

# LOUISIANA HOUSE OF REPRESENTATIVES

## *House Legislative Services*

### Memorandum

March 13, 2007

**To:** House Special Committee on Preparing for Term Limits  
**From:** Anne Dunn, Division Director, Governmental Affairs Division  
**Re:** Historic Notes on Development of Committee Interim Activity

#### **Summary**

As part of the committee's consideration of effective interims, a review of some of the history of legislative interim activity seems in order. Prior to about 1973, standing committees did not function during the interim between legislative sessions. Instead, special interim committees were often appointed to conduct studies. There were a number of reasons why this was changed during the time when the legislature was focusing upon improvement in the legislative institution. During the 1973 regular session the then existing interim legislative committees were abolished and the standing committees were given authority under the rules of the respective houses to conduct studies within their subject matter jurisdiction upon direction of their house or the legislature or upon their own initiative. The rationale for this was that interim studies by standing committees instead of special committees would develop needed expertise in the standing committees and assure referral of legislation proposed by interim studies to a committee familiar with the issues. After this change the standing committees conducted studies, including looking at problems or issues and proposing legislation, oversight of rules and programs, and sunset review. Interim activity was rather effective. In recent years, even though the tools are in place for effective interim studies by standing committees, including appropriate rules and ample planning materials, many committees have not been particularly active in the exercise of their interim authority. This review of some of the history of House committee activity in the interim may be useful to the committee as it considers appropriate steps to be taken to provide for productive legislative interims and a stronger legislative institution.

#### **History**

At least by the 1950s when annual regular sessions were established and the Louisiana Legislative Council had been established to provide staffing, special interim study committees were being used by the Louisiana Legislature to a considerable extent. Annual council publications listed numerous such committees. By 1965 (the year of a PAR study mentioned below), based on the Louisiana Legislative Council report on interim committees for that year, there were 21 different committees (including the budget committee which was constituted differently than it is today). In 1973, the year in which the legislature addressed the problem that interim committees had become, the council publication lists seven permanent committees, 24 active interim committees, and 12 interim committees that were "possibly existent." (This language highlights one of the problems. Usually created by concurrent resolution, it was not clear what the life of these committees was – if there was no termination date in the resolution, there was thought that the committee existed until the next election or perhaps until it reported. It was not clear. I have a memorandum in my files, prepared in 1973 when the abolition of special interim committees was being considered, in which the staff surveyed the states to find what their practices were in determining the life of interim committees. The memo indicates that there was wide divergence among the states and no clear answer to the question of how long such committee remained in existence.)

In 1965, the Public Affairs Research Council of Louisiana (PAR) conducted a major study of how to improve the legislature. (PAR Analysis November, 1965). The report covered many aspects of the legislature and how it might function better. Concerning committees, the report said, in part:

Committees are a vital and necessary part of the legislative process. . . . The primary function of committees is to study proposed legislation and policies, and recommend what course of action ought to be adopted. They also gather information, mainly during the periods when the legislature is not in session, as to what legislation is needed to correct deficiencies that exist, or to establish new programs and policies. Committees also make it possible for the legislature to develop sources of skilled information within its own membership on the broad areas of legislation it must consider. They permit specialization . . .

The report discussed the standing committees (18 House and 19 Senate) and the interim committees which "carry out investigations and make studies during the period when the legislature is not in session."

PAR made recommendations for improving the committee system, relative to number of committees, rules for committee jurisdiction, and facilities and recommended that the committee structure of the two houses should be parallel insofar as possible.

Concerning interim committees, PAR noted:

Created to function between sessions, interim committees gather information on particular subjects for the purpose of reporting their findings back to the legislature when it convenes, along with recommendations as to what course of action should be taken. In essence, these committees are closely akin to the Legislative Council since they conduct research, sometimes with the assistance of a limited staff, on problems facing the state. But the resemblance (sic) ends at this point; unlike the council, they are not permanent, factfinding bodies. Their staff, if they have one, is usually too small to be of any significant help and in most cases is also inexperienced. They waste a great deal of time getting organized and deciding how to go about their work, and they carry on their work with little regard for what others committees may be doing in the same field.

Lack of professional staff assistance and a failure to coordinate their efforts with other legislative committees and state agencies are not the only drawbacks to interim committees – they are also expensive to maintain. . . .

PAR also noted duplication in the studies the committees conducted.

PAR recommended that special interim committees be used only on a drastically reduced scale and that standing committees be used as interim committees "whenever it becomes necessary to use committees between sessions." The recommendation read:

. . . The legislature should retain the right to appoint and use interim committees but they should be used on a drastically reduced scale. In spite of their weaknesses they serve a need that could not be fulfilled by any other arrangement. They provide a device through which the political process can take place while the legislature is not in session. Generally, however, the legislature should depend on the Legislative Council for studies it wants made between sessions. The council has a full time professional staff, research facilities, clerical help, and other tools necessary for completing the job.

In addition, the rules of both houses should be changed to provide that permanent standing committees of the legislature become interim committees whenever it becomes necessary to use committees between sessions. For example, if the legislature wanted to make use of an interim committee to look into certain phases of education, the standing committees on education of each house would, acting jointly, become the interim committee.

Citing the advantages of using the standing committees, PAR said:

... The advantages of using standing committees are: (1) it would give members of the regular committees the opportunity to become more knowledgeable, (sic) benefiting (sic) not only the committee member but the legislative process; (2) the organizational structure would be in existence when the interim committee met, eliminating the time wasted in establishing operating procedures; (3) legislators already experienced in the field (such as education) would be used instead of appointing legislators at random.

In 1969, the Louisiana Legislative Council established a subcommittee to study staffing and rules of procedure for the Legislature and committees. The committee, chaired by Senator Claude Duval, conducted an in-depth study, conducting hearings in Baton Rouge, Monroe, Shreveport, Alexandria, Lake Charles, Lafayette, and New Orleans. It reported in March of 1970. Concerning interim committees, the committee recommended:

... THAT INTERIM COMMITTEES BE COMPOSED OF THE MEMBERS OF THE STANDING COMMITTEE HAVING GENERAL AUTHORITY OVER THE SUBJECT MATTER REFERRED TO THE INTERIM COMMITTEE.

COMMENT: If matters requiring an interim committee are referred to the proper standing committee, the members of that standing committee would develop a continuity of knowledge in the matters which lie within the authority of the standing committee. This would be of benefit to the members of the standing committees in increasing their knowledge and information in a particular field and would result in reports of interim committees together with legislation to implement their recommendations being referred to the appropriation standing committee while the legislature is in session.

It was felt that the interim committee should be smaller in number than the standing committee as its members would be selected by the chairman from the membership of the standing committee.

In the event of a joint interim committee the members would be selected by the chairman of the standing committee in the respective houses. The total number of members of the interim committee to be determined by the chairman, however, the committee would have general balance of membership from each house, unless otherwise directed by the concurrent resolution creating the interim committee.

A form of resolution requesting the appointment of an interim committee from a standing committee is annexed hereto.

Interim committees may be created by senate or house resolution or concurrent resolution if it is a joint committee, or in the following manner in the event that an emergency or unforeseen development requires the appointment of an interim committee:

Upon recommendation of the chairman of a standing committee with the approval of a majority of the membership of that committee, which recommendation must be submitted in writing to the presiding officer of the appropriate house and to the chairman of the committee on (Senate or House) and Governmental affairs. The request must set forth the purpose of the interim committee and its scope of inquiry and must contain the information on the size, number of meetings anticipated and the estimated cost. Authorization for such a committee must be approved by both the presiding officer of the appropriate house and a majority of the committee on (Senate or House) and Governmental affairs. In the event that such an interim committee is created, all members of the legislature should receive notice of its creation.

Based upon the recommendations of the subcommittee of the council, during the 1970 session Senator Duval was able to amend the Senate Rules to require that interim committee members should be members of the standing committee that would have jurisdiction of the subject matter (Senate Resolution No. 5)<sup>1</sup>. In addition, in 1970 the Senate (Senate Resolution No. 23) authorized the Senate Finance Committee to meet during the interim and the House (House Resolution No. 27) authorized the same for the House Committee on Ways and Means. This was the first authority for standing committees to meet during the interim.

In 1971, Representative Bob Jones and other members succeeded in passing House Resolution No. 4 which provided that representatives serving on a House or joint interim committee be chosen from members of the standing committee with subject matter jurisdiction of the matter the committee was to study.<sup>2</sup>

Around this time, the nationwide movement for legislative improvement had begun. One of the major factors in this was a study of the 50 state legislatures conducted by the Citizens Conference on State Legislatures. This group surveyed the states in great detail about legislative procedures. I have the response we made in my files. Based on the responses, CCSL ranked the states and published their findings in a scholarly hard bound book and in a more popularly written paperback entitled "The Sometimes Legislatures."<sup>3</sup> A February, 1971, press release from CCSL included in its listing of recommendations for improving our legislature "that standing committees become interim committees to conduct long-range studies of state policy issues when the legislature is not in session". The report included many other recommendations for Louisiana. CCSL and the State Legislative Leaders Foundation then implemented "A Project to Implement Legislative Improvement in Seven Model States" with Ford Foundation money. Louisiana was one of the seven states. The program was for three years and provided background studies, technical assistance, and an on-site staff assistant to assist in implementation of legislative improvement.

The Louisiana legislature was ripe for such a program, already having conducted studies of its own as cited above and already beginning to consider some of the proposals that eventually came out of the program. The program was quite successful in a number of ways. This memorandum is confined to the issue of interim activity.

In March of 1973, the Subcommittee on Interim Legislative Functioning and Committee Staffing of the House Executive Committee made a report to the House Executive Committee. The subcommittee made

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<sup>1</sup> Also based upon the subcommittee recommendations, also amended the Senate Rules to reduce the number of Senate standing committees from 20 to 12 and to reduce the number of members on most committees.(SR 5) .

<sup>2</sup> The Resolution (HR also reduced the number of House standing committees to 13 and specified the jurisdiction of the standing committees for the first time.

<sup>3</sup> Louisiana ranked 33<sup>rd</sup> among the states. That was better than our neighbors who ranked: Texas 38<sup>th</sup> , Mississippi 42<sup>nd</sup>, and Arkansas, 46<sup>th</sup>. The top states in order were: New York, Illinois, Florida, Wisconsin, Iowa, Hawaii, Michigan, Nebraska, and Minnesota.

recommendations for interim activity for standing committees and also made recommendations for committee staffing and specific staff duties and estimated costs. The recommendation read in part:

... The subcommittee recommends that interim committees, as presently structured, be abolished, and that standing committees of the House and Senate function as interim committees. Such interim committees might be separate House and Senate committees or joint committees, composed of all or a portion of the membership of the appropriate standing committee of the two houses. To these interim committees should be referred such questions for interim study as are presently referred to interim committees separately created by resolution for the purpose. Such referrals should be in terms of the subject matter jurisdiction of the committees presently employed for reference of legislation to committee during sessions. The subcommittee further recommends that prior to legislative sessions these interim committees hold hearings on and prepare their reports on prefiled legislation which should be referred to them for consideration upon prefiling. The committees might meet as joint committees, or separately as House or Senate committees for this consideration of legislation; committee reports on legislation would probably be separate, to the appropriate house by its own committee, though provision might be made for report of legislation by joint committees.

The subcommittee believes that this recommendation will develop expertise in committee members concerning the subject matter of their respective committees and will engender continuity between legislative study and consideration of particular problems between sessions and hearing and reports during sessions on legislation produced by such interim study and on related legislation.

In May, the Citizens Conference and the State Legislative Leaders Foundation presented "An Agenda for Louisiana: Strengthening the State Legislature". The first recommendation under the heading "Committees" read:

Standing committees should be made parallel in jurisdiction and such jurisdictional areas should be clearly delineated in the rules of each house. Consideration should be given to joint meetings of standing committees both in session and in interim periods. Ad hoc interim committees shall be abolished – standing committees should conduct all interim study

In a November follow-up, the two organizations reported that based on action taken during the 1973 session:

The majority of ad hoc interim committees were abolished in the 1973 session. Interim activity was transferred to the standing committees which, to date, have organized on a joint committee basis. Statutory committees, such as the Legislative Council, Budget Committee, and Audit Advisory Committee also meet in each interim.

Senate Concurrent Resolution No. 37 of the 1973 Regular Session abolished all interim committees and provided for the assumption of their powers by standing committees. House Resolution No. 8 provided the authority and procedures for standing committees to conduct interim studies.

Explaining the rationale for these changes, the House Executive Committee in its 1973 report cited the need for greater expertise on the part of standing committee members in the subject matter of the standing committees and the need for continuity between legislative study of particular problems in the interim and session hearing and reports on legislation produced by such studies.

Bubba Henry, speaker of the House at the time the changes were adopted, described the reasons for the change in an article in the October, 1973, issue of "Louisiana Parish Government". He said:

To strengthen the committee system, the Legislature this year made a radical change. Interim committees, created to function between legislative sessions, were abolished and their powers and functions transferred to the appropriate standing committee of the Legislature.

Interim committees have been inactive at worst and spasmodic at best, wasting time getting organized, lacking professional staff, often duplicating the work of other committees, and expensive to maintain in term of per diem and travel expenses.

Abolishing interim committees and giving their functions to regular legislative committees benefit the legislative process and the public we serve.

In particular, the same legislative committee which will hold hearings and report on various bills during the legislative session can hold hearings and make studies between legislative sessions, giving greater expertise to the committee and permitting witnesses more time for preparation and testimony without duplicating their efforts before several legislative committees.

Finally, while we have been steadily upgrading the professional staff attached to the Legislature, we fully expect soon to be able to provide trained professionals to work continuously with our standing committees in research, study and information gathering, so that informed and intelligent decisions can be reached on matters of public concern.

By strengthening our committee system, by improving our staff and facilities, by giving the public and every concerned party an opportunity to be heard properly, by thoroughly airing our problems and examining alternative approaches carefully, then and only then can Louisiana say it has a truly functional Legislature, an informed Legislature, an independent Legislature existing as a branch of government co-equal with the executive and the judiciary.

This is our destination, and I expect us to get there.

The constitutional convention met in 1973, and the new constitution became effective at midnight, December 31, 1974. It provided for annual 60-day legislative sessions. The legislature was also strengthened by removal of many provisions that restricted legislative action. After the new constitution became effective there was more emphasis on the separation of powers among the three branches.

Following the 1973 changes in the rules, House standing committees did conduct effective and meaningful in-depth studies of issues. Not all committees were active, but a number were, and committee reports and legislation were the product of these studies. The so-called Sunset Law was enacted in 1976; training in effective sunset review was planned and implemented. Initially, sunset reviews were more comprehensive than those today. In 1976, provisions were enacted for legislative review and veto of agency rules. Legislative oversight of rules during the interim was seen as a source of developing expertise about the agency as well as a key oversight tool. The Eagleton Institute of Politics at Rutgers University conducted a program funded by the Ford Foundation to inform legislators and staff about effective program evaluation by committees. Louisiana was one of a handful of states that participated in the program. The House Education Committee, through a subcommittee, conducted an extensive review of teacher preparation and certification under the aegis of this program. It produced a package of legislation addressing problems studied.

Through these years, there was an expectation that committee would conduct studies if issues warranted and would become expert in their subject matter and effective in oversight. The committees tried to do those things.

This memorandum does not examine the years since roughly the 1980s in the same detail as the earlier years when the focus was on strengthening and improving the legislature. I have not gone back and reviewed materials from these later years. However, during Speaker Downer's tenure, the Legislative Outreach Initiative provided for committees to meet at locations throughout the state and visit state facilities and other facilities of state interest. Some of this activity was very educational for committee members, particularly when committees visited facilities within their subject matter jurisdiction. But even the opportunity for legislators to visit parts of the state with which they were not familiar and learn about the issues in those places had merit. There were other advantages as citizens around the state had a chance to view and participate in legislative committee activity.

In the late 90s (1996-1997, 1997-1998, and 1998-1999), HLS compiled reports of all committee activity in the interim. Committees reported on all their meetings and studies. The reports vary a lot in the significance, planning, and depth of study. In general, it seems fair to say that many do not seem to represent thorough planning and implementing of committee studies for a truly effective interim.

In 1997, HLS prepared a staff instruction booklet entitled "Toward More Productive Committee Activities During the Interim".<sup>4</sup> This manual details specific procedures and techniques that can be used by committee chairmen and their staffs to plan for an effective interim for each committee, including selection of studies to be undertaken and oversight to be conducted, planning the committee schedule, and putting together a committee budget. It also includes instruction in planning each of the committee's studies effectively, detailing such matters as informal planning and preparation of tentative outlines that will include information about what each meeting for the study will cover and the types of activities, testimony, and inquiry each will include. It includes suggestions for techniques to be used to prepare for meetings, such as the kinds of prior research to be done, types of meetings (hearings, site visits, presentations), meetings before the meeting with potential presenters, and preparation of questions for members to ask. It includes suggestions for materials that can be prepared by staff to assist committee decision making, such as drafts of possible findings, recommendations, and proposed legislation for the committee to review and modify prior to adoption. It includes examples of such planning documents. This manual is available for staff and committee use and is flexible in approach to assist in planning any study, be it short and focused or in-depth and broad ranging.

Today essentially the same authority exists for committee activity as that adopted in 1973. The rules have changed little in this regard. The tools are still in place. However, over the years the committees have become less active. The reestablishment of fiscal sessions in alternate years by a 1993 constitutional amendment may have been a factor in this change. The 1993 amendment provided that fiscal sessions lasted 30 legislative days in 45 calendar days. Only five non-fiscal bills per member could be introduced. (Now fiscal sessions are 45 legislative days in 60 calendar days and unlimited local bills can be introduced.) The fact that in fiscal sessions, not only can a very limited amount of general legislation be introduced, but many committees hardly meet at all, seems to have changed the whole expectation of what committee activity should be. The concept of the substantial role interim committee activity can play in making the legislature effective does not seem to be widely understood.

Just as it was in 1973, effective functioning of committees in the interim remains a primary area in which the legislature may exercise its policy making and oversight functions. How well it does this really determines how well the legislature functions. This memorandum probably reflects to some extent my own bias, born of my having worked with the committees of both houses that developed the rules and tools for effective interim activity. Clearly, however, the effectiveness of the legislature in its interim activity – studying problems,

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<sup>4</sup> HLS prepared other manuals for effective Sunset Review and effective Legislative Outreach Initiative (LOI) meetings at this time as well.

conducting oversight, and hearing prefiled bills – is an area that should be given attention as a major factor in providing for a stronger and improved legislature.