

The Legislative and Regulatory Environment

As mentioned in Section 1-5 of this module, one of the external factors that HR professionals must include in their continuous environmental scan is the impact on the organization of proposed and enacted laws and regulations as well as revisions to existing laws and regulations. Since public input is part of the legislative and rule-making processes, HR professionals may help shape the legal and regulatory environment in which their organizations must function by communicating directly with legislators and agencies.

Laws refer to actions passed by legislative bodies, such as Congress and state legislatures, and by local government units, such as cities and counties.

Regulations may have just as profound an effect on organizations as laws. Regulations reflect how laws will be implemented and often have the force of law. They are proposed, adopted, and enforced by regulatory agencies to whom government units have delegated specific rule-making authority. Regulatory agencies may also issue guidelines that interpret how regulations will be enforced. While not laws, guidelines can greatly influence how organizations operate.

Consider the requirements about employing the disabled that HR works with on a daily basis. These requirements stem from the Americans with Disabilities Act (ADA) of 1990 and the ADA Amendments Act (ADAAA) of 2008. Congress made the EEOC responsible for enforcement of the ADA. The EEOC has issued regulations regarding the ADA and other fairness issues, such as record keeping and complaint resolution procedures. The EEOC has also issued guidelines to help employers understand how to apply the reasonable accommodation requirement in the workplace.

Let's take a look then at how these influential actions are formulated.

Law-Making 101: Passage of a Bill

Anyone may draft a bill; however, only members of Congress can introduce legislation and, by doing so, become the sponsor(s).



Figure 49 shows the steps in the passage of a bill in the U.S. Congress. The steps are also described below.

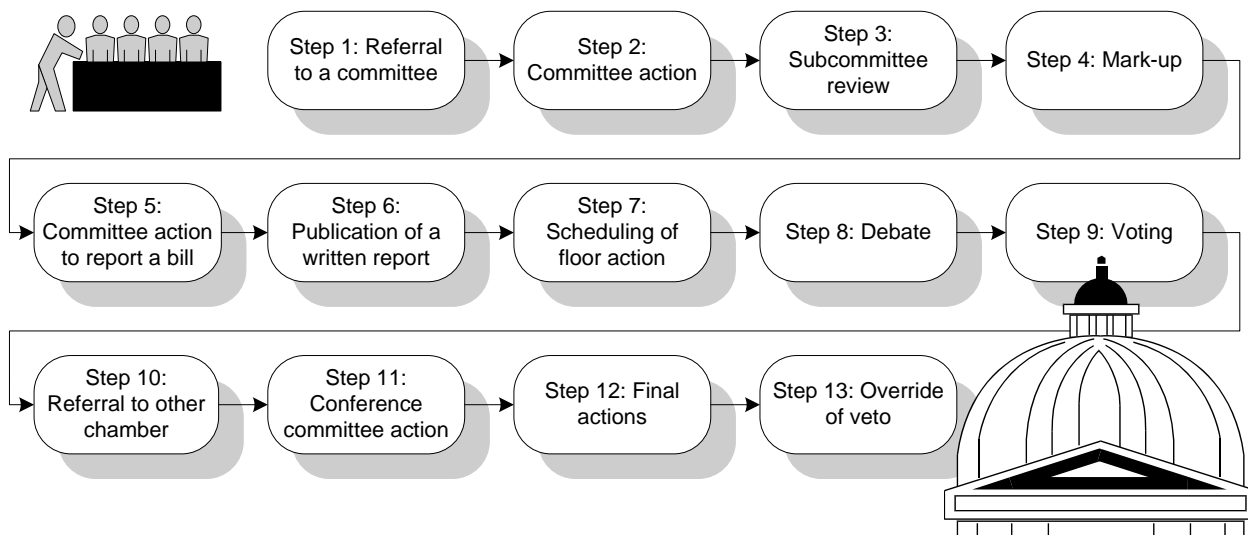


Figure 49. Creation of a Bill

- Step 1: Referral to a committee.** The official legislative process begins when a bill is numbered (H.R. signifies a House bill and S. signifies a Senate bill), referred to a committee, and printed by the Government Printing Office. With few exceptions, bills are referred to standing committees in the House or Senate according to carefully delineated rules of procedure.
- Step 2: Committee action.** When a bill reaches a committee, it can be referred to a subcommittee or placed on the committee’s calendar to be considered by the committee as a whole (bypassing Steps 3 and 4). In either case, it is at this point that a bill is examined carefully and its chances for passage are determined. If the committee does not act on a bill, it is the equivalent of killing the bill.
- Step 3: Subcommittee review.** Often, bills are referred to a subcommittee for study and hearings. Hearings provide the opportunity to put on the record the views of the executive branch, experts, other public officials, and supporters and opponents of the legislation. Testimony can be given in person or submitted as a written statement.



- **Step 4: Mark-up.** When the hearings are completed, the subcommittee may meet to “mark up” the bill, that is, make changes and amendments prior to recommending the bill to the full committee. If a subcommittee votes not to report it to the full committee, the bill dies.
- **Step 5: Committee action to report a bill.** After receiving a subcommittee’s report on a bill, the full committee can conduct further study and hearings, or it can vote on the subcommittee’s recommendations and any proposed amendments. The full committee then votes on its recommendation to the House or Senate. This procedure is called “ordering a bill reported.”
- **Step 6: Publication of a written report.** After a committee votes to have a bill reported, the committee chairman instructs staff to prepare a written report on the bill. This report describes the intent and scope of the legislation, the impact on existing laws and programs, the position of the executive branch, and the views of dissenting members of the committee.
- **Step 7: Scheduling of floor action.** After a bill is reported back to the chamber where it originated, it is placed in chronological order on the calendar. In the House there are several different legislative calendars, and the speaker and the majority leader largely determine if, when, and in what order bills come up. In the Senate there is only one legislative calendar.
- **Step 8: Debate.** When a bill reaches the floor of the House or Senate, there are rules or procedures governing the debate on it. These rules determine the conditions and amount of time allocated for general debate.
- **Step 9: Voting.** After the debate and the approval of any amendments, the bill is passed or defeated by the members voting.
- **Step 10: Referral to other chamber.** If a bill is passed by the House or the Senate, it is then referred to the other chamber, where it usually follows the same route through committee and floor action. This chamber may approve the bill as received, reject it, ignore it, or change it. These changes are what account for the numerous versions of some bills that may circulate before a final bill is passed.



- **Step 11: Conference committee action.** If only minor changes are made to a bill by the other chamber, it is common for the legislation to go back to the first chamber for concurrence. However, when the actions of the other chamber significantly alter the bill, a conference committee is formed to reconcile the differences between the House and Senate versions. If the conferees are unable to reach agreement, the legislation dies. If agreement is reached, a conference report is prepared, describing the committee members' recommendations for changes. Both the House and the Senate must approve of the conference report.
- **Step 12: Final actions.** After both the House and Senate have approved a bill in identical form, it is sent to the president. If the president approves of the legislation, he or she signs it and it becomes law. If the Congress is in session and the president takes no action for ten days, the bill will automatically become law. If the president opposes the bill, he or she can veto it. If the Congress adjourns before the end of the ten-day period allowed for presidential action and the president takes no action, the bill has received a "pocket veto" and the legislation dies.
- **Step 13: Override of veto.** If the president vetoes a bill, Congress may attempt to override the veto. This requires a two-thirds roll-call vote of the members who are present in sufficient numbers for a quorum.

The Rule-Making Process

Laws are made by legislatures, and rules are made by agencies. For example, typically a legislature would pass a law mandating the establishment of safe drinking water standards and then assign an agency to develop the list of contaminants and safe levels through rule making. The rule-making process may vary slightly from federal to state to local levels as well as from state to state. The federal process, however, provides a good sense of the general procedure.

Figure 50 shows the steps ordinarily followed in rule making. The steps are also described below.





Figure 50. The Rule-Making Process

1. **The rule is proposed.** The rule (or rule change) is developed by the agency, often with the input of the public and experts in the field.
2. **Public comment is invited.** Public comment may be delivered during announced public hearings or via conversation, e-mail, or letter for a specified period of time. The period of time may vary—in some cases, depending on the possible impact of the proposed regulation or rule change or the level of public comment. In cases where immediate rules are required to meet emergencies or statutory requirements, interim rules may be issued. These rules have an expiration date and are in effect concurrent with the public comment period.
3. **The final rule is issued.** The final rule is adopted by the agency, with a date for implementation. All rules or changes to rules are published in the Code of Federal Regulations (CFR).

Important terms to note regarding the legislative and rule-making processes are summarized in Figure 51.

Important Legislative and Regulatory Terms	
Amendment	The modification of the Constitution or a law. Modification may be either formal (written) or informal (unwritten).
Bill	A proposal presented to a legislative body for possible enactment as a law.
Public comment period	The time allowed for the public to express its views and concerns regarding an action of a regulatory agency.
Quorum	The number of members of an organization that have to be present before official business may be conducted.

Figure 51. Important Legislative and Regulatory Terms (continued next page)



Important Legislative and Regulatory Terms	
Regulation	A rule or order issued by a government agency; often has the force of law. Interpretive bulletins distributed by government agencies are helpful in deciphering regulatory developments.
Resolution	A legislative measure limited in effect to either the Congress or one of its chambers.
Veto	Action of canceling or postponing a decision or bill. For example, the president of the United States may veto a bill that has been passed by Congress.

Figure 51. Important Legislative and Regulatory Terms (concluded)

Monitoring the Legislative and Regulatory Environment

In today’s legislative community, HR professionals can make a difference. Whether by phone, letter, e-mail, or personal visit, you should voice your concerns about HR-pertinent legislation to your local officials.

SHRM has a section of its Web site devoted to governmental affairs. The Government Affairs News section provides HR professionals with the latest updates on what’s happening with the public policy issues that have the potential to impact their day-to-day tasks.



For more information, go to the SHRM Web site, www.shrm.org.





Progress Check

Directions: Choose the best answer to each question.

1. Early in its session, Congress passes a bill and sends it to the president. The president takes no action for ten days. What becomes of the bill?
 - a. It is automatically dead, since it has not been signed.
 - b. The bill becomes law since Congress is still in session.
 - c. The bill is sent back to Congress and passes if a two-thirds majority votes for it.
 - d. The bill passes automatically if Congress adjourns immediately after passing it.

2. Which of the following is the BEST example of a regulation?
 - a. Civil Rights Act of 1964
 - b. Fair Labor Standards Act
 - c. Interpretation of legal matters related to expatriation
 - d. Process by which the Department of Labor clarifies the exempt status of employees



Progress Check Answers

1. b (p. 1-219)
2. d (p. 1-216)



You have completed *Module 1: Business Management and Strategy* of the *SHRM Learning System*. Next, check your understanding by completing the online module-specific tests to help you identify any concepts that need additional study.

