

# The Legislative Process

Commonwealth of Massachusetts  
Public Employee Retirement Administration Commission



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Public Employee Retirement Administration Commission

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Published by PERAC, 2002. Printed on recycled paper.

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## The Legislative Process in Massachusetts



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## Lawmaking in Massachusetts

The principle task of all legislatures is to make law. Here in Massachusetts lawmaking is a direct outgrowth of the development of the Massachusetts deliberative body called the General Court. From its earliest beginnings, the Colonial General Court was embodied with executive, judicial, and legislative powers, and from these powers gradually evolved the current system we now call the legislative process.

Under the Massachusetts Bay Company Charter, King Charles I gave the colonists the power to govern themselves and to determine their own destiny. One of the provisions of the 1629 Charter allowed the General Court the authority:

*...to make, ordeine, and establish all manners of wholesome and reasonable orders, lawes, statutes, and ordinances, directions, and instructions, not contrarie to the lawes of this our realme in England.*

However, the Puritan leaders, in an attempt to perpetuate their elite ruling status, failed to share with the new settlers the mandate that the General Court had been granted the sole lawmaking authority in the colony. Uncovering this deception, the General Court decreed in May 1632, that the sole power to make and create laws was vested in the General Court.

Once the General Court assumed this lawmaking authority, the next major event that shaped the lawmaking process in colonial Massachusetts occurred nine years later. In 1641, the Body of Liberties was adopted. One of its provisions declared that:

*every man, whether inhabitant or foreigner free or not free had the right to attend any public meeting and by speech or in written form move any lawful and seasonable and material question, or present any motion, complaint, petition, bill, or information.*

The importance of this provision is that it forms the basic underlying principle of the "Right to Free Petition," a tradition that continues with our contemporary legislature.

Over the next several years the General Court adopted significant procedures to govern their body, several of which have been carried over to our modern day Legislature. For example:

1. 1641: the General Court required that any matter to be voted on to be published in written form;
2. 1641: the General Court established a committee similar to our

Committee on Bills in Third Reading;

3. 1644: the General Court established Joint Committees;
4. 1645: the General Court established Conference Committees;
5. 1648: Office of the Clerk established;
6. 1654: the General Court required legislation to be introduced in the first week of the session;
7. 1657: the General Court required that all important measures to be read three times on three separate days.

The Legislature continued to expand their authority to propose and make laws in the years following the colonial period. By 1780, however, something happened that would forever affect the sole law making authority of the Legislature. With the ratification of the Constitution, the Legislature was empowered to introduce legislation and pass laws. The Constitution, however, also created a shared responsibility between the Governor and Legislature in the law-making process. Where the Legislature was given the authority to make laws, the Governor also was empowered to reject law with the veto.

Equally important was the sharing of this lawmaking responsibility with the citizens of the Commonwealth. This new Constitutional tenant provided that all persons have the right to file legislation. The "Right of Free Petition" was formally established by Article XIX of the Massachusetts Constitution. This portion of the "Bill of Rights" states:

*The people have a right, in an orderly and peaceable manner, to assemble to consult upon the common good: to give instruction to their representatives, and to request of the legislative body, by the way of addresses, petitions, or remonstrances, redress of the wrongs done them, and of the grievances they suffer.*

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## The Beginnings

The relationship between the Legislature, the Governor or Executive branch, and the general public is an important concept in the lawmaking process. It is in this interrelationship that ideas are formulated to address issues that form the basis of new laws.

Ideas need starting points, and they generally come from many different sources. Sometimes it is an issue raised by a legislator. At other times it is a proposal forwarded by a governmental agency seeking to implement a change in public policy. Oftentimes it seeks to address a problem expressed by a local government official or by a constituent. Once this idea is defined it becomes the responsibility of the Legislator to file this idea as a Bill. The full Legislature must then decide whether this idea has merit. If they do, the Bill will be sent to the Governor to be signed into law. Once the Governor



signs it, the citizens of the Commonwealth are responsible for obeying the new law. This brief outline describes the law making process: the ability to shape and form an abstract idea into a reality that will eventually be codified in a society's body of laws.

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## Legislative Vehicles

Once an idea has been formulated it is introduced to the Legislature. House and Senate members can use several vehicles to advance certain matters in their branch. However, only *Bills and Resolves* so through the formal system known as the legislative process.

Five documents are used by Legislators to bring a particular matter before the Legislature for consideration: *Petitions, Bills, Resolves, Resolutions, and Orders*. The Governor is also allowed a mechanism to submit legislation in the form of a Message to the Legislature.

*Petitions* are the basic vehicles in the legislative process. They accompany either *Bills*, which are used to establish or change laws; or *Resolves*, which do not contain an enactment clause and are intended to provide special or temporary action, such as establishing an investigative commission or to make a payment of a claim. *Resolutions*, which can also accompany a *Petition*, are used for temporary purposes, such as congratulating individuals and memorializing Congress. *Orders* are temporary formal motions and are used for such purposes as to establish special committees and rule changes.

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## Filing Legislation

As in all organizations, the Legislature has established a system of rules to govern its internal administration. One such rule limits Bill introductions to specific dates. Bills must be filed with the appropriate Clerk's office by the third Friday of January at the beginning of the first annual session of the *Biennium*. For example, a Bill filed for consideration during the 2013 legislative session must be filed by the third Friday in January, or January 18, 2013.

State officers and agencies, such as PERAC, can also file legislation but they must do so by the first Wednesday of November prior to the start of the next legislative session.

Bills are filed with the appropriate Clerk's Office of the Bill's sponsor. Simply put, a Senate member files with the Senate Clerk's Office; a House member with the House Clerk's Office. The Clerk then processes and assigns the Bill a "docket number." The document is then numbered and printed, placed on the *Orders of the Day* for introduction before the Legislature. After its title is read, which corresponds to its first reading, the Bill is referred to either a Standing or Joint Committee, depending upon the subject matter as determined by the Rules of the House or Senate.

## Committees

Committee work makes up the nuts and bolts operation of the Legislature. It is here that the most detailed work of the Legislature takes place. Because of the number of Bills that are filed each year and the complexity of many of their subjects, Legislators must have confidence that a Committee has carefully studied and considered each Bill before it brings a Bill to the floor of a particular branch of the Legislature.

Under the Rules of the House and Senate, the Massachusetts Legislature uses three types of Committees: *Standing Committees*, *Joint Standing Committees*, and *Conference Committees*. A Standing Committee is comprised of members from one particular branch; it is made up of either Senators or Representatives. The number of members for each *Standing Committee* depends on the appropriate branch's Rules. For example, the Senate Standing Committee on Ways and Means is made up of seventeen (17) Senators, whereas the House Standing Committee on Ways and Means has thirty-two (32) Representatives.

Similarly, the number of *Standing Committees* varies between branches. Under House Rules there are ten (10) *Standing Committees*: Rules, Ways and Means, Bills in the Third Reading, Personnel and Administration, Bonding, Capital Expenditures and State Assets, Ethics, Post Audit and Oversight, Global Warming and Climate Change, Steering, Policy and Scheduling and a Committee of each floor division. Senate Rules allow seven (7) *Standing Committees*: Ethics and Rules, Ways and Means, Bonding, Capital Expenditures and State Assets, Bills in the Third Reading, Post Audit and Oversight, Steering and Policy, and Global Warming and Climate Change.

In some instances *Standing Committees* act together as *Joint Committees* where Senators and Representatives of different *Standing Committees* convene as one Committee. For example, the Rules of both branches allow the Ways and Means Standing Committee to consider matters concurrently. Likewise, the two Standing Committees on Rules may act jointly to suggest measures that will "facilitate business of the session."

Senators and Representatives serve together as members of *Joint Standing Committees*. Joint Committees have a co-chair appointed from each branch. Each *Joint Committee* is made up of six (6) Senate members and eleven (11) House members. The committees on Economic Development and Emerging Technologies, Health Care Financing and Transportation consist of seven (7) members of the Senate and thirteen (13) members of the House. The twenty five *Joint Standing* establish their own operating procedures and deliberate over a number of matters. Under the *Joint Rules*, these Committees are responsible for: (1) reviewing the effectiveness of existing laws, (2) ensuring that administrative regulations are consistent with the intent of both branches, and (3) deciding whether there is a necessity to enact new legislation.

Bills that have been introduced are referred to an appropriate Committee for study and review. Specific Bills regarding fiscal matters are referred to one of the Ways and Means Standing Committees depending on its sponsor. The Committee establishes a hearing date and invites legislators, members of the general public, and other interested parties to appear before it and comment on the relative merits or faults of the Bill. Each witness is responsible for providing testimony to edu-

cate the legislators of the Committee. This can be accomplished by providing information to support a particular point of view, or answering any concerns that the Legislators might have about the efficacy of the Bill. Hearing dates are on the General Court website.

The Joint Committee on Public Service is where most bills dealing with public employee benefits are considered. This committee primarily has jurisdiction in matters dealing with public employee retirement benefits (c.32), civil service laws (c.31), collective bargaining (c.150E) and healthcare (c.32A and c.32B).

Once the hearings are held, the Committee decides whether the Bill is a relevant proposal or not. The Committee is responsible for "reporting out" legislation before it can be sent to a branch floor for further consideration. At this time, the Committee must determine whether to:

1. Pass the Bill as introduced;
2. Change the Bill by amendment;
3. Combine several Bills into a single Bill with a new number;
4. Combine several Bills into a study order;
5. Refer a bill to another Committee;
6. Decide that the Bill *Ought Not to Pass*.

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## Report of a Committee

After a Committee decides whether the proposal is relevant or not the Bill is reported out of the Committee to one of the branch floors. Under the Joint Rules Committees are required to report most Bills by the third Wednesday of March in the second year of the session, and within thirty days on all matters referred to the committee after the third Wednesday of February. Sometimes a Committee will request an extension from this mandatory reporting deadline.

Bills that are considered subjects the Legislature should address are given *Favorable Reports* from a Committee. *Favorable Reports* recommend that a Bill be considered:

1. in its original form;
2. with certain changes; or
3. as a new draft of the Bill.

Conversely, the Committee can *Report a Bill Ought Not To Pass*. An "unfavorable report" such as this effectively "kills" the legislation for the legislative session unless a Legislator can change this report from the floor.

Both types of Reports are published in the *House* or *Senate Journals*, depending on the sponsor and branch of origination. A Bill that has its "*Ought Not To Pass*" report accepted will not be considered again at that legislative session unless a Legislator can successfully reverse this Report. Although this might be a bitter disappointment for the sponsors and supporters of the legislation, the "unfavorable report" should not be taken personally. Many Bills that are later signed into law received an unfavorable report the initial year they were filed. Generally these Bills are reworked and refiled for consideration during the next legislative session. After many long hours reworking them they are finally ready to become a law. Some Bills are filed year after year before they are finally ready for floor consideration.

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## The Readings

Bills reported from a Committee are placed on the *Orders of the Day*, also called the *Calendar*. Under the section "Reports from Committee," Bills are listed by the type of Report they receive: either an "Ought Not To Pass" or a "Favorable Report." All Bills receive at least one reading when their titles are read at their introduction. Bills that are reported favorably are now ready for a *Second Reading* and floor action. The Bill's title is then read a second time before the appropriate legislative branch, and is now open to debate and amendment.

Debate on a Bill's topic serves several purposes. It offers the sponsor a chance to communicate to other Legislators the Bill's intentions and a chance for rebuttal to Legislators who might oppose the measure. Oftentimes a Legislator might not fully understand the scope of a proposed Bill. Allowing debate on a subject matter gives Legislators the opportunity to listen to arguments to help them decide the appropriate action on a Bill. Finally, debate can also serve as a floor strategy for delaying action on a Bill, giving proponents or opponents an opportunity to gather support for their position.

Bills may only be amended by Legislators. *Amendments* are Legislators' proposals to change the content of a Bill. In many instances, key votes are made on amendments rather than the final vote passing a Bill. The strategy behind the amendment process is simple: it is a method of either strengthening or weakening the Bill, depending on the viewpoint of the Legislator. Generally, Bill management on a branch floor is left up to the Chairperson of the committee the Bill has been reported out of. The Chairperson must try to influence the legislative branch to either accept, reject, or reach a compromise on the proposed amendment.

After a Bill's *Second Reading* it is then ordered to a *Third Reading*. Again, it is open to floor debate and amendment. Following its *Third Reading* it is referred to the appropriate *Standing Committee on Bills in Third Reading*. The Committee examines the Bill to determine whether it is constitutionally correct and ready for passage. The Bill is then reported from the *Committee on Third Reading* and is ready to be *Engrossed*.

## Engrossment

*Engrossment* is the formal name designating that a Bill is ready to be printed with any changes or amendments added to it. Basically, Engrossment shows that a Bill has received preliminary approval, and is considered at its halfway mark in the legislative process. Once a Bill is Engrossed by one of the legislative branches it is sent to the other branch where it will be read three times, debated and amended, and engrossed. Once a Bill has been engrossed on this side it is sent back to the branch from which it originated for *Enactment*. Two things can happen at this stage. If a Bill is returned from the second branch without an amendment the original branch is free to Enact the Bill. The other option is to agree or disagree with any amendments attached to the Bill from the other branch.

It is not uncommon for a Bill to be sent back to the originating branch with an amendment from the other branch. When this happens the originating branch has two options: either concur with the amendments from the other branch; or, reject the amended version. If one of the branches pursues the latter option a *Conference Committee* must be established to work out any differences between the two branches.

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## Conference Committee

When a stalemate develops between branches over an amended Bill, a *Conference Committee* is established to try to resolve the disagreement. A *Conference Committee* is made up of three legislators from each branch, chosen by the Speaker of the House and the Senate President. Two of the members are chosen from the majority party; the remaining member is selected from a minority party. Usually the Chairperson of the Committee where the Bill originated from is selected as the Chairperson of the *Conference Committee*. This selection is often made to acknowledge the Chairperson's expertise and knowledge of the subject area.

*Conference Committee* members are expected to uphold the position of their prospective branches. However, each *Conference Committee* is responsible for working out a compromise that both branches can agree upon. Once a majority of Conference Committee members reach an agreement a Conference Report is sent to the floor from which the Bill originated. A *Conference Report* cannot be amended; it can be only accepted or rejected by this branch and sent to the other branch for acceptance or rejection. *Conference Reports* that are accepted by both branches are sent to the Governor for signature or veto. Rejected *Conference Reports* are sent back to the Conference Committee for further negotiations.

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## Enactment

*Enactment* is the final legislative hurdle before the Bill is sent to the Governor's desk. The term means that the Bill is in its final form and has been agreed upon by both branches. The Bill is printed with the exact language that will appear in its official Act form.

## Role of the Governor

When a Bill has been *Enacted* by both the House and Senate and signed by the Speaker of the House and Senate President, it is sent to the Governor's desk. The Governor now has several options regarding this Bill. First, the Governor can simply sign the Bill and it becomes a law. If an *Emergency Preamble* is attached to the Bill it will become effective immediately. Otherwise the effective date is ninety (90) days after the Governor signs the Bill. Second, the Bill can be vetoed if the Governor does not agree with its content. When a Bill is vetoed the Governor will generally send it back to the Legislature with a Message explaining the reason for the veto or with an amendment. The Governor can also allow a Bill to become law by not signing it within ten (10) days when the Legislature is in session. Finally, the Governor has the option to strategically use the Pocket Veto to reject a Bill when the Legislature has adjourned for the year and the Governor has not formally vetoed the Bill within a ten-day period.

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## Veto Override

A Bill vetoed by the Governor is returned to the Legislature with a *Message* stating the Governor's objections to it. The Legislature has the opportunity to override this veto and reenact the Bill into law. A two thirds vote of each branch is required to override a gubernatorial veto.

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## The New Law

Once a Bill has passed both the House and Senate, and is enacted and signed by the Governor, or the House and Senate overrides a Governor's veto, it is given a *Chapter* number and added to the *Acts and Resolves* of that legislative session. The *Chapter* number is a chronological catalog of the Bills that were passed into law during the legislative session. For example, *Chapter 306 of the Acts and Resolves of 1996* corresponds to the three hundred and sixth Bill signed during the 1996 legislative session. This Chapter from the *Acts and Resolves* also referred to as a *Session Law*, is then codified in the *Massachusetts General Laws*, the body of state laws that govern our Commonwealth. Thus Chapter 32 of the General Laws governs the contributory retirement systems and pensions for public employees.

## Glossary

**ACT:** A bill that has been enacted by both the House and Senate and signed by the Governor, or vetoed by the Governor and overridden by the Legislature that has been assigned a Chapter number for that legislative session.

**ACTS AND RESOLVES:** Yearly compilation of newly signed bills arranged in chronological order by Chapter number.

**ADOPT:** Approving or accepting.

**AMENDMENT:** A proposal by a House or Senate member to alter the language or provisions contained in a Bill.

**APPROPRIATION:** An authorization to spend money.

**BILL:** Proposal for a new law, change in current law, repeal of a current law, or for a constitutional amendment. It consists of a title, *enacting clause*, and its text, called the *body*.

**BILL HISTORY:** A summary of the actions taken on a bill by each legislative house and committees.

**BILL STATUS:** Current standing or location of bill within the legislative process.

**BODY:** 1. One of the two branches of the Legislature: the House and the Senate. 2. The main text, language, or wording of a bill.

**BULLETIN OF COMMITTEE WORK:** Legislative document arranged by Committee listing bills referred to these Committees.

**BY REQUEST:** Notation after the major sponsor of a bill indicating that the legislation being introduced is being done at the request of a constituent and is not necessarily the opinion of the sponsor who introduced legislation.

**CALENDAR:** A compilation of matters awaiting possible actions on the House or Senate floors. Also referred to as the "Orders of the Day."

**CHAMBER:** The formal meeting place where the Senate or House hold their sessions.

**CHAPTER:** The signed version of a Bill.

**CLERK:** The Chief administrative officer and parliamentary advisor of the House and Senate who is elected by members of the appropriate branch at the beginning of each legislative biennium.

**COMMITTEES:** A group of legislators who study and prepare legislation for a report. Either Joint, Standing, or Conference Committees.

**COMMITTEE ON BILLS IN THIRD READING:** Committee that approves the constitutionality of a Bill prior to enactment.

**COMMITTEE REPORT.** Recommendation from one of the joint or standing committees to the full branch that legislation should be (1) passed with or without amending; (2) not be passed; or (3) referred to another committee for consideration.

**CONCURRENCE:** The process of accepting a Committee referral or amendment to a Bill.

**CONFERENCE COMMITTEE:** Committee made up of three members each from the Senate and House; consisting of two majority party members and one minority party member. A Conference Committee is responsible for reconciling differences between the two branches on Bills that have passed both branches.

**DAILY LIST:** Legislative publication listing the time and room number of Committee hearings at the State House on a particular day.

**EFFECTIVE DATE:** The date the newly signed legislation takes effect. Unless signed with an Emergency Preamble, the new Act takes effect 90 days after the Governor signs the Bill.

**EMERGENCY PREAMBLE:** A clause that makes a signed Bill a law immediately.

**ENACTED BILL:** A Bill that is in its final form and ready to be signed or vetoed by the Governor.

**ENACTING CLAUSE:** Constitutionally required portion of a bill declaring that it should become Law. "BE IT ENACTED"

**ENGROSSMENT:** The final copy of a bill after passing one of the two branches. An engrossed bill will be printed with any changes, such as amendments, that were made on the floor of that branch.

**ENACTMENT:** Enactment of a bill formalizes the bill's Act form. A bill enacted in both branches is now ready to be presented to the Governor for final approval, signing, or disapproval, veto.

**FAVORABLE REPORT:** A Report from a Committee showing that the Bill should be given further consideration on the floor of the House or Senate.

**FIRST READING:** A Bill's title is read thereby introducing the Bill to a branch of the legislature.

**HEARING:** A formal meeting of a committee where testimony is offered.

**INTRODUCTION:** Bill is introduced to the legislature at its first reading.

**JOINT COMMITTEE:** A committee composed of a specified number of members from the House and Senate. There are 22 Joint Committees in the Massachusetts Legislature.



**JOINT RULES:** Rules that have been established to govern both the Senate and the House.

**JOURNAL:** The official record of the daily business conducted from the House and Senate floors. It lists reports of committees, amendments, and bill introductions among other things.

**LAW:** A Bill that has been passed by the legislature and signed by the Governor or passed over a veto to it that has been codified in the Massachusetts General Law.

**MASSACHUSETTS GENERAL LAWS:** A consolidation and codification of all Bills that have been signed into law as Chapters and separated into categories.

**MESSAGE:** Legislative document used by the Governor to file legislation or return a Bill to the Legislature with an amendment.

**ORDERS OF THE DAY:** A compilation of Legislative matters awaiting possible actions on the House and Senate floors.

**OUGHT NOT TO PASS:** An unfavorable report from a Committee signifying that a Bill will not be considered again that legislative session.

**PETITION:** A request for legislation that accompanies a Bill.

**POCKET VETO:** A strategy of the Governor to withhold approval of a Bill until the Legislature adjourns. When the Legislature adjourns, the bill will die if the Governor doesn't sign it.

**READING:** A formal procedure that shows that a series of actions have been completed on a Bill. Some Bills receive three readings: first reading at introduction; second reading after adoption of committee reports; and a third reading before engrossment.

**REFERRED TO A COMMITTEE:** Transferring a Bill to the appropriate Committee that has jurisdiction over its subject matter.

**REPORT FROM A COMMITTEE:** Recommendations from Joint or Standing Committees that a Bill or Resolution is favorable and should be referred to the floor of one of the branches or should Ought Not To Pass, effectively killing it for that year's session.

**RESOLUTION:** Legislative vehicle introduced by the House or Senate expressing the opinions, sentiments, or intent of one particular branch of the Legislature, or asking another governmental body to act on something

**ROLL CALL:** A vote that is taken that shows each individual member of the House and Senate vote. Also referred to as the Yea or Nay."

**RULES:** Administrative procedures that are used to govern the House, Senate, or both acting concurrently.

**SECOND READINGS:** Following a Report from a Committee when a Bill's title is read a second time. It is now open for debate and amendment.

**SENATE PRESIDENT:** The presiding officer of the Senate.

**SESSION LAWS:** A chronological numbered list of laws signed by the Governor.

**SPEAKER:** The presiding officer of the House of Representatives.

**SPECIAL COMMITTEE:** A committee established for a short period of time, especially to investigate something.

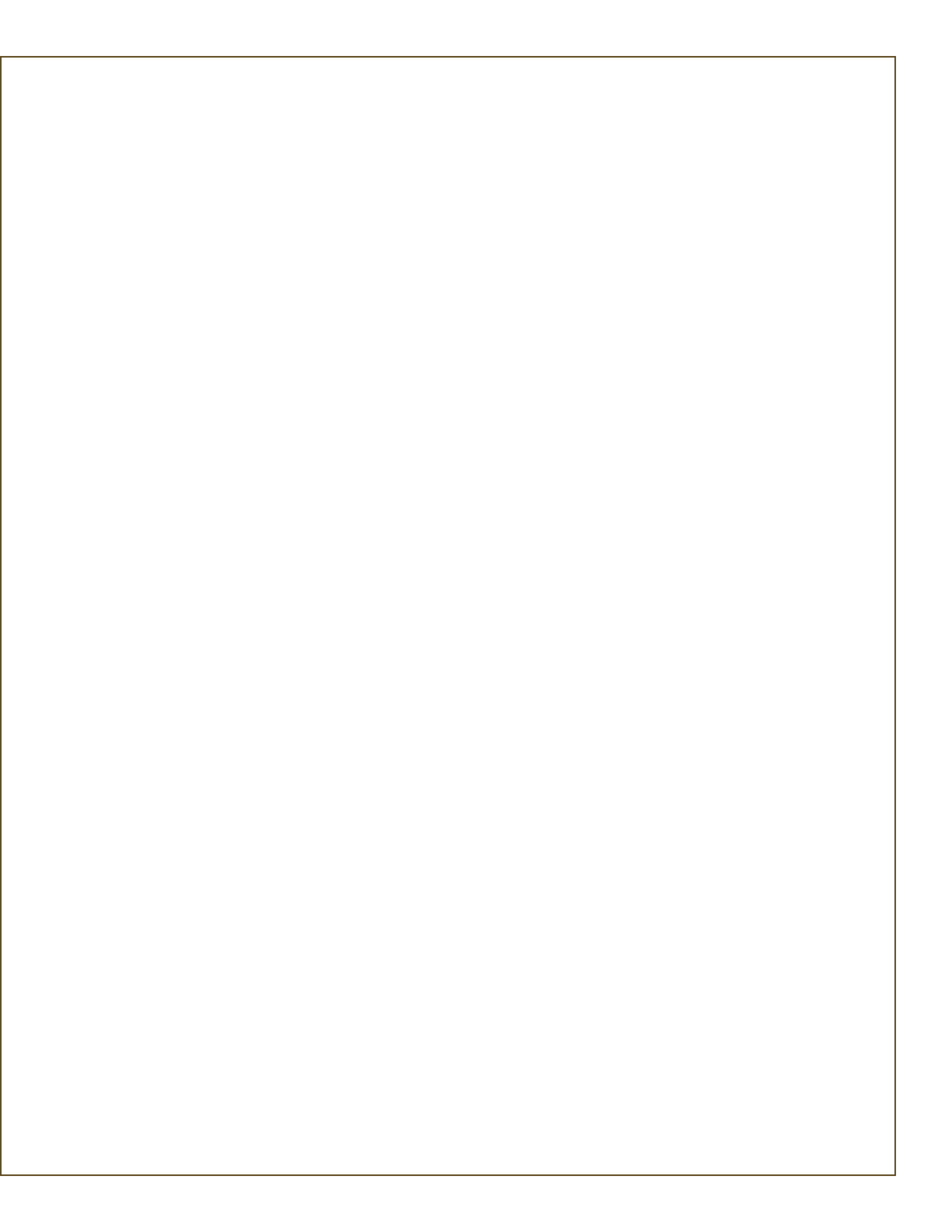
**STANDING COMMITTEE:** A legislative committee comprised of members of one particular branch; they are made up for either Senators or Representatives.

**THIRD READING:** A Bill's title is read before the branch a third time. It is open for amendment and debate preceding its engrossment.

**VETO:** Governor's disapproval of a Bill.

**VETO OVERRIDE:** When the Governor vetoes a Bill the Legislature has an option to override this veto and enact the Bill into law. A two thirds vote is needed in each branch to override a veto.

**YEA AND NAY:** Formal name for a Roll Call.



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