

**“How a Bill Really Becomes a Law”
Legislative and Regulatory Process**

**POLK COUNTY BAR ASSOCIATION
SUMMER GENERAL PRACTICE SEMINAR**

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1) Iowa Legislative Process

(<https://www.legis.iowa.gov/DOCS/Resources/HowABillBecomesALaw.pdf>)

a) Bill Introduction

- i) Legislative Language: Legislator requests bill draft from the Legislative Service Agency (LSA).
- ii) Bill Drafting: After the bill draft is completed by the LSA, the sponsor reviews and files in their chamber.
- iii) Review and Introduction: The bill undergoes a legal review and is read to the Senate or House.
- iv) Assignment to Committee: The President of the Senate or Speaker of the House, assigns the bill to a standing committee.

b) Standing Committee Work

- i) Standing Committee: Group of legislators chosen to examine all bills relating to a specific subject area. Chairperson can appoint a subcommittee to initially review the bill for the committee.
 - (1) Administration and Rules, Agriculture, Appropriations, Commerce, Economic Growth, Education, Environmental Protection, Ethics, Government Oversight, Human Resources, Judiciary, Labor, Local Government, Natural Resources, Public Safety, State Government, Transportation, Veterans Affairs and Ways and Means
- ii) Subcommittee: Usually composed of three members of the standing committee, reviews the bill in detail with other stakeholders and reports to the full committee.
 - (1) Need two of three signatures to move the bill to the full committee.
- iii) Full Committee: Discusses the subcommittee's conclusions and makes recommendations to the entire chamber.

c) Calendar

- i) Committee Report: A report of the committee's recommendation is sent to the Secretary of the Senate or Chief Clerk of the House, who will place the bill on the regular calendar.
- ii) Majority Leader: Controls which bills on the calendar will be debated.

d) Debate

- i) Floor Manager: Subcommittee's chairperson usually becomes the bill's floor manager. Member is responsible for presenting the bill on the floor and follows the bill's progress during debate, when members discuss and may propose amendments to the bill.
- ii) Floor Amendment: Amendments can be adopted by a simple majority of the Senators or Representatives voting.

- iii) Read Aloud: When debate on a bill is finished, the bill's title is read aloud to the chamber for the last time. A constitutional majority (51 in the House and 26 in the Senate) is necessary to pass the bill to the other chamber.
- iv) Motion to Reconsider: Votes on bills and amendments may be reconsidered on a motion by a member who voted on the prevailing side of the issue.

e) Second Chamber Passage

- i) Other Chamber Action: The procedure in both chambers is basically the same.
- ii) Amendment: If the bill is further amended by the other chamber, the amended bill is sent back to the chamber of origin for approval.
 - (1) Concur: If the chamber of origin concurs or agrees with the amendment(s), the bill has passed both chambers in identical form and will be sent to the Governor for review.
 - (2) Refusal to Concur: If the chamber of origin refuses to concur with the other chamber's amendment(s), the bill is returned to the other chamber, which may recede from or insist upon their amended version of the bill.
 - (3) Recede: If they recede, the bill is sent to the Governor.
 - (4) Insist: If they insist upon their amendment(s), a conference committee is appointed to work out the differences.

f) Conference Committee

- i) Conference committees: Composed of 10 members from the Senate and House representing both the majority and minority parties and both sides of the issue in dispute. The conferees are appointed by the Senate Majority Leader and the Speaker of the House to study the points of disagreement between the chambers in an attempt to reach a compromise.
- ii) Agreement in Conference Committee Report: If an agreement is reached, it is presented to both chambers in a report that contains the compromise version of the bill. The report cannot be amended by either chamber.
- iii) Rejection of Conference Committee Report:
 - (1) If no agreement is reached, the bill fails.
 - (2) If the report is rejected by either chamber, a second conference committee may be appointed. This committee may review more than the differences contained in the bills.
 - (3) If the conference committee report is adopted, the chambers again vote on the bill. If the bill is approved it will be enrolled and sent to the Governor for review.
 - (4) Enrollment: Enrollment is the final preparation of a bill before it is sent to the Governor. After the bill is enrolled, the President of the Senate and the Speaker of the House sign the enrolled version and certify that the bill originated in that chamber.

g) Governor Actions

- i) Sign the Bill: Bill becomes law.
- ii) Veto the Bill: Disapproval of an entire bill.
 - (1) Override: Legislature may override veto with super majority of two-thirds of the members of each chamber voting to reconsider and pass the bill a second time.

- iii) Item Veto (Appropriations Bill): Strikes a specific item of an appropriations bill.
- iv) Pocket Veto: Bills that are passed during the last three calendar days of the session must be signed or vetoed within 30 calendar days, or the entire bill will fail to become law.
- v) No Action: A bill becomes law after three calendar days during session.
- vi) Bills Enrolled During the Last Three Calendar Days: Bills must be signed or vetoed within 30 calendar days.

h) Iowa Law

- i) Iowa Law: After the bill is signed by the Governor or is passed by the Legislature over the Governor's veto, it is sent to the Secretary of State who is the custodian of original copies of all bills enacted into law.

2) Iowa Regulatory Process

http://www.adminrules.iowa.gov/how_rules_work/summary.html

a) Notice of Intent to Adopt Rules

- i) Proposed Rules: Rules may be proposed because of new laws, or because changes are needed to existing programs or simply to keep current with federal regulations.
- ii) Agency Head: Proposed new rules are reviewed and approved by the administrative head of each agency or commission.
- iii) Filing: The rules are then filed in a "Notice of Intended Action."
- iv) Administrative Rules Coordinator(ARC): The rules are filed with the Governor's ARC who is responsible for coordinating all rules that are proposed by the Governor's executive branch agencies. This part of the process usually takes about fifty to sixty five days to complete.

b) Iowa Administrative Bulletin

- i) Publish: the proposed rule is published in the Iowa Administrative Bulletin (IAB) about nineteen days after the Administrative Rules Review Coordinator has received the rules.
- ii) Public Comment: Concurrent with the publication of the "Notice of Intent to Adopt Rules" in the IAB the first twenty days of this period is reserved for the public to comment on any aspect of the proposed rules. The state agency may decide to extend public comment period at their discretion.
- iii) Public Hearing: A public hearing by the state agency to take comments is not required unless at least twenty-five persons demand a hearing.

c) Agency Adopts Rules

- i) Adoption: The administrative head of the state agency may adopt the proposed rules not less than thirty-five days from time that the "Notice of Intended Action" was first published in the IAB.
- ii) Filing with ARRC: The rules must be "adopted" by the state agency so it can take the next step and file the "Adopted and Filed" version of the rules with the Governor's Administrative Rules Review Coordinator (ARRC) for a second time. This part of the

process takes about nineteen days. Once this is completed the rules are again published in the IAB and become a part of the IAC. The first possible day that the rules can become effective is thirty five days after they published for the second time.

d) Review

i) Legislative

(1) Administrative Rules Review Committee (ARRC): proposed rule is reviewed by ARRC during the process. Generally, the proposed rule is evaluated by the ARRC after the “Adopted and Filed” version is published in the IAB. ARRC is composed of five Senators and five Representatives.

(2) ARRC Actions:

(a) Objection: The ARRC does have the discretion to object to a rule. In effect an “objection” is a written opinion that either the Governor or the ARRC finds a rule to be unlawful. If the rule is later challenged in court, the objection requires the agency to come forward and to prove the validity of its rule.

(b) Delay: The ARRC may also delay the effective date of a proposed rule, upon a vote of two-thirds of its members, pending additional review by the General Assembly. Rescind: Although it does not occur frequently the Iowa General Assembly has the ability to rescind any administrative rule by joint action of both the Senate and the House chambers. This oversight power is held by only a few state legislatures.

ii) Executive

(1) The Governor can rescind any proposed rule up to 70 days after it has become effective.

3) Federal Legislative Process

4) Federal Regulatory Process

<http://www.reginfo.gov/public/reginfo/Regmap/index.jsp>

a) Reason for a New Rule

- i) Agency/Administration priorities or initiatives
- ii) New Scientific or Technological Data
- iii) Implementation of Statutes
- iv) Required Reviews
- v) Lawsuits
- vi) OMB
- vii) Petitions
- viii) Recommendations from External Groups

b) Office of Management and Budget

- i) Reports directly to the President of the United States and helps to implement priorities of the administration in the areas of new regulations and budget priorities.

c) Determination Whether a Rule is Needed

- i) Internal Determination
- ii) Drafting of Rule

d) Preparation of a Proposed Rule

- i) Analysis for Steps 3 through 7 (Found in Preamble of Proposed Rule)
 - (1) Regulatory Planning and Review (E.O. 12866)
 - (2) Regulatory Flexibility Act (5 U.S.C. 601-612)
 - (3) Paperwork Reduction Act (44 U.S.C. 3501-3520)
 - (4) Unfunded Mandates Reform Act (2 U.S.C. Chs. 17A, 25)
 - (5) Federalism (E.O. 13132)
 - (6) Indian Tribal Governments (E.O. 13175)
 - (7) National Environmental Policy Act (42 U.S.C. 4321-4347)
 - (8) Others

- ii) Exemptions for Rulemaking
 - (1) Rules concerning military or foreign affairs functions
 - (2) Rules concerning agency management or personnel
 - (3) Rules concerning public property, loans, grants, benefits, or contracts
 - (4) Interpretive rules
 - (5) General statements of policy
 - (6) Rules of agency organization, procedure, or practice
 - (7) Nonsignificant rules for which the agency determines that public input is not warranted
 - (8) Rules published on an emergency basis

- iii) Options
 - (1) Advance Notice of Proposed Rulemaking
 - (2) Negotiated Rulemaking

e) OMB Review

- i) EO 12866 Significant Rules
 - (1) OMB reviews only those rulemaking actions determined to be "significant."
 - (a) \$100 million effect on the economy or adversely affect sectors of the economy or government;
 - (b) Inconsistencies or interference with other government agencies;
 - (c) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or
 - (d) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive order.

f) Publication and Comment

- i) Publication in Federal Register
- ii) Public Comment
 - (1) 60 day standard
 - (2) Discretionary Hearing

g) Preparation of Final Rules

- i) Final Rule
- ii) Interim Final Rule
 - (1) The subsequent final rule may make changes to the text of the interim final rule.
- iii) Direct Final Rule
 - (1) No adverse comments.

h) Publication of Final Rules

- i) Legislative Review
- ii) Executive Review
- iii) GAO