

three ways: *time, space, and information.* (Rosenthal, 1996, pp.108-111)

Depending on the extent to which the reforms were embraced, two concepts are used to describe major differences in how legislative bodies operate: professional legislatures and citizen legislatures. (Rosenthal, 1998, Chapter 2)

Professional Legislatures vs. Part-Time or Citizen Legislatures

Professional legislature is the term applied to the legislatures that most fully embraced the reforms proposed by the Citizens Conference on State Legislatures. These reforms increased the capacity of the legislature to function as an independent branch of government, capable of balancing the power of the executive branch and having the information necessary to make independent, informed policy decisions. Increased capacity includes: longer sessions (some meet almost year-round); increased staff numbers, including full-time staff; adequate space in which to conduct legislative business; and compensation levels that allow legislators to live without simultaneously performing a separate job. In professional legislatures, the members may list "Legislator" when asked their profession. They consider the legislature a career, not a stepping-stone to other offices or a way to enhance their other jobs. *Professional* can also apply to the way the legislature conducts its business, the conduct of the legislators, or both. The legislature develops as an institution with its own rules and norms for operation and with independence from the executive branch. The most populous states usually fall into this category.

Citizen legislature (sometimes called traditional legislature) is a term applied to legislatures that are mostly from small states. They meet only part of each year and have relatively few full-time staff. Legislators in such states hold full-time jobs and legislative work consumes the equivalent of a half-time job or less and offers low pay.

In reality, the distinctions between the two classifications may blur. Twenty-four states, including Alabama, are classified as a mixture of both types. (NCSL web site and Alan Rosenthal, 1998. See *Selected References.*) Although the distinction applied underlies many decisions about a legislature, both the public and legislators are often pulled in both directions when assessing what mix of the two may be appropriate for Alabama. Interviews and the Survey of Legislators revealed some of these tensions. (This topic is also discussed in *Legislative Support: Staffing and Research.*)

Some legislatures that developed into strong institutions in the 1970s and 1980s were destabilized in the 1990s by two powerful forces. The first was Term Limits. The second was Initiative and Referendum, which allows the use of ballot initiatives to legislate directly or indirectly. (Rosenthal, 1996, pp. 133-134) Alabama has neither Term Limits nor Initiative and Referendum as practiced elsewhere.

II. THE COMMITTEE SYSTEM

The committee system is universally understood to be the core of the legislative process. It is the major point in the process at which in-depth member analysis (substantive and political) of proposed legislation is most likely to occur. It is the first step in any examination of legislative policies and procedures.

The account of the committee system in this *Fact and Issues* presents information gathered from a variety of sources: interviews with legislators and knowledgeable observers, an anonymous survey of legislators, presented in Appendix A, House and Senate Rules, academic studies of state legislatures and legislative policy-making. (Rosenthal, 1998, pp. 133-137 and others) The topic of committee support in the form of staffing and research capacity is important enough to require a separate examination. (See *Legislative Support.*)

Committee Functions

The functions of committees identified most often in Alabama and elsewhere include:

To manage the volume of bills to be examined

Alabama does not limit the number of bills introduced. For the 2003 regular session 1322 bills were introduced; 258 were enacted. (*Book of the States*, p.120) Especially on topics beyond their expertise and outside their constituents' concerns, legislators rely on committees for guidance. In addition, legislators frequently mention the use of committees "to weed out bills not in the public interest," "to separate the wheat from the chaff." In the words of one experienced legislator, "Some crazy bills can come along."

Like those in other states, individual Alabama legislators may initiate bills that adapt models from other states to Alabama's problems and governmental structure. Others may respond to events, fulfill citizen or interest group requests, or serve philosophical or publicity purposes.

Although every bill must have a legislator as sponsor and must be drafted or approved by the Legislative Reference Service, sources of legislation vary widely. Bills may be written by organized interests, the Governor's office, state agencies, or the leadership of the body or the party. These groups may work with legislators during the drafting process or write the legislation on their own and submit it to a sympathetic legislator for introduction. (Rosenthal, 1998, pages 125-126)

To educate legislators about proposed legislation

In committee, questions can be raised and answered that require more time than floor debate permits. Some issues are technical, like telephone deregulation; others involve new

public policy initiatives or a major change in policy direction.

Public hearings can be called to receive information from a variety of sources: experts with specific knowledge of the issues, members of government departments and agencies, interest groups including issue advocacy groups like Alabama ARISE and Voices for Alabama Children and public interest groups like LWVAL, and individual members of the public. One Alabama expert interviewed said that committees should be more proactive in seeking out a full spectrum of opinion "to provide information for legislators as well as educating the public, while at the same time assuring the interested groups that their views will be heard and considered."

Legislators also can learn by exchanging views with their colleagues and sometimes by substantive debate.

To identify and assess support and opposition to a bill and seek to negotiate compromises for a version of the bill that can pass

Bill sponsors and advocates often aim only for committee approval in the first year. Bills that require two or more years to pass usually benefit greatly from committee work done in previous sessions. For example, during committee consideration of the 2004 Open Meetings Law in the House, questions arose about the impact on some lower level city and county staffs. In the interim, the Alabama Press Association consulted exhaustively with local governments and other groups. The consultations not only produced the needed amendments but also built support for the bill. In 2005 the bill passed both houses quickly and with overwhelming support.

To prepare a bill that is ready for floor action

Amendments to bills are adopted or rejected to

hone the language and improve provisions. If changes are significant, a committee substitute may be written to send to the floor and to the other body.

Legislators interviewed all agreed that bills seldom reach the floor of either chamber if the leadership is not sure that the bills have a strong chance of passing.

Committee Organization

Each house holds an Organizational Session in January after a new legislature is elected. The chief business of this session is election of leaders, adoption of rules and organization of standing committees, including selection of their membership and chairs. In the not-too-distant past, the Governor had the most important role in the election of the House Speaker and assignment of committee chairs, and the Lt. Governor had the major voice in the organization of the Senate, including assignments to committees and selection of committee chairs. Today, both houses select their own leadership (the Speaker of the House and the President Pro Tempore in the Senate), and that leadership has responsibility for the committee system. The Lt. Governor is presiding officer of the Senate, voting in the case of a tie and performing other duties specified in Senate Rules. Legislators and legislative observers agree that in the Senate new committees have been created for the purpose of offering chairmanships to potential supporters in the leadership election process.

Every legislature is different, but the methods of organization tend to center around the committees and political parties. Although seniority systems may be in place, the stronger the political parties, the more likely the committee system, seniority, and political party are linked. (One-party states, including Alabama during most of the 20th century, tended to center organization on leader-based

and other factional divisions such as geographic regions, urban-rural orientation, or race.)

Legislators in interviews occasionally speculated about moving toward the U.S. congressional system. In the Congress, party caucuses select party leaders. The head of each party in the U.S. House is nominated for Speaker, and the majority party candidate wins. In the Senate, where the Vice President is presiding officer, the majority party's caucus selects the Majority Leader. Like the Speaker, the Senate Majority Leader has the major responsibility for running his/her chamber and party.

Membership on congressional committees is, with a few exceptions, allocated to each party based on party ratios in the chamber. Each party names its own membership to committees. Considerations in the assignments are seniority (length of continuous service in the chambers and length of continuous service on the committee), expertise, personal preferences, political party needs, likelihood of reelection, and more. Members who serve on a committee generally are guaranteed to return to that committee in the next session. Members can be expected to build expertise in policy areas and to bring some institutional memory to current topics.

The majority party in each chamber of Congress chairs all committees and subcommittees in that chamber. Committee seniority generally is the most important consideration in determining which majority member becomes chair. A member may chair only one committee, and term limits on chairmanships are now in place in the House. (Edwards, 2006, Chapter 19)

The more professional state legislatures tend to organizational arrangements resembling those in Congress, but do not necessarily limit terms of committee chairs. Professional legislatures also tend toward committees (and subcommittees) with clear jurisdictions outlined in chamber rules. The committees tend to have their own rules, operating budgets, and

large staffs. Most scholars do not classify Alabama as one of the professional states. (NCSL, See *Selected References*.)

Committee Assignments in Alabama

Committee assignments are important to a state if good laws are to be passed. Other factors may be more important to legislators, such as serving the interests in their districts, or advancing their legislative careers or their individual purposes for public service. In the Alabama Legislature, members of both houses may request assignment to certain committees, but those requests may not be granted.

A traditional goal for assignments in all legislatures is to make best use of members' abilities, experience, and expertise in a mix that promotes good committee discussion. For example, a legislator who has owned a retail clothing store might serve on the Small Business Committee, someone working for an oil company might be assigned to Energy, and a teacher might be assigned to Education.

To secure the benefits of expertise while avoiding domination by one interest group, as horse racing interests once dominated in Kentucky, may require additional considerations. One solution often adopted and cited favorably by many is to institute proportional representation of all major groups within the body, whether by party or other differences. Proportional representation for fairness or other purposes is significant; it frequently appeared in replies to open-ended questions in the LWVAL survey, when legislators were defining strengths and weaknesses or recommending improvements in the Alabama legislative process.

House

The Speaker, in accordance with House Rule 63, appoints all committees and subcommittees and designates their chairs and vice chairs. Rule 63 also specifies the makeup of committees: "The Speaker shall proportion .

. . . all committee appointments in a manner which is inclusive and reflects the racial diversity and gender of the members of the body and the political party affiliation of the members of the body." It also states that party and race should be considered when at least 10 members are of a party or race. Current Vice Chairs include a mixture of Democrats and Republicans: four are black Democrats, five are Republicans, and three are women. A balance of rural and urban interests is considered, although not listed in the Rule.

In interviews, House members, regardless of party, race, or gender, characterized the Speaker as fair, regarded Rule 63 as effective, and judged the committee system to be working well. Over 59.7% of House members returning the survey agreed that member expertise is considered in committee assignments. Significant improvements made by the current Speaker were frequently cited. One House member noted that abuse could possibly occur under different leadership.

Senate

Senators are assigned by a Committee on Assignments, which includes the President Pro Tempore as Chair, the Lt. Governor, and three additional members appointed by the President Pro Tempore. This committee appoints the Chairperson, Vice Chairperson, and membership of all Standing Committees. Any change in committee membership must be authorized by a unanimous vote of this committee. (Senate Rule 47c)

Evaluations of committee assignments diverged greatly in the interviews, depending on the legislator's position and allegiances. Those who approve of the current arrangement and those who object were about evenly divided in LWVAL interviews, which aimed for balance between leaders and non-leaders.

The following objections to this assignment process were raised in one form or

another by more than one senator and by members from different caucuses:

- The process is too political at present, too driven by the trading of committee chairmanships for votes for President Pro Tempore in the Organizational Session.
- On major committees, which examine most bills, all members are not represented fairly. Too many are assigned to committees that rarely meet and have no bills to examine.
- More attention to seniority might provide a means of removing some politics from the assignment process and reducing problems that arise when too many committees are chaired by freshman legislators.
- And, in sharp contrast to responses from House members on the survey, just under 28% of senators agreed with the statement, “Expertise of members is considered in committee assignment.” At one point recently only 10% of the Senate Judiciary Committee members were lawyers, although traditionally most lawyers in the Senate served on that committee.

Committee Meetings: Time and Space

Most committees in the Alabama Legislature meet on Wednesdays. House committee sessions are set for 10 or 10:30 am and 1:30 pm. Caucuses and other lunch meetings are usually scheduled for Wednesdays. In addition to Wednesday meetings, Senate committees also schedule meetings on Tuesdays and Thursdays, 30 minutes before the session.

House and Senate respondents to the survey hold differing opinions on whether more committee meeting time is needed. Only 36.9% of representatives favored more meeting time, while over 88% of the senators favored an increase. Over 35% of senators marked “strongly agree” to this question. (See Survey in Appendix A.) These differences may reflect workload differences related to chamber

membership size (Senate = 35; House = 105). Representatives and senators agreed (at 81% and 88%, respectively) that “Time available for legislators to do research and work on proposed legislation needs to be increased.”

Members of both houses cited inadequate space for committee meetings as a major problem. Although some House members noted in interviews that the Speaker has arranged some improvements recently, 60% of survey respondents in the House and 66% in the Senate described committee meeting space as inadequate. In some cases meeting rooms cannot accommodate all the members of the committee, much less observers.

Notice of Committee Meetings and Agendas

For a busy legislator, adequate notice of meetings and an agenda to guide what bills to study in preparation for a meeting are basic requirements. House Rules require 24 hours’ notice of meeting and agenda to members by posted notices. (Rule 73) In practice, meeting times, location, and agendas for Wednesday meetings are published by 5 pm on the preceding Friday on both the legislators’ web site and the public web site, ALISON. After the 27th day of the session, House notice is reduced to four hours. The Senate requirement is at least four hours’ notice, “wherever possible.” (Rule 57) A veteran legislator estimated that deadline is met about one-half the time. On ALISON, Senate notices appear irregularly. “Agenda to be announced” is a common listing.

Although some members of both bodies indicated that they would like earlier notice of meetings and earlier receipt of agendas, House members surveyed were generally satisfied with the timeliness of meeting announcements (85.9%) and agendas (79.0%). Among senators responding, only 41.2% found meeting announcements timely and just 22.2% agreed

that agendas were timely. No senator marked “Strongly Agree” for the timeliness of either.

Committee Effectiveness

To judge the functioning of the committee system in each house, three topics must be examined: (1) the number of committees; (2) committee jurisdictions and assignment of bills; and (3) the authority of committee chairs.

Number of Committees

Limiting the number of committees and the number of assignments for each member has been established as good practice since the study by the Citizen Conference for the Reform of State Legislatures was published in 1971. (See *Selected References*.) A member with conflicting meetings scheduled must run from one to another to vote or to hear testimony. As one veteran noted, “This fact encourages carelessness in voting and recording votes.”

The House currently has 16 standing committees, not counting eight for local legislation. Only 19.3% of House respondents to the survey favor reducing the number of House committees. Major House committees have 15 members. All committees meet and consider bills. The number of bills assigned to each committee varies. Most standing committees listed in Rule 65 have three subcommittees. In both houses, subcommittees obey the same rules as standing committees.

The Senate has 21 standing committees, not counting three for local legislation. Also, a Confirmations Committee considers appointments by the Governor that require Senate approval. Most committees are limited to 11 members. The number of assignments listed for each senator ranges from a low of five to a high of ten. The system was last revised in 1982 by combining committees with similar jurisdictions, such as Banking and Insurance.

Almost every senator interviewed, including the leadership, cited too many committees as the chief weakness of the system. In the survey, most senators (66.7%) favored reducing the number of committees, with 38.9% marking Strongly Agree. One experienced senator explained that this problem is the underlying cause of other problems, adding that it must be corrected before other improvements, such as better staffing for committees, can have any effect.

A related and serious problem cited in multiple interviews is the radical imbalance in Senate committee workloads. Some committees never meet within a session and rarely in a four-year term. Others have very few bills assigned. One authoritative observer declared that three Senate committees, the two Budget committees and Judiciary, handle over 75% of bills. As a veteran legislator said, “Every committee should have bills to consider.” Part of the problem is the assignment of bills.

Committee Jurisdictions and Assignment of Bills

The need for clearly defined committee jurisdictions is acknowledged in all commentary on state legislatures. Although some bills may be difficult to assign, studies suggest that bills bypass their proper jurisdictions very rarely. (Rosenthal, 1998, pp. 141 and 259)

In the Alabama House, the Speaker assigns all bills. Over 64% of House members responding to the League survey agreed that committee jurisdictions are clear, and 72% agreed bills are assigned by jurisdiction. In the Senate, the President Pro Tempore assigns “with the concurrence of the Lt. Governor.” (Senate Rules 10 and 23) If the President Pro Tempore and the President of the Senate (or their designees) do not agree, the Rules Committee (appointed by the President Pro Tempore) makes the decision. The nature of the shared assignment authority is difficult to establish. However, there is no uncertainty about whether committee jurisdictions are

observed. Over 72% of senators responding to the survey not only declared that jurisdictions are unclear, but disagreed with the statement that bills are assigned according to their jurisdictions.

The related problems of overlapping or ill-defined jurisdictions and problematical assignments were most often illustrated in interviews in connection with two committees. Economic Expansion and Trade, regularly referred to as “the graveyard committee,” has the following phrase in its definition in the Rules: “and any other item requiring action deemed appropriate by the assigning authority.” (Rule 48 (1)) Fiscal Responsibility and Accountability has overlapping jurisdiction with the two Finance and Taxation Committees. A veteran senator described an extreme example, a session in which the budgets were diverted from the two budget committees to this new committee, which had only three or four members.

Two Senate Rules set up double referrals. Rule 54 permits any bill carrying an appropriation to be referred to one of the two Finance and Taxation committees after action by a committee with subject matter jurisdiction. Rules 50 A and B prescribe double committee hearings for gambling bills and for some environmental legislation.

Authority of Committee Chairs

In both houses, committee chairs exercise great power to call meetings, set the agendas, set the public hearings, and more. The first issue raised by legislators and observers is the question of voice vote versus roll call vote. The legislative reformers of the 1970s called for recorded committee votes. (CCSL, pp. 158-159) Reasons commonly cited are that a voice vote is always subject to abuse by the chair, and transparency is limited to observers in the room. Furthermore, observers may not be able to determine all votes cast in the voice vote process.

Senate Rule 57 requires a recording of the final vote on a bill in committee, but a formal roll call vote is rarely observed. Replying to the statement, “A recorded vote always occurs in committee,” only 5.6% of Senate respondents agreed. At least one Senator reported that secretaries regularly assign votes to members as the chair instructs for the required reporting forms.

House rules differ. A voice vote is accepted unless one member calls for a roll call before the vote, and another member seconds the request. Several representatives were content with this arrangement.

Whether or not legislators favor a recorded roll call is open to question. One committee chair explained that he often asks for a voice vote when others do not want to have a “yea” or “nay” attributed to them. This way the chair can “take the heat and get a bill onto the floor.”

House interviews did not cite abuses of power by chairs as a weakness of the committee system. In the Senate, the practice most often cited as questionable was “walking a bill out.” Rules in both houses state that a bill may be approved only after a committee meeting. Petitions and informal polling are forbidden. In extreme cases, members have denied that they were polled at all before their vote was recorded. One senator proposed that the committee report be rejected if two members assert that the recorded vote was inaccurate. Fear of offending a powerful chair is the explanation usually offered for permitting abuses to continue, and also for not invoking rules members might use to oppose an arbitrary chair who, for instance, refuses to call meetings. (House Rule 71; Senate Rule 61) House organization and the current Speaker’s administration are given credit in the interviews for the absence of abuses.

In contrasting the procedures of the two houses, one expert stressed the importance of recognizing the intrinsic differences between the lower and upper chambers. Lower Houses

are always larger and must be organized in a more disciplined fashion. In the smaller upper bodies, personalities and personal agendas inevitably loom larger. To some extent, the differences between the Alabama House and Senate mirror those in all legislatures. Even so, a pattern in comments from a variety of sources starts with praise for the changes made by the Speaker to organize the House, and moves on to a speculation or hope for house practices to “rub off” on the Senate. To paraphrase one interview subject: Some leaders run a tight ship and some prefer the machinery of benevolent warfare.

The Rules Committees

The final and crucial step for a bill moving through the committee system is the Rules Committee, the gatekeeper to the floor of each house. The committee’s chief function in Alabama is to set the calendar, both which bills will be considered in floor sessions and the order of consideration. The decisions of the Rules Committee become critical in the last days of a session, when most bills die because time runs out.

In Alabama, bills come to the floor almost exclusively through Special Order Calendars. The Special Order, cast in the form of a Resolution, usually applies for one day, though it may be extended at the end of a session. A method for efficient handling of non-controversial bills, a Consent Calendar, is used in many states and in the Alabama House, but not now in the Senate. The time for considering local legislation is determined by general rules of order and precedence, not by the Rules Committee.

For legislators needing time to prepare for final debate on a bill, timely knowledge of Rules Committee decisions is crucial. All interview subjects who discussed the Rules Committee work for their chamber recommended at least 24 hours’ notice of its decisions during most of the legislative session;

some felt that insufficient. In the last one-third of the session, 12 or even 4 hours’ notice were deemed reasonable to allow for the pace of negotiations and compromises. The Senate Rules Committee is permitted to meet during the floor session.

Rules Committee operations provoked few comments in the House interviews. In Senate interviews, many volunteered negative comments, but most felt the situation had improved after the members complained about such practices as the chair announcing his own decision as the committee’s or changing the order of bills that the committee had agreed to. As one senator explained, a senator who is displeased by a previous vote or who receives support from a colleague may weigh those factors in a later vote; thus a change of order can determine the fate of a bill.

Legislators who favor a strong Rules Committee cited the need to screen out bills that will embarrass the house. A larger number cited the responsibility to keep the session moving and avoid having the floor session bog down in debate over bills too controversial to pass. A leading authority on state legislatures, Alan Rosenthal, offers a useful view not only of committees but also rules committees and the legislative process in general:

Especially in an era where committees in many states do not make tough decisions, but instead report all sorts of legislation favorably, leadership takes on the job of saying no. Rules committees serve leadership purposes when they take no action on bills or refuse to put them on special-order calendars. . . . The calendaring stages are where hard judgments are made. . . . Standing committees have become agencies of reciprocity, with members realizing that if they stand in the way of their colleagues’ bills, their colleagues may stand in the way of theirs. (Rosenthal, 1998, pp.145-147)

Summary of Strengths and Weaknesses of the Committee System

The committee system, in the various permutations mentioned, can produce excellent results when the system works as it should. The weaknesses most often mentioned, beyond the specific issues already presented, are embodied in the following recommendations:

- Members should inform themselves more fully about proposed bills. More time for individual study and better resources for examining policy are needed.
- The power of interest groups should be reduced, without denying fair attention to their concerns.
- Bills should be exhaustively examined. It is a mistake to say, “We can settle this on the floor.” On the floor the volume of bills is too great and horse-trading is more of a factor. Time is more limited.
- All good bills should be ensured a fair hearing and not be lost because of politics.

For related topics, see the following:

Committee transparency in *Citizen Access*.

Committee support in *Legislative Support: Research and Staffing*.

The developing role of parties and caucuses in the committee system in *Parties and Caucuses*.

III. LEGISLATIVE SUPPORT: RESEARCH AND STAFFING

Research

The clearest message and the strongest area of agreement among all legislators, regardless of disagreements about much else, is their need for more knowledge about the bills before them. Just over 85% of survey respondents

agreed with the statement, “Time for legislators to do research and work on proposed legislation needs to be increased.” Senators were slightly more likely to express this need than were representatives.

Respondents asked not only for time, but for more objective information on which to base policy decisions. Just under 80% disagreed with the statement, “Legislators receive all the objective information and analysis they need to make policy decisions.” The number who strongly disagreed was high at 34.4%. The interviews confirmed these views and explained the particular needs. The following statement by one with first-hand knowledge of Alabama legislatures for more than twelve years provides a summary of the circumstances most describe:

No committee has professional staff with expertise in the subject matter with which a given committee deals. Not only do committees not have staff, but there is not even a core legislative staff which could deal with major issues as they come up. Most legislation is drafted by interest groups who then find a supportive legislator to introduce and sponsor the bill.

When legislators confirm that lobbyists are their chief sources of information, they often add, “Most are honest,” or note that sometimes they can weigh information from opposing sides. It seems clear, however, that this dependence displeases most of the commentators. They would prefer an objective source accountable only to the legislature itself. With considerable frustration, a senator explained that he voted against telephone deregulation, not on the merits of the proposal, but because he had no independent means of evaluating the conflicting claims the two sides made about its impact. A strong argument for increased research support is that legislators who want to make well-informed policy decisions should have the resources to do so.