

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

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MEMORANDUM

December 1, 2022

SUBJECT: Bill introduction limits

TO: Representative Sara Hannan
Attn: Timothy Clark

FROM: Megan A. Wallace
Director



You asked for information related to Legal Services' workload issues.¹ You also asked for information related to bill introduction limits and Priority Policy² changes as possible options for managing the workload and workflow of this office. As we discussed, there have been significant changes over the last few legislative sessions in the way the services of our office are utilized, including the volume of requests,³ expectations for

¹ In response to some of these issues, last session, as part of the annual budget process, the 32nd Alaska State Legislature added an attorney position and reclassified two other editorial positions in the Legal Services' division, for a total budgetary increase of \$178,000. To date, Legal Services has not yet filled the attorney position but has filled the two editorial positions.

² Legal Services Priority Policy, Adopted by Legislative Council (April 3, 1998) ("Priority Policy").

³ In addition to normal drafting workloads, Legal Services has seen an increase in our non-drafting workload. This includes an increase in litigation, including collaboration with outside counsel, as well as increased work for the Legislative Affairs Agency on contracts, RFPs, and other procurement matters. Over the last three years, Legal Services has served as lead counsel in two lawsuits and assisted outside counsel in at least four others, most of which were litigated at both the superior court and supreme court levels. Recent large and multi-pronged procurement projects include the Capitol renovation, the Anchorage LIO management and renovation, and the recent Juneau Assembly Building renovation. Contract review work will continue to be busy in the next few years with the acquisition of the Assembly Building in Juneau. This office also provided legal support to the Redistricting Board Planning Committee in preparation for the establishment of the Redistricting Board.

turnaround times,⁴ the amount of work drafted but not introduced, and escalating politicization of the amendment process (both in committee and on the floor). These changes have resulted in staff working significant amounts of overtime and have caused difficulties in recruitment and retention⁵ of not only attorneys, but other professionals in the Legal Services office. These issues have been on the rise for several years, and we have previously provided similar data and analysis to members upon request.

The purpose of this memorandum is not to request, or make recommendations for, bill introduction limits or other policy or Uniform Rules changes; those are policy decisions for the legislature to make.⁶ Instead, as you requested, the discussion below provides a general overview of the Legal Services workload, examples of limits set by other state legislatures, and data to help demonstrate how similar limits might impact the Alaska State Legislature.

Legal Services workload summary

The number of drafting requests submitted to this office has generally seen an upward trend over the last 10 years. For example, during the 28th Alaska State Legislature, this office received 6,852 total drafting requests. During the 29th Alaska State Legislature, that figure increased to 7,186, and during the 30th Alaska State Legislature, it increased to 7,591. Drafting requests dropped during the 31st Alaska State Legislature to 5,367, but this is due in large part to a delay in organization in the house in 2019 and the abbreviated session in 2020 at the onset of the pandemic. Requests for the current 32nd Alaska State Legislature rebounded to pre-pandemic levels at 7,244 total requests.

⁴ The increased use of amendment deadlines by committee chairs has placed a new expectation for turnaround times for requests that largely did not exist five years ago.

⁵ Legal Services tends to have one or two attorney positions turn over each year. Legislative drafting is highly specialized and requires extensive training. Attorneys do not typically have prior drafting experience. It takes one to two years to fully train a new attorney.

⁶ Any formal bill introduction limit will require amendment of the existing Uniform Rules, which must be approved by two-thirds vote of the full membership of each house. Alternatively, bill introduction limits could be included in the Uniform Rules adopted in joint session under Uniform Rule 53, which requires a majority vote of the full membership of each house.

Legislative Council, however, can make changes to the Legal Services Priority Policy at any time.

Also of note, over the last four years this office has averaged over 4,800 hours of overtime each year.⁷

Bill Introduction Limits

A bill introduction limit would require amendment to the Uniform Rules through adoption of a concurrent resolution by a two-thirds vote of the full membership of each house.⁸ As mentioned above, whether to amend the Uniform Rules is a policy decision for the legislature.

Various state legislatures limit bill introduction in different ways. Some states set specific limits on the number of bills an individual member may introduce. Below are some examples of state limits.⁹

Legislature

North Dakota

Introduction Limit

A senate member (other than the majority and minority leaders) may not introduce more than 3 bills after the 8th legislative day;¹⁰ a house member (other than the majority and minority leaders) may not introduce more than 5 bills after the 3rd legislative day.

Colorado

A member may not introduce more than 5 bills in a regular session.¹¹

⁷ Since 2017, 13 - 14 attorneys have accrued over 18,752 hours of overtime, 7 - 10 editing staff have accrued over 6,758 hours, and our 3 - 4 front office staff have accrued almost 1805 hours of overtime.

⁸ See Uniform Rule 53. Alternatively, as also noted above, bill introduction limits could be included in the Uniform Rules adopted in joint session under Uniform Rule 53, which requires a majority vote of the full membership of each house. However, the Alaska Legislature has not often used this procedure to adopt Uniform Rules. Instead, the Uniform Rules from the previous legislature are utilized and any changes are adopted by amendment.

⁹ This is a general summary. Each state listed may have specific rules or exceptions to the limitations identified. See Examples of Provisions Setting Bill Introduction Limits, NCSL, updated March 2022 (attached).

¹⁰ The Wyoming House also limits members to no more than three bills in any budget session.

¹¹ Louisiana also limits members to no more than five bills that were not prefiled.

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|--------------------------|--|
| Florida House | A member may not introduce more than 6 bills in a regular session. |
| Arizona House | A member may not be a prime sponsor on more than 7 bills introduced after the 4th day of each regular session. ¹² |
| Indiana | A senate member may not introduce more than 10 bills during the second regular session; a house member may not introduce more than 10 bills during the first regular session or more than 5 bills during the second regular session. |
| Tennessee House | A member may not introduce more than 15 bills during each annual session. ¹³ |
| Rhode Island Senate | A member may not introduce more than 25 bills during an annual session. |
| California ¹⁴ | A senate member may not introduce more than 40 bills in a regular session; a house member may not introduce more than 50 bills in a regular session. |

Appendix A, attached, shows the actual number of personal bills introduced by members since the 27th Alaska State Legislature. By looking at this data, you can see how a limit like those described above might impact the workload of this office, as well as the ability of members to introduce personal legislation.

Finally, please note that the number of new bills requested for drafting far exceeds the number of bills introduced. For example, in the 30th Alaska State Legislature, 777 bills and resolutions were introduced in the house and senate combined, but 1,161 requests for new bills or resolutions were made. In the 31st Alaska State Legislature, 659 bills and resolutions were introduced, but 1,163 requests were made. In the 32nd Alaska State Legislature, 1,350 requests for new bills or resolutions were made, but 791 bills and resolutions were introduced.

¹² The Wyoming Senate also limits members to no more than seven bills in a session other than a budget session, and to no more than three bills during a budget session.

¹³ The North Carolina House also limits members to no more than 15 bills.

¹⁴ California is a full-time legislature.

Priority Policy Changes

AS 24.20.100 provides that

Members of the legislature may utilize the research and bill drafting services of the Legislative Affairs Agency. Requests by members of the legislature are confidential. *Staff services for members of the legislature shall be accomplished subject only to the priority of assignments determined by the council.*

The Priority Policy adopted by Legislative Council has remained unchanged since 1998, yet it continues to adequately assist Legal Services in prioritizing work. Overall, it is still functional and effective and, importantly, provides a sensible non-partisan guide for the work of our office. There are a few amendments to the Priority Policy, however, that might address the changes in utilization of services that the office has encountered over the last 10 years.

Currently, the Priority Policy states that "[p]riority within each category shall be in the order the request was taken." Applying this requirement literally, one individual legislator could submit multiple requests that must be drafted ahead of all other members' requests within the same category.¹⁵ To avoid this issue, Legislative Council may wish to amend the Priority Policy to state that "[p]riority within each category shall be in the order the request was taken, **and in proportion to all legislators making requests within the same category.**"

We would also propose eliminating "sectional summaries for introduced measures" under number (11). Legal Services has not drafted sectional summaries for several years, based on their lack of priority and our lack of resources. Legal Services would continue to review sectional summaries prepared by staff, by request, to the extent possible.

You also asked if there were policy changes that might reduce the number of personal bill requests made by members. While the Uniform Rules would need to be amended to limit introduction of personal bills, Legislative Council could make new bill requests, after a certain threshold of requests have been made, a lower priority. As an example, a new bill

¹⁵ For example, multiple legislators might submit requests for amendments to a measure calendared to be taken up on the floor, but the first request received may be for multiple amendments by a single member. Under a literal interpretation of the existing policy, those amendments should be drafted before working on the amendments for other members. Legal Services does its very best to equitably serve its clients and the proposed change would bring the language in line with Legal Services' current execution of the policy.

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request by a member who has already made five¹⁶ new bill drafting requests could be given lower priority. In this scenario, if a drafter, revisor, or editor is working on several new bill requests, the request from a legislator who has already made five or more new bill drafting requests to Legal Services will be given a lower priority than a request from a member who has made less than five such requests. Legal Services will still work on all legislator requests; they will simply be ranked differently in terms of priority. A change to the Priority Policy could be done as a standalone change or in addition to a formal bill introduction limit, such as those described above. However, to function properly, the Priority Policy should consider any formal bill introduction limits adopted by the legislature in the Uniform Rules.

Thank you for taking the time to consider the unique needs of this office. If I can provide any additional information, please let me know.

MAW:boo

22-174.boo

Attachment

¹⁶ We used this number at the request of your office. Setting the threshold number of requests before triggering a lower priority is a policy decision.