

Interim

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REPORT

To: The Legislative Process Commission

From: The Committee on Bills

Re: Matters for Presentation to the 1969 Special Session of the General Assembly: Pre-Filing of Legislation and Early Deadline for Introduction of Certain Local Legislation.

Your Committee recommends that the following report be submitted to the 1969 Special Session of the General Assembly.

I. Introduction

The two proposals in this Report for legislation (a) to permit filing of bills and resolutions in advance of a regular session of the General Assembly and (b) to advance the early deadline already provided by law for the introduction of charter and similar bills, merit consideration by the 1969 Special Session of the General Assembly for the following reasons:

First, these proposals are basically simple measures which can easily be put into effect so that they will contribute to the smoother functioning of the 1970 Regular Session of the General Assembly if enacted in 1969. Their basic purpose is to spread the workload of the Assembly over the full span of the Session by lessening the slack of early days and reducing the logjam at the close of the Session. The following figures show the need for this type of proposal:

Session	Length	Bills Introduced	Bills Passed
1962	60 days	1052	644
1964	60 days	1216	668
1966	60 days	1349	728
1968	60 days	1724	824
1970	60 days	?	?

Given the fact that the 1970 Regular Session will not exceed 60 compensable days and the trend for more legislation shown by these figures, there is a special need to take action for 1970.

Second, these proposals can be of assistance to the General Assembly at its 1970 Regular Session only if implementing legislation takes effect in advance of the 1970 Regular Session. This is true because (a) pre-filing by its terms necessarily precedes the Session so that emergency legislation or rules which can be adopted by that Session will not be of use, and (b) a change in the deadline for introduction of charter and other special local bills should be made prior to the Session rather than by emergency legislation at that Session so that there is fair warning to the localities that they must have these measures prepared very early in the Session.

Third, these are essentially housekeeping proposals which should not involve either serious controversy or nonlegislative interest tending to detract from the basic purpose of the 1969 Special Session.

II. Pre-Filing

A. An Outline of the Suggested Statute

The proposed statute (a new § 30-19.3 in the Code of Virginia) sets forth a simple procedure for filing of bills and resolutions ahead of a regular session. The proposed pre-filing Section is set out in the Appendix. The following are its principal provisions:

Who may pre-file. Any General Assembly member or member elect.

When may he pre-file. Any time within the 40 days preceding a regular session.

What may he pre-file. Bills or resolutions so long as they are signed in writing by a member or member elect as patron.

Where and how does he pre-file. With the clerk of his chamber by mail, by hand or however he cares to deliver a measure.

What happens to a pre-filed measure. The clerks are directed by the statute to number bills and resolutions in order of receipt, refer them to appropriate committees (with the advice of the presiding officer of their chamber), have them printed, mail them to all members and members elect and release them in the usual fashion to the press and public.

B. Advantages of Pre-Filing

The basic reason for authorizing pre-filing, as stated earlier, is to spread the workload of a regular session by getting legislation printed, circulated, and assigned to committees so that legislators can begin their work even in advance of the session and committees will have a working docket from the beginning of the session. The full use of available time should permit more careful consideration of legislation by legislators, committees and the public and result in an improved end product in the Acts of Assembly.

In addition to this basic purpose, there are ancillary gains which pre-filing should produce for the legislative process. First, pre-filing should reduce the number of duplicate bills. During the press of the session, there is a real lag in the indexing of measures introduced which prevents the legislator and the Division of Statutory Research and Drafting from knowing if a certain bill has been introduced so that duplicate measures are frequently introduced or prepared for introduction. Pre-filing should reduce the

unintentional introduction of duplicate bills.

Second, pre-filing should spread the work of the D.S.R.D. The Division now will draft legislation in advance of a session and encourages early requests. Pre-filing and the placing of pre-filed bills at the top of committee dockets should be a further inducement for legislators to request legislation early. The Division's records show 2209 measures drafted up to the February 12, 1968 deadline for introduction last Session exclusive of study committee bills. Out of 2209, 855 were requested prior to January 10, 1968, the first day of the session, 696 were requested prior to January 1, and only 284 were requested prior to December 1, 1967. Thus 62% of the total Division workload came during the one month of the Session in which bills could be introduced without special permission. With five active draftsmen working seven days a week, each had to average 8 bills a day in addition to talking to legislators to take requests for legislation. This is not an impossible workload, but it is one that precludes extensive research on bills being drafted.

C. The Experience of Other States

(1) The authority for pre-filing in other states

We investigated nineteen states which have pre-filing in some form to learn their experience with it. Four states (Illinois, New Hampshire, Oregon and Wisconsin) report pre-filing is carried on by statutory authority. Five states (Maine, Massachusetts, Michigan, New York and unicameral Nebraska) authorize pre-filing by joint or uniform rules of the legislature.

Alaska operates under both statute and joint rules. Oklahoma uses a statute, house rule and rule of its Legislative Council and South Dakota uses a statute and Legislative Research Council rules.

Colorado utilizes parallel house and senate rules and a joint rule requiring all pre-filed bills to be checked as to form by their legislative drafting office.

Louisiana uses a senate rule but only custom in the house and West Virginia does just the reverse. Washington has senate rules and a Legislative Council recommendation to control pre-filing. North Dakota's pre-filing is by custom only.

The above seventeen states use pre-filing in both houses even though the sources of authority for and the extent of pre-filing vary from state to state. Florida has house rules permitting pre-filing in that chamber only. Georgia had a house rule on this point which permitted extensive pre-filing of house bills for the 1967 session, but that rule has expired and they anticipate a study on pre-filing for the entire legislature after the 1969 session.

The soundest basis for establishing pre-filing in Virginia appears to be the statutory approach. Thirteen states use statute or joint rules either alone or in combination with other bases for pre-filing. Only one state, Colorado, has successfully developed parallel house and senate rules on pre-filing and it has a joint rule relevant to the topic as well. The other six states have had to rely on custom for one chamber with rules for the other, custom alone or legislative council rules to cover both houses or authorize pre-filing in only one chamber. Virginia currently falls in this

last category with the adoption this past Session of a Senate Rule for pre-filing.

For the following reasons, we recommend the statutory approach:

(a) a statute is the only way to develop a printed, circulated and binding statement on pre-filing since Virginia does not have joint rules;

(b) a statute can predate and outlast the session in contrast to rules which are adopted at the session and pre-filing procedures should be clear prior to the convening of the session; and

(c) while pre-filing can be established for only one house to its own satisfaction by its rules, the drafting division, printers and public will benefit from uniform treatment for both houses in the handling of bills.

(2) Other states' procedures for pre-filing

The practices in these other states vary greatly and range from authorizing pre-filing of only specific types of bills such as study commission bills (Nebraska, North Dakota, Oregon) to requiring that almost all bills be pre-filed (Massachusetts). The procedure we recommend is designed specifically for Virginia and to facilitate the handling of legislation here. The system recommended in this Report is similar to that in operation in states such as Alaska, Illinois, South Dakota and West Virginia.

(3) Opinions of other states on the usefulness of pre-filing

Generally, these other states are convinced of the benefits of pre-filing. Comments volunteered from other states include the following:

"...timesaving and very helpful...committees get an earlier start on legislation referred." (West Virginia, Legislative Services Division.)

"The procedure...spread the workload out quite a bit more evenly and actually permitted committee consideration of these bills as early as the first or second day of the session." (Washington, Legislative Council.)

"In New York, we have been pre-filing since 1958 . . . It's been of considerable help to us in Bill Drafting and to the printer." (New York, Legislative Bill Drafting Commission.)

An Oklahoma report from their State Legislative Council points out that realization of the maximum potential of pre-filing depends on the bill drafting facilities available in advance of the session and the early completion of interim studies.

III. Early Introduction of Charters

At present, § 30-19.1 provides that charter bills and bills affecting optional forms of county government must be introduced by the twentieth calendar day of the regular session unless requested by the Governor. We recommend that this specific category of bills be required to be introduced by the tenth calendar day. Pre-filing will permit advance introduction of these measures, and adequate notice of the new early deadline (by adoption of this legislation at the Special Session) will eliminate any hardship on localities in preparing these measures.

Since this is one of the most easily defined categories of bills and since these bills are frequently lengthy and complex, we believe the early deadline is a particularly apt procedure to get these bills before the committees early and that this step is necessary to provide time for their careful review and study by the committees during the session.

Legislative Appendix

A B I L L

To amend and reenact § 30-19.1 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 30-19.3, relating to time limits for the introduction of certain bills and permitting the filing of bills and resolutions in advance of a regular session.

Be it enacted by the General Assembly of Virginia:

1. That § 30-19.1 of the Code of Virginia be amended and re-enacted and the Code of Virginia be amended by adding a section numbered 30-19.3, as follows:

§ 30-19.1. No bill to amend the charter of any city or town or to provide a new charter therefor, or affecting any optional form of county organization and government shall be introduced for consideration by the General Assembly of Virginia after the * tenth calendar day of any regular session of the General Assembly unless requested by the Governor; provided, that this section shall not apply to any bill the necessity for which is stated therein to exist because of legislation adopted at the session of the General Assembly at which the same is introduced.

§ 30-19.3. (a) Any member or member elect of the General Assembly, during the forty days prior to the first day of a regular session of the General Assembly, may file with the Clerk of the House of Delegates or Senate an appropriate any bill or resolution endorsed by the handwritten signature of at least one member or member elect as a patron on the original and duplicate thereof.

(b) The Clerks of the House of Delegates and Senate shall assign numbers to pre-filed bills and resolutions in the order of their receipt, refer them to the appropriate committee with the advice of the presiding officer of his house, and have a sufficient number of them printed for circulation as provided in this section.

(c) Printed pre-filed bills and resolutions shall be periodically mailed to each member and member elect of the General Assembly and shall be made available to the press and public in the same manner as bills and resolutions introduced after the General Assembly convenes.

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