

# LEGISLATIVE OVERSIGHT COMMITTEE

# Standard Practices



Approved Pursuant to Legislative Oversight Committee Rule 7.1  
Revised June 25, 2015

## **PART I - GENERAL PRACTICES**

### ***1. AUTHORITY, MODIFICATION AND GENERAL INFORMATION RELATING TO STANDARD PRACTICES***

- 1.1 Legislative Oversight Committee (Committee) Rule 7.1 authorizes the committee to develop and adhere to standard practices.
- 1.2 Committee standard practices may be modified pursuant to Committee Rule 7.1.
- 1.3 Whenever the pronoun 'he' appears in any rule, it shall be deemed to designate either the masculine or feminine.

### ***2. COMMITTEE STAFF***

- 2.1 Committee staff work for all Members of the South Carolina House of Representatives (House).
- 2.2 Committee staff shall assist any Member of the House with matters relating to legislative oversight, and any Member of the House may request that Committee staff hold these matters in confidence.

### ***3. CONSTITUENTS***

#### ***Communication from Constituents***

- 3.1 Constituents may request to be notified as to when a particular agency is scheduled for legislative oversight study and investigation by the Committee.
- 3.2 Constituents may contact the Committee about matters relating to legislative oversight, and Members of the House may forward constituent matters relating to legislative oversight to the Committee.

#### ***Information for Constituents***

- 3.3 Committee staff shall make reasonable efforts, as determined by the Committee Chairman, to contact any constituent requesting notification as to when a particular agency is scheduled for legislative oversight study and investigation.
- 3.4 If a constituent has concerns about an agency currently undergoing legislative oversight study and investigation, the constituent shall be informed
  - 3.4.1 about the process,
  - 3.4.2 notified about any opportunities to participate in the process, and
  - 3.4.3 Section 2-2-70 requires all testimony provided to the committee to be under oath, and anyone knowingly furnishing false information will be subject to the penalties provided by law.

3.5 If a constituent has concerns about an agency not currently undergoing legislative oversight study and investigation by the Committee, Committee staff shall refer the constituent to appropriate resources, if available, that may be able to address the constituent's concerns about an agency.

***Information for Chairman and Committee***

3.6 Committee staff shall inform the Committee Chairman, on a schedule as determined by the Chairman, about the concerns received from constituents relating to agencies.

3.7 The Committee Chairman, at his discretion, may inform the Committee about the concerns received from constituents relating to agencies.

***Press***

3.8 Committee staff shall direct questions from the press to the Committee Chairman. The Committee Chairman, at his discretion, may authorize Committee staff to answer specific questions from the press.

3.9 If the Committee Chairman is unavailable to answer questions from the press and has not authorized Committee staff to respond to the specific questions, Committee staff shall direct the questions from the press to the First Vice-Chairman or to the appropriate subcommittee or ad hoc committee chairman.

## **PART II - PRACTICES RELATING TO REPORTS RECEIVED BY THE LEGISLATIVE OVERSIGHT COMMITTEE**

### **4. AGENCY ANNUAL RESTRUCTURING REPORT**

Revisions to Standard Practice 4

Section 1-30-10(G)(1) requires agencies to submit annual reports to the General Assembly giving detailed or comprehensive recommendations for the purposes of merging or eliminating duplicative or unnecessary divisions, programs or personnel within each department for a more efficient administration of government services (“Annual Restructuring Report” or “ARR”). If an agency has no restructuring recommendation, the statute requires the report to contain a statement to that effect.

#### **ARR Submission**

4.1 The Committee shall provide agencies with a uniform format, as approved by the Committee Chairman, for submitting their Annual Restructuring Reports to the Committee. The Annual Restructuring Report format will include a section which allows an agency to indicate it has no restructuring recommendations.

4.2 The Committee shall provide agencies with the Restructuring Report Guidelines by November thirtieth of each year. Agencies must submit the Annual Restructuring Report by the first day of session each year (“Deadline”).

#### **Failure to Provide Responses to All Questions in ARR**

4.2.1 The Chairman may require any agency that has submitted its Annual Restructuring Report which does not include responses to all questions to amend its submission so as to provide responses to all questions. The Chairman may provide the agency with a list of questions that do not have responses. The agency will determine the response it would like to make, but the agency will need to provide some type of response to all questions.

#### **Extensions for ARR**

4.2.2 The Chairman may, for reasons he determines as good cause, provide an agency an extension and new deadline to submit its Annual Restructuring Report (“New Deadline”). The Chairman will not provide more than two extensions without unanimous consent from the full committee.

4.2.3 Before the Chairman will consider a request from an agency for an extension, the agency must fully complete a Committee Extension Request form, as approved by the Committee Chairman, and provide it to the Chairman for consideration.

4.2.4 Until the agency receives a response, it should continue to complete the report to the best of its ability as if it is due on the original deadline.

#### **Amended ARR Submitted Prior to Online Publication**

4.2.5 The Chairman may, for reasons he determines as good cause, allow an agency to provide an amended version of its Annual Restructuring Report (“Amended Report”) prior to online publication.

4.2.6 If an agency makes a request to submit an Amended Report, the Chairman may require the agency to provide a written letter, which may be sent via U.S. mail or included as an attachment to an email, explaining the reason the agency wishes to submit the Amended Report, and a bullet point list of the sections revised in the Amended Report.

4.2.7 If the Chairman allows an agency to provide an Amended Report, the agency must provide a completely new Annual Restructuring Report with an updated date of submission and signatures on the report by a date determined by the Chairman. The Committee will not make edits or substitute parts to any versions of an agency's Annual Restructuring Report. The Committee will only discard an old Annual Restructuring Report, if a complete Amended Report is provided.

**Failure to Submit ARR or Respond to All Questions**

4.2.8 If an agency fails to submit responses to all questions in its Annual Restructuring Report by the Deadline, or New Deadline applicable to the agency, the Committee may request the Executive Director of the agency and, if applicable Board/Commission Chair, appear at a full committee meeting to explain, under oath, why the agency has failed to provide the information requested and when it will be provided.

**Online Publication of ARR**

4.3 The Committee will post in a central location online, access to all of the following information: a) Annual Restructuring Reports; b) Extension Request Forms; and c) Letters requesting submission of an Amended Report.

**Amended ARR Submitted After Initial Online Publication**

4.3.1 The Chairman may, for reasons he determines as good cause, allow an agency to provide an Amended Report after initial online publication.

4.3.2 If an agency makes a request to submit an Amended Report, the Chairman may require the agency to provide a written letter, which may be sent via U.S. mail or included as an attachment to an email, explaining the reason the agency wishes to submit the Amended Report, and a bullet point list of the sections revised in the Amended Report.

4.3.3 If the Chairman allows an agency to provide an Amended Report, the agency must provide a completely new Annual Restructuring Report with an updated date of submission and signatures on the report by a date determined by the Chairman. The Committee will not make edits or substitute parts to any versions of an agency's Annual Restructuring Report. The Committee will only discard an old Annual Restructuring Report, if a complete Amended Report is provided.

**Restructuring Recommendations**

4.4 The Committee shall indicate online, via a list or other means, the agencies that did and did not provide a restructuring recommendation in their Annual Restructuring Report.

**Notification to Members of the House**

4.5 Committee staff shall provide notification, in a manner determined by the Committee Chairman, to all Members of the House about the publication of this information online.

***5. GOVERNOR'S RESTRUCTURING REPORT***

Section 1-30-10(G)(1) provides that the Governor periodically must consult with the governing authorities of the various departments and upon such consultation, the Governor must submit a report of any restructuring recommendations to the General Assembly for its review and consideration ("Governor Restructuring Report").

5.1 The Committee will post in a central location online, access to all Governor Restructuring Reports received from the Governor pursuant to Section 1-30-10(G)(1).

## **6. AGENCY SEVEN-YEAR PLAN FOR COST SAVINGS & EFFICIENCIES**

Section 1-30-10(G)(2) requires agencies to submit a seven-year plan that provides initiatives or planned actions that implement cost saving and increases efficiencies within the projected seven-year period to the General Assembly (“Seven-Year Plans”).

6.1 The Committee shall provide agencies with a uniform format, as approved by the Committee Chairman, for submitting their Seven-Year Plans to the House.

6.1.1 The following subparts of Section 4 of the Standard Practices shall apply to Agency Seven-Year Plans in the same manner they apply to Annual Restructuring Reports: Failure to Provide Responses to All Questions; Extensions; Amended Reports Submitted Prior to Online Publication; Failure to Submit Report or Respond to All Questions; Online Publication; and Amended Reports Submitted After Initial Online Publication.

6.2 The Committee will post in a central location online, access to all Seven-Year Plans.

## **PART III - PRACTICES RELATING TO THE COMMITTEE’S STUDY AND INVESTIGATION PROCESS**

### ***7. AGENCY INVESTIGATION SCHEDULE & TIME FOR COMPLETION***

Section 2-2-30(C) requires a seven-year review schedule to be published in the House Journal the first day of session each year. Further, this statute provides that the Speaker of the House, upon consulting with the chairmen of standing committees in the House and the Clerk of the House, determines the agencies for each standing committee to conduct oversight studies and investigations. The Committee recognizes there is no requirement in the statute that an agency oversight study and investigation be completed within a certain timeframe, except the overall seven year cycle.

#### ***Recommendations as to the Seven-Year Investigation Schedule***

7.1 The Committee may adopt recommendations for the Speaker of the House relating to the publication of the seven-year review schedule in the House Journal the first day of session each year.

#### ***Priority/Order of Agencies Scheduled for Investigation during a Given Year***

7.2 The Committee may establish the priority or order of agencies scheduled for a legislative oversight study and investigation during a given year.

7.3 The Committee may, for reasons it determines as good cause, change the priority or order of agencies scheduled for a legislative oversight study and investigation during a given year.

#### ***Investigations Outside Schedule***

7.4 In addition to the seven-year oversight studies and investigations,

7.4.1 a standing committee of the House may initiate an oversight study and investigation of an agency within its subject matter jurisdiction pursuant to Section 2-2-40(A)<sup>1</sup>; and

7.4.2 the Speaker of the House or chairmen of standing committees may authorize and conduct legislative investigations into agencies functions, duties and activities pursuant to Section 2-2-40(B)<sup>2</sup>.

#### ***Time Frame for Completion of Agency Investigations***

7.5 The Committee may establish a time frame for the legislative oversight study and investigation of an agency.

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<sup>1</sup> “...The motion calling for the oversight study and investigation must state the subject matter and scope of the oversight study and investigation. The oversight study and investigation must not exceed the scope stated in the motion or the scope of the information uncovered by the investigation.”

<sup>2</sup> “Nothing in the provisions of this chapter prohibits or restricts the President Pro Tempore of the Senate, the Speaker of the House of Representatives, or chairmen of standing committees from fulfilling their constitutional obligations by authorizing and conducting legislative investigations into agencies’ functions, duties, and activities.”

7.6 The Committee may, for reasons it determines as good cause, change the time frame for a legislative oversight investigation and review of an agency.

## **8. *ADVANCED NOTIFICATION PROVIDED TO AGENCIES***

Section 2-2-30(C) requires a seven-year review schedule to be published in the House Journal the first day of session each year. In addition to this notice available to agencies, the Committee will also follow the notice procedures below.

### ***Required Written Notification***

8.1 The Committee shall provide written notification to an agency that it is scheduled for legislative oversight study and investigation prior to the start of the investigation.

8.2 The written notification to the agency shall include the following:

8.2.1 information about the Committee's expectations of the agency during the investigation, as outlined under Standard Practice 10,

8.2.2 purpose of the investigation, as outlined in Section 2-2-20(B)<sup>3</sup>, and

8.2.3 what must be considered in the investigation, as outlined in Section 2-2-20(C)<sup>4</sup>.

### ***Optional Preliminary Meeting***

8.3 A subcommittee or ad hoc committee chairman that has been assigned a legislative oversight study and investigation of an agency may schedule a subcommittee or ad hoc committee meeting with the agency to discuss preliminary matters relating to the legislative oversight study and investigation process.

8.3.1 Matters discussed during a preliminary meeting may include, but are not limited to, the Committee's expectations of the agency as listed in Standard Practice 9 and a brief overview of the agency.

8.3.1.1 Any brief overview provided by an agency as part of a preliminary meeting of the legislative oversight study and investigation process shall not be considered testimony.

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<sup>3</sup> "The purpose of these oversight studies and investigations is to determine if agency laws and programs within the subject matter jurisdiction of a standing committee: (1) are being implemented and carried out in accordance with the intent of the General Assembly; and (2) should be continued, curtailed, or eliminated."

<sup>4</sup> "The oversight studies and investigations must consider: (1) the application, administration, execution, and effectiveness of laws and programs addressing subjects within the standing committee's subject matter jurisdiction; (2) the organization and operation of state agencies and entities having responsibilities for the administration and execution of laws and programs addressing subjects within the standing committee's subject matter jurisdiction; and (3) any conditions or circumstances that may indicate the necessity or desirability of enacting new or additional legislation addressing subjects within the standing committee's subject matter jurisdiction."

## **9. EXPECTATIONS OF AN AGENCY UNDERGOING INVESTIGATION**

Section 2-2-20(B) states the purpose of the legislative oversight study is to determine if agency laws and programs are being implemented and carried out in accordance with the intent of the General Assembly, and should they be continued, curtailed, or eliminated. Further, the Committee recognizes that a legislative oversight study and investigation of agency serves the purpose of informing the public about the agency.

9.1 The Committee expects an agency to:

9.1.1 Inform its staff that the agency is undergoing a legislative oversight study and investigation as well as the purpose of the investigation.

9.1.2 Appoint a liaison to assist the Committee with all activities.

9.1.3 Respond to its requests in a concise, complete and timely manner.

9.1.4 Be candid with the Committee and to promptly discuss with the Committee any concerns or questions the agency may have related to the legislative oversight study and investigation process, including any concerns the agency may have that the Committee has drawn an incorrect conclusion.

9.2 An agency may expect the legislative oversight process to be confidential until such time as the agency receives notification from the Committee that a copy of the Committee staff's final report and the agency's response, if there is one, has been provided to the appropriate subcommittee, ad hoc committee, and any legislative standing committees in the House that may share subject matter jurisdiction over an agency.

## **10. INITIAL COLLECTION AND REVIEW OF INFORMATION**



Revisions to Standard Practice 10

In recognizing the importance of fairness in the legislative oversight process, every legislative oversight study and investigation shall begin the same way. The initial step involves Committee staff obtaining and reviewing information.

### ***Information from Agencies***

10.1 Committee staff shall request the agency complete a Program Evaluation Report ("PER") pursuant to Sections 2-2-50(D) and 2-2-60, and

10.1.1 A state agency that is vested with revenue bonding authority may submit annual reports and annual external audit reports conducted by a third party in lieu of a program evaluation report pursuant to Section 2-2-60(E).

### **Failure to Provide Responses to All Questions in PER**

10.1.2 The Chairman may require any agency that has submitted a Program Evaluation Report which does not include responses to all questions to amend its submission so as to provide responses to all questions. The Chairman may provide the agency with a list of questions that do not have responses. The agency will determine the response it would like to make, but the agency will need to provide some type of response to all questions.

### **Extensions for PER**

10.1.3 The Chairman may, for reasons he determines as good cause, provide an agency an extension and new deadline to submit its Program Evaluation Report (“New Deadline”). The Chairman will not provide more than one, thirty day extension without unanimous consent from the full committee.

10.1.4. Before the Chairman will consider granting an extension, the Chairman may require the agency to provide a written letter, which may be sent via U.S. mail or included as an attachment to an email, explaining the reason the agency is requesting the extension and the number of days it is requesting, not to exceed thirty.

10.1.5 Until the agency receives a response, it should continue to complete the report to the best of its ability as if it is due on the original deadline.

### **Amended PER Submitted Prior to Online Publication**

10.1.6 The Chairman may, for reasons he determines as good cause, allow an agency to provide an amended version of its Performance Evaluation Report (“Amended Report”) prior to online publication.

10.1.7 If an agency makes a request to submit an Amended Report, the Chairman may require the agency to provide a written letter, which may be sent via U.S. mail or included as an attachment to an email, explaining the reason the agency wishes to submit the Amended Report, and a bullet point list of the sections revised in the Amended Report.

10.1.8 If the Chairman allows an agency to provide an Amended Report, the agency must provide a completely new Program Evaluation Report with an updated date of submission and signatures on the report by a date determined by the Chairman. The Committee will not make edits or substitute parts to any prior versions of an agency’s Program Evaluation Report. The Committee will only discard an old Program Evaluation Report, if a complete Amended Report is provided.

### **Failure to Submit PER or Respond to All Questions**

10.1.9 If an agency fails to submit responses to all questions in its Program Evaluation Report by the Deadline, or New Deadline applicable to the agency, the Committee may request the Executive Director of the agency and, if applicable Board/Commission Chair, appear at a full committee meeting to explain, under oath, why the agency has failed to provide the information requested and when it will be provided.

### **Online Publication of PER**

10.2 The Committee will post in a central location online, access to all of the following information: a) Program Evaluation Report; b) Correspondence related to a Request for Extension, if any is required; and c) Letters requesting submission of an Amended Report, if any is required.

### **Amended PER Submitted After Initial Online Publication**

10.2.1 The Chairman may, for reasons he determines as good cause, allow an agency to provide an Amended Report after initial online publication.

10.2.2 If an agency makes a request to submit an Amended Report, the Chairman may require the agency to provide a written letter, which may be sent via U.S. mail or included as an attachment to an email, explaining the reason the agency wishes to submit the Amended Report, and a bullet point list of the sections revised in the Amended Report.

10.2.3 If the Chairman allows an agency to provide an Amended Report, the agency must provide a completely new Program Evaluation Report with an updated date of submission and signatures on the report by a date determined by the Chairman. The Committee will not make edits or substitute parts to any versions of an agency's Program Evaluation Report. The Committee will only discard an old Program Evaluation Report, if a complete Amended Report is provided.

10.3 The Committee may approve additional requests for information to be submitted to the agency pursuant to section 2-2-50(A).

#### ***Information from the Public***

10.4 Written comments shall be solicited from the public concerning the agency in a manner approved by the Chairman. The comments shall not be considered testimony and offered for the truth of the matter asserted but nevertheless may serve the purpose of directing the Committee to potential issues with an agency.

#### ***Information from the House***

10.5 House legislative standing committees and individual Members of the House may direct staff to potential issues with an agency under study and investigation by the Committee.

#### ***Information from other Legislative Entities***

10.6 The Committee recognizes that under diverse existing laws agencies are required to submit reports to various legislative entities. The Committee shall use its best efforts to review these reports as part of its legislative oversight study and investigation of agencies.

10.7 The Committee recognizes that under diverse existing laws other legislative entities study and review some agencies, and the Committee may make efforts, at the discretion of the Chairman, to consult these legislative entities during the legislative oversight study and investigation process.

#### ***Notes***

10.8. Staff may take notes for use in conducting a study of an agency. Prior to taking any notes that reflect the comments of an individual, staff will make efforts to inform that individual notes are being taken and of the individual's options relating to staff notes. An individual has the option to review staff notes from the individual's conversation with staff and after review: submit revisions to comments, request to withdraw comments, or request that the staff notes not reference a source. Any staff notes not referencing a source will be considered to come from an anonymous constituent.

## ***11. STAFF OVERSIGHT STUDIES & AGENCY RESPONSES***

In recognizing the importance of fairness in the legislative oversight process, every legislative oversight study and investigation shall begin the same way. After the Committee Staff obtains and reviews relevant information the staff will create studies and communicate further with the agency.

### ***Oversight Study prepared by Staff***

11.1 Committee staff shall compile and review all relevant information obtained and prepare an oversight study summarizing this information.

11.2 In preparing the oversight study, Committee staff may make recommendations based upon its review of the information.

11.3 Committee staff may provide the agency under investigation a draft version of the Committee staff's oversight study.

11.4 Committee staff shall provide the agency under investigation with a copy of the final oversight study prepared by Committee staff.

### ***Agency Response***

11.5 The agency shall have ten business days to respond to the final oversight study prepared by Committee staff.

11.6 An agency may request an extension to respond to the final Committee staff report. The request must be in writing and provide good cause as to why the extension is needed. Upon receipt of the written request, the Chairman, at his discretion, may grant an extension. However, the extension may be no longer than five additional business days.

11.7 An agency is not required to provide a response to the final Committee staff oversight study.

11.8 Any response provided by an agency shall be attached to the final oversight study prepared by Committee staff.

### ***Oversight Study & Responses Provided to Subcommittee or Ad Hoc Committee***

11.9 A copy of the Committee staff's final oversight study and an agency response to this study, if there is one, shall be provided to:

11.9.1 the appropriate subcommittee or ad hoc committee and

11.9.2 the Members of any legislative standing committees in the House that may share subject matter jurisdiction over the agency.

11.10 The agency will receive notice that a copy of the Committee staff's final oversight study and the agency's response, if there is one, has been provided to the appropriate subcommittee, ad hoc committee, and any legislative standing committees in the House that may share subject matter jurisdiction over an agency.

## **12. SUBCOMMITTEE AND AD HOC COMMITTEE REVIEW, ADDITIONAL INVESTIGATION & APPROVAL**

### ***Determine Other Investigative Tools to Utilize***

The Committee recognizes that Section 2-2-50 allows evidence or information related to a study and investigation to be acquired by any lawful means. Further, the Committee recognizes that Section 2-2-70 requires all testimony given to the Committee to be under oath, and anyone knowingly furnishing false information will be subject to the penalties provided by law.

12.1 After receiving Committee staff's oversight study and an agency response to the study, if there is one, the subcommittee or ad hoc committee assigned to study and investigate an agency shall review the oversight study and response and determine what other tools, if any, of legislative oversight should be utilized in studying and investigating the agency.

12.2 Other tools of legislative oversight include:

12.2.1 Requesting the Legislative Audit Council to study the agency's Program Evaluation Report, after obtaining prior approval from the Committee Chairman, pursuant to 2-2-60(D) and Committee Rule 7.6;

12.2.2 Requesting the Legislative Audit Council perform its own audit of the agency or program, after obtaining prior approval from the Committee Chairman, pursuant to 2-2-60(D) and Committee Rule 7.6;

12.2.3 Deposing witnesses pursuant to Section 2-2-50(B) and Committee Rule 7.2;

12.2.4 Issuing subpoenas and subpoenas duces tecum (production of documents) pursuant to Section 2-2-50(C) and Committee Rule 7.2; and

12.2.5 Having a public hearing pursuant to Committee Rule 7.3 and Committee Rule 7.5.

### ***Approve, Add Written Statements & Refer to Full Committee***

12.3 A subcommittee or ad hoc committee shall approve an oversight study for the full Committee.

12.4 Any member of the subcommittee or ad hoc committee assigned to study and investigate the agency may provide a written statement for inclusion with the oversight study for the full committee.

12.5 The subcommittee or ad hoc committee chairman shall notify the Committee Chairman in writing that an oversight study is available for consideration by the full Committee.

## **13. FULL COMMITTEE REVIEW & REFERRAL, APPROVAL OR FURTHER INVESTIGATION**

### ***Schedule a Full Committee Meeting***

13.1 The Committee Chairman shall schedule a full Committee meeting for the purpose of receiving an oversight study of an agency from a subcommittee or ad hoc committee.

### ***Options for Handling the Oversight Study***

13.2 The full Committee may:

13.2.1 Refer a legislative oversight study and investigation back to a subcommittee or an ad hoc committee for further evaluation;

13.2.2 Approve the subcommittee or ad hoc committee's report; or

13.2.3 As the full Committee, choose to further evaluate an agency utilizing any of the available tools of legislative oversight discussed in Standard Practice 12.2, Committee Rule 7.4, Committee Rule 7.5, and Committee Rule 7.6.

### ***Approve, Add Written Statements & Publish Final Approved Oversight Study***

13.3 The full Committee shall approve a final oversight study.

13.4 Any member of the Committee may provide a written statement for inclusion with the final study.

13.5 The full Committee's final oversight study shall be published online.

13.6 The agency will receive a copy of the full Committee's final oversight study.

## ***14. POST REVIEW PROCESS***

### ***Briefings***

14.1 The Committee shall offer at least one briefing to Members of the House about the contents of a final oversight study approved by the Committee.

14.2 The Committee Chairman, at his discretion, may provide briefings to the public about the contents of a final oversight study approved by the Committee.

### ***Legislation to Implement Recommendations***

14.3 The Committee recognizes that any Member of the House may file legislation to implement any recommendation.

### ***Post Review Assessments Developed by Committee***

14.4 The Committee shall develop post review assessments in order to receive feedback from various participants on ways to improve the legislative oversight study and investigation process.