

STATE ALLOCATION BOARD RULES AND PROCEDURES SUB-COMMITTEE HEARING

Members:

Senator Loni Hancock, Chair
Assembly Member Jean Fuller
Assembly Member Julia Brownley
Scott Harvey

Public Hearing:

Tuesday, May 25, 2010
State Capitol Building
Room 4203-112
Sacramento, CA 95814
3:30 p.m. to 5:00 p.m.

General Information
(916) 376-1771

For further information, please contact Ms. Lisa Kaplan, Assistant Executive Officer, at (916) 376-5035.

This notice can be found on the OPSC Web site at: <http://www.opsc.dgs.ca.gov>. Individuals who need auxiliary aids for effective participation are invited to make their requests and preferences known to Ms. Lisa Jones at (916) 376-1753 five days prior to the meeting.

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Members:

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AGENDA

- 1) Discuss Subjects of Future Subcommittee topics
- 2) Discuss mock-up Operating Rules and Procedures for the State Allocation Board based on Senate Rules with the default to Masons Rules
- 3) Public Comment

Sub-committee on Rules and Procedures

State Allocation Board

Chair, Senator Loni Hancock

Assemblywoman Jean Fuller

Assemblywoman Julia Brownley

Scott Harvey, Dept. of General Services

Hearing

April 13, 2010

3:30 pm – 5pm

1020 N Street, Suite 200

(Senate Office of Research Conference Room)

Minutes:

I. Introduction (Senator Hancock)

- a. Introductions were made around the room. Approximately 20 people were in attendance.

II. Objectives & Goals (Senator Hancock)

Sen Hancock: Intend to have a few short, focused meetings to develop some broadly agreed upon rules and procedures for the State Allocation Board (SAB). Also intend to take up some policy areas which lack a stated regulation or procedure that lead to extended debates and difficulties in achieving resolution at the Board level.

For the next meeting, I request the AEO to bring back mocked-up rules for the sub-committee to review and recommend to the full Board. Then the other meetings we should talk about the process for setting the agenda, organization of the binder, who the officers are of the SAB and how they are determined, the committee make-up of the Implementation Committee, what the appeal process is to allow due process, and go from OPSC to SAB for final arbitration.

Asm Fuller: We should potentially look at public comment: how long comments are allowed and where public comment should take place on the agenda (in the meeting) so that there is not endless debate at the meetings without resolution on a specific issue.

Scott Harvey (Harvey): I would like to address reconsideration and resolving business in a timely manner so that it does not just continue and continue. Specifically, I would like to look at what the SAB's role should be in regards to reconsideration and what the process would look like to move the agenda along in a transparent way.

III. Roberts Rules

a. Scott Burns, President, CA Association of Parliamentarians sburns@omsoft.com

Scott Burns: President, California State Association of Parliamentarians. He works as a Professional Registered Parliamentarian, which means he is credentialed by the National Association of Parliamentarians and also a member of the American Congress of Parliamentary Lawyers. Recently, he retired as an attorney for the California Department of Transportation.

The conceptual differences between Robert's Rules (Robert's) and Mason is that Robert's was first developed a little over 100 years ago as an adaptation of the rules for the US Senate and House of Representatives because there was a lot of disagreement as to exactly what parliamentary procedure was and what it should be for organizations that were not legislative bodies: (i.e., religious organizations, non-profits, and the like).

Mason's on the other hand was developed in California in the Senate, is now published by the National Conference of State Legislators (NCSL), and is intended more for legislative bodies; there's a distinct difference in the philosophy between the two authorities.

Robert's is focused on member-driven organizations and is intended to be a fully authoritative resource for whatever has come up. Mason's is similar but with special needs for legislative bodies, and the biggest difference between the two is that Robert's is very concerned with membership organizations where one of the principal things you have to be worried about are the rights of the people who are not there.

Robert's has protections built-in, things requiring prior notice, higher vote (2/3) for changes in certain rules, and notice of previous actions. Mason's is for legislative bodies and recognizes that legislators are working as representatives, but here you can't restrict a legislator's ability to take certain actions because someone did not show up at a meeting, or because someone did not get proper notice.

Thus, the philosophical differences between the two authorities are thus: Under Mason's – a failure to abide by the rules does not invalidate an action. The majority is always in control. Therefore, even though you have an authoritative rule book, the body is allowed to supplement your own rules no matter what authority you establish. So with Mason's even if you violate your own rules, the action may still stand as legitimate, as long as the action taken is fair, just, equitable, proper, and not a result of fraud.

With Robert's, the rules have to be followed. There is an ability to suspend the rules, but if you violate the rules, depending on the circumstances, it can invalidate the action. Under Mason's, the majority is always in control, everything is a majority vote, with Robert's there are some things that require a 2/3 vote. For example, to cut off debate or change the rules under Robert's, it requires a 2/3 vote; however, with Mason's only a majority. There are other general rules with how many times a member can speak and for how long, but the Board has the ability to supplement their own rules for the base structure of either Robert's or Mason's.

Reconsideration seemed to be an issue that was raised. They are somewhat similar – in that in order to move to reconsider something, a motion typically has to

be made by someone who voted on the prevailing side. Robert's is a little more in a committee structure; it indicates anyone who didn't vote on the losing side.

That being said, the big criticism about Robert's is that it is an authoritative work, and often you need an expert on staff in order to rescue groups who adopt Robert's and a dispute then arises, then they are bound by something in the back of the book they never read or never knew existed, resulting in a violation of some rule. Therefore, no matter what set of rules the Board adopts, it is recommended that the Board adopt special rules to make things work more efficiently. Never adopt any parliamentary authority and just use it.

One of the advantages for Mason's is that it's the legislative authority that most members are familiar with. Robert's on the other hand is the predominant parliamentary authority in the country right now, used by about 80 percent of organizations.

Remember, Robert's is used for large organizations, religious bodies, conventions, labor unions, professional associations, nonprofits and so it has a lot of procedures to keep things orderly when you have anywhere from 60 to 60,000 people together in a room. However, Robert's expressly says that when you have a small board consisting of 12 members or less, then informality is the rule and you only fall back on the more complicated rules if the process breaks down.

In closing, the Board must consider whether they want an authority that allows a majority vote as the plan and simple rule no matter what action they are taking or does the Board want a rule that has a higher vote threshold for certain things. With Robert's there are 26 pages on reconsideration, but with Mason's it is very simply, anybody can move to reconsider at any time.

IV. Senate Rules

Gregory Schmidt, Room 3044 (651-4171) Gregory.schmidt@sen.ca.gov

Greg Schmidt: There are many elements of Mason's that the legislature refers to periodically, but rarely used for any determinative purpose. Mason's is a compendium and an attempt to bring some order out of chaos in putting together very disparate parts of legislative procedure from throughout the country.

The decision the Board needs to make, is what rule format do you prefer, and if I was in your position, I would be concerned about what is it that I'm voting on and trying to deal with on a regular basis, as if you are in a legislative sub-committee.

The basis of rules the Board should look at are the rules of the Assembly and Senate, then see if they can provide a basic format for the decision-making process of the SAB, then expand it as necessary for the kinds of things that maybe different from the legislative process. However, something to consider with choosing the rules is whether you are an organization or legislative body.

Scott Harvey: Do you have advice as to what the SAB is? Legislative, administrative, quasi-judicial...or probably at any one time all of those things. And do you have any comments about a process that will best facilitate moving the agenda along?

Schmidt: Depends: the way we perform on the floor of the Legislature is different than what you perform in the sub-committee. I believe committees at the legislature may be more analogous to the way the SAB works. There are some specific sets of rules as to how you move business along in committee, but also successful chairs and members of committees know that the agenda moves along if you have a good chair, if you're courteous, respectful to those who fly up to speak, and that you provide a sufficient amount of time to make their point. However, on your question, I don't know how to characterize the Board because I've never sat in a State Allocation Board meeting. But it seems that with this Board a lot of the work should be resolved by common sense, decency, courtesy, but nonetheless, take a look at committee procedures within the legislature to see if they're applicable.

Sen. Hancock: I think that it's a very good suggestion. For me Robert's seems like it's grammatical, it's like learning to parse a sentence in the eighth grade. Especially, with amending or substituting a motion – which can become an endless discussion, that is why I think getting clear staff recommendations and then having a motion on that would speed up the process.

Asm. Fuller: Something that I want to discuss, is at the end of the day who's the final arbitrator? In the case of the assembly, everyone understands that Wilson (the Chief Clerk) is the final arbitrator. At the SAB, the uncertainty that has come out of the chaos of the financial crisis are that the controls are different now than they were the first four years I sat on the Board. In my first four years, no one on the Board questioned which rules the Board was governed by or who the final arbitrator was. Today, even if the Board's attorney tells the Board which rules they have or can't have, we may not agree.

The SAB needs to know who the final arbitrator is, and because we don't agree who that person is, it has brought about this question. If I were to define myself on this Board, I would say 90 percent of what I've done is appeals work. It is similar when you have a development and everyone comes and appeals the decisions to the board.

The first four years I was on the Board, the Implementation (Imp) Committee really worked well because the mediation process in the Imp was well-honed and received, and so by the time those appeals came to the Board, there was a real bipartisan approach.

The last 1-1/2 years, I've grown increasingly frustrated that the questions that have been posed to the Board have been a everything else and that includes of everything else, which that clouded the purpose of what is it that the SAB should be doing.

So if we go to a committee meeting format, which I like, is this fair to staff? But if staff says okay, this is what you ought to do, and then the appeals people say this is what you ought to do, then there is rule in the middle that's a criteria, then the SAB could base it on what the AEO has provided or gives us the appeals precedence that would not break the law. However, things are very different than they were four years ago.

Then the SAB has bond money, a list that moved and everyone knew where they were on that list and anyone who had a problem, the issue went to the Imp, they would straighten it out and find consensus, because when the recommendation came back from the Imp, the SAB was going to stand behind what they and staff decided.

Now its like nobody really figures out what happened anywhere along the way and it comes to SAB, and so the SAB just starts making up rules and no one knows who the final arbitrator is. So we need to stick with a rule that seems logical, however, rules in the legislature don't tend to work very well either because legislators tend to not abide by them.

Sen. Hancock: I will add "final arbitrator" to the list of items to discuss at future meetings.

Schmidt: Further, beyond Dotson and I as the final arbitrators, both houses can go to the Rules Committee if a conflict still exists.

Asm. Fuller: When it comes to the question of reconsideration, the guiding rule in Robert's is that if you violate whatever the rule is in Robert's, then you invalidate the action, whereas in Mason's all you basically do is restate it until a majority votes and approves the action.

Burns: For the most part, the only issue with Robert's when you are a small board with invalidating an action is a failure to give prior notice of things when prior notice is required as you are governed under Bagley-Keene.

The discussion then moved to Section V.

V. Discussion / Recommendation to full State Allocation Board

Operating Rules and Procedures – General Discussion

Sen Hancock: I think that a point has been made regarding needing a sense of rules. In the back of the meeting binder is a proposed set of rules, with the last segment questioning whether the Board will adopt Robert's or Mason's as the default rule. I would like both Mr. Schmidt and Mr. Burns to take a look at the proposed set of rules and provide feedback.

In going back to the issue of reconsideration and Roberts ...

Burns: There is no violation unless a point of order is made timely, alleging that a rule is being violated. For example if you had rules for reconsideration and the Board is reconsidering something that you shouldn't, under Robert's unless someone rises to a point of order and points out the error in procedure while it is occurring, then it is timely. But if no one raises the point of order in a timely manner, then the violation is immaterial; no harm no foul.

However, the problem arises if someone objects to the action, and then the presiding officer has to deal with that point of order.

Schmidt: Technically it is the same under Mason's. If no one invokes the rules, then business occurs as usual. The biggest problems are lack of quorum and committee voting problems because people leave.

Sen Hancock: What about the issue of quorum. Are there any differences between Mason's and Robert's in regards to having a quorum, and then lose the quorum during the meeting, and putting things on call or just passing with a majority present and voting?

Asm Fuller: I also question this, because in the first four years on the Board we did not hold the roll open. However, the difference is that the meeting rarely lasted more than one hour. Now with meetings lasting more than two hours, it has created a mess and with a lot of public testimony things may go on for a while. Also, if you don't hold a roll open and need six votes on an item, then members must sit there and wait for the other member to show up and that adds an additional complication.

The Board needs to address holding the roll open and voting on the rules and procedures that we are drafting. I'm very concerned about drafting hybrid rules for the Board, because it seems like it will always change, but if at the end of the day the Board does adopt a set of rules and hybrid rules to specifically address SAB issues, then we need a whole SAB training or manual to hand out so Board members know what the rules are when members change.

Sen Hancock: I agree

Harvey: The only way a hybrid set of rules will work for me is, if the hybrids are small and are created in very unique circumstances to the SAB.

Asm Fuller: We need to decide who the final arbitrator is, then that may be the only way to determine something in its finality. In a school district it would be board policy as the final arbitrator, but not sure that the SAB would have that capacity...regulations?

Ms. Jones: Cautioned the sub-committee in doing regulations because once you start doing regulations on procedures, then the Board is stuck with them and it's hard to change them as the Board evolves.

Kaplan: Something the sub-committee may wish to consider is to put in their rules and operating procedures that every January they re-adopt the rules and any potential changes to the rules.

Sen Hancock: That's a good idea.

Schmidt: When you look at our rules that we confront on a daily basis, most of it is driven by the formula of legislation, the creation of the file, committees setting their business, the time deadlines that are in the legislative calendar. There's really very little that the members fight about in terms of rules.

Sen Hancock: What set of rules would the sub-committee like to pick, either Robert's or Mason's. Let's pick one, as a default, and ask Lisa Kaplan to see if she needs to update her rules and procedures draft and proceed to vote on it at the next sub-committee meeting.

There are a number of appeals that take time but also issues that have come up around policy and bonds, and how the Board spends money for green schools, how is seismic defined, imminent danger of collapse...but no definition or process for handling these appeals and when to override normal procedure in certain cases.

Asm Fuller: I believe we have to have an appeals process with criteria to consider, because over time it feels like the SAB has moved from an allocations Board to an appeals Board, and it feels like we are as a Board potentially getting ourselves in danger of legislating through Board action and we don't want to be in that position.

Sen Hancock: Maybe the Board should review the draft rules in light of either Mason's or Robert's and send them to the sub-committee when they are ready. We can review them and see if there is any way we can adopt them at our next meeting.

Asm Fuller: I would really like the sub-committee to determine who the Board should have as its final arbitrator. Is it the Attorney General, the Board's own attorney or the legislative rules? Answering this question may make it easier to pick which set of rules the SAB should base their rules off of. There needs to be a final arbitrator.

Kaplan: If the sub-committee recommends Mason's, then maybe it should be or if it is possible to have Dotson or Mr. Schmidt as the final arbitrator on Mason's, and if the Board decides Robert's potentially a third party, independent, neutral expert.

Harvey: Every time we ask the AG for an opinion it costs the SAB.

Asm. Brownley: I thought the SAB was operating without rules prior to this...I don't know how things were arbitrated if they were not operating by a set of rules.

Ms. Jones: I just want to make sure everyone realizes that although the Board has never technically adopted rules, it always worked off of Senate Rules. Senator Leroy Greene who sat on the Board, made it very clear that the Board would run by Senate rules.

Sen. Hancock: Are there any other comments from the public just in terms of suggestions as to which rules the Board should pick as a default? Whatever we choose, I would like to ask Ms. Kaplan to go back and re-draft the rules and procedures in light of the default rules.

Asm Fuller: I would be willing to meet again, after Ms. Kaplan finds the exceptions that might not work under either Mason's or Roberts, and make sure the Chair of the SAB reviews them. As a matter of preference I would prefer that the rules are Mason's.

I would like to make a motion that we adopt to use Mason's, to evaluate the draft in our binder for custom exceptions that we might need to bring back as a mock-up at the next meeting, and invite the Chair to participate in the discussion of that template.

Asm Brownley: If we are operating under Robert's rules, I'll second that.

Sen Hancock: I would like to make an amendment that we adopt something that we think makes sense before we ask the Chair to sit in and look and the reason is because she is so busy.

Asm. Fuller: I accept that amendment, but allow the Chair to sit in with this sub-committee if there's anything in there she doesn't think will work.

Harvey: Point of clarification, are we adopting Mason's based on the Senate version or just Mason's in its pure version?

Asm Fuller: Since past tradition has dictated the Senate, therefore people who have participated in the Imp far longer than we have are more likely to be more familiar with that, so I would like to default to Senate.

Sen Hancock: MOTION: The motion is that we will operate under Senate rules which have Mason's as a default and ask Ms. Kaplan to review the rules and do any re-drafting that needs to be done and bring back the draft to the sub-committee to go over it line-by-line. Please seek input from the Chair as well.

MOTION PASSED 4-0

Sen Hancock: I would like to suggest some additions that Ms. Kaplan writes into the draft. The new rules should specify a yearly update, clearly state the rules for a quorum, rules or on-call process for appeals, public comment recommendations – for example, should there be public comment after each item? Or will it be 30 minutes in the beginning where people can raise any items before they are discussed.

Harvey: For items not on the agenda, I would hope that we allow public comment on the item as it comes up in the agenda. Public comment is normally on items not on the agenda.

Asm Fuller: I believe we should look up and see if there's any applicable rule in Senate Rules and/or Mason's and if there is not, then Ms. Kaplan should draft something and the sub-committee and figure out as best we can from the collective experiences what works.

Asm Brownley: I believe public comment at the end of the meeting is good, at least that's what I'm accustomed to and maybe the Senate rules don't include this, but it seems to be a logical time for members of the public to speak to any issue they would like to. The Board can't deliberate on that or engage in a discussion of any sort, but it's the opportunity for the public to talk to the Board about anything they want to talk to the Board about.

Harvey: I would like to discuss the possibility of having ex-parte communication disclosure at the beginning of the meeting. This means private conversations that take place out of the public setting and all you in those. This is what we did at the city council, it is if you met with the BIA or you met with the teachers associations,

you simply disclosed that before the matter was discussed, that is who you had met with.

The idea is transparency that the public has the right to know who may have talked with you about the item.

Asm Fuller: The Bagley Keene and Brown Act, and whichever the city council uses, but they may have their own city council policy, but each has a little different method of specifying how you deal with that. So let's look it up in Mason's and have Ms. Kaplan give us feedback on that issue.

Sen Hancock: I think the motion as we passed it would allow Ms. Kaplan to come back with a set of basic operating procedures, and once we get those, then another meeting needs to be held for process and transparency, ex-parte communication, what you do because people have endless debates and whether you can or can't have any or do you just disclose the conversations we have. Hopefully, with rules there'll be fewer appeals.

Another thing I think is going to take another meeting is actually looking at the binder and having Board members get a format that'll help staff recommendations pop out at us and explain the pros and cons. So let's keep those two things for future agendas and just try to get the basic operating rules nailed down at our next meeting.

VI. Public Comment

Mr. Smoot: Lyle Smoot, representing Los Angeles Unified School District. I was also a prior member and functioned as the Assistant Executive Officer for the State Allocation Board for 14 years. The Board did operate for many years using the Senate rules and it seemed to work very well. I would ask that you consider your arbiter in this conversation as to who is going to provide that function. I think the rules will help, but speaking from the audience's perspective, it seems like sometimes your current arbiter, the attorney for the Dept. of General Services isn't always independent.

Harvey: I respectfully disagree.

Mr. Smoot: My suggestion is that if you are in fact using Senate rules, then the person or unit that interprets the Senate rules would be good, otherwise, maybe hire your own attorney.

Hancock: Okay, maybe not in times of financial crisis when we're not funding schools.

State Allocation Board Rules & Procedures Subcommittee

Goals & Objectives

At the February 2009 State Allocation Board (SAB), the Board approved the creation of this subcommittee for the purpose of developing rules and procedures for the Board to operate under.

Goal:

- Formalize and adopt clear operating rules & procedures for the State Allocation Board

Potential Subjects of Future Meetings

- 1) Next Subcommittee Meeting
 - a. Order of Binder Items – OPSC Recommendations / options
 - b. Process for Agenda setting and changes to agenda

- 2) Subcommittee After that
 - a. Officers – Vice Chair; Officers: Elected/Appointed/Designee
 - b. Implementation Committee – Membership

- 3) Third subcommittee hearing
 - a. Appeal Process
 - b. Material Inaccuracy / Mercy Clause
 - c. Reconsideration

- 4) Fourth subcommittee hearing
 - a. Attorney Opinions
 - b. Closed Session

DRAFT

STATE ALLOCATION BOARD RULES AND OPERATING PROCEDURES

To present suggested rules and operating procedures for the State Allocation Board (SAB).

DESCRIPTION

Currently, the SAB has no formalized established governance or procedural rules. In an effort to make the SAB meetings more transparent and efficient for Board members, school districts and stakeholders alike, this item provides suggested rules and procedures for the SAB subcommittee on Rules & Procedures to review for recommendation to the full SAB for adoption and implementation.

AUTHORITY

Government Code Chapter 243, Statutes of 1947, established the SAB as a successor to the Post War Public Works Review Board.

Government Code Section 15490 stipulates the makeup of the SAB.

Education Code (EC) Section 17070.35 outlines the Board's duties, including but not limited to the duties of establishing and publishing policies and procedures for the administration of the chapter and adopting rules and regulations pursuant to the Administrative Procedures Act.

The Bagley-Keene Open Meeting Act, set forth in Government Code sections 11120-111321, covers all State boards and commissions and requires these bodies to publicly notice their meetings, prepare agendas, accept public testimony and conduct their meetings in public unless specifically authorized by the Act to meet in closed session.

EC Section 17070.30 continues the existence of the SAB for purposes of the Leroy F. Greene School Facilities Act of 1998.

BACKGROUND INFORMATION

At the February 2009 SAB meeting, Board members voted to form a subcommittee to establish rules and procedures for the SAB. The Attachment to this item provides suggested rules and procedures drawn from the Assembly Education and Senate Education committees, and defaults to Robert's Rules of Order (a commonly used set of rules) when no specific procedure or rule is identified.

RECOMMENDATION

Discuss the attached SAB Rules and Operating Procedures and recommend revisions / changes for adoption at the full SAB.

PROPOSED STATE ALLOCATION BOARD RULES AND OPERATING PROCEDURES

OFFICERS

- A. Chair. The chair shall:
 - 1. Call the State Allocation Board (SAB) together at the times and places necessary to enable the committee to properly perform its duties.
 - 2. Preside over meetings of the Board.
 - 3. Maintain order and decide all questions of order subject to appeal to the Board present.
 - 4. Supervise the preparation of agenda and reports of the Board.
- B. Vice Chair. The vice chairman shall: **(subject of a future board meeting)**
Perform all duties of the chair in their absence.

MEETINGS

- A. Call.
The chair, or the vice chair in the absence or incapacity of the chair, may call a meeting of the Board by sending by regular mail and or electronic mail to each member of the Board written notice ten (10) days prior to the meeting, in accordance with the Bagley-Keene Open Meeting laws.
- B. Time and Place.
The time and place of meeting of the Board shall be designated by the chair or by the vice chair.
- D. Quorum.
The quorum necessary for the Board to transact business shall be a majority of the members. A majority for the Board is 6 members. A majority of the quorum may act on any matter.

AGENDA

- (a) The State Allocation Board final Agenda is set by the Chair and Vice-Chair.
- (b) Any SAB Member may request the Chair, Vice-Chair, the Executive Officer, or the Assistant Executive Officer to put an item on the SAB Agenda. The request should be made in public at a SAB meeting, or, if made outside of a meeting, it should be approved by both the Chair and Vice-chair. Any SAB Member request must be made to the Chair, Vice-chair, the Executive Officer, or the Assistant Executive Officer no less than 30 calendar days before the meeting.
- (c) Office of Public School Construction (OPSC) Staff will post a notice of the SAB meeting in accordance with Government Code Sections 11120 -11132 (Bagley-Keene Act).

ORDER OF BUSINESS

The OPSC shall prepare and present the following SAB Agenda items, in order as outlines below, subject to change by a majority vote of the SAB.

- A. Standard Order of Business.
 - 1. Roll call.

2. Executive Officers Report
3. Consent
4. Special Consent
5. Appeals
6. Other Action Items
7. Reports
8. Public Comment
9. Adjournment.

Once the SAB Agenda is publicly noticed, any SAB Member during the meeting may request items to be put over to the next SAB meeting unless another SAB Member objects. If there is an objection to an item being put over, a majority vote by the SAB shall decide the issue.

RECONSIDERATION to be determined at a future board meeting

A motion to reconsider or to rescind actions of the committee, unless made at the same meeting at which the action was taken, may be made by anyone on the committee.

- *Mason's states that reconsideration can be made by anyone anytime during the meeting.*
- *Need to discuss legal authorization of SAB to handle reconsideration – what circumstances*

APPEALS PROCESS to be determined at a future board meeting

An appeal to the SAB shall be made according to the following process. *This is currently being drafted at with members of IMP and audit working group.*

- timeline
- documents
- precedence
- final arbitration

FINAL ARBITAR OVER RULES DISPUTES

In case of a dispute regarding SAB operating rules and procedures, the final arbitrar shall be _____ . *Currently reviewing legality of Greg Schmidt (Senate Rules) to be final arbitrar with legislative counsel; I should have an answer by Subcommittee meeting date.*

Violation of Rules ~ in Mason's when a rule is violated, the motion must be restated until a majority votes and approves the action.

LIMIT ON SETTING OF SAB AGENDA ITEMS

SAB items may be set on the SAB Agenda no more than three times, unless new information is available for presentation and consideration by the SAB that shall aide in the resolution of the item or resolution of the item is forthcoming the next time the item is set on the agenda. After that threshold is met, taking into consideration the exceptions listed below, the status quo will be deemed the default resolution of the item:

- i. No quorum (before or during issue)
- ii. SAB Member request to put over (unless another SAB Member objects)
- iii. District not able to attend meeting
- iv. District and OPSC both agree to request that the item be withdrawn
- v. Staff analysis is not distributed at least 72 hours prior to the meeting

STAFF ANALYSES

SAB Agenda items shall have a Staff analysis. The OPSC shall provide the analysis to the SAB and post them to the internet no less than 72 hours prior to the meeting.

MATERIAL INFORMATION

In order to be considered by the SAB, documents that contain material information pertinent to an SAB Agenda item, including those documents presented to any or all of the SAB membership, shall be submitted to the SAB's Executive Officer and Assistant Executive Officer, no less than seventy-two (72) hours prior to the SAB meeting at which the relevant item is scheduled to be heard.

QUORUM AND VOTING

(a) The majority of the statutorily set SAB Membership shall constitute a quorum. Majority for this purpose of this section shall be defined as 6 out of the 10 members of the Board. No motion on an Agenda action item may be adopted without a quorum present to vote on the item. Upon establishment of a quorum at a meeting, the SAB may thereafter take a vote on an item without a quorum present. If such an incident occurs, the SAB shall hold open the roll call until the meeting is adjourned for final action. The SAB may take testimony and hear items as a subcommittee. A majority of those present and voting does not constitute a quorum.

(b) Once a quorum is established, motions may be made by any of the SAB Members present. A second to the motion is required on all motions and may be made by any other present SAB Member.

(c) SAB Agenda items requiring a vote are resolved when a majority of the SAB Members have voted upon a specific action.

(d) Upon establishment of a unanimous roll call, SAB Consent items may be acted on by a single vote.

(e) Any SAB Member may request a voice roll call vote on any SAB Agenda item.

(f) Any SAB Member may request a "call" be placed on any vote. The call may be "lifted" by the SAB member who placed it and the vote finalized any time, prior to the adjournment of the meeting. At such time as the call is lifted, a quorum must be present to finalize an item.

(g) After the final vote on a motion is announced, any SAB Member may change his or her vote or "add on" before adjournment of the meeting unless the change or addition would alter the announced outcome of the vote.

TESTIMONY ON AGENDA ITEMS

The Chair, in the necessary interest of time, and while preserving fairness and equity, may limit individual witness testimony and/or the number of witnesses, excluding presenters, on any given

Agenda item, upon a majority vote of the SAB to limit witness testimony. Such restrictions will apply equally to both proponents and opponents of any SAB Agenda item.

PUBLIC COMMENT

Public comment shall occur at the end of every agenda. Public comment is for testimony on any items not on the agenda.

WORKING GROUPS AND SUBCOMMITTEES

The Chair, or any other SAB Member, subject to a majority of the SAB concurring, may create a subcommittee or working group of the SAB.

SUBCOMMITTEES

A. Composition.

1. Membership on subcommittees shall be distributed among legislative and administrative appointees to ensure nearly proportional representation.
2. Subcommittees shall have a number of members as designated by the full committee, but no subcommittee shall have less than three (3) appointed members.
3. Subcommittees are subject to the Bagley-Keene Open Meeting Laws.

B. Quorum.

A quorum of a subcommittee with an even number of members shall be one-half (1/2) of the members, who may act on any question. A quorum of a subcommittee with an odd number of members shall be a simple majority of the membership, who may act on any question.

C. Duties.

Subcommittees shall perform the duties assigned to them and shall report on all matters referred to them. Actions of a subcommittee shall be reported in the form of proposals or recommendations to the full committee only, and shall have no force or binding effect except by action of the full committee.

D. Rules.

Rules relating to the full interim committee shall be followed by subcommittees, except with regard to a quorum.

WORKING GROUPS

A. Composition *(need input)*

- a. Membership on a working group shall be determine by _____
- b. Working Groups are not subject to the Bagley-Keene Open Meeting Laws.

B. Duties

Working groups shall perform the duties assigned to them and shall report on all matters referred to them if created by a subcommittee. For working groups established by subcommittees actions of a working group shall be reported in the form of proposals or recommendations to the subcommittee only, and shall have no force or binding effect except by action of the subcommittee to the full SAB.

PROCEDURAL GUIDELINES

On all other parliamentary procedures, including motions and other actions not provided for by these rules, the authority is the California Senate rules, with a default to *Mason's Manual of Legislative Procedure* which shall govern procedural matters for the joint interim committee and its subcommittees not covered elsewhere in these rules.

These rules shall remain in effect until replaced or revised by a majority vote of the Board.

DRAFT

Paul Mason, *Mason's Manual of Legislative Procedure* (2000)

Chart of Ranking Motions, from highest to lowest in order of precedence

Motion	Can it Interrupt?	Second Required?	Is Debate Allowed?	Can it be Amended?	Required Vote?	Can it be Reconsidered?
Call of the House if no quorum present	No	No	No	No	Majority	No
Make Motion to Reconsider	No	No	No	No	Chair Handles	No
Adjourn	No	No	No	No	Majority	No
Recess	No	No	No	Yes	Majority	No
Question of Privilege	Yes	No	No	No	Chair Handles	No
Appeal	No	No	Yes	No	Majority	No
Point of Order	Yes	No	No	No	Chair Handles	No
Parliamentary Inquiry	Yes	No	No	No	Chair Handles	No
Orders of the Day	No	No	No	No	Chair Handles	No
Request for Leave to Withdraw	No	No	No	No	Majority	No
Suspension of Rules	No	No	No	No	Majority	No
Objection to Consideration	No	No	No	No	Majority	No
Manner or Order of Consideration of Questions	No	No	No	Yes	Majority	No
Motions relating to voting	No	No	No	Yes	Majority	No
Motions related to nominations & elections	No	No	No	Yes	Majority	No
Division of a Question	No	No	No	Yes	Majority	No
Lay on the Table (Postpone Temporarily)	No	No	No	No	Majority	No
Previous Question (Vote Immediately)	No	No	No	No	Majority	No
Close, Limit or Extend Debate	No	No	No	Yes	Majority	No
Postpone Definitely (to a certain time)	No	No	Yes	Yes	Majority	No
Refer or Commit	No	No	Yes	Yes	Majority	No
Amend	No	No	Yes	Yes	Majority	No
Postpone Indefinitely	No	No	Yes	No	Majority	No
Main Motion	No	No	Yes	Yes	Majority	Yes

MASONS MANUAL AND RULES OF THE LEGISLATURE

The principles of parliamentary law and the rules of the legislature – connected to power to adopt rules—Mason reinforces much of what was already covered

In People's Advocate, legislative rules and the power of a legislature relative to its procedure are rooted in the history of parliamentary common law.

Three most well know and used manuals of legislative procedure, are Jefferson's (written by Thomas Jefferson when he was President of the Senate, and still used by the US Senate) Cushing's Legislative Assemblies, and Manual of Legislative Procedure by Paul Mason (former Secretary of the California Senate) popularly known as "Mason's Manual" and used by the California Legislature (see SR 20, AR 10, and JR 31).

As an introduction to parliamentary law, browse certain provisions of Mason's Manual-- most relevant source of parliamentary law to the legislative process in California. It has become a general source of parliamentary law and is now published by the national conference of state legislatures (NCSL).

MASON'S MANUAL

PARLIAMENTARY LAW (hierarchy of law- where do legislative rules fit?)

1. Generally, parliamentary law, which gets its name from the Parliament of Great Britain, consists of the recognized rules, precedents and usage (customs) of legislative bodies by which their procedure is regulated. **Legislative procedure is akin to civil procedure and criminal procedure.**

It is that system of rules developed by precedents made by legislative bodies in the same manner as common law is developed by judicial precedent.

There is no one system of "Parliamentary Law." Many systems have been developed by legislative and deliberative bodies in other countries since its origination in the British Parliament. However, these systems have many features and rules in common.

2. Parliamentary law, like the common law of which it is a branch, is an organized system of rules.

--It is built on precedents created by decisions on points of order or appeals, and by decisions of courts.

- It is guide by the authority to make rules inherent in every deliberative body.
- It is based on a system of principles and is not simply a group of haphazard rules.
- It is based upon reason and has been developed over time.

Parliamentary law does not rest upon "mere custom" but upon "reasonable and equitable custom." Remember: "What is not reason is not law."

Individual rules are interpreted in the light of basic principles.

When beginning to think about Parliamentary Law, it is best to first consider the parliamentary principles upon which it is based, before specific rules/application.

There are, according to Mason, Ten Fundamental Principles that Govern Procedure

1. The group must be so constituted and endowed that it has the power and authority that it purports to exercise.
2. There must be a meeting of the group at which the decision is made.
3. There must be proper notice of the meeting so that all members of the group have an opportunity to attend and participate.
4. There must be a quorum present at the meeting.
5. There must be a clear question before the group for decision.
6. When the decision is being made, there must be an opportunity to debate the question.
7. The question must be decided by taking a vote.
8. There must be a vote in the affirmative of at least a majority to make a decision or carry a proposition.
9. There must be no fraud, trickery or deception causing injury.
10. Decisions must not be in violation of laws, rules, or decisions **of higher authority**.

In California, the **higher authority** is found in Article IV of the California Constitution.

THE MOST IMPORTANT PURPOSE OF PARLIAMENTARY LAW IS TO PROVIDE AN ORDERLY PROCEDURE OF CONDUCTING THE BUSINESS OF THE LEGISLATIVE BODY AND TO AVOID CONFUSION.

PURELY TECHNICAL RULES ARE TO BE APPLIED ONLY WHEN THEY WILL AID IN THE DELIBERATIONS OF THE BODY.

THE MOST DIRECT AND SIMPLEST MEANS OF ACCOMPLISHING A PURPOSE SHOULD BE FOLLOWED.

NECESSITY FOR RULES OF PROCEDURE- EFFECTUATE THE WILL OF THE MAJORITY

1. General principle- it is necessary that legislative bodies be governed by rules of procedure so that the will of the majority may be determined and revealed in an orderly manner.

2. Rules determine the priority and manner of consideration of questions and provide an orderly and methodical plan to conduct business and eliminate confusion and waste of time and effort.

3. Rules protect what can be considered the **THREE FUNDAMENTAL RIGHTS OF MEMBERS-**

(1) A notice of meetings.

(2) The opportunity to attend.

(3) The ability to participate in debate (Not endless debate-cloture).

Rules protect the minority from unfair treatment **relative to these 3 rights**

Most importantly, rules protect the majority from obstructive tactics- not vice versa (use example of minority attempting to amend bill when there is not majority support and the manner in which the majority reacts).

4. Many rules of procedure are based upon fundamental rights such as the decision by the majority but some rules are necessary only to avoid confusion by designating one course of procedure when more than one course might otherwise be followed.

Quoting Jefferson, it may be as important that there be a rule as what the rule is.

5. The great purpose of all rules is to serve the will of the assembly rather than to restrain it; to facilitate and not to obstruct.

RIGHT TO REGULATE PROCEDURE

The constitutional right of a state legislature to control its own procedure cannot be withdrawn or restricted by statute, but statutes may control procedure insofar as they do not conflict with the rules of the houses or with the rules contained in the constitution (Note: Mason's Manual was first published in 1935, draw attention to People's Advocate, a case not appealed).

In general, state legislatures are governed in accordance with the recognized principles of parliamentary law subject to any special provisions of the state constitution, and any rules adopted by the body. Rules-primary source, Mason's secondary source.

An act of the legislature is legal when the constitution contains no prohibitions against it.

DETERMINE RULES OF THE HOUSE'S PROCEEDINGS

1. Each house shall determine the rules of its proceedings
2. Each house may pass an internal operating rule for its own procedure that is in conflict with a statute formerly adopted

[Q--Why does this make sense? How are rules different from statutes?

A--Statutes need approval of executive branch or supermajority for a veto override--inconsistent.]

3. The California Constitution is a limitation, rather than a grant of legislative power.

The fact that a house of the legislature acted in violation of its own rules or in violation of parliamentary law in a matter clearly within its power does not make its action subject to intervention by the courts [Enrolled Bill Rule].

SOURCES OF RULES OF PROCEDURE

1. Rules of procedure are derived from several sources, taking precedence in the following order:
 - a. Constitutional rules
 - b. Fundamental legal principles (power to determine rules in continuous, subject to fundamental rights, a legislative house cannot tie its own hands by establishing unchangeable rules).
 - c. Statutory rules
 - d. Adopted rules
 - e. Adopted parliamentary authority
 - f. Parliamentary law
 - g. Custom and usage
 - h. Judicial decisions (except that judicial decisions, to the extent they are interpretations of rules from one of the other sources, take the same precedence as the source interpreted, e.g., the judicial interpretation of a constitutional provision takes precedence over a statute)]

LEGISLATIVE PROCEDURE IS CONTROLLED BY THE CONSTITUTION

A constitutional provision regulating procedure controls over all other rules of procedure.

Generally, if Congress or a state legislature violates a constitutional requirement, the courts will declare its enactment void.

[However, note: *US v. Munoz-Flores* 495 US 385 (1990) Issue: Art. I, Sec. 7, Cl. 1 (origination clause) --all Bills for raising Revenue shall originate in the House of Representatives-- majority found that bill was not a "bill for raising revenue," despite special assessment imposed for violation of US statute. Two Justices (Stevens and O'Conner), in a concurring opinion, stated that a revenue bill would become law whenever it is passed by both Houses of Congress and duly signed by the President, whether or not it was properly originated because there is no language in the Constitution that speaks to the consequence of improper origination and the second clause of Section 7 states that every bill which shall have passed the House of Representation and the Senate shall, before it becomes a law, be presented to the President." Also, note *Yolo v. Colgan*, cited in *Planned Parenthood*, a bill that received an insufficient number of votes (as provided for in the California Constitution), becomes law pursuant to the enrollment rule.]

STATUTORY RULES GOVERNING PROCEDURE

JOINT RULES

1. State Legislatures adopt joint rule to govern the relationship between houses (e.g. conference committees, germaneness JR9, SR 38.5, AR 92). This practice is not incompatible with the constitutional provision that each house shall determine the rules of its procedure.

RULES MUST CONFORM TO CONSTITUTIONAL, STATUTORY AND CHARTER PROVISIONS

--re: statutes and charter provisions, generally apply to inferior political subdivisions

Rules adopted by a state legislature expire at the end of the session at which they were adopted.

However, prior to the time that the new rules are adopted, the house is governed by customs and usage, the best evidence of which are the rules most recently adopted (cite Sec. 39, Mason's Manual). See cover of Appendix to Assembly Journal, current joint rules in use, adopted during the 1997-98 session (also the joint rules for adopted for the 87-88 Session, were used until the legislature adopt rules for 93- 94 session).

If a legislative body declined to adopt rules, it could continue operation indefinitely, for successive session, under the usage's and customs as evidence by the last-adopted rules in a previous session [note current joint rules in the Assembly appendix].

RIGHT TO CHANGE RULES

1. Legislative bodies have power to abolish, modify or waive their own rules of procedure.
2. A majority does not have the power to make a rule, which cannot be modified or repealed by a majority. Rules adopted by a majority vote can be repealed or annulled by the same vote, even when a rule provides that no rule can be repealed or amended without a vote greater than a majority (see AR 8).
3. A legislative body cannot tie its own hands by establishing unchangeable rules.

4. Rules of procedure passed by one legislature are not binding on a subsequent legislature.

5. No meeting of a legislative body can bind a subsequent one by rules of procedure. The power to enact is the power to repeal.

6. Rules of procedure are always within control of the majority of a deliberative body and may be changed at any time by a majority vote.

RULES CAN BE SUSPENDED

Rules of the individual houses of the legislature are under their own control and may be suspended whenever, in the judgment of that body, suspension is required, except when the rule of procedure is imposed by the constitution.

FAILURE TO COMPLY WITH RULES DOES NOT INVALIDATE ACTS

FRAUD WILL INVALIDATE ACTS (no reported California cases)

RULES OF THE CALIFORNIA LEGISLATURE

[In addition to rules referenced in Chapter IX of *California's Legislature*.]

Joint Rules:

JR 4 -definition of "bill"

JR 5 -concurrent and joint resolutions

JR 9 -germaneness (return to this rule). Also can't add only coauthors

JR 10.5 -reference to fiscal committee (see text of rule)

JR 26 -concurrence

JR 28 -refusal to concur

JR 28.1, 29, 29.5, 30, 30.5, 30.7 -procedure on conference committees

JR 29.5 prohibits the conference Committee from adopting:

(1) A substantial policy change not "heard" in the policy or fiscal committee in each house.

(2) A substantial financial provision which has not been heard by the fiscal committee of each house.

JR 31 -reference to Mason's Manual

JR 33 -Dispensing with the Joint Rules--generally requires a 2/3 vote of each house

JR 34 -Legislative Counsel opinions

JR 36 -investigating committees

JR 44, 45- Conflicts of Interest (defer to regulation of participants section)

JR 51 -Legislative calendar

JR 54 -introduction of bills

(a) deadlines

(b) can't author bill that would have "substantially the same effect" of a bill that the same member has authored, unless the bill has been "chaptered out" or has been vetoed.

JR 57 -Appropriation bills that may not be sent to Governor ahead of the Budget may be held after enrollment, until the budget is passed (also in Constitution, see below).

(IV, 12 (c) The budget shall be accompanied by a budget bill itemizing recommended expenditures. The bill shall be introduced immediately in each house by the persons chairing the committees that consider appropriations. The Legislature shall pass the budget bill by midnight on June 15 of each year. Until the budget bill has been enacted, the Legislature shall not send to the Governor for consideration any bill appropriating funds for expenditure during the fiscal year for which the budget bill is to be enacted, except emergency bills recommended by the Governor or appropriations for the salaries and expenses of the Legislature.]

JR 58 -urgency clause amendments need the approval of the rules committee of the house the amendment is offered.

JR 58.5 -Legislature may consider Governor's veto for 60 days after veto, not counting days when the Legislature is in joint recess.

JR 61 -DEADLINES

JR 62 -Committee procedure

Notice of hearings

--4 day file notice in each house for committee of the first reference, otherwise 2 Day file notice.

--3 "sets" and exceptions

--reconsideration

--Waivers of the above

--roll call vote

--quorum present

COMPARE AND CONTRACT SENATE AND ASSEMBLY RULES

Role of Speaker v. Role of Pro Tem (Senate Rules Committee)

--see SR 7,11, 12.7 vs. AR 12,26

Jurisdiction and membership of Committees

--see SR 12 vs. AR 11, 11.5(b)

Mason's

--see JR 31, SR 20, AR 10

Bill limit

--SR 22.5 and AR 49

GERMANENESS

JR 9 amendment must relate to the same subject as the original bill

SR 38.5 amendment must relate to the same subject as the original bill

AR 92 amendment may not relate to a different subject than, or intend to accomplish a different purpose than, or require a title essentially different than, the original bill

*Distinguish germaneness from single subject (germaneness is more narrow rule).

SEC. 402, Mason's- definition of whether an amendment is germane.

is the amendment relevant, appropriate, and "in the natural and logical sequence to the subject matter of the original proposal."

--amendment is only required to relate to the same subject.

--amendment may entirely change the effect of the measure and still be germane.

--an entirely new proposal may be a proper amendment so long as it is germane to the original subject.

--whether the amendment is germane is a question to be decided by the body and not by the presiding officer.

SENATE PROCEDURES AND RULES

Relevant rules

Resolutions and Constitutional Amendments

19. Joint, concurrent, and Senate resolutions, and constitutional amendments shall be treated the same as bills under these rules, except that they shall have only one official reading, which reading shall occur after they have been reported by committee.

Parliamentary Rules

20. In all cases not provided for by the Constitution, these rules, the Joint Rules of Senate and Assembly, or statute, the authority shall be the latest edition of Mason's Manual or the custom and usage of the Senate.

Suspension of Rules or Amending of Rules

21. A standing rule of the Senate may not be adopted, amended, or repealed except upon an affirmative vote of a majority of the membership of the Senate, one day's notice being given, except that any rule not requiring more than a majority vote may be temporarily suspended without that notice by a vote of a majority of the membership of the Senate. A rule requiring a two-thirds vote on any question may be amended only by a two-thirds vote on one day's notice, except that a rule requiring a two-thirds vote may be temporarily suspended without that notice by a two-thirds vote.

All proposed amendments to these rules shall, upon presentation, be referred to the Committee on Rules without debate.

Suspension of the Joint Rules

21.1. Pursuant to Joint Rule 33, a joint rule may not be suspended by the Senate except with the concurrence of 27 Members unless a lower vote is prescribed by these rules or the Joint Rules of the Senate and the Assembly.

Permission of Committee on Rules

21.2. Notwithstanding Rule 21 or 21.1, a Senate or Joint Rule may not be suspended unless the Committee on Rules determines that an extraordinary circumstance exists that justifies the suspension.

Rules Governing Standing Committees

21.5. Except as otherwise provided in these rules, standing committees of the Senate shall be governed as follows:

- (a) The officers of each Senate committee shall be a chair, vice chair, and secretary.

(b) The chair shall preside at meetings when present except when the committee is considering a bill of which he or she is the sole author or the lead author. Whenever the chair is not presiding, the vice chair shall assume the duties of the chair. In the absence of both, a member designated by the chair shall preside.

(c) The secretary shall keep a complete record of the meetings and actions taken by the committee. Bills and other measures favorably acted upon shall be reported to the Senate as expeditiously as the reports can be prepared.

(d) The committee shall meet in regular session on the day and hour designated by the Committee on Rules. Adjourned meetings or special meetings shall be held at the time fixed in the adjourning motion, or, for a special meeting, on the call of the chair.

(e) A special meeting may be called by the chair, with the approval of the Committee on Rules, by giving reasonable notice to all members of the committee, either in writing or by telephone, specifying the purpose of the meeting, the time and place thereof, and the matters to be considered at the meeting. Notice of hearing of bills as required by subdivision (a) of Joint Rule 62 may also be given in the Daily File. A matter may not be considered at the special meeting unless specified in the notice.

A special meeting shall be scheduled so as to permit all members of the committee to attend without conflict with other scheduled committee meetings.

(f) A majority of the membership of the committee shall constitute a quorum. A vote of a majority of the membership of the committee shall be required to table a bill, remove it from the table, or reconsider a vote on a bill.

(g) Action may not be taken on any measure outside of a duly constituted committee meeting.

(h) The chair shall set the hearings of bills and arrange the calendar for committee hearings. Notice of hearing of any bill shall be given to the author and other persons requiring notice. A bill may not be considered in the absence of the author without his or her consent, except that a bill may be presented by the author's representative who is authorized in writing.

(i) A committee or a subcommittee thereof, by a majority vote of the membership of the committee, may meet in executive session for any purpose authorized by Section 9029 of the Government Code. Otherwise, all meetings shall be open and public.

(j) The chair shall direct the order of presentation of the arguments for and against matters for consideration by the committee, and shall permit questions to be asked by members of the committee in an orderly fashion and in keeping with proper decorum.

(k) Further consideration of a bill that has been voted out of a committee or defeated shall be by reconsideration only, as follows:

(1) A motion to reconsider a vote by which a bill is voted out shall be in order, and shall be voted upon at the same meeting. If the motion is carried by a vote of a majority of the membership of the committee, the bill may be considered at that meeting, provided the author is present, or at a subsequent meeting.

(2) The procedure for reconsideration of a bill that has been defeated shall conform to the requirements of subdivision (a) of Joint Rule 62. Any bill as to which reconsideration has been granted pursuant to this paragraph may not be heard again until a subsequent meeting of the committee, after being calendared in the Daily File.

(l) Any bill that has been laid on the table and is removed from the table at a later meeting may not be heard again until a subsequent meeting of the committee, after being calendared in the Daily File and after notice.

(m) When a committee adopts proposed amendments to a bill, the bill may be taken up for vote at that meeting or, if the committee or author requests, sent out to print before final action. If the amendments are not in proper form, they shall be prepared and submitted to the chair for approval before being reported to the Desk. Amendments submitted by the author that, in the opinion of the committee chair, are major or substantial shall be submitted to the committee at least two legislative days before the bill is scheduled for hearing.

(n) A bill may not be set for hearing, nor may any notice thereof be published, by a Senate committee until the bill has been referred to the committee by the Committee on Rules.

(o) The chair may appoint, with the permission of the Committee on Rules, subcommittees of one or more members to consider and recommend to the full committee action on matters as may be assigned to the subcommittee for consideration from time to time by the chair. The chair may assign and reassign members of, and matters to, the various subcommittees. The recommendation of a subcommittee may be accepted by a vote of a majority of the members of the committee.

(p) In all cases not provided for by this rule, the Senate Rules, the Joint Rules of the Senate and Assembly, or statute, the authority shall be the latest edition of Mason's Manual.

Additional Rules

21.6. Committees may adopt additional rules that are not in conflict with Rule 21.5 or other rules.

Reporting Measures Out of Committee

21.7. The vote of a majority of the membership of a standing committee shall be required to report a bill, constitutional amendment, concurrent resolution, or joint resolution out of committee.

A vote of a majority of all members of a standing committee who are present and voting shall be required to report a Senate resolution out of committee.

DEBATE

Statement of Motion

34. A motion may not be debated until it is distinctly announced by he or she who is presiding, and it shall be reduced to writing if desired by any Senator, and read by the Secretary, before it is debated.

Regulations as to Speaking

35. (a) When a Senator desires to address the Senate, he or she shall rise in his or her place, address he or she who is presiding, and, when recognized, proceed to speak through the public address system.

(b) A Senator may not speak more than twice in any one debate on the same day, and at the same stage of the bill, without leave; Senators who have once spoken are not again entitled to the floor (except for explanation) so long as any Senator who has not spoken desires to speak.

(c) When two or more Senators arise at the same time to address the Senate, he or she who is presiding shall designate the Senator who is entitled to the floor.

(d) A Senator may not be interrupted when speaking, and no question may be asked of him or her except through he or she who is presiding.

(e) The author of a bill, motion, or resolution shall have the privilege of closing the debate.

Order in Debate

36. When a Senator is called to order he or she shall sit down until he or she who is presiding has determined whether or not he or she is in order. Every question of order shall be decided by he or she who is presiding, subject to an appeal to the Senate by any Senator. If a Senator is called to order for words spoken, the objectionable language shall immediately be taken down in writing by the Secretary of the Senate.

Right to Address the Senate

37. A person other than a Member of the Senate may not address the Senate while it is in session, except that the Senate may resolve itself into a Committee of the Whole and, while sitting as a Committee of the Whole, may be addressed by persons other than Members.

QUESTIONS AND MOTIONS

Amendments to Measures

38. When amendments to a measure are reported by a committee or offered from the floor, the amendments shall be submitted in writing.

Adoption of amendments to any measure in the Senate prior to third reading, other than by rollcall, shall not preclude subsequent consideration in committee or on the third reading of the measure, of the amendments or any part thereof by the Senate.

Amendments to Be Germane

38.5. Every amendment proposed must be germane. In order to be germane, an amendment must relate to the same subject as the original bill, resolution, or other question under consideration.

A point of order may be raised that the proposed amendment or an amendment now in the bill, resolution, or other question under consideration is not germane, so long as the question is within control of the body. In that case the President pro Tempore shall decide whether the point of order is well taken. In the absence of the President pro Tempore, the Vice Chair of the Committee on Rules shall decide whether the point of order is well taken. If, in the opinion of the President pro Tempore or the Vice Chair of the Committee on Rules, the point of order is well

taken, the question of germaneness shall on his or her motion be referred to the Committee on Rules for determination. The Committee on Rules shall make its determination by the following legislative day. If the point of order is raised and referral is made on the last legislative day preceding a joint recess, the Committee on Rules shall make its determination before adjourning for the recess.

The proposition shall remain on file until the determination is made. If, upon consideration of the matter, the Committee on Rules determines that the amendment is not germane, the bill, resolution, or other question shall be stricken from the file and may not be acted upon during the remainder of the session, provided that the author of a bill, resolution, or other question shall be given the opportunity to amend the bill, resolution, or other question to delete the portions that are not germane, in which case the bill, resolution, or other question may continue to be acted upon. If the Committee on Rules determines that the amendment is germane, the bill, resolution, or other question may thereafter be acted upon by the house.

Notwithstanding Rule 21, this rule may not be suspended unless the Committee on Rules determines that an extraordinary circumstance and overwhelming public interest exist that justify the suspension.

Amendments From the Floor

38.6. Amendments to a bill, constitutional amendment, concurrent resolution, joint resolution, or Senate resolution offered from the floor, except committee amendments reported with measures or amendments offered with a motion to amend and rerefer to committee, are not in order unless and until a copy of the proposed amendments provided by the author has been placed upon the desks of the Members.

Motion to Lay on the Table

39. When an amendment proposed to any pending measure is laid on the table, it may not carry with it or prejudice the measure.

Division of a Question

40. If a question in debate contains more than one distinct proposition, any Senator may have the same divided.

The Previous Question

41. The previous question shall be put in the following form: "Shall the question be now put?" It shall require a majority vote of the Senators present, and its effect shall be to put an end to all the debate except that the author of the bill or the amendment shall have the right to close, and the question under discussion shall thereupon be immediately put to a vote.

Call of the Senate

42. Upon a motion being carried for a call of the Senate, he or she who is presiding shall immediately order the doors to be closed, and shall direct the Secretary to call the names of the

absentees as disclosed by the last previous rollcall. Thereupon, a Member may not be permitted to leave the Senate Chamber except by written permission of the President pro Tempore or, in his or her absence, of the Assistant President pro Tempore or of the Vice Chair of the Committee on Rules, or, in their absence of another member of the Committee on Rules designated for that purpose by the President pro Tempore or the Vice Chair of the Committee on Rules. Those Members who are found to be absent and for whom no excuse or insufficient excuses are made may, by order of those present, be taken into custody, as they appear, or may be sent for and then taken into custody by the Sergeant at Arms whenever found, or by special messenger to be appointed for that purpose. In the absence of a quorum, a majority of the Members present may order a rollcall of the Senate and compel the attendance of absentees in the manner above provided.

A call of the Senate may be ordered after the roll has been called and prior to the announcement of the vote. A call of the Senate may be dispensed with at any time upon a majority vote of the Senators present, that action to become effective upon completion of the rollcall and the announcement of the vote upon the matter for which the call was ordered.

A recess may not be taken during a call of the Senate. During any call, the call may be made to apply also to other items of business by a motion made and adopted by a majority vote of the Members present. Under those circumstances, when the call of the Senate is dispensed with as to any item of business, the call is deemed to be continued in effect until other items of business that have been made subject to the call by a majority of the Members present have been acted upon. When a call of the Senate is ordered, pending the announcement of the vote upon the completion of a rollcall, the pending rollcall shall become unfinished business, the consideration of which shall be continued until further proceedings under the call of the Senate are dispensed with, when it will forthwith become the order of business before the Senate.

A motion to adjourn is not in order during a call of the Senate.

Reconsideration

43. On the day on which a vote has been taken on any question, a motion to reconsider the vote may be made by any Member. Reconsideration may be granted only once.

The motion may be considered on the day made or on the succeeding legislative day, but may not be further postponed without the concurrence of 30 Members.

A vote by which a bill was passed may not be reconsidered on the last legislative day preceding the interim study joint recess or the final recess, and a vote by which the bill was passed may not be reconsidered on a Senate bill introduced during the first year of the biennium of the legislative session on January 31, or on the last legislative day immediately preceding January 31, of an even-numbered year.

When reconsideration of the vote by which any bill has passed has been demanded, the Secretary may not transmit it to the Assembly until the demand has been disposed of or the time for reconsideration has expired, but if the bill has already been transmitted to the Assembly the demand for reconsideration shall be preceded by a motion to request the Assembly to return the bill. The motion shall be put to a vote immediately without debate and, if not adopted, shall preclude a demand for reconsideration.

A demand to reconsider the vote on any debatable question opens the main question to debate, and the vote on the reconsideration shall be on the merits of the main question.