

**MINUTES
of the
SIXTH MEETING
of the
LEGISLATIVE STRUCTURE AND PROCESS STUDY TASK FORCE**

**June 15, 2007
Room 307, State Capitol
Santa Fe**

The sixth meeting of the Legislative Structure and Process Study Task Force was called to order by Thomas A. Donnelly, co-chair, on June 15, 2007 at 10:10 a.m. in Room 307 of the State Capitol in Santa Fe.

Present

Thomas A. Donnelly, Co-Chair
Richard E. Olson, Co-Chair
Rep. Janice E. Arnold-Jones
Rep. Ray Begaye
Sen. Mark Boitano
Max Coll
Linda M. Davis
Marie Eaves
William H. Humphries
Bill King
Rep. Larry A. Larrañaga
Willard Lewis
Sen. Gerald Ortiz y Pino
Sen. William H. Payne
Sen. Nancy Rodriguez
Anthony Williams
Rep. Peter Wirth

Advisory Members

Kim Seckler

Staff

Evan Blackstone, Legislative Council Service (LCS)
Raúl E. Burciaga, Assistant Director for Drafting Services, LCS
Cathy T. Fernandez, Deputy Director, Legislative Finance Committee (LFC)
Ric Gaudet, LCS

Guests

Absent

Charles Dorame
Tommy Jewell
Judy K. Jones
David McCumber
Brian McDonald
Sen. Cynthia Nava
Sen. Steven P. Neville
Murray Ryan
Rep. Henry Kiki Saavedra
Rep. Thomas C. Taylor

Rep. Donald E. Bratton
Sen. Stuart Ingle
Marilyn O'Leary

The guest list is in the meeting file.

Handouts

Copies of handouts given by meeting presenters are in the meeting file.

Friday, June 15

Committee Business

Review of Draft Proposals

Mr. Burciaga and Mr. Blackstone reviewed several of the proposals generated by the task force at its May 17 meeting. The proposals include:

- 1) House and Senate rules to require that memorials be introduced on or before the thirtieth day in a 60-day session and the twentieth day during a 30-day session;
- 2) a joint rule to adjust the bill and memorial drafting request deadlines;
- 3) a joint rule to provide for a twenty-eighth-day and fifty-eighth-day crossover deadline for bills passing their house of introduction;
- 4) a joint rule to provide a house of origin crossover deadline and a second house deadline, leaving the last full day of the legislature to focus only on conference committees and concurrence;
- 5) a joint rule to provide for a three-day recess in a 30-day session and a six-day recess in a 60-day session immediately following the introduction deadline; committees would still meet as necessary;
- 6) House and Senate rules to prohibit performances on the floor and the introduction of guests during the last two weeks of a session;
- 7) a joint resolution to amend the constitution to allow 60 legislative days during a 75-day period in odd-numbered years and 30 legislative days during a 45-day period in even-numbered years; and
- 8) a joint resolution to amend the constitution to provide for a three-day organizational session of the legislature in January before the regular session.

The list of draft proposals also included all the proposals discussed at previous meetings, including proposals related to prefiling, legislation limitations, cosponsoring, memorial usage, tabling motions in committee and earlier bill introduction deadlines.

Mr. Coll said that the prefiling rules might conflict with the ability of new members of the legislature to prefile legislation, since they are not officially in the legislature until January.

Senator Ortiz y Pino asked why the crossover deadline rules had exceptions for the governor. Mr. Burciaga said that state law provides for the governor to introduce legislation at any time during the legislative session.

Senator Payne said that the rule providing for a "Do Not Pass" committee report after five days on a committee's table could lead to mischief. Mr. Coll said that although that rule may not be the best way to kill bills, bad bills need to be killed in committee. Mr. Williams agreed, saying constituent groups that currently stick around until the end of session hoping to get their bills "off the table" would be better served by learning that their particular bill is dead for the session, and to try again the following year.

Mr. Coll mentioned that he believes the yearly special appropriations bill, commonly known as "House Bill 2, Jr.", is unconstitutional. He said that Article 4, Section 16 of the Constitution of New Mexico either should be amended to allow for those bills, or that section should be enforced.

Mr. Olson asked, referencing the three- and six-day recess rule, whether Article 4, Section 14 of the Constitution of New Mexico would need to be amended to provide for longer adjournment periods. Mr. Blackstone said that section would not need to be amended, since the joint rule providing for the legislative recess would be construed as each body giving permission to the other to adjourn for several days.

Representative Wirth said that the joint resolution providing for holding the session over more calendar days essentially already happens, since the House Appropriations and Finance Committee and other committees begin their work in advance of a 30-day session. He said that the most important issue for him is passage of a bill introduction limit, which would alleviate the overload in many other areas.

Senator Ortiz y Pino said that with unlimited pre-filing of bills, the legislature might still be overwhelmed with work. Mr. Coll said that there could be a limit on how many bills can be pre-filed.

The minutes of the May 17, 2007 meeting of the task force were approved.

Fair Labor Standards Act (FLSA) Follow-up

Mr. Burciaga reported to the task force the cost estimates of paying legislative session employees overtime. A 30-day session would cost approximately \$600,000 extra, and a 60-day session would cost approximately \$800,000 extra. He said that this estimate does not take into consideration the probable management changes that would take place to mitigate overtime pay, such as reducing the number of hours that employees work.

Mr. Coll moved to apply the FLSA to legislative session employees regarding overtime pay, which Representative Begaye seconded. This led to a lively discussion among the task force.

Mr. Lewis said that although he generally supports this change, he first wants a study performed of the classification of employees in comparison to other state employees. Mr. Williams said he is in favor of the change, and added that paying overtime will allow for the better management of employees.

Senator Payne said that there are many patronage jobs in the legislature, in which there are several people doing a job that could be performed by one person. The legislature will need to look very closely at some of those jobs, he said.

Representative Larrañaga said that he does not think the task force should even be considering this subject, and it is not part of its charge given to it by the Legislative Council.

The motion failed, and a new motion was made by Mr. Lewis to ask the Legislative Council to evaluate the appropriateness of applying the FLSA regarding overtime pay, including its financial impact, and to ask the LFC to study the issue also. That motion was adopted, and staff was directed to draft a letter to the Legislative Council.

Continuation of Review of Draft Proposals

Mr. Olson asked about the organizational session resolution. He wanted to know how long an organizational session would actually take. Mr. Burciaga said that three days would be more than enough time to elect leadership and appoint committees. The issues of whether bills could be introduced and whether a bill to pay for the costs of the organizational session would be adopted are still unclear.

Representative Larrañaga said that legislators should be limited in how many bills they may prefile, in addition to the session limit. Senator Payne said that adopting a rule to limit bill introductions is pointless, because the rule will not be enforced. He said the only way to make those reforms work is to amend the constitution.

Senator Ortiz y Pino said that rather than having a separate number of bills, resolutions and memorials that a legislator may introduce, he favors having a single number of pieces of legislation allowed.

Representative Begaye said that allowing unlimited prefilings will just shift the burden of work to before the session.

Ms. Eaves said that there needs to be some incentive for legislators to prefile their bills.

Mr. Burciaga said that there has been some discussion of handling special appropriations in a similar way that capital outlay projects are handled. This reform probably would reduce the number of bills introduced.

Mr. Coll said that the legislature should require that all capital outlay projects and special appropriations be prefiled.

Representative Wirth said that he is in favor of that change, but cautioned that getting all of his projects and appropriations prioritized before session is an immense amount of work. He said that he also likes the idea of limiting special appropriations to one omnibus bill per legislator, which is how the capital outlay process works.

Representative Begaye asked staff to consider putting a special appropriations form on the legislature's web page, so people can easily put in their requests.

The task force recessed for lunch until 1:30 p.m.

Interim Committee Structure and Consideration of Task Force Proposals

Mr. Burciaga discussed interim committees in New Mexico. He described the different types of interim committees, as well as how they are created. Membership on interim committees has grown such that it has become very difficult to schedule meetings in which conflicts are minimized. He said that, in 1986, the average number of interim committees legislators served on was just one. In 2006, representatives served on an average of four interim committees, and senators served on six. This number includes advisory member positions. In 2006, there were more than 20 active interim committees, 17 of which had 10 or more members.

Advisory committee representation has also grown tremendously. In 1986, there were a total of 21 advisory member positions. In 2006, there were 175.

Mr. Burciaga then outlined the four main ideas to reform the interim committee process generated by the task force at its October 2006 meeting. They include:

- 1) consolidating the functions of interim committees, thus reducing their size and number, and avoiding duplication;
- 2) making Senate and House interim committee membership proportionate to Senate and House size, provided a majority of the members of one house may block a proposition;
- 3) revising the interim committee process so that interim committee membership more closely matches standing committee membership; and
- 4) requiring a specific amount of attendance at an interim committee to collect per diem.

Mr. Burciaga mentioned that the idea of matching interim committees more closely with standing committees, which the task force had recommended that the Legislative Council adopt as a trial this year, failed to receive majority support of the council. He also said that the council has discussed the per diem issue, but has not come to any decision yet.

Mr. Olson asked when advisory membership on interim committees started to become such a factor, and asked how other states deal with advisory membership. Mr. Burciaga said that it has just been in the past 10 to 15 years that advisory members have been appointed to

committees in large numbers. He said that LCS staff would investigate other states' policies regarding interim committees and report back to the task force at its next meeting.

Mr. Coll suggested that the Legislative Council adopt a rule that limits the number of days that legislators can be paid for attendance at meetings as advisory members. Mr. Burciaga said that the council has discussed a proposal that would reduce advisory committee membership, but would allow a certain number of meetings a legislator could choose to attend.

Representative Begaye said that about one-half of the membership of interim committees rarely show up to meetings, and there needs to be a way of removing those members. Mr. Burciaga said that committee chairs can recommend to the Legislative Council that members be dropped from a committee due to lack of attendance at meetings, but that chairs seldom make such recommendations.

Mr. Olson said that he supports providing a per diem budget for legislators to attend a certain number of meetings, and also supports trying to align standing committee membership with interim committee membership.

Ms. Eaves said that in the past, members needed to earn a spot on certain committees. Now, she said, interim membership is a joke and is a disservice to the state.

Mr. King asked if the LCS keeps track of the enactment rate of interim-committee-sponsored bills. Mr. Burciaga said staff could easily do such a study.

Senator Boitano said that interim committees serve an important role as educational and policy development tools, but there are other equally important venues he attends, for which, unfortunately, he does not get compensated. Meeting with constituent groups is very important, but he has to do so at his own expense. He suggested that legislators be paid for attending other sorts of educational activities.

Mr. Williams said that according to the 2007 interim committee appointment list, there are 620 interim committee positions for only 112 legislators. Simple math dictates that for the interim committee season (six months) and the number of times interim committees meet (five or six) means that there is a limit to how many committees there can be and how many members can be appointed. He suggested cutting back the number of committees and consolidating their functions.

Representative Arnold-Jones suggested that interim committees should only deliberate legislation that will be prefiled.

Senator Payne said that it is the legislators themselves that keep pushing for more interim committees and appointments. He does not recall ever hearing about a public groundswell demanding more interim committees. He said that once the per diem rate for legislators was increased by a recent constitutional amendment, there was a corresponding spike in interim

committee membership.

Mr. Olson proposed that all advisory memberships on committees be eliminated, and proposed that legislators be given an allotment each year to attend meetings of their choice. The task force directed staff to draft such a proposal. He also proposed that many interim committees be eliminated, and that standing committee membership be aligned with interim committee membership.

Senator Rodriguez cautioned against making such a decision now without considering all of its ramifications. She asked that staff research which committees could be eliminated and consolidated.

There being no further business, the meeting adjourned at 3:20 p.m.