

April 17, 2023

MEMO TO: Traci N.T. Fujita, Director of Council Services

F R O M: Ellen McKinley, Legislative Analyst

SUBJECT: **THE PUBLIC ACCESS ROOM'S STATE LEGISLATURE
CONFERENCE COMMITTEE WEBINAR** (PAF 23-021(10))

The Public Access Room hosted a workshop entitled "Learn About Conference" on April 14, 2023, to educate those interested in the State Legislature's conference procedures. Here is a link to the Conference Committee procedures: <https://tinyurl.com/ConferenceProcedure>. The process applies to bills.

The last day for bills to get out of their non-originating chamber was April 13, meaning they have been through all of their assigned committees and passed three votes on both the House and Senate floors. If there were any changes in the non-originating chamber and those changes were not agreed to by the originating chamber, a conference committee with members from each chamber must be formed to agree on the exact language of the bill for it to pass this term. (If the originating chamber does agree to the changes, they schedule it for a final reading.)

The conference period runs from Monday, April 17 to Friday, April 28 at 11:59 p.m. Negotiations must conclude by 6 p.m., and committee reports must be ready for signature by 9 p.m. on April 27 for non-fiscal bills and April 28 for bills that were referred to Finance or Ways and Means.

Typically, if there are any changes to a measure in the second chamber, the originating chamber will put the non-originating chamber on notice that it disagrees with the amendments. Blank appropriation amounts and unrealistic effective dates are often inserted to require conference committee agreement for a bill's ultimate passage. Any bill referred to the House Committee on Finance or the Senate Committee on Ways and Means must be approved by that committee during the conference period.

The chair of the committee to which a measure was first referred is usually the assigned conference committee chair. The leadership appoints the conference committee chairs and conferees. There are two conference committees for each bill – one in the House and one in the Senate. They confer jointly, but vote separately and each need quorum.

April 17, 2023
Page 2

A bill can be killed for the session by leadership's failure to schedule a conference committee meeting. Twenty-four hour notice is required for the first conference committee meeting, but subsequent meetings have no minimum notice requirement, can be publicly announced during the meeting, and can occur later the same day.

No public testimony will be allowed in conference committee meetings, but the meetings are open to the public and streamed and archived on YouTube.

To advocate at this stage, individuals may contact the conference committee chair and members via email, phone, or in the halls of the State Legislature. To influence passage or wording, advocates may also talk to their own legislators, any legislators with whom they have a relationship, the bill's author (first name listed as introducer), or find an advocate within the conferees' district to try to exert influence.

To keep track of bills during the conference committee process, one can refer to this webpage: <https://www.capitol.hawaii.gov/advreports/main.aspx> and select the bar labeled "Conference Committee."

If there is agreement on final wording in conference committee, the measure must have a final reading in each chamber by May 4. The Governor has until July 11 to sign bills, allow them to become law without signature, or veto them.

If the conferees fail to meet or there is no agreement in conference committee, the bill will not be passed this year but will carry over to the next session of the biennium. All bills carried over will pick up where they were in the process. If conferees are not discharged, they could meet and reach agreement at any point, but typically, conferees will be discharged at the beginning of the new session, and the bill will need to have conferees re-appointed. If they agree on a final draft by that year's final decking deadline, it would still need to obtain passing votes on final reading by the end of session.

The Public Access Room recommended this article, by former Representative Fukumoto: <https://tinyurl.com/BFukumoto>. The Public Access Room staff is happy to answer any questions or provide more information: (808) 587-0478 or par@capitol.hawaii.gov.

paf:emb:23-021(10)

cc: David M. Raatz
Legislative Tracking Team



HAWAI'I STATE LEGISLATURE
Ka 'Aha'ōlelo Moku'āina 'Ō Hawai'i

STATE CAPITOL
415 SOUTH BERETANIA STREET
HONOLULU, HAWAI'I 96813

32nd LEGISLATURE, REGULAR SESSION OF 2023
JOINT HOUSE and SENATE
COMMITTEES ON CONFERENCE PROCEDURES

The Senate and the House have agreed to the following special procedures for all 2023 Regular Session Committees on Conference. These Conference procedures shall be effective from 8:00 a.m. on Monday, April 17, 2023, until 11:59 p.m. on Friday, April 28, 2023.

1. Definitions

For purposes of these procedures:

"Chairs" refers to all of the designated chairs and co-chairs of a Conference Committee.

"Conference Committee" refers to the conference of the House Committee and the Senate Committee assigned by their respective chamber to resolve the differences between the House and the Senate over a particular measure.

"Lead chair" refers to the chair of the House Committee or the Senate Committee who is listed first on the Action Sheets, as provided by the respective chamber.

"Lead committee staff" refers to the staff of the lead Chair from the chamber from which the measure in conference originated.

"Managers" refers to all members of the House and Senate assigned to a Conference Committee.

2. Conference Committee Scope and Amendments

The authority of the Conference Committee shall be limited to resolving differences between the Senate and House drafts of a measure.

- a. With the exception of the Executive Budget, the Judiciary Budget, and the Budget of the Office of Hawaiian Affairs, a Conference Committee shall not amend a measure by inserting any unrelated or new subject matter.
- b. To assure the integrity of individual measures, the merging of two or more distinct but related measures into one encompassing measure shall not be allowed.

3. Conference Committee Meeting Times and Places

Conference Committee deliberations shall take place only between the hours of 8:00 a.m. and 9:00 p.m.

A Conference Committee shall meet in the conference room assigned or reserved, pursuant to the Conference Room Scheduling Procedures and Guidelines and Room Assignment Schedule, as attached.

4. Initial Public-Meeting Notice

The electronic signatures of all chairs shall be obtained before the notice of an initial meeting is posted or distributed. Prior to offering the initial meeting notice for signatures, the chairs shall consult with one another on the information to be included in the notice.

Chairs shall provide at least 24-hours public notice of the first meeting of the Conference Committee and are strongly encouraged to provide more than 24-hours notice whenever possible. Written notices shall be submitted to the Senate Chief Clerk and the House Sergeant-at-Arms for posting on the Legislature's website and distribution. The lead committee staff shall post the notice adjacent to the door of the assigned conference room at the time of the meeting.

5. Notice of Subsequent Meetings

- a. If agreement is not reached at a duly noticed meeting but the lead chairs of both chambers agree to meet again before 9:00 pm on the same day, the lead chairs of both chambers shall publicly announce at the meeting the time and place at which the Conference Committee will reconvene. A new meeting notice of the reconvening of the Conference Committee on the same day is not required. However, a marked-up copy of the notice indicating the time and place of the subsequent meeting shall be submitted to the Senate Chief Clerk or the House Sergeant-at-Arms as soon as possible for updating individual bill status on the Legislature's website. The lead committee staff shall post a copy of this marked-up notice adjacent to the door of the assigned conference room at the time of the subsequent meeting.
- b. If agreement is not reached at a duly noticed meeting but the lead chairs of both chambers agree to meet on another day, the lead chairs of both chambers shall publicly announce at the meeting the date(s), time(s), and place of the subsequent meeting(s), and submit written notice to the Senate Chief Clerk or the House Sergeant-at-Arms for posting on the Legislature's website. The lead committee staff shall post the notice adjacent to the door of the assigned conference room at the time of the meeting.
- c. If agreement is not reached at a duly noticed meeting and the date(s), time(s), and place of future meetings are not publicly announced at that noticed meeting, chairs shall ensure that a written meeting notice, signed electronically by the lead chairs of their respective chamber, is submitted to the Senate Chief Clerk or the House

Sergeant-at-Arms for posting on the Legislature's website at least 24 hours in advance of the next meeting of the Conference Committee. The lead committee staff shall post the notice adjacent to the door of the assigned conference room at the time of the meeting.

6. Attendance at Meetings

- a. To convene the initial conference committee meeting only the lead House and Senate chair must be present. All other conference committee managers, especially any co-chair, should attempt to be present.
- b. Once a conference has been opened, reconvening of any subsequent meeting of a conference committee shall require the following:
 - i. For the Senate, the lead chair or a co-chair must be present.
 - ii. For the House, the lead chair must be present.
 - iii. All other conference committee managers, especially any co-chair, should attempt to be present at the convening of and during each meeting.
- c. For decision-making at a meeting, a quorum must be present. "A quorum shall be a majority of the House Committee managers and a majority of the Senate Committee managers and shall include the lead House and Senate chair and majority of the chairs of the Conference Committee for their respective chamber." See Section 9.a of the "Procedures." The lead House and Senate chair of the conference committee must be part of this quorum.
- d. For a fiscal measure, the chair or co-chair representing the House Finance Committee and Senate Ways and Means Committee must be present during decision-making and give their approval.

7. Conference Discussion

Except as authorized by the respective chairs, only the respective chairs may speak during conference. All other managers or other authorized persons shall be recognized by their respective chairs before speaking on any issue.

8. Decorum in Conference Committee Meetings and Courtesy to the Public and to the Managers

- a. Managers shall respect the differing views of other managers and conduct themselves in a courteous manner.
- b. Chairs shall ensure that meetings convene and reconvene at scheduled times. If none of the chairs of one of the Committees are present within 15 minutes of the scheduled meeting time, the chairs of the other Committee shall contact the absent chair.
- c. If none of the absent chairs are present within 30 minutes of the scheduled meeting time, the chairs present shall inform the managers and members of public present that the

Conference Committee cannot be convened or reconvened, and that, pursuant to 5c of these Committees on Conference Procedures, a 24-hour advance notice shall be provided for a subsequent meeting of the Conference Committee.

9. Decision-making Meeting

The decision-making meeting of a Conference Committee shall comply with the following open meeting provisions:

- a. A quorum of the Conference Committee shall be present for the decision-making meeting. A quorum shall be a majority of the House Committee managers and a majority of the Senate Committee managers and shall include the lead House and Senate chair and majority of the chairs of the Conference Committee for their respective chamber.
- b. To report a measure out of Conference Committee in amended form, Conference Draft (CD), a majority of the quorum of managers for each respective chamber shall vote in favor of the proposed amendments.
- c. The lead chair (or the lead chair's designee) representing their respective chamber shall call the roll and be the recorder of the quorum and the votes on that measure for that chamber. (Sample attached).
- d. If, after naming a Conference Committee on a measure, the Conference Committee managers representing the chamber from which a measure originated agree to the amendments made by the non-originating chamber, only a quorum of those representing the originating chamber shall vote on the agreement at a duly noticed meeting. For example, if after naming a Conference Committee on a House measure, the House managers of the Conference Committee decide to agree to the amendments in the Senate draft (SD) of the measure, then only the House managers of the Conference Committee shall vote on the measure, returning it to the House in its SD form. For such action, only a quorum of the Conference Committee managers representing the chamber from which the measure originated need to be present. The "Record of Votes of a Conference Committee" sheet detailing the votes of the managers of the originating chamber shall be filed with the appropriate chamber without a Conference Committee Report.

10. Conference Committee Reports

- a. A majority of the House and Senate chairs, respectively, of a Conference Committee shall attest to the action of the Conference Committee by physically signing the Conference Committee Report on behalf of their respective managers; provided that no Conference Committee Report concerning a measure with fiscal implications shall be reported out of a Conference Committee without the physical signature of the chair (or the chair's designee) of each fiscal committee to which the measure is referred. The "Record of Votes of a Conference Committee" sheet detailing the votes of the managers of the Conference Committee shall be attached to the report as a part thereof.

- b. All House measures reported out of Conference Committee shall be filed with the House Chief Clerk, and likewise all Senate measures shall be filed with the Senate Chief Clerk. A document filed in the originating chamber shall be deemed simultaneously filed in the other chamber. Only the original Conference Committee Report, with the attached Record of Votes, and the Conference Draft of the measure shall be required for filing.
- c. If the Conference Committee votes to report the measure out, the Committee must file a Conference Committee Report and Conference Draft with the appropriate chamber's Chief Clerk.

11. Decision-making Deadlines

On the deadline nights for Final Decking of both non-fiscal and fiscal bills:


- a. Conference Committees shall conclude their negotiations by **6:00 p.m.** to allow adequate time for final preparation of the bills and Conference Committee Reports.
- b. To provide all chairs with ample opportunity to review and sign the Conference Committee Reports before filing, all Conference Committee Reports shall be available for review and signature by **9:00 p.m.**
- c. All Conference Committee Reports and Conference Drafts of measures shall be filed with the respective Chief Clerk by **11:30 p.m.**

12. Electronic Transfer

Should a Conference Committee for which the vehicle is a Senate bill decide to use a proposal drafted by the House, the House chair shall have the House proposal electronically transferred to the appropriate Senate office so that the Conference Draft can be prepared. The converse shall apply to House bills with proposals drafted by the Senate that the Conference Committee agrees to.

13. Exceptions to these Deadlines and Procedures

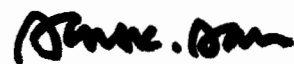
Exceptions to these deadlines and other procedures may be made only with the advance written approval of both the Senate President and the House Speaker.



Ronald D. Kouchi
President of the Senate



Date



Scott K. Saiki
Speaker of the House of Representatives



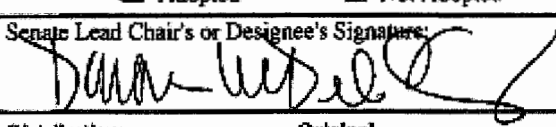
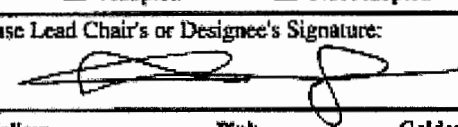
Date

Attachment

Hawaii State Legislature

CCR 20A-22

Record of Votes of a
Conference Committee

Bill / Concurrent Resolution No.: HB 1600, HD 1, SD 2					Date/Time: APRIL 27, 2022 2:12PM				
<input checked="" type="checkbox"/> The recommendation of the House and Senate managers is to pass with amendments (CD).									
<input type="checkbox"/> The Committee is reconsidering its previous decision.									
<input type="checkbox"/> The recommendation of the Senate Manager(s) is to AGREE to the House amendments made to the Senate Measure					<input type="checkbox"/> The recommendation of the House Manager(s) is to AGREE to the Senate amendments made to the House Measure.				
Senate Managers	A	WR	N	E	House Managers	A	WR	N	E
DELA CRUZ, Donovan M., Chr.	✓				LUKE, Sylvia, Chr.	✓			
KEITH-AGARAN, Gilbert S.C., Co-Chr.	✓				BRANCO, Patrick Pihana	✓			
INOUE, Lorraine R.	✓				ELI, Stacelynn K.M.	✓			
KANUHA, Dru Mamo	✓				HOLT, Daniel	✓			
KIDANI, Michelle N.	✓				ILAGAN, Greggor	✓			
MISALUCHA, Bennette E.	✓				KOBAYASHI, Bertrand	✓			
MORIWAKI, Sharon Y.	✓				MARTEN, Lisa	✓			
SHIMABUKURO, Maile S.L.	✓				NISHIMOTO, Scott Y.	✓			
TANIGUCHI, Brian T.	✓				PERRUSO, Amy A.	✓			
WAKAI, Glenn	✓				SAYAMA, Jackson D.				✓
FEVELLA, Kurt	✓				TAM, Adrian K.	✓			
					TODD, Chris	✓			
					WILDBERGER, Tina			✓	
					YAMASHITA, Kyle T.	✓			
					MCDERMOTT, Bob	✓			
TOTAL	11				TOTAL	13		1	1
A = Aye WR = Aye with Reservations N = Nay E = Excused									
Senate Recommendation is:					House Recommendation is:				
<input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted					<input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Senate Lead Chair's or Designee's Signature:					House Lead Chair's or Designee's Signature:				
									
Distribution:									
Original		Yellow		Pink		Goldenrod			
File with Conference Committee Report		House Clerk's Office		Senate Clerk's Office		Drafting Agency			

Commentary

Beth Fukumoto: The Messy Process Of Conference Committee Is About To Begin

The final weeks of the legislative session are the last opportunity for the House and Senate to resolve policy differences and propel bills into laws.

By [Beth Fukumoto](#)

April 14, 2023 · 5 min read



7



The senators were late, and we were getting nervous. We only had a couple more hours to negotiate our committee’s final bills for the legislative session. The staff shook their heads apologetically when we looked over. There was no word on when they’d arrive.

It was my second term as a state representative, so I knew what was happening just as well as every other House member in the room. The Senate stood us up.

It was a common tactic in the final weeks of the session, which always turned the State Capitol into a chaotic game of hide and seek. I once saw a Senate chair stop negotiations on a contentious bill to go to the bathroom. It was such a clear attempt to buy more time that the House chair nearly followed him.

The Legislature's conference period, the catalyst for the above-referenced melee, is the last opportunity for both chambers to resolve their policy differences and draft compromises on bills they passed in different versions. It sounds good on paper, but it's pure mayhem in practice. Negotiations on hundreds of bills are crammed into two weeks when legislators, advocates and watchdogs are tired and emotional.

The process is opaque and frustrating. It's also consequential. Last year, over 400 bills were considered during conference committees, and 60% of them became law. In other words, anyone looking to influence legislation must be able to navigate the mechanics, pitfalls and opportunities of the conference period, which starts next week.



Negotiations on hundreds of bills are crammed into two weeks of frantic negotiations before the lucky few become law. (Cory Lum/Civil Beat/2018)

Overcoming Hurdles

Let's quickly **cover the mechanics**. If one chamber amends another chamber's bill, the originating chamber can agree or disagree with the changes. If they disagree, the bill enters the conference process. Once it becomes a **conference measure**, the bill must clear various hurdles to become law.

And each hurdle is a potential death trap.

First, the House and Senate must appoint conferees to negotiate each bill. These members form the conference committee, which usually consists of three to six legislators per chamber.

Trap No. 1: The bill dies if either chamber chooses not to appoint conferees.

Trap No. 2: The bill dies if either chamber discharges conferees without appointing new ones.

When appointed, the conferees must schedule a hearing to open negotiations and publish a public notice 24 hours before their initial meeting.

Trap No. 3: The bill dies if the conferees do not schedule a hearing.

Once negotiations are opened, bills tend to die less straightforward deaths. If a bill isn't going to make it out of its conference hearing, the best-case scenario is that the committees discuss their differences in full view of the public and explain why they can't reach an agreement. But it's rarely that simple.

In my opening example, we assumed the missing senators decided not to follow through with the language we'd already agreed on.

Trap No. 4: With a deadline looming, conferees can kill a bill simply by not showing up. If you don't have enough time to reschedule and don't have enough members present, you can't pass a compromise measure.

Decisive Money Committee Chairs

The senators, in my case, weren't actually hiding.

Most conference measures can only pass with approval from the House Finance Committee, Senate Ways and Means Committee, or both. So when you follow a bill through conference, you hear a few phrases over and over – “we don't have Finance approval,” “we're still waiting on Ways and Means,” and “let's reconvene.” For the first week, these statements are practically performative.

By the end of the second week, desperation creeps in. Senators want to know why their House counterparts can't get Finance approval when Ways and Means has already signed off. House conferees question why senators keep postponing decisions and

requesting new changes. Committees begin to reconvene with increasing frequency, moving from once to twice daily to every couple of hours.

Eventually, someone's running from room to room granting approvals, or you're all corralled in one place, hoping the money committee chairs will call your bill number before the clock runs out. We found our senators doing the latter, packed into a conference room one floor above us with every other legislator still trying to get a bill across the finish line.

Trap No. 5: If a bill has a fiscal implication, even if a negotiated draft is prepped and ready for a vote, the Finance and Ways and Means chairs hold a God-like power over its fate. If they haven't approved it by the deadline, the bill dies.

Opportunity Knocks

As messy as it seems, I have yet to meet a single legislator who doesn't have some version of this process in their state. There are always reforms to be made, but pending a miracle, advocates should know how to spot opportunities amid the chaos. Here are a few suggestions.

Focus your efforts. A single member of a large standing committee can rarely change a bill's outcome. However, in smaller conference committees where a member showing up can make or break the vote, an individual member can have an outsized impact. Any conferee could be a key ally.

Be a resource. The hectic conference timeline means legislators don't have time to sit and research new ideas or vague suggestions. If you want something done, give them concrete options. Provide concise, useful facts. Draft sample language.

Keep showing up. Believe it or not, most lawmakers run for office to help people. When you're present for their negotiations, you remind them why they should keep trying. And if they know you're reliable, they might even seek your opinion in the process.

Read this next:



House Speaker Has Little To Say About Party Incident At His Capitol Office

By Chad Blair · April 14, 2023 · 5 min read
