provisions that apply to only a single committee (*e.g.*, Appropriations); or
- (3) statutory provisions governing committee procedure under the Legislative Reorganization Act of 1961 (*e.g.*, issuance of process).

1. KEY DUTIES OF THE CHAIR

Rule References: Rule 4, § 6

The chair is generally responsible for the effective conduct of the business of the committee. Under the House Rules of Procedure, the chair:

- a. Presides at all committee meetings and controls deliberations and activities in accordance with acceptable parliamentary procedure.
See Part 4, Committee Procedure.
- b. Schedules the committee's work, in consultation with committee members.
See Part 3, Requirements Before Considering Measures in Committee.
- c. Determines the necessity for public hearings, schedules meetings, and directs posting of meetings.
See Part 2, Committee Meetings.
- d. Appoints all subcommittees.
See Part 5, Subcommittee Procedure.
- e. Directs preparation of committee reports, which must be signed by chair, the member acting as chair, or majority of the membership of the committee.
See Part 6, Committee Reports.

2. COMMITTEE MEETINGS

Rule References: Rule 4, §§ 8–12A, 20A–20B

A. *Generally Applicable Requirements*

1. All meetings of a committee or subcommittee are open to the public and must be held in a location to which the public has access. (*Rule 4, § 12*).

NOTE: *The chair and committee clerk should ensure that a quorum of the committee never congregates in the committee lounge during a committee hearing.*

2. Committees and subcommittees cannot meet while the house is in session, unless permission of the house is given by a majority vote (*Rule 4, § 9*).

NOTE: *It does not require a suspension of the rules to meet while the house is in session; it merely requires that permission be granted by a majority vote. If permission is granted, the committee must meet in a location to which the public has access (i.e., not at a member desk on the house floor).*

3. A committee or subcommittee **cannot** post any type of meeting or suspend the posting rule on a bill or resolution until the committee or subcommittee has possession of the measure.

- A committee has possession of a measure only after referral to committee on the house floor and posting of the referral list. The measure will appear in the committee’s workflow with a date and time-stamp as soon as the referral list is posted.
- A subcommittee has possession of a measure only after referral to subcommittee by the chair in an open meeting of the committee.

NOTE: *The committee coordinator’s office will verify this has occurred before posting a meeting of a subcommittee.*

B. *Requirement for Open and Accessible Meetings*

1. Committee meetings must be held in a location that is accessible to the public (*Rule 4, § 12*).

See Part 4, Committee Procedure, concerning recording requirements for public hearings.

Part 2: Committee Meetings

B. Requirement for Open and Accessible Meetings (cont.)

2. As part of the House's accessibility policy, meeting notices must include links to:
 - Instructions for accessing the meeting location; and
 - For a public hearing,
 - the live broadcast of the committee hearing on the House's website; and
 - instructions for individuals who wish to:
 - ◆ testify in person at the public hearing; or
 - ◆ electronically submit public comments without testifying.

C. Types of Committee Meetings, Purposes, and Specific Posting Requirements

1. There are three types of committee meetings: public hearings, formal meetings, and work sessions. Each meeting type has a distinct purpose and is subject to differing posting requirements (*Rule 4, §§ 10 and 11*).
2. Public Hearings
 - a. Purpose: Committee may take testimony or action on any measure referred to it.
 - b. Posting requirement: Notice of a public hearing must be posted 5 calendar days—not five 24-hour periods—in advance of the hearing.

NOTE: *Count the day of the posting as day 1; the fifth day must be the day before the hearing.*
 - c. Notice requirements: The notice must include the subject matter and the date, time, and location of the hearing.
 - The posted notice must include the bills, resolutions, or other matters the committee will consider. A bill or resolution number is required when:
 - ◆ The committee plans to take testimony on the measure, and the measure has not been previously posted; or
 - ◆ The measure was previously posted but was not reached for consideration at the posted meeting.

Part 2: Committee Meetings

- c. Notice requirements (cont.)
- The posted notice must include a specific time and the indication of “or upon final adjournment/recess,” if there is a chance the house will be in session at the posted time.
NOTE: *The committee cannot convene before the posted time, even if the posting states “or upon final adjournment/recess.”*
 - The committee must convene at the posted time, unless the house is in session or the chair provides notice that the start time of the committee meeting will be delayed to:
 - ◆ Each committee member by some form of communication (e.g., in person, announcement on house floor, phone call, e-mail); and
 - ◆ The public by a notice posted on the door of the committee meeting room, and if possible, by an announcement on the house floor.

3. Formal Meetings

- a. Purpose: Committee may discuss and take action (without taking testimony) on any measure referred to it. A committee may **not** take testimony in a formal meeting except under very limited circumstances from:
- A house member who is not on the committee or a member of the senate (*Rule 4, § 23A*);
 - Legislative branch employees; and
 - In very limited circumstances, employees of the comptroller’s office (*Explanatory Note following Rule 4, § 10*)
- NOTE:** *The best practice is to not allow a person who is not a member of the committee to address the committee during a formal meeting.*
- b. Posting requirement: Notice of a formal meeting must be given in one of two ways:
- Post two hours before meeting **and** transmit written notice to each committee member, **or**
 - File a notice with the journal clerk and have the reading clerk announce the meeting on the house floor while the house is in session **at least 15 minutes** before the scheduled meeting time (*Rule 4, § 11*).

Part 2: Committee Meetings

3. Formal Meetings (cont.)

- c. Notice requirements: The notice must include the date, time, and location of meeting.
 - The notice may, but is not required to, list the bills and resolutions or other business that the committee will consider. Any measure that has been referred to the committee or matter within the committee's jurisdiction is eligible for consideration during a formal meeting.

NOTE: *In the interest of increased transparency, chairs should give an indication of what the committee will consider (e.g., "pending business" or "referred business").*

4. Work Sessions

- a. Purpose: Committee may discuss any measure referred to it but **cannot** take testimony or any action.

NOTE: *Because no action or testimony can be taken at a work session, they are rarely used.*

- b. Posting requirement: Notice of a work session must be given in one of two ways:
 - Post two hours before meeting **and** transmit written notice to each committee member, **or**
 - File a notice with the journal clerk and have the reading clerk announce the meeting on the house floor while the house is in session **at least 15 minutes** before the scheduled meeting time (*Rule 4, § 11*).
- c. Notice requirements: The notice must include the date, time, and location of work session.
 - The notice may, but is not required to, list the bills and resolutions or other business that the committee will discuss. Any measure that has been referred to the committee or matter within the committee's jurisdiction is eligible for discussion (without taking testimony or action) during a work session.

3. REQUIREMENTS BEFORE CONSIDERING MEASURES IN COMMITTEE

Rule References: Rule 4, §§ 7, 33-34

A. **Pre-Hearing Bill Analyses**

Before a bill or joint resolution can be laid out in committee, committee staff must distribute a bill analysis to each committee member and the bill's author (*Rule 4, § 7*).

NOTE: *The bill analysis can come from any source, including the measure's author. It is not required to contain all listed elements of the committee report's bill analysis under Rule 4, § 32(c), and an author's statement of background and purpose may suffice.*

B. **Fiscal Notes**

Before a bill or joint resolution can be laid out in committee, a fiscal note from the LBB must be obtained and distributed to each committee member; ***if the chair determines the measure has fiscal implications*** (*Rule 4, § 33*).

NOTE: *Most chairs request a fiscal note on all bills and joint resolutions referred to the committee, even those that do not have fiscal implications. A new fiscal note is not required on a senate measure if it has not been amended since the last fiscal note was prepared, but the safest thing to do is to request a fiscal note on all senate measures referred to the committee.*

C. **Impact Statements**

The following other impact statements for particular types of bills and joint resolutions must be requested, ***if the chair determines that the measure has that particular type of impact***, but a committee meeting can proceed without the impact statement (*Rule 4, § 34*):

- Criminal Justice Policy Impact Statement (most bills will be referred to Corrections and Criminal Jurisprudence);
- Equalized Education Funding Impact Statement (most bills will be referred to Public Education);
- Actuarial Impact Statement (most bills will be referred to Pensions, Investments, and Financial Services);
- Water Development Policy Impact Statement (most bills will be referred to Natural Resources or Land and Resource Management); and

Part 3: Requirements Before Considering Measures in Committee

C. Impact Statements (cont.)

- Tax Equity Note (most bills will be referred to Ways and Means).

NOTE: *In the interests of transparency, a chair should request an impact statement if there is reasonable doubt about whether the statement is required—especially since: (1) an impact statement is not required to be distributed before the committee’s first consideration of the measure; and (2) an impact statement is not required to be submitted with the filed committee report but may be distributed when received.*

4. COMMITTEE PROCEDURE

Rule References: Rule 4, §§ 16–16A, 18, 20–20B

A. Committee Quorums and Roll Calls

1. A majority of the membership of the committee is required to take any action (*Rule 4, § 16*).

NOTE: *A committee must have a quorum when it convenes. Testimony and discussion can continue if a quorum is temporarily lost during a meeting and no committee member raises a point of order, but no action can be taken if a quorum is not present.*

2. A roll call must be taken at the beginning of every meeting and following any recess or adjournment of the committee (*Rule 4, § 18(a)(2)*).

B. Committee Rules and Procedures; Scheduling of Business

1. The house rules govern the operation of committees. A committee may adopt additional rules and procedures that are not in conflict with the house rules.

- A copy of adopted committee rules and procedures must be filed with the chief clerk and the journal clerk. Adopted rules and procedures will be printed in the house journal (*Rule 4, § 13*).

2. The chair schedules bills and resolutions, determines the order of consideration of measures, and refers measures to subcommittee (*Rule 4, §§ 6(3) and 48*).

NOTE: *Once a bill has been laid out, any action on that bill (with the exception of referring it to subcommittee) either requires a vote of the committee or must be done without objection of any committee member. A bill referred to subcommittee is still in the possession of the committee, and the chair has the authority to recall the bill and lay it before the full committee, even if the subcommittee has not made a report.*

Part 4: Committee Procedure

C. Testimony and Public Comments

1. All witnesses, other than resource witnesses and members of the legislature, must complete a witness affirmation form before testifying. Witnesses testifying in person at the Capitol will complete the form using the electronic witness registration system. Witnesses testifying in person at hearings outside of Austin or invited witnesses testifying virtually may complete a paper form (*Rule 4, § 20; please also read carefully the Explanatory Note following Rule 4, § 10*).

2. All testimony before a committee must be electronically recorded (*Rule 4, § 19*).

NOTE: *A committee must hold a public hearing in a location where testimony can be recorded. If there are technical issues affecting the recording, including problems with virtual testimony, the chair should pause the meeting to resolve these issues before proceeding.*

3. **Only persons invited by the committee may testify virtually** through a two-way Internet or videoconferencing system (*Rule 4, § 20(g)*).

4. As part of the House’s accessibility policy, the Committee on House Administration has established a standard process for the electronic submission and posting of public comments to allow persons domiciled in Texas the opportunity to electronically submit comments to the committee for the measures or matters scheduled for consideration at each public hearing.

5. SUBCOMMITTEE PROCEDURE

Rule References: Rule 4, §§ 45, 48–49

- a. The chair reviews all measures referred to the committee to determine if the legislation should be considered by the full committee or referred to a subcommittee (*Rule 4, § 48*).

NOTE: *Just as committee assignments are announced and measures must be referred by the speaker to committee during an open session of the house, measures must be referred to subcommittee and subcommittee members must be announced during an open meeting of the committee.*

- b. The committee cannot bind the subcommittee to consideration of certain material by adopting a substitute or amendments before referring a measure to subcommittee. A bill or resolution **cannot** be sent to subcommittee with amendments or a substitute attached, and any action taken by the full committee on proposed amendments or substitutes is voided when the measure is referred to subcommittee. Similarly, the full committee is not bound by the subcommittee's recommendation and is free to consider the bill and any substitute or amendments it chooses (*Rule 4, § 48*).

- c. Subcommittees are governed by the same rules that govern committees, including posting, meeting, and minutes requirements (*Rule 4, § 45*).

- d. Subcommittee reports are optional (*Rule 4, § 49*).

NOTE: *Under recent practice, subcommittees rarely issue reports, and bills and resolutions are merely recalled by the chair and laid before the full committee during a posted committee meeting (public hearing or formal meeting).*

6. COMMITTEE REPORTS AND PLACEMENT ON A CALENDAR

Rule References: Rule 4, §§ 16, 27, 32–34; Rule 6, §§ 7, 23

A. *Vote Requirements for Reporting a Measure*

1. Reporting a measure from committee or placing it on a calendar requires ***an affirmative record vote of the majority of the membership of the committee*** (*Rule 4, § 16*).
2. ***If a motion to report fails, a motion to reconsider the vote is not necessary.*** Under Rule 4, Section 27, a majority negative vote on a motion to report favorably is insufficient to report. A motion to report favorably may fail to adopt because: (1) it receives more “aye” votes than “nay” votes but does not receive enough “aye” votes to be reported; or (2) it receives more “nay” votes than “aye” votes. In either case under Section 27, a motion to reconsider the vote by which the motion failed is not necessary because the committee has not taken any action. The bill is effectively left pending and may be called up at any time by the committee chair for a renewed motion to report.

B. *Preparation and Signing of Reports (Including Bill Analyses)*

1. Committee reports must include all items required by the rules and the committee report form must be signed by the chair, the member acting as chair, or a majority of the committee (*Rule 4, §§ 32–34*).

NOTE: *Committee reports are prepared after the committee adjourns its meeting. It is **always** appropriate for the chair to sign a committee report, even if the chair was not presiding when the measure was reported. “Member acting as chair” means the committee member who is directed by the chair to sign the report (e.g., the vice-chair (recommended) or another committee member who is in town). The “majority of the membership of the committee” language is in the rules in the event that the chair refuses to sign a report on a measure that has been voted out of committee.*

Part 6: Committee Reports and Placement on a Calendar

2. Under the House Rules of Procedure, “each committee report on a bill or joint resolution . . . must include in summary or section-by-section form a detailed analysis of the subject matter of the bill or resolution, specifically including[, among other things,] background information on the proposal and information on what the bill or resolution proposes to do [and] an analysis of the content of the bill or resolution[.]” H. Rule 4, § 32(c)(1)-(2), 88th Legis. (2023). It is the responsibility of the committee under the rules to direct the preparation of, and to review, the bill analysis. The bill analysis, which is part of the committee report, is the committee’s work.

A legislative measure presents a proposal to change the existing status quo under state law. To comply with the House rules, a bill analysis must accurately detail how the measure would alter the status quo. This information is required because it “aid[s] Members in casting an informed vote on a measure by providing objectively reliable information about the changes in law being made.” Moreover, simply regurgitating the measure’s language does not constitute an “analysis,” which means “to examine . . . carefully for the purpose of understanding, esp. by breaking down into constituent parts[.]” Erroneous information in a bill analysis that is substantially or materially misleading does not meet the objectively reliable test.

Thus, for a bill analysis to meet the objectively reliable test, it must:

- Where existing law is being amended, not only describe the changes to that existing law, but describe how existing law and the proposed law differ in material respects;
- Provide consistent and predictable detail in its analysis. A bill analysis that omits some of the measure’s substantial provisions while essentially quoting other substantial provisions in their entirety creates a misleading impression as to the bill’s application;

Part 6: Committee Reports and Placement on a Calendar

- Primarily use statements of fact, rather than statements of opinion, in describing the background and purpose. A statement is considered to be an opinion when, upon consideration of the entire context in which it was made, it cannot be objectively verified;
 - Vague references to “interested parties”, etc., in supporting a factual statement do not meet the test. “According to the Comptroller of Public Accounts...” does meet it; and
 - If the facts are either incorrect or incomplete, or the committee’s assessment of them is objectively erroneous, the analysis’s statements do not comply with the rule;
- Analyze definitions that are key terms, especially when the measure is redefining terms in existing law;
- Other than repealers made for a conforming change, indicate the substantive effect of any repealers. Repealers are not automatically conforming changes;
- Analyze lists that include criteria for applicability or the contents of legal papers for initiating or terminating administrative or judicial action;
- Analyze any exceptions made by the measure to the application of either existing or proposed law; and
- Describe the effect(s) of savings clauses, contingency clauses, and severability clauses.

C. Recommending Bills for Calendars or Local and Consent Calendars

1. When reporting a bill or resolution, it is ***NOT necessary*** to recommend that the measure “be sent to the general calendar.” The measure will automatically be sent to the Calendars Committee ***unless*** the committee votes to send the measure to the Local and Consent Calendars Committee (L&C).
2. Joint resolutions cannot be sent to L&C because the committee does not have jurisdiction over joint resolutions (*Rule 6, § 7(5)*).

Part 6: Committee Reports and Placement on a Calendar

C. *Recommending Bills for Calendars or Local and Consent Calendars (cont.)*

3. A bill or resolution that authorizes or requires the expenditure or diversion of state funds, as indicated by the fiscal note, is not eligible to be sent to L&C (*Rule 6, § 23(c)*).

4. The motion to recommend a measure to be sent to L&C is usually combined with the motion to report the measure and must receive a unanimous “aye” vote from the present and voting committee members (*Rule 6, § 23*).

NOTE: *A single “nay” vote prevents the measure from being sent to L&C; a “present” vote does NOT prevent the measure from being sent to L&C. If a combined motion receives a “nay” vote and receives enough “aye” votes to be reported, the minutes and committee report should indicate the measure was reported favorably but is NOT recommended to be sent to L&C.*

APPENDIX: SAMPLE COMMITTEE RULES

The House Rules of Procedure governing committee operations always control and cannot be suspended by a committee. They need not be “adopted” by a committee. Each session, committees have found certain additional rules, not in any way in conflict with the House rules, helpful in the conduct of their business.

Although committee rules vary somewhat from time to time and are designed to suit particular committees, the sample committee rules set out below are examples of best practices that comply with all requirements of the Texas Constitution, state law, and the House Rules of Procedure.

Committee on {Name of Committee]

Committee Rules

Rule 1. Hearing Requests. (a) Before any measure may be heard or considered by this committee, the author or sponsor must deliver a written request to the committee chair asking that the measure be set for a hearing.

(b) The written request must include or be accompanied by the following:

(1) one hard copy and one electronic copy (in PDF format) of the introduced bill as filed by the chief clerk and reflected on the electronic legislative information system;

(2) one hard copy and electronic copy of the background and purpose statement (in Microsoft Word format) for the introduced measure;

(3) the names of any witnesses expected to testify, including those whom the author or sponsor will request the committee chair to testify virtually under House Rule 4, Section 20(g); and

(4) the name and e-mail address of the staff member who is handling the legislation;

(c) The committee may not consider a measure on a motion to report from committee unless the version to reported is drafted by the Texas Legislative Council. The author or sponsor of the measure shall request the council to draft any committee substitute. This rule does not apply to committee amendments that do not exceed one page in length and that are not a substantial substitute.

NOTE: *If the committee chair wishes to have a policy requiring Texas Legislative Council drafts, language similar to Subsection (c) of this rule must be adopted to address that policy. Before adopting such a policy by*

Appendix: Sample Committee Rules

committee rule, the committee should carefully consider the limitations such a policy may have on the ability of the committee to complete its work expeditiously. Because of the press of legislative business, the council's legal staff may not be able to provide the committee substitute before its consideration by the committee.

Rule 2. Committee Meetings. (a) The committee shall meet at the time and place designated on the schedule prepared under House Rule 4, Section 8(a).

(b) Additional meetings for purposes provided under House Rule 4, Section 10, shall be called by the committee chair during any session and the interim period between sessions in the manner prescribed by the House Rules of Procedure.

(c) The committee chair shall designate the committee member to preside at any committee meeting during the temporary absence of the chair.

Rule 3. Witnesses; Testimony. A witness appearing before the committee or its subcommittees may file a written statement of the witness's proposed testimony. The testimony may be filed in advance of, or on the same day as, the witness's anticipated appearance.

(b) If the witness filed written testimony in advance, the witness shall limit the oral presentation at the witness's appearance to a brief summary.

(c) The committee chair may limit the time for a witness to deliver testimony, including limiting the time for questioning a witness.

Rule 4. Summonses and Process. (a) The committee chair shall issue all summonses as provided by House Rule 4, Section 21(b). The summons may include any requests for the production of such books, reports, correspondence, memorandums, papers, and other documents as the chair deems necessary.

(b) The committee chair shall issue all other process, including subpoenas, only when ordered by the full committee as provided by House Rule 4, Section 21(a).

Rule 5. Other Committee Action. Under Section 402.042, Government Code, an attorney general opinion must be requested by the committee and may not be requested by any individual member of the committee. Any request for an opinion of the attorney general in the name of the committee:

Appendix: Sample Committee Rulesp

(1) must relate to a matter under the committee's jurisdiction as specified by House Rule 3; and

(2) must be ordered by a majority of the membership of the committee.

NOTE: *The authority to request an attorney general opinion is governed by Section 402.042, Government Code, regardless of whether the committee adopts a rule such as the above rule.*

Rule 6. Committee Staff. (a) The committee chair shall appoint and remove the committee's staff and make adjustments in the job titles and compensation thereof subject to the terms and conditions established by the Housekeeping Resolution and the House personnel manual.

(b) While it is intended that the skills and experience of all committee staff be available to committee members, the committee staff shall work under the general supervision and direction of the committee chair.

Rule 7. Committee Publications. To the maximum extent feasible, the committee shall make its publications available in electronic form and available on the Internet.

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