

Bills and Resolutions

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- 4 Hinds §§ 3266–3297, 3364–3390
- 7 Cannon §§ 846–871, 1027–1053
- Deschler Ch 24 §§ 1–4, 9, 10
- Manual §§ 397, 414, 478, 849a, 852

A. Generally; Public Bills

§ 1. In General; Resolutions Distinguished

Bills are used for purposes of general legislation. Joint resolutions are used to propose constitutional amendments and for special or subordinate legislative purposes. Simple or concurrent resolutions are used primarily to regulate the administrative or internal business of the House, to express facts or opinions, or to dispose of some other nonlegislative matter. See Deschler Ch 24 §§ 1 *et seq.* However, unlike simple or concurrent resolutions, a joint resolution is a bill so far as the rules of the House are concerned. 4 Hinds § 3375.

The introduction of certain types of bills is prohibited by House rule. The introduction of private bills to pay claims cognizable under the Federal Tort Claims Act, or providing for the construction of a bridge across a navigable stream or for the correction of a military record, have been prohibited since 1946. See § 10, *infra*. As of the 104th Congress, the introduction of commemorative bills or resolutions is barred by Rule XXII clause 2(b).

The various stages in the passage and enactment of a bill, including its introduction and referral, reading, engrossment, and enrollment, are treated elsewhere. See READING, PASSAGE, AND ENACTMENT. See also CONSIDERATION AND DEBATE; VOTING; and VETO OF BILLS.

§ 2. Public and Private Bills Distinguished

Bills may be either public or private. A private bill is a bill for the benefit of one or several specified persons or entities, and is to be distinguished from a public bill, which relates to public matters and deals with individuals by classes only. 3 Hinds § 2614; 4 Hinds § 3285; 7 Cannon § 856; Deschler Ch 24 § 1. Whether a law is to be regarded as public or private depends on the attendant circumstances, having regard to the effect rather than the form of the legislation. *Bollinger v Watson*, 63 SW 2d 642, 187 Ark. 1044. The distinction is important, because the procedures followed in the enactment of private bills (see § 8, *infra*) are significantly different from those applicable to public bills.

A bill may be regarded as a public bill and referred to the House or Union Calendar when reported where it:

- Contains provisions applicable to the general public, although benefiting a named individual. 4 Hinds § 3286.
- Relates to a nation of Indians and not to Indians as individuals. 7 Cannon § 870; Deschler Ch 24 § 3.3.
- Indemnifies a foreign government for injury to one of its nationals. 7 Cannon § 865; Deschler Ch 24 § 3.2.
- Includes among provisions for the relief of private persons one item to pay a claim of a foreign nation. 4 Hinds § 3287.
- Grants an easement over public lands to a private company. 7 Cannon § 864.
- Authorizes an exchange of government-owned land for privately owned land. 7 Cannon § 862.
- Provides for the reimbursement of “all the depositors” of a certain bank, the depositors not being identified by name. 8 Cannon § 2373.
- Makes certain veterans entitled to wartime disability compensation for disabilities and diseases caused by or attributable to exposure to atomic or nuclear radiation during their period of active service. 96–2, Oct. 9, 1980, H. Jour. p 2193.

§ 3. Form; Component Parts

Generally

The form in which bills are considered in the House is governed by statute and by the practices and customs of the House. Any deviation from the form so prescribed may be authorized by joint resolution or be waived by passage under suspension of the rules. 7 Cannon § 1035. Alleged errors in the drafting of a bill are to be resolved by the House in its consideration of the measure and not by the Speaker on a point of order. Deschler Ch 24 § 2.2.

Although there is no mandatory uniform style that is to be followed in the drafting of legislative measures, general guidelines are available. See HOUSE LEGISLATIVE COUNSEL'S MANUAL ON DRAFTING STYLE, Nov. 1995.

The component parts of a bill introduced in the House include:

- A bill title (an identifying bill number is subsequently added thereto).
- A preamble—used only on joint resolutions, rarely on bills (§ 5, *infra*).
- An enacting or resolving clause, which must appear in the first section of the act (1 USC § 103).
- The text of the bill.

On rare occasions, an act may contain an illustration, as where it shows a required warning label (99–2, Feb. 3, 1986, p 1326). And one House may pass a bill with blanks to be filled in by the other House. 5 Hinds § 5781. But it is not in order for a Member to have distributed on the floor of the House copies of a bill marked with his own interpretation of its provisions. Deschler Ch 24 § 2.1.

Enacting Clauses

Enacting clauses must be in the form prescribed therefor by the United States Code, as follows:

*Be it enacted by the Senate and House of Representatives
of the United States of America in Congress assembled.*
1 USC § 101.

Resolving Clauses

The form prescribed for the resolving clause of a joint resolution is:

*Resolved by the Senate and House of Representatives of
the United States of America in Congress assembled.* 1
USC § 102.

If the joint resolution proposes to amend the Constitution, it is customary to add to the resolving clause the words “two-thirds of both Houses concurring.” 4 Hinds § 3367.

Sections; Headings and Subheadings

The United States Code requires that each section of a bill be numbered, and that it “contain, as nearly as may be, a single proposition of enactment.” 1 USC § 104. Section headings and subheadings may be used, and in cases of ambiguity it is proper to consult both a section heading and the section’s content in order to ascertain the clear meaning of the legislation. *House v C.I.R., C.A. Tex.*, 453 F2d 982 (1972).

Page and Line Numbers

Under the practices of the House, when a bill is reported, each page of the text is numbered and each line in the text is given a separate number in the margin so that reference may quickly be made to specific provisions of the bill. However, the pagination and marginal numerals are no part of the text of the bill, and after amendment they may be altered, changed, or transposed by the Clerk to conform to the amended text without the necessity of a House order. 5 Hinds § 5781; 8 Cannon § 2876.

§ 4. Titles

All bills are given a title that indicates the subject matter of the bill. A title is used strictly for purposes of identification (Deschler Ch 24 § 9.1) and is not considered in passing on points of order relating to the provisions of the bill. 7 Cannon § 1489.

Under the guidelines suggested by the Office of the Legislative Counsel, a title should accurately and briefly describe what a bill does. For bills amending primarily a particular law, the form “To amend [citation of law] to . . .” is used. For constitutional amendments, the form “Proposing an amendment to the Constitution of the United States concerning . . .” is used. If the bill covers multiple items, the phrase “and for other purposes” may be used at the end of the title.

Although the title is retained on the bill during the various stages of enactment, including engrossment (*Manual* § 431) it is not considered to be part of the enacted statute and is generally published only in the *Statutes at Large*. Indeed, when an enacted statute is codified and included in the United States Code, its title may be excluded or greatly abbreviated.

A title cannot be used to negate the obvious meaning of the statute, but may, as part of the legislative history, assist in resolving ambiguities. 4 Hinds § 3381. In such cases the title of an act may be resorted to by courts as an aid in determining legislative intent. *Brotherhood of R.R. Trainmen v Baltimore and Ohio Railroad Co.*, 67 S.Ct. 1387, 331 U.S. 519, 91 L.Ed. 1646. In this context, the title of a bill at the time of its enactment is said

to be indicative of the true intention of Congress in enacting it. *Corpus Juris Secundum*, Statutes § 351.

§ 5. Preambles

Preambles often appear in joint resolutions, but rarely in bills where sections containing separate statements of findings may serve the same purpose. 4 Hinds § 3412. Preambles are sometimes used to indicate the underlying reason for a measure. 4 Hinds § 3413. However, preambles are not used in joint resolutions where the purpose of the measure is largely self-explanatory, as where it:

- Makes continuing appropriations for a fiscal year. Pub. L. No. 99–103, 99th Cong.
- Makes an urgent supplemental appropriation for an executive department. Pub. L. No. 99–71, 99th Cong.
- Extends certain programs which would otherwise expire. Pub. L. No. 99–120, 99th Cong.

The House may delete the preamble from a measure it has adopted prior to its enactment. This is done either by unanimous consent or pursuant to a motion to strike the preamble. This cannot be done simply by moving to strike all after the enacting or resolving clause since the preamble always precedes that clause. Deschler Ch 24 § 9.5. Preambles to simple resolutions may be disposed of pursuant to a motion to lay on the table, and the adoption of such motion does not affect the status of the resolution. 5 Hinds § 5430. Of course, where no action is taken to strike out the preamble, and the bill is passed, the preamble remains as part of the bill. Deschler Ch 24 § 9.5.

B. Private Bills

§ 6. In General

Background

The practice of Congress in passing private bills for the benefit of specific persons or entities was taken from the English Parliament, and began with the First Congress. The use of private bills steadily increased thereafter, so much so that in some years the Congress enacted more private bills than it did public bills. The 59th Congress, for example, enacted more than 6,000 private bills, while enacting fewer than 700 public bills. 7 Cannon § 1028. In recent years, and especially since the adoption of the Legislative Reorganization Act of 1946, the number of private bills enacted into law has been

steadily declining. In the 103d Congress only 8 bills of this type were approved. *Calendars of the U.S. House of Representatives, Final Edition, 103d Cong.*

Since it lacks the generality of application that is normally found in public laws, a private bill is considered a legislative anomaly. Congressional action in passing such bills has been based on the rationale that because public laws cannot cover every situation or extraordinary circumstance that might arise, Congress may, as part of its general law-making function, create “equitable law” to cover such circumstance. 79 Harv. L. Rev. p 1684.

Constitutionality

Although the constitutionality of private bills has not been subjected to extensive critical analysis by the courts, their use is regarded as a proper legislative function. The Supreme Court in 1940 held that the passage of a private bill does not constitute a congressional intrusion into the judicial function. *Paramino Lumber Company v Marshall*, 309 US 370 (1940).

Omnibus Bills

The rules of the House permit the use of “omnibus” private legislation—that is, a measure containing two or more private bills that are considered as a single package. See Rule XXIV clause 6 (*Manual* § 893).

§ 7. What Constitutes a Private Bill

A private bill may be generally defined as a bill for the benefit or relief of one or several specified persons or entities. 4 Hinds § 3285; 7 Cannon § 856. It is generally enacted only for those who have no other remedy available to them. Deschler Ch 24 § 3. A bill for the benefit of a named individual is classed as a private bill even though it deals with government property. 7 Cannon § 859. An “omnibus claim bill” containing provisions for payments to many different claimants is also treated as a private bill rather than a public bill, where all claimants are of the same class and each claimant is specified by name. 4 Hinds § 3293. In one instance, a bill was regarded as a private bill even though the individuals were not named and were identified only as “all persons” who worked on a certain construction project. 7 Cannon § 857.

§ 8. Introduction and Referral; Enactment Procedure

Private bills may be presented to the House only through a sponsoring Member. A Member with a private bill to present (1) endorses his name on the bill, and (2) delivers the bill to the Clerk. Rule XXII (*Manual*

§ 849a). After its delivery to the Clerk, it may be referred to the appropriate committee and then by it to a subcommittee. Committee approval of the bill is generally contingent upon a showing that the applicant has no other remedy. If the bill receives committee approval, it is reported out favorably for consideration and is referred to the Private Calendar.

Private bills called on the Private Calendar are reviewed by a committee of “official objectors” consisting of six members—three from each party. As a matter of policy, the official objectors have traditionally required that bills must be on the Private Calendar for seven days before being called up; otherwise, they will object (see PRIVATE CALENDAR). If two or more Members of the House object to a bill, it is returned to the committee that reported it (*Manual* § 893). However, such a bill may be “passed over without prejudice” by unanimous consent for subsequent consideration. Also, the provisions of a private bill may be reported back in an omnibus bill. 95–1, Apr. 28, 1977, p 12619.

If the bill is unopposed, it is taken up in the House *as in Committee of the Whole*. The procedure is as follows:

THE SPEAKER: This is the day for the call of the Private Calendar. The Clerk will call the first omnibus bill on the calendar. . . . The Clerk will read the bill by title for amendment. [*The Clerk reads the bill, and any committee amendments are reported and disposed of; thereafter, motions to amend (see § 9, infra) are in order.*]

MEMBER: Mr. Speaker, I offer a motion [*to strike all or part of the pending paragraph.*]

Note: Amendments are in order only if they strike out or reduce amounts of money or provide limitations. *Manual* § 893. Motions to strike the last word are not permitted, nor are reservations of objection. 95–1, Apr. 28, 1977, p 12619.

THE SPEAKER [*after disposition of amendments*]: The question is on the engrossment and third reading of the bill.

MEMBER: Mr. Speaker, I offer a motion to recommit.

THE SPEAKER [*after disposition of the motion to recommit*]: The question is on the passage of the omnibus bill.

After a private bill has passed both Houses, it is sent to the President, who may sign the bill or veto it just as he may a public bill. A private bill must be approved by the President, or enacted over his veto, in order to become law. See, for example, 83–2, Sept. 15, 1954, p 6748.

After the House passes an omnibus private bill, it is resolved into the various private bills of which it is composed, and each is sent to the Senate as if individually passed. *Manual* § 895.

§ 9. — Amendments

A private bill is subject to amendment under the five-minute rule pursuant to Rule XXIV clause 6. (*Manual* §§ 893, 894.) However, a private bill for the benefit of one individual may not be amended so as to extend its provisions to another individual, even indirectly through a motion to recommit with instructions. 4 Hinds § 3296. Nor is it in order to amend a private bill by adding provisions general and public in character. 4 Hinds § 3292. Motions to strike the last word—pro forma amendments—are not entertained. 90–1, Dec. 14, 1967, p 36536. Because of the germaneness rule (see GERMANENESS OF AMENDMENTS) a private bill for the benefit of certain individuals, ascertainable by name, may not be amended so as to extend its provisions to a general class of individuals. 7 Cannon § 860.

When an amendment is offered, members of the reporting committee have priority in recognition to oppose the amendment. 90–1, Dec. 14, 1967, p 36535.

§ 10. Uses of Private Bills

Generally

Under the modern practice, most private bills granting relief to individuals fall into one of two major categories: (1) bills involving claims *against* the United States or waiving claims *by* the Federal Government against specific individuals, and (2) bills excepting named individuals from certain requirements of the immigration or naturalization laws. See §§ 11, 12, *infra*.

Some private bills granting relief to identified individuals merely permit the taking of some action that would otherwise be prohibited by general law. For example, one favorably reported private bill authorized federal employees of the Social Security Administration in Syracuse, New York, to transfer annual leave to a fellow employee who had exhausted her sick leave during her treatment for cancer; the coworkers indicated that they wanted to donate their annual leave on her behalf in order to extend her recovery time and allow her to continue to be employed. 100–2, H.R. 3625, H. Rept. No. 100–554. Another such bill authorized the Secretary of Defense to allow the children of a secret service agent killed while on duty to attend school at a United States military facility in Puerto Rico, after the family had been notified that his children were no longer eligible to attend the school due to the fact that the children were no longer dependents of a federally employed person in Puerto Rico. 100–2, H.R. 3439, H. Rept. No. 100–552.

Measures Barred From Consideration

In the Legislative Reorganization Act of 1946, Congress barred the consideration of certain types of private bills. Under this provision, which was added to the House rules in 1953 (see Rule XXII clause 2), the House may not receive for introduction or consider any private bill authorizing or directing the payment of money for property damages, or for personal injuries or death for which suit may be instituted under the Tort Claims Act. Private pension bills (other than those to carry out a provision of law or treaty stipulation) are also barred, as are bills providing for the construction of a bridge across a navigable stream. Private bills providing for the correction of a military record are likewise proscribed (*Manual* § 852) though a private bill which merely changes the computation of retired pay for a former member of the armed services has been held permissible. 98-2, Sept. 18, 1984, p 25824. The barring of private bills in such cases is based on the availability to claimants of other judicial or administrative remedies. Deschler Ch 24 § 3. The Tort Claims Act, for example, provides both administrative and judicial remedies in certain personal injury cases involving the negligence of federal employees. See 28 USC §§ 2671 *et seq.*

§ 11. — Claims By or Against the Government

Generally; Constitutionality

Many private bills that are enacted grant relief to an individual who has a meritorious claim against the federal government which cannot otherwise be remedied. Deschler Ch 24 § 3. The constitutional basis for such bills is found in the First Amendment, which sets forth the right to petition the government for the redress of grievances, and in Article I, which allocates to Congress the power to pay the debts of the United States. U.S. Const. art. I § 8 clause 1. See *Pope v United States*, 323 US 1 (1944).

Procedure

Under Rule XXI clause 4 unanimous consent is required for the reference of a private claim bill to a committee other than the Committee on the Judiciary or the Committee on International Relations. *Manual* § 845.

Most private bills involving claims against the government are referred to the Judiciary Committee, which has jurisdiction over such claims under Rule X clause 1(j). This committee then refers the bill to its Subcommittee on Immigration and Claims. The subcommittee may hold a hearing on the matter. The subcommittee determines whether to recommend the bill favorably and then reports to the full committee. If the recommendation is favor-

able, and the full committee agrees therewith, the bill is reported and referred to the Private Calendar. See also § 8, *supra*.

Note: An alternative to this procedure is provided for in the United States Code. It authorizes either House of Congress, by adopting a resolution, to refer bills (except pension bills) to the Chief Judge of the U.S. Court of Federal Claims, and stipulates that the Chief Judge is to report the findings of fact and conclusions in each case to the House which made the reference. 28 USC §§ 1492, 2509. These reports are provided to Congress for use in deciding whether certain private claims warrant legislative relief. *Zadeh v United States*, 111 F Supp 248 (1953).

Granting Relief; Consideration of Particular Claims

In exercising its jurisdiction over claims against the government, and in determining whether relief should be granted to persons seeking redress of grievances under its rules, the subcommittee has been guided by “principles of equity and justice.” The task of the subcommittee has been to determine whether the equities and circumstances of a case create a “moral obligation” on the part of the government to extend relief to an individual who has no other existing remedy. Relief has been granted in private legislation:

- To provide for the payment of \$1.6 million to settle certain property damage claims of residents arising out of the 1973 occupation of Wounded Knee, South Dakota, by members of the American Indian Movement, who had been surrounded by federal forces. 100–2, H.R. 2711, H. Rept. No. 100–559.
- To provide for a payment of \$125,000 to a child who had been sexually assaulted and molested by an employee of the Postal Service, who was delivering mail at the time. A civil action against the United States on behalf of the six-year-old claimant was filed under the Federal Tort Claims Act on the basis of negligent supervision of the employee by the Postal Service, but this suit was unsuccessful, intentional torts such as assault being excluded under the provisions of the act. 100–2, H.R. 4099, H. Rept. No. 100–556.
- To authorize certain firefighters to sue the United States for injuries or death under the FTCA, because the Secretary of Labor had determined that the firefighters were federal employees covered by another statute—the Federal Employee Compensation Act (FECA)—which precluded claims under the FTCA. 100–2, H.R. 2682, H. Rept. No. 100–547.
- To waive the discretionary-function and foreign-country exceptions to the FTCA, thereby granting jurisdiction for the claimant to sue the government for claims arising at a U.S. Army health facility in Germany, an improperly administered smallpox vaccination having resulted in long-term hospitalization. 100–2, H.R. 2684, H. Rept. No. 100–442.

- To provide compensatory relief in a contract case based on a moral obligation of the government, such as when money was promised and not paid. See 87-1, Priv. L. No. 87-195, H. Rept. No. 232; 100-2, H.R. 3185, H. Rept. No. 100-549.
- To adjust or credit the account of a federal official (7 Cannon § 863), or reimburse a government employee for expenditures made by him at the direction of his employer. 100-2, H.R. 3388, H. Rept. No. 100-551.
- To permit claimants to receive an annuity under the Civil Service Retirement (CSR) system. 100-2, H.R. 2889, H. Rept. No. 100-548; 100-2, H.R. 1864, H. Rept. No. 100-546.
- To relieve a federal employee of liability for repayment of travel expenses erroneously paid to him by his employer. 100-2, H.R. 3941, H. Rept. No. 100-555; 100-2, H.R. 3347, H. Rept. No. 100-550.
- To suspend or waive a statute of limitations where the government has been unjustly enriched at the expense of the claimant (see 92-1, Priv. L. No. 87-23, H. Rept. No. 87-176), or where to do so would be in the interests of “justice and equity.” 100-1, H.R. 1491, H. Rept. No. 100-439.

§ 12. — Immigration and Naturalization Cases

Private bills are sometimes used to exempt individuals from the application of the immigration and naturalization laws in hardship cases where the law would otherwise prohibit entry into or require deportation from the United States. Deschler Ch 24 § 3.

To obtain a private bill granting such relief, the applicant must find a Member willing to sponsor the bill. § 8, *supra*. When such a bill has been introduced, it is referred to the House Judiciary Committee pursuant to Rule X clause 1(j). The bill may then be referred to the subcommittee with jurisdiction over such bills for consideration and hearings pursuant to specified guidelines. Private bills have been used in specific cases to:

- Restore a prospective immigrant to his place on a quota waiting list when that place was lost without his fault. 83-2, Priv. L. No. 601, H. Rept. No. 2078.
- Grant asylum to a Communist aviator who flew his plane to the West. 83-2, Priv. L. No. 380.
- Grant the status of permanent residence to a 23-year-old Philippino woman who became pregnant while visiting the United States under a temporary visa, where the father had acquired permanent-residency status, and where the alternative would have been to separate the family, with the mother and infant returning to the Philippines and the father remaining here. 100-1, S. 393, H. Rept. No. 100-354.
- Reinstate U.S. citizenship to a 65-year-old native U.S. citizen who renounced citizenship in 1950 due to family obligations when he was married to a Mexican national. 100-1, H.R. 2358, H. Rept. No. 100-381.

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- Enable a record-holding swimmer from East Germany who had defected to the United States to file a petition for naturalization without regard to residence and Communist Party membership. 100–2, H.R. 446, H. Rept. No. 100–598.
- Grant the status of permanent residence to a sports and media figure retroactively to 1950, and to provide that he shall be considered to have complied with residential and physical presence requirements of the Immigration and Naturalization Act. 86–2, H.R. 81–56, Priv. L. No. 86–486, H. Rept. No. 1506.