THE BILL DRAFTING PROCESS

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The Bureau of Legislative Research’s Legal Division consists of 3 sections:

- The Legal Research and Drafting section, which prepares substantive bills for consideration by the General Assembly.
- The Statutory Review section, which incorporates acts of the General Assembly into the Arkansas Code and reviews substantive bills during the bill drafting process.
- The Administrative Rules Review section, which reviews state agency administrative rules as part of their consideration for approval by the Legislative Council.

All told, the Bureau employs 25 attorneys that serve in a variety of roles.
Today we will:

- Examine the anatomy of a bill in Arkansas.
- Conduct a case study of the bill drafting process.
- Look at some common issues that arise.
- Answer questions.
Arkansas Constitution, Article 5, § 21:

No law shall be passed except by bill, and no bill shall be so altered or amended on its passage through either house, as to change its original purpose.
Arkansas Constitution, Article 5, § 22:

Every bill shall be read at length, on three different days, in each house; unless the rules be suspended by two-thirds of the house, when the same may be read a second or third time on the same day; and no bill shall become a law unless, on its final passage, the vote be taken by yeas and nays; the names of the persons voting for and against the same be entered on the journal; and a majority of each house be recorded thereon as voting in its favor.
A Bill

For An Act To Be Entitled
AN ACT TO CHANGE THE DATES THAT THE GENERAL ASSEMBLY MEETS IN REGULAR AND FISCAL SESSION; AND FOR OTHER PURPOSES.

Subtitle
TO CHANGE THE DATES THAT THE GENERAL ASSEMBLY MEETS IN REGULAR AND FISCAL SESSION.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code § 10-2-101 is amended to read as follows:

10-2-101. Time for meeting.
(a)(1) The General Assembly shall meet in regular session at 12:00 noon on the second Monday in January next year in each odd-numbered year.
(2) However, in any odd-numbered year following the election of a nonincumbent governor, the General Assembly upon convening shall convene at 12:00 noon on the second Monday in January next year and remain in session only for such time not to exceed two (2) days as is necessary to open and publish the vote for various constitutional offices, to swear in the state constitutional officers and members of the General Assembly, to organize and select officers, and to otherwise prepare for the regular session.
(b) The General Assembly may then stand in recess for a period not to exceed thirty (30) days.
(b)(1) The General Assembly shall meet in a fiscal session at 12:00 noon on the second Monday in February first Monday in April of each even-
1 State of Arkansas
2 91st General Assembly
3 Third Extraordinary Session, 2018
4
By: Representative <NA>
For An Act To Be Entitled

AN ACT TO CHANGE THE DATES THAT THE GENERAL ASSEMBLY
MEETS IN REGULAR AND FISCAL SESSION; AND FOR OTHER
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18
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20
SECTION 1. Arkansas Code § 10-2-101 is amended to read as follows:

10-2-101. Time for meeting.

(a)(1) The General Assembly shall meet in regular session at 12:00 noon on the second Monday in January first Monday in February in each odd-numbered year.

(2)(A) However, in any odd-numbered year following the election of a nonincumbent governor, the General Assembly upon convening shall convene at 12:00 noon on the second Monday in January may and remain in session only for such time not to exceed two (2) days as is necessary to open and publish the votes for various constitutional offices, to swear in the state constitutional officers and members of the General Assembly, to organize and select officers, and to otherwise prepare for the regular session.

(B) The General Assembly may then stand in recess for a period not to exceed thirty (30) days.

(b)(1) The General Assembly shall meet in a fiscal session at 12:00 noon on the second Monday in February first Monday in April of each even-
noon on the second Monday in February first Monday in April of each even-
Bill drafting case study:

A constituent comes to you saying that school starts too early in Arkansas. They have a relative in another state and their school always starts on the day after Labor Day. They would like for you to consider filing a bill that provides that Arkansas schools shall not begin the school year until the day after Labor Day. You would like to get a bill drafted that you can share with the Department of Education for their thoughts.
Step 1: Present the idea to a Bureau of Legislative Research bill drafting attorney.

- BLR has attorneys assigned by subject matter specialty.
- There is not a “right way” to request a bill – there is no specific information you have to have.
- Requests are confidential.
Step 2: Find the appropriate part of the law to amend.

- The Arkansas Code has 28 Titles and 52 individual volumes.
- Each Title covers a specific subject matter – Title 5 is Criminal Offenses, Title 6 is Education, Title 7 is Elections, and so on.
- Each Title has chapters and subchapters arranged by topic – everything is organized in a logical manner for searchability.
Finding the correct section of law for this request:

- Title 6 of the Arkansas Code deals with Education.
- Subtitle 2 of Title 6 deals with Elementary and Secondary Education.
- Chapter 10 deals with “General Provisions” applicable to public schools.
- Section 106 of Chapter 10 concerns “Uniform dates for beginning and end of school year.”
(l) On or after the Monday of the week in which August 19 falls;
(ii) Not earlier than August 14; and
(iii) Not later than August 26.

(B) The date for beginning the school year shall be determined by the board of directors of the school
district.

(C) Labor Day shall be celebrated as a school holiday in all the school districts of the state, and school shall
not be held on that date.

(D) As used in this section, "week" means a seven-day period that begins on a Sunday and ends on a
Saturday.

(2) The Department of Education may grant a school district a waiver to begin school on an earlier or later date if the
department determines that there exists a material and substantial reason for the school district to begin on an earlier or later date due
to very exceptional or emergency circumstances such as a contagious disease outbreak, inclement weather, or other acts of God.

(b) Contracts of employment for employees in licensed personnel positions and employees in nonlicensed personnel positions
of school districts may require school district employees to begin performance under their contract of employment prior to the first day
of student attendance.

(c)(1) If the school year in any school district extends beyond the date observed as Memorial Day, such date shall be a
holiday in the school district.

(2) Provided, upon approval of the department, this date may be used as a make-up day in any school district which
has unavoidably lost more than five (5) scheduled days of student attendance during the course of the school year due to contagious
disease outbreaks, inclement weather, or other acts of God.

(d)(1) A public school district that provides a week-long holiday for spring break shall schedule the spring break holiday for five
(5) consecutive school days beginning on the Monday of the thirty-eighth week of the school year.

(2) The thirty-eighth week of the school year shall be calculated by counting as week one the first week in July that
begins on a Sunday.

(3) Nothing in this subsection shall prevent a public school district from providing fewer than five (5) consecutive
school days for the spring break holiday to comply with the department's requirement for a minimum number of days for student
attendance under the Standards for Accreditation of Arkansas Public Schools and School Districts.

(e) The department shall not grant a waiver from the requirements of this section unless this section specifically authorizes the
waiver.

(f) A school district shall adopt an academic calendar that includes five (5) make-up days, in addition to the number of

(a)(1)(A) In each school year, the first day of the school year for student attendance in the public elementary and secondary schools of the State of Arkansas shall be:

(i) On or after the Monday of the week in which August 19 falls;

(ii) Not earlier than August 14; and

(iii) Not later than August 26.

(B) The date for beginning the school year shall be determined by the board of directors of the school district.

(C) Labor Day shall be celebrated as a school holiday in all the school districts of the state, and school shall not be held on that date.

(D) As used in this section, “week” means a seven-day period that begins on a Sunday and ends on a Saturday.
SECTION 1. Arkansas Code § 6-10-106(a), concerning the first day of the school year for student attendance, is amended to read as follows:

(a) In each school year, the first day of the school year for student attendance in the public elementary and secondary schools of the State of Arkansas shall be: the Tuesday following the Labor Day holiday.

   (i) On or after the Monday of the week in which August 19 falls;

   (ii) Not earlier than August 14; and

   (iii) Not later than August 26.

(B) The date for beginning the school year shall be determined by the board of directors of the school district.

(C) Labor Day shall be celebrated as a school holiday in all the school districts of the state, and school shall not be held on that date.

(D) As used in this section, “week” means a seven-day period that begins on a Sunday and ends on a Saturday.
Step 4: We need a Title and a Subtitle – descriptive but not too specific

Title
An Act to Amend Arkansas Law Concerning the First Day of the School Year in Public Elementary and Secondary Schools; and For Other Purposes.

Subtitle
To Amend Arkansas Law Concerning the First Day of the School Year in Public Elementary and Secondary Schools.
Step 5: Do we need an emergency clause? To be on the safe side, probably so.

SECTION 2. EMERGENCY CLAUSE. It is found and determined by the General Assembly of the State of Arkansas that this act amends the starting date of the school year in public elementary and secondary schools in the state so that all schools will begin on the same date; that starting school on the same date will provide a more equitable school year and more consistent teaching days throughout the state; and that this act should become effective as soon as possible to ensure its applicability to the beginning of the 2018-2019 school year. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on:

(1) The date of its approval by the Governor;

(2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or

(3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.
State of Arkansas
91st General Assembly
Third Extraordinary Session, 2018

By: Representative <NA>

For An Act To Be Entitled
AN ACT TO AMEND ARKANSAS LAW CONCERNING THE FIRST DAY OF THE SCHOOL YEAR IN PUBLIC ELEMENTARY AND SECONDARY SCHOOLS; AND FOR OTHER PURPOSES.

Subtitle
TO AMEND ARKANSAS LAW CONCERNING THE FIRST DAY OF THE SCHOOL YEAR IN PUBLIC ELEMENTARY AND SECONDARY SCHOOLS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code § 6-10-106(a), concerning the first day of the school year for student attendance, is amended to read as follows:
(a) In each school year, the first day of the school year for student attendance in the public elementary and secondary schools of the State of Arkansas shall be the Tuesday following the Labor Day holiday.
(b) If or after the Monday of the week in which August 15 falls:
(1) Not earlier than August 14, and
(2) Not later than August 26.
(c) The date for beginning the school year shall be determined by the board of directors of the school district.
(d) Labor Day shall be celebrated as a school holiday in all school districts of the county, and school shall not be held on that date.
(e) As used in this section, "week" means a seven-day period that begins on a Sunday and ends on a Saturday.

- Cold review by another attorney with subject matter expertise.
- Review by two professional editors.
- Returned to drafting attorney with comments for his or her consideration.
Step 7: Final product.

- Drafting attorney considers comments from review process and incorporates as appropriate.
- Bill is delivered to sponsor in draft form with any relevant comments that pertain to the draft.
- If member authorizes, drafting attorney will generate a copy of the bill with the bar code and it will be delivered to appropriate chamber for filing. Bills cannot be changed after this step – if changes are necessary, the attorney will prepare a new bill and we will need to discard the other bill.
Amendments:

- The same drafting attorney that prepared a bill will generally prepare amendments to that bill, regardless of the amendment’s sponsor.
- Amendments are instructions to the bill engrossers on how to change the bill. Amendments generally have to be read alongside the bill itself to be fully understood.
Amendment request to our case study bill:

After the bill is filed, a member likes the idea of changing the first day of the school year but believes the day after Labor Day is too late. The member would like for the first day of the school year to be the Wednesday before Labor Day.
SECTION 1. Arkansas Code § 6-10-106(a), concerning the first day of the school year for student attendance, is amended to read as follows:

(a)(1)(A) In each school year, the first day of the school year for student attendance in the public elementary and secondary schools of the State of Arkansas shall be: the Tuesday following the Labor Day holiday.

(i) On or after the Monday of the week in which August 19 falls;

(ii) Not earlier than August 14; and

(iii) Not later than August 26.

(B) The date for beginning the school year shall be determined by the board of directors of the school district:

(C) Labor Day shall be celebrated as a school holiday in all the school districts of the state, and school shall not be held on that date.

(D) As used in this section, “week” means a seven-day period that begins on a Sunday and ends on a Saturday.
Page 1, line 23, delete “(a)\{1\}(A)\}” and substitute “(a)(1){(A)}”

AND

Page 1, line 25, delete “the Tuesday following” and substitute “the Wednesday preceding”

AND

Page 1, delete lines 32 through 34 and substitute the following:

“(e)(2) Labor Day shall be celebrated as a school holiday in all the school districts of the state, and school shall not be held on that date.”
Amendment No. ___ to House Bill No. 1034

Amend House Bill 1034 as originally introduced:

Page 1, line 23, delete "(a)(1)(A)" and substitute "(a)(1)(A)"

AND

Page 1, line 25, delete "the Tuesday following" and substitute "the Wednesday preceding"

AND

Page 1, delete lines 32 through 34 and substitute the following:
"§463(2). Labor Day shall be celebrated as a school holiday in all the school districts of the state, and school shall not be held on that date."
More info on amendments:

- Amendments are filed either in committee or on the floor (although adoption of an amendment on the floor will result in the bill being re-referred to committee).
- An additional option – a member may amend his or her own bill on the “member’s own” calendar in the chamber.
- An amendment cannot defeat the original purpose of a bill.
- If an amendment is adopted in committee, it is not engrossed until it is approved by the full body – committee amendments will not immediately show up as part of the bill on the website.
Common issues that arise in the bill drafting process:

- There is an official “Code style” in which we prepare Arkansas legislation. There is a specific numbering format and a preference for the use of certain terms, such as “shall” and “may” instead of “will”, “can”, or other synonyms.

- The Arkansas Constitution prohibits special or local bills – bills that benefit a specific person, group, or governmental unit – unless there is a statewide impact. For example, a bill generally cannot benefit a single school district or town without additional facts.

- Staff will add co-sponsors to a bill based upon a member’s request. If you do not want a member to add your name to a bill as a co-sponsor without your clear assent, you can file a statement making that request.

- If there are any potential constitutional concerns, conflicts with federal law, or similar issues that might arise during the consideration of a bill, the drafting attorney will advise you of these when delivering the bill.
Confidentiality:

- Under the Freedom of Information Act, unpublished memoranda, working papers, and correspondence of members of the General Assembly are exempt from disclosure. This only applies when in your possession – if materials are in the possession of another entity subject to FOIA they are not exempt if that person receives a FOIA request.

- Arkansas law doubles down on this concept for legislative staff - § 10-2-129 provides that drafting requests and information requests made to a legislative employee by a legislator are confidential, as well as any supporting documents you provide to staff and work product produced by staff for your benefit.

- Legislative business done on a private device (such as a cell phone or private laptop) is a public record just as if you generated it on a state-owned computer or device. It is exempt from disclosure as a working paper under FOIA, but it is a public record.
QUESTIONS?