

M I N U T E S

LEGISLATIVE PROCEDURES AND FACILITIES COMMITTEE
OF THE
IOWA LEGISLATIVE COUNCIL

November 9, 1970

The Legislative Procedures and Facilities Committee of the Iowa Legislative Council was called to order by Committee Chairman, Speaker William H. Harbor, at 1:40 p.m., November 9, 1970 in the Legislative Service Bureau Library, State House, Des Moines, Iowa, with the following members present:

Senator Eugene M. Hill
Senator Elmer F. Lange
Senator Robert R. Rigler
Representative Dale M. Cochran
Representative Andrew P. Varley

Also present were Secretary of the Senate Carroll Lane, Code Editor Wayne Faupel, Assistant Code Editor Phyllis Barry, Mr. Dale Nelson and other staff members of the Data Processing Division of the Comptroller's office, and Director Serge Garrison and Phil Burks of the Legislative Service Bureau.

The Committee took up for consideration the matter of the space needs of the Legislative Fiscal Director's office, which had been referred to the Committee by the Legislative Council at the Council's last meeting. Senator Lange read a letter which he had received from the Budget and Financial Control Committee, to which the Legislative Fiscal Director is responsible. The letter stated in effect that any decision regarding major alterations in the Capitol building should be approved by the Executive Council and the Legislative Council as well as the Budget and Financial Control Committee. The letter further stated that the Budget and Financial Control Committee would be meeting again on November 13, and would be glad to discuss the space needs of the Legislative Fiscal Director's office with the Legislative Council or any of its members at that time.

Mr. Garrison briefly reviewed the need for additional office space as previously presented to the Legislative Council by Legislative Fiscal Director Gerry D. Rankin. Mr. Garrison added that Mr. Rankin had been hospitalized at the time of the Budget and Financial Control Committee meeting at which the matter had been discussed by that group, and had perhaps therefore been unable to explain the matter as fully as he had before the Council.

After further discussion, Senator Lange suggested that the Committee recommend to the Legislative Council that the matter be referred to the Capitol Planning Commission. There being no objection, Chairman Harbor so directed.

The Committee then took up for consideration the proposed new Iowa Bill Drafting Guide, to be prepared and issued jointly by the Legislative Service Bureau, the Secretary of the Senate, the Chief Clerk of the House, and the Code Editor. (NOTE: Subsequent references to page numbers in these minutes are references to the proposed bill drafting guide as distributed to the Procedures and Facilities Committee for consideration, unless otherwise noted.)

Mr. Garrison reviewed various features of the proposed bill drafting guide in the order in which they appear in the guide. Mr. Faupel suggested that the word "now" and words of like import be added to the list of words to be avoided in drafting bills, which begins on page 18.

There was some discussion of the current requirement that explanations appear on all bills. It was generally agreed that this requirement should extend to joint resolutions. Mr. Faupel questioned whether it is desirable to include explanations on joint resolutions proposing amendments to the Constitution of the State of Iowa, but Committee members indicated that they do not consider this a problem since such explanations are not in any case enrolled after a joint resolution has been adopted by the General Assembly.

Representative Varley expressed concern about the clarity of explanations prepared for proposed constitutional amendments when they are submitted to the electorate for final ratification. Mr. Faupel explained that preparation of such explanations is by statute a function of the Secretary of State's office.

Mr. Lane suggested that the Legislative Service Bureau be formally assigned responsibility for preparation of explanations for all bills and joint resolutions introduced in the General Assembly. Senator Hill objected, explaining that this could lead to a situation in which a sponsor of a bill who did not agree with the Service Bureau's assessment of the intent and effect of the bill would repudiate the Service Bureau's explanation when presenting the bill on the floor. After some discussion, it was agreed not to formally assign final responsibility for the content of explanations of bills and joint resolutions to the Legislative Service Bureau.

There was some discussion of the suggested format for the first page of bills, as set forth on page 1 of the appendix. Mr. Garrison noted that he had concluded, subsequent to the preparation of the preliminary draft of the proposed bill drafting guide, that it would be unnecessary and unduly expensive to apply this format to one-section bills. Chairman Harbor and Representative Varley expressed concern that adoption of this format might increase printing costs and add to the bulk of the General

Assembly bill books. Mr. Garrison acknowledged that adoption of the new format might have both of these effects in some degree, but pointed out that when a bill is drawn up in accordance with this format page 2 would begin on the reverse of page 1 and therefore the overall increase in bulk probably would not be excessive. He also pointed out that considerable savings in cost would result because it would not be necessary to retype an entire bill in cases where, after delivery of a final draft bill to the main sponsor, the bill is returned in order to have additional co-sponsor's names shown on the first page.

The Committee discussed the inclusion of section headnotes in bills prepared for introduction in the General Assembly. Mr. Faupel expressed objection to the practice of amending headnotes which appear in existing law, since these headnotes are by statute declared not to be a part of the law. He added that he has no objection to including headnotes with entirely new sections proposed for addition to the Code, adding that in fact he welcomes the inclusion of such headnotes in draft bills. After some discussion, general agreement was reached that headnotes should be used in reproducing existing Code sections in bills prepared for introduction in the General Assembly, even where the section in question is being drastically rewritten, but that the headnotes will be removed when the bill is enrolled following final passage.

In reviewing the new style for drafting of amendments to bills, Mr. Garrison pointed out that it has been agreed by Mr. Lane and Chief Clerk of the House William Kendrick that each amendment will be numbered serially, in order to identify it clearly and thereby permit the computer to apply each amendment to a pending bill. Mr. Garrison stressed that the serial numbering would be for identification purposes only, and does not necessarily indicate that the various amendments will be taken up in chronological order. Senator Hill observed that it has generally been the custom in the Iowa General Assembly to take up amendments in order in which they are filed, and that any departure from this custom should be made only with the consent of the Senate or House, as the case may be. Chairman Harbor and Senator Lange expressed disagreement, pointing out that in some cases the nature of the amendments or their intended effect with respect to the pending bill or to other amendments may determine the order in which they are considered.

Mr. Faupel expressed concern about the enrolling procedure set forth on pages 35 through 37, pointing out that because it is contemplated that the prior language with strike throughs and the underlines marking new language will be removed and the enrolled bill will present only the law as it is to read in the future, it will be difficult for attorneys to determine what

changes have been made from prior law. He added that for this reason he anticipates considerable objection to the new bill drafting method from the Bar Association. Mr. Garrison noted that he has discussed the proposed new bill drafting method with members of the Polk County Bar Association, and that it has been tentatively agreed that he will speak to the Polk County Association at some future time to explain the new system in detail. Several members of the Committee indicated that they believe the new bill drafting method will greatly facilitate legislators in determining the exact effect of proposed bills, and that this greatly outweighs any objection which might be made on the part of individual attorneys who feel it would be more difficult for them to determine what changes have been made in the law. It was suggested that possibly copies of the final draft of the proposed new Iowa Bill Drafting Guide could be made available to attorneys throughout the state.

Mr. Faupel raised a question as to the effect of multiple amendments to the same section under the new bill drafting procedure. Mr. Garrison stated that, from a strictly legal point of view, the effect would be no different than the effect of multiple amendments to the same section under the existing bill drafting system. He noted that there are recognized rules of statutory construction for resolving direct conflicts in amendments to the same section, and that it is the Code Editor's function to reconcile multiple amendments to the same section which are not in direct conflict with each other. Mr. Garrison also commented that when the new system is in full operation, the computer will flag multiple amendments to the same section and will in effect require that when a further amendment is proposed to any section which has already been amended during a particular session, the proposed amendment must take into account the amendment which has already been adopted before the computer will accept the new draft.

In reviewing the wording for effective date clauses on page 39, Mr. Faupel suggested that in addition to the clause which may be used to make a bill effective on a specific date prior to July first of the year of passage, a special form should be provided for making a bill effective retroactively. He suggested that this could be done by changing the form for the provision which provides for a specific date prior to July first by adding the words "and retroactive to" after the word "on" in the first line of the form.

There was a brief discussion regarding the proper drafting of titles of bills. Mr. Lane commented that he would like to establish that the title does not govern the determination of whether or not an amendment is germane to a bill.

With respect to the item headed "Numbers" on page 42, Mr. Faupel stated that he would like to keep the present "pure" numbering system for expressing dates rather than adopting such phrases as "the first day of July" or "April thirtieth".

Mr. Garrison commented that he has no strong objections to a "pure" numbering system, but pointed out that when using such a system a single typographical error can radically alter the effect of a bill or amendment.

There was also a brief discussion of the system of numbering to be used for references to statutes within bills. Mr. Garrison noted that under the new bill drafting system, an existing code section would at times be reproduced in a bill together with new language proposed for addition to the section, and in some cases the new language would include one or more references to existing statutes. Mr. Garrison suggested that in such cases it would be preferable not to "double" the numbers in references to existing statutes (that is, express the numbers both in words and in parenthesized numerals) because, upon enrollment, the internal references would be inconsistent since the Code Editor customarily removes the numbers expressed in words when placing new law in the Code. In response to a question from Mr. Faupel, Mr. Garrison pointed out that an amendment to section 3.1, subsection 3, which was made by chapter 69, section 48, subsection 3, Acts of the Sixty-third General Assembly, First Session, makes it possible for the Legislative Council to permit the use of "pure" numbers for references to existing statutes within draft bills.

There was a brief discussion of the customs and techniques which have prevailed in enrolling bills in Iowa in the past. Mr. Garrison pointed out that the continued use of oversized paper for enrolling the so-called "Governor's Bill" is not only time consuming but is impossible to Xerox and requires that margins be reset since the larger size accommodates a longer line of type. He suggested the possibility of obtaining 8½ by 14 inch paper with the same decorative pattern at the top of the first page which is used on the present oversized paper. Mr. Faupel suggested that, as an alternative, it might be possible to use the same margins as would be used on 8½ by 14 paper but center these margins on the traditional oversized paper. He commented that the storage space in the office of the Secretary of State is planned to accommodate the oversized bills.

In concluding the discussion of the proposed new Iowa Bill Drafting Guide, it was the consensus of the Committee that the new bill drafting method has great promise of facilitating legislative procedure and making it easier for legislators to determine the effect of bills and amendments. It was agreed that

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Mr. Garrison, Mr. Lane, Mr. Kendrick, and Mr. Faupel can work out some of the administrative difficulties which were discussed in the course of the meeting.

The meeting was adjourned at 3:30 p.m.

Respectfully submitted,

SERGE H. GARRISON
Director

PHILIP E. BURKS
Senior Research Analyst