

## AMENDMENTS TO BILLS

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### I. INTRODUCTION.

Amendments to bills are of two types:

(1) Committee amendments - amendments proposed by the committee of reference to which a bill is referred. Such amendments are contained in a final committee report; and

(2) Floor amendments - amendments proposed by individual members as a bill is being considered on the floor either on second reading in the Committee of the Whole or on third reading.

Committee amendments and floor amendments are often prepared by the committees and the members themselves, or in the case of floor amendments by the amendment clerk, without assistance from the Office of Legislative Legal Services; however, many members also request the Office to prepare proposed committee amendments and floor amendments. The principles and techniques set out in this manual for drafting bills apply equally to the preparation of amendments. Particular note should be taken of the provisions concerning gender-neutral drafting and the use of the "user-friendly" format for preparing bills.

The same degree of care must be used in preparing amendments as in drafting bills. Many defects in enacted legislation are the result of amendments that were carelessly prepared, too hurriedly drafted, or which did not fit logically into the bill. An amendment to a bill should be consistent with the entire bill being amended and with any affected existing law. Depending on how extensive an amendment is, other portions of the bill may also have to be changed or related existing law may have to be changed to conform to the amendment.

Care should also be taken to avoid errors that can be created when an amendment requires renumbering of provisions in a bill. For example, if a new section is added to a bill, the drafter should be sure that any reference to specific bill sections in an effective date or applicability clause is changed to correspond to the inclusion of the new section. If a C.R.S. section is renumbered in an amendment, the remainder of the bill should be checked to correct any references to the renumbered provision.

Some amendments provide for striking a bill in its entirety below the enacting clause and substituting a new bill. A "SEBEC amendment" ("Strike Everything Below the Enacting Clause") may be used when amendments are so extensive and numerous that amending the bill as introduced would result in confusion as to what the members were passing.

While most of the information in this section of the manual is directed toward

amending bills, it will generally apply to resolutions and memorials as well.

## II. AMENDING THE CORRECT DOCUMENT.

Amendments are made to the current version of a bill (that is, the printed bill as introduced, the engrossed bill prepared after second reading in the first house, the reengrossed bill prepared after third reading in the first house, the revised bill prepared after second reading in the second house, or the rerevised bill prepared after third reading in the second house) or to a prior amendment that is still pending adoption. When an amendment is made to a prior amendment in the House or the Senate (either by another committee or on the floor), the amendment is made to the original committee report rather than to the committee report as printed in the House or Senate Journal. In the House, the original committee report is printed on green paper and often referred to as the "green sheet". In the Senate, the original committee report is printed on purple paper and often referred to as the "purple sheet".

To determine which version of a bill is to be amended or whether prior amendments to a bill as printed in the committee report are to be amended, the drafter must first determine where the bill is located in the legislative process. Always assume that prior committee amendments will be adopted on second reading. The Colorado Legislative Information and Communications System (CLICS) should be used to locate the status of the bill. If the drafter prepares a committee amendment or second reading amendment for a bill that is in the house of origin, the printed bill and any applicable prior committee amendments should be amended. If the drafter prepares a third reading amendment in the house of origin, the engrossed bill should be amended. If the drafter prepares a committee amendment or second reading amendment in the second house, the reengrossed bill and any prior committee amendments in that house should be amended. If the drafter prepares a third reading amendment in the second house, the revised bill should be amended.

*Note:* It is rare that a drafter is requested to prepare a third reading amendment in either house. Generally, third reading amendments are technical drafting amendments. If the drafter prepares an amendment for third reading in the first house or for a bill pending in the second house and that bill has not been previously amended, the printed bill will be the only version available. For example, a second reading amendment in the second house to a bill that had not been previously amended would be prepared using the printed bill; however, the amendment would still refer to the bill as the "reengrossed bill".

### III. GUIDELINES FOR DRAFTING AMENDMENTS.

#### A. General guidelines.

The drafter should remember the following points in the preparation of amendments to bills:

(1) When amending the printed or any other version of a bill, refer only to the page number and line number of the page where the amendment is made or inserted. It is not necessary to refer to the section number of the bill. References to each line on the same page of the bill being amended end with a semicolon and references to the last line amended on a page end with a period. For example:

Amend printed bill, page 2, line 1, strike "AFTER" and substitute "BEFORE";

line 3, strike "AFTER" and substitute "BEFORE".

Page 3, line 2, strike "AFTER" and substitute "BEFORE".

(2) Punctuation marks that are part of the amended material are placed inside the quotation marks when quoting the amended material. Punctuation marks that are not part of the amended material are placed outside the quotation marks. For example:

Amend the Transportation and Energy Committee Report, dated February 15, 1991, page 3, after line 26, insert the following:

"Page 24 of the printed bill, line 17, after the period, add "THE SALES AND USE TAX EXEMPTION GRANTED TO A LESSOR OF TANGIBLE PERSONAL PROPERTY WHO AGREES TO COLLECT SALES TAX ON LEASE PAYMENTS UNDER THE PROVISIONS OF SECTION 39-26-114 (1) (a) (XII), C.R.S., SHALL NOT APPLY TO THE SALES AND USE TAX IMPOSED PURSUANT TO THIS PARAGRAPH (b)";";

line 27 of the committee report, strike "Page 24,".

Page 8 of the committee report, line 10, strike ""39-26-123 (2).";" and substitute ""39-26-123 (2). THE SALES AND USE TAX EXEMPTION GRANTED TO A LESSOR OF TANGIBLE PERSONAL PROPERTY WHO AGREES TO COLLECT SALES TAX ON LEASE PAYMENTS UNDER THE PROVISIONS OF SECTION 39-26-114 (1) (a) (XII), C.R.S., SHALL NOT APPLY TO THE SALES TAX IMPOSED PURSUANT TO THIS PARAGRAPH (c)";".

Page 9 of the committee report, after line 12, insert the following:

"Page 58 of the printed bill, line 2, after the period, add "THE SALES AND USE TAX EXEMPTION GRANTED TO A LESSOR OF TANGIBLE PERSONAL PROPERTY

WHO AGREES TO COLLECT SALES TAX ON LEASE PAYMENTS UNDER THE PROVISIONS OF SECTION 39-26-114 (1) (a) (XII), C.R.S., SHALL NOT APPLY TO THE TAX ON MOTOR VEHICLES AND RELATED ITEMS IMPOSED PURSUANT TO THE PROVISIONS OF THIS SUBSECTION (1)";";

line 13 of the committee report, strike "Page 58,".

(3) Joint Rule No. 21 of the Senate and House of Representatives, concerning capitalization of new material and canceled letter type for material to be omitted, applies to amendments in the same manner as it applies to bills.

(4) If an amendment is made to a committee report in the House or in the Senate, give the name of the "Committee Report" (e.g., Judiciary Committee Report), the date of the report, and the page and line number amended in the report.

(5) Unlike references to several statutory sections in succession where the word "to" includes both the first and last section numbers mentioned (see section 2-4-113, C.R.S.), the word "through" is used for page and line references in amendments and conference committee reports to assure inclusion of the final page or line number mentioned.

(6) Be sure to store each separate amendment to a bill with a different computer storage number.

(7) In an amendment to another amendment, such as a floor amendment to a committee report, references to specified pages and lines are sometimes confusing because the page and line numbers might refer to the original bill or to the amendment being amended. In such cases it may be helpful for the drafter to include a reference to the document being amended each time a page number or line number is given. (See the example for paragraph 2.)

(8) If the drafter prepares amendments that are to be inserted in the same location in a bill, i.e., same page and line number, the drafter should place the amendment that the drafter intends for the enrolling room to insert first *after* the line where the amendment is to be placed, and the second amendment *before* the line that follows the inserted amendment. For example:

Amendment No. 1:

Amend printed bill, page 5, after line 16, insert the following:

Amendment No. 2:

Amend printed bill, page 5, before line 17, insert the following:

(9) If most of the committee report is to be amended, the drafter may choose to strike the committee report and substitute it with amendments to the bill. If more than one committee report is stricken, strike the most recently adopted committee report first. For

example, if the Judiciary Committee Report was adopted January 15 and the Appropriations Committee Report was adopted March 15, strike the Appropriations Committee Report first and then the Judiciary Committee Report.

**B. Special guidelines for drafting House amendments.**

The House of Representatives follows the rule (not followed by the Senate) that once a question has been "settled" by the body it cannot be given further consideration except through formal reconsideration. The application of this rule means that during second reading a committee report (and any other kind of floor amendment) cannot be amended after it has been adopted. As a result, questions and problems have arisen about drafting amendments for the House.

The following guidelines should be followed when drafting House amendments:

(1) When drafting a House amendment, in light of the potential for a settled question being raised, the drafter will need to decide whether to make the amendment to the printed (or reengrossed) bill or to the committee report. In making that determination, the drafter needs to use great caution to be sure an amendment drafted to the printed (or reengrossed) bill does not put the amendment sponsor in a situation where the amendment will relate to a settled question already decided upon when the body voted on the committee report. If the issue is determined to be a settled question, the amendment will be ruled out of order and the amendment sponsor will not be allowed to offer the amendment. In some instances, the drafter may be able to achieve the desired result by amending just the committee report (i.e., by inserting into the committee report the desired amendment to the bill). In other instances, the amendment can be split into more than one amendment with certain amendments being made to the committee report and the other issues that are not settled questions being made to the printed bill and handled after the committee report is adopted. *Do not* make amendments to *both* the printed (or reengrossed) bill *and* a prior committee report in the same amendment.

(2) If the drafter prepares an amendment to a proposed amendment for committee or for second reading, the drafter should inform the sponsor that the amendment to the proposed amendment needs to be offered before the first amendment is adopted.

(3) To amend a proposed amendment, the drafter should state that the amendment amends the proposed amendment, cite the storage number for the proposed amendment, and should give the page and line number as for any other amendment. For example, "Amend proposed committee amendment (HB1137\_L.001), page 1, line 14." (Note: This format for amending a proposed amendment applies in the House and the Senate. See examples in Appendix C of this manual.)

These special guidelines apply only to House amendments. In the Senate, the drafter may amend a committee report and the printed or reengrossed bill in the same amendment.

The drafter of the bill is responsible for checking amendments adopted to the bill as the bill goes through the process. Since some of the amendments adopted may be prepared by persons who are not as familiar with the bill, it is important that the drafter check all amendments very carefully. The drafter should check for errors in form and internal references and for conflicts between sections and inconsistencies. The drafter should also be alert to issues relating to title questions or other legal problems caused by amendments. (See section V. of this chapter.)

Examples of committee and floor amendments prepared by the Office of Legislative Legal Services can be found in Appendix C of this manual.

#### IV. COMMITTEE OF THE WHOLE AMENDMENTS.

The Committee of the Whole in both houses consists of the full body of the House or Senate sitting as a committee to consider bills and committee of reference amendments to bills. Amendments are sometimes proposed to amend the Committee of the Whole Report. These amendments apply in both houses. They are prepared by the amendment clerks of both houses; however, drafters are sometimes asked to assist the amendment clerk in connection with such amendments. Generally, amendments to the Committee of the Whole Report are for the purpose of showing that a previously offered amendment passed or did not pass.

#### V. SINGLE SUBJECT - ORIGINAL PURPOSE - TITLE AMENDMENTS.

When an amendment is prepared, the drafter should always check to assure that the amendment does not change the original purpose of the bill, which is prohibited by section 17 of article V of the state constitution, and that it does not violate the single subject rule set out in section 21 of article V of the state constitution. Section 17 reads as follows:

**Section 17. No law passed except by bill - amendments.** No law shall be passed except by bill, and no bill shall be so altered or amended on its passage through either house as to change its original purpose.

Section 21 of article V of the state constitution is quoted and discussed in the portion of this manual relating to the drafting of bill titles. (See section I. A. of the chapter of this manual titled "Drafting a Bill".) When considering title questions, the drafter should be familiar with those provisions.

In certain cases, a title may be amended to include subject matter added to the bill by amendment *so long as that subject matter is germane to the original subject of the bill and does not change the original purpose of the bill.* The Colorado Supreme Court held in *In re*

*Amendments of Legislative Bills*, 19 Colo. 356, 35 P. 917 (1894), that the title of a bill may be so amended as to cover the original purpose of the bill as extended by amendments. For example, if an appropriation is added to a bill, the title should be amended to add such words as "AND MAKING AN APPROPRIATION THEREFOR" or "AND MAKING AN APPROPRIATION IN CONNECTION THEREWITH". A bill titled: "CONCERNING FRUIT, AND PROVIDING FOR THE REGULATION OF APPLE GROWERS AND FOR A TAX ON THE SALE OF ORANGES" could be amended to include "GRAPEFRUIT GROWERS". The single subject is "fruit" and the statements following the comma give notice of and clear expression to the specific contents of the bill. Adding "grapefruit growers" is consistent with the single subject and it does not change the original purpose.

The General Assembly closely adheres to an unwritten rule that a title may not be amended to broaden the subject matter of the bill as introduced. This rule has developed as a method of assuring that the single subject and change of purpose sections are not violated. Strict compliance with this rule could result in a challenge to the amended title used in the preceding example; it would be argued that the addition of "grapefruit growers" *broadens* that title.

A title may be narrowed by adding words of limitation to the subject. There have been occasions where drafters have attempted to narrow a title by inserting, at the beginning of the title, the specific sections or subsections to be amended by the bill; however, the drafter should be cautioned that using this approach may not provide the result of narrowing the title since the section or subsection can be amended to include items unrelated to the original purpose of the bill. In addition, citing a list of specific C.R.S. sections at the end of the title results only in explaining the effect or purpose of the bill rather than limiting the subject matter. Before citing a statutory section or an act in the title as a method of narrowing the title, the drafter should consult with the team leader or revisor.

*Note:* It appears that the constitutional provisions would not be violated if an amendment made in the first house to limit the subject of a title is removed or the title is broadened by the second house so long as the second house does not broaden the original subject of the bill as introduced.

While the foregoing paragraphs indicate that bill titles *can* be amended and in many cases *should* be amended to give notice as to what will be contained in a bill after it is amended, drafters should exercise caution in making title amendments. Title amendments and related questions about whether or not an amendment fits within the single subject or violates the restriction on change of purpose involve legal interpretations that can dramatically affect the legislative process. Amendments may be ruled out of order if the presiding officer determines that they violate either provision. Amendments that violate either provision may subject the bill to a legal challenge. Drafters should always consult with team leaders or with the Director when there are concerns about the single subject or original purpose or about a title amendment.

The change of purpose provisions *applies only to bills*. Pursuant to section 1 (5.5) of

article V of the state constitution, which was adopted at the 1994 general election, the single subject rule applies to proposed constitutional amendments.

For additional information concerning the single subject rule and the original purpose limitation see Appendix F of this manual, which includes portions of an Office research memorandum titled "BILLS TO CONTAIN SINGLE SUBJECT", dated December, 1971, an NCSL LEGISBRIEF that discusses "What is Germane", and a memorandum concerning amendment and title questions, dated April 29, 1994.