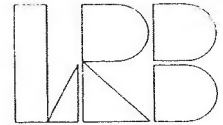


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LRB Notes

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ENACTMENT OF BILLS INTO LAW BY THE HAWAII LEGISLATURE

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This Note describes the necessary requirements for the enactment of a bill into law by the Legislature of the State of Hawaii.

Q1: *If I remember my basic high school civics class, all that is needed for a law to be enacted is that each house of the Legislature needs to pass a bill, and the Governor needs to sign it. Is it really that simple?*

A1: For the most part, in very general terms, yes. However, there are a number of other details, just some of the constitutional requirements alone are as follows:

- The bill must embrace a single subject, and that subject has to be expressed in its title;
- The bill must include an "enacting clause" stating "Be it enacted by the legislature of the State of Hawaii";
- The bill must pass three readings in each house on three separate days;
- Before a bill can pass third or final reading in either house of the Legislature, the bill must be made available to the members of that house in printed form for at least forty-eight hours; and
- The Governor is not required to sign a bill just because the Legislature passed it. The Governor also has the option to veto a bill (or in some cases, just a portion of a bill) or allow it to become law without signing it.

Q2: *If identical bills are introduced in the House of Representatives and the Senate and each house passes those respective bills without any changes on three readings on separate days, has the Legislature passed a law that can go to the Governor for approval or veto?*

A2: No. That simply means that each house has passed a bill. Each of those two bills must go over for consideration and passage by the second house for three more readings. While it may appear that the concept contained in the bills has passed both houses of the Legislature, no single bill has met the constitutional requirement for passage on three readings in each house.

Q3: *What happens if a bill has not passed three readings in both houses by the end of the legislative session?*

A3: It dies. But whether that death is temporary or permanent depends upon which legislative session has just ended.

Beginning on the third Wednesday in January of each odd-numbered year, the Legislature of the State of Hawaii is convened. Each Legislature goes for a two-year cycle, and includes the Regular Session for that odd numbered year, the Regular Session for the following even-numbered year, and any other special sessions that may be convened during that two-year period. For example, the Twenty-first Legislature of the State of Hawaii consisted of the 2001 Regular Session, three Special Sessions during 2001, and the 2002 Regular Session. The First Legislature convened in 1959, shortly after Statehood.

If a bill is introduced during a regular session in an odd-numbered year (i.e., the first regular session during the two-year cycle of the Legislature) then the bill "dies" (i.e., cannot be enacted) at the end of the legislative session, but is then carried over to the following regular session where it comes back to life at the point where it had died. All bills, whenever introduced, die permanently at the end of the second regular session.

Q4: *So if during the first regular session of the two-year cycle a bill passes three readings in the first house and two readings in the second house, does that mean it just needs to pass the third reading in the second house when the next regular session is convened?*

A4: Close, but not exactly. Article III, Section 15 of the state constitution specifically provides that any carried-over bill (carried over from the odd-numbered year to the even-numbered) must pass at least one reading in the house in which it originated. Consequently, any bill that passed three readings and crossed over to the second

house during the first regular session (during the odd-numbered year) must not only pass three readings in the second house, but must be sent back to the originating house to be passed one more time.

Q5: *What is meant by the "Conference" period toward the later part of each Regular Session that the media talks about every year?*

A5: An important part of the lawmaking process in a bicameral (two-house) legislative system is that both houses must agree on the contents of each bill that is passed and sent to the Governor. Absent such a requirement, the idea of "the Legislature" passing a bill would be meaningless because whichever house got the bill last would be able to change the bill however it wanted with the first house having no say.

Consequently, if the second house changes a bill in any way, even changing a single punctuation mark, the originating house must then either agree or disagree to the change. If the originating house disagrees, then the leadership of each house appoints representatives to meet with the representatives of the other house to "conference" on the measure and "hammer out the differences".

If the conferees agree to changes that produce a final draft of the bill, then the bill is free to go to the floor of the respective houses for passage on "final" reading. If no agreement is reached, the bill may simply die in conference.

If at any time, however, the originating house withdraws its disagreement to amendments previously made by the second house, then there is no need for the conference and the bill will then go to the Governor.

Q6: *What happens if the Governor does nothing after receiving a bill and doesn't either sign a bill or veto it?*

A6: The bill automatically becomes law without the Governor's signature.

Q7: *What is the deadline by which the Governor has to veto a bill?*

A7: That depends. If the bill is sent to the Governor ten or more days (not counting Saturdays, Sundays, holidays, or legislative recess days) before adjournment of the legislative session during which the bill was passed, the Governor has ten days in which to veto the bill. If the bill passed less than ten days before adjournment of the legislative session, the Governor has thirty-five days in which to veto. The bills automatically become law forty-five days after the end of the session, but the Governor

is required to give the Legislature ten days notice of any veto--thereby effectively giving the Governor thirty-five days in which to veto.

Q8: *Can the Governor just veto a portion of a bill?*

A8: Yes, this is called an "item veto". The Governor can "item veto" only bills that appropriate money for specific purposes. In these cases, the Governor can either eliminate or reduce the amount appropriated. The Governor cannot item veto appropriations for the Legislature or the Judiciary. All other bills can only be vetoed as a whole.

Q9: *Can the Legislature do anything if the Governor vetoes a bill?*

A9: Yes. The Legislature can override any Governor's veto of a bill or an item in a bill. A veto override needs a two-thirds vote of each house of the Legislature. If the veto is overridden, then the bill or the item becomes law. Article III, Section 17 of the state constitution specifically requires that the veto in each house be equal to two-thirds "of all members to which the house is entitled", not just two-thirds of those who are present and voting.