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Governing Ohio: The State Legislature. A Guide to the Operation of the Ohio General Assembly

Richard Sheridan

Federation for Community Planning

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GOVERNING OHIO:

The State Legislature

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1989

**A Guide to the Operation
the Ohio General Assembly**

by Richard G. Sheridan

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FEDERATION FOR COMMUNITY PLANNING

A community resource. The Federation is a citizen-led, non-profit, voluntary association of 223 health, social service, and civic organizations in Greater Cleveland. The organization's primary role is to alleviate and prevent health and social problems in the community. The Federation attacks these problems through the application of five functions: planning, research, advocacy, community information and education, and coordination.

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GOVERNING OHIO: The State Legislature



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Federation for Community Planning
Cleveland, Ohio



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GOVERNING OHIO:

The State Legislature

**A Guide to the Operation
of the Ohio General Assembly**

by Richard G. Sheridan



**A Publication of the
Federation for Community Planning
Cleveland, Ohio**

With the support of the Fred M. Hauserman Fund

This book is dedicated to David A. Johnston and for Roberto Prcela in recognition of their support of me and this project.

Acknowledgements

If the reader has never been involved in the preparation of a lengthy manuscript, he or she does not always appreciate the extra effort that is required by so many to bring the manuscript from the vague germ of an idea about the subject to a completed, printed document. It is in recognition of this extra effort and also the fact that many who contribute their time to tasks such as manuscript review, editing, typing, and proofreading do so by squeezing extra time into an already filled workday that the "acknowledgement page" emerged in many publications. It is small reward to list those who contributed to the publication of this manuscript, but along with the listing goes the heartfelt thanks of the author.

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— R.G.S.

Introduction to GOVERNING OHIO: The State Legislature

The Federation's attention to governmental issues that affect health and social services began soon after it was founded in 1913 and stretches across its entire history. As this book, *GOVERNING OHIO: The State Legislature*, represents the newest aspect of the Federation's involvement in the legislative arena, it seems appropriate to briefly recall some of what has occurred before.

One of the earliest undertakings concerned care being provided to children of working mothers in tenement nurseries where conditions were dark and dank and one or two women watched up to 40 children. The Federation urged the Cleveland City Council to pass an ordinance that prohibited such conditions and, once the law was enacted, worked to see that it was implemented.

In 1915, the Federation's board appointed a Committee on Social Legislation which frequently supported or opposed proposed state legislation. In 1937, the board determined that the Federation would take a more active role by initiating legislation as appropriate. Up to then its role had been to react to bills that had already been introduced.

From that point on, the Federation's record in initiating important state legislation is a lengthy and impressive one. The Federation's role ranges from actually drafting a bill to mounting a statewide advocacy effort to providing expert testimony. More recent efforts have centered on the state budget process, as that is an area where human services issues are frequently won or lost.

In 1984, the Federation helped create the Government Affairs Alliance, a coalition of the Federation and four other major Cleveland human service agencies. In each budget biennium since then, the Alliance has proved to be an effective advocate for several human service funding issues.

In 1988, the Federation launched a major new effort to help local community organizations better comprehend and navigate the budget process. Supported

by The Cleveland Foundation and the George Gund Foundation, the undertaking was named *Fiscal Capacity and Budget Literacy Program*. Its aims are to monitor state funding as related to health and human services and to keep human services advocates informed about relevant issues. To direct the program, the Federation was fortunate to secure the services of Richard G. Sheridan, whose experience included 10 years as the Ohio Legislature's budget officer. Over the past several months Mr. Sheridan has developed and implemented a multi-faceted program, which includes a monthly newsletter, *The Budget Scene*, conferences and workshops, and this book about the operation of the state legislature.

We believe this book contributes to the Federation's longstanding role as a participant in Ohio's legislative affairs, as it helps its readers to grasp the realities of what is happening in Columbus' legislative halls, explains some of the confusing aspects of the process, and encourages active participation in actions that directly affect the provision of health and human services.

James M. Friedman
President

Ralph Brody, Ph.D.
Executive Director

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1 Membership of the Legislature

The Ohio General Assembly is bicameral consisting of two separate bodies, a House of Representatives and a Senate. In these two bodies are delegated the powers of lawmaking, except to the extent that the state constitution reserves to the people the right to make legislation through the initiative petition and by referendum. The legislative power may not be delegated.

Selection of Members

Members of the House of Representatives are elected biennially according to districts whose sizes and boundaries are determined at least every ten years by the state's apportionment board. There are 99 members of the House who are selected from their districts and who must have resided in their districts for at least one year prior to their election unless they were absent performing state or federal government business. Each member represents approximately 33,000 constituents.

The state's 33 Senators are also elected from districts drawn by the apportionment board. They are elected for four years with 17 members up for reelection each two years and the remaining 16 in the following biennial election.

Vacancies

Vacancies occurring because of the death or resignation of a member are filled by appointment by the members of the Senate or the House, respectively, who are of the same political party as the vacated member. The law provides that resignations of members while the legislature is in session do not take effect until the house of which the resignee is a member has accepted it by majority vote. If the legislature is out of session, the resignation is presented to the

Governor and does not take effect until he accepts it.

Terms of Office

Members of the House serve for two-year terms and members of the Senate for four years.

Eligibility

The eligibility rules for the House and the Senate are the same. Candidates must be at least 18 years of age, qualified to vote, and residents of their district for at least one year before election.

Compensation

As of January 1, 1989, legislators receive \$36,650 in base pay. This is supplemented by additional pay for various assignments. Committee chairmen receive additional amounts between \$5,000 and \$7,000, the latter of which is paid to the chairmen of the finance committees, whose ranking minority member is paid \$5,000. Legislative leaders receive amounts ranging from \$38,342 for the Assistant Minority Whip to \$57,128 for the House Speaker and the President of the Senate. In addition, some boards and commissions on which legislators serve provide additional pay. Members of the state Controlling Board receive \$73.20 for each day that the board meets. Legislators' base pay will increase to \$42,427 by 1991 and the two presiding officers will earn \$66,133.

Benefits

In addition to compensation, members are eligible to participate in the Public Employee Retirement System and receive the same health care benefits as all other state employees. They also receive life insurance benefits; if a representative dies in office, the unpaid salary for the remainder of his term is paid to his survivors.

For travel, members outside Franklin County are paid 20.5¢ per mile for one weekly round-trip to the State House when the General Assembly is in session. For those members who live more than 50 miles from the State House, there is a federal income tax living-expense deduction of up to \$79 per day for each daily legislative session they attend.

Legislative Apportionment

In Ohio, as in the rest of the states, the monumental U. S. Supreme Court apportionment decisions, which came after the 1960 Census, changed the nature of the legislature and its organization. Prior to changes made in response to Court rulings, the legislature's composition was based on a rather complex system guaranteeing every county at least one House member. Additional representatives were provided on the basis of dividing the state population by 100 and using this ratio to allocate representatives. Counties with a full ratio of one received one representative, and counties with a ratio of more than one were given an additional representative. The size of the House of Representatives varied each biennium because a county with one or more fifths of a full ratio would receive another representative for one session each decade. Members from each county were elected at large.

In the Senate an attempt was made to achieve greater equality of representation. The state's population was divided into 33 senate districts. However, the same principle of giving districts with fractions exceeding a fifth of a ratio an extra Senator for two years for each additional fifth applied. The result was that the Senate was relatively well apportioned, but House representation was not. In 1960, a representative from one district represented as few as 10,274 people (Vinton County) and another represented as many as 117,761 (Richland County). One study found that the split was 54% rural and 46% urban, in spite of Ohio being a highly urban state. Then came the U. S. Supreme Court decisions.

In *Baker v. Carr* (1962), states were ordered to redistrict on the basis of "one-man, one vote," which was defined in the case of *Gray v. Sanders* (1963) and applied to state legislative apportionment in the case of *Reynolds v. Sims* (1964). After the defeat, in 1964, of a constitutional amendment to reapportion Ohio in what the electorate felt was a deliberately gerrymandered fashion, an acceptable apportionment plan was established for Ohio in 1967. The House was reduced from approximately 135 members to 99, and multimember districts were abolished. Small counties were combined into single-member districts, and large counties were subdivided. The 33-member Senate was divided into districts comprised of three contiguous House districts. The disparity in population from the largest to the smallest district was reduced to less than one percent.

Each ten years the state must be reapportioned by the apportionment board authorized by Article XI, Section 1 of the Ohio Constitution. That body consists of the Governor, the Auditor of State, the Secretary of State, a member of the House of Representatives, a member of the Senate, and a legislator representing both houses. Whichever political party controls a majority of those offices will control the apportionment process and this can affect the political makeup of the legislature, as will be discussed. The next reapportionment will occur

after the 1990 Census. Legislative districts under the current apportionment are shown in Figures 1 and 2.

FIGURE 1
OHIO HOUSE DISTRICTS



FIGURE 2
OHIO SENATE DISTRICTS



Qualifications

There are no special qualifications, such as citizenship, for election to the Ohio General Assembly. However, the Constitution prohibits persons convicted of embezzlement of public funds from holding any office in the state. Also, anyone holding any other public office must resign it in order to become a member of the legislature.

Once elected to the General Assembly the law provides that no member may:

1. Be appointed as trustee, officer, or manager of a benevolent, educational, penal, or reformatory institution receiving state funds;
2. Serve on any committee or commission authorized or created by the General Assembly, which provides compensation other than actual and necessary expenses;
3. Accept any appointment, employment, or office from any committee or commission authorized or created by the General Assembly, or from any executive or administrative branch or department of the state which provides compensation, other than actual and necessary expenses.

Acceptance of any such appointment or position results in the declaration of the member's seat as vacant, unless the member resigns from his appointment. The law exempts members of either house from serving in public educational institutions (except as officers or trustees), school teachers, township officers, notaries public, and militia officers.

Composition of the Legislature

The legislature is to be a representative assembly; but representing a population does not mean being identical to it. Looking at the composition of the 117th General Assembly, it is evident that the members are far better educated than the Ohio citizenry at large. There are far more males and fewer blacks. There are no Hispanics or Asians in the legislature. Occupationally, there are far more professionals, especially attorneys, than in the general populace and a whole host of occupations are totally unrepresented. Far more members are married. The characteristics of the 117th General Assembly are summarized in Table 1.

Table 1
Background Characteristics of
Members of the 117th General Assembly (1987-88)

Marital Status	HOUSE		SENATE	
	Number	Percent of Total	Number	Percent of Total
Married	88	89%	25	76%
Single	11	11	8	74
Age				
61 & Over	18	18	4	12
51 - 60	20	20	6	18
41 - 50	25	25	11	33
31 - 40	32	33	10	30
30 & Under	2	2	0	0
Not Listed	2	2	2	7
Education				
Bachelor's Degree*	64	65	28	85
Master's Degree	18	18	4	12
Doctoral Degree	2	2	1	
J.D. or LL.B.	16	16	13	39
Graduate School	1	1	2	7
Certified	1	1	—	—
Trade School	2	2	—	—
College; no degree	26	26	3	9
High School Only	1	1	1	3
Occupation				
Full-time Legislator	36	36	12	36
Attorney	14	15	11	33
Business person	36	36	6	18
Educator	5	5	2	7
Farmer	6	6	1	3
Engineer	2	2	1	3
Not Specified	7	7	0	0

*At least a bachelor's degree; includes those with higher degrees.

Given the fact that there are no qualifications other than residence for election to the General Assembly, it is no surprise that the members do not represent the diversity of the general populace. What is meant by representation is that a legislator should either be a delegate of his district or its trustee. There is a continuing debate over which role a legislator should perform.

Representativeness

A *delegate* legislator is perceived as an agent of the constituency. Delegates come to the legislature with a series of perceived instructions from the persons who reside in their district and they follow their instructions, frequently consulting with their constituents. It is unlikely that any representative could be considered exclusively a delegate, but each member knows that when he or she stands for re-election, the incumbent's opponent will be scrutinizing the record seeking to find places where he or she has voted against the "interests" of the district. The incumbent will also "stand on his or her record," citing examples of projects brought to the district, jobs created by certain actions, or monies directed toward programs in the district. Thus, to some extent, all legislators must be delegates.

A *trustee legislator* is considered to be a free agent selected by the people represented to exercise his best judgment, voting his principles and convictions, and utilizing his best appraisal of what is right in each case. An ideal trustee is often called a statesman. Pure statesmen are as rare as are pure delegates, since every legislator's action must be tempered with the reality of the re-election. The more typical representative is cognizant of political realities and thus does not exhibit the dogmatism of the trustee nor the rigidity of a delegate.

There is a natural difference in role perception between the Senate and the House. Because Senators enjoy a longer term of office than members of the House, recognizing that voters have a short memory, they can afford to be statesmen more frequently than their shorter-term colleagues in the House.

Tenure and Turnover

In the past, legislative turnover in Ohio was high, with more than 50 percent of the membership changing each two years. However, beginning in the 1970's when legislative pay was increased, legislative staffing and housing improved, and the legislature became a more full-time body, tenure was extended. The Ohio legislature is now a far more senior body and turnover, resulting from factors other than death, has become relatively low. In the 118th General Assembly there are only three freshmen senators and only three freshmen representatives.

Privileges and Immunities

In order to insure that members are free to deliberate on any subject, they are constitutionally immune from arrest during sessions of the General Assembly and while going to and returning from such sessions. They are not to be questioned elsewhere for any speech or debate made in the legislature. This

immunity does not extend to cases of treason, felony, or breach of peace.

Former members are also endowed with some privileges. The title of Senator, but not Representative, is retained for life. Former members enjoy the privilege of being on the floor of the chamber while the body is in session, although this is an informal privilege not provided for in the rules of either house. Former members who become lobbyists are thus in a somewhat favored position.

Sessions of the Legislature

The first session of each General Assembly convenes on the first Monday of odd-numbered years, and the second session on the same date in the following year. By proclamation, either the Governor or the two presiding officers of the General Assembly, acting jointly, may convene a special session.

As the legislature began to meet continuously, it was believed that special sessions would not likely be called. The General Assembly only calls recesses during its two-year life; adjourning *sine die* (without a fixed date to return) occurs late in its second year. Nonetheless, special sessions are still convened from time to time.

In an unusual turn of events in the late 1970's, the Governor called for a special session while the legislature was at recess from a regular session. At the time, most of the members were in Albuquerque, New Mexico, attending the annual meeting of the National Conference of State Legislatures. The leadership considered the call "petty" and "unwarranted." Since whoever calls a special session may limit what can be considered, the Governor limited his call to considering the correction of a relatively minor piece of legislation. The two presiding officers returned to Columbus as ordered, but then issued their own call for an *unlimited* special session. They then convened *their* special session rather than the one called by the Governor. Then, they proceeded to take up other matters. There was no judicial challenge to this unusual set of events and so the legitimacy of having a special session of the legislature while the legislature is still in regular session is an open question, as is the question of whether two special sessions can be called simultaneously.

Open Sessions

The Ohio Constitution requires that the proceedings of both houses are to be public, except in those cases where two-thirds of those present opt to conduct the sessions in secret. As a matter of public policy, both houses have determined by their own rules to hold no closed or "executive" sessions. This does not mean that all legislative business is conducted in the open. Far from it. Conference

committees are usually closed. In order to escape public criticism, members of conference committees have been known to go to great lengths to find meeting places where they cannot be found and to meet at unscheduled times.

How members will vote before floor sessions is discussed in closed party caucuses in both the House and the Senate (except that long-term Speaker Vern Riffe, Jr., D-New Boston, rarely holds party caucuses). With those exceptions, and with the exceptions made when the budget is under review, as described in Chapter 5, most lawmaking is conducted in full public view. The public which is most visible and often present is that made up of experienced representatives of interest groups. When the general public is present, it is usually in a large group visiting the capitol. Seldom do these individuals stay in one place long enough to truly understand the process. Other members of the public who are visible are those organized by lobbyists pushing a particular point of view.

Ordinary citizens may find legislative proceedings especially bewildering. It was reported that, in 1984, when depositors of closed savings and loan associations followed the legislative process relentlessly for weeks hoping to stimulate a state "bail-out" or other redress, they were appalled at the insensitivity of legislators and their aides and at the lack of concern about their problem. These citizens had not been briefed by lobbyists telling them what to expect. They had no single committee or bill as a focus of attention and therefore were free to roam the halls of the legislature making random observations. The sights they reported, to the unskilled eye, implied considerable backroom wheeling and dealing and lack of true "openness" of the process. They found difficulty in obtaining records of committee hearings, meetings starting late, and their times or places being changed with little or no prior notice. They found floor debate to be cursory and most votes near-unanimous. The point in relaying these impressions here is to call attention to the fact that simply having all or most sessions of the General Assembly open to the public does not insure public accountability; that is achieved largely through the watch-dog function assumed by the media, some lobbyists, and "enlightened" observers of the process.

Daily Sessions

The time that the legislature convenes each day and the number of days it will meet varies from session to session and between the House and the Senate. However, it is rare for there to be floor sessions on Mondays or Fridays. The legislature almost never meets on weekends. The House rules for the 117th General Assembly provide simply that "the sessions of the House of Representatives shall be held on such dates and at such times as shall be determined by a vote of the House." The same provision is found in Rule 1 of the Senate.

In the 117th General Assembly the Senate members arrive for committee hearings on Monday nights, while the House does not begin until Tuesday morning. House floor sessions are held on Tuesday, Wednesday, and Thursday mornings; and Senate sessions are held on Tuesday and Wednesday afternoons and on Thursday morning. Both houses recess on Thursday to allow members to conduct constituent work and other business in their home districts.

Throughout the year several recesses of varying lengths are called, including holiday and summer recesses. During the time when either house is in recess, so-called skeleton sessions are held where the Speaker or the President call the session to order with a vacant or sparsely attended chamber. He then reads into the record certain routine matters such as bill introductions. Holding such sessions permits each house to comply with the provision of the Ohio Constitution that states that neither house shall, without the consent of the other, adjourn for more than five days, Sundays excluded. Holding skeleton sessions while in recess also allows members to travel to Columbus and get reimbursement for the weekly round-trip travel permitted by the Constitution.

Floor sessions in the House are usually only about an hour long, while debate in the Senate can be two or more hours. Controversial bills are usually reserved for Wednesdays when fewer measures are scheduled and debate on each may be longer. When the legislature is trying to clean up its business, more floor sessions may be scheduled and, on rare occasions, the legislature has met on Saturdays before a scheduled recess to complete its work.

Recesses

Approximately four times each session there is a "mad rush" to get a number of bills passed before recess. At these times, the legislative process has usually established one or two major bills that are bottled up in the Senate and which the House wants passed and vice versa. It is something of a mystery to unravel how some bills get elevated to this "must pass" category. Sometimes it is because of the attention given to an issue by the media; at other times it is the result of pressures from lobbyists, the Governor, or the administration that so elevates an issue. Each chamber has been known to hold the other's "must pass" legislation hostage in order to get the best deal on its own legislation.

In a budget year, the appropriations bill is one of the major bills upon which the question of the time of recess hinges. Recess will occur only when agreement is reached on the "must pass" legislation. Meanwhile, lobbyists pressure members to slip their bills through during these logjams, hoping they will not receive the same attention they might receive otherwise. All of this is part of the legislative process and, considering the length of time that it has gone on

in Ohio, appears to be an essential part.

Order of Business

Floor sessions begin with a prayer, a determination that there is a quorum present, and the reading of the *Journal* of the preceding legislative day (see Chapter 7).

Then, in the Senate, matters are taken up as follows:

1. Reports of reference and bills for second consideration.
2. Reports of standing and select committees.
3. House amendments to Senate bills and resolutions.
4. Reports of conference committees.
5. Joint resolutions, concurrent resolutions, and resolutions reported by committee.
6. Bills for third consideration.
7. Motions.
8. Introduction and first consideration of bills.
9. Offering of resolutions.

To revert to or pass to a new order of business requires only a majority vote of the members of the Senate. Messages from the House of Representatives and communications from any branch of the executive department of the state may be received at any time, except when the "yeas" and "nays" are being called.

The order of business provided for the House is somewhat different and is listed in the rules for the 117th General Assembly as follows:

1. Reading and approving, with or without corrections, of the *Journal*.
2. Consideration of Senate amendments.
3. Bills for third consideration.
4. Motions and resolutions.
5. Reports of standing and select committees.
6. Announcement of committee meetings.
7. Introduction of bills.

2 Legislative Leadership

Each house chooses its own officers. Though they are titled differently, their functions are similar. These are the titles of the leaders and staff of the House and Senate:

House Officers

Members:

Speaker
Speaker pro tempore
Majority Floor Leader
Minority Floor Leader
Assistant Majority Floor Leader
Assistant Minority Floor Leader
Majority Whip
Assistant Majority Whip
Minority Whip

Staff:

Executive Secretary
Legislative Clerk
Sergeant at Arms

Senate Officers

Members:

President
President pro tempore
Assistant President pro tempore
Majority Leader
Minority Leader
Assistant Majority Leader
Assistant Minority Leader
Majority Whip
Assistant Minority Whip

Staff:

Legislative Clerk
Sergeant at Arms

The duties of the leaders of each house are similar and so are discussed together. The duties of the staff officers are discussed in Chapter 4.

Speaker of the House and President of the Senate

The person with the most power in each respective house is its presiding officer: the Speaker of the House of Representatives and the President of the Senate. Traditionally, these positions of power are attained by individuals who take political responsibility for obtaining and maintaining the majority in the chamber.

Loss of the majority may result in the presiding officer moving to the position of Minority Leader, but not always. Members of a political party may conclude that their defeat was the leader's responsibility and remove the leader from power when they lose the majority.

Rising to this power position usually means hard political work, including raising campaign funds for candidates; recruiting candidates to make sure that every race is contested; going to as many of the candidates' districts as possible to make speeches and otherwise show that the party's support is behind each candidate; arranging for staff work such as counting votes on key issues if a candidate's opponent is an incumbent; advising and providing information to help candidates form positions on issues; assembling volunteers to help ring doorbells and pass out campaign literature; and the like.

Besides exercising political leadership, the presiding officer must also have the ability to provide directive leadership to a large body of independent persons who, according to the Constitution and in the eyes of the electorate, are all peers; that is why positions of leadership are earned, not granted. In order to be elected presiding officer, an individual will have considerable seniority, during which time he will have demonstrated his ability to get things done in a political arena of peers. He must command the respect of those peers sufficient for them to accept the discipline he will subsequently impose to hold the body together. Professor Rose, in his 1974 book *Ohio State Government*, notes that the Speaker should also have a sense of humor "for there are occasions when the proceedings in the house become unruly and border upon the facetious."

Once selected, Ohio's legislature has a tradition of retaining the presiding officer for long periods of time. House Speaker Vern Riffe now holds the state record for longevity, having served in that post for 15 years. He is expected to remain Speaker for the 118th General Assembly. Since the Senate has changed political composition more frequently, the same pattern of longevity has not been obtained.

Two formal duties are imposed on the Speaker and on the President by the official rules of the bodies: (1) to preserve order and decorum; and (2) to decide questions of order and procedure, subject to appeals. The presiding officer also must sign all acts and joint resolutions when passed by both houses and also any writs, warrants, or subpoenas issued by action of the respective house.

Most important in understanding the operation of the legislature is understanding the formal and informal powers of its presiding officers and how they are performed. Among the most important formal powers are the following:

1. Influence what is contained in the rules.
2. Appoint members to committees.
3. Select chairmen of each committee.

4. Act as a chairman of the rules committee.
5. Recognize members who wish to speak during floor debate and action.
6. Interpret and apply the rules of the chamber during floor action.
7. Substitute as a voting member of any committee.
8. Vote on all questions and participate in debate if he chooses.

Presiding officers do not introduce legislation in order to concentrate their attention on processing all measures. Maintaining some kind of discipline in a large body comprised of equals requires tact and skill. At times it may also require the use of fear and punishment. The presiding officer may use his formal powers to reward or punish members who support or do not support party positions. He has control over the assignment of office space, the determination of salaries for staff, and other matters of housekeeping.

Members know that passage of their bill may hinge on obtaining the presiding officer's approval, and if they are unable to reach him, they cannot secure his approval. The administration knows that they must first deal with the presiding officer if they are to obtain approval of legislative changes they desire or to secure appropriations of the state's programs. In short, the Speaker is the most important legislator in the House, and the President in the Senate. In the case of the current Speaker, some have contended that he is a more important Democrat than the Governor.

Speaker Pro Tempore and President Pro Tempore

These positions are second in command in their respective houses. The rules provide that, in the absence of the presiding officer, the Speaker pro tempore and the President pro tempore, respectively, shall have all the rights, privileges, authority, duties, and responsibilities of the presiding officer. It is usually to this officer that many routine, day-to-day political activities fall, including collecting money for the majority party's "war chest" to be used to dole out to candidates. This puts the second in command in an ideal position to become first in command, should the position become vacant.

With respect to presiding, the custom in the Senate is for the President to regularly name any Senator, almost always from the majority party, to preside, even while the President is present. Thus, the President pro tempore holds no particularly unique position in this respect. In the House, the Speaker infrequently asks someone else to preside, but when he does, it is not necessarily the Speaker pro tempore.

Minority Leaders

There are both similarities and differences between the leaders of the majority and the minority. Even though the Speaker of the House and the President of the Senate make all committee appointments, as well as appointments to various administrative bodies, they will defer to the Minority Leader to provide a recommended list of minority party member appointees. The Minority Leader will designate who is to be named Ranking Minority Member on each committee, and will be called on to confer with the presiding officer at times, especially when it is determined that a particular measure should enjoy bipartisan support. At these times the Minority Leader will be able to bargain for other things considered to be in the interest of the party.

Like the leaders of the majority party, the Minority Leader will collect monies for political campaigns, recruit candidates, assign members to offices, and provide secretarial and other staff in accordance with block allocations provided by the majority party.

Probably the two biggest differences between the majority and the minority leaders is that the minority has no strict party platform to follow (unless the Governor is of that party, but even then the minority party in the legislature will be virtually powerless to be of much assistance in pursuing the Governor's policies). Their main function is to criticize the majority, sometimes even being obstructionists, as they pursue their main goal of becoming the majority. The Minority Leader leads the charge. The style of each leader varies. It seems that the minority is beset with factions to a greater extent than the majority, simply because there is no program to unite the members and assist the leader in maintaining discipline. Thus, if the leader tends to be a conciliator, there will likely be a faction of reactionaries operating independently. There seem to be far more rumors of leadership ousters in the minority than in the majority.

Other Legislative Leaders

The rest of the leaders are generally considered to be part of the "leadership team" and serve as lieutenants to the presiding officer and to the Minority Leader, respectively. Unlike Congress, the roles of the Whips, the Majority Floor Leaders, and other leadership posts are not so clearly delineated. Since the main function of the presiding officer is to conduct legislation through the many stages of the legislative process, he will use his lieutenants in whatever way they can be most effective.

The leadership team is picked by the presiding officer or their Minority Leader. It will usually include someone from each of the major urban centers, and minority group representation. Each of these will be relied upon to provide information

about the needs of members of their special delegations, and the leaders will be expected to assist in negotiating with them or do whatever else is needed to move legislation through the process, Subordinate leaders achieve their positions by appointment of the top leaders and, therefore, there is almost always a built-in sense of trust. They will serve as the leader's eyes and ears in the legislature.

Caucuses

The essence of the legislative process is negotiating acceptable compromises on issues brought before the legislature. The leadership functions as the guide dog clearing the way for legislation to progress through the General Assembly with a minimum of conflict. Majority party leaders can, within limits, determine what the agenda for a legislative session will be and what major bills will pass — or they can let those decisions emerge through developments in standing committees. Usually leaders take a neutral position with respect to the components of legislation; they can be more effective if they let the substance of the legislation work its way through a legislative process which they supervise and direct. Once the decision is reached that a major piece of legislation must pass, the top leader will use every power at his command to see that it is passed in the house.

The party caucus is an ideal vehicle for a legislative leader to negotiate with his members. In the Ohio Senate both political parties hold meetings, called "caucuses," everyday, and sometimes even more frequently. Not only are matters involving major bills discussed, but fund-raising efforts, positions with respect to the confirmation of gubernatorial appointees, specifics of appropriations matters coming before the Controlling Board (described in Chapter 3), and almost any matter that would be of interest to the members may be included. The party caucus is a way of keeping members informed and for members to educate each other and the leaders. For a sensitive leader it serves as a sounding board to help decide which bills are "ripe" and which need more seasoning. Members who are unhappy with a bill can be asked to voice their objections; failure to do so makes it difficult to later vote against a measure. Legislative staff attending party caucuses may also have the opportunity to inject their views, and outsiders may also be brought in to explain issues as part of the education function of the meeting. The gathering can also be the ideal setting to plot legislative strategy and to set the scene for an eventual conference committee on major bills by developing the "Senate" position or the "House" position.

The House majority, under its current leadership, seldom holds official party caucuses. The House minority does hold such meetings but not with the same frequency as the Senate, perhaps partially because the majority has not set aside

time for its own gatherings and, therefore, scheduling minority party caucuses in a legislative day also becomes difficult. In the absence of regular party caucuses, House members have to get their information by relying upon the top leader; they must either see him regularly, decide on issues without a lot of information, or rely upon interest group representatives.

A Typical Leader's Day

Even after describing the formal aspects of leadership and its powers, functions, and purposes, it is difficult to grasp the full significance of the role performed by legislative leadership. David Truman, writing in a 1959 book, *The Congressional Party*, captured the problem well when he wrote:

“Everyone knows something of leaders and leadership of various sorts, but no one knows very much. Leadership, especially in the political realm, unavoidably or by design often is suffused by an atmosphere of the mystic and the magical, and these mysteries have been little penetrated by systematic observation.”

Perhaps by examining the kinds of things that might typically occur in a top leader's office in the course of a day, a sense of the role of leadership will be better conveyed. For purposes of this illustration, a day that the legislature is in session is chosen and the leader described is the presiding officer.

9:00 a.m.

The leader arrives at the office. The staff has already been in the office since 8:00 a.m., and so he is greeted with a full list of telephone messages.

The leader's office has both a receptionist and a private secretary. The private secretary will have screened phone calls. In some cases this will mean that she has asked the caller the nature of his call. In other instances she exercises her instinct about who the leader will want to talk to and provides the leader with a description of what each caller wants suggesting which should be called back. He may not want to call back each of these persons, but will try to accommodate those which the secretary considers important, even if not enthusiastic about some, because the leader knows she must be credible in her continued dealings with callers and visitors.

Some calls will be referred to members of the leader's staff, such as the legislative counsel, the chamber's clerk, or other aides without special titles, who specialize in certain activities such as constituent responses, political party matters, or the like. These staff may, in turn, delegate the calls further, but usually they will make them themselves and exercise their judgment about what the

next steps should be. The remaining call will be made by the leader personally.

9:00 to 9:15 a.m.

The most urgent calls are returned by the leader, usually in the presence of the secretary and chief aide. Their presence will allow him to facilitate follow-through. They are experienced enough to know that they are present to overhear and do whatever is necessary as a next step. One of the callers is the legislative liaison from the Governor's office. He wants to let the leader know how the Governor feels about a bill that is in Conference Committee. The leader says he will check on the status of negotiations, and the chief aide makes a note to do so.

Another call is from the chairman of the political party in the leader's home district. He wants to voice his support for a bill scheduled for floor debate that day. He also wants to invite the leader to speak at a fund-raiser for the party's candidate for county commissioner. The leader says he will check his availability on the date in question, and the secretary makes a note to do that. She will follow through with a letter or call when the leader later makes up his mind whether that is the best use of his time on that date.

The receptionist buzzes that the Minority Leader would like to see him before the scheduled Rules Committee meeting. The leader clears the office and the Minority Leader is ushered in. It seems that his members are having trouble reaching agreement over a major bill the majority wants to pass this week. He would rather not have all of his members vote against it and suggests that if it were sent back to the committee that favorably reported it out, the specific problems (which he briefly describes) could probably be worked out and the bill could then be sent to the floor with bipartisan support. The Minority Leader is assured this will happen and after he leaves, the leader calls the chairman of the affected standing committee, explains the situation, and asks if the chairman would get together with the Minority Leader and work out the problems. The leader usually wants bipartisan support if he can get it.

9:15 - 9:20 a.m.

The leader meets briefly in the chamber with a group of youngsters from his local grade school who are here for the day. He poses at the podium next to the teacher, gavel in hand, while the students click their cameras. They will later be attending the 11:00 a.m. floor session.

9:20 - 9:30 a.m.

The director of the Legislative Service Commission (LSC) calls to let the leader know that the staff has found some problems with a bill scheduled for floor debate at 11:00 a.m. These are substantive matters, rather than technical issues which would ordinarily be handed to the clerk in the form of corrective amendments for action prior to floor debate on the bill. Here the LSC staff person feels that before action is taken, it is important that the leader know that, in spite of warnings during the committee hearings, a provision which is potentially unconstitutional was adopted. The LSC staff has drafted an amendment which would solve the problem, and the director wants to know if the leader wants to do anything about it.

Perceiving that this issue could mean an embarrassing floor fight, since the minority will undoubtedly be prepared to argue the constitutionality issue, the leader calls the sponsor and tells him the problem. Dissatisfied with the explanation of why the provision was included in the Committee bill, the leader tells the sponsor that he is going to "pull" the legislation off the calendar. The sponsor now knows that he'd better agree to sponsoring the corrective amendment or the bill may never get rescheduled for a floor vote. He tells the leader that he'll "take care of it." The bill will retain its place on the calendar.

9:30 a.m.

The leader leaves his office to chair a meeting of the Rules Committee. On his way over, a reporter from the *Cleveland Plain Dealer's* State House press corps corners the leader and asks what he thinks about a statement by a lobbyist that a major bill scheduled for an 11:00 a.m. vote was placed on the calendar for a vote because his campaign contribution to the leader's war chest helped grease the way to its passage. The leader professes ignorance of the statement and has no comment to make. The aide accompanying him makes a mental note to "check this one out." Later in the day he informs the leader that the lobbyist did in fact make a recent \$500 contribution.

The leader has a press release drafted by an aide and distributed to the print media housed in the State House Press Room. It states that the leader is insulted by the implication made by the lobbyist and that his \$500 contribution has been returned.

Because of this indiscretion, the lobbyist will find himself *persona non grata*, not only among the members of the majority caucus but throughout the State House. He may even be replaced by his organization for having violated the cardinal rule of never attempting to tie a contribution in with a specific action of a legislator or the legislature as a whole, privately and, least of all, publicly.

9:30 - 9:45 a.m.

A quick meeting of the Rules Committee is held. All bills that have been reported favorably by standing committees are briefly described. Some will be singled out to be placed on the calendar for a vote on one of the three legislative session days of the next week. One bill is referred back (called "re-referred") to committee.

A member notes that another bill reported by a standing committee has fiscal effects. It is now referred to the Finance Committee which will dwell primarily upon its fiscal provisions, considering the substantive issues only in general terms and usually only as they relate to the fiscal effects. The Finance Committee may end up reporting the bill back to Rules but with the provisions which give it a fiscal impact removed. The member of Rules who called the matter to the attention of the rest of the committee relied upon a Fiscal Note prepared by the Legislative Budget Office (LBO) after the bill was reported out of the standing committee. Later the sponsor of the bill will angrily call the LBO to complain that they had not informed him of their opinion about its possible cost so that he could have taken care of the matter himself without the embarrassment of a re-referral and the possible damage to the bill that might be wrought in the Finance Committee.

On the way back to the office the leader is once again stopped by a reporter, this time one from a local news station with a camera crew in tow. The leader declines a request to comment on camera on the chances of a major bill emerging from a conference committee but privately tells the reporter that if it doesn't get out of committee by the end of the week, a new committee will be appointed, "if he has anything to do with it." This message gets back to the majority party members of the conference committee from the leader's house, and, before the day is out, the stalled bill is subjected to fresh negotiations.

9:45 to 10:00 a.m.

The chamber's clerk tells the leader he has a problem; he is invited into the leader's office to discuss it while the leader signs a stack of resolutions, bills, and routine correspondence. He will sign constituent mail privately since he always personalizes these with a little handwritten note. Routine signatures do not require his full attention and so he is able to listen to the clerk's problem.

A chamber employee has been accused of using chamber postage for political mailings, according to the clerk. The clerk also tells the leader about a member's secretary who wants to work for someone else. It is a delicate matter, the leader is informed. While he has the leader's attention he mentions that several staff members are complaining about the fact that they work up to sixteen hours

a day, receive no overtime, and are paid less than persons of less skill, loyalty, or experience in the executive branch of government. "In other words," he says, "there is a growing morale problem." The leader agrees to meet with the two staff employees with "problems" and informs the clerk that anyone who has a problem with his or her salary should see him personally. None will.

10:00 - 10:30 a.m.

Having completed the signing of routine items, the leader calls his secretary to see if the rest of his leadership team is in his outer office waiting for a meeting he had previously called. In a moment they begin to usher themselves in, demonstrating, in varying degrees, their relative stature and independence.

One has been chatting with the receptionist; another was on the telephone; a third has to be called to be told, "the leader is ready now;" another is chatting in the hall with a lobbyist; but they are all soon assembled.

The meeting begins after a round of social pleasantries, kibitzing about State House gossip, and exchanging other information informally. If the leader picks up on any of the tidbits being deliberately dropped, it immediately becomes the subject of discussion.

Finally, the meeting gets around to the subject at hand: the leader is under pressure from the Governor's office to get agreement from a conference committee on a bill that has been stalled there for two months. Of specific concern is one provision about which the Governor is adamant. If it is included in the final bill, he will veto the entire bill. It is a matter that the leader feels strongly about as do a number of other members who also disagree with the position of the Governor. The leader sees this as a point of "honor" between his chamber and the Governor. It is a matter on which they should stand firm. The discussion centers around how to deal with this matter in such a way as to give the Governor what he wants and still maintain the integrity of the legislature, particularly this chamber, and get what it wants.

A suggestion is made that a small appropriation be included in the bill thereby making it an appropriations bill. As such, the legislature could exercise its will and the Governor could reach in and line item the objectionable provision without vetoing the entire bill. A quick call to the Attorney General's office confirms that this is indeed the interpretation that the Ohio Supreme Court has taken about bills that contain appropriations. This suggestion would satisfy both branches of government.

Another suggestion is made to offer a compromise provision. Members are concerned, however, that they not appear to be backing down from their position. The Majority Whip is selected to make a call on one of the other

chamber's members on the Conference Committee, the one who is from the same city as the Majority Whip, and discuss compromises, ultimately planting the alternative that was offered in this meeting and which appears to be acceptable to the leadership team. The appropriations alternative is held in reserve.

The meeting breaks up on a social note with members discussing who is likely to be at a party that evening which is being hosted by one of the major interest groups. Like most legislative "chit-chat," this, too, has a purpose: determining who will be there to see if it is worthwhile to attend and also to determine the current status of favor enjoyed by this interest group in the leader's mind.

10:30 - 11:00 a.m.

After the leader makes a few more phone calls, the chamber's clerk and the leader's counsel are asked to come in to go over the bills scheduled for floor debate. They have only a few minutes to describe each, and so they review very briefly what the major provisions are and what amendments they know need to be offered. Soon they are joined by the assistant leader who gives the leader a rundown on who is going to vote against which bills, whose votes are not known, and what the minority party is likely to do.

Finding out that the Black Caucus is having a problem with one of the bills, the leader calls the office of the leader of the Black Caucus to let him know he is on his way over to his office. Even though the member is not there when the call is received, his secretary says he will be there shortly and then scurries around to find him and make sure he is there when the leader arrives. She knows the rarity of visits from the leader and gauges their importance accordingly.

The meeting takes place. The black leader is assured that an objectionable provision concerning affirmative action will be removed from the bill when it gets to a conference committee, but the leader doesn't want this kind of a debate erupting publicly on the floor. "It would give us a bad image." It is agreed that the Black Caucus will be in full support of the measure on the floor but one of its members will explain their objections to the affirmative action provision and will remark on the hope that this will be a matter for Conference Committee consideration. It is no coincidence that a black member of the chamber ultimately gets appointed to the conference committee on the bill.

Before the leader leaves to preside over the 11:00 a.m. floor session, he mentions that he would be happy to say a few words at the planned fundraiser for the United Negro College Fund. The Black Caucus leader is delighted and makes sure the leader is a featured speaker. Favors are given and favors are returned as part of the legislative process.

11:00 a.m. Floor Session

Floor debate is especially spirited today. There are five bills scheduled. Three are routine, but two are what would be considered to be of "major" impact. It has taken six months for the bills to reach this stage in the legislative process. One is a bill that originated in this chamber, and the other has already passed the other chamber but in a considerably altered substitute form.

The leader, in his role as presiding officer of the chamber, calls the session to order and the Chaplain, who is paid to begin each day's session with a prayer, does so. The Reading Clerk, who has been chosen for the sonority of his voice and his auctioneer-like ability to read rapidly and coherently, proceeds to read the titles of bills that have been introduced into the General Assembly this day. This will constitute the first of three readings required by the Constitution.

After disposing of a few other routine matters, including hearing some messages from the other chamber about the status of certain bills sent to them from this chamber, the first of the five bills on the calendar is called up for debate. Technical amendments are offered first and, as the presiding officer notes, they will be approved "without objection," meaning that he will not call for a recorded vote on them. A member may, however, object, in which case he will state his objection and, if the presiding officer agrees, the amendment will be discussed and then subjected to either a voice or a recorded vote.

An objection to a technical amendment is raised. A member charges that a technical amendment really has a substantive effect. If he is right, the person offering it, usually the sponsor, will be in an embarrassing position since other members will be relying on him not to "try any funny stuff"; that is, make a change that was not subjected to consideration in a standing committee. It may be that the sponsor simply did not see the possible substantive effect or it is not really there. The sponsor chooses to ask to have the amendment withdrawn, rather than possibly jeopardizing the final vote on the bill because of this relatively insignificant provision. After the technical amendments are disposed of, the presiding officer calls for other amendments.

Floor Activity

Throughout the course of the proceedings on the floor, pages, who are students (mostly from the Ohio State University and other Columbus colleges), are distributing various materials to members. Although members sponsoring amendments may circulate them to key legislators to get their support in advance, amendments to be offered on the floor are seen by many members for the first time when they are placed on their desks on the floor.

Members may be seen walking on and off the floor. If a member is unsure

of how to vote on an amendment and the debate that takes place still does not clarify matters for him, he may walk off the floor and consult with someone on the matter. This might be his aide, if he has one, or it might be a lobbyist who is "hanging around" for just this purpose.

In the House there is a special members' lounge to which members can retire and talk to whomever they wish. (Only a few select staff and pages are actually allowed to be on the House floor when the chamber is in session, but the Senate allows the aides of individual members to sit on the chamber floor providing easier access than is available in the House.)

In the Senate, members leave the floor and simply walk beyond the first set of columns at which time they are considered "off the floor." They may then consult with whomever they wish or go into the gallery where eager lobbyists are waiting to answer questions or provide information. The gallery in the House is above the chamber and is not readily accessible.

Each Senator, but not each Representative, has a telephone at his desk on the floor. It is directly connected to his office. Therefore, a member can not only contact his office quickly on any matter but can ask staff to look up correspondence, memoranda, or other materials; read them to him; bring them to him; contact someone by telephone and consult with them; check facts and information; and so on. Members of the Senate are frequently seen on the telephone while they are on the floor and may even be conducting other business while debate is going on that will not have any affect on their vote.

Throughout the floor debate the presiding officer interrupts proceedings for a variety of reasons. Members are told to limit their remarks and to stick to the subject; they are ruled out of order on some of their remarks, or other members raise various parliamentary points. Those in the gallery are asked to be quiet. Those close to the floor are silenced and the Sergeant at Arms, on one occasion, is asked to "clear the floor"; he removes all those not a part of the official legislative business (mostly excess staff). At a particularly boisterous point the presiding officer threatens to have the gallery cleared. At several points he breaks the proceedings to recognize groups as they enter the gallery. This occurs when the member whose constituency is represented by the group informs the presiding officer of their presence. The presiding officer asks that member to identify the group. They are asked to stand and be recognized and receive polite applause from the members.

Throughout the proceedings the presiding officer may be interrupted by members, staff, and the Clerk who stands immediately in front of him on the podium at a slightly lower elevation. In some cases, this is the only time that the interrupter knows that he will be able to get to the presiding officer. Today, he makes it clear that he will not tolerate interruptions except for those official kinds

of things that the Clerk must do to keep the process going.

Floor Action

Returning to floor action, the presiding officer continues consideration of bills on third reading, those which the Rules Committee has scheduled for a final vote. When all amendments have been considered, the floor leader "calls the question" (asks for a vote). Debate is limited by the presiding officer in order to move things along.

The vote that is taken may be by voice, in which case the presiding officer will decide whether the "yeas" or "nays" have it. However, a member objects to the presiding officer's call for a voice vote and asks for a roll call. In the House, when this happens, the roll call is conducted electronically with members' votes being almost instantly recorded on a tote board visible to everyone on either side of the chamber. In the Senate, the vote is taken by calling the names of each member alphabetically.

The choice between a voice vote, a vote "without objection," and a roll call vote is strategically significant. Only a roll call vote is recorded for posterity in the chamber's journal and bulletin. So, members voting in the other two ways, can later say whatever they want about how they voted since there is no record kept of the individual legislator's vote.

This process is repeated for each of the bills which appear listed above the bold black line on the calendar. Then, on agreement by vote of the body, a bill not originally scheduled on the printed calendar has been brought up for consideration. This unusual action is the result of a last-minute decision of leadership. The same strategy could also have been a parliamentary move by a sponsor to release a bill which the Rules Committee, or more accurately the legislative leadership, did not wish to schedule for floor debate. Bringing up a bill under these circumstances would be considered an affront to the presiding officer, who is also the chairman of the Rules Committee, and could result in later retaliatory action if the member so doing is a member of the majority party; if the member is one of the minority party, then the tactic, if successful, would just be smart maneuvering.

After consideration of bills for third reading is completed, there are several formal and informal matters taken up. Some congratulatory resolutions are voted. Bills reported out of committees since the last calendar are listed. Several committee chairmen are recognized and they announce changes in scheduled meetings of their committees. A member with a birthday is recognized and, with jokes and humor, honored. Finally, at noon, the presiding officer adjourns the session.

As he attempts to leave the podium he is surrounded by various people. The

press corps, which enjoys the privilege of being able to sit at designated places on the floor, tries to reach him for opinions on a number of things; others try to schedule appointments or try to personally explain why they have been trying to get in to see him, recognizing that he has not returned their phone calls but not daring to say so. By 12:15 he is able to move toward his office to check for any urgent matters that may need his attention and, if he finds none, he leaves for lunch.

12:30 - 2:00 p.m.

During this period the leader lunches. He selects a restaurant where everyone will know where he is. For the past decade this has been the *Galleria Restaurant* located directly across from the State House on Third Street.

While at the restaurant the leader is flanked by several of his lieutenants and later is joined by the leader from the other house. Throughout his stay, lobbyists and members from both chambers and from both parties join him, say a few words, and leave. He is here deliberately at a place where anyone can get access to him on an informal basis. Mostly supplicants are giving the leader information, the commodity on which the legislature thrives. Some are pleading their cases; pleading for time with him; pleading for support in getting a bill referred, brought out of committee, changed, or stalled; pleading for help with a constituent problem; pleading for assistance with a state agency or with the Governor; pleading for any of the kinds of things that the leader can deliver. It is the leader's time to be in touch with a lot of folks he might not have time or be willing to see except in this informal way.

2:00 - 5:00 p.m.

During the afternoon, standing committees are in session. The leader has no involvement in this process but from time to time chooses to put in an appearance at several committee meetings. This day he chooses to go over to see the presiding officer in the other chamber. He wants to get support to push a bill out of conference committee. He has already spoken to his members, but he wants support from the conference committee members of the other chamber. While he is over there, the other leader mentions a few "must pass" bills over in the other house. There's some general discussion of what is best labeled as the *quid pro quo* variety, and each leader finds out what the other needs to unbotle vital legislation. This information is later acted upon.

Returning to his office, after attending to the matters that arose during the morning, he then calls for his chief aide to give him a "rundown on what's

happening." The rundown begins with correspondence that has been shifted over to the aide by the leader's personal secretary. The aide describes the issues raised in this correspondence. They are fairly important or they would not have been given to this staff person to work on; they would have been handled through more routine channels such as being sent to an intern, a lesser aide, another member, or by the secretary herself.

One of these letters is from the Legislative Budget Officer alerting all four top leaders of a possible fiscal shortfall. At the leader's behest, an appointment is arranged for the next day so that he will have a chance to quiz the appropriate LBO staff about this issue directly. He also tells the aide to schedule a session with the director of the Governor's Office of Budget and Management (OBM) for later in the week so he can check LBO's information with OBM and see if there is likely to be agreement or conflict between the two offices.

Another matter that arises involves a member who has been making questionable long distance telephone calls. The leader will later call him and tell him about it; it may be that he has been lax in allowing his staff or outsiders free access to his telephone and office facilities. He will tell the member that things like this are scrutinized periodically by the media, and regularly by the State Auditor during his post-audit of the General Assembly.

The chief aide then lists several things that members have come to him for, even those that he has already followed through on, thereby enabling the leader to overrule him if necessary. This is seldom done since the leader knows the value of an aide having authority commensurate with responsibility. One member wants authorization to attend an out-of-state conference. Another wants to be appointed to the Controlling Board. A third needs additional monies for his upcoming re-election campaign.

This afternoon the leader promised to put in an appearance at a reception hosted by the Ohio Historical Society which is launching a fund-raising effort for a major expansion of their historical village; the aide reminds him of this, as well as an evening reception hosted by a human services coalition. After the leader informs the aide that he will attend both, the aide makes arrangements to have briefing papers prepared so the leader can speak intelligently about some of the issues of concern to these two groups. He also alerts him to the names of some of the groups' leaders so he can greet them warmly.

The rest of the afternoon is spent on follow-through activities related to the events of the day. There are more phone calls and a few unscheduled drop-ins, mostly legislators asking advice on how to proceed with legislation, as well as some seeking intervention with administrative agencies to help with constituent problems.

Before leaving for the 5:00 p.m. reception, the leader signs some routine

congratulatory resolutions honoring persons in his district who have had birthdays, graduated from high school or college, gotten married, or reached some other life milestone. He knows that these have gotten out of hand and no longer carry the special meaning they once did, but he also knows that to stop them now would be considered a slight by those reaching the same milestone as their neighbor but not receiving similar congratulations. He signs these but privately envies those members who never got started in the practice. He also squeezes time in to quickly review his weekly newsletter. It was prepared by his caseworker aide using a standard format that a caucus aide prepares each week outlining significant events that occurred. It will be sent at state expense to a large number of his home-based supporters.

5:00 p.m. - 12:00 a.m.

The evening begins with the leader dropping in at the Historical Society reception where he "works the crowd," shaking hands with all and engaging in relatively inane banter. Before he leaves for dinner with his aide he says a few words about the good work the Society has been doing and encourages the potential donors to "open up your purses and give till it hurts."

Dinner is at a downtown restaurant in a private room with the Governor's legislative liaison, a cabinet officer, and a lobbyist. Its purpose is to work out a compromise, if possible, on a bill the Governor wants which would eliminate a tax break provided a few years previously to assist in promoting the industry in question. The Governor is working on his next budget submission and wants to see if he will get support for this change before he openly tangles with the industry, which will undoubtedly seek legislature support to oppose the change. If that were to occur, even though the majority in this house is of the same party as the Governor, it would leave the appearance that the Governor was "out to get" that industry. That surely would not be helpful to him when it came to raising money for future campaigns or if he needed that industry's support on future issues. The dinner ends with no commitments from the leader. Each attendee was testing the other, and each knows that afterwards they will sort out what transpired and consult with their own advisers before making any commitments. The matter remains "under advisement."

After dinner, the leader returns to the *Galleria* for two more hours of "face time" with those who want to chat with him in a more informal setting. Before going back to his apartment, he stops in at the office to look for last minute messages that might be urgent and makes the rounds of the committee rooms seeing what is going on in terms of legislative committee work. He makes a mental note of which of his aides is still at work.

At home he finds that his roommate is already there reading the analyses prepared by the Legislative Service Commission on bills that will be taken up on the floor the following day. His roommate is a rank and file member of the legislature who shares the apartment with the leader for reasons of economy and companionship, as do many members of both houses. The member knows that he is in a special position to influence the leader because of his uncompetitive daily access to him. When it comes to influence determiners, a study some years ago concluded that the most influential person is the seatmate of the legislator (the legislator in the next seat). When a final vote is taken on the floor, the seatmate has the final access and also can see directly whether his advice has been taken by the way that the member votes. The leader's roommate enjoys that same kind of influence.

The leader's evening ends at about 2:00 a.m. He spends the last early morning hours catching up on reading reports, bill analyses, and fiscal notes on matters of interest to him personally, to the members of his party, to lobbyists whose opinions he values, and to his perception of what are the matters of importance to his chamber. He needs uninterrupted concentrated time for this and can only find it in his schedule at home in the evening. Before calling it a night, he calls his wife at home. She, like most legislators' wives, is understanding and compassionate. She knows the kinds of pressures that fill a legislator's day.

And so ends the leader's "typical" legislative day.

3 Organization of the Legislature

If the legislative leadership is the brains of the legislature, the committees are its heart; they provide the adrenaline to keep the body functioning. The bills are the blood, giving life to the organism, and the committee structure supplies the arteries and veins to keep it moving evenly through the system.

Standing committees are formed at the beginning of each legislative session as a means of organizing the flow of legislation and to apportion the legislative workload. There are specialized Rules Committees in each house and the House of Representatives also has a Reference Committee.

Before the Ohio General Assembly became full-time, Select, Special, and Joint committees were formed to operate during the interim. These continue to a lesser degree, especially since, in the past few years, some interim kinds of activities have been assigned to standing committees.

Standing Committees

Not counting specialized and interim committees, the Ohio House, as organized for the 117th General Assembly, has 24 standing committees and the Ohio Senate has 11. Standing committee work in the two houses is identical, except that the Senate Judiciary Committee also has the added responsibility of considering confirmation of certain gubernatorial appointments. Since the House has more than two times as many committees, the concept of parallel committees in the two houses is imperfect. There are only a few perfect matches between the standing committees of the two houses. (Only Education, Finance, and Ways and Means have identical limited subject-matter jurisdictions). The following list shows which committees of the House are roughly comparable to which committees of the Senate for the 117th General Assembly. Each session the committee structure is changed somewhat. For the 118th General Assembly the Senate moved Aging to the Agriculture Committee and created a

Reference and Oversight Committee and a separate State and Local Government Committee. The House created an Elections and Townships Committee.

Table 2
House and Senate Standing Committees in the
117th General Assembly

HOUSE	SENATE
<ul style="list-style-type: none"> • Aging & Housing • Children & Youth • Health & Retirement • Human Resources 	<ul style="list-style-type: none"> • Health, Human Services & Aging
<ul style="list-style-type: none"> • Agriculture & Natural Resources • Commerce & Labor • Civil & Commercial Law 	<ul style="list-style-type: none"> • Agriculture, Commerce & Labor
<ul style="list-style-type: none"> • Economic Affairs & Federal Relations • Economic Development & Small Business 	<ul style="list-style-type: none"> • Economic Development & Small Business
<ul style="list-style-type: none"> • Education 	<ul style="list-style-type: none"> • Education
<ul style="list-style-type: none"> • Finance & Appropriations 	<ul style="list-style-type: none"> • Finance
<ul style="list-style-type: none"> • Energy & Environment • Public Utilities 	<ul style="list-style-type: none"> • Energy, Natural Resources & Environment
<ul style="list-style-type: none"> • Financial Institutions • Insurance 	<ul style="list-style-type: none"> • Financial Institutions & Insurance
<ul style="list-style-type: none"> • Judiciary & Criminal Justice • Ethics & Standards 	<ul style="list-style-type: none"> • Judiciary
<ul style="list-style-type: none"> • Ways & Means 	<ul style="list-style-type: none"> • Ways & Means
<ul style="list-style-type: none"> • Interstate Cooperation • Elections & Townships • Highways & Public Safety • Local Government • Transportation & Urban Affairs • State Government 	<ul style="list-style-type: none"> • Highways, Transportation & Local Government

The main purpose of standing committees is to review bills introduced in the General Assembly, amending almost all, sending some to the floor for debate and action, and killing others. The subjects of the bills under consideration and the titles of the committees are similar to the titles of the Ohio Revised Code which organizes bills enacted by the legislature (see Chapter 5).

In spite of the attempt to establish committees to help even out the workload, the system is imperfect. The biennial budget bill, though just one bill initially, will consume the full time of the Finance Committee in each house for about two months. Another committee may receive hundreds of bills but hold hearings on only a few. Table 3 gives a rough approximation of workload. The number of bills assigned to each committee is identified, including bills originating in either chamber.

Table 3
Relative Workload of House and Senate
Standing Committees, 117th General Assembly

Committee Name	Number of Bills and Resolutions			Percent of Total
	House Bills	Senate Bills	Total	
House Committees				
Aging & Housing	9	0	9	0.9%
Agriculture & Natural Resources	24	7	31	3.2
Children & Youth	22	1	23	2.3
Commerce & Labor	43	5	48	4.9
Economic Affairs & Federal Relations	3	2	5	.05
Economic Development & Small Business	16	4	20	2.0
Education	47	8	55	5.6
Elections & Townships	43	3	46	4.7
Energy & Environment	27	4	31	3.2
Ethics & Standards	10	3	13	1.3
Finance Appropriations	51	11	62	6.3
Financial Institutions	22	2	24	2.4
Health & Retirement	70	10	80	8.2
Highways & Public Safety	49	2	51	5.2
Human Resources	22	6	28	2.9
Insurance	34	3	37	3.8
Interstate Cooperation	14	2	16	1.6
Judiciary & Criminal Justice	93	14	107	10.9
Local Government	28	9	37	3.8
Public Utilities	15	3	18	1.8
Reference	1	2	3	0.2
Rules	2	1	3	0.3
State Government	59	7	66	6.7
Transportation & Urban Affairs	33	2	35	3.6
Ways & Means	72	10	82	8.4
TOTAL			982	

Table 3 (Continued)
Relative Workload of House and Senate
Standing Committees, 117th General Assembly

Committee Name	Number of Bills and Resolutions			Percent of Total
	House Bills	Senate Bills	Total	
Senate Committees				
Agriculture, Commerce & Labor	33	28	61	8.4%
Economic Development & Small Business	19	7	26	3.6
Education	44	33	77	10.5
Energy, Natural Resources & Environment	30	15	45	6.2
Finance	40	21	61	8.4
Financial Institutions & Insurance	23	28	51	7.0
Health, Human Services & Aging	36	33	69	9.5
Highways, Transportation & Local Government	71	55	126	17.3
Judiciary	86	66	152	20.0
Ways & Means	44	17	61	8.4
Rules	0	1	1	0.1
Total			730	

One way to gain an understanding of the kinds of laws the legislature considers during a typical legislative session and a sense of what each of the standing committees does is to review the bills enacted into law. Those enacted by the 117th General Assembly are summarized in Appendix A. The legislative history of each bill is also provided. The reader will note that a bill may have been referred to a given standing committee in one chamber, but is then considered by what appears to be an unrelated committee in the other house, rather than by the expected parallel committee. This is not unusual. It has already been noted that the parallel committee system is imperfect. Furthermore, some bills may be significantly altered in the first chamber requiring a different kind of review in the second house. Or it may be that there are no political considerations that dictate referring the bill to what appears to be an illogical committee. This is all part of the legislative process.

Committee Assignments

At the beginning of each session members of the majority and minority parties are asked to indicate their preference in committee assignments. Although the Speaker and the President, respectively, make all appointments in their houses, they almost always accept the recommendations of the minority leader for minority membership assignments.

In the House there is an attempt made to have the number of majority and minority members on committees reflect the party ratio in the chamber as a whole. In some committees, such as Finance, where the issues are so critical the ratio may be weighed more in favor of the majority party. In the Senate the ratio is weighed heavily in favor on the majority.

Leaders try to make committee assignments according to each member's preferences but sometimes other committee considerations preclude this. Leaders are sensitive to the need to maintain an urban-rural balance on some committees. Assignments of women and other minorities are spread around the committees. They are always assigned to committees where legislation affecting their special interests are likely to be considered. Background, experience, and competence, along with occupation, may also be considered. Educators tend to serve on the Education Committees and attorneys on the Judiciary Committees. Seniority is important for assignment to the Finance Committees, which rarely seat freshmen.

A study conducted by Alan Rosenthal, a renowned legislative researcher, found that in most legislatures there is little continuity in service on committees. He found that in Ohio between 1958 and 1971, about 40 percent of the members were reappointed to the same committees on which they had already served. This may have been because of high legislative turnover during the period under study. Since then turnover has decreased as legislative pay has increased and service in the legislature has become more prestigious. Without researching the question, it appears that there is more continuity of committee service now than there was when Mr. Rosenthal made his study. To some extent, though, movement between committees is a part of the reward structure since service on some committees is more prestigious and carries more power than service on others. The most coveted assignments are usually Finance, Ways and Means, and Judiciary. These are also the committees with the heaviest workloads.

Committee Operations

The presiding officer chooses the chairman and vice-chairman of the committee and the chairman selects a member of the minority party to be secretary. The minority leader selects a person to be designated as ranking minority

member. The rules of the two houses describe the duties of the committee chairman as presiding over meetings of the committee and putting all questions to a vote; maintaining order and deciding all questions of order; and supervising and directing the clerical and other employees of the committee. He will also present bills referred to his committee for passage from the other house.

The appointment of committee chairmen is one of the important powers of the presiding officers. The chairman is always a member of the majority party but only in the Senate is each majority party member also a chairman. Other members of the committee are selected by the presiding officer, although he almost always defers to the Minority Leader for the selection of minority party members of each committee.

Every member, except the chairmen of the Finance Committees, serves on several standing committees. Minority members must cover many more assignments than members of the majority party because they are fewer in number. There will be more conflicts for minority members who may have difficulty keeping up with committee meetings. Each member of the legislature has a minimum of three committee assignments.

All committees may subpoena witnesses to appear before them for the purpose of testifying concerning any pending or contemplated legislative action, any matters of inquiry committed to the committee, and any alleged breach of privileges or misconduct. Subpoenas *duces tecum* (to produce books, papers, records, and other tangible evidence) may also be issued. The chairman issues the subpoena upon receiving approval of the committee by a majority vote. This power is almost never employed but its existence no doubt results, from time to time, in testimony that would not otherwise have been forthcoming.

Scheduling

At the beginning of each session, the House Speaker appoints a select committee to prepare, in consultation with committee chairmen, a schedule of times when regular committees shall meet in order to avoid, as much as possible, scheduling conflicts. The Senate, with fewer committees, leaves committee scheduling up to the chairmen.

Times of meetings are posted in a variety of places and can be discovered by using any of the following sources:

1. *The Columbus Dispatch*

In the Sunday edition of this newspaper, available throughout the state, a list of committee meetings and their posted weekly agendas is published.

2. *Gongwer News Service*

This is a daily news service published in Columbus and mailed to subscribers which lists all committee meetings and their schedules.

3. *Calendar*

The daily legislative calendar for the House lists committee meetings and their schedules; it may be picked up at the desk of the bill rooms in either house.

4. *Bulletin Boards*

In the Senate chamber there is a blackboard which lists all scheduled committee meetings. A similar board listing House committee meetings is found in the hallway between the office of the Speaker of the House and the Executive Secretary. This will be the most current listing reflecting any last minute changes in agenda, time, or place of meeting.

5. *Legislative Hotline*

The Legislative Hotline may be reached by dialing 1-800-282-0253. The latest information on committee meetings can also be obtained throughout the state from this source.

6. *Trade Publications*

A variety of private associations publish newsletters which focus on bills of interest to their membership. These publications usually list appropriate committee hearings. For example, for those interested in human services issues, the Ohio United Way (OUW) publishes *Legislative Report*, one feature of which is the listing of committee hearings of interest to its subscribers. Another feature of this service is that the OUW staff, located in Columbus, can be contacted for the latest information about committee meetings and the legislation they will be considering.

Voting

The rules of the two chambers require that, in order to recommend a measure for passage or to postpone further consideration of bills or resolutions indefinitely, a majority vote of all members of the committee, not just those present, is required. All members must vote for or against the motion unless excused by the committee upon request made prior to the roll call. A member may defer his or her vote only during the first call of the roll on any question, and members may not vote by proxy. The chairman frequently leaves the roll call open for a fixed period of time, not to exceed midnight of the same legislative day, so any member who was not previously present will have an opportunity to vote. Frequently members of the committee will arrive at the beginning of a

committee meeting to "check in" and then stay only for a short time. In spite of a prolonged absence, if the chairman leaves the roll call open, as he usually does, they may register their vote until the roll call is closed.

In the House there is a special rule that provides that three consecutive, unexcused absences from regular committee meetings shall result in the member being suspended from the committee.

In Senate committees, any bill or resolution postponed indefinitely is deemed rejected and cannot be subject to further consideration by the committee, unless a motion for reconsideration is adopted not later than the next meeting of the committee. While indefinitely postponed, the same measure may not be reintroduced in the Senate.

Reports

After considering a measure referred to it, any committee may report the bill, with or without amendments, or they may report back a substitute measure. The report must contain the signatures of those who voted for the measure and those who voted against it. Members who were not present at the meeting of the committee in which a vote for referral was taken may not sign a committee report. In the House, in those committees with standing subcommittees, the subcommittee may approve reports and send them on to the House without first going back to the parent committee.

Only the original bill may be filed with the chamber clerk. This is required to insure that there is no tampering with the bill and that only changes approved through voting in a committee are made to the bill. In recent years, on complicated legislation such as the appropriations bill where many amendments are offered during marathon committee sessions, chairmen have permitted amendments to be adopted "in concept." The rules of neither chamber permit this action, but, nonetheless, there are instances when the staff is permitted to attempt to capture the will of the committee; members voting for an amendment "in concept" are considered to have approved a change in advance of seeing it. Although there is always a possibility of abuse of this latitude, under the nonpartisan committee staffing system currently used, staff persons are careful to review amendments with the chairman after they are drafted to make sure that there has been no misinterpretation.

There have been times when staff have inserted amendments which they feel were intended and are required to make adopted amendments operative in spite of the fact that they were never considered in committee, even in concept. This sometimes occurs in the consideration of appropriations bills where changes in one section require changes in other sections to be effective. This rarely

happens, but when it does, the integrity of the staff is relied upon to prevent abuse of this trust. During meetings of conference committees, staff is especially relied upon to capture the intent of the conferences. Members may even sign blank report sheets, leaving it up to the staff to develop a substitute bill incorporating approved amendments as well as expressed "concepts."

Records

By the rules of the legislature, each committee must keep a record of members' attendance. This is the function of the committee secretary, who is a member of the minority party. Committees are also required to keep a record of the names of all persons who speak before the committee, in addition to the names of the persons, firms, associations, or corporations on whose behalf they appear. For purposes of keeping this record, witnesses (those appearing and testifying before a committee) sign one-page, mimeographed witness forms.

Records are kept of all votes. These records are open for examination by any citizen. After the legislature adjourns, the records are filed with the Legislative Clerk and kept for a period of two years after which time they are filed with the Legislative Service Commission.

Although a great deal of testimony is taken during committee hearings, it is not required that the testimony, even that which is distributed in written form, be retained or, if retained, made available for public inspection. Amendments which are offered, but not adopted, need not be retained nor be subject to examination. Other records reviewed by the committee also need not be retained.

Oral testimony need not, and usually is not, recorded. Permission to tape sessions of a committee must be obtained prior to the meeting. For those interested in committee proceedings, beyond ascertaining attendance and reviewing official votes, it is essential to be present at, or shortly after, meetings to request copies of materials distributed at that hearing. While most committee secretaries and aides will attempt to make copies of written materials distributed at committee meetings available to anyone who asks, if the request is delayed, even for a few days, finding the materials may be difficult.

Hearings

Committees have two functions: they screen legislation and they study or investigate problems. During legislative sessions most of their time will be expended screening legislation.

All standing committee meetings are open to the public. The chairman decides the agenda and determines which bills referred to the committee are to be

considered and at what day and time. While committee meetings may be technically "open," there are times when this is not really the case. Alan Rosenthal, in his book *Legislative Life*, reports on an interesting session when the New Jersey Assembly's Banking and Insurance Committee "after a stormy meeting marked by an exchange of curses among members, decided to adjourn privately to a men's room to work out its differences." While this author knows of no instance of such dramatic maneuvering in Ohio, meetings have been held in strange places at odd hours.

At committee meetings each member is provided with a file on each bill to be considered. In the file will be a copy of the bill, the LSC bill analysis, and, if one has been prepared, a copy of the LBO fiscal analysis. Usual committee procedure is to begin with a sponsor's hearing where the sponsor, or another legislator or aide representing him, will explain the nature of the bill and why he or she chose to introduce it. Members will then question the sponsor. The chairman will lay the bill over for future hearings at which time proponents and opponents will be able to offer testimony. If a bill is noncontroversial, or if it is controversial but the legislative leadership has urged its quick passage, action may all take place in the same day — and frequently is during the log-jam sessions preceding recesses of the legislature.

Hearings are intended to provide members with information to assist them in deciding how to vote on a measure. They provide opportunities for those who will be charged with the administration of the law to express their views, particularly on questions of ease of administration. The hearings will also enable members to determine which interest groups are for and against the proposed legislation and the relative strength of their feelings. It also, of course, lets lobbyists find out, sometimes for the first time, who their opponents are and the strength of their convictions.

The committee is the place where most modifications in the bill will take place, and the hearings will usually be the locale at which compromises are publicly worked out, even those which have been prearranged privately. The hearing becomes the setting where the legislative art of compromise is most visible. Further, it is the place where the public is educated on matters of public policy or even propagandized. As evidence of the latter, when votes are taken, members frequently ask the chair for permission to explain their votes. These explanations may be to assuage disappointed lobbyists, but may also be for purposes of explaining circumstances to the media and to constituents and, if the need arises, during re-election campaigning.

Standing committees, especially during the interim when the legislature is in recess, may use the time to study problems and develop policy recommendations for legislation to be subsequently introduced. A few committees set their own study agendas, but usually it is the legislative leadership that requests a

standing committee to undertake a particular study. The committee may decide on its own meeting schedule and include field visits to encourage testimony and information from sources other than those which are usually available in the setting of the state capitol.

Ad Hoc Subcommittees

On controversial and contentious legislation, the chairman of a standing committee may, and usually does, send the bill to a subcommittee, with the charge that the differences between proponents and opponents of the legislation be "worked out." A subcommittee may be small, with as few as three members, one of which is usually from the minority party. Sometimes the subcommittee is formed to kill a bill without subjecting the full committee to performing that task, but this is not usually the case. Instead, the chairman, who is also quite often the chairman of the subcommittee, usually wants an informal setting where opposing parties can be brought to the table to negotiate an amicable solution to the problems identified by proponents and opponents during committee hearings.

Rules and Reference Committees

There are also two specialized committees which are quite important because they act as legislative "gatekeepers." The *House Reference Committee* assigns bills to standing committees. Failure to assign a bill kills it. Determining where to assign a bill can have a similar effect.

Traditionally, if the legislative leadership wants to bury a bill, it will assign the bill to the Judiciary Committee in the belief that given the composition and reputation of the committee, which usually includes a number of lawyers, it will "nitpick" a bill to death. Assigning a bill to a subject-matter committee will usually result in it receiving serious consideration, but which particular standing committee is chosen can help determine whether the attention the bill receives is favorable or unfavorable. A bill limiting the number of fishing days would probably be killed in the Agriculture and Natural Resources Committee but might be favorably reported by the Energy and Environment Committee. Either committee would be a logical choice for bill assignment, illustrating how important the power to choose committee bill assignments can be. Almost any bill could be assigned to the Finance-Appropriations Committee where primary attention will be focused on its financial impact, regardless of its substantive merits.

Legislators' viewpoints and priorities may change according to the commit-

tees on which they are serving at the time. For example, the 27-member House Finance Committee might include legislators who would favor a particular bill in a different standing committee, but the role they assume in finance will cause them to adopt a totally different view of what is important in the legislation.

In the Senate the function of referral is performed by the *Rules Committee*. It has other major functions in both chambers. The Rules Committee, chaired by the Speaker in the House and by the President of the Senate, has several important powers. It schedules bills for floor votes as an exercise of its power to set the calendar agenda for legislative days. Besides being able to kill a bill by failing to schedule it for a vote, Rules can re-refer the bill to another committee or back to the original committee for further action. Thus, a bill favorably reported by a subject-matter committee could be sent to Finance or Judiciary for its review and possible burial. Also important is the power of the Rules Committee to determine which day a bill will be debated. Controversial bills are usually reserved for Wednesday debate when the most members will be present. Less attention is paid to Tuesday and Thursday bills.

Interim Committees

Special committees, either composed of members of one house or both houses (joint committees), have always been employed by the legislative leadership to try to solve problems that require more thought and study than can be devoted to them in the course of a legislative session. The committees are sometimes called by the name of the problem they are addressing, such as the *Land Use Review Committee* established in the mid-1970's to consider statewide planning. They may be called select committees or special committees. There is no known rationale distinguishing one appellation from another.

Like standing committees, interim committees hold hearings and have the power to subpoena witnesses. Unlike standing committees, they may hold their hearings around the state and never use a bill as the focus for the hearings and discussions. Their mission is to investigate if there is a problem, to arrive at solutions, and to submit a report to the leadership. Typical problems that have been studied by interim committees in the past include an investigation of the nursing home industry, including complaints of patient abuse; an examination of real estate licensing practices; an examination of the effects of federal cutbacks on local governments; and a review of conditions in state mental institutions.

Sometimes an interim study committee is comprised of members of the Legislative Service Commission (LSC), in which case the study is conducted under its purview; but most study committees are aided by LSC or Legislative Budget Office (LBO) staff even when the committee also hires its own staff.

This permits the official legislative staff research agency to lend its expertise and guide the study, if necessary.

Permanent Interim Committees

There are several permanent interim committees. Two are study committees. The *Public Improvements Inspection Committee* (PIIC) is statutorily charged with the responsibility of providing continuous review of the state's public buildings and other capital improvements. This includes facilities at the 81 public colleges and universities, as well as institutional facilities maintained and run by the Department of Mental Health, the Department of Mental Retardation and Developmental Disabilities, the Department of Rehabilitation and Corrections, the Rehabilitation Commission, the Adjutant General, and others.

General government office buildings are under the purview of the Department of Administrative Services which also is responsible for public works. They provide the members of the PIIC with a monthly report detailing the status of state construction in progress. The law requires the Auditor of State to maintain an inventory of state facilities but no current inventory exists.

The work of the PIIC is relatively routine. They do not make recommendations to the General Assembly concerning the need for capital construction. The biennial capital improvements appropriations bill and the requisite six-year capital plan, which is prepared by the Office of Budget and Management, are required by the standing committees of Finance, not the PIIC.

The other permanent interim study committee is the *Correctional Institutions Inspection Committee*. This committee has a permanent staff which spends much of its time sifting through complaints from prisoners about conditions at their place of incarceration. The Committee is charged by law with the inspection of correctional facilities and frequently meets at these facilities. It has the power to evaluate and help develop programs designed to improve the condition and operation of correctional institutions.

There is a *Legislative Office Building Committee*. It is responsible for determining and providing for legislative office needs. It is usually relatively inactive except when construction or remodeling is underway. It has been active in the construction of the second State Office Tower in Columbus (the Riffe Building named after the Speaker of the House), which houses a number of legislative offices.

The *Ethics Committees* of the two houses are sometimes listed as standing committees but they really have different responsibilities. They are to recommend a code of ethics for legislators and legislative committees. They handle complaints against individuals for violations of state ethics laws. They also provide the forms for the financial disclosure reports which each legislator must file.

Ohio is one of a few states which reviews rules made by executive agencies to determine whether they comply with legislative intent as established in statute. To conduct this review, the legislature has created the *Joint Committee on Agency Rule Review* (JCARR).

The *Legislative Service Commission* and the *Legislative Budget Office*, which are discussed in detail in Chapter 4, are also technically considered interim committees but are really organizations with permanent staff providing a variety of research, bills, and other functions.

Increasingly, when problems deserving studied attention arise, the House and the Senate use their standing committees to perform investigative and policy development functions, much as the U. S. Congress does. The 117th General Assembly is especially beset with studies of difficult issues such as reform of the state's worker's compensation laws, educational finance, Medicaid financing, and child abuse. All of these are under study by standing committees. The continuation of this trend could expand the role of standing committees but might also inject party politics into problem-solving. Problems studied by the LSC receive a bipartisan review and nonpartisan staffing, while those conducted by standing committees are controlled by the majority party. Subjecting investigations and policy development to partisan considerations is not necessarily bad; it may even mean that solutions proposed will be more readily accepted in the legislative arena than are those of nonpartisan and bipartisan interim committees, including the LSC and the LBO.

Controlling Board

The seven-member Controlling Board is so important that it has been called Ohio's "super-legislature," and yet it is not strictly a legislative committee. It is a joint legislative-executive body dominated by the Governor, gubernatorial politics, the legislative leadership, and its political will. Its chairman, called the President, is a deputy director of the Office of Budget and Management (OBM). Agenda items, termed "agency requests," cannot be considered unless approved by the OBM — an arm of the Governor — except under certain extraordinary circumstances. The OBM has all requests reviewed by the Governor's office, which is especially concerned with the political ramifications of agency requests. Elected officials whose requests do not pass gubernatorial muster can appeal directly to the Controlling Board's legislative members to circumvent the President's agenda-setting power.

The six other members of the Board are all legislators. Legislative members receive extra remuneration for serving on the Board and travel money for attending the bimonthly meetings. This, plus the power and prestige associated with

membership, make it a highly coveted appointment. The Chairmen of the Senate Finance and the House Finance-Appropriations Committees are statutory members; the other four members are selected by the Speaker of the House and the President of the Senate (one each from each political party). Under current practice, the Speaker rotates the appointment of the House majority party members.

The Controlling Board is something of an anomaly. It was created late in the 1800's when it was clear that matters needing legislative attention frequently arose when the part-time legislature, then meeting in regular session for only a few months each two years, was not in session. The Controlling Board was created to serve a particular function during the lengthy legislative interim. When the legislature evolved into a full-time body, the Controlling Board was given more, rather than fewer, powers. By then it was obvious that the legislative leadership had more influence over the Controlling Board's few members than over the entire body on a number of matters. It was also easier for the Governor and the executive branch to deal with only a few members. And so, in spite of regular complaints about unlawful delegation of legislative power and a court challenge on that issue, the Board continues and prospers. It uses the staff of the Legislative Budget Office as well as its own aides who review the agendas several days before each meeting. The legislative leadership also reviews it, and the presiding officer frequently calls the members he has appointed to the Board.

Major Powers of the Controlling Board

The Controlling Board has two main powers, as well as others that are assigned by law, especially in each biennial operating appropriations act.

1. *To Increase Appropriations Levels Under Certain Circumstances*

Legislative votes on appropriations establish spending levels for programs and agencies. These are often the result of hard-fought compromises. However, in several ways, these priorities can later be changed upon approval by a majority of the members of the Controlling Board.

If more monies are expected to be received from non-General Revenue Fund sources, the Controlling Board can authorize their expenditure, thus overruling the appropriation which set the maximum amount that could be spent for any individual line item. Non-General Revenue Fund sources can include federal grants, monies generated by agencies themselves through fees charged for various services (e.g., hunting licenses, pollution permits, and tenting fees), or from various other dedicated revenue sources like fines for law violations.

The Board can increase an authorization for one purpose (e.g., General Assistance) by reducing another (e.g., Health Care) within the same agency. If there is an executive reorganization, they may move monies between agencies.

They may increase the appropriation for a program and agency in one year of the biennium by transferring monies from the other year to the same or different line items.

They have a special appropriation, alternatively referred to as the "all purposes" appropriation or the "emergency purposes" appropriation. It may be used for any public purpose, subject only to an affirmative vote by a majority of the Board. Even though the amount is small there are ways that the Controlling Board can, itself, increase its size.

2. *To Authorize Certain Expenditures*

Even though the legislative appropriation serves as an authorization for an agency to spend for the described purposes, some appropriations require Controlling Board approval before the sums may be expended. This means that when agencies appear before the Board seeking the additional necessary approval, they can become subject to additional scrutiny and review.

Contracts to use consultants must first be approved by the Controlling Board if the amount to be spent exceeds \$10,000. So must contracts for engineering and architectural work. Capital construction must be approved at several different steps. Distribution of various subsidies, including those to school boards, to institutions of higher learning, and to mental health boards, must be approved by the Board prior to their release. In addition, depending upon circumstances which may change each biennium, agencies and programs may be singled out for Board review of compliance with specified conditions before monies can be expended.

All kinds of conditions can be attached to appropriations. For example, in one session the condition was that the director of the state library board not be granted a salary increase. In some cases proof must be given that an expenditure is justified through the conduct of a requisite study. The Board must approve all economic development grants.

Political Makeup of the Legislature

The political makeup of the legislature may change each time an election occurs or may remain constant for a period of years.

Since 1973, after 11 years of Republican control, the Ohio House has been controlled by Democrats. In contrast, the control of the Senate has alternated between majority Republican and Democratic control several times since 1973. Between 1941 and 1973 the Republicans had controlled both houses of the state legislature on 11 occasions with the Democrats obtaining control only twice (in 1948 and 1958). Since then, Republicans have controlled the Senate three times and Democrats twice.

The Democrats have controlled the House by wide margins while majority control of the Senate has been by slim margins of three or fewer members. Both party control and the size of the majority affect the content of legislation enacted and the extent to which the Governor is able to obtain support for his legislative program.

Ohio's Political Party System

Analyses of Ohio's party inclination tend to view the state as being either two-party, or a "swing" state, meaning that elections can go either way with parties having relatively equal strength. Nevertheless, the Ohio House has tended to be dominated for long periods of time by one party. Some attribute this to the phenomenon of "gerrymandered apportionment."

When one party controls the State Apportionment Board, districts tend to be drawn to give a slight edge to that party. When district lines are drawn, they may include more registered Democrats than Republicans, or vice versa, in as many districts as possible. This is called gerrymandering. Even with U. S. Supreme Court decisions guaranteeing one-man, one-vote and requiring that districts not be outrageously drawn, there are opportunities to give one party a slight edge over the other; in especially close contests this may be enough to tip the balance toward the party that drew the district. Adding enough "safe" districts (those with a substantial number of voters registered with one political party) to districts that are close to evenly divided can result in the party controlling the apportionment process also having an edge in obtaining a majority in the legislature. But if charges of gerrymandering in the House were true, it would hardly explain why it appears not to work in the Senate, whose districts are also drawn by the Apportionment Board.

There is probably more involved in obtaining a majority than just districting. Party organization is also important. The Republican party has long been considered to be tightly organized from the top down. A study by Fenton concluded that the tight organization of the Republican Party was due to (1) persons identifying with the party being culturally and ideologically homogeneous and very much aware of the large number of interests they share; and (2) members being

aware that they constitute a minority of the voting population and willing to submit to strong central direction in order to win elections. Democrats, in contrast, have long been notoriously weakly organized and badly split. Fenton's analysis of the Ohio Democratic Party found it to be more like the loosely knit parties of the deep South than the well-organized machines found in many of the northern industrial states. Fenton went so far as to say that there is no statewide Democratic Party in Ohio; rather the party is an aggregation of city machines with little or no interest in statewide elections unless the candidate is from their city. The factors he found contributing to this are: (1) the large number of medium-sized cities with strong independent leaders; (2) the weakness of the party organization in Cuyahoga County, the largest predominately Democratic county; (3) the aloofness or impotence of labor; and (4) the conservative rural element in the party.

In studying legislative politics, Bill Chance, a former staff member of the Ohio Legislative Service Commission, found that these facts influenced the way in which the legislature functions under different political party control:

Democrats appear disorganized and split, and the party has had few victories in its quests for control of the legislature. Thus, Democratic legislators are associated with a party that has a history of minority participation in legislative politics. Republicans, on the other hand, have controlled the chamber with few interruptions for a number of years, and the party is well organized and well financed.

Chance was writing in 1970 before the Democrats reapportioned and gained control of the House of Representatives. The Speaker and other Democrats have worked diligently to overcome the negative characteristics described by Fenton and Chance and have helped Democratic candidates form tight organizations in their districts to win more than enough political contests to maintain sizable majorities in the House. In many districts Republicans do not even bother to field candidates for the House of Representatives. In the Senate the competition between the political parties for seats is especially fierce.

Party Influences on Process and Substance

Regardless of which political party is in control in either house of the General Assembly, only a relatively few bills are enacted solely on the basis of party politics; most receive genuine bipartisan votes. But political party affiliation may really be far more important than these votes reveal.

Ohio's political parties do not have true party platforms and a long list of agenda items. Typically, items of special concern to a political party will be items on which the Governor campaigned in his election (and it will be his responsi-

bility to convince the legislature to go along with him) or items which become priorities to the legislative leadership.

Members of the same political party will rally around issues, but for reasons other than that the Governor favors a particular position. The party's agenda is really set by the legislative leaders, the foremost political brokers. The legislature operates by attempting to reconcile differences between competing interests. Standing steadfastly for or against a particular program or issue precludes this.

David Johnston, in his 1972 Ph.D. dissertation on the politics of the legislature, refers to the main function of the legislature as being "political brokerage." He explains this as "coordinating and integrating conflicting interests and demands" (Johnston, p. 471). He studied a number of controversial pieces of major legislation and found that seldom did the final votes reveal the kind of conflict and brokering of conflicts that took place, because brokering occurs in committees or subcommittees — not on the floor. This is where Democrats and Republicans reveal their biases, since this is where they can be compromised. By the time most bills reach the floor, the compromises that have taken place in committee permit members of both parties to go on record in favor of a measure. It should also be noted that in some instances successful political brokering results in bills never being brought to the floor for a vote.

Prior to the Johnston study most analysts had concluded that Ohio had very little legislative party discipline and that conflicts occurred more frequently along urban-rural or other lines of cleavage. Johnston's study proved that there is true party cohesion in the Ohio legislature, and it is found in the amending process. Amendments are key to determining the content of bills, and Johnston's study found instance after instance when legislative members of one political party closed ranks to defeat amendments offered by the other. He also found that party is a factor in defeating a proposal which does not come to a vote. But even after examining thousands of roll-call votes Johnston was reluctant to assign too much strength the influence of political parties on legislative behavior. Instead, he chose to emphasize "the significance in the policy process of individual legislators making their own choices in a setting which is dominated by parties, governors, and interest groups" (Johnston, p. 485).

Margins of Control

It may be that party influences are even stronger when the margin of political party control is smaller. In the House the majority party has tended to be controlled by fairly secure majorities. Under these circumstances, the legislative leadership can afford to let more members vote their conscience rather than

frequently invoking party influence, even on matters of clear party concern. In the Senate, however, the margins of control are historically far smaller and, considering the factionalism that exists in both parties, the legislative leadership must appeal to party considerations more frequently in order to pass legislation. In recent years, the Senate has even departed from the informal rule that committee membership will approximate the percentage each party controls of the full chamber. If standing committees were only to have party dominance by one vote it would be extremely difficult for the process to work. Especially with major committees like those dealing with taxes (Ways and Means) and finances (Finance), the majority party has 70 or more percent control, even when they control the overall body by only one or two members. Even so, when measures reach the Senate floor, every vote is critical.

When the Republicans controlled the Senate by only one vote, it was a commonly held belief that then-Senator (now Congressman) Buz Lukens was the deciding vote, in spite of the fact that on any given issue any member could really be the key. Because the Democrats were usually able to hold themselves together, the Republican leadership always felt it had to deal with Buz Lukens, who represented the most conservative element of the party, in order to prepare a bill for a favorable floor vote. More often than not, Senator Lukens was able to gain changes that no other member could get in the ordinary course of the legislative process, simply because of the perception that he was the key to every vote. In those instances when his stance was especially extreme and the rest of the Republican caucus simply could not accept a position he took, the Republican leadership would go to one of two Democratic Senators and "deal" with them to get the necessary majority to pass a measure on the floor. Without detailed research and study, it appears certain to this writer that party affiliation is far more crucial when the voting margin is close than when it is not. Students of the process will find this fact useful in analyzing the Ohio legislature as will those seeking to influence it.

4 Legislative Staff

Ohio is not known nationally as being a state with a large legislative staff. Despite paying its legislators relatively well, Ohio is not one of the better staffed legislatures. In at least the past twenty years it has consistently ranked 48th, 49th, or 50th in per capita legislative spending and in legislative spending as a percent of total state expenditures. Both the House and Senate employ about 150 persons directly. This is in addition to the staff of the Legislative Service Commission (LSC) which number 88, including some staff responsible to separate interim committees. There are also 16 LSC legislative interns assigned to work with the legislature.

Clerks and Executive Secretary

Each house has a Clerk whose office is responsible for the clerical and administrative tasks associated with passage of a bill. The office staff performs a number of tasks related to bill adoption. When introduced, bills are filed by the Clerk who is then responsible for their printing (or other forms of reproduction). Also the printing of the daily calendar falls to the Clerk. When actions are taken in committee or on the floor they are recorded and printed in a daily *Journal* kept by the Clerk.

The Clerk's staff incorporates all amendments into the body of a bill. The Clerk's office is responsible for notifying the other chamber of actions that have taken place, including actions on bills of the other chamber. The Clerk manages the bill room, which is where the public can obtain copies of bills, resolutions, joint resolutions, and concurrent resolutions — the four forms of official legislative action (technically only bills are legislation). The Clerk also makes available the *Calendar*, listing the bills and other legislation scheduled for consideration on a legislative day, and the *Journal*, the official record of the previous day's legislative action.

Besides the House and Senate clerks' offices, each chamber also has an executive secretary who is responsible for overseeing personnel and budgeting functions. This officer establishes centralized personnel recruiting and test procedures and deals with day-to-day personnel grievances and other problems and issues. Most of the employees of the legislature, including administrative and legislative assistants, secretaries, and other clerical employees, are ultimately chosen and responsible to the members who supervise them.

Political Staff

One of the goals of each legislator is to get re-elected. A legislator cannot accomplish his policy objectives if he is not re-elected. Considering the importance of legislative seniority in achieving a position of power, such as committee chairmanship or a leadership position, achieving legislative ambitions requires frequent re-election. This is one reason that a member's staff is so important.

Besides other duties, a legislator's political staff must be concerned with the member's re-election. The staff of the legislative leadership is concerned with trying to insure that its political party retain or regain the majority so it will be involved in developing strategies to achieve that goal. For example, they may target races that have a good chance of being won and put more time and effort into them. The executive secretary of each chamber is pivotal in assisting in the development and implementation of a campaign strategy and in organizing the staff of the majority party.

The minority party also has a chief political operative. There is no way of easily identifying this individual by title, in either the majority or minority offices. It might be the "chief counsel," the "executive secretary," or the "research director." As a rule, the legislature is not very concerned about staff titles as a way of designating responsibility and tends to recognize differences in staff responsibility and status by the level of pay given to an individual, by who the staff member reports to, and the extent of access to the Speaker of the House or the President of the Senate.

Staff Supervision

Supervision of legislative employees poses problems for traditional public administration theory. Legislators frequently are poor administrators. Policy-making, not administration, is their primary reason for seeking election, and this policy-making responsibility can be all-consuming. In addition, the legislative schedule, though considered to be full-time, actually involves legislators being in Columbus for six months or less each year. Some staff are under no

direct supervision for half of the work time and are largely self-directed. Each state Senator has a staff aide, largely for the purpose of assisting in constituent work, and a secretary. In the House there are secretaries and aides for all members, but junior representatives must share staff. Interns help to fill in needed gaps in assistance.

Some legislators also have staff in their own home district. These must be supervised and their work coordinated with the work of the Columbus staff, posing another administrative problem. Local staff is either volunteer or paid for by the member from his or her own resources; the state pays only for Columbus staff. To think that any executive secretary has the ability to provide central supervision of a staff person selected and assigned to an individual legislator or to the legislative leadership is to misunderstand the nature of the legislature or of legislative administration problems. Legislative administration lacks a clear hierarchical line of authority, and other principles of public administration also are missing from it. Legislative administration tends to be non-existent or so highly personalized as to defy convention.

Legislative Interns

The legislative internship program has undergone many changes since it was created in 1963. Interns are recent college graduates who serve as full-time legislative employees for 13 months. The backgrounds of interns are varied and in the past have included some with master's degrees as well as, a few Ph.D.s. They are nonpartisan, but work directly with each of the four political caucuses which determine how they are to be assigned and what they will do. Traditionally, they are assigned to work on either research projects related to specific governmental functions, such as education or human services, or to assist in handling constituent problems and requests.

The program provides a means whereby legislators can obtain supplemental staff assistance and interns can learn about the legislative process firsthand. It has been a source of recruitment for permanent positions with the legislature and with its agencies.

Legislative Service Commission (LSC)

The Legislative Service Commission is an amalgamation of what was originally three or four legislative agencies plus ad hoc committees. The major ones were a Legislative Research Commission, a Code Revision Commission, the Ohio Program Commission, and the Legislative Reference Bureau. Up until the LSC was created, the Reference Bureau provided bill-drafting services to

the legislature using a model which involved the employment of lawyers and part-time law students. This pattern of bill-drafting still persists in a number of states. The LSC was created to provide library and research services beyond simply researching prior bills and existing law.

Until the 1980's, when the Legislative Reference Bureau was consolidated into the LSC, the two organizations existed side by side and both drafted bills for members. Since the LSC was created when the Republicans controlled the General Assembly, several Democratic members viewed it as the "Republicans' Organization" and continued to rely upon the reference bureau for bill drafting, legislative information and research services. There were also some Republicans who viewed the LSC as a bunch of liberal Democrats. In both parties, the number who did not accept LSC adherence to impartial service were few in number.

The Reference Bureau specialized in drafting congratulatory resolutions, producing thousands of them each year. These are resolutions which are simply signed by an individual legislator and require no further legislative action. They are usually sent to individuals and organizations congratulating them on their birthdays, anniversaries, achievement of special awards or distinctions, and the like. There are really two kinds of such resolutions. Some, doing exactly this same thing, are actually passed by the House and the Senate. The process of producing these resolutions is currently mechanized so that some of the "flowery language" found in them can be produced at the flick of a computer button.

It took almost twenty years of coexistence before the legislature fully accepted the nonpartisan nature of the staff and work of the LSC and abolished the Reference Bureau in 1981. The LSC continues to operate a remnant of the old Reference Bureau with a small unit responsible for producing congratulatory resolutions. Seven staff are engaged in processing resolutions. The rest of the LSC staff (47 professionals, 35 clerical and support staff, and six others) are responsible for (1) drafting all bills introduced in the General Assembly; (2) drafting amendments; (3) providing analyses on all bills heard by committees; (4) codifying legislation; (5) reporting on the status of bills; (6) providing fiscal services through the Legislative Budget Office; (7) providing staff to all legislative committees; (8) staffing interim committees and conducting long-range studies; (9) conducting performance evaluations of agency programs; (10) providing library services; and (11) doing spot research or research into legislative inquiries.

1. Bill Drafting

The LSC, by law, must ensure that all bills comply with correct form before

they are introduced by a member of the General Assembly. This power has evolved so that, in its practical application, it means that about 60 percent of the bills introduced into the General Assembly have been drafted by staff of the LSC. Bills can be drafted by the Governor's office, agencies of the administration, interest groups, and individual legislators. Only on occasion are bills drafted without the assistance of staff of the LSC, even by the administration. (The appropriations bills which encompass the Governor's budget request are notable exceptions.) As a matter of policy, only individual members of the legislature or legislative committees can request that a bill be drafted by the LSC, but in practice the LSC staff does work with interest groups, the Governor's office, and administrative agencies in the preparation of legislation.

The LSC rarely influences any central policies in bills that it drafts, in spite of its pivotal position. According to David Johnston, past LSC director, during his twenty years of service, only two or three times was a member of the LSC accused of tampering with a bill draft for personal motivations; in all those instances retribution was swift. Drafting staff may raise questions and point out problems or contradictions in the policy vis-a-vis other laws. This is largely because legislators want more competent drafting so that large portions of their committee time are not spent entertaining purely corrective amendments.

Ohio adheres to the practice of having bills drafted by lawyers and by non-lawyers. Of the professional LSC staff, only 22, or about half, are attorneys. Only attorneys work with the House and Senate Judiciary Committees, which receive the most technically complex legislation in the General Assembly. The rest of the professional staff comes to the LSC from a variety of academic backgrounds, with degrees in public administration and political science being the most prevalent. The belief is that it is preferable to have legislation drafted by individuals who are familiar with the operations of government and who can address the social, economic, and other issues encompassed in proposed legislation and can understand the implications of their enactment. This is in contrast to those states which utilize a group of attorneys solely for the purpose of bill drafting. The LSC philosophy is that subject matter specialists (attorneys or non-attorneys) who work with the subject matter committees have the best expertise to draft the bills the committee will be considering.

In the course of a two-year session, the LSC may draft as many as 3,000 different bills, although some of them are identical to bills drafted in previous sessions or are "counterpart" bills, where the identical bill is introduced in each house of the General Assembly by a different legislator. Over the course of the years some members have introduced as many as 100 bills in a given session. In fact, there was one legislator who used to arrive each Monday with newspaper clippings, reproductions of pages from reports about actions in other states, and letters from constituents, all bound together with a note directing the LSC simply

to "draft me a bill on each of these." The consternation this caused the staff was considerable.

Consider, for example, a newspaper clipping about a child being bitten by a dog. What kind of bill should be drafted? One which would establish a penalty for failing to keep dogs under control or on a leash? One which would require that medical bills be paid by anyone whose dog bites a child? One which prohibits the ownership of dogs? With little more to go on than a clipping, the job of bill drafting can be difficult, leaving a good deal of discretion with the drafter. In this case, it was the legislator's practice to introduce many bills with apparently little concern about whether they were subsequently enacted. Thus, choosing the wrong alternative would have had no apparent consequences.

2. Amendments

Besides being responsible for drafting all bills, most, but not all, amendments to bills are drafted by the staff of the LSC. However, for certain kinds of legislation, almost none of the amendments are drafted by the LSC staff. This means that for those bills, the influence of sound centralized bill drafting begins to wane. Amendments offered by legislators in committee, and not drafted by the LSC, are often improperly drawn. They may be technically incorrect; they may be written ambiguously or without regard to other parts of the bill or law that may be affected. The fact that one or more LSC staff persons work with the committees hearing the bills enables them to assist the committee chairman in correcting those errors before, during, and sometimes even after committee sessions.

The LSC staff may themselves propose what are known as *technical* or non-substantive amendments. They are given to the sponsor of the bill (or the legislator carrying the bill in the opposite house) to offer on the floor of the house; they are almost never debated and are consistently passed.

3. Bill Analyses

As a matter of routine practice, every bill that is reported favorably by a standing committee is analyzed, and a written report is prepared by the staff member of the committee who received the bill. That is often, but not usually, the person who drafted the bill. Individual members can request analyses even before a bill is heard, and most committee chairmen want analyses available at the time they schedule hearings on the bills. Reading analyses will help a legislator to understand it better and to raise questions about and understand problems in the bill itself. Those few committee chairmen who do not want analyses, such as some Judiciary Committee chairmen, believe it is important for each member

of the committee to read the bill. Without an analysis available it becomes difficult for a legislator who has not read the bill to discuss it intelligently in a hearing.

Nevertheless, it is true that most bills are not read by members, by the media, or by the general public. They are read by staff of legislators and interest group representatives, upon whom members rely for their interpretations of what the bill provides. Members often do not even read some bill analyses themselves, because on large, more complex bills, analyses tend to be quite lengthy and technical. To provide a quick view of the contents of legislation, the LSC begins each bill analysis with a short section of headnotes which pinpoint the major elements of the bill. Exhibit 1 is an example of a typical, though deliberately brief, bill analysis which shows the format used as well as how the headnotes simplify the process of understanding the nature of the bill. More information about bill analysis is found in Chapter 5.

Exhibit 1

H.B. 74

(As Introduced)

Reps. Boyle, Quilter, Mallory

Authorizes the Department of Administrative Services and the Director of Transportation to permit a political subdivision to participate in state purchase contracts for equipment and supplies.

Exempts a political subdivision from competitive bidding laws when it participates in such a state purchase contract.

CONTENT AND OPERATION

The bill would authorize the Department of Administrative Services (DAS) to permit any political subdivision to participate in contracts the DAS has made to purchase supplies and equipment, and would authorize the Director of Transportation to allow any political subdivision to participate in contracts the Director has made to purchase machinery, materials, supplies, or other articles. A political subdivision wishing to participate in any of these purchase contracts would have to file with the DAS or with the Director of Transportation, as appropriate, a certified copy of the ordinance or resolution of the political subdivision's legislative authority or governing board requesting authorization to participate in the contract, agreeing to be bound by the terms and conditions that the DAS or the Director of Transportation prescribes, and agreeing to pay the vendor directly under the purchase contract. Any purchase made by a political subdivision under a contract of the DAS or the Director of Transportation would be exempt from any competitive bidding required by law for the purchase.

ACTION
Introduced

DATE
1-27-83

JOURNAL ENTRY
p. 100

4. Code Revision

Since 1953, the LSC has been responsible for code revision which, quite simply, is a matter of organizing bills adopted by the General Assembly in such a way that they can be located readily by reference to their subject matter. Bills which are adopted and signed become acts. These acts, or laws of the state, exist in several forms. When they are enacted they are assembled into volumes called the *Public Laws of the (number)th General Assembly*. In this assemblage, acts are simply bound together to become a compendium of the laws passed by a particular General Assembly. For some research purposes this assemblage is useful, especially if one is tracking the record of enactments of individual legislators or seeking to compare issues of concern to individual general assemblies.

To learn what the current law is, researching all of the public acts of the state would be a laborious task indeed. A conscious decision was made by the General Assembly to codify the laws and give them more order. It was updated in 1953 into a large bill that became the *Ohio Revised Code*. LSC has the responsibility of keeping that code in order and ascertaining that subsequent laws follow it.

Law publishing firms bind the laws of the state in volumes arranged according to subject matter (an individual bill, though constitutionally restricted to one subject matter, can easily involve sections located throughout different chapters and titles of the code). Although two firms, Banks-Baldwin and Page's, each publish their own versions of the *Ohio Revised Code*, they follow the arrangement provided for by the LSC which is the repository for the only *official* revised code of the laws of the state.

5. Status of Bills

Each week the LSC prepares and distributes a *status sheet* including each piece of legislation introduced in the General Assembly as of the end of legislative business in the previous week. This is done as a service to legislators but is widely used by others interested in following the flow of legislation. Exhibit 2 shows a typical status sheet.

Exhibit 2

Senate Action

House Action

A Amended
 V Vetoed
 L Lost
 P Postponed Indefinitely* Footnote
 R Rereferred
 E Effective
 S Substitute

Senate

Bill Sponsor Subject

SENATE JOINT RESOLUTIONS

CA — Constitutional Amendment

0001	Lukens	Congress-balance federal budget	1-19									
0002	Zimmers	Enrollment of House & Senate bills	1-18		1-18	1-19		1-19	1-19			Adopted
0003	Snyder	Preserve Little Miami environment	2-10	NRE								
0004	Speck	Congress-exmptn from Soc. Security	3-16									
0005	Schwarzwdlr	Congress-nuclear weapons freeze	3-17	JUD	4-20	A5-3	5-4	EFR	6-29	6-30	6-30	Adopted
0006	Suhadolnik	Congress-amend Communictns Act	4-5									
0007	Zimmers	PUCO study impact of AT&T suit	4-7	SGH	A5-11	5-24	5-25	PU	6-30	7-19	7-19	Adopted
0008	Jackson	It comm study fire ins rate-making	4-12	EFI	5-3	A5-17	5-18	INS	S6-27	6-30	6-30	Adopted
0009	Ross	Congress-peace through strength	4-26									
0010	Branstool	Congress-don't sell Wayne Forest	5-3	NRE	5-19							
0011	Carney	Protect Speciality Steel Industry	6-8	CL	6-22							
0012	Speck	Congress-health ins for unemployed	6-15	EFI								
0013	Jackson	Make Taiwan a sister state	6-27									
0014	Fisher	CA-student loan revenue bonds	6-30	FIN								
0015	Pfeifer	CA-selection of judges	9-22									
0016	Ross	Congress-repeal Fed Reserve Act	11-9									
0017	Bowen	CA-cities establish gaming zones	11-29	WM								
0018	Mashel	1983 — "Year of the Bible"	1-5		1-5	1-5	1-18		1-18	1-18		Adopted

Exhibit 2, continued

COMMITTEE TITLES AND CHAIRS

HOUSE

SENATE

AH Aging and Housing — T. James
 ANR Agriculture and Natural Resources — Hartley
 CCL Civil and Commercial Law — Vukovich
 CL Commerce and Labor — Skeen
 EFR Economic Affairs and Federal Relations — Healy
 ED Education — T. Sawyer
 ELT Elections, Land Conveyance and Townships — Luebbers
 EE Energy and Environment — Gilmartin
 FA Finance and Appropriations — Hinig
 FI Financial Institutions — Nettle
 H&R Health and Retirement — J. Thompson
 HHS Highways and Highway Safety — Bowers
 HuR Human Resources — Rankin
 INS Insurance — Stinziano
 IC Interstate Cooperation — J. Williams
 JUD Judiciary and Criminal Justice — Tranter
 LG Local Government — C. Jones
 PU Public Utilities — Beatty
 REF Reference — Malott
 RUL Rules — Riffe
 EDB Economic Development and Small Business — Colonna
 SG State Government — McLin
 TUA Transportation and Urban Affairs — I. Thompson
 WM Ways and Means — Conley

ASB Agriculture, Small Business, and Economic Development — Maurer
 CL Commerce and Labor — Carney
 ER Education and Retirement — Ocasek
 EFI Elections, Financial Institutions, and Insurance — Jackson
 FIN Finance — Bowan
 JUD Judiciary — Schwarzwalder
 NRE Natural Resources, Energy, and Environment — Branstool
 REF Reference — Zimmers
 RUL Rules — Meshel
 SGH State Government, Health and Human Resources — Valiquette
 TPI Transportation and Public Improvements — Butts
 WM Ways and Means — Roberto

House Bills	Senate Bills
Passed House 168	Passed Senate 71
Passed Senate 61	Passed House 30
Concurrence 58	Concurrence 30
Governor Vetoed	Governor Vetoed
Governor Signed 52	Governor Signed 30
Law Without Signature 2	Law Without Signature

6. Legislative Budget Office (LBO)

While the LSC performs many services for all legislators, the appropriations process is so specialized that, beginning in 1973, the General Assembly appointed a special 12-member bi-partisan budget committee. (Technically all legislative committees are bi-partisan, but the LBO is unique in that it is deliberately structured to have an *equal* number of legislators from each political party in each house as its membership).

The LSC appoints a Legislative Budget Officer to select and supervise a staff, which now number about 20, for the Legislative Budget Office. The office's exclusive function is to serve the legislature's need for fiscal information and to serve the Finance Committees of the House and Senate. These are the most important functions performed by the LBO staff:

1. Drafting of appropriations provisions for all bills, including the major operating and capital improvements appropriations bills, and the drafting of amendments of temporary law pertaining to appropriations.
2. Providing staff assistance to the Finance Committees of the House and Senate and to the legislative members of the Controlling Board.
3. Preparing study reports on fiscal subjects.
4. Advising the members of the legislature, particularly the legislative leadership, on fiscal matters, largely through the designation of a senior staff person to work with each of the four caucuses.
5. Analyzing the executive budget request and preparing publications showing the changes made in the proposed appropriations at the various stages of legislative proceedings.
6. Preparing estimates of the fiscal effects of pending legislation on state and local finances.
7. Publishing a monthly report, *Budget Footnotes*, describing the status of the state's General Revenue Fund; reporting on actions of the Controlling Board; and, from time to time, reporting on fiscal subjects of special interest.
8. Providing legislative members of the Controlling Board with special analyses of agency requests to the Controlling Board.
9. Conducting special studies of fiscal issues and problems upon the request of the legislative members of the LBO or, in some cases, individual legislators.
10. Providing legislators with research, including statistical data, on any fiscal subject.
11. Responding to some constituent inquiries on fiscal matters and

preparing press releases and speeches on fiscal and budget matters under special circumstances.

12. Monitoring state revenues and spending for the purpose of alerting legislators to any potential problems or alerting them to possibilities for additional spending should revenues be exceeding estimates.
13. Monitoring agency activities to insure compliance with legislative intent as expressed in appropriations measures.
14. Making forecasts of revenues and welfare caseloads independent of those made by the executive.

The preparation of *fiscal notes* has been required by statute since 1977. All bills, before they are reported out of committee or acted upon the floor of either chamber, must have a fiscal review to determine how they might affect the revenues or expenditures, positively or negatively, of the state or its political subdivisions. The form that a fiscal note takes is standardized and includes a brief description of what the bill does (concentrating on its fiscal effects), a summary of its effect (or a statement that it has no apparent fiscal effects), and then an explanation of how the conclusion was reached, including the methodology used in estimating the fiscal effects. Exhibit 3 shows a typical LBO Fiscal Note.

Exhibit 3 Fiscal Note

BILL	S.B. 366	DATE	May 16, 1984
STATUS	As Reported by Senate Finance	SPONSOR	Senator Bowen
Fund & Time	Revenues	Expenditures	Appropriations
State Special Revenue	\$452,780	\$452,780	- 0 -
Annual	gain	increase	

This bill would increase by four dollars, effective January 1, 1985, the filing fee collected by the Secretary of State for certain services performed under the Uniform Commercial Code. This amount would be credited to the newly created Uniform Commercial Filing Special Account.

EXPLANATION OF ESTIMATE:

Based on 1983 data from the Secretary of State's office, the four dollar filing fee increase for services performed under the Uniform Commercial Code would generate \$452,780, annually. Receipts from the additional fee are to be credited to the Uniform Commercial Code Filing Special Account, which the bill creates in the State Special Revenue Fund. The rest of the fee will, as at present, be credited to the General Revenue Fund. Money credited to the special account is to be used to pay expenses related to the processing of filings under the Uniform Commercial Code.

7. Committee Staff

Each of the standing committees of the House and Senate is provided with at least one LSC staff person to insure that the committee members receive bill analyses, to draft committee amendments, to take requests for spot research, and to answer technical questions about bills or amendments. In the House and Senate Judiciary Committees a larger staff of attorneys is available. In the case of each of the Finance Committees, the LSC staff is supplemented by two additional LBO staff persons designated as majority and minority party liaisons.

8. Interim Studies and Committees

The legislature, from time to time, has seen fit to establish interim committees, some of short duration and others relatively permanent, to study particular subjects. For the past ten years, there has been a separate Correctional Inspection Committee (CIC), and in past years there was an Educational Review committee which continued for about ten years with its own staff. Since 1981 the LSC has been responsible for staffing all interim committees; this is done by either assigning its existing staff to the role or hiring specialized staff. The CIC and the LBO hire their own staff in accordance with personnel rules established by the LSC.

Either on its own initiative, as a part of the work of interim committees, or because of the passage of a separate resolution so directing, the LSC undertakes long-term study projects with the goal of recommending legislative changes if such are found necessary. Its study projects include such activities as completely revising chapters or titles of the *Ohio Revised Code*, as in its massive review of the state's criminal statutes which resulted in an overhaul of the penalties for various kinds of criminal activities. Other large-scale studies have involved reviewing the state's public assistance program, the state's tax structure, the education foundation program, and the nursing home laws. On the more mundane side, the LSC has conducted studies such as determining why, in a given season, there were not enough Mason jar caps produced to meet the canning needs of the state's homemakers.

9. Performance Evaluations

Since 1981, the LSC has been designated as the responsible legislative agency for studying the administration of laws. The administrative rule review process is supplemented by program reviews undertaken by the LSC staff at the request of the legislature or on the initiative of the LSC staff director. Few such studies have actually been conducted in recent years, although two won national awards,

and the 1985 review of the state medical board seems to have been a catalyst for significant changes in their operations. Failure to undertake more studies has largely been because of a lack of legislative interest, the difficulty entailed in achieving recommended changes and monitoring their implementation, and the lack of time available to staff for such studies, considering the number of days the legislature remains in session each year.

10. Library Services

The LSC maintains a fully staffed library available to members and their staffs. There, research on bills, past and present, can be undertaken, and it is the repository for all of the state's legislative history. It also includes committee files, which are accessible for research purposes but often not very useful. A specialized public administration library is also provided along with standard reference materials. Unlike most public libraries, the library services include memoranda prepared by LSC staff to answer legislator research requests. These do not identify the member for whom they were prepared.

11. Spot Research

On a daily basis, legislators and their staff seek quick answers to immediate questions. These may arise because of a constituent request, because they arose during the course of a legislative committee hearing, as part of the debate of a bill on the floor, or because the requester is researching an issue. LSC staff are experts in their subjects and can often respond to such questions immediately. At other times, they rely on their personal libraries, contacts with state agencies, or national sources of data. Because records are not kept documenting the extensiveness of these requests, it would be difficult to prove how much time is consumed with them; but responding with spot research is one of the most important functions of the LSC.

5 Understanding and Tracking Legislation

This chapter examines two important aspects of the legislative process: researching the progress of legislation and reading it with understanding. Both of these are specialized functions and readers who believe that the information included here is too detailed to be of use or interest should skip this chapter and go on to Chapter 6 and the more interesting treatise on how to lobby the Ohio General Assembly. However, even those readers who believe that they will never have reason to read legislation or to do legislative research, should find the information contained here to be a useful reference guide to legislative documents — where to find them and what they contain.

Legislative Documents

The legislature produces a number of documents which are important in tracking legislation through its process. There are specialized documents associated with tracking state appropriations which are produced by the Legislative Budget Office. Various private organizations also produce materials which can be of assistance in tracking and analyzing legislative activities.

Publications Tracking Legislation

The offices of the Clerk of the House and the Clerk of the Senate produce a daily *Calendar*, a daily *Journal*, and a *Bulletin*.

The Calendar.

The *Calendar* is published each day that the General Assembly is in session and is available in the bill rooms of either house before each day's session. It identifies the time that each house will convene and then lists the bills that will be voted on the floor that day (these are identified as "bills for third considera-

tion"). The numbers, sponsors, and titles of the bills are reproduced.

The *Calendar* will also list, after a heavy black line, all bills that have been reported favorably from standing committees. These may or may not eventually be voted on the floor depending on the action taken by the Rules Committee.

In the House, the *Calendar* also contains announcements of committee meetings and lists the bills that will be considered by the committees. In the Senate, this information is displayed on a blackboard at the rear of the Senate chamber.

The *Calendar* may also list other business or information relating to the operations of the houses that the presiding officers wish to call to the attention of the members. Exhibit 4 displays a typical *House Calendar*.

Exhibit 4

An Example of the House Calendar

116th General Assembly of the State of Ohio HOUSE CALENDAR

Wednesday, March 6, 1985 — 1:30 p.m.

Bills for Third Consideration

H.B. No. 116 — MESSRS. J. THOMPSON, NETTLE, MRS. PANEHAL. To amend section 109.78 and to enact section 329.12 of the Revised Code to permit county departments of human services to employ security personnel, and to give these security personnel certain police powers. (*Committee on Human Resources recommends passage, February 13, 1985, p. 155.*)

Am. H.B. No. 93 — MESSRS. GERBERRY, SUSTER, VUKOVICH, MS. BOSTER. To amend section 2329.13, 2329.14, 2329.26, and 2329.27 of the Revised Code to require notice of a sale on execution of personal or real property to be sent by certified mail to each party to the action in which the judgment giving rise to the execution was rendered and to make other changes in judgment execution law. (*Committee on Civil and Commercial Law recommends passage*) (*For amendment, see House Journal, February February 13, 1985, p. 153*)

Am. H.B. No. 138 — MESSRS. GILMARTIN, D. JOHNSON, SWEENEY, GERBERRY, NETTLE. To amend section 1151.292 and to enact section 1151.347 of the Revised Code to regulate savings and loan associations and associated real estate brokerage companies regarding those services and related mortgage lending. (*Committee on Financial Institutions recommends passage*) (*For amendment, see House Journal, March 5, 1985, p. 207*)

H.B. No. 344 — MESSRS. BOGGS, MALOTT, WISE, MECHLING, GUTHRIE, HARTLEY, DEERING, SHOEMAKER, SAWYER, KOZIURA, CERASHIVERS, DAVIS. To amend sections 135.14, 135.61, 135.63 to 135.66, and to enact sections 135.71 to 135.76, 901.71 to 901.73, and 2307.02 of the Revised Code to make certain changes in the linked deposit program currently operated by the Treasurer of State, to create an agricultural linked deposit program under the direction of the Treasurer of State, to provide up to one hundred

Exhibit 4, continued

million dollars in linked deposit loans to eligible agricultural businesses, to increase the amount of the investment portfolio of the state that may be invested for linked deposits and agricultural linked deposits, to create a complaint hotline and the Office of the Agricultural Arbitrer in the Department of Agriculture, the latter to provide mediation and conciliation in cases of impending foreclosure against agricultural land, to require the Farmer's Home Administration to make reports on loans to the Ohio Cooperative Extension Service, to repeal sections 135.71, 135.72, 135.73, 135.74, 135.75, and 135.76, effective January 1, 1987, to repeal sections 901.71, 901.72, and 901.73 of the Revised Code, effective July 1, 1987, and to declare an emergency. (*Committee on Agricultural and Natural Resource recommends passage, March 5, 1985, p. 215*)

*(Bills or resolutions below the black line have been recommended
for passage or adoption by designation committees)*

Sub. H.B. No. 20 — MESSRS. CONLEY, SUSTER, DESHLER. To amend sections 153.56 and 5525.16 of the Revised Code relative to the limitation periods applicable to the commencement of actions by laborers and materialmen against sureties on payment bonds taken by the Director of Transportation in connection with contracts for highway projects. (*Committee on Local Government recommends substitute bill for passage, February 19, 1985, p. 164*)

Sub. H.B. No. 3 — MR. CONLEY. To amend sections 305.31 and 5739.021 of the Revised Code to eliminate certain restrictions on the authority of county commissioners to enact a sales tax subsequent to the repeal or rejection of such a tax by the electors, and to provide 45 days within which the electors may petition to submit a referendum a sales tax levy or increase that is adopted within one year after such a levy or increase has been rejected or repealed by the electors. (*Committee on Local Government recommends substitute bill for passage, February 20, 1985, p. 174*)

The Journal.

Each house prepares an official report of its activities and legislative actions of the previous legislative day. The Senate and House *Journal* is bound into a single volume filed in the Legislative Service Commission Library in the new State Office Building in Columbus. Each member also has a complete bound set of the journals.

The *Journal* contains:

1. *The official vote of each legislator on roll calls of amendments and bills brought up on the floor of each chamber.* The record is maintained in the same order as amendments and bills are taken up by the chamber.
2. *Reports of standing committees.* A report is a listing of the official actions that a committee has taken on a bill. How members of the committee voted on the report is also reported.
3. *Reports of messages from the opposite house.* These reports are the official notification of actions taken in the other chamber such as the signing of bills, failure to concur with the amendments of the opposite house, or the appointment of members of a conference committee on a bill.
4. *Congratulatory resolutions.* These are read by title only and the text of the full resolution is not available except through the offices of the clerks of each chamber.

After the two-year sessions of the General Assembly the *Journals* are printed and bound in a permanent volume and are a primary source for legislative research.

Typical pages of a *Journal* illustrating the kinds of actions reported and the form of the report, are shown in Exhibits 5 and 6.

Exhibit 5

Senate Journal, Thursday, March 20, 1986

ONE HUNDRED-NINETEENTH DAY

Senate Chamber, Columbus, Ohio
Thursday, March 29, 1986, 11:00 a.m.

The Senate met pursuant to adjournment.

Prayer was offered by Pastor Jerry Durham. Church of The Savior, Wooster, Ohio, followed by the Pledge of Allegiance to the Flag.

The journal of the last legislative day was read and approved.

Mr. Carney submitted the following report:

The standing committee on Highways and Transportation to which was referred **S.B. No. 2** — Mr. Lukens-et al., having had the same under consideration, reports back a substitute bill, and recommends its passage.

YES—9: THEODORE M. GRAY, M. BEN GAETH, W. SCOTT OELSLAGER, OAKLEY C. COLLINS, COOPER SNYDER, ROBERT J. BOGGS.

NO—2: WILLIAM F. BOWEN, ALAN J. ZALESKI

The report of the committee was accepted.

Mr. Carney submitted the following report:

The standing committee on Highways and Transportation to which was referred **S.B. 319** — Mr. Gray, having had the same under consideration, reports it back and recommends its passage.

In the title, add the names "COLLINS, SNYDER."

YES—5: THEODORE M. GRAY, OAKLEY C. COLLINS, COOPER SNYDER, M. BEN GAETH, ROBERT J. BOGGS.

NO—2: WILLIAM F. BOWEN, W. SCOTT OELSLAGER, ALAN J. ZALESKI

The report of the committee was accepted.

Mr. Carney submitted the following report:

The standing committee on Highways and Transportation to which was referred **S.B. No. 356** — Mr. Finan, having had the same under consideration, reports it back and recommends its passage.

In the title, add the name "CARNEY."

YES—9: THEODORE M. GRAY, WILLIAM F. BOWEN, W. SCOTT OELSLAGER, THOMAS E. CARNEY, COOPER SNYDER, OAKLEY C. COLLINS, ALAN J. ZALESKI, M. BEN GAETH, ROBERT J. BOGGS

NO—0

The report of the committee was accepted.

Exhibit 6

Senate Journal, Thursday, March 20, 1986

On motion of Mr. Gilmor, the privileges of the floor for this legislative day were extended to Mr. Morgan Milner.

The question recurred, "Shall the bill pass?"

The yeas and nays were taken, and resulted — yeas 31, nays none, as follows:

Those who voted in the affirmative were: Senators

Boggs	Collins	Gaeth	Meshel	Pfeifer	Watts
Bowen	Cupp	Gray	Nettle	Pfeiffer	White
Branstool	Drake	Hobson	Ney	Schafrath	Zaleski
Burch	Finan	Horn	Ocasek	Snyder	Zimmers
Butts	Fisher	Lukens	Oelslager	Suhadolnik	Gillmor — 31.
Carney					

So the bill passed. The title was agreed to.

Sub. S. B. No. 222 — Mr. Watts-et al., to amend section 4931.28, to enact sections 2501.20, 2933.51, 2933.52, 2933.53, 2933.54, 2933.55, 2933.56, 2933.57, 2933.59, 2933.60, 2933.61, 2933.62, 2933.63, 2933.64, 2933.65, and 2933.66, to enact new section 2933.58, and to repeal section 2933.58 of the Revised Code to authorize specified law enforcement officers to apply for and to execute interception warrants that permit wiretaps, and related methods of intercepting communications, was considered the third time.

The question being, "Shall the bill **Sub. S. B. No. 222** pass?"

The yeas and nays were taken, and resulted — yeas 31, nays none, as follows:

Those who voted in the affirmative were: Senators

Boggs	Collins	Gaeth	Meshel	Pfeifer	Watts
Bowen	Cupp	Gray	Nettle	Pfeiffer	White
Branstool	Drake	Hobson	Ney	Schafrath	Zaleski
Burch	Finan	Horn	Ocasek	Snyder	Zimmers
Butts	Fisher	Lukens	Oelslager	Suhadolnik	Gillmor — 31.
Carney					

So the bill passed. The title was agreed to.

On motion of Mr. Watts, the names "OELSLAGER, SCHAFRATH, SNYDER, SUHADOLNIK, COLLINS, LUKENS, MESHEL, BURCH, ZIMMERS, GAETH, HOBSON, NEY, NETTLE, GILLMOR" were added as co-authors.

The following bills were introduced and considered the first time.

S.B. No. 363 — Mrs. Drake, Mr. Gillmor.

To amend sections 929.03, 1525.11, 1525.12, 1525.13, 6103.052, and 6117.062 of the Revised Code to create a Water and Sewer Administration Fund to be used for administrative costs of the Water and Sewer Commission, funded by fees charged against advances made from theetc.

The Bulletin.

Compiled by the Senate Clerk approximately every six months, the *Bulletin* shows certain official actions taken on legislation up to the time of the publication date. It is a compilation of much of the information reported in the daily *Journals*, and it is especially valuable because of its detailed index. It does not, however, include all of the information in the *Journal*. For legislation, using the *Bulletin* one can identify:

- All of the bills and resolutions sponsored by each legislator.
- All of the bills which affect a particular section of the *Ohio Revised Code*.
- The legislative history of a bill or joint or concurrent resolution, including its status as of the date of the *Bulletin*.
- The names of the sponsors of each bill introduced in the General Assembly.
- The number of affirmative and negative votes on floor actions for bill passage (but not the votes of individual members).
- The date on which each action on a bill took place and the page number of the *Journal* on which the action is recorded.
- The title of each bill introduced in the General Assembly.

There is an extensive and detailed subject matter index permitting a researcher to identify all bills relating to a particular subject and another index showing all bills which affect a particular section of the *Ohio Revised Code*.

The *Bulletin* also records the following:

- Appointments to boards and commissions made by the Governor arranged alphabetically by the name of the appointee and including the term of the appointment.
- Appointments made by the Secretary of State and by the Attorney General.
- Actions taken by the Governor on bills presented to him and the effective date of enacted legislation.
- Sections of the Ohio Constitution affected by joint resolutions.
- The names of all legislative special committees and the legislative appointees to them.

Exhibit 7 is a typical page from the *Bulletin* showing how information about legislation is displayed.

Exhibit 7

Bulletin 1988

H.B. No. 725 — Conley.

To amend sections 5101.37 and 5101.38, to enact section 5101.35, and to repeal section 5107.13 of the Revised Code to authorize judicial appellate review of Department of Human Services administrative appeal decisions.

- 1-26. H. Introduced — p. 1319
- 2- 2. H. To Committee — Human Resources — p. 1342.
- 3- 8. H. Reported — p. 1534.
- 3-10. H. Third consideration — p. 1589.
- 3-10. H. Informally passed — p. 1589.
- 3-15. H. Taken up — p. 1605.
- 3-15. H. Passed — p. 1605. Vote — yeas 91, nays 6.
- 3-15. S. Received from House — p. 1551.
- 3-16. S. To Committee — Health, Human Services and Aging — p. 1566.
- 5-25. S. Third consideration — p. 1835.
- 5-25. S. Informally passed — p. 1835.
- 5-26. S. Reported — p. 1848.
- 5-26. S. Taken up — p. 1851.
- 5-26. S. Passed — p. 1851. Vote — yeas 31, nays 0.
- 6-10. To Governor.
- 6-14. Approved by Governor. Effective date September 14, 1988.

H.B. No. 726 — Secret.

To amend sections 4905.02, 4905.03, 4905.05, and 4905.06 of the Revised Code to place all not-for-profit public utilities under the regulatory jurisdiction of the Public Utilities Commission except for public utilities operated exclusively by and solely for their customers and public utilities operated by municipal corporations.

- 1-26. H. Introduced — p. 1319.
- 2- 2. H. To Committee — Public Utilities — p. 1343.

H.B. No. 727 — Verich, Troy, Boggs, Jones, P., Hagan, R.E., Clark, Lucas.

To amend section 2501.012 of the Revised Code to add one additional judge to the Eleventh District Court of Appeals.

- 1-27. H. Introduced — p. 1337.
- 2- 2. H. To Committee — Judiciary and Criminal Justice — p. 1343.
- 3- 3. H. Reported. Amended — p. 1516.
- 3- 9. H. Third consideration — p. 1546.
- 3- 9. H. Passed — p. 1546. Vote — yeas 98, nays 0.
- 3-10. S. Received from House — p. 1521.
- 3-15. S. To Committee — Judiciary — p. 1527.

H. B. No. 728 — Bars, Troy, Mallory.

To amend section 3937.99 and to enact sections 3937.45, 3937.46, 3937.47, 3938.48, 3937.49, and 3937.50 of the Revised Code to regulate the sale of motor vehicle warranty agreements.

- 1-27. H. Introduced — p. 1337.
- 2- 2. H. To Committee — Highways and Public Safety — p. 1343.

H.B. No. 729 — Luebbers.

To amend section 109.71, 109.77, 2901.01, 2921.51, 2935.01, and 2935.03 and to enact section 2921.311 of the Revised Code and to repeal section 109.71, 109.71, 109.77, 2901.01, 2921.51, 2935.01, and 2935.03 of the Revised Code as amended by Section 6 of Sub. H. B. 231 of the 117th General Assembly to make it a fourth degree felony for anyone to grab a law enforcement officer's firearm, to include police officers of a township police district in the definitions of law enforcement officer and peace officer for various purposes.

- 1-27. H. Introduced — p. 1337.
- 2- 2. H. To Committee — Judiciary and Criminal Justice — p. 1343.
- 5-25. H. Reported. Substitute bill — p. 1889.

These are the publications of the Legislative Service Commission which relate to tracking the legislative bill passage process.

Legislative Status Sheet.

The *Bulletin* is published so infrequently that it cannot be used as a source for indentifying the current status of bills. The LSC's *Legislative Status Sheet* is issued each week during session and describes all legislative action on all bills and joint resolutions through the preceding week. When used in conjunction with the daily *Journal*, the exact current position of all legislation can be determined.

Exhibit 2 in in Chapter 4 shows a sample *Status Sheet*. This is how to read the informtion contained in its 15 columns.

- Column 1** The number of each bill or resolution, House bills are printed first and then Senate bills.
- Column 2** The name of the legislator who is the prime sponsor of the measure.
- Column 3** A three- to five-word description of the nature of the bill.
- Column 4** The date that the bill was introduced. By turning to the *Journal* of that date, the names of all of the sponsors, the full title, and all affected sections of the *Revised Code* will be identified.
- Column 5** An abbreviation of the name of the committee in the originating chamber to which the bill was referred. A guide to abbreviations is found at the end of the *Status Sheet*. If this column is blank it means the bill has not been referred to a standing committee.
- Column 6 and 7** If there has been action taken in the standing committee (6) or the floor of the first house (7) the date of this action and and the kind of action taken will be listed in these columns. The left-hand upper corner of the *Status Sheet* identifies the meaning of abbreviations.
- Column 8 thru 11** These columns include dates and indicators of the kind of action taken in the second chamber.
- Column 12** If a conference committee was appointed the date of appointment is entered here.
- Column 13** If an appointed conference committee reports a compromise and both houses agree to it, a date will appear in this column.
- Column 14** The date and kind of action taken by the Governor appears here.
- Column 15** In this column the effective date of the legislation is listed.

To determine the current status of a bill, as of the date of the *Status Sheet*, the reader need only read from *left* to *right* for the identified bill, and the last column in which a date appears will signify the last action taken by the legislature on that measure.

Bills.

Bills and resolutions are readily available from either the Senate or the House Bill Rooms; each room, located in the basement of the State House, keeps the bills of either house. If a bill is too new to be available in multiple copies, or if it is especially large like the appropriations bill, it may be obtained through the House or Senate Clerk's office (depending on whether it is a House or Senate bill) which will permit it to be loaned long enough to be duplicated.

Amendments.

Floor amendments that have been acted upon are reported in the *Journal*. Committee amendments can be obtained by being at the committee meeting and asking the committee secretary or the chairman's staff aide for copies before or after they are considered. They may also be requested later from the chairman's office or the office of the legislator who sponsored the amendment.

Legislative Hotline.

The legislature maintains a 1-800 number hotline where citizens can call to obtain standard information such as the current status of a particular piece of legislation, the time scheduled for a standing committee hearing, what bills are scheduled for committee hearings, what bills will be voted on the floor, and how legislators voted on bills on the floor.

Private Sources.

Published on a daily basis by a private company is the *Gongwer News*, which most out-of-towners rely upon for information about what is happening in the legislature. While not official, it provides an extremely accurate report of activity on major legislation, lists scheduled committee hearings, and reports on various legislative issues. The *Columbus Dispatch* newspaper, in its Sunday edition, lists the known bills scheduled for floor debate the following week and also scheduled standing committee meetings and their agendas.

Large associations also maintain regular newsletters describing past and pending action on bills of particular interest to their members. Because of the wide range of interests of units of local government, the legislative bulletins and newsletter published by the *County Commissioners Association of Ohio* and the *Ohio Municipal League* are especially informative. Other organizations with regular newsletters include the *Ohio United Way* (human services issues), the *Ohio*

Education Association (education issues), the *Ohio Chamber of Commerce*, the *Ohio Manufacturers Association* and the *Ohio Retail Trades Association* (issues affecting business), and the *Ohio Wildlife Association* (natural resources issues).

When it comes to keeping track of activities related to the state's operating budget (adopted during each odd-numbered year), there are a number of supplementary sources of data and information prepared by the Office of Budget and Management and the Legislative Budget Office. There is no current regular listing of these various documents and supporting data but they can usually be obtained upon request, assuming one knows what to ask for.

In all instances where information about particular bills or other aspects of the legislative process is desired, individual legislators will provide reports and information on request. The only difficulty with this method of obtaining information is that it is time-consuming; and if the purpose of the inquiry is to affect the outcome of a legislative activity, it may be too late. *Hannah Information Systems* has established an electronic mail system to track legislation as part of its computerized legislative information system. This resource is the best possible method of keeping up to date on legislation and to track it on a current basis.

Publications of the Legislative Service Commission

The Legislative Service Commission, located in the New State Office Building, publishes a legislative guidebook, a bill drafting manual, and bill analyses which summarize the provisions of most bills.

Guidebook.

Intended for use by legislators, *A Guidebook for Ohio Legislators*, published in 1985, is available for purchase by the general public from the LSC. It provides a summary of the Ohio lawmaking process, the role of legislators, staff assistance available to members, and the role of some of the other participants in the legislative process.

Bill Drafting Manual.

Intended for use by those who will actually be engaged in drafting bills, the *Bill Drafting Manual* includes a statement of drafting requirements established by the Ohio Constitution, an updated version of the rules of code revision adopted by the 100th General Assembly in enacting the *Revised Code*, the rules of the General Assembly governing bill drafting, the statutes on definitions, and rules of statutory construction.

Bill Analysis.

Bill analyses are prepared on most bills and are available through the library of the LSC. The bill analysis includes a brief heading summarizing all of the provisions of the bill. This enables the reader to determine the contents of legislation in more detail than is evident from the title of the bill but without a detailed review or analysis. Following the brief summary is a detailed explanation of the contents of the legislation and how it is to operate. This analysis is arranged by subjects covered in the bill, rather than according to the order of the sections of the bill and is therefore easier to follow. It is also written for the layman and is therefore often more understandable. For this reason it may be longer than the bill itself.

Bill analyses are updated to reflect changes which occur at each stage of the legislative process. At the end of the bill analysis there is a legislative history which identifies the page in the *Journal* where each step of legislative action took place.

Library.

The LSC library is maintained for use by legislators and their staff. It contains reports from various states; annual reports of Ohio departments and commissions; and publications of national organizations such as the National Governor's Association, the National Conference of State Legislatures, and the Council of State Governments. There are also computer information systems available in the library and a number of reference documents. Although these services, and the services of the librarians who staff them, are not open to the general public, their availability to legislative staff enables staff to serve constituents with the aid of these resources.

Publications of the Joint Committee on Agency Rule Review (JCARR)

Besides doing analyses of rules proposed by state agencies, the JCARR publishes a list of registered legislative agents. Those lobbying the state legislature are required by law to register with the agency. Those interested in identifying legislation of a certain kind will find the lists useful in that they are organized according to category of interest, as well as alphabetically by organization and by the name of the lobbyist.

Publications of the Legislative Budget Office

The LBO prepares a report on agenda items appearing before the Controlling

Controlling Board Report.

Prior to each meeting of the Controlling Board, the staff of the LBO reviews the agenda and selects items for special analyses and questions. These reports are presented to the legislative members of the Board for their use at the meetings and are an excellent source of information about the history of agency requests. All of the work of the Board is somehow related to the state's appropriations so these requests generally modify, implement or extend provisions of the General Assembly affecting state spending. They are of special interest to those tracking state appropriations. Actions of the Controlling Board are reported by the LBO in its monthly newsletter.

Budget Footnotes.

Each month the LBO publishes *Budget Footnotes* in which information about the condition of state finances is reported. Periodically there will also be articles on fiscal subjects such as the condition of the state's debt or the status of child support laws. Subscriptions are available to interested persons free of charge.

Fiscal Notes.

Ohio has a fairly sophisticated fiscal note process requiring that all legislation be analyzed for fiscal effect before being voted out of committee or on the floor of either house. Some states, such as New York, go further in that they require that any measure determined to have a fiscal impact be re-referred to the appropriate finance committee for consideration. Some would say that requiring a fiscal analysis overemphasizes the importance of cost in determining the outcome of a public issue. The argument goes that bills should be judged on their merits and if they cost money or reduce revenues, that issue should be addressed separately; cost should not be the tail that wags the dog. On the other hand, cost is important in that the legislature always has the responsibility of coming up with a balanced budget. Keeping the budget in balance, when other issues are being debated, does require keeping track of the fiscal effects of legislation.

A few states have also attempted to assess the economic impact of legislation — the effect that it might have upon the private sector. This kind of an assessment is even more difficult than a fiscal one in that reliable, centrally collected data to use in the evaluation are difficult to obtain. Yet there are those who would argue that certain types of legislation (e.g., bills mandating new pollution devices or imposing new safety standards or various kinds of new reporting requirements) have additional costs. These costs would be passed on to customers, reduce their disposable incomes, and ultimately affect, not only the state's economy, but its revenues. The argument is persuasive, but the biggest problem in estimating is that the string of causes is often quite long; and estimators can be imperiled

at several steps in the chain toward finally quantifying the economic impact of a bill.

How to Read a Bill With Understanding

Learning to read a bill and learning to read a bill with understanding are two distinct skills. The former is relatively simple to learn but the latter requires practice, a knowledge of the subject area covered by the bill, and some of the skills of bill drafting and legal research. What is presented here will only touch the tip of the iceberg of learning techniques of bill cognition. It does, however, provide some of the rules of bill construction and drafting techniques that can serve as the groundwork for doing the kind of additional research that would be necessary for full cognitive understanding.

Reading a Bill

Exhibit 8 is an example of a bill with an emergency clause. Above the title would be additional information identifying sponsors of the bill, the session (first or second) of the General Assembly for which the bill was prepared, and its number (if it has been introduced) or an LSC number if it is still in draft form.

Exhibit 8

Example of a Bill

A BILL

Title	To amend section 5739.22 of the Revised Code to increase the minimum amount of the local government fund to be allocated to any one county, and to declare an emergency.
Style of the Law	Be it enacted by the General Assembly of the State of Ohio:
Amending Clause	SECTION 1. That section 5739.22 of the Revised Code be amended to read as follows: Sec. 5739.22. The local government fund shall be allocated among the local subdivisions in the following manner and subject to the following conditions: (A) On or before the tenth day of each month the auditor of state shall draw a voucher and warrant payable to the county treasurer of each county for an amount equal to the proportionate share of the county of the total amount standing to the credit of the local government fund, as determined by this section, provided that the distribution to each county for the last month of each calendar year shall be adjusted so that the total amount allocated to any one county during such calendar year shall not be less than sixty thousand dollars. During each calendar year the local government fund shall be allocated to all the counties by the following ratios;...
Body of the Bill	
Repeal Clause	SECTION 2. That existing section 5739.22 of the Revised Code is hereby repealed.
Emergency Clause	SECTION 3. This act is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, and safety. The reason for such necessity lies in the fact that counties which lost federal monies require additional state funding to maintain existing programs. Therefore, this act shall go into immediate effect.

Bills are numbered sequentially in the order of their introduction. Bills introduced in the House will be known as H.B. #____ and those in the Senate as S.B. #____. If a bill is amended it will be known as Am. H.B. #____; if a new bill has been substituted for the original bill it will be known as Sub. H.B. #____; and if the substitute bill is further amended, it will be known as Am. Sub. H.B. #____.

Title.

The indented paragraph at the beginning of the bill is its title. It will list all of the sections of the *Ohio Revised Code (ORC)* that are to be amended, enacted, or repealed (in that order) and a brief descriptive summary of the subject covered in the bill. If the bill includes an appropriation, levies a tax, or declares an emergency, that, too, must be noted in the title.

Style of the Law.

This sentence is included in all bills to satisfy a requirement of the Ohio Constitution.

Amending Clause.

This portion of the bill identifies the sections of the *ORC* to be amended or enacted. Those sections of the *ORC* which are to be repealed will be identified subsequently in the *Repeal Clause* (usually Section 2 of the bill).

Body of the Bill.

The entire section of each existing section of law that is to be amended is reproduced in numerical order in Section 1 of the bill. New provisions and language are printed in capital letters and new punctuation is underlined. Existing language appears in lower case, and words that are to be deleted are shown with double brackets enclosing them. If a new section of law is being enacted, it will all be in capital letters.

If a new section of law is to be enacted, but only for a temporary time, it will not have an *ORC* number and will appear in lower case in Section 1, if the bill does not amend any existing law, and in Section 2 and subsequent sections if the bill only creates temporary law.

Repeal Clause.

Since every word of an existing section of law is to be removed, it is not repeated. Instead, in this section of the bill, usually Section 2, all sections of the *ORC* to be repealed are listed by number.

Emergency Clause.

This section identifies the fact that there is an emergency leading to this bill and the nature of the emergency. Including this clause requires that a separate vote be taken on the floor on the question of whether the bill should be declared an emergency and go into immediate effect. This motion requires a two-thirds favorable vote. An emergency clause can be voted down and the bill still pass, because its passage would only require a majority vote although extra com-

pensation bills and court bills also require a two-thirds vote.

Temporary and Permanent Law

There is a distinction between permanent and "temporary" law. Sections of bills that are not codified are only of temporary duration. In some cases, the section of temporary law itself will specify how long it is to be in effect. Although the Ohio courts have not specifically ruled on the issue, it is assumed that, unless otherwise specified, temporary sections of law expire at the end of the General Assembly which enacted them. All appropriations are temporary since by provision of the Ohio Constitution they cannot be in effect for more than two years. Frequently, there are numerous provisions of temporary law accompanying appropriations which explain how they are to be used or attach special conditions to their release or use.

Techniques of Bill Drafting

Bills are supposed to be written in ordinary language but, in reality, the uninitiated probably have difficulty reading the language of legislation. Part of the reason for this lies in the fact that laws are written in such a way as to avoid ambiguity and stress brevity and clarity, unlike most common speech. Bill drafters strive for simplification and do so by segmenting language on the basis of recurrent partial similarities; but this, too, creates a certain awkwardness for a reader. Also, ordinary writing style avoids repetition of the full name of an organization each time it is referenced; in legislation, full names are repeated for the sake of clarity.

Fred Rodell, an expert on bill drafting, writing in 1939 said, "Almost all legal sentences...have a way of reading as though they had been translated from German by someone with a rather meager knowledge of English." There is a great deal of truth in this observation, even today. Efforts have been underway for years to require that plainer English be used, but most laws have been in place for long periods of time and even slight changes can take decades to accomplish (e.g., the LSC's attempt to remove the words "and regulations" from the phrase "rules and regulations" as being redundant). Laws are replete with couplets such as "devise and bequeath" and "fit and proper" as a holdover from a period when it was common to use a word from a native tongue coupled with one from Latin, or Norman French, Old Norse, or Celtic to make it easier to understand. But these couplets can be overdone and confuse the reader today. Other phrases and terms which have crept into laws have the same result.

Like most professions, the practice of law has established its own terms of

art — technical words with a specific meaning. In bill drafting, most new laws will have a definitions section to explain the terms of art. The same term can, and frequently is, defined differently in different parts of the *ORC*. A reader should ascertain the meaning of specific terms in a bill by researching the Chapter of the *ORC* in which the sections under review appear. Good bill drafting requires the use of definitions when words are not used in their ordinary meaning.

Rules of Bill Drafting

To aid in reading a bill with understanding it is useful to know some of the rules that are usually followed by bill drafters. These are some of the more common ones:

1. Thoughts should be expressed as briefly as possible. Long sentences are to be avoided if shorter ones will do.
2. When an idea can be expressed correctly either in the positive or the negative, it should be expressed positively.
3. The use of exceptions is to be avoided.
4. Bills should be drafted in the present tense.
5. Bills should be drafted in the active, rather than the passive, voice.
6. Bills are to be drafted in the third person.
7. Sentences should be arranged to make full use of finite verbs rather than participles, infinitives, gerunds, or other noun or adjective forms denoting action.
8. Words in the singular number include the plural number and vice versa, and words in one gender include the other gender.
9. The word "shall" should not be used to state a rule of law but should be used only in prohibiting or requiring a certain act to be done.
10. If two words have the same or similar meanings, one is to be chosen and used consistently throughout the bill.
11. Never use a phrase when a word is its exact equivalent. An adjective or an adverb is better than a phrase that means the same thing.

This list is not all inclusive. It is intended to illustrate the fact that bill drafters do have certain rules which they attempt to follow in achieving clarity of meaning. These rules are supplemental to the rules of ordinary language and, if learned, can assist in learning to understand bills.

There are also rules governing punctuation, numbering of sections of the code, use of numbers, abbreviations, preferred expression, placement of the negative, and the like. The best source guide for those seeking to improve their

ability to read bills with understanding is the *Bill Drafting Manual* published by the LSC. That volume also includes definitions and rules of statutory construction that are found in Chapter 1 of the *Ohio Revised Code*.

Organization of the Ohio Revised Code

After bills become law they are "codified" or organized according to their subject matter. Understanding a bill may require research into existing laws which, in turn, requires a working knowledge of how the *Ohio Revised Code* is organized.

The *ORC* consists of 32 divisions which are known as *titles*. The first title is not numbered and it includes five subdivisions, which are known as Chapters of General Provisions. These Chapters (all odd-numbered) are:

- 1 Definitions; Rules of Construction
- 3 Officers; Oaths; Bonds
- 5 State Insignia; Seals; Holidays
- 7 Process; Publication
- 9 Miscellaneous

The rest of the titles are numbered using only odd numbers printed in Roman numerals. The titles of the *ORC*, which indicate the subject matter that they contain, are:

- I State Government
- III Counties
- V Townships
- VII Municipal Corporations
- IX Agriculture-Animals-Fences
- XI Banks-Building and Loan Associations
- XIII Commercial Transactions
- XV Conservation of Natural Resources
- XVII Corporations-Partnerships
- XIX Courts-Municipal-Police-Mayors-County
- XXI Courts-Probate-Juvenile
- XXIII Courts-Common Pleas
- XXV Courts-Appellate
- XXVII Courts-General Provisions-Special Remedies
- XXIX Crimes-Procedures

- XXXI Domestic Relations-Children
- XXXIII Education-Libraries
- XXXV Elections
- XXXVII Health-Safety-Morals
- XXXIX Insurance
- XXXXI Labor and Industry
- XXXXIII Liquor
- XXXXV Motor Vehicles-Aeronautics-Watercraft
- XXXXVII Occupations-Professions
- XXXXIX Public Utilities
 - CI Public Welfare
 - CIII Real Property
 - CV Roads-Highways-Bridges
 - CVII Taxation
 - CIX Veterans-Military Affairs
 - CXI Water Supply-Sanitation-Ditches

Each of the titles is organized so that it may contain up to 100 chapters although none have that many. Chapters are numbered numerically; and the first or first and second digits, before the period, indicate the title to which it belongs. So, "Chapter 101: General Assembly" is the first chapter of Title I-State Government.

Each chapter of the *ORC* is divided into principal sections which may be further subdivided into supplemental sections. Each chapter is limited to having 100 principal sections, and supplemental sections do not exceed nine per principal section. These are also numbered in such a way as to identify their location in the *ORC*. Thus "Section 1501" is the first section of the first chapter of Title 15-Conservation of Natural Resources. The numbers to the right of the decimal point indicate the number of the section, and those to the left designate the numbers of the title and chapter to which the section belongs. If there are supplemental sections they are indicated by an additional digit and so "Section 1501.011" is the first supplemental section to section 1501.01.

6 Legislative Functions: Enacting Statutory Law

The Ohio General Assembly is the branch of government primarily responsible for making public policy.

It is through the passage (or repeal) of legislation that the legislative body discharges its responsibility for making public policy. The legislature, under Article 10 of the Ohio Constitution, performs several tasks related to its primary function and has other formal and informal functions as well.

The Tasks of Legislators and the Legislature

The primary constitutional functions of the legislature are to:

1. Enact statutory law.
2. Make appropriations to support government.
3. Initiate constitutional amendments.
4. Oversee the executive branch of government.
5. Perform a few other functions described in the Ohio Constitution.

These formal duties are supplemented by its more informal, political functions which include:

1. Assisting in the formulation of state policy.
2. Serving as a public sounding board or ombudsman.
3. Educating the public on issues.
4. Balancing or checking the executive.
5. Training for higher office.
6. Assisting constituents in dealing with all three branches of government.

Not all legislators individually perform each function equally well; some tend to become specialists in one or more of these functions relegating the others to a more subordinate role. Some concentrate on oversight (though only a few),

many on the process of making policy, some on serving the perceived needs of constituents, and a few on just getting re-elected.

Functional Specialization

It is easier to do some jobs well than it is to make a significant impact on all public policy areas, ranging from agriculture and banking through economic development and welfare. Thus legislators tend to specialize: first, by public policy area and, then, by the more informal political process used to complement making public policy. Here is an example of how this works:

If a legislator receives a complaint from a constituent, such as improper handling of a workers' compensation claim, there are usually only one or two legislators specializing in that particular kind of problem to which he may turn. Sometimes this is the chairman of the committee responsible for hearing bills on that subject, but not always. There are also legislators who can be relied upon to take an agency to task if a legislator reports that a project in which he is interested is being held up or if there is some other reason for legislative concern over policy administration. A legislator serving on the finance committee responsible for overseeing an agency's budget may have more success in solving a constituent's problem than the chairman of the subject matter committee who hears that agency's bills. For a citizen interested in influencing the public policy debate or in solving a problem, zeroing in on the right legislator is key. Although not really essential, a citizen will be more successful with appeals to a legislator who is a member of the majority party.

To understand the legislature and to learn how to work with it one must understand its several processes. The remainder of this chapter describes the process of enacting statutory law. Chapters 7, 8 and 9 discuss the other identified legislative functions.

Enacting Statutory Law

One means of making public policy is the adoption and passage of resolutions, joint resolutions, concurrent resolutions, and bills. These are all forms of public policy but differ according to what they cover and what is required for their passage.

Resolutions

"Simple" resolutions relate only to matters affecting one house of the General Assembly and are adopted only by the one house. They are usually only printed

in the *Journal* of the chamber passing them. They can relate to the organization, appointments, and officers of the house and include commemorative study requests, and congratulatory messages. They can also deal with members' privileges such as mileage and entitlements to copies of the *Ohio Revised Code*. They are used to establish committees and to adopt formal rules or procedure.

Joint Resolutions

Joint resolutions become law when passed by both houses of the legislature. They must be enrolled and filed with the Secretary of State. They pertain to such things as requiring the expenditure of legislative funds, forming joint legislative committees, proposing amendments to the Ohio Constitution, memorializing Congress, ratifying amendments to the U.S. Constitution, adopting joint legislative rules of procedure, or providing tribute or special recognition to a prestigious person, group, or event.

Concurrent Resolutions

Concurrent resolutions must also be adopted by both houses of the legislature, but need not be enrolled and filed with the Secretary of State. These are used to deal with matters of concern mostly to the two houses of the legislature such as joint rules of procedure, adjournment, or commendation of persons, groups, or special events.

Bills

In order to become law, bills must be passed by both houses of the legislature and be signed by the Governor or else become law without his signature. They can be introduced by any member of the General Assembly on any subject and are governed by several provisions of the Ohio Constitution, including these important provisions.

Retroactive Laws. The legislature is prohibited from passing retroactive laws or laws impairing the obligation of contracts. For instance, the Ohio Supreme Court has held that a statute which imposes a new or additional burden, duty, obligation, or liability to past transactions is retroactive.

Uniformity of Laws. All general laws must have a uniform operation throughout the state. In interpreting this provision, the Ohio Supreme Court has held

that whenever a law of a general nature, with a uniform operation throughout the state, can be made to fully cover and provide for any given subject matter, then it must be general and that local or special laws cannot be constitutionally enacted on those subjects.

No Delegation of Powers. Except for laws relating to public schools, no act of the legislature may be dependent on upon the approval of any authority other than the General Assembly. This does not prohibit the legislature from enacting laws which confer authority or discretion to designated governmental agencies and giving agencies the power to inquire into and determine facts under rules it creates.

Single Subject. The Constitution prohibits bills from including more than one subject. Typically the state's appropriations bill covers a multitude of subjects beyond appropriations. In its title all of the subjects are listed, and the Ohio Supreme Court has held these not to be violative of this constitutional prohibition. This court interpretation generally follows the judicial principle that permits co-equal branches of government the privilege of determining compliance with rules and mandates governing their operation. Thus, the courts have been particularly lenient in letting the legislature itself determine if it is complying with this provision of the Constitution.

Permitted Subjects of Law

The Ohio Constitution specifically authorizes the General Assembly to enact laws on certain subjects. Many of these were added to the Constitution as a result of popular expression of intent following a court ruling finding actions authorized by the legislature, unconstitutional. These are the areas where the legislature is specifically authorized to act.

Mechanics' and Builders' Liens. The legislature may pass laws to pay mechanics, artisans, laborers, sub-contractors, and materials provided by direct lien upon the property for which they furnished materials or labor.

Welfare of Employees. The legislature is empowered to pass laws fixing and regulating the hours of labor, establishing a minimum wage, and providing for the comfort, health, safety, and general welfare of employees.

Workers' Compensation. There is a lengthy section of the Constitution which not only authorizes the General Assembly to set up a system for providing compensation to workers and their dependents, but also spells out the

specifics of what should be included in the laws so enacted. Reasons for compensation may include death, injuries, or occupational disease occasioned in the course of a worker's employment. In court cases, the state's workers' compensation act has been upheld as an exercise of the police power. However, specific provisions of the law have been subject to a great deal of litigation and judicial interpretation in spite of (or perhaps, because of) its specificity.

Conservation of Natural Resources. Laws may be passed to encourage forestry and agriculture; and areas devoted exclusively to forestry may be exempted, in whole or in part, from taxation. The legislature may also enact laws to provide that land devoted exclusively to agricultural use be valued for real property tax purposes at the current value such land has for such agricultural use. In addition, laws can be passed to provide for the deferral or recoupment of any part of the difference in the dollar amount of real property tax levied in any year on land valued in accordance with its agricultural use and the dollar amount of real property tax which would have been levied upon such land had it been valued for such year in accordance with the constitutional provision governing real property taxation.

Laws may also be enacted to provide for the conservation of the natural resources of the state (e.g., streams, lakes, submerged and swamp lands), the development and regulation of water power, and the formation of drainage and conservation districts. They may also provide for the regulation of methods of mining, weighing, measuring, and marketing coal, oil, gas, and all other minerals.

Regulating Expert Testimony. In criminal trials and proceedings, laws may be passed to regulate the use of expert witnesses and expert testimony.

Registering and Warranting Land Titles. The legislature may pass laws to provide for a system of (1) registering, transferring, insuring, and guaranteeing land titles by the state or by the counties; (2) settling and determining adverse or other claims to and interests in such lands; and (3) creating and collecting of guaranty funds by fees to be assessed against lands with registered titles. The legislature may confer upon county recorders (or other officers) judicial powers with the right to appeal in matters arising out of the established registration system.

Prison Labor. Laws can be passed to provide for and regulate the occupation and employment of prisoners sentenced to penal institutions and reformatories of the state.

Mandatory Provisions

In three instances the Constitution mandates a duty upon the General Assembly:

1. *Continuity of Government Operation.* The legislature is mandated to pass laws to provide for prompt and temporary succession to public offices if the incumbents become unavailable for carrying on the powers and duties of those offices in periods of emergency resulting from disasters caused by enemy attack.
2. *Removal of Officials.* In addition to the impeachment provisions of the Constitution, the legislature is required to pass laws providing for the prompt removal from office, upon complaint and hearing, of all officers for any misconduct involving moral turpitude or for other cause provided by law.
3. *Fixing Compensation.* The General Assembly is to fix the term of office and compensation for all officers not provided for in the Constitution, but may not change the salary of any officer during his existing term, unless the office is abolished. There has been considerable litigation concerning which officers are covered by this provision and questioning whether, in a given instance, a change in term of compensation has occurred.

Prohibited Subjects of Law

There are four instances where the General Assembly is prohibited from enacting laws:

1. *Corporate Powers.* No special act may be passed conferring corporate powers. Special acts are those which, rather than being of a general nature, are local and temporary in their operation.

An example of an unconstitutional act of this nature was one passed in 1902 providing for the reorganization of the Board of Police Commissioners of Toledo and the appointment of such commissioners by the Governor. Another act declared unconstitutional under this provision was a statute granting to Cincinnati City Council the power to approve or reject regulations of the trustees of the Cincinnati hospital.

2. *Local Government as Stockholder.* No laws may be passed authorizing any county, city, town, or township to become a stockholder in any joint stock company, corporation, or association or to raise money for or loan its credit to, or in aid of, any such company, corporation, or association.
3. *Assumption of Debts.* The state is prohibited from assuming the debts of any county, city, town, township, or of any corporation, unless such

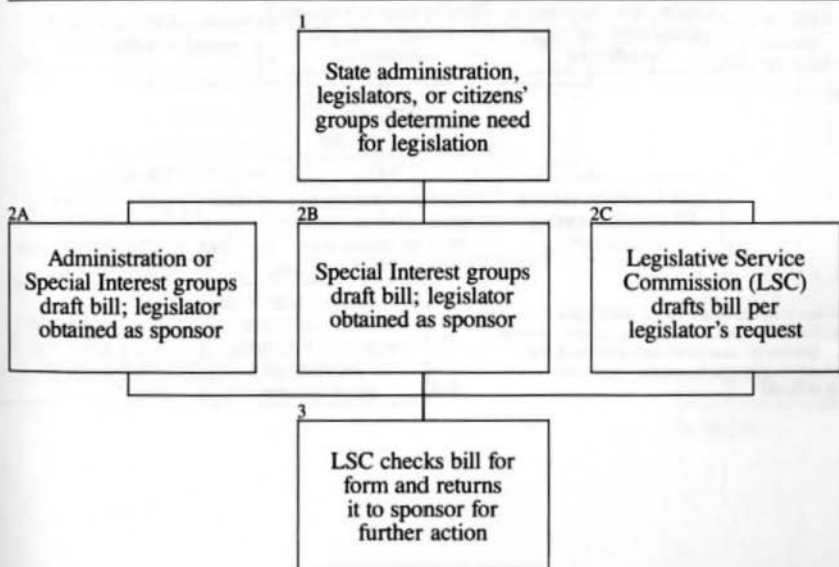
debt shall have been created to repel invasion, suppress insurrection, or defend the state in war.

4. *Credit of the State.* The legislature cannot give or loan the credit of the state in aid of any individual, association, or corporation; nor shall the state ever become a joint owner or stockholder in any company or association in the state. In 1976 an attempt by the Ohio Housing Development Board to issue and sell insured multifamily housing revenue bonds, under authority of the legislature, for the construction and rehabilitation of low and moderate income rental housing was declared unconstitutional under this provision.

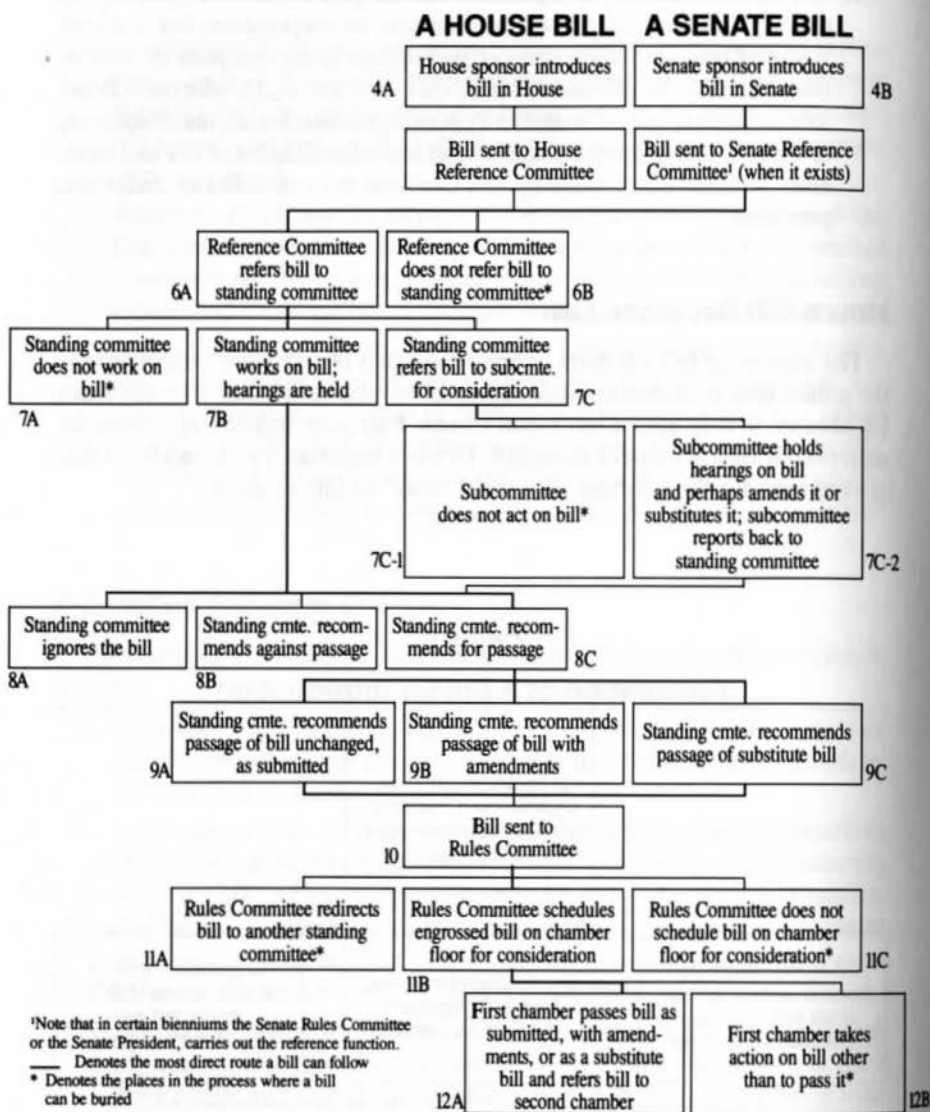
How a Bill Becomes Law

The process of bill adoption or enactment into law appears complicated to the uninitiated; it was intentionally designed to make it difficult to finally enact legislation, to help assure its careful review. Formally, legislation follows the patterns outlined in Charts 1 through 4. Of more importance to the study of Ohio government are the informal "ins" and "outs" of bill adoption.

Chart 1:
Preparation of a Bill for Introduction



**Chart 2:
Action by the First Chamber**



**Chart 3:
Action by the Second Chamber**

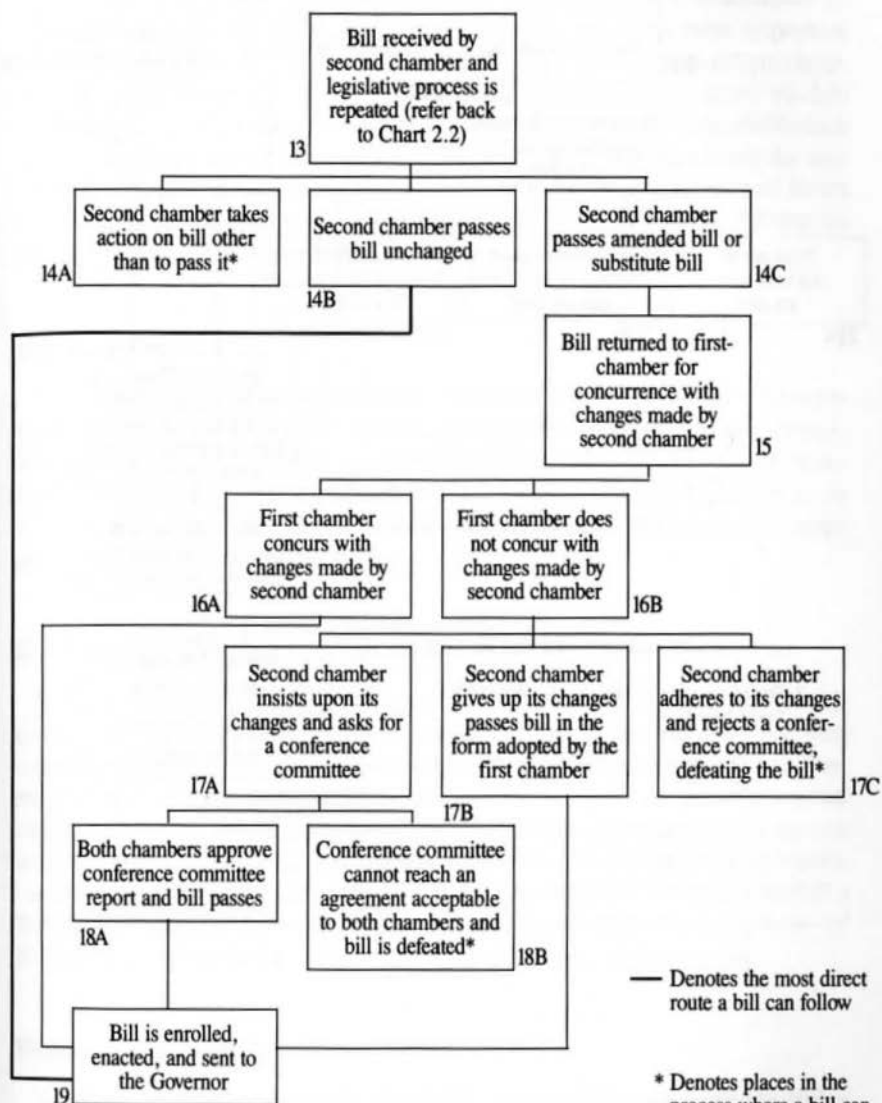
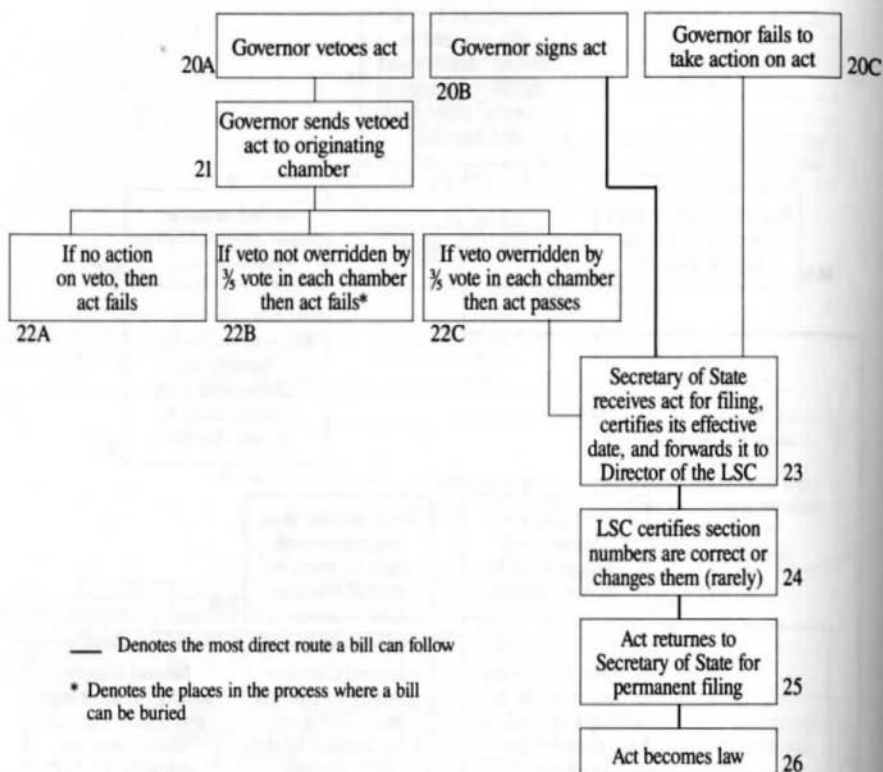


Chart 4:
Action by the Governor



The "Ins" and "Outs" of Bill Adoption

Most citizens studying legislation want to know how to get it adopted. The formal process is similar to a road map showing the route to a destination. In both situations, the kind of vehicle used and the driver can be more important than the map. Some vehicles (bills) are more high-powered than others (resolutions); some have more accessories (amendments); some are newer models (substitutes); some are in better condition; some have expert drivers (lobbyists) while some drivers need more experience. Some of the key steps along the way toward bill adoption are its introduction, committee consideration, and Rules Committee scheduling. These are like critical junctures on a road where making an error can get you hopelessly lost.

Introduction

In bill introduction the more sponsors there are, the better. The first signator is the prime sponsor. Other key signers, signalling likelihood of eventual passage, would be the chairman of the committee likely to receive the bill, and the ranking minority member of that committee. If a bill has a particular impact on some geographical area of the state, sponsorship by the head of that area's delegation could also be important.

Committee Consideration

Once introduced, a prime sponsor must work with the referent committee to get a hearing scheduled. The sponsor must line up proponents and work with opponents, trying to allay their fears and address their problems. If need be, amendments and the compromises they require will have to be drafted. In most cases, if a bill is scheduled to be heard, the chairman is signalling he is prepared to report the bill out for further legislative action. Usually only the sponsor's ineptitude or circumstances a sponsor could not foresee will prevent the bill's further movement. Along the road to passage, occasionally the complexity of the issues involved in the bill will also cause delay in its movement.

Rules Scheduling

Once approved by committee, the bill's driver must work with the Rules Committee to get it scheduled for floor action. Here critical issues include making sure that enough votes are lined up to pass the bill *before* it is placed on the calendar and preparing arguments to both convince proponents to "stay the course"

and dissuade opponents. Even the place a bill is put on the calendar can be critical. The first bill of the day will get more attention than the last, if for no other reason than human fatigue.

Factors Affecting Bill Passage

These are only some of the high points of steering a bill to its destination. There are other important factors, including:

1. Legislative credentialling.
2. Strategy.
3. Timing.
4. Influence.
5. Substance.

1. Legislative credentialling

Some legislators have better "credentials" than others, and their ability to get things done is, therefore, greater. In a system where everyone is each other's peer, formal and informal methods evolve for distinguishing the powerful from the less powerful. In a formal sense political power is achieved by obtaining a position of leadership on a committee or subcommittee or becoming a ranking minority member. Ways to get those positions are primarily, but not only, through *seniority* and *specialization*. Although neither of these is a guarantee of power, and other factors can override the influence of these two, they are of primary importance.

In the House, the first official recognition of power will come with the appointment to chair one of the chamber's standing committees or a subcommittee. In recent years official subcommittees have been formed within some committees. In the 117th General Assembly only the House Education Committee had a separate formal subcommittee (on colleges and universities). The House has always subdivided the Finance-Appropriations Committee into three sections (education, human services, and general), and the chairman of each of these sections (sometimes called subcommittees) enjoys power and prestige comparable to the chairman of any full committee. The Senate has no standing subcommittees.

There is much more to legislative credentialling than seniority. Seniority can make one officially eligible for a leadership post but it does not ensure "clout" — the muscle to get things done in the legislature. That is achieved by becoming an "insider," and the route to the inside has many paths.

One path is to be perceived as a "good lieutenant," someone who will follow the dictates of the President of the Senate or the Speaker of the House, even in

those cases where constituency or conscience would dictate an opposite action. It means a legislative "lieutenant" must be willing to campaign for other members' re-election bids, attend political party events and assist in convincing other legislators to vote "the right way," while not criticizing the leadership or its policies.

Maintaining discipline in an organization of peers, such as the legislature, is difficult. There are different ways of maintaining discipline. A leader can be a strong disciplinarian or he may use rewards and punishments to persuade his members to act in a certain way. The length of the terms of office of the House and Senate may influence the methods a leader may choose. For example, the Senate President may use more persuasion to lead since only one-third of the members are up for re-election each two years, thereby providing greater member security. On the other hand, all House members must be re-elected each two years. Thus they will want the support of the Speaker in re-election bids each two years, whereas Senators need similar support only every four years.

"Credentialled" legislators are identified by phrases like, "A man's word is his bond," "he has personal integrity," and the like. Influencing the outcome of legislation (including adoption of desired amendments) depends to a large extent upon selecting the legislator with the best credentials or, lacking that ability, selecting the lobbyist with the best credentials who has access to the best credentialled legislators.

Specialization, as already described, is another important trait to recognize in attempting to influence the legislature or to identify its power structure. Legislators tend to specialize in certain areas of expertise. Legislator's specialties are generally the same as the subject matters identified in the titles of standing committees. But other kinds of specialties exist as well. Some legislators are superb parliamentarians, which is a handy trait when it comes to legislative strategy. Others are especially good at certain kinds of constituent work. Some are excellent fund raisers (this, of course, is one of the traits that will help to ensure longevity for a Speaker or President). Some know their way around the Governor's office, the administration, or a particular agency of government. Each of these specialties becomes a power base for its occupier and enhances the ability to get things done in the legislature — a body where information is power, and those who control the information flow also control the power.

2. Strategy

There are all kinds of strategies that are employed to influence the outcome of the public policy debate that is at the heart of the legislative process. It is not possible to exhaustively list or describe all of these, but the

following illustrations may help the reader understand some of the ways of working with the process to achieve desired ends. The reader is directed to Chapter 10 for a more detailed discussion of lobbyists and lobbying.

One strategy is to stimulate massive support for a proposal. This can involve letter writing, telephoning legislators, signing petitions, or demonstrating. It can also mean garnering media support and editorial commentaries on the proposal. These are all strategies that can be successful, but they can backfire as well. Letters that are clearly "form letters" are probably worse than not writing at all in terms of the influence that they have on legislators. Petitions usually have little influence on legislators, since legislators are aware that the process of obtaining signatures does not require the signer to really make a commitment of support. A more useful mass appeal strategy results from hand-written letters from constituents to their individual legislators expressing their true opinions on a subject.

Influence by the press, however, is a different story. If media support for a proposal can be obtained, it can influence public opinion and add visibility to an issue. The record would probably show that the press, in recent years, has been most successful in calling legislative attention to areas where public policy should be altered than in determining or helping to determine specifically how that policy is altered. As a result of attention brought through investigative reporting, abuses at mental institutions have come to light, problems associated with the state's drunken driving laws have been identified, problems of policing medical malpractice have received attention, and many other policy areas have been exposed to public scrutiny. In every instance of public scrutiny, there has been a legislative response. That response, however, is affected by the political process and achievement of consensus among a variety of interested and affected parties. The specific public policies that have emerged have not been predetermined by the media.

Another strategy consists of trying to win a legislator over to one's point of view through the provision of favors. The idea, "if you scratch my back, I'll scratch yours," applies throughout the world and, in this respect, the legislature is a representative microcosm of the world. That is not to say, however, that this strategy always works; it may help to explain some aspects of getting and holding power. It may also predispose the legislator to look favorably on the things the citizen (lobbyist) would like to do. Providing favors which extend to the question of a legislator's personal integrity should be avoided. Experience shows that in the long run those which compromise integrity will not be received favorably and could result in permanent damage to the grantor.

One of the least successful strategies is that of threats, implicit or explicit. Certain kinds of threats can, in fact, lead to successful results but there will always be a penalty paid for using them. In spite of negative public opinion, most

legislators have a high degree of personal integrity and do not take kindly to threats any more than non-legislators do. If the threat is followed up with action, such as withholding political campaign funds or developing community pressure, the follow-up action may yield a satisfactory result. An empty threat, however, is not useful.

The power of persuasion is probably one of the best strategies. It requires the utilization of negotiation skills, knowledge about the subject under discussion, and a belief in the rightness of the cause. When all of these factors come together, persuasion becomes simple and the results can be most gratifying.

3. Timing

Closely related to strategy is timing. Knowing when an issue is ripe is a matter of observation and instinct, and depends upon a thorough knowledge of how the legislature works. Here are some timing rules.

It is too early to try to influence the Senate when a bill is in the House; it is too late to influence the outcome of a bill when it has left the committee of first reference and is on its way to the floor for debate. It is too early to go after floor votes while a bill is bottled up in committee. It is too late to change a member's vote after a party caucus has been held on an issue. But, like all rules, there are exceptions to the one that suggests that timing follow the flow of legislation. The successful legislative participant knows when to break rules and how to do so successfully.

When a legislative committee is considering a measure, this is probably the most critical stage determining its survival. It is important to know when to offer a critical amendment — offering it too soon can kill it, as can offering it too late. Sometimes amendments will pass in committee, and bills will pass on the floor, when the patience and endurance of the legislators is at an end — when they have been stretched to their limits and can only think about recess or adjournment. This is probably why so much legislative business takes place in the wee hours of the morning or why there is such a flurry of activity close to scheduled vacations, breaks, or recesses — when it is known that there is a deadline, even if artificially imposed, for final action. "If I don't get my bill out of committee by the time the legislature recesses for Easter, I'll probably never get it out" is a common complaint. Realistic or not, it serves to spur legislators to actions they might not otherwise take.

The successful legislative leader capitalizes on the tendency of legislators to wait to act until they are under pressure. This is probably just a reflection on the human tendency to want to postpone a difficult decision until it can no longer be evaded. This is most clear in the case of a budget bill, which is never passed

before the end of June, where failure to complete action by the end of the fiscal year will stop authorized state spending.

Another kind of pressure comes from time running out before some external force takes over. Examples include the federal government imposing sanctions against a state, a lawsuit being unsatisfactorily concluded, or an undesirable administrative action taking place. Sometimes it is good strategy to conjure up potential pressure as a means of encouraging legislative action. Choosing the right moment to act often means gauging the extent of pressures on legislators and the legislative process.

4. Influence

Public policy is seldom the result of any single influence, but is rather a matter of legislative balancing of a multiplicity of influences.

The extent to which external influences are brought to bear upon legislators will also affect the outcome of the legislative process. Influence comes from a variety of sources, including political party leaders; the Governor; administrative agencies; interest groups; constituents; family; friends; legislative staff; mayors and other local officials; the federal government, including members of Congress and the administration; the press and the electronic media; and the so-called general public. No single influence can be said to be predominant in a given instance. The "dance of legislation," as it has been called, is played to a variety of tunes and a variety of musicians (more Shostakovich than Brahms) often at odds with one another.

5. Substance

Not to be neglected in considering how the legislative process operates, is the substance of a measure and its merits. Legislators have been known to pass "bad" bills, although what is bad is often a subjective judgment. Anything liberal is bad to some conservatives. Any restriction of rights is bad to some liberals. But there are some bills where, for numerous reasons, the effects are incorrectly perceived or which result in totally unforeseen consequences. It is these which the process seeks to avoid.

Legislators rely upon those attempting to influence legislation to inform them about the issues and to provide them with good, reliable information about those issues. Whoever dreamt up the idea of the legislation or the amendment in the first place is felt to have a responsibility for explaining and justifying it. If the arguments advanced are not persuasive, or if they are countermanded with stronger arguments, then the issue will be lost, usually regardless of the strategies

employed, the influence exerted, the selection of appropriate timing, or the use of well-credentialed lobbyists and legislators.

A frequently heard adage in legislative halls is, "Do your homework." A bill's proponents rightly expect its supporters to be able to justify each of its provisions and, when needed, produce substantiation for positions taken. When substance is important, it means that a genuine problem is perceived, a legislated solution is believed necessary, and a concept of public interest in getting a workable solution is involved.

These, then, are some of the ways in which the legislative process actually operates. The end result is adopted public policy in the form of statutes.

7 Legislative Functions: Making Appropriations

Constitutional Provisions

The General Assembly has the constitutional responsibility of appropriating monies for the operation of state government. Without an appropriation, which is the legal authority to spend, no agency of state government can perform its functions. Article II, Section 22 of the Ohio Constitution provides:

- No money shall be drawn from the treasury, except in pursuance of a specific appropriation, made by law; and no appropriation shall be made for a period longer than two years.
- In order to derive the funds necessary to support appropriations, the Ohio Constitution provides the General Assembly with the power to raise revenue in Article XII, Section 4.
- The General Assembly shall provide for raising revenues sufficient to defray the expenses of the state for each year, and also a sufficient sum to pay principal and interest as they become due on the state debt.

But the power to raise revenue, through taxation or other means, is limited. Article VIII, Section 1 of the Ohio Constitution authorizes debts "to supply casual deficits or failures in revenues, or to meet expenses not otherwise provided for," but the total amount of such debt is limited to \$750,000. That limitation, a minuscule amount considering the fact that the state's annual budget exceeds \$10 billion, has the effect of requiring that there be sufficient current revenue to support all authorized expenditures; in other words, the legislature must adopt a budget where revenues and expenditures are balanced.

The Appropriations Process

Appropriations are acts of the legislature and follow the same formal process as the enactment of any bill.

Among the things that distinguish appropriations review from other law-making are the number of groups actively involved and the different roles they play. The process involves the Governor and agencies defending their operations, legislators engaging in airing their and their constituent's concerns and complaints about programs operated by state agencies, interest group representatives offering fiscal solutions to societal problems, and legislators seeking to justify the expenditure of taxpayer and other monies. Unlike other legislation, there is a requirement that a biennial budget review take place and that the legislators reach decisions about spending and taxing levels by a fixed period of time — before the current biennium ends.

There are many specialized steps involved in appropriating monies, beginning with the submission of the Governor's Executive Budget Request.

The Executive Budget Request

The Constitution of Ohio provides that appropriations cannot exceed two years and, although the legislature could, and sometimes does, make appropriations for shorter periods, it has chosen to budget on a biennial basis. Each two years the chief executive solicits fiscal and program information from the more than 180 departments, agencies, boards, and commissions that constitute the executive branch of government. These are reviewed and modified, and then used as the basis for preparing the Executive Budget Request for the ensuing two years. In the odd-numbered years the request for operating monies is submitted to the legislature for their review, and in the even-numbered years a request for capital (land, buildings, and improvements) is submitted.

The Governor's budget is submitted to the legislature in the form of a bill which includes both proposals for law changes (intended to assist in the accomplishment of agency goals and objectives identified through budget preparation) and requests for appropriations. Accompanying the submission of the appropriations bill is the Executive Budget Document or "Blue Book," so designated because of the traditional color of its cover. In this document is found the best, albeit brief, current description of what each agency of state government does in Ohio.

Included in the Blue Book are summary tables listing the appropriations and revenue history of each source of state revenue and each item for which state expenditures are made. There is an explanation of expenditures for capital improvements and special reports of interest to both students of government and those seeking to influence the development of the state's budget. A particularly useful and controversial special report included in the Blue Book for the 1988-89 biennium identified a list of special tax breaks, or "tax expenditures," which

are not usually reviewed as part of the budget process but result in reductions in state revenues. Subjecting these to public exposure in a systematic way, for the first time, led the legislature to make some changes in these business subsidies. It also resulted in the identification of a list of possible sources of additional revenues for use by those seeking to influence the legislature to fund new activities or expand existing ones.

The bulk of the Blue Book is taken up with an agency-by-agency listing of the amounts requested for each of the more than 1,200 individual line items which comprise the biennial appropriations bill. The amount requested for each line by the agency and the Governor is shown, as well as a history of expenditures for the preceding two biennia.

Requests for monies submitted to the Office of Budget and Management (OBM) by elected officials other than the Governor (the Attorney General, the Auditor of State, the Treasurer, and the Secretary of State), by the independent judiciary and by the legislature, are passed on without review for incorporation into the Executive Budget Request. Unlike the request submitted by other executive branch agencies, these are not modified; they are transmitted as submitted.

In theory it is the responsibility of the legislature to determine the appropriate levels of expenditure for each organization of the government. But, for agencies under the control of the Governor, the Governor feels a responsibility to "get his request through the legislature." Inevitably, then, there is friction between the Governor and his agency directors and the legislature in the appropriations process. The points of conflict are identified as the steps in the appropriations process are described.

Preparation for Review

In 1973 the General Assembly established its own Legislative Budget Office (LBO) to provide it with financial analyses and research. This professionally staffed office is involved in a number of activities preparatory to consideration of the Executive Budget Request. Essential to the process is a projection of the amount of revenues that will be available during the ensuing biennial budget period (July 1 through June 30). Formal reviews of executive revenue forecasts and independent forecasts are made by the LBO. Inevitably there will be differences between the estimates of the Governor, prepared by the Office of Budget and Management (OBM), and the LBO. Ultimately, it is the legislature which must make a judgment about which estimates to rely upon in setting spending levels. If the General Assembly ultimately chooses estimates which are too high, they will have the responsibility of reducing appropriations or raising additional

revenues when it is determined that revenues will be insufficient to support appropriations levels. It is a critical matter and one which requires sound professional advice.

Another early preparatory step involves the review of agency budget requests. The Governor solicits requests from agencies of government but these requests must always be pared down to fit the reality of estimated available revenues. They may want to add monies for programs not sought by the Governor, expand existing programs, or eliminate or reduce them. Information about the agencies' priorities, frequently different from those of the Governor, is useful in establishing spending priorities to legislators and can be employed to challenge the executive. Historically these requests were considered to be proprietary to the Governor, and agencies would be severely chastened if they were to release such information to legislators. However, beginning in 1981, the executive agreed to provide copies of the agency budget requests to the offices of the chairman of the House and Senate Finance Committees and to the LBO at the time they are submitted to the OBM. Statutes require this but, as is the case with many statutes, there are no real penalties for failure to comply with this requirement. Therefore these requests are made available for early analysis on a somewhat spotty basis. There is no reluctance to supply information as it is received from independent boards and commissions, from elected officials and from the judiciary. However, before requests from major executive departments are turned over to the legislature in December (in spite of their earlier submission to the executive), they have been modified through negotiations with OBM and the Governor's office.

The budget requests of the Department of Education and the Ohio Board of Regents are different. Both of these agencies are under the direction of separately appointed or elected boards. Even though the Superintendent of Public Instruction and the Chancellor of the Board of Regents sit on the Governor's Cabinet, they are free to distribute information about their budget requests wherever and whenever they want, in spite of what the Governor might wish. Therefore, as a political tactic, public exposure is given by each of these agencies to their request for funds as soon as it is submitted to the executive. This means that legislative staff can review and analyze it for legislators at an early stage. It also means that legislators will inevitably be under pressure to come up with additional monies to support these requests when the executive request includes funding for only a portion of them.

Another early step is the preparation of estimates of need for certain categories of spending. In the budget struggle the two largest categories of spending are education (primary, secondary, and higher) and health and human services (including programs operated by the departments of Human Services, Mental Health, Mental Retardation and Developmental Disabilities, Aging, and Health).

Most of the programs of these agencies are based upon external factors or "budget drivers": enrollments, in the case of primary and secondary and higher education; caseloads, in the case of human services agencies.

The LBO, in its early preparation for the appropriations process, makes independent forecasts for the major welfare programs (Aid to Dependent Children, General Assistance, and Medicaid) and reviews the estimates of the other caseloads and enrollments for the purpose of evaluating their reasonableness.

The LBO staff analyses of revenues, enrollment, and caseload driven expenditures and agency budget requests are made available to the legislature through published reports and through individual memoranda to legislative leadership. The general reports are available to the public through legislators; seldom will a persistent document seeker be denied access to these data. Individual memoranda may be more difficult to obtain simply because one must usually know that a particular memorandum exists before it can be sought. However, it is generally true that there are no secrets in the legislative branch and, eventually, most fiscal information used in the appropriations process is accessible.

Consideration in the House

The Governor submits his request for appropriations in the form of a bill which is introduced in the House of Representatives by the Chairman of the House Finance Appropriations Committee. Traditionally, the sponsor specifies that the bill has been introduced "by request" and it is so designated. This means that someone else, in this case, the Governor, sought the bill's introduction; the sponsor does not want to appear to endorse all of its provisions.

Unlike other legislation which will receive proponent and opponent testimony and then be acted upon, the appropriations bill will be subjected to far more rigorous scrutiny and debate.

The House Finance-Appropriations Committee consists of 27 members, more than one-fourth of the total House membership. A freshman, or even a second-term member is seldom appointed to the Committee; it includes the chairmen of many of the standing committees and other House leaders. For purposes of appropriations review, the Committee is divided into three sections (as distinct from subcommittees which is the traditional designation of committee sub-units): General, Human Services, and Education. The appropriations for all agencies and purposes of government are assigned to the sections on the basis of expected workload and other considerations. The Chairman often reserves the largest spending agencies for full Committee review and consideration, in spite of their nominal assignment to one of the sections. In general, the section titles reflect the agency assignments, but not always. For the 118th General Assembly

assignments were divided as shown in Table 4.

Table 4
House Finance-Appropriations
Subcommittee Agency Assignments

SCHOOLS AND UNIVERSITIES

Education, Department of
Educational Broadcasting Commission, Ohio
Regents, Ohio Board of
Higher Education Facilities Commission
School and College Registration, State Board

SPECIAL AGENCIES

Lottery Commission, State

REGULATORY AGENCIES

Accountancy Board of Ohio
Chiropractic Examining Board
Consumers' Counsel, Office of the
Counselor and Social Worker Board
Dental Board, Ohio State
Engineers and Surveyors, State Board of
Examiners of Architects, State Board of
Medical Board, State
Nursing Education and Nurse Registration, Board of
Optical Dispensers Board, Ohio
Optometry, State Board
Pharmacy, State Board of
Psychology, State Board of
Public Utilities Commission of Ohio
Veterinary Medical Board, State

INSTITUTIONAL SERVICES

Mental Health, Department of
Mental Retardation & Developmental Disabilities, Department of
Rehabilitation and Correction, Department of
Rehabilitation Services Commission
Veterans' Children's Home, Ohio
Youth Services, Department of

CITIZEN SERVICES

Aging, Ohio Department of
 Civil Rights Commission, Ohio
 Certificate of Need Review Board
 Commission on Minority Health
 Health, Department of
 Human Services, Department of
 Insurance, Department of
 Legal Rights Services
 Public Defender Commission, Ohio
 Recover Services, Department of
 Spanish-Speaking Affairs, Commission on

EMPLOYEE RIGHTS

Employment Services, Bureau of
 Industrial Commission
 Industrial Relations, Department of
 Workers' Compensation, Bureau of
 Barbers Board, Ohio State
 Boxing Commission
 Cosmetology, State Board of
 Embalmers and Funeral Directors, State Board of
 Liquor Control Commission
 Liquor Control, Department of
 Occupational Therapy and Physical Therapy Board, Ohio
 Racing Commission, State
 Sanitarian Registration, State Board of
 Speech Pathology and Audiology, State Board of

AGRICULTURE, ENVIRONMENT, AND NATURAL RESOURCES

Agriculture, Department of
 Air Quality Development Authority, Ohio
 Environmental

TAXATION AND REGULATION

Dietetics Board
 Personnel Board of Review
 Respiratory Care Board
 Tax Appeals, Board of
 Taxation, Department of

VETERANS

Veteran Organizations
Veterans' Home, Ohio

ECONOMIC AFFAIRS

Commerce, Department of
Development, Department of

LEGISLATIVE AFFAIRS

House of Representatives, Ohio
Legislative Service Commission
Senate, The Ohio

GOVERNMENT FUNCTIONS

Attorney General
Auditor of State
Ethics Commission, Ohio
Governor, Office of the
Lieutenant Governor, Office of the
Secretary of State
Treasurer of State

GOVERNMENT SERVICES

Adjutant General
Administrative Services, Department of
Budget and Management, Office of
Employment Relations Board, State
State and Local Government Commission of Ohio

JUDICIARY

Court of Claims
Judicial Conference of Ohio
Judiciary, The
Supreme Court

In the 118th General Assembly the House also created a fourth subcommittee to consider proposed tax increases. The Senate Finance Committee also set up three three-person subcommittees with the same names as the House subcommittees to divide responsibility for budget deliberations.

Staffing

The LBO assigns a specific staff person to work with each Section Chairman. The full Committee is aided by five professional staff: an LSC staff person to assist the Committee in drafting general language and to provide technical bill-drafting and research assistance on a nonpartisan basis; a partisan fiscal expert appointed to work with the members of the majority party and another to work with the minority; an LBO staff person to act as a liaison to the majority party and another to work with the minority. A similar staff arrangement exists in the Senate.

Ground Rules

In early January the Speaker, Section Chairmen, Committee Chairmen and fiscal staff meet to set the ground rules for the conduct of the review of agency budget requests. Typically, the LBO will present a suggested procedure which will then be reviewed and modified, if necessary. Since the Legislative Budget Officer will have gone over his ideas earlier with the Speaker, major changes do not usually occur. The ground rules will vary from session to session but these could be considered pretty typical:

1. Each Section Chairman is to develop his own procedure for reviewing agency budget requests. The LBO staff prepares an analysis for members' use. It includes a summary of each agency's goals and legal authority, a history of its spending, a comparison of the agency budget request and that submitted on its behalf by the Governor, and an explanation of any special circumstances, that should be brought to legislative attention (such as deviations from legislative intent). The LBO staff will also prepare a series of probing questions for possible use by the chairman during the hearings.
2. After the Chairman conducts hearings on agency budget requests he is to submit recommendations for appropriation levels. The chairman will be limited in the total amount he may request for all of the agencies under his jurisdiction. The limit will usually be less than the total requested by the Governor for all those agencies.
3. Since the basic expectation will be that the budget review will result in reductions from the executive request (even though some agencies or programs within agencies will be recommended to receive more), there will be developed a "pool" of "released" monies.
4. The amount of released money expected from each section chairman may be predetermined and given to him as a goal to meet. The pool of released money will either be used in concert with additional

revenues derived from elevated revenue expectations, increased taxes, or non-tax revenues, or to make up for anticipated revenue shortfalls. Decisions on how these excess monies are to be used is predetermined. For at least the past decade, the bulk of it has been used to provide additional monies for primary and secondary education programs, plus special priorities which are called to legislators' attention. These are expected to be brought to the attention of the Committee Chairman and the Speaker.

5. Section Chairmen will make recommendations for changes in law affecting agencies. In the 117th General Assembly these kinds of provisions were incorporated into a separate piece of legislation which was reviewed and passed while the Senate was conducting its hearings on the appropriations bill.
6. When it is time to offer amendments in the full committee, all members are to submit their amendments to the Chairman several days in advance of the "bill mark-up" session. This enables staff to review them for accuracy and determine their fiscal impact. It also provides the Chairman the opportunity to identify areas of possible controversy.

House Committee and Section Review

Section Chairmen may make their recommendations of language and appropriations amounts with or without the formal approval of the members of a section. Favored agencies are rewarded with higher appropriations than less favored agencies. The purpose of hearings in each section is to examine agency operations and the legislative opinion of those operations is reflected in the appropriations recommendations. The hearings will also include testimony from interest groups seeking to influence the recommendations to be made. The section review is an especially critical stage because it is the only place where almost anyone with an opinion can be scheduled to be heard. It is also the place at which the most detailed, technical program review will take place. Those seeking to add monies to the Governor's budget request, or to protect amounts recommended by it, must seek to influence this early stage in the proceedings, or run the risk of later being accused of not having had sufficient interest to justify a "johnny-come-lately" request.

While the Section Chairmen conduct their hearings, the full committee reviews major fiscal issues such as the overall economic outlook and revenue projections; the tax climate; and proposals for spending for the Department of Human Services, the Department of Education and, possibly, other agencies which are especially critical in a given biennium. For example, prison funding may be

a volatile issue one biennium and funding for a reorganized mental health program in another.

The advantage of having hearings on major agencies and issues conducted before the full Finance Committee is that, unlike smaller agencies, the total membership of the Committee, will have the benefit of hearing the justification for appropriations proposals for items of major concern. These meetings are all well-attended by legislators, by the press, and by lobbyists.

Formulation of House Recommendations

After four weeks of strenuous and time-consuming hearings, serious negotiations on what will become the House recommendations begin. The recommendations of the Section Chairmen are almost never formally announced (unless they are "leaked" as a strategy to strengthen a Chairman's position in the negotiations process). Instead, they surface at a series of private meetings which are held with the Speaker presiding. Only the key members of the majority party, an aide to the Speaker, and the Legislative Budget Officer attend these meetings. Others, such as representatives of the Governor's office and agency directors, are sometimes invited to come in to clarify points, but usually questions are reserved for telephone conversations. The administration knows that during this two-week period it must be available on an "as-needed" basis or risk jeopardizing its appropriations request.

What emerges from these negotiations is a substitute appropriations bill. It is based upon the revenue forecast the majority party wishes to endorse. It is also predicated on its own spending assumptions, and it represents the statement the House majority party wishes to make about its spending and program priorities for the coming biennium. At this stage the Speaker and the Chairman of the Committee are concerned with satisfying the major interests that will coalesce into a bill capable of achieving consensus, at least within the majority party. If possible, there should be enough in the bill to garner at least some minority party support so that it does not appear to be strictly a partisan measure. The Speaker, and the majority party, will be concerned with satisfying the special needs and interests of all groups (e.g., the Black Caucus, the Women's Caucus, delegations of each area of the state, and labor and business). Every appropriations bill that passes legislative muster will have a little something for everyone; how much or how little is designated for each group is part of the negotiations process that takes place outside the public view.

After negotiations are completed, and several "dummy" draft substitute bills have been prepared, examined, and discarded, a proposed substitute bill is drafted. It then becomes the responsibility of the Chairman of the Finance-

Appropriations Committee to garner the needed 14 committee votes to move the bill to consideration by the full House. He will later have the responsibility of ensuring there will be the 50 votes needed for House passage. Even though there are enough majority party members on the Committee to ensure approval, members may be reluctant to vote in favor of the bill unless certain pet projects of theirs are funded. House members not serving on the Finance Committee will also try to influence specific appropriations.

Once leadership negotiations are completed and staff has had sufficient time to translate policy decisions into appropriations numbers and language, members are usually given copies of the proposed substitute bill to review over the course of a weekend. On the following Monday the bill is formally presented in the House Finance-Appropriations Committee (usually in late March). It is only then that the public has an opportunity to view its contents. During the remainder of the week, agencies, lobbyists, and members scurry to get copies of the bill and its supporting analyses and then to have amendments to the bill drafted. These will be considered in a one- or two-day marathon session of the Committee later in the week. At this time corrections will be made and numerous amendments adopted, but they will usually involve only small amounts of money, enough to help gain the votes needed to insure both committee and subsequent House passage.

House Consideration

Under special rules of the Speaker, when the bill reaches the floor, only technical, non-substantive amendments will be approved. Members of the majority rarely offer substantive amendments for to do so risks the Speaker's animosity; minority members offer laborious amendments to make an official statement about their priorities for later use in political campaigning, but these are almost never adopted and, if one is, it is usually of minor consequence.

Senate Consideration

Once the House acts on the appropriations bill recommended by its Finance-Appropriations Committee, the Senate begins its examination, usually after reviewing the House action during Easter recess (approximately 10 days). The Senate is still interested in the Governor's original budget request, but more as a matter of historic interest, since the starting point for its deliberations will be the House-passed version of the appropriations bill.

The Senate Finance Committee conducts its own budget hearings but, because the Committee has only 11 members, using subcommittees is not very practical.

Typically, the Senate Education Committee will be asked to review the appropriations request of the Department of Education and make recommendations to the Finance Committee respecting them. This relieves the Finance Committee of considerable responsibility but it also places much of the decision-making respecting education programs in the hands of a friendly standing committee. Other standing committees, particularly the Senate Ways and Means Committee, may be brought in to help with specific budget programs and issues. In the end, though, the recommendations that emerge from the Education Committee, or other standing committees, must be tempered with other decisions made in the Finance Committee so that the end result will be recommendations for a balanced budget proposal.

Senate budget decision-making tends to be less centralized than in the House. Decisions are still made by the majority party but since the members of that party usually include only 17-20 Senators, it is possible for everyone to have much more direct involvement in the appropriations process.

After about four weeks of full committee hearings, with smaller agencies receiving little or no formal public attention, all members of the Senate's majority party listen to recommendations from the Chairman and the other majority members of the Finance Committee. These caucus deliberations are secret and result in modifications from what the Senate Finance Committee proposed to recommend. The end product of these discussions is another substitute bill, this one representing the statement of priorities with which the Senate wishes to be identified. It then emerges in a meeting of the Senate Finance Committee at which time the minority party has the opportunity to view it for the first time and react with their own amendments which, just as is the case in the House, seldom pass.

Conference Committee

The measure ultimately goes to a Conference Committee. At this point six members, three from the House (including the Chairman of the Finance-Appropriations Committee and its ranking minority member) and three members from the Senate (including the Chairman and ranking minority member of the Finance Committee), will make final decisions about the appropriations that will be adopted to run state government for the ensuing two years.

In Congress, the members of a Conference Committee are limited in that they may only consider and reach a compromise over matters which have been in dispute between the two houses. In Ohio, conferees are able to introduce new appropriations and language previously unexamined; they may eliminate appropriations or provisions of law which had been previously unquestioned by either house; and they may make changes completely unlike the original provisions

of either house. The objective of a conference committee on appropriations is to strike the kind of balance that will permit the members of both houses to say to their constituents that they salvaged the essence of their positions. To assist in achieving this result, the rules require that four members of the Committee sign a conference report, the document which signifies agreement. But it cannot be any four members of the committee; it must be two members from the House and two from the Senate.

The final agreement emerges in the form of still another substitute bill. This one was conceived in secret, as were the others. Unlike the others, on this one there are no formal hearings; members sequester themselves, even from their colleagues; outsiders are permitted in the deliberations only on request and usually only to clarify specific points; even the numbers and kind of staff permitted in the meetings are strictly regulated. There is no subsequent public scrutiny of the substitute bill. There is only a very brief time (usually a few hours) to even look at the several-hundred-page report, and copies are at a premium.

Since the members of the House and Senate cannot amend a conference report, or substitute bill, which emerges as a result of the Conference Committee's discussions, they are prone to criticize the results as negating all the democratic hearings, discussions, and voting which had preceded it. If members' criticism is sufficiently severe, and the results of the deliberations sufficiently obnoxious, members will vote down the report and a new conference committee may be appointed. When this occurs — and it has on occasion, in spite of the pressures to enact a new appropriations bill before the old one expires on June 30 — it is common to change only one member on the committee or even leave the committee intact.

Interim Budgets

It has happened, though, that one member of a Conference Committee has remained sufficiently steadfast so that deliberations extend beyond the expiration of the existing appropriations act. In this case the General Assembly will pass an "interim" appropriations act. A few days before June 30 it will generally be known whether such a measure might be needed, and the LBO staff usually has an interim measure ready "just in case." Certain appropriations will be made for a full year, such as those for pensions and debt service, in order to assure debt-holders and bonding companies of the safety of their investments, but the bulk of the appropriations will be for a very short period to continue to put pressure on the conferees to reach an acceptable agreement. Interim bills have been for as long as three months to allow for a "cooling-off" period, and for as short as one day.

Gubernatorial Review

Once there is agreement on an appropriations bill, it is engrossed and immediately forwarded to the Governor who has ten days to decide whether to veto it, sign it, or allow it to become law without his signature, as has been done with other bills. What almost always happens, though, is that the Governor will exercise the line-item veto power. Using this power the Governor may eliminate individual items, provisions, phrases, words, sections of law, or actually write in a new number instead of the one provided in the bill for a specific appropriation (although students of constitutional law believe that if challenged in the courts such a modification would fail to pass constitutional muster).

Because of the pressures of time, aides to the Governor and staff of the Office of Budget and Management carefully review the compromise bill from the moment it is made public, and the work preparatory to line item vetoes takes place before actual bill passage. In fact, in order to reach agreements on sticky points of contention between the two houses, there have been occasions when the leadership may have arranged with the Governor to line-item veto one or more items which were included in the bill to gain passage but which were recognized as unpalatable or, possibly, unconstitutional. For example, to gain the needed signature of a particularly conservative conferee, a compromise bill might include a provision prohibiting the use of any appropriated monies for school busing to prevent discrimination. Since the state is under court order to assist in paying for court-ordered busing, it would not be unexpected to see a provision such as this line-item vetoed.

Summary

While the process of appropriating funds is, in outline form, the same process used for enacting all other legislation, its complexity makes it different in the following ways:

1. it weaves in many more actors.
2. it involves different kinds of public hearings and scrutinization of agency operations.
3. it uniquely combines the legislative responsibility of overseeing the executive and judicial branches of government in a setting (the Finance Committees) where the goal is more the protection of the public purse than the solving of societal problems, which are the main concern of all other standing committees of the legislature.

8 Legislative Functions: Initiating Constitutional Amendments and Other Constitutional Duties

The Ohio Constitution may be amended by three methods:

1. Joint Resolution.
2. Initiative.
3. Convention.

1. Amendment by Joint Resolution

The General Assembly may propose constitutional amendments by introducing a joint resolution in either house. It must, however, be approved by three-fifths of the members, rather than by the simple majority required for other changes in the law, before it can be certified to the Secretary of State for submission to the electorate. Since joint resolutions are not law, they need not be signed by the Governor. A simple majority vote of the electorate will pass the resolution.

In order to appear on the ballot of a general or special election, a joint resolution must be approved by the legislature at least 90 days before the date of the election; its language must be certified to the Secretary of State at least 75 days before the election.

The language of an amendment is critical and every effort is made to ensure that it does not sway voters in one or the other direction. The ballot language, and an explanation of it, is prepared by a majority of a five-member Ohio Ballot Board, which includes on its membership the Secretary of State. Arguments for and against the measure are also prepared, and these are printed for electors to examine prior to the election.

2. Amendment by Initiative

Ohio is one of 17 states that permits amendments to the constitution to be placed onto the ballot through citizen initiative. In order to so certify, 10 percent of the total number of persons who voted for the Governor in the last election must file valid signatures on an initiative petition, and at least five percent of the qualified voters must reside in each of one-half of the counties in the state. A simple majority vote on the amendment will cause it to pass.

3. Amendment by Convention

Every 20 years since 1932, voters have been asked at the general election, "Shall there be a convention to revise, alter, or amend the constitution?" If a majority approve, the General Assembly, at its next session, is to provide for the election of delegates and the assemblage of a convention. In addition, when two-thirds of the legislature approve, they may place the same question on the ballot at any time. If a convention is called, it will consist of 99 members who are to convene within three months of their election.

Amendments to the Constitution

The Ohio Constitution contains 26,300 words. It has been amended 140 times since its adoption; another 94 amendments were rejected between 1851 and 1988. The original Constitution called for a convention to be held in 1911; one was convened in January, 1912. Thirty-three of the 41 changes proposed as a result of that convention were adopted by the voters at a special election held on September 3, 1912, including the following:

1. Provision for initiative and referendum, popular methods of changing the state constitution and laws.
2. Municipal home rule.
3. Establishment of a merit system for state civil service.
4. Authorization of a workers' compensation system.
5. Authorization for laws governing minimum wages and maximum hours of labor.
6. Establishment of the direct primary election as the means of selecting candidates for public office.

Since these monumental changes made in 1912, other significant changes have been made on an amendment-by-amendment basis, except for 1953 when the voters approved seven amendments to remove obsolete matter from the Constitution.

Length of Constitutions

Students of government sometime examine the length of constitutions to gain insight into the extent to which the public involves itself in public affairs. Such studies also suggest the amount of trust or distrust the public has in its legislative body; this based on the theory that the longer the constitution, the lower the level of trust. Whether this kind of a comparison is useful or not, there is some justification for trying to keep the constitution "pure." Purists believe constitutions should contain only matters of permanency which should not be subjected to frequent legislative change, particularly when political party control changes. Alabama holds the record for length with a constitution of 174,000 words, having been amended 452 times. The shortest constitution is that of Vermont, adopted on July 9, 1793 and amended only 49 times since then.

There are probably some matters in Ohio's Constitution which would have been better left to legislation, but Ohio is about average with respect to constitutional length. One of the most frequent reasons for amending the Ohio Constitution is to authorize debt exceeding the constitutional limit of \$750,000. The two most recently approved constitutional amendments authorize bond sales to finance a state low-interest home mortgage program and to establish a capital improvements program to rebuild Ohio's infrastructure.

Overseeing the Executive Branch

An often overlooked, but extremely important, function of the legislature is to oversee the executive branch of government. The function flows from the essential principle of American government which separates political power into three separate but equal branches of government. To prevent any one branch from exceeding its intended allotment of power, Constitution drafters built in a number of "checks" and "balances" to the system. One of these is legislative oversight.

Having said this, it should also quickly be added that, on a formal basis, this is probably one of the least best-developed of the legislative functions. Much has been written to encourage the legislature toward conducting what are called "performance audits," that is, formal examinations of specific agency programs to determine their efficiency and effectiveness. Since this technique was first used widely in the 1970s, legislatures, including Ohio's, have shown too little interest in the activity to warrant extensive use of it. Yet oversight is important, and there are things that the Ohio legislature does to provide requisite oversight of the executive branch.

With the size of Ohio's executive branch (approximately 60,000 employees), it is somewhat unrealistic to have 132 legislators responsible for assuring public accountability of the employees and of the thousands of programs they

implement. The most that the legislature can do is to make its influence felt by periodically exercising this function in blatant cases of mismanagement or scandal and to perform a rather perfunctory review in other cases.

The legislature often organizes separate investigating committees to look into administrative problems. In recent years these committees have looked into such issues as the cause of a savings and loan crisis which led to the closing of a number of institutions, reports of patient abuses in the state's mental retardation facilities, and care of persons confined to nursing homes subject to state regulation.

Special ad hoc committees established to review problems such as these may hire their own staffs or they may use the staff already available to them through the Legislative Service Commission. In most instances they will also have their personal staffs involved in order to work with the political components of the problem such as assessing public opinion, working with the media, issuing periodic press releases, assessing the impact of given actions upon re-election chances, and addressing constituent complaints and concerns. The committees' goal is to come up with recommendations for legislative action which will remedy the problems.

Short of a problem erupting into the kind that requires a special committee and the attention that produces, there is a need to review whether programs established by the legislature are being implemented as they were originally intended. In this respect Ohio falls somewhat short of the more sophisticated program review or performance evaluation processes used in other states. The Legislative Service Commission is designated as being responsible for conducting regular oversight studies and does so when required by law or asked by the Commission, its leadership, or the legislative leadership. There is little legislative support for the conduct of such reviews in Ohio; thus, they are not high on the legislative or the legislative staff's agenda. This is in contrast to states such as Connecticut, New York, Virginia, South Carolina, and some others, where senior legislators serve on umbrella oversight committees with specialized staff conducting regular studies which lead to improvements in administrative implementation of state policies. It is also in contrast to the Congress where each standing committee has a separate oversight subcommittee which regularly reviews the operations of programs of the agencies under their jurisdiction. It may be that research would reveal that legislative leaders do not want to initiate something that might be uncontrollable, as honest program review could be.

To some extent Ohio, along with most other states, utilizes its budget process as a vehicle for regular executive oversight. It is the only time that an agency is *regularly* (every two years) called upon to explain and justify how it operates the programs that the General Assembly established. In budget hearings more attention is paid to questions of why an agency failed to do something or

why it took a particular action, than how it can justify its or the executive's budget request. Because of the short amount of time available for program review and examination, the pressures under which the review takes place, and the limitations of staff and expertise, it would be difficult to consider these reviews in-depth or thorough.

A good deal of legislative oversight also occurs as part of the process established for constituent service. Constituents frequently complain about agency operations (e.g., "I was on the highway and saw lots of state workers standing around and drinking beer," or "I spotted a state vehicle with license plate number 234 parked for hours in front of a local bar"). Through legislative review of these complaints individual agencies may have to explain or justify the circumstances of the complaint to an individual legislator. If there are patterns of complaints, a legislator may introduce a resolution calling for a study of the problem, bring the matter to the attention of the legislative leadership for further action, or ask that the agency be called upon to explain its actions to a standing committee of the legislature or during the budget process.

Still another method used in Ohio to oversee the executive branch is through the Controlling Board, described in Chapter 4. This executive-legislative agency meets at least every two weeks at which time they consider upwards of 100 separate requests from state agencies for moving funds between appropriation line items, approving the release of monies already appropriated, seeking additional spending authority, or seeking approval for the issuance of personal service contracts without competitive bidding. In the process of reviewing these various requests, the Board is able to inquire about any matter of interest or concern about the agency and its programs and, if dissatisfied with the responses, postpone or even refuse to grant the request before them. Many state agencies dread their appearances before the Controlling Board because of the legislative members' use of that forum as a means of exercising their power to oversee the executive branch of government. There are limits to the usefulness of this form of oversight. Some agencies never have requests for Controlling Board action and would therefore be totally overlooked. There are only a few members of the legislature on the committee; therefore, it does not represent the full thrust of the Assembly. Finally, it is very difficult to structure questions that will lead agencies down a particular line of thought, so many times legitimate questions remain unanswered because they were inadequately developed.

Other Constitutional Duties

The Ohio Constitution provides for a number of special duties for the General Assembly to perform.

Election Returns

The election results for statewide office are to be directed to the President of the Senate who, during the first week of the next regular session, is to open and publish them in the presence of a majority of the members of each house of the General Assembly. If any one of two candidates has an equal number of votes, then the winner is to be chosen by joint vote of both houses.

Trial of Contested Elections

The General Assembly has the power to determine before what authority and in what manner a trial of contested elections is to be conducted.

Treason

The Governor has the power to grant reprieves and commutations of sentences, except for cases of treason and impeachment. In the case of treason, he may suspend the execution of sentence and report the case to the General Assembly which may pardon, commute the sentence, direct its execution, or grant a further reprieve.

Establishing Courts

Upon the vote of two-thirds of its members, the General Assembly may increase the number of judges on the Ohio Supreme Court or the Court of Common Pleas in any county. Other courts may be established with the same vote.

By concurrent resolution of the two houses, approved by two-thirds of the members, the legislature may remove judges from office. These provisions establish the legislative check upon the judiciary.

Terms of Office

The Constitution provides that the terms of office for all elective county, township, municipal, and school officers shall be such even number of years not exceeding four as is provided by law or the even number of years that may be specified in a municipal or county charter. The term of office for judges is also prescribed not to exceed six years. However, the Constitution provides that the General Assembly may extend existing terms of office.

9 Legislative Functions: Formulating Public Policy

Formulating public policy is broader than simply enacting laws. Laws deal with specific subjects, whereas public policies are the guiding principles that are embodied in the laws. Grasping the concept of public policy is difficult and involved.

Some states permit legislation to include a statement of purpose or intent. These frequently begin by stating the public policy of the state. Thus a tax abatement program would affirm the state's policy to assist economic development through attracting new businesses. Ohio does not permit such statements in its law. The Ohio Supreme Court has ruled that in determining legislative intent it will look only to the statute itself. Thus the General Assembly considers statements of legislative intent to be superfluous.

Since Ohio does not permit statements of intent in its legislation, one must look to the laws themselves to find expressions of what the public policies of the state are. The following three examples illustrate how this may be done.

1. *It is the public policy of the state to protect consumers from unqualified business and professional practitioners.*

There are state laws providing for examination, licensure, and investigation of complaints against professionals (e.g., physicians and other members of the health professions) and others dealing with the public (e.g., barbers, beauticians, real estate agents, stockbrokers, sanitary engineers, etc.). There is a Consumer Protection Division established in the Office of the Attorney General with legal responsibility for pursuing complaints about consumer fraud. The legislature has established another Consumer Protection Division in the Department of Commerce. The insurance industry is regulated by law, and so are banks and savings and loan associations. These and other state laws constitute the legislative expressions of the public policy.

2. *It is the public policy of the state to provide a minimum standard of*

living for all of its residents.

The state has established by law an insurance program for the unemployed. It has chosen to participate in the federal Medicaid program to provide health care for the indigent and has recently extended the program to some of the medically needy. It participates in the federal program of Aid to Dependent Children. It requires each county to have a program of General Assistance and sets minimum levels of payments for those eligible for relief under state statutes. There are a number of other programs established by law for the poor and financed under appropriations made by the legislature and at levels set for them; they all demonstrate legislative expression of the policy.

3. *It is the public policy of the state to provide free or subsidized education for all of its residents.*

The state has established by law a system of free education from kindergarten through twelfth grades in units of local government (school districts). It provides supplementary, "auxiliary" payments to private, primarily parochial schools, to assist parents who choose to send their children to these schools. It provides a system of higher education which includes 81 publicly supported institutions of higher learning with one within 30 miles travel distance of each and every citizen of the state. It provides instructional grants for needy students to attend either public or private institutions of higher learning in the state. It subsidizes graduate and professional education as well. The list of items comprising this public policy expression is fairly extensive.

These are but three of what must be hundreds of state public policies along with examples of the kinds of laws, including legislative appropriations, which have been enacted by the General Assembly to implement them.

Development of Public Policy

To better understand public policy, it is useful to consider the different ways in which it develops.

Some public policies are established *by the people through provisions of the Ohio Constitution*. For example, there is a public policy to assist in permitting affordable housing as expressed through a constitutionally authorized mortgage loan subsidization program. The Bill of Rights sets forth various guarantees which the legislature assists in implementing through antidiscrimination legislation and the like, and there are many other provisions expressing public policy.

Much public policy evolves *through legislation* passed by the General

Assembly which may begin by seeking to redress a wrong and becomes a composite of laws creating a public policy.

Public policy frequently emerges as a result of *external events*. In recent years the legislature established a public policy which does not allow school districts to close due to lack of money. For decades it was traditional for schools to simply end school when they ran out of money and make up "lost" days by starting earlier than usual after the new fiscal year began. Most of the school districts that closed were small; but when the Cleveland School District ran out of money and closed, it made the national news for several days. The General Assembly responded by enacting school loan legislation mandating that before closure, schools must apply for a loan from the state and, at the same time, be subjected to state management. This has now become a state public policy.

When the City of Cleveland defaulted on its bonds, the state legislature hastily drafted the Financial Emergency Act making provision for the state to take over city finances during the period of declared emergency.

When several savings and loan associations collapsed in 1987, the legislature adopted a policy to provide for state guarantees of monies held in such associations. When national attention was drawn to the high cost of property taxes in California, Ohio's legislature rolled back its voted property taxes to prevent the serious consequences of a publicly voted "Proposition 13" with its severe consequences for local finance. Many more examples could be offered to demonstrate the importance of outside events in formulating public policy in Ohio.

There is another way in which the legislature formulates public policy more deliberately. Each *political party* adopts a party platform as part of its state convention. The party platform may be used by some members of the General Assembly during their election races. It is frequently used by gubernatorial candidates. Because of this, even if there is a low level of legislative advocacy, the Governor will attempt to have legislation enacted including appropriations, to implement his political platform and that of his political party (they may be different). To some extent the legislative members of his party will try to assist him while still maintaining the legislative prerogative to make the final determination of public policy. In reality the Governor has the ability to directly set public policy through the use of regulatory powers and through other means, but most public policy, even that which is initiated by the Governor, needs legislative approval.

If one or more houses of the General Assembly are controlled by the party opposite to that of the Governor, they will be interested in making their own statements of public policy in accordance with their public political platform of their expressed or implied political philosophy. Thus a Democratic Governor may be committed to expanding social welfare legislation, while a Republican legislature may pass a series of tax cuts eliminating the resources

that could be used to finance those expansions. Since all legislation requires gubernatorial signature, the development of state public policy is ultimately a joint activity of the legislative and executive branches of government. For example, when in 1971 Democratic Governor Gilligan sought legislative approval of the state's first state tax on corporate and personal income, a Republican-controlled legislature balked; it was totally inimical to its political platform, not to mention its political philosophy. Using executive powers, the Governor closed the state parks and predicted the closure of schools. Actions such as these caused the legislature to cave in and establish a public policy of taxing incomes. In spite of the fact that the Republican legislature passed the tax law and only the legislature can enact taxes, the personal income tax was then and will forever be known as "Gilligan's tax."

Fiscal Expressions of Public Policy

The formulation of all public policy will inevitably involve fiscal considerations. Public officials, elected and appointed, at every level of government find that the availability or lack of fiscal resources will be the crucial determinant of not only policy effectiveness but also their own effectiveness as public officials. The best public policy is that which has successfully combined program and financial planning and, by the same token, the most successful politicians and the most effective public executives are those who have understood the desirability of such policy development.

Thus, fiscal resources are connected to public policy in three ways. First, determining how much money will be needed to implement public policy has become a highly developed process consisting of fiscal review and analysis. Second, the state establishes its fiscal policy by making determinations of how much to tax whom in order to provide how much and which kinds of services. And, third, decisions about the allocation of fiscal resources serve to constrain or enhance the development and implementation of all other kinds of public policy.

Public Sounding Boards

While the executive branch of government is required to make most rules after notice and public hearing, and while there are hundreds of public advisory bodies assisting state agencies in the implementation of public policy, it is only the legislature which truly acts as a public sounding board.

We live in a pluralistic society — one that is an amalgam of many interests,

not the single public interest by early political philosophers. Legislators selected by their constituents to represent them usually have no single clear public opinion or interest. True, some legislators might represent districts which are primarily black, or urban, or Catholic. But the interests of these special constituencies emerge only in a few instances during the course of legislating; most of the time the hometown constituency is relying upon its legislator to exercise his or her judgment.

Serving as a public sounding board performs two functions. It enables the many special publics to express themselves on matters of interest. (See Chapter 10 for a more complete discussion of the role of pressure groups in legislative politics.) Legislative hearings always allow a minimum of two sessions to hear public testimony: one session for proponents and another for opponents. Here is one place that members (at least those attending) listen to the opinions of the public, usually as expressed through organizations representing them. Legislatures hear testimony during budget hearings and also as part of their investigations into special issues.

But the general public also expresses itself through letters, petitions, telephone calls, and at almost any gathering attended by a legislator as spectator or participant. On particularly critical issues individual members may take polls of their constituents to determine their will before deciding on how to vote on sensitive issues such as raising taxes or enacting gun control legislation. If one of these issues is sufficiently puzzling to enough members, the Constitution makes provision for a referendum. The members of the General Assembly may, by passage of a joint resolution, submit a question to the voters to determine their opinion. If approved, the General Assembly will then enact legislation to implement the voters' wishes. However, three kinds of measures are not subject to referendum. Laws providing for tax levies, appropriations for the current expenses of the state government and state institutions, and emergency laws necessary for the immediate preservation of the public peace, health, or safety, go into immediate effect according to Article II, Section 1d of the Ohio Constitution. Emergency laws require a two-thirds vote on the question of whether a measure should be declared an emergency. This extraordinary vote presumably insures the urgency of the need for the legislation, thereby indicating that it should not be slowed down by a vote of the people. Referendums initiated by petition of the people are similarly constrained.

Public Education

The General Assembly is given a special charge with respect to providing for primary and secondary education in Article VI, Section 2 of the Ohio Constitution:

The General Assembly shall make such provisions, by taxation, or otherwise, as, with the income arising from the school trust fund, will secure a thorough and efficient system of common schools throughout the state; but no religious or other sect, or sects, shall ever have any exclusive right to, or control of, any part of the school funds of this state.

Under this provision the General Assembly has created over 600 local school districts and empowered them to provide and supervise a system of free public schools covering kindergarten through the twelfth grade. There is a separately elected state Board of Education which selects a state Superintendent of Schools and establishes various statewide standards of curriculum, teaching, physical facilities, student conduct and, more recently, teachers' competency. Independent of these actions, there are two issues of continuing legislative concern raised under this provision: equalization and funding.

Equalization

About one-half of the monies for local schools are derived from real property taxes. Since property taxes (unless indexed) are wealth-based, the amounts that can be raised from levies in individual school districts will depend on the real property values in their jurisdictions. This means that to obtain the same value, less affluent school districts will have to expend greater effort to raise the same amount of money as more affluent school districts. Translated, this means that voters will have to vote higher property taxes in poorer districts to compete in available local dollars with districts with high property tax values. This is not only difficult but sometimes politically and economically impossible. Some of the poorest school districts include a high proportion of elderly without children of school age. Typically, also, low property values and low personal income go hand-in-hand, thereby making it impossible to raise the kind of revenue needed to compete with wealthier suburban school districts.

Since school districts with more than average property wealth, or with a high proportion of business property or a high median family income, are more likely to have more money to spend per pupil, the legislature undertook to find a way to equalize these disparities. It first did so with a foundation program created in the 1930's and revised substantially in 1955. This was followed in 1975 with the establishment of the Equal Yield Formula. The provisions of the formula are complex and should be reserved for a discussion of state educational policy. The reason for referencing them here is to describe the way in which legislature has attempted to provide for equality of educational opportunity in a public school system of high quality and thus meet the constitutional charge of providing for a "thorough and efficient system of common schools."

The legislature has tried to base state funding on principles which would equalize differences between local school districts' abilities to raise revenue. Eight principles were established in 1974 by the legislature's Education Review Committee for use by the legislature in executing public education policy. The Education Review Committee concluded that Ohio's system of public schools should:

1. Provide financial stability and predictability to local school districts.
2. Direct state support precisely to the state's most urgent educational needs.
3. Link educational opportunity to the willingness of local citizens to exert tax effort in support of schools rather than the happenstance of local property-tax wealth.
4. Provide incentives to citizens to exert local tax effort in support of schools.
5. Assure that the burden of taxation for school support fall equitably upon all citizens.
6. Increase the state's share of school support.
7. Encourage precise assessment of educational needs, better evaluation of instructional programs, and more extensive reporting of school progress.
8. Facilitate the most efficient and equitable use of public school facilities for public and community service.

Shortly after adoption of the state's new school equalization formula, the Cincinnati school system, one of the "losers" under the new formula, challenged the constitutionality of the new funding program. The Hamilton County Common Pleas Court found that the system did not secure a "thorough and efficient system of common schools throughout the state" as mandated by the Constitution because it established invidious classifications among school children, thus violating the equal protection clause of the Constitution.

On appeal, the lower court was reversed, but in the interim there was much debate over what the legislature's responsibility is under the Constitution. Since the Supreme Court upheld the legislature's equalization formula, it seems pretty well settled that major legislative attention now focused on providing more money for education.

Increased Funding

For a long time the rallying cry for increased state funding for education centered on sharing the costs of education equally between the state and local governments (it is generally assumed that higher education is not unbalanced

under the constitutional priority). Under the leadership of Governor Celeste, and a large tax increase in 1983, that goal was achieved. Nevertheless, more state funding for education continues to be a significant issue each biennial budget session. Even while complaining about the adequacy of school management, and admonishing that more money does not necessarily equate with higher educational quality, legislators begin each budget session by announcing that their highest priority is education. The House and the Senate then vie with one another to see who can raise the Governor's Budget Request for education the most.

Thus, seeking to equalize the monies available to the state's school districts and finding ways to raise more monies for local schools are the two ways that the legislature discharges its constitutional responsibility to provide a "thorough and efficient" school system.

Checking the Executive

"Checking" the executive is somewhat different from "overseeing" the executive although it, too, is derived from the principle of separation of powers. Under that concept it is the function of the General Assembly to "make" laws, the Governor and the executive branch of government to "administer" them, and the courts to "interpret" and "enforce" them. The governmental system is designed so that each branch will check and balance the powers of the others. The legislature may "check" the executive by passing a law over his veto, by refusing to enact legislation he recommends, by refusing to adopt budgetary amounts for programs he recommends, or by failing to confirm certain gubernatorial appointments. Impeachment is an extreme form of checking the executive.

Senate Confirmation

Members of the Governor's Cabinet must be confirmed by the Senate. Confirmation hearings are held by the Senate Judiciary Committee and generally focus on the qualifications of the appointee to perform the job. From time to time these hearings are controversial, especially if public interest groups oppose the nomination.

A favorable vote of a majority of the members of the Senate is required for confirmation. Failure to confirm does not necessarily result in the removal of the appointee; there have been instances when the Governor chose to retain an unconfirmed appointee and also times when a more subordinate title, (i.e., assistant director), which does not require confirmation, has been given along with permission to run the agency in the absence of a confirmed director. For the most part, however, the maintenance of good executive-legislative relations would

dictate that the Governor seek a new appointee when confirmation by the Senate is denied.

Impeachments

The ultimate "check" the legislative branch has over the executive is the power to impeach and try the Governor for the commitment of misdemeanors in office.

All impeachments are to be determined by the House of Representatives. If a majority of the members elect to impeach a public official, the trial is held before the Senate where a two-thirds vote is necessary for conviction. In addition to the Governor, all judges and other state officers are subject to impeachment for any misdemeanor in office. Conviction may result in removal from office and disqualification to hold any office under the authority of the state. An impeached officer, whether convicted or not, is liable to indictment, trial, and judgment by the judiciary.

Training for Higher Office

Not to be overlooked in the list of functions of the legislature is the training ground it provides for those seeking higher office. Virtually every successful candidate for U. S. Senate or House, Governor, or other statewide office has included state legislative experience in his or her background. The same is true for many of the unsuccessful aspirants to those offices. The reason is simple.

Legislators are exposed to virtually every issue confronting government and have access to the best sources of information available in the state to weigh the merits of different positions on those issues. They can learn directly about the responsibilities of other offices and gain important insights into how the incumbent performs his functions and what his strengths and weaknesses are. Their ideas can be subjected to challenge in committees and on the floor and there refined. By holding office legislators gain access to records and files otherwise unattainable. They have reason to travel the state on official business and thereby gain needed exposure and public recognition for a future statewide bid. The state legislature is considered to be the ideal stepping stone in a statewide political career.

Serving Constituents

The range of inquiries, requests, demands, and complaints received by legislators from constituents is strikingly broad. It includes petitions to initiate or stop actions, expressions of support or lack of support for bills under consider-

ation in the legislature, complaints about state employees, requests for assistance in getting an executive agency to process a check or claim, getting someone a job, and even such things as requests to repair broken windows or to mow the lawn of a constituent or rake leaves. When all else fails, citizens seek the aid of their legislator, whether the legislator has any influence over the matter or not. The usual policy of legislators is to respond in some way to every request if it originates from a resident of their district. Usually legislators will forward requests from non-residents to the appropriate legislator.

In the case of legislators who have an administrative assistant, the job of responding to constituent requests will fall on these shoulders. Each senator has such an assistant but only some representatives, including the legislative leadership and committee chairmen, have their own aides. Typically, LSC legislative interns will provide this service for those legislators without aides. Some legislators also use volunteers such as college students and interns to perform this function. Since the Ohio legislature does not provide funds for offices in the legislator's home district, those legislators who maintain such offices staff them with either volunteers or persons paid with the legislator's personal funds. Staff involved in constituent work become quite proficient at solving constituent problems and gain a sense of achievement from being able to cut through bureaucratic red tape in order to speed up the solution of a problem. Sometimes requests are forwarded to other staff who have become proficient in a particular kind of inquiry such as processing an unemployment compensation claim or paying a Medicaid bill. Other requests can take weeks of investigative work before the case, as it is referred to, can be closed successfully. Members may also use the LSC and the LBO staff to obtain information to help with constituent requests.

Also coming under the heading of constituent service are a multiplicity of other kinds of legislative activities including appearances at county fairs, service organization meetings, church socials, and the like. A good deal of feedback about constituent opinions on pending legislative matters can be obtained through attendance at such events. Getting legislation that is favorable to the district or which responds to a particular local need might be considered part of making public policy or it might be considered another kind of constituent work. Often this involves proposing changes in the state's operating budget or getting funds for a capital improvements project for a member's district. The erection of a regional state office tower, a state park or museum, or other structure is a visible symbol of the legislator's concern for his or her district and also will assist in re-election campaigning.

Summary

Many citizens see legislators only in one of their multiple facets. One citizen will see the legislator as the person who helped get his daughter a job; another as the person responsible for not permitting the hunting of mourning doves; and a third as the person who raised her taxes. Each legislator is many things to many people and performs a variety of functions in the course of his or her legislative day.

10 Lobbyists, Lobbying, and the Legislature

The law-making function has been described by George Blair, the author of *American Legislatures*, as "the process of adapting and compromising ideas for new and remedial legislation proposed by interests, persons, or agencies outside the legislature or by members within it." As Blair implies, while ideas for new legislation do emerge from legislators, they are frequently generated from those outside the legislature, including organized interest groups, alternatively called "pressure groups" or "lobbies."

Lobbyists are recognized participants in the legislative process and lobbying is an essential ingredient. Stephen Bailey, in an article written for *The Congress and America's Future*, in 1964 wrote that: "President James Madison would have contended that instead of being parasites on the body politic, interest groups are the benign viruses of vaccination. They itch a bit, but they preclude small-pox." Bailey then went on to itemize five services which interest groups perform in society:

First, interest groups articulate the demands, grievances, and creative ideas of the many publics which comprise a democratic order, and thereby often preclude festering pockets of social unrest and group frustration.

Second, they frequently provide busy legislators with expert opinions on highly complex matters.

Third, they are mutually suspicious watchdogs which sniff out each other's subtle importunities and make these visible to preoccupied congressmen, executive officials, and the public at large.

Fourth, they serve as media for disseminating *information* about public issues to important segments of the community.

Fifth, they act as mediating devices within their own, often variegated, membership, and help thereby to lower the temperature of social conflict."

No more will be written to justify the work of lobbyists in the Ohio legislature. This chapter focuses on the nature of interest groups, the different styles of

lobbyists, the critical points where lobbying can affect the legislative process, effective lobbying techniques, and laws regulating lobbyists.

Kinds of Interest Groups

Under state law, those who seek to influence the legislature must register themselves and their organizations as lobbyists. The list of registered lobbyists numbers in excess of 500, although some lobbyists listed represent a number of clients and their names are repeated for each organization that they represent.

The kinds of interests which lobby the Ohio General Assembly and the number registered are shown in Table 5, which was compiled from the list of lobbyists registered for the 117th Assembly. Of the organizations listed, the single largest group represents state government, followed by the health care industry. It should be noted that in some instances individuals and organizations are listed but their sole objective in lobbying is to influence the outcome of one piece of legislation. There are also organizations which represent large constituencies with a variety of interests. For example, the League of Women Voters is interested in social issues, education, tax matters, and so on. Organizations representing multiple interests will have a general interest in the state's budget, in tax issues, and also in numerous pieces of individual legislation affecting their members.

Table 5
Kinds of Lobbyists Registered with
The 117th General Assembly
(totals may not add due to rounding)

NATURE OF INTEREST	NUMBER REGISTERED	PERCENT OF TOTAL
Alcohol and Tobacco	51	2.3
Communications and Media	58	2.7
Contractors	38	1.8
County and Local Government	95	4.4
Education	98	4.5
Energy and Environment	142	6.5
Finance and Insurance	182	8.4
Health Care	333	15.3
Labor	104	4.8
Legal	38	1.8
Manufacturers	88	4.1
Real Estate and Agriculture	34	1.6
Retail	35	1.6
Social Services	86	4.0
State Government	466	21.5
Transportation	76	3.5
Miscellaneous	247	11.4
Total	2,171	100%

Individuals testifying on their own behalf are not considered to be lobbyists for the purposes of the requisite registration, nor are members of an organization which is registered. Some firms specialize in representing a large number of clients, especially those who are interested only in a single issue or piece of legislation. The most successful of these include former legislators and legislative staff on their payrolls and employ both Republicans and Democrats in order to provide them with access to both sides of the aisle regardless of which party is in power. Some firms have the reputation of working more closely with members of one party than another and care needs to be exercised by those hiring a firm to determine how they are perceived in the legislature.

What Lobbyists Do

Large associations prepare publications to keep their members abreast of legislation of interest to them. These are a useful means of regularly informing

members about activities in the General Assembly and also in later developing grass roots support for positions taken by the organization.

Frequently, organizations develop legislative agendas and direct their attention toward gaining their passage while trying to block conflicting legislation. When an organization represents a diverse number of interests, the tendency is for the positions it takes to be moderate---the kinds of positions that can be supported by all members. This means that some members of an organization may choose to do their own direct, or hired, lobbying for positions affecting only them. The Association of County Commissioners represents all 88 counties. At least Montgomery, Cuyahoga, Mahoning, and Hamilton counties employ their own lobbyists. Similarly, individual companies belonging to both the Ohio Manufacturers Association and the Chamber of Commerce, may still employ a lobbyist to watch out for their own interests.

Lobbying can become quite complicated considering the number of interests represented in the General Assembly. There have been occasions when the same lobbyist has found himself representing parties interested in furthering and in defeating the same piece of legislation. Members of associations can be in the position of opposing legislation supported by an association purporting to represent them. It is probably because of the pluralistic nature of society that the legislative process is so much involved in resolving competitive interests and that the legislation which emerges is always the result of a negotiated compromise.

Alternative Lobbying Styles

There are different ways to get things accomplished in the legislature and some lobbyists are more adept at one style or operation than another. No one style can be cited as preferable, and there are times when one style will work with one legislator but not with others. To some extent, lobbyists need to be chameleons --- flexible and adaptable. In their book, *The Legislative Process in the United States*, Professors Jewell and Patterson analyze five different lobbyist role orientations: the contact man, the campaign organizer, the informant, the watchdog, and the strategist.

The following are some of the characteristics of each of these categorizations, adapted from the Jewell and Patterson model to fit the circumstances of the Ohio General Assembly.

The Contact Man

You would think that the main preoccupation of the "Contact Man" would be to make everyone happy. Always found in the halls of the State House when

legislative business is underway, in the annex when there are no sessions or committee meetings, and in the basement coffee shop on non-legislative days, the contact man is the ideal networker. He can always put someone in contact with someone who can help out with a problem. He makes it a point of aligning himself to one or possibly two key legislators (one in each house). He can frequently be found courting them and, in exchange, will be able to use their office as a general point of contact, as well as a place of business, when the legislator is not using it. The contact man needs ready access to a phone and a place to be reached, and this is the only way he can get this within the State House.

The contact man knows that it is important to attend fundraisers, to go to the annual meeting of the National Conference of State Legislatures, and to go to legislative watering spas whenever legislators or those involved with legislators are likely to be there.

It is impossible to be everywhere since many opportunities for contact conflict. Therefore, the contact man is likely to cultivate friendly legislators, those already loosely aligned to his cause. He knows that they are likely to give him the information he needs to do his job and that persistence and constant attention is flattering and may result in reciprocation when issues of importance to him and his organization arise.

University lobbyists tend to be oriented toward this approach, especially since they are in the dubious position of having to pretend that they are part of a system adequately represented through the Board of Regents. They cannot give the appearance of seeking to benefit only their own institution and so they use the contact man strategy as a means of fostering good will "just in case it should become necessary." Other organizations with no special axe to grind also use this approach successfully. It would work well, for example, for the League of Women Voters or a large corporation such as BP America. It can work equally well for more specialized interests such as those of labor or agriculture who will be seen as contacts for legislators especially aligned with those interests.

The Campaign Organizer

Legislators can use assistance in developing the kind of grass roots support that will win them re-election. This means that a legislator is often especially considerate of lobbyists for organizations with large memberships, and, most importantly, those whose members vote. The main tactic of the "Campaign Organizer" lobbyist is to demonstrate the feelings of the members through organizing demonstrations and letter-writing campaigns, distributing fact sheets to his members, building coalitions, and the like. The campaign organizer hopes that by demonstrating the large number of supporters for a position, legislators will recognize that failure to adopt the position could result in a loss of

support at election time. However, for this tactic to be effective, it is important that the organization's members are registered to vote and that they do vote. Organizations of retired persons are especially effective in this type of campaign as are school teachers, both of whom have high voting participation records. University personnel, students, and human service organizations are less effective with this approach for the simple reason that they have poor voting participation rates.

The Informant

Some lobbyists perceive their role as being purely informative. Their objective is to assist the process rather than to present any particular point of view. Interestingly, these lobbyists frequently do not see themselves as even being lobbyists, although they, too, are really trying to influence the outcome of legislation even if they do not take a stance for or against an issue. The representatives of the Ohio Public Expenditure Council are an example of this kind of a lobbyist.

Some lobbyists for the state's universities consider themselves to be informants and they wander the halls listening for ways in which they can use, not only the university's resources, but those of other organizations, to provide legislators with information that will help them decide issues. By providing information, the lobbyist as informant is perceived as useful to legislators and, in exchange, hopes to be able to ask for legislative favors, should the occasion arise.

The Watchdog

While the informant is the busybody of the legislature, the watchdog is its listening-post. The watchdog is attuned to nuances and tries to sense when critical actions are about to take place which would affect the organization represented and "alerts" the membership to developments through special bulletins, telephone calls, and regular newsletters. Through these devices it is assumed that those the watchdog represents can decide whether to become active on any particular issue. For example, even though the Ohio United Way has a legislative agenda which it pursues, it is far smaller than the items on which it reports in its *Legislative Bulletin*. The same is true of other organizations such as the Ohio Chamber of Commerce which reports to its members on anything which affects taxes or business, whether or not it has a position on the matter. The watchdog provides a kind of central service to others.

The Strategist

Many lobbyists are never seen in the legislative halls, and yet they are among the most effective legislative lobbyists. They work behind the scenes. They are just as often called by legislators as they call them. It is known that they can get things done. If a legislator is having a hard time negotiating an agreement, this lobbyist can be called upon to talk to one of the parties to gain a more cooperative attitude. The strategist is skillful at "working things out." This lobbyist knows the legislative process and often was part of it, either as a former legislator or as a former legislative aide. Strategists can gain access to other legislators; they know the ins and outs of the governmental process. They can draft amendments and bills; they are skillful negotiators and are usually especially intelligent, thus winning the respect of legislators. Jewell and Patterson refer to these as "lobbyists' lobbyists." They remain in the background but are extremely effective, often through others.

Each lobbyist develops a personal style and some lobbyists may use more than one style. Similarly, each may rely upon different techniques to influence the legislative process.

Lobbying Techniques

Professors Jewell and Patterson have done a good job of categorizing different lobbying techniques. In their book, *The Legislative Process in the United States*, they have a table listing these as the most commonly identified techniques:

- I. Direct Communication
 - A. Personal Presentation of Viewpoints
 - B. Presenting Research Results
 - C. Testifying at Hearings
 - D. Communication Through Intermediaries
- II. Contacts
 - A. Contact by Constituents
 - B. Contact by a Close Friend
 - C. Letter-Writing Campaign
 - D. Public Relations Campaign
 - E. Publicizing Voting Records
- III. Methods of Keeping Channels Open
 - A. Entertaining Legislators
 - B. Giving A Party
 - C. Campaign Contributions
 - D. Bribery

Different lobbyists have different styles and so do different organizations. Organizations with mass memberships usually rely more heavily on letter-writing

campaigns, and business lobbyists usually concentrate more on making personal contact with legislators, since they are more likely to be able to access legislators directly. Health care and insurance lobbyists in Ohio are great party-givers. But some techniques are more effective than others with individual legislators.

Some legislators are known never to accept a meal or a drink from a lobbyist, while others accept these so freely this technique wins the entertainer no special influence. The skillful lobbyist will use whichever techniques will work on individual legislators and be prepared to change approach if one thing does not appear to work. Each lobbyist decides what techniques will be most effective, given their own styles of operation, and which will work best on which legislators.

Sheridan's Tips for Successful Lobbying

There are volumes written on the subject of effective lobbying and it is not the purpose of this book to serve as such a guidebook. However, there are some "do's and don't's" of effective lobbying in Ohio which are not only useful as "tips" for those seeking to influence the legislative process but also provide further insights into how the Ohio legislative process works.

1. *The Legislature is Organized Anarchy; Proceed Accordingly.*
Meetings are scheduled, cancelled, rescheduled, delayed, and ended abruptly. Witnesses are called out of order. Chairmen rule witnesses out of order for no apparent reason. Everyone agrees that a bill has no chance of passing and then, out of the blue, it is brought up for a floor vote and passes. Legislative leaders announce they cannot be pressured to change their mind; pressures are exerted anyway; they change their minds. Legislators make outrageous comments about each other on the floor and in private and are then seen dining with each other. Staff promise to deliver requested information but it is never forthcoming.

All of these examples are manifestations of the disorganized nature of the legislative process. The wise will adjust their behavior to accommodate this disorder by always following through on requests, checking to make sure a meeting is still scheduled before setting out for it, repeated by checking on the condition of past assurances, getting regular reassurances, and making certain that new information has not surfaced altering conditions and requiring behavioral modifications. The wise legislative observer or participant will do well to learn patience and tolerance and not try to make the system accommodate his sense of order.

Behavior between Senators and between members of the House is quite different, and working with each requires a different set of rules. The House is far more precipitous, hyperactive, reactive, and chaotic. Members expect to have visitors drop in on them, and just because someone has an appointment doesn't mean you won't be dropped in on by another unexpected visitor taking up your "scheduled" time.

Staff are in a preferential position in both houses and feel comfortable joining all but the most private discussions. In the Senate, the staff is even more intrusive and can substitute for many Senators; however, in the House the rule is that staff are much more unobtrusive.

Senators expect more deference and so do their staff. The desirable traits of legislators (commitment, trust, honesty) appear to be held in special esteem by Senators. In dealing with the two bodies differences between them should be accommodated.

2. *Don't Overestimate Your Importance.*

Over and over again, lobbyists have defeated their own purposes by overestimating their importance. The rule to follow is that "lobbyists need legislators, they don't need lobbyists." It is true that legislators need financial and other support to gain re-election; but they receive it from a variety of sources and need not rely on any single one. There are numerous examples where inept lobbyists have presented campaign contributions with only slightly veiled suggestions about an amendment they would like to see inserted in some bill only to have their contributions returned, their access to the legislator barred, and a general cold shoulder felt by them throughout the legislative halls. Legislators deserve and expect respect, if not for them, then for their position.

3. *Legislators Are Not Dumb.*

Many legislators are extremely intelligent. Furthermore, all elected officials have a kind intelligence not common to the general public. All legislators know how to get things done. They are not dumb. This is a difficult lesson for many, especially those new to the process with a stronger academic background than most legislators. They observe some legislators making grammatical mistakes, failing to understand what they regard as simple concepts, requiring issues to be repeated. They observe some exhibiting anti-social behavior, including shouting, threatening, berating, and badgering witnesses, lobbyists, and others. To assume that these are manifest signs of ineptitude and ignorance is a mistake. Even though some legislators lack formal education (although most now serving have a college education) and may

appear less brilliant than the lobbyist in spite of their formal education, two things are important to remember as corollaries to the observation that legislators are not dumb: the importance of style and the discipline of the ballot box.

In the legislature, style is everything. Legislators have learned styles that work for them in getting things done and in the anarchistic legislative world this is what counts. Even if the lobbyist doesn't like or approve of their style, it is what works for them. The important thing for a legislator is whether the home constituency considers that he or she is doing the job for which they were sent to Columbus. Their capabilities and behavior will be evaluated every two or four years while the lobbyist's will not.

4. *Always Consult With Legislative Staff.*

Legislative staff, including clerical and support staff, always have the ears of the legislator. They are also the legislator's eyes and ears. The administrative aides especially are extensions of the legislator and should be treated accordingly. If one antagonizes a staff person, the legislator will be antagonized as well. After all, it was the legislator who selected the staff person, and by attacking the staff person, one is questioning the judgment of the legislator. The best way to get to a legislator, then, is through his secretary or aide.

5. *Be Open, Honest, and Above Board.*

One hears things in the legislative halls which are offered as information presented in confidence. Nevertheless, there are no secrets in Columbus — only timing delays in the release of information. Thus the philosophy, "what is the function of gossip if not to be repeated?" Repetition of information is a "sine qua non" in the legislature. By withholding information, a person's motives may be suspect and the important element of trust withheld.

If someone approaches a lobbyist and begins by suggesting to him not to "tell a soul but...", the best approach is to refuse to hear the information if the listener can't guarantee he has not already heard the information or might later hear it from someone else. Nine times out of ten the information will be given anyway. Adopting this stance will help the listener to avoid being devious later. If there are any doubts about whether to convey information to legislators, it is better to err on the side of consulting with the legislator, not on the side of withholding the information.

6. *Put It In Writing.*

Whether intentionally or unintentionally, staff and legislators may forget commitments, dates for meetings, or promises. After a meeting with a legislator or a legislative aide, it is always wise to follow the conversation with a letter confirming any agreements or commitments made by either party. If any questions were raised during the discussion, these should be answered in writing and any supporting information should be enclosed. This step helps to prevent misunderstandings.

7. *Avoid Surprises, At All Costs.*

Legislators absolutely detest being surprised. They need to maintain an aura of knowledge and expertise and if someone, especially a non-legislator, has information that the legislator should be expected to know, it should be conveyed to him privately. This includes such information as who might oppose a legislator's bill, how a crucial organization views it, who has amendments prepared and what is in them. Above all, legislators should know who plans to oppose them or to testify unfavorably about their legislation. By knowing about these things in advance a legislator has the opportunity to position himself and to put a good face on what might otherwise be embarrassing. A lobbyist should never embarrass a legislator publically (or privately,) if it can be avoided.

8. *Be Straightforward and Factual.*

Assume that when legislators have all of the facts they will make the right decision. They regard outsiders as experts and rely on them for accurate information. Information provided should not be slanted; vital information that might be potentially damaging should not be left out. It will get out anyway, and if it is discovered that it was withheld future trust will be weakened. There is always another opportunity to counter damaging information. There is also always another issue and another time when legislative trust will be needed.

As soon as a problem is foreseen, it should be discussed — before a small problem becomes a major issue.

9. *When In Doubt, Ask.*

Don't hesitate to ask if there are questions. Legislators and staff, just like everyone else, will assume expertise about a subject unless they hear otherwise. Failure to ask questions for fear of looking dumb may result in missing out on many golden opportunities. This is especially

true when it comes to the niceties of the legislative process, parliamentary procedures, and the informal rules which dominate legislative operations. Persons expert in their fields are always happy to explain to the uninitiated, and legislators are no exception.

10. *Cover All Bases and Always be Prepared for the Worst.*

A bill is not scheduled to come to a committee vote for weeks. All of a sudden a call is placed that it is going to be taken up tomorrow. Be prepared for the unexpected. There is always one more base to be covered. Be ready with convincing facts. Anticipate the possibility that a powerful organization may emerge with new arguments. If the right sources have been cultivated advance notice before any of these kinds of things are sprung will be provided. That's what's meant by covering all bases. Never assume; always check everything out personally. An extra telephone call never hurt but one too few has.

Rules of the Game

Also important to effective lobbying, as well as to understanding the legislative process, is learning the rules of the game. These are some of the legislative norms that help to make the chaos of the legislative process work.

Seniority

Members with more seniority have more rights than junior members. They enjoy a host of prerequisites. They will get their amendments and their legislative research requests filled sooner. They will get their telephone calls to agencies answered faster. They will have more efficient secretarial and research staff. They will know how to get things done faster than members with less seniority. Their views will receive more attention by leadership as well as by rank-and-file members.

Performance of Obligations

Legislators rely upon the fulfillment of obligations, their own and those promised them by others, including staff, other legislators, lobbyists, and administrators. If someone promises to do something, they will be expected to perform.

Impersonality

The legislative process is impersonal; members do not attack each other's personal integrity; they do not refer to unfortunate incidents in their lives, to

bad press, to the biases and prejudices of other members. This is carried through in other relations as well.

Apprenticeship

New members are expected to serve an apprenticeship. They are expected to learn from their colleagues with more seniority. This applies also to new members of committees, even though within the legislature they may have great seniority. The notion that one serves an apprenticeship before one is taken too seriously applies to others in the process as far as the legislator is concerned, including new lobbyists, new staff, and new agency directors.

Respect for Members' Rights

Each legislator recognizes that he or she is equal to every other member and therefore will respect other members' rights. If a member has become established as a champion of a given cause, other members will not try to overthrow that stance. If a member is the first to introduce a subject, it will usually be given priority should there be several bills on the same subject.

Openness in Opposition

If a member opposes the stance of another, it will usually be done openly rather than covertly. This will afford the other member the opportunity to try to convince the opponent to change his or her mind.

Restraint in Opposition

Members know that legislation emerges only from compromise and therefore will seldom be too vehement about their stances. They try not to get boxed into corners from which they cannot escape.

Gracefulness in Defeat

In the legislature there is always another day and another battle. Losing a skirmish or a battle is part of the game and there is always an adherence to the principle of graceful defeat.

Interpersonal Courtesy

In matters involving legislators as persons there is a mutual distancing. While gossip is always rampant, it is not malicious, for each member knows of his or her own vulnerabilities. Anyone subject to frequent public scrutiny runs a risk, and thus members exhibit a good deal of interpersonal courtesy.

Advance Notice

If members are going to change their stance, they respect the courtesy of providing other members with notice of this change.

Institutional Patriotism

Each member is fiercely loyal, first, to their own chamber and, next, to the legislature as an institution. This ferocity is most evident in dealings with the executive branch of government. If any action by an outsider is perceived as an attack on the legislative body, it will be dealt with swiftly and unanimously.

Checking With Leadership

Members develop a sense of when, and for what purposes, legislative leadership should be informed of what kinds of things. Leaders also expect members to let them know what they need to know.

Observers of the legislative process know how frequently members will suggest, "You'd better check with the leadership" or "I'll check with the leadership and get back to you." This is usually not a "cop-out" but a sincere expression of the principle of letting the leadership know what is being done.

Privacy

There is a good deal of respect for each member's privacy. This applies equally to the relationships that a legislator has with lobbyists, members of the administration, and other actors in the legislative process.

Critical Points of Legislative Influence

There are a number of critical points in the passage of legislation, such as assignment to committee by the Rules or Reference Committee, placement on the calendar, selection of standing committee, and others identified in previous chapters. Lobbyists can usually influence and gain access only to a few of these. Thus most lobbyists' attention is directed at (1) introduction and sponsorship of legislation, (2) action in committee, (3) action on the floor, and (4) action in conference. For lobbyists, these are the most critical points of influence.

1. Introduction and Sponsorship

Once an individual or an organization has developed an idea which requires legislation, there are several steps that must be taken:

- The idea must be converted into a legislative solution.
- The legislative solution must be converted into a bill draft.
- A sponsor must be found who will be willing to introduce and shepherd the bill through the legislative process.

Developing Legislative Solutions. Not every problem requires or is susceptible to a legislative solution. Some require federal action; some are not constitutional; some are better handled as matters of administrative action. With these exceptions, assuming that the problem is worthy of a legislative solution, there is frequently a choice of solutions to be made. For example, suppose it is determined that individuals without health insurance in low-paying jobs leave their jobs when a serious health problem develops or when they become pregnant. They then become eligible for state welfare payments and Medicaid. The problem is how to keep them on the job.

There are many possible alternative state legislative solutions to this problem. Criminal sanctions are one possibility: employers could be required to provide health insurance or else face criminal penalties. The state could establish a separate insurance fund, modeled after the workers' compensation program which provides protection for injured workers, and require employers to contribute to this fund, the proceeds of which would be used to provide mandatory employee health insurance. The state could raise the minimum wage sufficiently to permit, and require, all individuals working to carry private health insurance. There are still other possibilities for state actions that would address the problem. Some solutions are better than others, some are more politically palatable, and some are less expensive than others. Programmatic, focal, and political considerations need to be addressed as part of the work of developing legislative solutions. The more thoughtful the solution, the greater the likelihood that it can be enacted into law.

Drafting a Legislative Solution. Converting a legislative solution into a bill draft is a technical matter. The Legislative Service Commission provides a bill drafting service to legislators. However, many bills introduced in the General Assembly are drafted by attorneys employed by individuals, organizations, or by staff of state or local governmental agencies. These bill drafts will eventually be scrutinized by the LSC staff to determine their technical correctness. This is sometimes considered to be a more desirable way of developing an initial bill draft than the alternative of presenting an idea to a legislator and leaving him the task of converting it into legislation. By controlling the bill drafting process, the merits of many specific decisions can be discussed and debated within the organization, whereas the LSC bill drafters usually prefer to draft bills without outside interference. Another bill drafting alternative is to ask a legislator to invite an LSC staff person to work with an outside organization or agency in

developing legislation which he determines that he wishes to sponsor.

Finding a Sponsor. After a bill has been drafted, the next step is to find the right sponsor to introduce the legislation. This is not that difficult, particularly since Ohio is not one of the states which limit the number of bills that a member may introduce each session. But, while it is relatively easy to find someone to sponsor almost any legislation, it is much more critical to find the *right* sponsor.

Although legislators' names appear on many bills, the number on which their names appear first is considerably less. These are the bills for which they are the prime sponsor; they are willing to take responsibility for ushering the bill through the legislature. But even when a member's name appears as prime sponsor of a bill it does not mean that the legislator will be able to see it to passage, nor that he or she necessarily even desires to do so. Members frequently introduce bills with the understanding that it is only for the purpose of giving them an opportunity to be heard. In other instances, members will sponsor bills as a courtesy to the administration, or simply to get a constituent, or an organization, "off their backs." There are also some members who, judging by the number of bills bearing their name as prime sponsor, introduce bills simply for the sake of doing so.

Finding a legislator who will take the kind of interest in a bill that will give it a fair hearing, and increase its likelihood of passage, is critical. Research on the kinds of legislation sponsored successfully by the legislator in the past is one way to find the right legislator for a bill. Reviewing backgrounds, including association memberships, occupation, religious affiliation, organizations that backed a candidacy, and other such characteristics, will also be useful. Securing the sponsorship of the chairman of the committee to which the bill is likely to be referred is highly desirable and, failing that, finding a majority party member of the committee is second best.

Unless one is simply trying to embarrass the majority party, or there is some kind of elaborate strategy to force the majority party to take up an issue it has been reluctant to address, there is no point in seeking a minority party member of the legislature to sponsor legislation. If the idea and the legislative solution are desirable, the majority party will want to take credit for having secured its passage. Therefore, a member of the majority party should be sought to sponsor the legislation.

It is desirable to try to "line up" someone from the majority party in both houses to sponsor the legislation. They can decide between themselves which one will take the lead or if the bills should be introduced in both houses based on questions of legislative strategy on which they are more expert than outsiders. It is also a good idea to try to find a legislator who does not already have a full plate of legislation he is trying to get passed. If this is a major bill, one that is

likely to be controversial and require considerable legislative time and effort, then the legislator selected should not have too many major pieces of legislation under his shepherdship so that he can devote the time needed to gain passage of this legislation. It should be noted, however, that there are legislators who feel strongly about legislation and are very effective in gaining passage of many major bills without appearing as prime sponsor. What they do is work effectively behind the scenes, giving the bills to more junior members who have small agendas of their own, but who benefit from the more senior expert guidance. Securing the assistance of one of these "king-makers" can be just as effective as finding a committee chairman with an empty plate to work a bill through the legislative process.

Having secured a sponsor, there are additional steps which can be taken to assist in its subsequent passage. Wherever the idea for the legislation originated there will be a delegation of local legislators. Even if one of them is not the selected sponsor, it is desirable to apprise the delegation of the legislation and to give each of them the opportunity to join in its sponsorship, as well as secure their support for necessary subsequent action. In addition, it is desirable to try to obtain support from legislators in other parts of the state. This can be done by forming coalitions of organizations around an issue, or by using contacts in other parts of the state who are willing to help with the issue. The more of this that is done at these early stages, the easier it will be to get the bill through the hurdles it will face after it is introduced.

Once the bill is introduced, the next critical point to influence is action in the committee. Whether one is interested in testifying on legislation which emerged from one's own idea or in opposition to legislation originating outside, there are some techniques of oral and written testifying which are more effective than others.

2. Testifying in Committee

Committee hearings are intended to provide a forum for the public, and its representatives, to express their opinions on subjects on which law changes are under review, and for legislators to gather information to aid them in perfecting laws on those subjects. Members are willing to listen to well-prepared testimony and the views of the public can, and do, sway members' opinions. Organizations and individuals with opinions on the subjects of pending legislation should be aware of the protocol of oral and written testimony and of ways to gain legislators' attention within a committee hearing setting.

The Committee Setting. Each chamber has its own separate committee hearing rooms, and they do not share their facilities. While standing committees tend to use the same committee room regularly, only the Senate Finance Committee and the House Finance-Appropriations Committee have a room assigned

permanently to them; access to its use is controlled by the chairmen of those committees. Scheduling of all other committee rooms is arranged through either the House or Senate Clerk's office. Most committee hearings are held in rooms in the State House, but committee rooms are now available in the legislative offices at the New State Office Tower.

During a hearing, members of the committee sit on slightly raised platforms at one end of the hearing room with the chairman sitting in the center with a secretary and, if desired, an aide at the right. The committee secretary (a minority legislator) sits at the left. Staff from the Legislative Service Commission assigned to work with the committee will also be seated at the platform, usually near the chairman. Members of the Legislative Budget Office staff, when present, seldom sit with the committee except in the finance committee meetings. Name tags are placed on the table for all members, whether they are present or not; the tags do not indicate their political party affiliation.

It is rare for members of the House to ask aides to sit in their place during hearings, but occasionally Senators do so. Aides do not question those testifying. The Chairman may permit staff of the LSC to ask questions or make statements, but only if they first preface their remarks with a statement disavowing committee membership status.

In front of the platform there is a table where those testifying may sit. Podiums are also available and if audio-visual equipment is to be used, arrangements can be made for it in advance. The State Library has a variety of kinds of equipment which can be loaned for use in committee hearings.

Depending on the size of the hearing room, there will be seats available for an audience, including those wishing to testify. There are no reserved seats for any purpose. Members of the media and various members of the legislative staff usually arrive early enough to occupy front row seats. It is frequently difficult for those in the audience to hear those testifying. Even though microphones are sometimes used, they are intended to benefit the members of the committee rather than the audience. Those wishing to follow the proceedings are well-advised to arrive early and sit close to the front of the room.

Each committee will have a page assigned to it during hearings. Pages are college students who work part-time. During the hearings they will be available to pass out materials to committee members, including copies of the testimony of witnesses. They will make additional copies of materials as requested by members and perform other errands such as getting things from members' offices or bringing them refreshments.

Oral Testimony. Those wishing to testify may make their wishes known in advance by contacting the office of the chairman. In scheduling, chairmen generally try to accommodate out-of-town witnesses and will usually call them early

in case there are more witnesses or longer testimony than expected. Anyone attending a hearing may testify simply by filling out a witness slip, copies of which are available at the witness table or from the chairman's secretary, who attends all hearings and takes notes for use by the chairman.

Witnesses testifying should always address the chairman, even when responding to questions by other members. The appropriate form of addressing a member is either "Mr." or "Ms. (name)" or "Representative (name)." The chairman may be similarly addressed or addressed as "Mr. or Ms. Chairman" or "Chairman (name)."

The following would be an acceptable form of responding to a member's question: "Mr. Chairman (very slight pause); Representative (name). To answer your question..." The purpose for addressing the chair, and also for the slight pause, is to permit the chairman time to comment on the question, if he wishes. He may want to inform the witness that he need not answer the question, rule the question inappropriate or out of order, hold the question for a later time, or inject some other comment. Addressing the chair first facilitates such interjections.

It is always desirable to capture the attention of the committee; reading prepared testimony is the least effective way to do so. Oral testimony should be viewed as the opportunity to use the powers of persuasion to convince the audience of the witness' sincerity. It is important to stress, at the beginning, the major points to be made: these should be limited to no more than three. Within the framework of two or three major points, a number of sub-points can be made, but it is important not to be too elaborate and overly verbose. If members are interested, they will ask questions or ask for further elucidation of your remarks.

Committee members should be encouraged to ask questions. Hopefully the witness will be able to answer these but, if not, he should indicate a willingness to provide the information requested or to answer any questions asked in subsequent correspondence.

Using audio-visual aids will assist in capturing legislators' attention. A slide and flip-chart presentation is particularly effective, especially if it is supplemented by a written presentation which fills in the blanks inevitably left by the brief phrase and bulletin approach used in flip charts. Copies of the flip charts should be provided to each member of the committee.

Videotapes can be effective in illustrating points and afford the opportunity of bringing local conditions and observations home to the legislators who will not have the time to make field trips to observe these conditions personally.

Written Testimony. Written testimony presented to a committee may be more important than oral testimony for several reasons. Usually many members of a committee are absent when oral testimony is given. Other legislators, who are not members of the committee, will not have the benefit of oral testimony.

And written testimony can be circulated, not only to absent legislators, but also to other individuals and organizations, to build support for a position. Staff will also be able to use it as a reference in providing briefing materials to legislators and in reminding them of the position expressed when it comes time to vote.

Good written testimony is as brief as possible and is visually appealing. It should be direct and factual and include appropriate statistical and other quantifiable supportive information. It should anticipate and respond to known objections about the position taken. It should name other supporters of the position. It should have the name, address, and telephone number of the testifier and organization, if there is one, easily identifiable for further contact. It is useful to use a colored paper consistently as an easy mark of identification. The Legislative Budget Office, for example, has consistently reproduced fiscal notes on yellow paper and legislators have become accustomed to being able to pull fiscal notes out of their usually overflowing piles of paper just by locating the shade of yellow paper the LBO uses. Some organizations overdo the use of colored paper to the point that with the multiple colors used, the point of easy identification is lost. However, using several colors can be useful in complicated testimony where there are numerous exhibits which look similar.

3. Action on the Floor

Once a bill reaches the floor, there is little that can be done to affect its specific provisions, except in the rare instance that it is discovered that there is some critical provision which has resulted in unforeseen opposition.

The most important concern leading to floor action is counting the votes. The sponsor, with assistance from the legislative leadership, will seek to secure the necessary majority to insure passage. It is incumbent on lobbyists to assist the legislator by cornering other legislators, trying to determine how they plan to vote and to respond to any objections raised by those who plan to oppose it.

4. Action in Conference

Most major pieces of legislation, especially if the two chambers are controlled by different political parties, will end up in a conference committee to iron out the differences between the two houses. It is at this stage where drastic changes in the bill can take place. It is also at this critical stage that it is extremely difficult for those outside the legislative process to gain access.

Assuming access to information is obtained, the primary functions of a lobbyist at this stage are trying to find out what the points of negotiation are and trying to assist in the development of acceptable compromises. Many pieces of sound legislation have been lost because of an organization's unwillingness to compromise a position and understand that in the legislative process half a loaf is

better than none. An example comes to mind where the Governor had appointed a committee to come up with ways of improving job opportunities for persons who are physically disabled. Legislation was sponsored by an avid supporter of such access. It provided that all private companies with more than a certain number of employees would have to remove a number of identified physical barriers which made it difficult for some disabled persons to gain and retain employment in those businesses. This would include such things as physical access to the building itself and to its restrooms. The legislator worked with the companies opposing the legislation and secured their agreement to accept it if the minimum number of employees specified by the bill was raised. The organization was contacted by the sponsor with the good news that he had been able to gain acceptance by the leading opposition. The organization was adamant. They wanted the lower number or nothing. They got nothing. This took place about fifteen years ago and, to this day, Ohio does not have legislation guaranteeing physical access to private businesses, no matter how few or how many employees a business has. Half a loaf is truly better than none.

11 Reforming the Legislature

Various reforms of the legislative process have been proposed, argued, and debated over the years. The National Conference of State Legislatures, an organization of state legislators from across the country with staffs in the home office in Denver and also in Washington, D.C., provides research into these issues as well as keeps legislators informed about current issues and how various states address them. The Council of State Governments, headquartered in Lexington, prepares model legislation on a number of current issues and provides research services to legislators, as well as to other state elected officials. These two organizations have assisted in modernizing state legislatures and in enhancing their ability to innovate and to spread their successful innovations across the country. The following are some of the issues which continue to be discussed by these organizations in the context of legislative reform and which apply directly to the Ohio General Assembly.

Full-Time or Part-Time Legislature

Increasingly, state legislatures are maintaining full-time schedules. In Ohio official legislative days are Tuesdays through Thursdays with the legislature meeting almost the entire year during the first (odd-numbered) year of the two-year General Assembly. Breaks of about a month are usually taken around the Easter and Christmas holidays as well as in the summer. In the second year, during which members must face re-election, the schedule is usually shortened. The legislature only adjourns once and recesses at other times. This enables it to meet in what are called "skeleton" sessions where the presiding officer and possibly a few legislators hold a "session" where bills can be introduced and a few other routine matters can be undertaken. A long recess is called sometime in the summer with the legislature returning briefly after the November election for about a two-week session.

Across the country, Ohio's schedule is considered to be full-time, in contrast to the part-time legislature in those states where sessions are limited to 45, 60

or 90 days by the constitution (32 states), statutorily, or indirectly by cutoffs in legislative pay (six states). In those states the legislature usually meets five days a week for the first few weeks, and then as the session becomes more active, meetings and other legislative business occurs virtually around the clock. According to the *Book of the States*, only 12 states place no limit on session length.

The factors distinguishing full- or part-time legislators include not only the time spent in legislative session but also the level of compensation and the occupational self-definition of the members. Ohio is listed, along with the legislatures of California, Illinois, Massachusetts, Michigan, New Jersey, New York, Pennsylvania and Wisconsin, as having lengthy sessions, relatively high legislator salaries, and many members who list their primary occupation as "legislator." It is also the case that in full-time legislatures, the members spend more time in district offices and place a high priority on constituent services. It is difficult to judge which is the most productive schedule.

In part-time legislatures special sessions called by the Governor occur with high frequency, muting somewhat the arguments for part-time legislatures. It is argued that the desirable concept of a citizen legislator is lost in the full-time body where one of two kinds of legislators tend to predominate: those self-employed, with independent means or with jobs in which the employer considers it advantageous to pay the salary of what is essentially an absentee employee (lawyers and educators, for example), and those who consider the legislature to be a full-time job. Since legislators in Ohio can earn more than \$50,000 a year, it could be considered to be a full-time job in terms of remuneration. Certainly it is a full-time job when one considers all of the time demands placed upon legislators. Whether this destroys the concept of a citizen legislature representative of the people is open to debate, but it is one of the ongoing issues of legislative reform debates.

Legislative Organization and Process

The legislative process is a cumbersome one and there have been several studies leading to recommendations intended to streamline it. The issue of full-time or part-time legislatures, just described, involves determining how much time should be spent conducting legislative business in formal sessions. A process issue concerns how the time spent in session can be used most effectively. Reforms to streamline legislative organization and process have focused on legislative scheduling, bill introductions, and committee work.

Legislative Scheduling

Some states have established specific deadlines after which bills may not be

introduced, may not be considered by the committee, and may not be considered on the floor. The intent is to even up the flow of work and avoid the usual end-of-session logjams. Ohio has no deadlines of this kind and so logjams do occur.

Bills may be introduced throughout the life of the General Assembly. Committees may hold hearings on bills whether the legislature is in or out of session and up until the final date for the General Assembly to adjourn "sine die." So, when the Ohio legislature is to recess for the summer, there is usually a "mad rush" to move bills out of standing committees, into the Rules Committee, and from there to the floor. Other rushes occur before holiday recesses. Considering more than 100 bills at these times, or when the legislature reconvenes for a short fall session, is more the rule than the exception.

The criticism levied against marathon bill consideration sessions is that they increase the likelihood of making bill drafting errors and they disallow thoughtful consideration of the merits of the bill. Each session, the state legislature enacts voluminous "corrective bills" whose sole purpose is to correct the drafting errors of legislation just enacted. Until corrective legislation is enacted, erroneous laws remain in force with potential serious consequences. There are Ohio examples where these consequences have been avoided only through agreements with the Governor and executive agencies to administer faulty laws the way they believed the legislature to have intended them, in spite of what the law as enacted provides. Fortunately, there are few instances where there has been judicial intervention in these cases or where individual rights have been impaired before the legislature has had the opportunity to correct its errors. The use of deadlines has been reported by those states using them as being effective in managing legislative sessions, according to a report by the Director of State Services for the National Conference of State Legislatures in the *Book of the States*.

Bill Introductions

Some states have sought to expedite legislative business by restricting the number of bill drafts that may be requested by a legislator or by introducing the concept of committee bills which consolidate multiple bill ideas or requests into a single bill. In Colorado, the most restrictive bill introduction state, legislators may introduce only six bills in the first year of a session and only four in the second year. Ohio has no restrictions on bill introduction and, therefore, in a typical session, 2,000 bills will have been introduced with only a fraction of them actually receiving serious legislative attention. Many of the bills introduced are duplicative or only slightly different from one another. This legislative volume necessitates considerable staff activity which could be considered to be ineffective time use, not to mention the time expended on bill processing in the offices of the Senate and House clerks.

Committee Work

The committee is the heart of the legislative process where the shape of legislation is formed. In the past, interim committees were used by legislatures to perfect complicated legislation such as school finance, welfare reform, or agency reorganizations. There are still occasional interim committees appointed on an ad hoc basis in Ohio but, more and more, the standing committee is being used to work on emergent problems; then recommendations for legislative solutions when formulated into bill form, will be reviewed and considered by the same committee that proposed the legislative solutions. An example of such a process is found in the 1987 work of the Ohio House Committee to Study the Effects of Federal Cutbacks on Local Governments. That committee made numerous recommendations for change and its chairman then sponsored legislation to implement those recommendations. That legislation was duly sent to his standing committee which moved it on through the legislative process to eventual passage. The state's Medicaid problem was subjected to a similar review in 1988.

Strengthening the standing committee structure, in recognition of its vital importance to the legislative process and to legislative policy formulation, is high on the agenda of legislative reformers. The National Conference of State Legislatures' Legislative Management Committee examined the committee structures around the country and concluded that there are far too many committees and that there are ways to make the committee process work more effectively. Their recommendations, which are applicable to Ohio, are listed in Appendices B and C.

Agency Rule Review

Ohio is one of 38 states which have statutory authority to review proposed agency rules and regulations to determine whether they comply with legislative intent respecting the program they seek to implement. It is because agencies sometimes misinterpret legislative intent, or are unsure of it, that this form of oversight was begun. It enables legislators to exercise continuous review. In application, however, seldom does the legislature overturn proposed agency rules. The existence of rule review may be a deterrent to aberrant administrative rule behavior, or it might be that the way in which the rule is applied is as important or more important than the rule itself. It does give the legislature the opportunity to focus on a few, especially controversial, rules but, like most legislative processes it requires someone who is upset with a situation to bring it to legislators' attention. When a concern is not raised, the review tends to be perfunctory.

Appropriation of Federal Funds

Another important legislative issue involves the appropriation of federal funds

flowing to the state for its own use or for redistribution to local units of government. In a number of states there have been court cases ruling that the appropriation of federal funds is an infringement upon the executive powers. The Ohio legislature is under no such restrictive ruling, but there is still a question of whether a state legislature may establish a committee to determine how to apply federal funds, as Ohio has done.

Ohio's fiscal year begins in July and ends in June, while the federal fiscal year begins in October and ends in September. During the appropriations process, it is difficult to estimate when federal funds will be available and how much they will be. Therefore, even though Ohio appropriates federal funds, it does so merely by making a somewhat educated guess about the amount of money an agency will receive. Then, as Congress makes its appropriations and agencies allocate their grants, the new estimates are brought before the state's Controlling Board for appropriations adjustments. That Board has the real input in deciding how federal monies will be allocated within the state when federal rules permit such discretionary judgments. The legislature, of course, could overrule the Controlling Board and make its own appropriation, but has never done so.

The Controlling Board needs special information to properly evaluate agency requests to spend federal monies. To aid them, a special committee of the legislature, the Federal Funds Review Committee, largely staffed by the Legislative Budget Office, has been established. It has responsibility for overseeing agency use of federal funds and advising the legislature on issues affecting the use of these monies.

Ohio's control over the use of federal funds coming to the state appears significantly stronger than in most other states, but the availability of these monies to state departments weakens the legislature's ability to control overall state spending. Legislative reform which would increase legislative control over the use of federal funds would strengthen the legislature's role in appropriating funds for the operation of state government.

Public Access

Of concern to the public is the extent to which the legislative process is subject to public scrutiny and accountability. Ohio has abolished executive sessions, private meetings where committee members decided the content and fate of legislation and other legislative matters and excluded the public. The pressures that opened all committee meetings to public scrutiny did not impact other aspects of the legislative process. Party caucuses remain closed to the general public, as do most meetings of conference committees where final decisions on bills are made. It can be argued that making some crucial decisions out of the glare of public light expedites the process, but it can also be argued that in a representative government all steps in the decision-making process need to be open and

subject to public review.

Gaining access to records of the legislative process can also be a problem in Ohio because of skimpy record-keeping procedures. Since in committees and on the floor only records of official actions, such as votes, are kept, it is impossible for the public to determine definitively or document why legislative actions took place. Supporting materials prepared for legislators by their staffs, or the staff of the LSC and the LBO, are considered to be the property of the legislators. The public may access general memoranda prepared for a committee or for several legislators, but they are usually only available if legislators want to make them available to the public or if the requester knows precisely what to request. Copies of amendments are only available to those present at hearings and there are seldom enough copies made to make them available to all those attending the sessions. A persistent citizen or lobbyist can usually obtain copies of materials distributed at committee hearings and on the floor but, overall, the process is not designed to facilitate initiation into its mysteries. This can lead to concern about the extent to which it is a representative process.

Gerrymandering

Gerrymandering is the process by which legislative districts are drawn to favor one political party. It has been a concern of the federal courts since the landmark decision of the U. S. Supreme Court in *Baker v. Carr* (1962). That decision struck down apportionments which had favored rural voters at the expense of urban residents and required equal representation ("one-man, one-vote") as the rule in drawing up legislative districts for election purposes.

While the federal courts have been concerned that geographical areas not be the basis for representation (the U. S. Senate model) in states, and they have also been concerned that districting not be done to disenfranchise minorities, until recently they had not been concerned about oddly drawn districts that favor one political party because of the area's political makeup. In June, 1986 the U. S. Supreme Court refused to overturn an Indiana redistricting plan drawn up by Republicans to dilute Democratic voting strength, even though they also ruled that redistricting to favor one political party over another sometimes violates the *U. S. Constitution*. To be unconstitutional, gerrymandering has to be so severe that it consistently degrades the voting strength of a political group, according to the decision.

In Ohio, witnesses to the apportionment process will recognize that it is the issue of the decade when the new census data appear and the state is forced to redraw state legislative districts. The power to apportion is in the hands of a five-member State Apportionment Board consisting of two state legislators (one from each party), the Governor, Auditor of State, and Secretary of State. Capturing control of two of these three statewide offices determines which party controls

legislative apportionment. In Ohio, after the 1970 and the 1980 census, apportionment was in the hands of the Democrats; and the Ohio House of Representatives has remained in Democratic hands since that time, also. Even though Senate districts have also been drawn by Democrats, Republicans have been able to capture the majority through hard work, good candidates, and an emphasis upon issues. Thus, it is arguable as to whether favorably drawing legislative districts are really that influential in determining the outcome of legislative elections, but it is an issue of continuing concern. Table 6 shows which party has controlled each house of the General Assembly since the 1972 elections.

Table 6
Control of the Ohio General Assembly

Years	Ohio House		Ohio Senate	
	Dem.	Rep.	Dem.	Rep.
1973-74	58	41	16	17
1975-76	59	40	21	12
1977-78	62	37	21	12
1979-80	62	37	18	15
1981-82	56	43	15	18
1983-84	62	37	17	16
1985-86	59	40	15	18
1986-87	60	39	15	18
1987-88	60	39	15	18
1988-90	59	50	15	18

Legislative Staffing

For much of the twentieth century, the predominant issue for legislative reformers was equipping legislators with sufficient staff with the right specialties to do their jobs independent of the Executive Branch. By the beginning of the 1980's, this had been accomplished in the areas of permanent legislative research and library reference staff, fiscal and budget staff, post-audit and program evaluation staff, and general support staff. The expansion of information technologies has legislatures, including Ohio's, installing complex information systems accessing national data bases.

Along with the expansion of staff has come the question of who should control the staff. To a certain extent Ohio has followed the path of most states by increasing its reliance upon partisan leadership staff, caucuses staff, and fiscal staff. It continues to rely upon the non-partisan staff of the Legislative Service Commission to provide committee staffing and centralized research. The issue of partisan or non-partisan staffing is resolved through the use of both kinds

of staff, each providing different kinds of assistance and advice. Increased use of partisan staff can result in a more decisive legislative process with more issues resolved on a partisan basis, perhaps unnecessarily.

Ohio Efforts at Legislative Improvement

On several occasions Ohio has established committees to review legislative performance and make recommendations as needed. In 1972 a Citizens' Committee on the State Legislature issued a report with 59 recommendations, as the result of 12 months of careful examination of the basic structure, procedures, and organization of the General Assembly. This was followed by the creation of a Subcommittee on Legislative Improvement of the Legislative Service Commission which reviewed 68 recommendations presented by the Project for Legislative Improvement which was co-sponsored by the State Legislative Leaders Foundation and the Citizens Conference on State Legislatures, and funded through a Ford Foundation grant. Many of the recommendations of these two groups were eventually adopted, but many were not. After reviewing the recommendations it appears that some are still viable.

Recommendations of the 1972 Citizens' Committee Viable in 1989

The following are recommendations selected from the Citizens' Committee report which appear to be still worthy of attention:

1. The General Assembly control the length of its session by statute or rule and by adopting bill deadlines for the conduct of legislative business.
2. Rules Committee action in choosing which bills will be brought up for a vote in its house on any given day be made by a record roll call vote printed in the house journal.
3. A concise statement of legislative intent containing the purpose or objectives of the General Assembly be a part of each bill enacted.
4. The General Assembly create a Public Information Office to provide bipartisan information about the activities of the General Assembly to the general public and the news media.
5. The General Assembly create a permanent bipartisan Legislative Compensation Commission composed of private citizens to review regularly rates of compensation for legislators and report its recommendations and findings to the General Assembly.

6. The General Assembly create a bipartisan joint committee to develop a code of standards for lobbyists and to regulate lobbyist activities.
7. The General Assembly require that every bill introduced contain requirements for program evaluation and that each program appropriation include a sum for program analysis and evaluation.
8. Each bill reported favorably by a legislative standing committee be accompanied by a committee report.

Recommendations of the 1974 Subcommittee on Legislative Improvement Viable in 1989

Additional recommendations made in 1974, but still not implemented, are worthy of attention in 1989, including the following:

1. In the interim period between the annual legislative sessions in a biennium, the parallel committees from the House and Senate should meet together as joint interim study committees.
2. All committee hearings (standing, interim, LSC study committees) should be tape recorded and placed in a library or information office easily accessible to the public. Facilities should be made available to reproduce duplicates of the tapes for a nominal charge. The original copy of the tapes should be in the custody of a non-partisan staff agency such as the LSC.
3. A series of deadlines for the conduct of legislative business should be adopted. Deadlines should be established for bill introductions, for standing committees to report bills originating in their own house, for third reading and passage of bills originated in their own house, for standing committees to report bills originating in the other house, for third reading and passage of bills originating in the other house, for consideration of conference committee reports, and for consideration of executive vetoes.
4. The finance committees should invite other committees to participate in budget hearings of agency requests that fall within their jurisdictions. The finance committees should receive written recommendations from other committees relating to the areas of competence of other committees.
5. All floor sessions of both House and Senate should be tape recorded and placed in an information office or library easily accessible to the public. Facilities should be made available to reproduce duplicates of the tapes for a nominal charge.

6. The Journals of both houses should note the names of all members who rise to speak on all bills, amendments, and other motions, and indicate whether they spoke in favor of or against the motion.
7. A full-time fiscal staff should be provided to the Finance Committee of the House and Senate (joint interim finance committee). This organizational structure suggests the moving of the post audit and program review functions from the executive branch of government to the legislative branch.

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Appendix A*

SUMMARY OF SELECTED BILLS ENACTED BY THE 117th GENERAL ASSEMBLY

Senate Bill 147

Exempts from child day-care licensing requirements places located in and operated by hospitals in which the needs of children are administered to if the children are under the on-site supervision of a doctor or registered nurse and day-care is provided only for children who, in the opinion of the parent, guardian, or custodian are ill or injured.

Committees: Senate Health, Human Services and Aging
House Human Resources

House Bill 148

Requires annual certification of expenditures that qualify for state health district subsidy funds; provides for appointment of legislators to serve on the Certificate of Need Review Board in a legislative member's absence; and permits the Review Board to extend the period within which it must make a final decision on an appeal.

Committees: House Health and Retirement
Senate Health, Human Services and Aging

House Bill 738

The act requires the Ohio Department of Human Services to annually assess most hospitals amounts to be used as matching funds to make Ohio eligible for additional federal Medicaid funds.

Committees: House Health and Retirement
Senate Health, Human Services and Aging

*Source: Ohio Legislative Service Commission. *Summary of Enactments, September 1987-June 1988*. Columbus, Ohio: The Commission. Summaries included here have been abbreviated in some instances to conserve space and therefore may not reveal the full extent of the changes in law made in cited enactments.

Senate Bill 241

Under certain conditions, permits the Department of Human Services to establish a program to extend Medicaid assistance for up to 18 months to certain employed former ADC recipients, as long as federal funds are available and, as of July 1, 1989, to extend medical benefits for up to 18 months to certain employed former recipients of General Assistance in designated counties agreeing to participate in such a program.

Committees: House Human Resources
Senate Economic Development and Small Business
Re-Referred: Senate Finance

Senate Bill 242

Broadens the conditions under which state reimbursement for county day-care services is available.

Committees: Senate Economic Development and Small Business
House Human Resources

House Bill 406

Requires an employee who becomes aware of certain violations of work rules or company policy, to report the violation to his employer.

Committees: House Ethics and Standards
Senate Judiciary

House Bill 436

Authorizes certain licensed fireworks manufacturers to possess for sale and sell at wholesale and retail fireworks manufactured by other manufacturers; permits advertisement of fireworks, except Class C fireworks; authorizes sale of sparklers to persons under age 18; decreases criminal penalties for certain violations of the fireworks law.

Committees: House State Government
Senate Energy, Natural Resources, & Environment
Re-Referred: Senate Agriculture, Commerce & Labor

House Bill 331

Permits the State Board of Cosmetology to seek injunctions against certain acts that violate the Cosmetology Licensing Law; modifies the requirements for a cosmetology instructor's license; makes various other changes in the Cosmetology Licensing Law.

Committees: House Economic Development and Small Business
Senate Judiciary

House Bill 297

Establishes a system under which a state agency planning to contract for professional design services of an architect, landscape architect, professional engineer, or surveyor must publicly announce the availability of such contracts, keep on file and evaluate the qualifications of professional design firms, and negotiate such contracts with those firms ranked as most qualified.

Committees: House Ethics and Standards
Senate Economic Development and Small Business

House Bill 421

Imposes restrictions and requirements, including advertising and disclosure requirements, upon certain types of consumer lease-purchase transactions having a lease period of less than four months; authorizes a lessee to recover damages against a lessor by private civil suit for violations of the act; specifies the amount of damages recoverable; and establishes defenses to and statutes of limitation governing the cause of action so created.

Committees: House Economic Development and Small Business
Senate Financial Institutions and Insurance

House Bill 259

Allows Ohio instructional grants to be made to full-time eligible undergraduate students who are in a course of study leading to an accredited Bachelor of Arts, Bachelor of Science, or Associate of Arts degree in theology, religion, or other field of preparation for a religious profession.

Committees: House Education
Senate Education

House Bill 789

Creates the Lottery Profits Education Fund; changes the procedure for reducing state aid payments if a reallocation of school foundation funds is required during a fiscal year; and makes an appropriation.

Committees: House Finance-Appropriations
Senate Finance

House Bill 812

Designates capital projects of the Department of Youth Services and other entities that are to be financed through the issuance of up to \$83,150,000 in Ohio Building Authority revenue bonds, and authorizes the acquisition, construction, or renovation of capital facilities by the state for use as single-county or joint-county juvenile facilities.

Committees: House Finance-Appropriations
Senate Finance

House Bill 428

Prohibits transporters by motor vehicle or railroad who have not registered with the Public Utilities Commission from transporting hazardous materials in the state; establishes registration fees for transporters.

Committees: House Highways and Public Safety
Senate Energy, Natural Resources, and Environment

House Bill 491

Generally prohibits household laundry detergents containing more than 0.5% phosphorus from being offered or distributed for sale or sold on and after January 1, 1990 in counties in the Lake Erie Drainage Basin; preempts local requirements regulating the phosphorus content of such detergents in that area; and establishes penalties for violation.

Committees: House Energy and Environment
Senate Energy, Natural Resources, and Environment

House Bill 514

Makes permanent an income tax refund contribution system for natural resource conservation activities; establishes permit program for fishing tournaments; credits portion of severance tax to the Geological Mapping Fund; creates the Keep Ohio Beautiful Commission; requires certain loads being hauled on highways to be covered; creates a Ginseng Management Program; makes Ohio party to the Middle Atlantic Interstate Forest Fire Protection Compact; makes changes in forest fire law and in Soil and Water Conservation Law and the Civilian Conservation Law; and makes other changes in natural resources laws.

Committees: House Agriculture and Natural Resources
Senate Energy, Natural Resources, and Environment

House Bill 611

Regulates long-term care insurance by adopting the National Association of Insurance Commissioners Long-Term Care Model Act; authorizes the Superintendent of Insurance to adopt rules to regulate the content and sale of long-term care insurance policies; makes other changes and makes modifications in the regulation of the coverage offered by health care corporations.

Committees: House Insurance
Senate Financial Institutions and Insurance

House Bill 796

Provides for the establishment, organization, and operation of profit or non-profit credit union share guaranty corporations and for licensing them by the Superintendent of Insurance; and makes other changes respecting guaranty corporations.

Committees: House Insurance
Senate Financial Institutions and Insurance

Senate Bill 169

Requires third-party payers to reimburse health care providers within specified time periods; sets forth requirements governing the direct reimbursement of hospitals, the acceptance of assignments of benefits, and the payment of

claims submitted during hospitalization or treatment; establishes standards governing coordination of benefits for group health plans, and makes violations of the act unfair and deceptive insurance practices.

Committees: Senate Financial Institutions and Insurance
House Insurance

House Bill 1

Makes numerous changes in civil justice law; establishes a statutory product liability law; makes changes in insurance law, and establishes and specifies the duties of the Insurance/Civil Justice Reform Review Committee.

Committees: House Insurance
Select Committee on Tort Reform (not a standing committee)

Senate Bill 89

Revises procedural requirements for juvenile court actions pertaining to abused, neglected, or dependent children; adds protective supervision and long-term foster care to the dispositional orders juvenile courts may issue; gives juvenile courts continuing jurisdiction over abused, neglected, or dependent children for whom they have issued disproportional orders until the child attains age 18 (age 21 if the child is emotionally or physically handicapped), is adopted, or, in certain circumstances, graduates from high school or vocational school; requires court approval of voluntary surrender of permanent custody of a child, other than surrender to obtain adoption of a child under six months of age; creates the Abused, Neglected, and Dependent Children Oversight Committee; designates the Department of Human Services as the state agency to administer foster care and adoption assistance payments under Title IV-E of the Social Security Act.

Committees: Senate Health, Human Services and Aging
House Children and Youth

House Bill 322

Permits courts to condition a misdemeanor's sentence suspension on performance of up to 200 hours of community service work; increases to 200 hours the maximum amount of community service work that can be performed by

misdemeanant probationers; and permits misdemeanor to perform community service work to satisfy a fine they cannot pay.

Committees: House Judiciary
Senate Judiciary

House Bill 429

Permits courts to require, as a condition of probation for any OMVI offender or alcohol-related vehicular homicide offender, that the offender operate only a motor vehicle with a certified ignition interlock device.

Committees: House Judiciary
Senate Highways, Transportation, and Local Government

House Bill 385

Creates a Capitol Square Review and Advisory Board to control the improvement, development, and use of Capitol Square and its associated structures; exempts Congressional Medal of Honor Awardees, former prisoners of war, and certain disabled veterans from state and local watercraft and boat trailer registration and service fees and taxes and provides for reimbursement of the foregone fee and tax revenues.

Committees: House Agriculture and Natural Resources
Senate Finance

House Bill 772

Gives convention facilities authorities until December 31, 1988, to impose lodging taxes to pay the costs of constructing and operating convention facilities; permits an authority that levies a tax to issue bonds and anticipation notes; and makes other changes in the convention facilities authority law.

Committees: House Ways and Means
Senate Ways and Means

House Bill 689

Makes taxable the resale of certain types of telecommunications services purchased in a form not subject to sales or use tax and then resold as message

toll service; revises the estimate contained in the current biennial appropriations act of the amount of sales and use taxes that will be paid by the end of the 1988 fiscal year telecommunications services; changes the date on which the motor vehicle fuel tax rate is adjusted each year through 1993.

Committees: House Finance-Appropriations
Senate Finance

House Bill 373

Allows a parking violations bureau to notify the Registrar of Motor Vehicles when an individual has three or more unpaid judgments because of parking infractions and the vehicle involved was not being used without its owner's consent or by someone other than the owner through a rental or lease agreement; authorizes the Director of Highway Safety to participate in a motorcycle manufacturer motorcycle loan program in order to carry out the state Motorcycle Safety and Education Program; requires the Director to obtain insurance covering at least the establishment and administration of that program; and allows abandoned and unclaimed motor vehicle to be disposed of to scrap metal processing facilities and others as well as motor vehicle salvage dealers.

Committees: House Transportation and Urban Affairs
Senate Highways, Transportation, and Local Government

Senate Bill 155

Revises the authority of county boards of mental retardation and developmental disabilities (MR/DD boards) with regard to selecting, contracting with, and disciplining employees; requires the State Board of Education to adopt rules governing MR/DD board programs for handicapped children; establishes a formula for approval of funding of supervisory units for MR/DD board programs; provides for funding of MR/DD board programs for preschool children; permits MR/DD boards to charge school districts for "excess costs" of educating handicapped children; exempts certain county purchases of services from the competitive bidding law; permits the Counselor and Social Worker Board to provide for the temporary licensing of social workers; changes certain requirements and procedures for voter approval of tax levies for MR/DD boards' operations and capital improvements; and limits to \$22,000,000 the amount that may be transferred to the Budget Stabilization Fund at the end of Fiscal Year 1988.

Committees: Senate Health, Human Services and Aging
House Finance-Appropriations

House Bill 867

Provides for the implementation and operation of the constitutionally authorized local government infrastructure financial assistance program, enacted by Am. Sub. H.B. 704 of the 117th General Assembly.

Committees: House Ways and Means

To Senate floor without going to standing committee

Senate Bill 150

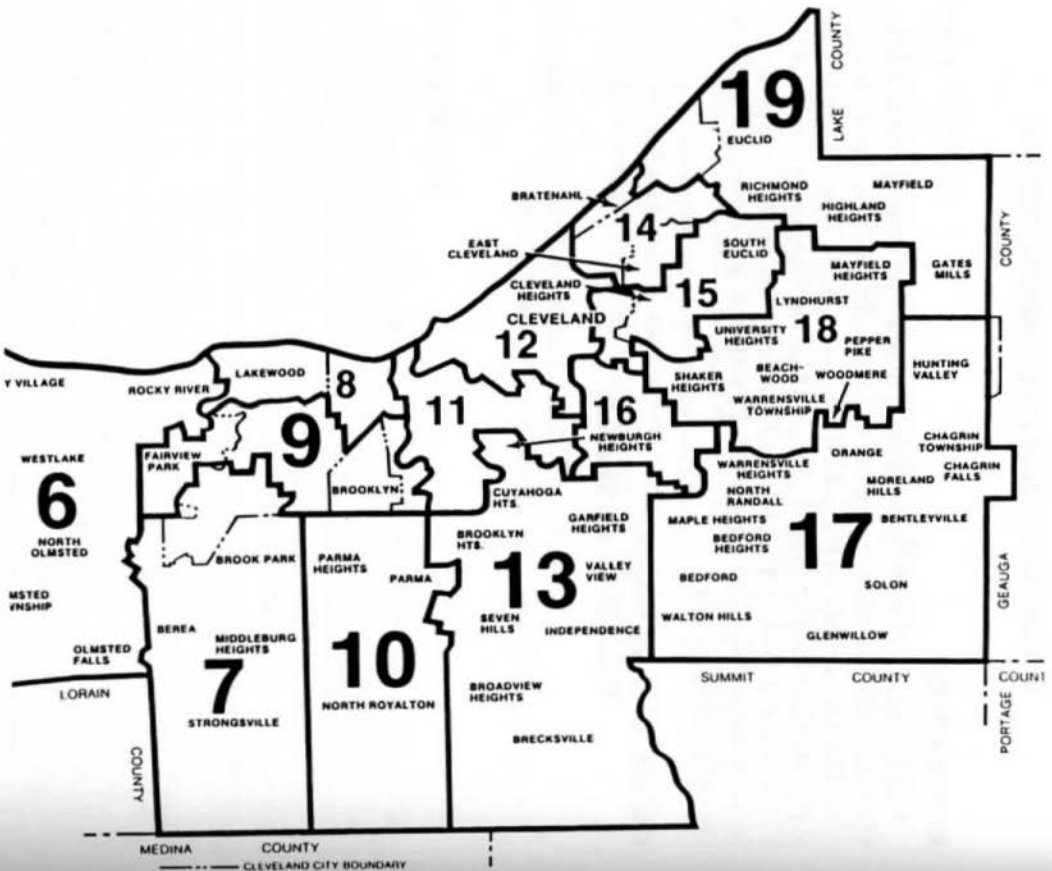
Requires a roll call vote of a public body to authorize itself to meet in executive session and requires the motion and vote to state the session's purpose: permits court a to order a public body enjoined from violating the Open Meetings Law to pay court costs and reasonable attorney's fees and requires the court to order a civil forfeit of \$100; and establishes a conclusive and irrebuttable presumption of harm and prejudice upon proof of a violation or threatened violation of the Open Meetings Law.

Committees: Senate Judiciary

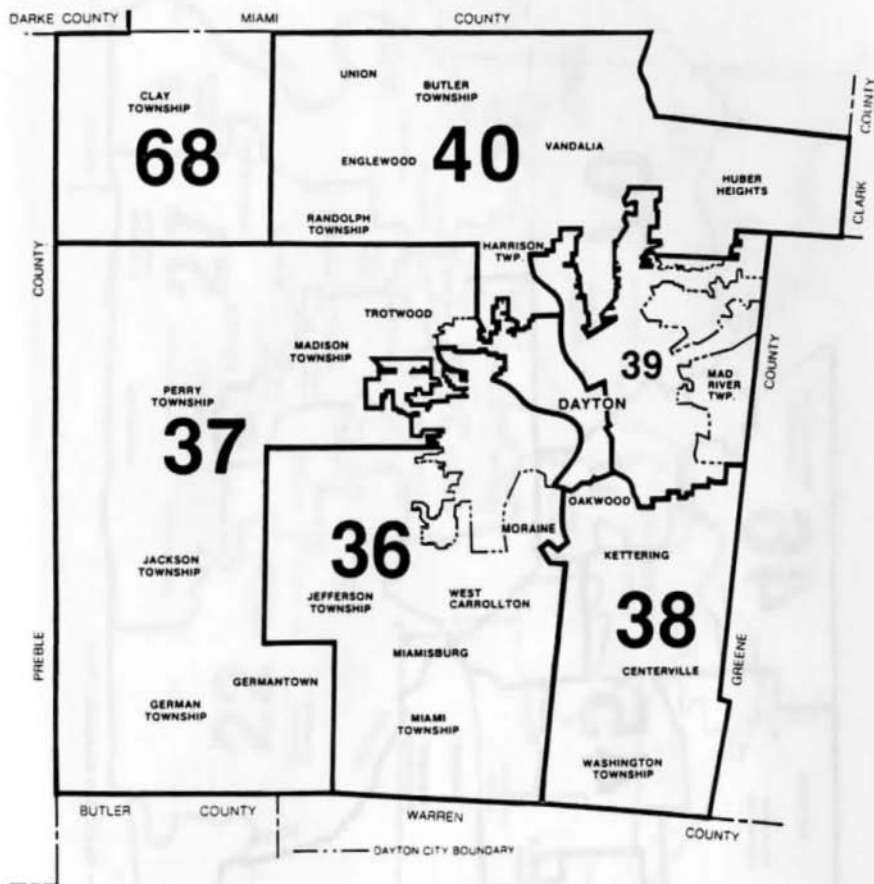
House Ethics and Standards

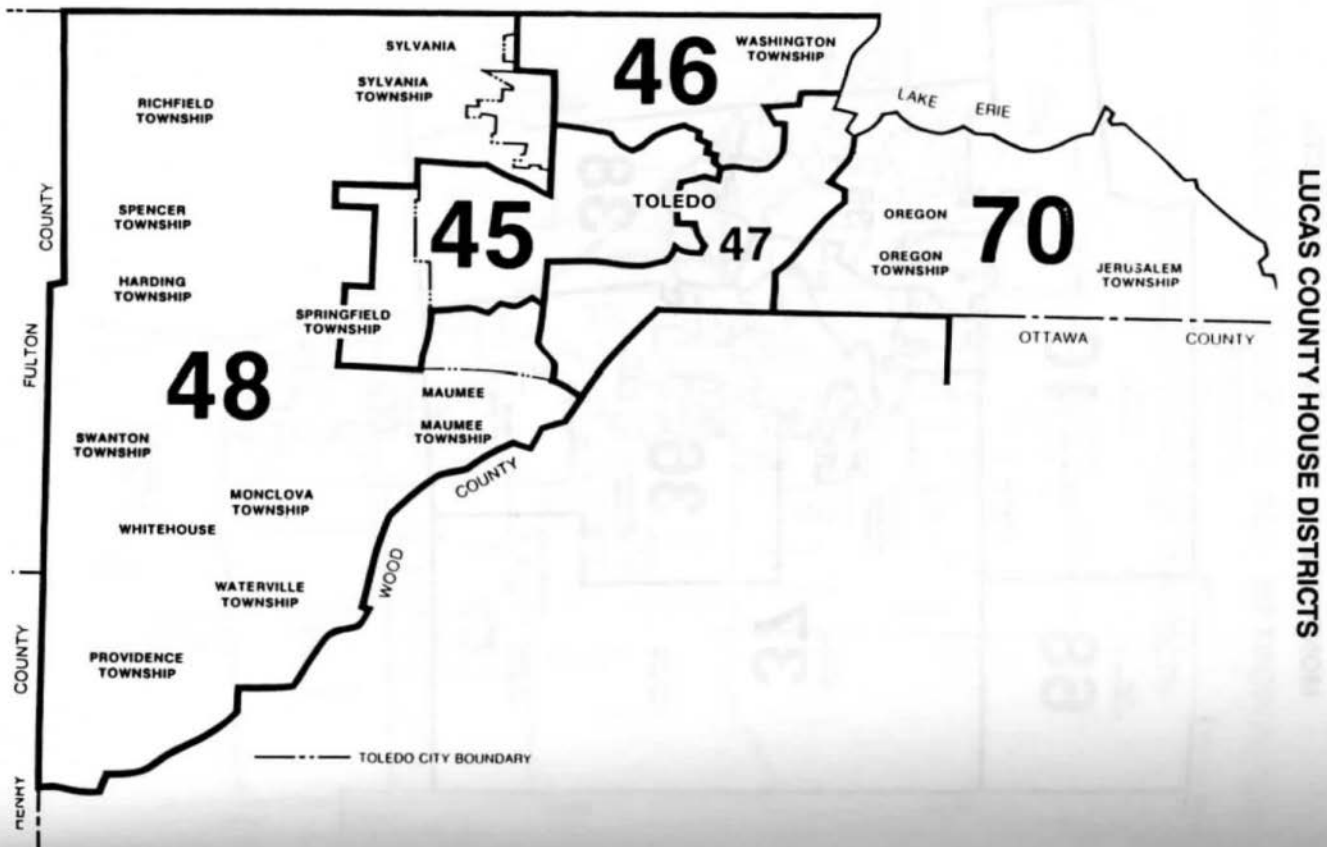
Appendix B
OHIO LEGISLATIVE DISTRICTS FOR METROPOLITAN
REGIONS

CUYAHOGA COUNTY HOUSE DISTRICTS

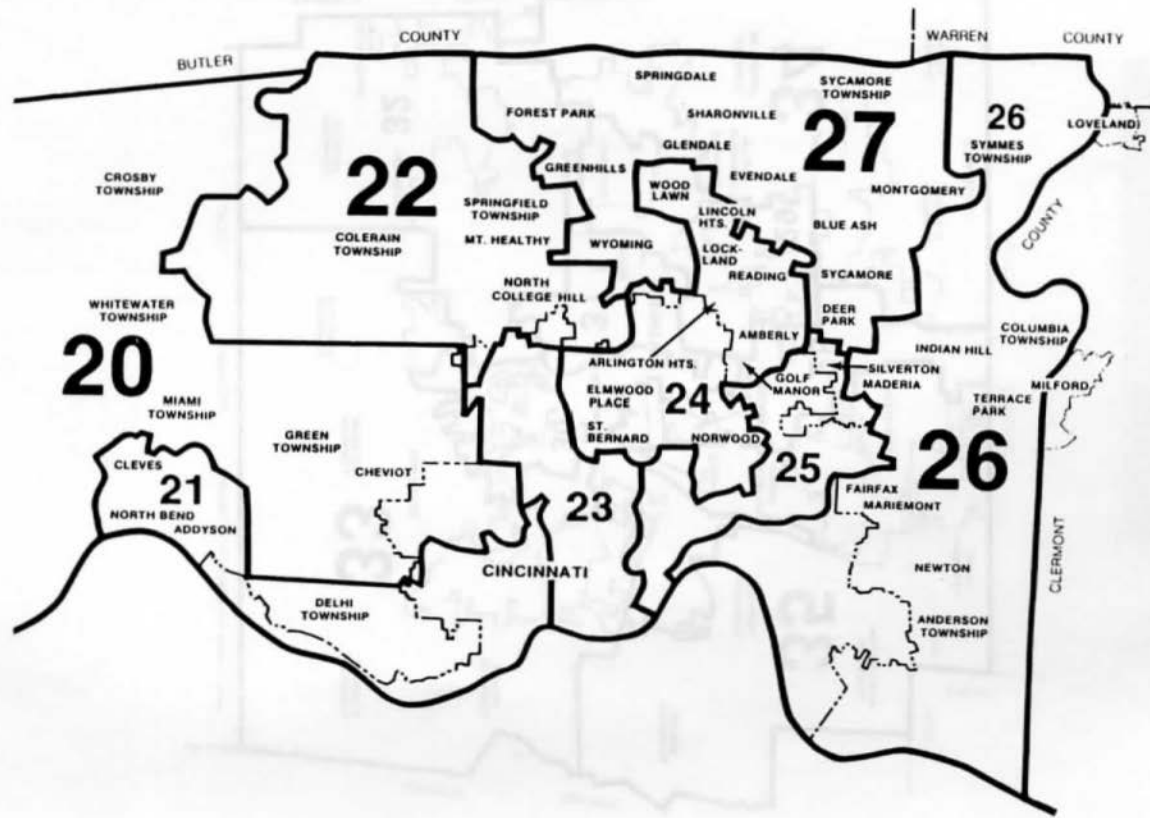


MONTGOMERY COUNTY HOUSE DISTRICTS





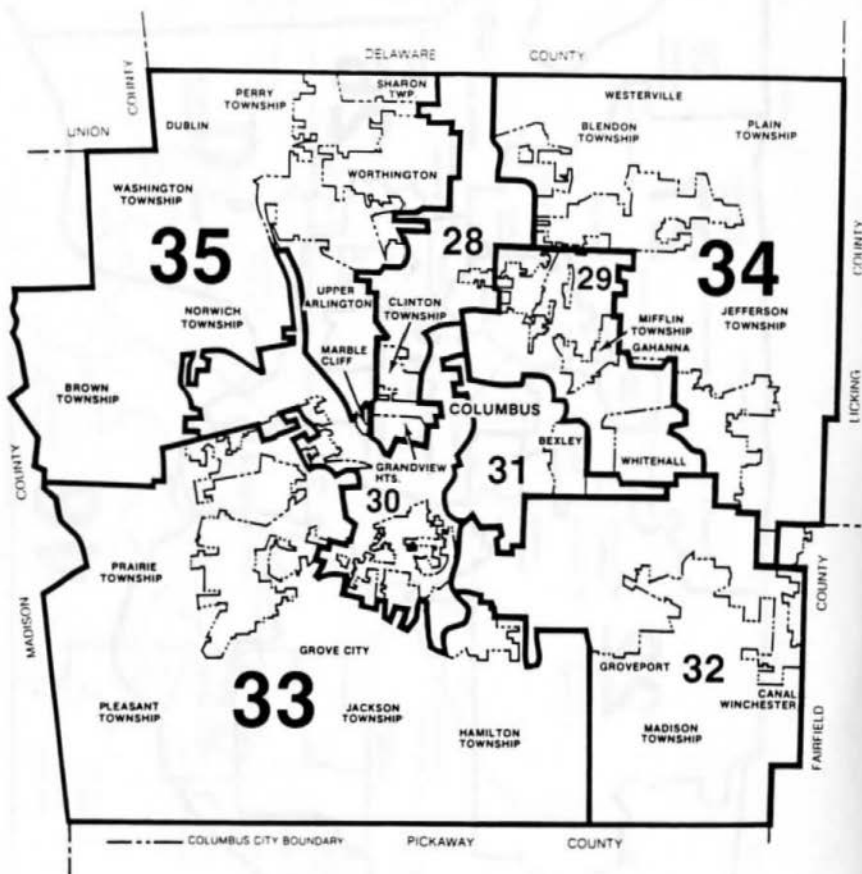
LUCAS COUNTY HOUSE DISTRICTS



HAMILTON COUNTY HOUSE DISTRICTS



FRANKLIN COUNTY HOUSE DISTRICTS





Doug Martin Photography.

The Ohio House of Representatives in session. Front cover shows the Senate chamber.

Richard Sheridan's Guide to the Ohio Legislature

In this book, Richard G. Sheridan describes and analyzes the work of the Ohio General Assembly for those who want to know more about this unit of state government and those who are interested in impacting legislation. Drawing upon his two decades of involvement in the legislative process, including 10 years as Ohio's first Legislative Budget Officer, Sheridan reveals the ins and outs of the legislature and offers his personal observations. He writes both for the novice who knows nothing about the legislature and for the professional lobbyist who needs to know more about the inside of the legislative process.



Richard Sheridan

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