A New Majority Takes Its Turn
At Improving the Process In Virginia*

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INTRODUCTION

During the 2000 session the Virginia General Assembly enacted Senate Joint Resolution 243, patroned by Senator Thomas K. Norment, Jr. (R-Williamsburg), directing the Joint Rules Committee to study ways of improving the legislative process while maintaining the citizen legislature.1 In justifying the study, the resolution cited the assembly’s growing workload and the increasing time constraints members faced in fulfilling their legislative duties. It also noted that the procedures and practices affecting the scheduling of the assembly and its committees had remained largely unchanged over the last two decades.

The resolution, little noticed at passage, called for the Joint Rules Committee to submit its findings and recommendations in time for the 2001 session. As of summer 2001, the reform effort had a limited, though important effect.

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the practices in other states—was longer and more detailed than that of the Citizen Advisory Board, the two reports’ recommendations were strikingly similar.2

Both reports emphasized the use of bill introduction limits to encourage prefiling and a reorganization of the committee structure, especially in the house of delegates, as keys to enhancing legislators’ efficiency and effectiveness in conducting their business. The reports recommended reductions in the number and size of committees and subcommittees to lessen scheduling conflicts and avoid quorum problems. They also recommended that committee workloads be more evenly distributed.

The Citizen Advisory Board made bill introduction limits/prefiling its first recommendation, and 6 of the 35 NCSL recommendations were prefiling-related. Overall, 30 of the 58 (52 percent) recommendations of the two study groups had to do with prefiling or committee practices.

Additionally, both recommended delaying the convening of the session by two or three weeks from the current schedule of the second Wednesday in January, affording more session preparation time outside of the busy holiday season. Other similarities included recommendations for adopting floor procedures to make more effective use of the early weeks of the session, streamlining the legislative process (e.g., making co-patronage less cumbersome), using the interim more effectively (e.g., establishing uniform meeting times), and implementing internet coverage of floor sessions.

While the similarities in the two reports’ recommendations stood out, the more comprehensive NCSL report went even further. For instance, it recommended instituting a formal organizational session, preserving the unlimited scope of both legislative sessions, equalizing the length of sessions (a backdoor proposal that will be discussed below), and maintaining nonpartisan central staff structures and separate, nonpartisan house and senate clerk operations.

“THE REFORM OF CHOICE”

On November 30, 2000, the Joint Rules Committee met and received the final reports of the two study groups. While it accepted the reports, Joint Rules took no formal action on the specific recommendations at that meeting. However, it had already begun implementing a substantial prefiling change for the 2001 session—its “reform of choice,” as Virginia Edwards, the committee staff attorney, put it.3

As Edwards reported in the Winter 2000 edition of the Journal of the American Society of Legislative Clerks and Secretaries, Virginia’s assembly had a long history of prefiling dating back to 1968; however, the voluntary procedure had been underutilized. During the 2000 session only 5.8 percent of the bills were prefiled, while 42 percent were not filed until the last day for introduction—13 days into the 60-day session—leaving only 22 days to “crossover,” the day each house had to finish its own legislation.4

Despite this underutilization, members had been ambivalent in the past about strengthening the prefiling procedures. While a 1996 member survey found 96 percent of the respondents supported ways of encouraging prefiling,5 a Joint Rules prefiling proposal was scuttled in 1998;6 and the NCSL member survey failed to elicit strong support for such a measure. On a 5-point scale (5 indicating strongly agree, 3 uncertain, and 1 strongly disagree) the option of unlimited prefiling with session bill introduction limits registered a 3.4 score (p. 47).

Notwithstanding this mixed record, Joint Rules proposed for the 2001 session that senators be limited to introducing ten bills and joint resolutions after the first day of the session and house members six. There would be no limits on the number of prefiled bills a member in either body could introduce. Bill-drafting requests for prefiled bills had to be submitted by December 18, 2000. To signal their commitment to the proposal, Joint Rules also stipulated that unanimous consent would be required to exceed these bill limits; in the past a two-thirds vote had been required to gain an exemption from a bill introduction deadline.
In crafting their innovation, the republican leadership made two key compromises—resolving bicameral and gubernatorial/legislative questions.

Should senators representing larger constituencies be entitled to a higher bill introduction limit? While Joint Rules initially limited all members to a total of six bills and joint resolutions, they subsequently compromised by raising a senator’s total to ten. Still, the 100-member house retained a chamber-wide advantage, enabling them to introduce 600 bills and resolutions compared to the 40-member senate’s total of 400.

If the assembly were imposing bill introduction limitations on itself, should the governor face similar constraints? Recognizing that the governor had a constitutional right to recommend measures to the assembly for its consideration, including emergency measures that might arise at any time during the session, Joint Rules continued to allow the governor to initiate measures at any time. However, the governor was required to find a member who had not exceeded his or her bill introduction limit to patron the measure.

Since the procedural resolution authorizing the new prefiling requirements would not be voted on until the first day of the 2001 session, the republican leadership was implementing a rule change in the fall of 2000 that could be subsequently overturned. In fact, several Joint Rules members voiced criticism of the prefiling proposal at the November 30 meeting and predicted that the assembly would not accept the change when it considered the procedural resolution on the opening day."}

On the first day of the 2001 session the senate adopted the procedural resolution on a unanimous vote, while house passage—on a vote of 83-Y, 15-N, 1-A—came after republicans rebuffed several democrat challenges to the prefiling provisions. Defeated were attempts to delete bill introduction limits (69-26), to equalize the bill introduction limits for delegates and senators at 10 bills and resolutions each (56-43), and to end the governor’s discretion to submit a bill at any time during the session (58-40).

The adopted prefiling requirements definitely changed assembly work practices; seventy-eight percent of the 2001 session bills and resolutions were prefiled, whereas only six percent were prefiled in 2000. That figure might be somewhat inflated as members had until 5:00 p.m. of the first day of the session to profile. In the past the senate requirement had been 5:00 p.m. on the day before the session and the house had been 11:00 a.m. or 12:00 noon on the session’s first day. Still, the bulk of the 2001 session legislation was drafted, printed, and distributed to the committees within the first few days of the session. “We certainly hit the ground running,” said Delegate John A. Rollison III (R-Prince William), a 15-year member. “We didn’t lose that first week of doing the business of the house,” said Delegate Leo C. Waldrop, Jr. (R-Virginia Beach), chairman of the House Republican Caucus.

The change also helped to better regulate the flow of legislation. In comparison to 1999 the house experienced a 35 percent reduction in the number of bills and resolutions left to be considered on the last day before crossover, and the senate had a 54 percent reduction from 1999. Crossover complaints were still being voiced, though the problems were fewer than in prior years.

Less visible were the negative effects on members and staff, especially the Division of Legislative Services. Members were rushed to get their legislative packages together by December 18, the deadline for requesting prefiled bills to be drafted. Also, there were member complaints that two days’ time was insufficient to review drafts before the deadline for requesting re-drafts and corrections. For Legislative Services staff the prefiling schedule made for a trying holiday season. The December 18 bill drafting deadline was followed by a January 3 deadline for returning drafts of the prefiled requests imposing, in the words of the citizen board, “an unfair personal burden on the staff during the traditional holiday season” (p. 4). Because of the holiday scheduling problems, in part, both study groups recommended delaying the commencement of the session by several weeks.
IMPRESSIONS

Timing is crucial in any reform effort as evidenced by the fate of the SJR 243 study recommendations. On one hand the republican takeover ushered in new leadership receptive to change. While previous democrat-controlled assemblies had considered taking the bill-introduction-limits/prefiling step, it was not until a republican majority existed in each chamber that reforms were actually implemented. Ironically, the republicans’ 2001 session success with this procedural innovation was dramatically eclipsed by a budget impasse between house and senate republicans. This was the first time the assembly defaulted on this governing responsibility, leaving it to the governor to fashion the needed changes to the second year of the biennium budget.

The study’s timing also limited the scope of immediate change, especially with house republican leadership facing a 2001 election-year short session with a full agenda. Further reforms were delayed in anticipation that the new republican majority would make major electoral gains in the aftermath of redistricting. Still, the republicans’ 2001 session reform changes were in keeping with their deliberate and cautious takeover strategy. For instance, house republicans in 2000, despite gaining majority status, honored the party power-sharing agreement struck in 1998 retaining committee co-chairs. Overall, there was little change in staff, rules, or committee structure. Reportedly, house republicans—led by their newly elected speaker, S. Vance Wilkins (R-Amherst)—were determined not to overplay their hand, feeling that republicans in the U.S. House and in the neighboring North Carolina House had paid a price for acting otherwise on taking over their respective institutions in 1994.11

The SJR 243 study not only highlighted the two parties in historically different reform roles, but also the perennial nature of institutional reform issues—a case in point being Virginia’s sacrosanct session lengths. Lest there be any misunderstanding of the fact that maintaining the citizen legislature meant retaining Virginia’s short sessions, Speaker Wilkins minced few words in responding to an NCSL staff briefing of the Joint Rules Committee at the outset of the study. If they planned to recommend lengthening the sessions, he said, “forget it.”12 Indeed, prefiling, the reform of choice, was designed to help lessen the pressure to extend session lengths.

Needless to say, NCSL was very careful in addressing the session-length issue, suggesting indirectly that the short session be lengthened to 60 days. Thirty-four of the thirty-five NCSL recommendations were phrased in “should” language; the session-length recommendation was the exception. While NCSL recommended that the assembly “may continue to meet in annual sessions of 60 days and 45 days...,” they also pointed out the need to address “time management, work volume and other procedural concerns” (p. 19). In the accompanying explanatory note for the recommendation, they noted that if the concerns were not addressed, “...then NCSL would suggest equalizing the length of sessions to no less than 60 calendar days for both years of the biennium.” The change would still leave Virginia sessions, according to NCSL, “significantly shorter than the national average for session length, which is 120 calendar days per year.” Additionally, they noted that equalizing the length of sessions would not require a constitutional change, and would “simplify scheduling and staffing.”

NEXT STEPS

As of summer 2001, the verdict was still out on the SJR 243 reform effort. Both the Citizen Advisory Board and NCSL in their final reports and briefings recognized there was only so much that could be done during the 2001 session.

Major changes in the committee system are expected to be forthcoming in the house when it organizes for the 2002 session. House republicans have already begun making plans to revamp that chamber’s committee system. Yet if the need to reduce the number of committees and subcommittees is most pronounced in that chamber, it will be instructive to see how the republican leadership reconciles the tension between good management and good politics. Quite simply, the house power-sharing experience of 1998–2001 diffused power, giving many republicans their first
taste of committee/subcommittee chairmanships. In 2000, the last time the house organized its committees, 31 of the 52 (59.6 percent) republicans held a committee or subcommittee chair; indeed, 27 of the 31 republican chairs in 2000 were already veteran committee leaders, having gained that experience during the previous two years under power sharing.13

Obviously, Virginia republicans don’t have much of a historical track record in running the nation’s oldest legislature; but what they do have has not been without its surprises. Stay tuned.

1 See http://leg1.state.va.us/cgi-bin/legp504.exe?001+ful+sj243


3 University of Richmond Political Science Department talk, March 26, 2001. Unless otherwise indicated, the data and discussion in this section draw on that superb account.

4 Statistical information presented at the Citizen Advisory Board meeting September 20, 2000, and Citizen Advisory Report, p.3

5 Citizen Advisory Board meeting September 20, 2000

6 The Joint Rules Committee unanimously adopted HJ 13 on December 10, 1997, recommending that members for the 1999 session be limited to introducing five bills and resolutions after the session began, while retaining unlimited prefiling authority. See “Lawmakers Aim to Limit Measures” by Michael Hardy, Richmond Times-Dispatch, December 11, 1997, p.B5. However, the proposal died in the house, as the speaker took no action on the resolution.


8 See JH 504 at http://leg1.state.va.us/cgi-bin/legp504.exe?011+sum+JH504

9 This quote and the following one can be found in “Legislators Still Scramble to Keep Up” by Michael Hardy and Pamela Stallsmith, Richmond Times-Dispatch, February 4, 2001, p.A8.


12 Joint Rules Committee Meeting July 6, 2000

13 Author’s calculations based on data received from the offices of the house and senate clerks