
CONFERENCE COMMITTEE REPORTS

I. INTRODUCTION.

A conference committee is the method by which the two houses, in any case of difference on any subject of legislation, attempt to resolve such difference. Conference committees are appointed pursuant to Joint Rule No. 4 of the Senate and House of Representatives, a portion of which is quoted below:

Joint Rules of the Senate and House of Representatives

4. Conference Committees

- (a) In any case of difference between the two houses upon any measure, and prior to adoption of a motion to adhere by a majority of those elected to either house, either house may request a conference and appoint a committee for that purpose and the other house shall also appoint a similar committee.

- (b) Each such committee shall consist of three members of the house appointing the same, with a chairman designated, and the two committees jointly shall constitute a conference committee. A majority of the members of each committee appointed by each house shall be necessary to approve a majority report of any conference committee submitted to the General Assembly.

- (b.5) A minority conference committee report shall be drafted by the Office of Legislative Legal Services upon the request of any member of a conference committee. No minority conference committee report shall be considered in either house unless it is approved by one member of the conference committee from each house.

- (c) The conference committee shall meet at such time and place as shall be designated by the chairman of the committee on the part of the house requesting such conference and said chairman shall preside over the meetings of the conference committee. The conference committee shall be attended by a staff member of the Office of Legislative Legal Services and by a staff member of the Legislative Council. The conferees shall confer fully on the reasons of their respective houses concerning the differences between the two houses on the measure

before them.

- (d) With the consent of a majority of members elected to each of the two houses, the conference committee may report on matters beyond the scope of the differences between the two houses; otherwise the committee shall report only on matters directly at issue between the two houses.
- (e) When a conference committee has reached a decision, the staff member from the Office of Legislative Legal Services shall draft a conference committee report reflecting the agreements of the committee. Every conference committee report shall be in writing.
- (f) and (g) [Concern action to be taken on conference committee reports.]
- (h) [Concerns correction of an error, conflict, or inconsistency in a report by means of a second report.]
- (i) When a conference committee has met, reached a decision, and instructed the Office of Legislative Legal Services' staff to prepare a report, the signing of the report by the committee members shall constitute approval of the report and ratification of the decision made by the conference committee. No report which includes matters beyond the scope of the differences between the two houses shall be signed until consent to report on such matters has been given in accordance with subsection (d) of this Joint Rule.

Joint Rule Nos. 5, 6, 7, and 8 also concern conference committees and reports of such committees. The drafter should be familiar with these rules, but they are not essential in the actual drafting of conference committee reports.

Conference committee reports are the most exacting phase of legislative drafting. A conference committee report is the last opportunity to make changes to a bill before the bill is enacted by the General Assembly. If a conference committee report contains substantive or technical errors, the report cannot be directly amended to correct the errors. (See Joint Rule No. 4 (h) for the correction of an error by means of a second report.) Therefore, it is very important that the drafter make sure that a conference committee report is complete and correct when it is signed by the conferees. The following explanation and the examples of various types of conference committee reports contained in Appendix D of this manual will serve as a basis for the drafter in understanding the technicalities and mechanics of such reports.

After a bill is adopted by the second house, the bill is returned to the first house (the bill's house of origin) if the second house made amendments to the bill. The house of origin

second house. In the event the house of origin refuses to concur in the second house amendments, there is immediately created "a difference between the two houses on the subject of legislation". The amendments of the second house are the basis of this difference. Therefore, the amendments of the second house are the only matters that may be considered by a conference committee in its report (except as otherwise noted below).

Joint Rule No. 4 (d) states: "With the consent of a majority of members elected to each of the two houses, the conference committee may report on matters beyond the scope of the differences between the two houses. . . ." Accordingly, if given this consent, the conference committee can consider any phase of the bill before it, can recommend new provisions concerning the subject matter of the bill, or can even write a new bill relating to the same subject matter. Joint Rule No. 4 (i) specifically permits a conference committee to consider matters beyond the scope of the differences before permission is granted but requires the conference committee to obtain such permission before the report is signed.

Simply stated, a conference committee may:

(1) Recommend the adoption or rejection of each amendment made by the second house or recommend changes in or substitutions for those amendments, but to no other provisions of the bill; or

(2) If the conference committee has the consent of a majority of members elected to each of the two houses to report on matters other than those that are at issue between the two houses, recommend amending any provision of the bill, recommend new matter relating to the subject matter of the bill, or even recommend an entirely new bill relating to the same subject matter.

If a conference committee decides to accept the bill as amended in the second house, it may submit a report that adopts the rerevised bill (see the applicable sample in Appendix D of this manual). However, a conference committee report is not necessary in such case. As a procedural alternative, the first house may instead act to concur in the second house amendments, dissolve the conference committee, and repass the bill as amended in the second house. (The second house may then dissolve the conference committee.) Similarly, if a conference committee decides to accept the bill as it left the first house, it may submit a report that adopts the reengrossed bill, or, as a procedural alternative, the second house may recede from its position on the bill. (See Joint Rule Nos. 5 and 6.)

In drafting a conference committee report for a bill in which the second house has adopted an amendment striking everything below the enacting clause (a "SEBEC" amendment), the entire bill is placed in issue and the conference committee can consider any phase of the bill. The Office view has been that where the second house has adopted an amendment striking everything below the enacting clause, the entire bill is at issue and a conference committee could add things to the bill that were not ever part of the bill as long as the contents being added fit under the title of the bill, and a conference committee could even rewrite the bill as long as the rewrite fits under the title. In effect, the title of the bill

defines the scope of the differences between the two houses. In such an instance, the drafter does not need to draft the conference committee report to show scope and, procedurally, neither house needs to get power to go beyond the scope of the differences.

If the conferees want to amend the same C.R.S. section in two different ways and part of the amendment is within the scope of the differences and part is beyond the scope of the differences, the question arises about whether to have two separate amending clauses in the bill. If possible, the drafter should sever the amendments and write two amending clauses identifying the amendments as within or beyond scope. However, sometimes it is too confusing or difficult to sever the amendment, in which case the drafter should put both changes in the beyond the scope portion of the report and explain to the conferees that for ease of comprehension the portion of the amendment that is within the scope was combined with the portion of the report that shows the beyond the scope portion.

A conference committee report can only include amendments adopted by the committee. The drafter of the report cannot include technical amendments in a conference committee report unless the committee has agreed to specific technical changes the drafter brings to the committee's attention or the committee agreed to include any technical changes the drafter finds when preparing the report. Technical changes are subject to the same scope of the differences considerations that apply for substantive changes.

II. DRAFTING A CONFERENCE COMMITTEE REPORT.

A. Form of the report.

Conference committee reports are prepared as amendments to either the rerevised bill or the reengrossed bill. The drafter should use the rerevised bill unless amending the reengrossed bill is simpler. Sample conference committee reports covering most situations are contained in Appendix D of this manual, and the drafter should carefully follow the form of the appropriate sample.

B. Attendance at the meeting.

The drafter of the bill or another attorney from the Office should attend the meeting of the conference committee. See Joint Rule No. 4 (e). When a bill is assigned to a conference committee, a conference committee packet is assembled and a file is maintained for each bill in conference committee. The drafter of the bill will be informed when and where the conferees will meet. The drafter should have copies of the rerevised and the reengrossed bills from which to work with at each conference committee meeting.

reengrossed bills from which to work with at each conference committee meeting.

C. Preparing a draft conference committee report.

Sometimes a drafter will be asked to prepare a draft conference committee report for consideration by the conferees. To ensure that such a draft is not mistaken for a report approved by the conference committee, the draft should be clearly labeled as a draft on the first page and the signature lines at the end of the report should either be deleted or marked through.

D. Signing the report.

The drafter of the report is responsible for arranging for members of the conference committee to sign the report. Every member of the conference committee should be offered an opportunity to sign the report, including members who were absent from the meeting at which the report was adopted and members who voted against the report.

E. Filing the report - adoption.

After the report is signed, four copies of the signed report must be made for filing with the House and Senate. The signed original and two copies are filed with the house assenting to the conference. (Senate bills are filed with the House, and House bills are filed with the Senate.) The other two copies are filed with the opposite house.

Usually, a bill's house of origin requests the conference, and the second house assents. Therefore, the second house usually acts first on the conference committee report.

F. Guidelines for matters of form.

(1) No "white out" changes should be made on an original conference committee report. (This is subject to change in a "rush" situation, in which case the person making the changes on the original is responsible for making sure that the changes are also made in the document as stored in the computer.)

(2) No line numbers should appear on the side of the page. (A conference committee report is not subject to amendment.)

(3) Signature lines should never appear on a page by themselves.

(4) Conference committee reports on a House bill should have House signature lines appearing on the left side of the page and Senate signature lines appearing on the right side of the page. This format is reversed for a Senate bill.

III. PROCEDURAL ASPECTS OF CONFERENCE COMMITTEES.

The joint rules and the rules of the House and the Senate set forth a number of requirements and procedural limitations on conference committees, including limiting the options for action depending on the particular stage the bill is in. See pages D-27 - D-30 for charts listing the conference committee options for House bills and Senate bills, depending upon what stage of proceedings the particular bill is in.