

Citizens' Coalition for Legislature Accountability: Legislature Rules Reform

Legislatures were designed to be the most powerful branch of government and the most responsive to the population from which they derive their governance power. They serve the governed through unbiased debate to find the optimal compromise solution serving the majority position, with that majority holding them accountable through their voting records. Because of chamber rules, legislatures now have become expert not only at avoiding debates and votes, but at appearing to support one position while serving another. This occurs because the chamber rules allow them to give away their debate power granted by their constituents to the chamber leader and then to hide behind that leader. This concentration of power then makes the chamber vulnerable to crony capitalist abuse.

There are four major ways chamber rules accomplish this. The first is by allowing chairmen to kill bills by denying them a hearing. This permits the chairman to prevent both debate and the voting that allows the constituency to hold legislators accountable for their actions and inactions. Legislators covet chairmanships as they allow them to shepherd bills dear to them out of committee and into chamber debate. This concentration of power, however, makes them targets, both for deceptive legislators who file insincere bills to gain favor with their constituents and for the chamber leaders who want bills killed or promoted.

The second major way rules interfere with debate is by allowing chamber leaders to choose committee chairmen who serve at their pleasure and therefore are coerced to do the bidding of the chamber leader.

The third debate interference comes from procedural objections to debate. Currently these are decided by committee chairmen at the committee level and the chamber leader on second reading. This places in the hands of single individuals the ability to stop a debate without the accountability of a vote. While chamber members can object to the ruling of the chair or chamber leader, they do so at the risk that he will throw them out of the back-room caucus bargaining, remove their committee chairmanships and committee assignments, and order committee chairmen to kill their bills.

The fourth way legislators escape accountability is through voice voting. In voice voting the chamber leaders and committee chairmen decide whether they heard more "yea" votes than "nay" votes. Effectively one person determines the outcome of votes, and legislators can claim they voted "yea" or "nay" while voting the opposite. Like procedural objections, the leader's or chairman's decision can be challenged, but at the same risks as with procedural objection challenges.

To solve these issues, we propose four rule changes:

- 1) All chairmen be chosen by their committees and serve at their committee's pleasure only. This makes the chairman responsive to his committee, freeing him from the chamber leader's will.
- 2) Discharge petitions be created whereby a strong minority of a committee or a chamber can force a hearing on a bill. This not only overcomes the power of the committee chairman but allows individual legislators to be held accountable to their constituents for not starting or signing discharge petitions. It also facilitates the work of committee chairmen, as they can now more easily see which bills are most popular.
- 3) All procedural objections be immediately subject to record vote of the entire committee or chamber. This makes it impossible for one person to kill debate on an issue and simultaneously allows all legislators to be held accountable for the issues on which they avoid debate.
- 4) All votes on bill actions be record votes and available for public review. No voice voting allowed on bill actions.

Please note, because these proposals are not legislation and are not in support of or against any candidate, groups joining in this coalition don't violate their non-profit status. While we propose to publish how each legislator votes on these proposals, we will not and need not, advocate that any voter vote a particular way. Other advantages of this proposal are that these rules changes *are not*

subject to gubernatorial veto or judicial review and do not require concurrence from the other chamber of the bicameral legislature.

The specific wording changes we propose to accomplish these goals for the House are:

- 1) Change rule 24.1 to read: "Questions of order shall be decided by constitutional majority roll-call vote of the committee, subcommittee or House without debate, with such decisions inserted in the Journal."
- 2) Changing rule 56.2 to read: "Each committee shall have a Chair and Vice Chair selected by majority vote of the committee, who shall serve at the pleasure of the majority of that committee."
- 3) Adding to rule 56.3 the wording: "Any bill may have a petition filed by its author with the Principal Clerk, which when signed by 40% of committee members or 40% of all House members, shall have a hearing scheduled by the Chair or Vice Chair, in time to meet all requirements for second reading."
- 4) Change rule 44.2 to read: "Notwithstanding any rule or prior interpretation of these rules to the contrary, the Speaker shall, regardless of the bill action under consideration, cause a permanent public written record of any vote to be made. This record shall include the date; the subject matter under consideration; the total number of members voting; and the identity by name of members and whether they voted in favor, voted against, or were excused from voting. This record shall be recorded in the House Journal and shall be made available to the public and news media. Violations of this rule shall be considered a violation of the public trust."
- 5) Change rule 65 to read: "Record of Voting. When any action is taken on a bill under consideration by a committee or subcommittee, the vote of each member shall be recorded. This record shall include the date; the subject matter under consideration; the total number of members voting; and the identity by name of members and whether they voted in favor, voted against, or were excused from voting. This record shall be recorded in the House Journal and shall be made available to the public and news media. Violations of this rule shall be considered a violation of the public trust."

The specific wording changes we propose to accomplish these goals for the Senate are:

- 1) Change rule 10 to read: "The President or Chair shall preserve order and decorum and may speak to points of order in preference to Senators rising for that purpose."
- 2) Change rule 11 to read: "Questions of order in the Senate, or any committee or subcommittee, shall be decided by majority on a record vote without debate."
- 3) Change rule 32(a) to read: "The President Pro Tempore, President Pro Tempore-elect, or a member designated by the President Pro Tempore or President Pro Tempore-elect, shall appoint the members of each of the standing committees and subcommittees thereto. The committees and subcommittees thereto shall select their chairpersons by majority vote and said chairpersons shall serve at their committee's or subcommittee's pleasure. The appointments to standing committees and subcommittees shall be reported to the Senate by the President Pro Tempore and recorded in the Journal."
- 4) Rule 36 will begin with a new subsection labeled (a) that reads "All votes on bill actions, whether in committee, subcommittee, or the entire Senate, of whatever nature, shall be decided by record vote." The subsequent clauses of rule 36 shall be sequenced to accommodate the addition of clause (a).
- 5) Change rule 56 (b) to read: The Chairperson or another committee member designated by the Chairperson, or the Subcommittee Chairperson with the approval of the Committee Chairperson, is responsible for informing the Principal Secretary, in writing, of the intent to hold a hearing including all information required in the notice by Rule 56(a). The author of any bill may file a petition to have a hearing scheduled for the bill with the Principal Secretary, which when signed by 40% of members of the assigned committee or subcommittee, or 40% of all Senators, shall be delivered by the Principal Secretary to the Chairperson or other committee member designated by the Committee Chairperson, who shall schedule a hearing on the petitioned bill including all information required in the notice by Rule 56(a). The notice of the intent to hold a hearing, containing the signature of the Chairperson or the petition of the Committee, Subcommittee or all Senators, may be submitted to the Principal Secretary electronically."