

# **MASSACHUSETTS LEGISLATIVE HISTORY**

Office of the Senate Clerk, Boston

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## **1.1 INTRODUCTION**

Legislative history is sought as a means to aid in interpreting a statute, i.e. a method of determining the intent of the legislature in enacting a particular measure. Tracing legislative history involves tracking the procedural record of a bill's progress through the legislature. The Massachusetts legislature has adopted procedural rules which provide for multiple stages of consideration for each measure, including opportunity for public comment, legislators' debate, and agreement between both chambers of the legislative branch. Approval by the executive branch completes the process of enacting legislation. The following sections set out the procedural guidelines which control the progress of a bill through its various stages of consideration. The key sources, both print and electronic, used in documenting these stages are described in detail.

### **1.1.1 Legislative Process Overview**

Massachusetts has a bicameral, i.e. dual chamber, legislature known as the General Court. The name dates from colonial time when the legislature also had judicial powers. The upper body of the General Court is the Senate, composed of 40 members. The lower body, the House of Representatives, consists of 160 members. Members are elected to a two-year term; each biennial session begins in an odd-numbered year. Each body has a presiding officer elected by a majority of its members: the Senate is led by the Senate President and the House by the Speaker of the House. Each chamber has its own procedural rules to govern activity within the chamber, as well as joint rules to govern progress of bills. These rules are printed in the Manual of the General Court (See [Sec.1.10.2](#)).

Bills introduced in the General Court require the approval of both the Senate and the House before proceeding to the Governor's desk for signature. This approval process involves study by a committee, and three readings, i.e. three separate procedural steps in each chamber, before submission to the Governor.

Prior to 1995, bills submitted in a biennial session were active only during the first year of the session so that bills not enacted during the first session were defunct. In order to revive the measure, legislators were required to refile the measure. Refiling required submission of the petition again, printing the bill as a new bill number, referral to Committee, etc.

Due to the rules reform measures carried out in 1995, the Joint Rules governing procedure in the Senate and House were revised to provide for bill "carryover" measures. These measures ensure that bills remain active throughout the biennial session. (See Joint Rule 12B)

Bills enacted by the General Court and signed by the Governor become Acts or Resolves. Acts are considered to have a general effect and usually amend the state's code of law, the Massachusetts General Laws. Bills which have limited effect, e.g. impact only particular individuals (grant a special pension) or impact only a certain community (naming of a bridge) or establish special commissions,

are known as Resolves. The laws passed by each legislative session (i.e. session laws) in Massachusetts are published as the Acts and Resolves. The process of tracing Massachusetts legislative history, then, begins with an examination of the "historical notes" section of the annotated code to determine the amendment(s), i.e. session laws, constituting the section's language. These session law citations are converted to a final bill number within the session by using the Bulletin of Committee Work or the House or Senate Journal Index. (See Sec. 1.10.2 for descriptions of sources)

## **1.2 FILING PROPOSED LEGISLATION**

### **1.2.1 Legislators' Petitions**

While there are five methods of proposing legislation, petitions filed by legislators constitute the majority of a session's proposals. Petitions are preliminary documents (brief written forms) filed with the Senate or House Clerk. The bill itself, which accompanies the petition, is a formal document in prescribed form, setting out the text to be added to the General Laws, etc. Citizens may file petitions, but absent endorsement by a state senator or representative, the measure will not be presented to the General Court. Rather, the Senate and House Clerks simply hold the petition. (See glossary "Right of free petition.") Note that measures relating to a particular city or town must receive local approval under the terms of the home rule amendment to the Constitution. Mass. Const. Amend. Art. 89.

The provisions of Joint Rule 13 allow for members to file a statement of intent with their bills. It is very rare that members actually file a statement of intent. When such a statement is filed, it is printed at the top of the bill.

The handwritten/typewritten petition and the typescript of all bills are retained regardless of how the measure is filed; these documents form the basis of the legislative package. The legislative package is the collection of original papers detailing the legislative process. (See Sec.1.10.1)

The deadline for filing proposed legislation is prior to five o'clock in the afternoon on the second Wednesday in January of the first annual session of the General Court. Measures not filed in accordance with this deadline become subject to the provisions of Joint Rule 12 for late filed matters. No such matter shall be admitted for consideration except on report of the committees on Rules of the two branches, acting concurrently, and then upon approval of two thirds of the members of each branch voting thereon.

### **1.2.2 Legislation Proposed by Governor's Message**

The Governor has the power to file legislative proposals without requiring endorsement by a legislator. Typically, a Governor's message is filed with the House Clerk and so will receive a House bill number. Such recommendations

from the Governor traditionally include a transmittal letter from the Governor to the legislature, detailing the need for such legislation, etc. This document can be extremely useful in determining intent. A draft of the proposed bill is appended to the Governor's message.

The annual message from the Governor, printed as Senate Bill 1 (Inaugural Address if following an election, otherwise the Governor's "State of the State" address) is a general outline of a program from which the Governor may submit legislation throughout the session. In the second year of the session, the Governor's address is assigned another Senate document number which varies.

### **1.2.3 Legislation Proposed by an Administrative Agency**

State agencies may file proposed legislation with the House Clerk. (House Rule 24) These administrative agency recommendations, e.g. Recommendations of the Department of Revenue, are accompanied by bill drafts. (See [G.L.M. c. 30, sec. 33](#)). These agency recommendations are printed as the first series of bill numbers in the year. Such proposals may not include appropriations language.

### **1.2.4 Legislation Proposed by Special Commission Reports**

Special commissions typically report their findings in a narrative report which contains proposed legislation as an appendix. The report is presented to the General Court, which may act upon the proposed legislation. Special commission reports may carry Senate or House bill numbers, depending on the language of their reporting mandate, e.g. "Said committee must file a report in the Office of the Senate Clerk, etc." Since most special commissions are required to file their findings with both the Senate and House Clerks, these offices will arrange the number assignment.

There is an index to special commission reports, [Index of Special Commission Reports Authorized by the General Court, 1900-1988](#) and an update covering reports issued through 1994. Both index sources are available at the State Library. The Index is arranged by subject keyword with reference to the year and report number.

### **1.2.5 Legislation Filed by A Joint Standing Committee**

A committee bill may be filed by a joint standing committee (See Committee Structure below) upon the written and signed report of two-thirds of the members of the Senate and two-thirds of the members of the House appointed to said committee. The bill must be germane to the committee's reporting responsibilities. All bills filed in this manner must bear the designation "committee bill, resolve, order or resolution."

### **1.2.6 Voter-Mandated Legislation**

In addition to the methods for filing legislation described above, special provisions provide for proposed legislation to originate directly from the voters of the Commonwealth. The method by which voters may propose new legislation without an individual legislator's sponsorship is the initiative petition process. An initiative petition is the power of a specified number of voters to submit to the people for their approval or rejection a proposal to amend or enact general legislation or to amend the state constitution.

Voters may respond to newly enacted legislation by seeking to repeal the measure; this response is the referendum process. A referendum is an action by the people to suspend or nullify an existing law.

Note that the initiative petition is an action by the people prior to the enactment of a law (or amendment to the constitution), whereas a referendum is an action by the people after the enactment of a law by the General Court.

## INITIATIVE PETITION

Voters may propose legislation and Constitutional amendments under the provisions of Mass. Constitution Amendment Article 48 which provides, "the people reserve to themselves the popular initiative, which is the power of a specified number of voters to submit Constitutional amendments and laws to the people for approval or rejection." An initiative petition is not filed initially in the General Court. The petition must be signed by ten qualified voters and submitted to the Attorney General for certification (i.e. checked for compliance with the provisions of Mass. Const. Amend. Art. 48, as amended) not later than the first Wednesday in August and then filed with the Secretary of State not earlier than the first Wednesday in September.

Additional signatures (totalling three percent of the entire vote cast for Governor at the preceding state election), which are required by law, must be filed with the Secretary of State between the first Wednesday in September and the first Wednesday in December, before the assembling of the General Court into which they are to be introduced. The initiative petition is then filed with the Clerk of the House and assigned to a joint committee of the General Court and a public hearing is held. A written report must be issued by the joint committee setting forth in detail the reasons for approval or disapproval of the petition, for amendments the committee may propose, or for recommendations of a substitute measure. If the members disagree on whether to approve or disapprove the initiative petition, the committee members must sign and file written majority and minority reports. Each branch of the General Court in joint session then votes on the measure. If it receives the approval of two successive General Courts, it is then placed on the ballot at the next state election. If the petition is approved by the voters, it takes effect 30 days after the election. The text of approved initiative petitions, with the dates of consideration and roll call vote totals, can be found in Election Statistics, the annual report of the Election Division of the Secretary of

State (See [Sec.1.10.2](#)). The actual roll call record can be found in the House and Senate [Journals](#) (See [Sec.1.5](#) re voting procedures). The text of each proposed initiative petition is filed and published as a legislative document.

### **1.2.7 Constitutional Amendments**

Constitutional amendments may also be recommended by members of the General Court, in a Governor's message, or by a special commission, administrative agency or board that has been authorized to recommend amendments to the General Court. [Legislative Procedure](#), at 14. (See [Sec.1.10.2](#)) See Mass. Const. Amend. Art. 48. An amendment proposed by the legislature must also pass two successive joint sessions of the General Court before being placed on the ballot. A legislative amendment to the Constitution needs the approval of a majority of the voters, but a constitutional amendment proposed by initiative petition (described above), or a "legislative substitute" for such an initiative-proposed amendment (described below) requires approval of 30 percent of the total number of ballots cast in that state election and a majority of those voting on the amendment. [Legislative Procedure](#), at 73.

### **1.2.8 Statutory Amendments**

Finally, the initiative petition is available as a means for the people to propose an amendment to a statute. A proposal to amend a statute by initiative petition follows the same procedure as a proposal to enact a law or to amend the Constitution by initiative petition, except that the committee of the General Court to which the petition is assigned may not recommend amendments to the proposed amendment, but only a substitute bill, also referred to as a legislative substitute. [Legislative Procedure](#) at 74. If the General Court fails to enact the initiative-proposed amendment into law before the first Wednesday in May, the petition may be completed by filing the necessary additional signatures with the Secretary of State within a specified time thereafter. A statutory amendment proposed by an initiative petition may only be amended by a majority of the first 10 signers of the petition, subject to the certification of the Attorney General. It is then placed on the ballot for the next state election.

### **1.2.9 Legislative Substitute**

A "legislative substitute" is a proposal submitted by the General Court as a substitute for any measure introduced by initiative petition. Before being placed on the ballot, the legislative substitute itself must be approved by two successive General Courts. The substitute must stay within the scope of the original initiative petition, and it is designated on the ballot as a legislative substitute and alternative to the original petition. [Legislative Procedure](#), at 70.

### **1.2.10 The Rederendum Petition**

A referendum petition under the provisions of Article 48 of the Amendments to the Massachusetts Constitution "is the power of a specified number of voters to submit a law, enacted by the General Court, to the people for their ratification or rejection." Mass. Const. Amend. Art. 48. In the case of most statutes, after the statute has been enacted, 90 days must elapse before it becomes effective. This period gives an opportunity for qualified voters to file a referendum petition requesting that the operation of the law be suspended until the people can vote whether to accept it or nullify it. The only exception to the 90-day period is an emergency law effective immediately or a Special Act, which is generally effective in thirty days. See [Sec.1.9](#) below. Such measures may not be the subject of a referendum petition.

The filing of the referendum petition with the Secretary of State must be made within 30 days after the enactment of the law and accompanied by additional signatures equal in number to not less than 2 percent of the entire vote cast for governor in the preceding statewide election. The law is then suspended and placed on the ballot for the next state election, provided that a 60-day period intervenes between the filing of the referendum petition and the date of the election. If the time period is shorter than 60 days, the law is resubmitted to the people at the next state election unless the General Court repeals it before then. If the law is approved by a majority of the voters, it takes effect 30 days after the election. If not so approved, the law is null and void.

A law is not considered disapproved if the vote was less than 30 percent of the total number of ballots cast in the state election. Laws that may not be made the subject of a referendum petition are those pertaining to the budget, a locality or district, judges and the power of the courts, freedom of religion or freedom of speech. [Legislative Procedure](#) at 77. Mass. Const. Amend Art. 48, tit. III, sec. 1.

### **1.3 LEGISLATIVE COMMITTEES' ROLE IN THE ENACTMENT PROCESS**

The joint committees of the General Court are determined by both branches and stated as part of the Joint Rules. (Joint Rule 1). Most Committees are joint committees, i.e. composed of Senate and House members; joint committees have a Senate Chairman and a House Chairman. The Senate President assigns senators to committees and the Speaker of the House assigns representatives to committees. The minority party leaders participate in the committee assignment process for their party members.

Bills are referred to a topic-appropriate committee by the Senate Clerk and House Clerk subject to the approval of the presiding officer in each branch, and subject to any changes the full Senate or House may make in the assignment process.

In addition to joint committees with membership from both branches, each chamber has standing committees consisting of members from its chamber only.

Standing committees are considered secondary committees in that bills may be referred to them, but all bills must also be approved by a joint committee. There are eight standing committees in the Senate; these committees are determined by Senate Rule 12. There are ten standing committees in the House, as established by House Rule 17. (See [Glossary](#) for list of committees).

### **1.3.1 Public Hearings on Proposed Legislation**

It is mandatory for each joint committee to hold a hearing on each bill submitted to the committee. (Joint Rule 1B) Committee hearings are listed in the [Daily List](#) (See [Sec.1.10.2](#)) available from the Legislative Document Room, State House, Room 428. Notices of hearings are sent by Committee staff to petitioners. Hearings are open to the public and all interested parties may attend and address the committee. The committee chair may limit the time allowed to individual speakers and/or the time allowed for a particular matter.

Committee staff prepare background analyses, known as legislative summaries, on bills for presentation to Committee members before the public hearing. These summaries remain with the Committee staff. Note that these summaries do not become part of the legislative package.

While there is no stenographer present at public hearings, there is documentation available for Committee proceedings. Committee staff compile a bill folder containing any written testimony submitted at a public hearing. This folder is retained throughout the legislative session by the committee; it is not part of the legislative package. The ultimate disposition of bill folders varies from committee to committee; some committees submit their folders to the State Archives for permanent retention. Direct contact with the relevant committee is the best way to determine the disposition of the bill folders for past sessions.

In addition, videotape records are available for selected Committee hearings. Recorded by WGBH under contract to the General Court, these videotapes are deposited in the State Library along with a written record of witnesses' names. All videotapes of hearings are cataloged and searchable through the State Library's online catalog of bibliographic records (See [Sec.1.10.2](#))

The State House News Service, an unofficial, i.e. commercial reporters group operating in the State House, covers public hearings on a selective basis. These records are retained in the State Library from 1975 to present in a file organized by subject matter of legislation. (See [1.10.2](#))

### **1.3.2 Committee Action on Proposed Legislation**

Following the public hearing, the Committee will schedule an Executive Session to discuss the disposition of the bill. At this stage, individuals may attend but may

not address the Committee. Members will examine public testimony, staff reports, etc., and prepare to make a recommendation on the bill.

The disposition of a bill by committee takes the form of a recommendation and not a narrative report. This recommendation consists of a standard form; committee chairs have the option of checking "Ought to pass," "Ought to Pass with an Amendment" or "Ought Not to Pass," "Changed," "Discharge to Another Committee," or "Refer to Study Order."

Study orders seek to authorize the Committee to sit during recess and study this measure and similar ones and file a narrative report of its findings. Due to budgetary and staff constraints, though, study orders are seldom approved. The vast majority of bills sent to a study order do not progress any further in the legislative process.

The committee may recommend a new draft of the bill before it; this committee draft will have a new bill number as assigned by the Clerk. Such a redraft action occurs when many similar measures are filed before the committee, which will report out one draft only. A redraft may also occur when there are major language/terminology changes recommended by the Committee.

If a bill is reported by committee as "Ought to Pass with an Amendment," the changes in the bill will be printed in the Calendar of the Senate and in the Calendar of the House. The amendment will be printed in the Senate Journal and in the House Journal as well. (See section [1.10.2](#) for a description of these official sources.)

Joint Rule 10 requires committees to report out bills by the fourth Wednesday in June. Committees can request an extension of this deadline from the Clerk if the complexity of the matter requires additional committee analysis. Such an extension order must be approved by both chambers.

There are variant traditions for reporting changes made in the Ways and Means Committees of the two branches: Senate Ways and Means reports out amendments with text printed in the Journal; the House Ways and Means Committee will report changes for the Calendar and the text will appear in the subsequent House Journal.

House and Senate rules govern actions in the General Court on an adverse report from a committee, including the possibility of substituting a new bill for the one negatively recommended. In the vast majority of instances, an unfavorable committee report is accepted by the full chamber and the bill dies. As an exception, the chamber can require that the bill be resubmitted to committee for further study and action.

The term "next annual session" found in older bill histories does not mean that the bill was in fact carried over to the next legislative session. Such action was impossible prior to the adoption of legislative carryover provisions in the 1995-96 session.

## **1.4 CHAMBER ACTION ON PROPOSED LEGISLATION**

### **1.4.1 First reading**

The bill's first reading occurs when it appears in the Journal as favorably reported by Committee. This stage is recorded in the Journal of the branch then considering the bill. As a next step, the bill may be referred out to other committees for additional analysis. Following its referral to this secondary committee, the bill must go to the chamber's committee on steering and policy. Depending on the chamber where the bill originated, the bill will be referred to the Senate Committee on Senate Steering and Policy next, or to the House Steering, Policy, and Scheduling Committee.

The Senate Steering and Policy Committee's role is to determine scheduling priorities for legislation; the Committee does not issue favorable or adverse reports (See S. Rule 12B). The House Committee on Steering, Policy and Scheduling has a similar mandate.

### **1.4.2 Second Reading**

The second reading is significant for the researcher since it is the stage at which the bill may be debated on the floor of the chamber. Bills or resolves are placed in the Calendar for the respective chamber for the second reading. (Each chamber prints its own calendar, or agenda, for each formal session. See [Sec.1.10.2](#) for description of Calendars) This step ensures that members are aware that the bill is about to be brought to the floor for debate. Senate members receive this information in the "Notice" section of their Calendar (See Senate Rule 7); after appearing in the Notices for Second Reading, the bill is placed in the front of the Senate Calendar, i.e. sent to the top of the agenda, for the next formal session.

In the House, once a bill is reported by the Committee on Steering, Policy and Scheduling, the bill appears on the House Calendar. It is possible for bills to be referred to the Committee on Bills in Third Reading without debate.

The Clerk reads the title of the bill; the measure is now open to debate on the floor. At this stage, members may offer motions to amend the measure; these amendments must be considered for adoption by the chamber. The text of proposed amendments appears in the House and Senate Journals; if amendments are lengthy, the bill may be reprinted as a new bill number.

It is important to note that there is no stenographer present in either chamber to record debate. While the Journal will record procedural motions, it does not

record debate. The broadcasts of formal sessions are now taped and deposited in the State Library (see Sec.[1.10.1](#)) The State House News Service, a commercial reporting group operating out of the State House, provides printed transcripts of chamber debate. This source is available in hardcopy and electronic formats. (See Sec. [1.10.2](#))

Following debate and motions, the Chair (Senate President, Speaker or their designees) puts a question before the body; the question being on ordering the bill/resolve to a third reading. This step is significant in that it signals that debate has closed for this stage and that the bill is ready to be referred to and examined by the Committee on Bills in Third Reading.

### **1.4.3 Third Reading**

Measures ordered to a third reading are referred to a standing committee of that chamber known as Bills in Third Reading. This committee reviews the bill for proper legal form, correct citations/amendments to existing statutes, and possibly any unconstitutional provisions. This committee has the power to make necessary corrective or technical changes in bill language; these changes may not be printed in the Calendar or Journal. The changes may appear only in the original papers and in the final engrossed bill (if approved by both branches and the governor).

The Committee on Bills in Third Reading gives its report in a standard format. Generally, this report is in the form of a statement, "Matter correctly drawn." Bills in Third Reading files its report with the Clerk of the respective chamber; if there are substantial changes required to the bill, it may be recommended as a new draft. After the report is given, the bill is placed in the Calendar for a third reading on the floor of the chamber. After the Clerk reads the bill title for a third time, the measure is again open on the chamber floor. Members may debate the measure again, submit motions to amend, etc. If the bill is amended, that subsequent amendment (unless reported by the Committee on Bills in Third Reading) will require re-examination of the bill by Bills in Third Reading.

Following the third reading, the bill must be passed to be engrossed. (See [glossary](#)) This stage indicates that the bill is before that chamber for final action; passing a bill to be engrossed is the last step before the bill is referred to the other chamber for its consideration.

### **1.4.4 Engrossment**

Bills passed to be engrossed are sent to the Engrossing Division where the final text is printed in preparation for consideration by the other chamber.

## **1.5 LEGISLATORS' VOTING PROCEDURES**

### **1.5.1 Voice Vote**

Most bills are passed by voice vote, i.e. the Chair will state the pending question, e.g. "Question comes on passing H1934 to be engrossed." If no objection is stated by members, the question is considered approved and the Chair announces so to the members.

### **1.5.2 Standing Vote**

If a member rises to doubt the vote, the Chair orders a standing vote whereby those voting "Yea" stand, then those voting "Nay" stand. Each division is counted in turn. There are four divisions in the House.

### **1.5.3 Roll Call Vote (House)**

Twenty House members may require a roll call vote which is a member-by-member polling on the pending question. The Speaker will state the pending question and activate the chamber's electronic voting device. Members vote from their seats by pressing a green (Yea) or red (Nay) button. The Speaker closes the voting period by displaying a record of the vote results. The roll call votes are numbered sequentially throughout the session; results are printed in the House Journal. Annual bound Journals contain a Yea and Nay supplement and a separate subject index to roll call votes.

### **1.5.4 Yea and Nay Vote (Senate)**

One-fifth, or a number equal to the total number of minority party members, of the members present may request a yea and nay vote on a bill. (See Senate Rule 56) The President states the question and the Clerk begins the process by calling the names of all members in alphabetical order. A member may announce, before the vote begins, that he/she has "paired" with another member (see [glossary](#)) and then indicate how each will vote. Those members are excused from the roll call. All roll calls, including paired votes, are printed in the daily Senate Journal. Unlike the House Journal, there is no annual cumulation of all Yea and Nay votes in the Senate; the voting results are reported within that day's proceedings.

### **1.5.5 Voting Record Analysis**

Caution should be advised in reviewing roll call votes to determine exactly which question is before the membership: is it approval of an entire bill or approval of an amendment only? A member's vote may reflect disagreement with particular language in a proposed amendment and not necessarily disapproval of the entire measure.

In addition to the Senate and House Journals, there are unofficial sources for legislative voting information. The Massachusetts Political Almanac (See [Sec.1.10.2](#)) is published annually and provides a summary of each member's vote on the publisher's designated ten or more most important votes. Specialized

publications track legislation and report on voting trends, e.g. Beacon Hill (weekly newspaper published by Vandeburgh Publishing Company, 410 Boylston Street, Boston, MA 02116, tel. 617-266-2600) and Commonwealth: Politics, Ideas, and Civic Life in Massachusetts (quarterly magazine published by MassINC, 177 Tremont Street, Boston, MA 02111, tel. 617-338-8900).

## **1.6 ENACTMENT OF PROPOSED LEGISLATION**

### **1.6.1 Enactment by legislature**

After one branch passes a bill to be engrossed, it is sent to the other branch where the same procedure takes place. The bill, if not amended by the second branch, is then sent to the Engrossing Division of the General Court, where it is prepared in its final official text. It is returned for formal enactment to the chambers.

Enactment consists of the matter being presented to each body for final consideration. The Speaker and the President read the title of the measure and pose the question, "Shall the measure pass to be enacted?"

Enactment occurs first in the House, where the engrossed bill is signed by the Speaker, and then in the Senate, where it is signed by the President, and is then delivered to the Governor for action. Note that bills are always transmitted from the Senate Clerk to the Governor for his action. If an emergency preamble, intended to provide for immediate effective date (See [Sec.1.9](#)), is attached to the bill, the emergency preamble must be adopted by both branches.

### **1.6.2 Approval by Governor**

Staff members in the Governor's Legislative Office and in the Governor's Legal Office review the bill and prepare a summary sheet for the Governor concerning possible impact if signed, etc. These records are maintained permanently, in the Governor's own office during his administration, and at the State Archives at the end of his office-holding period. While they do not reflect legislative intent (remember that these records originate in the Executive branch), the records are helpful nonetheless in understanding concerns of the period and should be consulted in addition to the legislative package.

### **1.6.3 Options for the Governor in approving legislation**

The Governor has ten days in which to sign the bill, return it with an amendment, veto it, or let the bill become law without his signature. If the Governor returns the bill with an amendment, this amendment takes the form of a Governor's message. Governor's messages are printed as separate bill numbers. If the engrossed bill originated in the Senate, the resulting Governor's message will be printed as a Senate bill. If the engrossed bill originated in the House, the Governor's message will be printed as a House bill number. These Governor's messages include a transmittal letter stating the reason for amendment along with the language of the proposed amendment.

A Governor's veto may be overridden by a two-thirds vote of the members present and voting in both branches. If the Governor does not sign a bill within ten days of its reaching his desk, it becomes law without the Governor's signature. The exception to this rule occurs when the session of the General Court is prorogued (See [glossary](#)) or dissolved, and the ten-day period has expired. In this instance (pocket veto), the bill does not become a law.

## **1.7 CONFERENCE COMMITTEES**

At times, a bill will be engrossed in a different form by both chambers; the measure can't progress to enactment until the same draft is approved by both chambers. This situation, which commonly arises during appropriation bill proceedings, requires the appointment of a conference committee. Three members from each branch are appointed by the presiding officers to serve on the conference committee. Conference committee members are charged with reaching a compromise between the two drafts.

The conference committee files its report to the first requesting branch (i.e. the branch first calling for creation of a conference committee). The committee does not report its findings as a narrative report. Rather, the conference committee's report may be in the form of a new draft and it may receive a new bill number. Alternatively, the committee may just state the agreement reached by both branches (e.g. "Senate recedes in its subsequent amendment"); in such an instance that text will be printed in the Senate or House Journal. Reports of a conference committee cannot be changed or amended by either branch, but must be accepted or rejected in whole, in the form in which made. Legislative Procedure, at 40-41.

## **1.8 APPROPRIATION BILLS**

The Commonwealth's fiscal year runs from July 1st to June 30th. The fiscal year is always designated by the year in which it ends; thus, fiscal year 1999 (FY '99) designates the budget year ending June 30th, 1999.

The annual budget for the Commonwealth, known as the General Appropriation Act, originates in the form of a recommended budget that the Governor submits in January each year to the House of Representatives as House Bill No. 1 (House 1). Just as any other legislative proposal, House 1 requires three readings in each chamber, followed by engrossment and enactment by both chambers before submission to the Governor. Due to its subject matter, however, the budget bill involves some steps not encountered with general legislation. The passage of the appropriations bill is described here.

House 1, a multi-volume document containing appropriation language as well as narrative descriptions of programs, represents the Executive budget recommendations. Appropriation language in the budget is broken down into "line items," eight-digit numbered codes that identify each agency. In the case of large

agencies, e.g. Division of Transitional Assistance, particular programs or offices may have their own line item number. The House 1 document is prepared by the Budget Bureau, a division of the Executive Office for Administration and Finance. The Budget Bureau bases its findings on recommendations submitted by Executive Secretariats, the legislature, the judiciary, constitutional officers, oversight boards and offices. All state agency budget requests are filed with the Budget Bureau and are available for public inspection there as well as in the originating agency's office. Such requests are generally kept on file for one year by the Budget Bureau.

After H1 is submitted to the House, it is assigned to the House Ways and Means Committee and hearings are held to receive testimony by interested parties, including agency heads and the secretaries of Executive Offices. The Ways and Means Committee must report out to the full House a recommended appropriation bill before the second Wednesday in May. The draft reported by the House Ways and Means Committee will have a different House bill number. The House Ways and Means draft is submitted to the full House for debate on the chamber floor. This draft bill is debated and amended before being passed. Due to the large number of floor amendments adopted, the bill is reprinted as amended and it is this draft, incorporating floor amendments, which is sent to the Senate.

The Senate Ways and Means Committee is charged with reviewing the House-passed budget bill. This committee likewise holds hearings, drafts its version of an appropriation bill and reports this draft (a Senate bill number) to the full Senate for consideration and passage.

The Senate debates the bill and adopts amendments; the resulting new draft is printed and carries a different Senate bill number. This final Senate draft is referred to the House.

Due to the variation in language from the final Senate draft as compared to the final House draft, there is a conflict between the two engrossed bills. A conference committee (See [Sec.1.7](#)) is needed to study the two drafts and to arrive at compromise language.

The conference committee's recommendation, taking the form of another bill, cannot be amended by either branch, but must be accepted in whole or rejected in whole. Budget conference committees, operating under Joint Rules 11, 11A, and 11B, analyze the language in each draft and report out compromise language. Acceptance of the conference committee draft indicates that the bill language is no longer in conflict and that the same bill is agreed to by both branches. Upon acceptance, the General Appropriation Act is then enacted and sent to the Governor for his signature. The governor may veto line items in the budget. This veto is subject to override by the legislature with a two-thirds vote of the members present and voting.

While there is only one general appropriation act each year, there may be multiple supplemental budgets passed. The supplemental budget, so called because it supplements an agency's existing fiscal year appropriation, is designed to alleviate emergency shortages in funding during the fiscal year.

The General Appropriation Act, like all appropriation measures, is a Special Act and is found in the annual session laws (Acts and Resolves) rather than the General Laws. However, an outside section of the budget might amend a General Law. See [Sec.1.8.1](#) below for an explanation of outside sections.

### **1.8.1 Outside Sections**

An "outside section" of an appropriation bill is a section which does not contain actual line item (i.e. individual budget account) information as one would expect in the appropriation act. Instead, the outside section deals with a separate substantive matter. Originally designed as a controlling measure to a line item, the practice of adding outside sections has gone far beyond its original purpose. Now, outside sections may have no connection with any line item language. Legislation that has originated as an "outside section" of an appropriation bill from the Ways and Means Committee of either the House or Senate usually does not have a public hearing and is enacted as part of the appropriations bill. Outside sections are printed at the end of the appropriations act, after all of the line-items.

This process of amending General Laws through an outside section or "rider" to the appropriations act first occurred in 1975 with the enactment of the fiscal year 1976 budget. (Hogarty, Richard A. and Richard A. Manley, Circumventing Democracy: Lawmaking by Outside Budget Section . Boston: University of Massachusetts, 1993.)

The Supreme Judicial Court has refused to rule on the propriety of the legislature's practice of using outside sections to create or amend substantive law. However, in Sutton Corporation v. Metropolitan District Commission, 423 Mass. 200, 667 N.E. 2d 838 (1996), the Supreme Judicial Court increased its scrutiny and held that an outside section unrelated to an appropriations measure could not become effective immediately. The court held that the outside section instead would be effective 90 days after enactment of the budget, thereby imposing the rule for effective dates of general statutes on this outside section. (See [Sec.1.9](#)) Beginning in 1997, the legislature has added an emergency preamble to the budget to create an immediate effective date for the entire act.

### **1.9 EFFECTIVE DATE OF LEGISLATION**

Laws involving general legislation (i.e. legislation of a general and permanent effect), become effective 90 days after the Governor's signature. Mass. Const. Amend. Art 48, Ref., Pt. 1. Days are counted in succession, including holidays

and weekends, and acts become effective at 12:01 am on the 91st day. These acts may be subject to a referendum petition. (See [Sec.1.2.10](#))

Acts with emergency preambles usually provide for the measure to become effective immediately, but always in less than 90 days. Mass. Const. Amend. Art. 48, Ref. Pt. 2. An emergency preamble is standard language stating the general purpose of the act; the preamble concludes with the statement that this is an "emergency law, necessary for the immediate preservation of the public convenience." The preamble must be adopted by both branches. In such cases, the act is effective upon the precise moment of the Governor's signature.

In addition, the Governor can file an "emergency letter" requiring an act to become effective immediately. This emergency declaration is filed with the Secretary of State; the effective date and time (down to the minute) is recorded as of the filing in the Secretary of State's Office. Session laws are printed by the Secretary of State's Office and will include such emergency declarations. Note that emergency acts may not be the subject of a referendum petition. (See [Sec.1.2.10](#))

Some acts contain particular effective date language as a provision within the act. Special acts (See [Sec.1.1.1](#)) are usually effective in 30 days unless noted otherwise at the end of the act. Some Special Acts are made effective upon passage if, upon review by Senate or House Counsel or an amendment of the General Court, it is decided that a more immediate effect is necessary. In this case, the statute will state, "This act will take effect upon passage." A resolve takes effect immediately unless it provides otherwise. ([MGL](#), c.4, sec. 2; see [Sec.1.1.1](#) re resolves)

A private publisher, the Massachusetts Legislative Reporting Service, prints a list of acts throughout the session with their effective dates already calculated. This [Guide to Massachusetts General and Special Acts](#) (See [Sec.1.10.2](#)) is available at the State Library. In addition, there is a brief guide to effective date determination, [Effective Dates of Massachusetts Statutes](#) (Boston: Palmer & Dodge, 1989), also available in the State Library.

### **1.9.1 Local Approval or Acceptance Statutes**

Acceptance statutes, also known as local approval statutes, are laws enacted by the General Court that concern some aspect of municipal affairs but that are not effective in any particular city or town unless the local voters vote to "accept" it. An example of an acceptance statute is legislation requiring boarding house owners to install sprinklers ([MGL](#) c. 148, Sec. 26H) As a general matter, once a city or town has voted to accept such a statute, it cannot later vote a change in its acceptance. Amendment or repeal of such a statute must usually come from the legislature. The Commission Section of the Secretary of State's Public Records Division, One Ashburton Place, 17th floor, tel. 727-2836, maintains a list of

acceptance statutes accepted by cities and towns since 1885. Information concerning acceptance statutes before 1885 can be obtained by checking the individual town's reports, which are on file at the State Library from the early 1800's.

## **1.10 TRACING THE LEGISLATIVE HISTORY OF A MASSACHUSETTS STATUTE**

Legislative history is important for what it reveals about the meaning or intent of a particular statute. Unfortunately, there is comparatively little recorded legislative history in Massachusetts that affords much insight into legislative intent. Unlike many federal statutes, Massachusetts legislative enactments do not contain purpose clauses or preambles, although in recent years there have been a few examples of such provisions. In rare instances, an act will include a preamble stating the purpose of the legislation, e.g. St. 1972, c.766 Special Education Act. The language of the preamble contained in Sec. 1 of this act can be useful as a broad statement of intent.

Legislation proposed by the Governor is often explained by an accompanying Governor's message. Similarly, legislation proposed by a state officer or administrative agency is usually accompanied by recommendations setting forth its intent. Draft legislation filed by special recess committees and commissions is accompanied by a narrative report that usually provides useful information as to intent.

The majority of proposed legislation, however, is filed by petition. See [Sec. 1.2.1](#). Since petitions are not accompanied by any statement of purpose, these filings present the most difficult of the methods of filing from which to determine intent. Once filed, detailed narrative records do not accompany a petition's progress in the General Court.

Nevertheless, as discussed in the following sections, it can be helpful to review all legislative documents listed in the bill history and to examine all texts of amendments in order to reconstruct the development of the law. (See [Tracing a Massachusetts Law](#))

When tracing legislative history, it is necessary to identify the bill-level activity for the language being studied. Therefore, one must consult the "History Notes" in either set of the annotated code to determine when the language was added to the code section. Once the session law citation is verified, the final bill number can be determined by consulting the annual [Bulletin of Committee Work](#) or the [Advance Legislative Service](#) (notes the bill number next to the session law cite) or the [Legislative Reporting Service](#). (See [Sec.1.10.2](#))

The bill history available from the state's website (current session) or from the printed House and Senate Journals (final or index volume) or from the [Legislative](#)

Record will indicate key information for the bill history. Such information includes: the committee assignment for the bill; earlier bill number drafts; date of public hearing (which can be checked for possible videotaped hearings in the State Library and/or feature stories filed by the State House News Service); and dates of debate on the chamber floor.

Bill histories are printed in an abbreviated format. The date appears in the left-hand margin, followed by "S" or "H" to indicate in which chamber the action is occurring, a brief statement of the action, e.g. "Read third", and an abbreviation for the Senate Journal or House Journal page (SJ or HJ) on which the procedural action is recorded.

As discussed in Sec.1.4.2 and 1.4.3, debate takes place on the second and third reading dates. Once these dates are known, the State House News Service debate press releases (See [Sec.1.10.2](#)) can be checked for coverage; if the reporters' notes indicate extensive debate, the videotaped proceedings of the Senate and House (See [Sec.1.10.2](#)) can be reviewed. Also, dates when proposed amendments are offered should be reviewed for debate.

Once the measure is sent to the Governor's desk, there will be no more coverage in the State House News Service or coverage in the Senate and House Journals, barring an action by the Governor to return the measure with a recommended amendment.

A potential resource for gubernatorial action is the State Library's collection of Governor's Press Releases (compiled since 1958), issued at the time a particular statute is signed. These releases may make some mention of the content or purpose underlying the enactment.

Legislative history in the form of social history may be gleaned by interviewing the petitioners of the bill, e.g. a nonprofit organization promoting certain social legislation, the legislator who sponsored it, whoever proposed amendments, as well as the committee staff who prepared the background research on the bill for the committee. Newspaper accounts and news files should also be consulted for any additional background information. If personal interviews are impossible because of a lengthy time lapse, then background research on the persons involved and an investigation of the political, economic and social conditions of the period may assist in reconstructing the influences that prevailed at that time. While such sources of information cannot offer formal legislative history, they may still assist the researcher.

The Legislative Research Council, a now defunct state entity, published a report titled Determination of Legislative Intent in 1982 (printed as 1982 House 5882). The report summarizes the policies and practices of Massachusetts and other states in establishing and determining legislative intent. This report is available in the State Library.

### **1.10.1 Sources of legislative history - State Library and State Archives**

#### Legislative Packages and Legislative Files

The resources of the State Library and the State Archives Division of the Secretary of State should be searched for a complete legislative history of every law passed by the General Court. The State Archives collection contains the "legislative package," - the original manuscript records compiled for each bill - and the legislative files from the Governor's office. All original papers that are part of the documentation of the law are filed with the clerk of the Senate or House; at the end of each session; these papers are deposited with the State Archives. These materials are public records and are open to inspection. These legislative packages are filed by the year and chapter number of the enacted law. Unpassed legislation is filed by the last disposition of the bill.

In addition, the State Archives retain general correspondence files of the Governor and all papers from a Governor's administration.

The legislative files created by the Governor's Legislative and Legal Counsel staff members (See [Sec.1.6.2](#)) can provide valuable background information. Note that since these documents originate in the Executive Branch, they do not reflect the legislature's intent in enacting the measure. Records of Governors' legislative files are available at the State Archives since the Peabody administration (1964), with some gaps. Records from the present administration are retained in the Governor's Legislative Office, State House, Room 160, Boston, MA 02133. Tel. (617) 727-7238. The State Archives is located at 225 Morrissey Boulevard, Boston, MA 02125. The Archives staff will provide reference assistance by telephone, Tel. (617) 727-2816.

### **1.10.2 Records of Legislative Action (official and unofficial)**

Descriptions of the major sources of documentation for legislative action follow.

#### Bulletin of Committee Work (1918 to present)

This title documents the work of legislative committees of the General Court on all matters referred to committee during a session. The format of the Bulletin has changed over time; from 1918 to 1972, the annual Bulletin contained a subject index to legislation. Since 1973, the subject index to legislation is found in the final volumes of the House and Senate Journals.

The cross-reference table in the back of each annual cumulative Bulletin, "Acts and Resolves Approved by the Governor," tracks each session law back to its final bill number. It is used as an initial step in tracing legislative history.

The Bulletin is published on an ongoing basis during each biennial session; there are separate pamphlets issued twice a year for each committee, culminating in an

annual (cumulative) issue. Copies of the Bulletin are available free from the Legislative Document Room, State House, Room 428, Boston, MA 02133. Tel. (617) 722-2860.

Online access to the legislative committee activity is available through the General Court's website. See below.

#### Calendar of the Senate; Calendar of the House

The Calendars are also known as the "Orders of the Day," and as such, these documents set the agenda for a session. Matters are listed on the Calendar as notice to the members that certain action is pending. Calendars are distributed through the Legislative Document Room (see above).

#### Daily List of Committee Hearings

Distributed by the Legislative Documents Room, this publication indicates which committees are conducting hearings on a given date, along with the bills slated to be taken up at the hearing and the hearing location. Also, a list of hearings scheduled for the current week is accessible through the General Court website. See below.

#### Election Statistics (P.D. 43)

Published by the Elections Division of the Office of the Secretary of State, this document records those initiative petitions, referendum questions and proposed constitutional amendments that appeared on the ballot with their dates of legislative debate and roll call vote tallies, in addition to election returns. The P.D. designation denotes a public document from a state agency. (Note: this numbering system has fallen into disuse) This document is sold by the State Bookstore, Room 116 State House, Boston, MA 02133, Tel. (617) 727-2834.

#### [General Court Website](#)

The General Court's website is mounted as part of the Commonwealth's website; there are no fees involved in searching the site or downloading information. The legislature mounts bill tracking information for the current session on its website. This source allows for subject access to pending legislation, access by sponsor's name, and bill status tracking information. Committee activity, including the list of bills pending before the committee, is also documented on the website. The current week's committee hearings are listed. Note that the legislature's site is updated at least twice a week, with plans to update daily.

At present (December 1997), the full-text of legislative documents is not included on the state's website, nor is the Calendar or Journal. These projects are cited as pending work, due to be completed by April 1998. Similarly, the Official Edition

of the General Laws is slated to be added to the legislature's website by January 1998.

There are no plans to mount past years' bill tracking files on the website due to the size of the files involved.

#### Guide to Massachusetts General and Special Acts

A private publisher's index to acts and resolves passed throughout the session, this service is printed in looseleaf form. Most helpful for determining the effective date of a statute, the service also provides a cross-reference from the act number to the final bill number. In some years, the publisher has also printed an index to the outside sections of the appropriations act. Publication is on file at the State Library from 1977 to date. Subscriptions to this publication and related services are available from Legislative Reporting Service, 31A Mount Vernon Street, Boston, MA 02108, Tel. (617) 723-6464.

#### Index of Special Commission Reports Authorized by the General Court, 1900-1988 and Supplemental Index to 1994.

This is an index to special commission reports mandated by legislation. Both index sources are available at the State Library. The Index is arranged by subject keyword with reference to the year and report number. Note that special commission reports issued after 1975 will be represented in the State Library's online catalog. See below.

#### InstaTrac

This commercial service's "MassTRAC" product provides electronic full-text access to legislative documents, Journals, and bill status reports as well as campaign contribution records. The database is created by scanning printed legislative documents and Journals. Presently, subscriptions are based on set annual fees for dial-up access; a website is planned. Contact: InstaTrac, tel. (617) 292-1800.

#### Journal of the Senate; Journal of the House of Representatives

The Journals contain the chronological record of the business of each branch for every legislative day during a session of the General Court. Debates are not included. Rather, the Journal contains the procedural record of the chamber's deliberations. Only roll call votes (see Sections [1.5.3](#) and [1.5.4](#)) are recorded in the Journals.

There is an index, arranged by subject matter of legislation, in the final volume of each year. In addition, the Senate Journal contains a Supplemental Index to unnumbered matters, e.g. ceremonial matters such as proclamations which are not

numbered as legislative documents. The House Journal contains a Yea and Nay Supplement Index to the subject matter of roll call votes. In the House Journal, the Miscellaneous Index lists unnumbered matters.

Since 1970, a "Bill History Index" detailing the disposition of each bill has been printed in the final Journal of the year. Note that both chambers' bill histories are listed in each volume. Since 1983, the Journals have the list of acts and resolves approved by the Governor, with the final bill number of the legislation.

The Journals are distributed through the Legislative Documents Room. See full address under

Bulletin of Committee Work.

Judicial Council Annual Report(P.D. 144)

The Judicial Council, which is no longer publishing reports, serves as an advisory body to the General Court. In its role, the Council could recommend legislation on certain topics (obviously those of interest to the judiciary), as well as discuss the merits and faults of legislation referred to the Council for study by the legislature. These Judicial Council Reports often preceded the enacted legislation; several years of the Council reports should be checked since the legislation may have been resubmitted and refined by the legislature over a span of years. The P.D. or Public Document designation identifies the report as an official annual report of a state entity.

Legislative Documents

Every document filed with the Senate or House Clerk and assigned a consecutive bill number in a particular session is known as a "legislative document." The printed legislative documents of each branch are separately bound and published in a series of volumes for each session of the legislature. This series of volumes includes printed bills, special commission reports, Governor's messages, and advisory opinions from the Supreme Judicial Court.

Print copies of individual legislative documents from the current session are available free from the Legislative Documents Room. Subscriptions to the entire legislative documents set, excluding large titles such as House 1 (budget) and Ways and Means Committee reports, are available. For mailed subscriptions, price is \$50 annually; checks should be payable to Commonwealth of Massachusetts/Legislative Documents and sent to Michael Rea, Sergeant-at-Arms, State House, Room 71B, Boston, MA 02133. Subscriptions may also be arranged for on-site pick up of legislative documents; the cost is \$100 for the entire biennial session's documents. Checks should be made payable to Commonwealth of Massachusetts/Legislative Documents and sent to: Legislative Documents Room, State House - Room 428, Boston, MA 02133. State website should include full-text of bills beginning in Spring 1998.

Presently, electronic access to the full-text of legislative documents is available through three commercial, fee-based services: InstaTRAC (see above); Westlaw (filename MA-BILLTXT – current session's bills only); Lexis/Nexis (MATEXT – bills since 1991).

### Legislative Package

See Section 1.10.1 above.

### Legislative Procedure(See Manual of Legislative Procedure)

#### Manual of Legislative Procedure in the General Court of Massachusetts

Last revised in 1977, this guide sets forth basic procedural steps as described by Norman Pidgeon, the former Senate Parliamentary and Constitutional Advisor to the Senate. Although outdated in that it does not describe recent legislative carryover provisions, etc., the guide is valuable as a narrative account of legislative procedure usually found only in the Senate, House and Joint Rules. The guide is now out of print, but is available for consultation in the State Library.

#### Manual of the General Court

Published for each biennial session, the Manual sets forth the membership of the General Court and its procedural rules (Senate, House and Joint Rules). In addition, the Manual contains valuable information on legislative districts, Congressional districts, counties, voter returns for last Presidential election, and the texts of the U.S. and Massachusetts Constitutions. Brief directories of executive department agencies, lists of state symbols, and other key facts are printed in the Manual. While many sections from the Manual (e.g. legislative directory, Constitution, etc.) are mounted on the state's website, the entire Manual contents do not yet appear on the website. The Manual is available for sale through the State Bookstore, State House, Room 116, Tel. (617) 727-2834.

#### Massachusetts Political Almanac

Published annually, this private publisher's directory to the legislative branch (a companion volume covers the executive branch) details each member's personal background. In addition, the publisher determines ten or twelve "key votes" of the prior session and indicates how each member voted. Ratings of members by major political action groups are covered in the profiles. A fee-based website is planned; website under construction as of December 1997 (<http://www.the-mpa.com>)

#### State House News Service

This is a commercial reporters group operating out of the State House. Reporters file debate notes on floor action from each chamber. In addition, reporters attend selected committee hearings and press conferences and file reports known as feature stories. The Service's "Advances" describe anticipated action in state government from the legislative and executive branches that week; the "Round-Ups" summarize the week's events. The Service sells its feeds to other news organizations and to individual subscribers. Subscriptions can be in hard copy or electronic format. As an ongoing project, the Service is creating a fee-based website for accessing its current and archival files; connect to <http://www.statehousenews.com>.

The State Library subscribes to hardcopy Service files and maintains backfiles for debate (1972 to date) and feature stories (1975 to date) in microform. The Library has created an electronic file of Service debate releases and feature stories beginning with the 1995-95 legislative session; current files in electronic format are embargoed for one month. Access to this database is available free on-site at the State Library.

#### State Library's Online Catalog

The State Library's online catalog contains records of special legislative commission reports, all state documents and legal treatises, etc. added to the collection since 1975. The catalog is part of a regional library network known as C/W MARS (Central and Western Massachusetts Automated Resource Sharing). Access to the catalog requires creating a telnet session from your Web browser. Connect to: <http://www.cwmars.org> and select PAC as the desired service. Select VT100 emulation for the session. State Library's catalog is File 116 from the main C/W MARS menu. Type //EXIT to disconnect from service.

#### Videotapes of Selected Committee Hearings

The State Library began receiving videotapes of selected legislative committee hearings in 1992. These hearings are chosen by WGBH staff for broadcast and subsequent tape retention based on scheduling demands and the permission on the committee chairmen. The State Library maintains a list of committee hearings on videotape arranged chronologically; all hearings are included in the Library's online catalog and are accessible for research use.

#### Videotapes of Senate and House Formal Sessions

The State Library serves as the depository for the General Court's audio and video records of proceedings. The General Court owns the records and the Library serves as a public inspection area. The House of Representatives' formal proceedings were recorded on audiotape from November 1984 to November 17, 1987, when the format changed to videotape. The Senate proceedings are available on videotape from January 1, 1996 to present.

