

# MEMORANDUM ON HOUSE RULES REFORM

## FAIR DISTRICTS PA

### MARCH 2023

#### WHY IS FAIR DISTRICTS PA CONCERNED ABOUT HOUSE RULES REFORM?

In the 2017-2018 session, Fair Districts PA helped lead a statewide campaign calling for the creation of an independent redistricting commission to oversee the redrawing of legislative district boundaries, consistent with US Census data and fair reapportionment principles. By the spring of 2018, related legislation, House Bill 722, had 110 cosponsors, more than half the 203 House members. Yet a single individual—a House committee chair—prevented the bill from being scheduled for a vote, then gutted the bill to prevent a successful discharge resolution. The session ended without any further action.

Through this experience, Fair Districts PA supporters learned that Pennsylvania’s legislative rules can allow one person to jettison a bill that has gained broad public and legislator support.

We were not alone. Many other bipartisan bills with broad public support have died in committee, blocked by the opposition of one member with disproportionate political power. In a December 2022 publication, *Dysfunction By Design: Why Pennsylvania’s State Legislature is So Unproductive...and How We Can Fix It*, we delineated eleven bipartisan bills repeatedly introduced and repeatedly ignored, session after session. Through our experience and the experience of others, we have learned that reform of PA’s legislative rules is an essential step toward ensuring that bipartisan legislation receives a vote.

## WHY RULES MAKE A DIFFERENCE

Traditionally, rules governing the legislative process are voted on by each chamber at the start of each new legislative session. Under these circumstances, many newly elected House members begin their first days in office with a vote that cedes much of their power to six individuals: the majority leaders of the House and Senate; the House Speaker and the Senate Pro Tempore President; and the chairs of the House and Senate committees. Often the 80 pages of rules are presented just a few hours before this first vote. These rules, voted quickly into place, then allow any committee chair to single-handedly block any bill, no matter how much support that bill has in the legislature or with the people of Pennsylvania.

## FDPA'S SUGGESTIONS

In 2023-24, Fair Districts PA proposed several improvements to the rulemaking process that we felt would encourage bipartisan solutions and cross-the-aisle collaboration. We hoped the election of 53 new House members and new House majority leadership would lead to opportunities for constructive change.

### WE SUGGESTED THAT:

- Rules should be publicly released at least 24 hours before the House vote to allow the public and all legislators time for review.
- Rules should create a priority status designation for bills with strong bipartisan support and mandate a vote on such bills.
- Rules surrounding constitutional amendments should ensure greater transparency and deliberation.

### WE APPRECIATE THAT THE 2023 RULES PROCESS ADDRESSED SOME OF FDPA'S CONCERNS. SPECIFICALLY:

- Voters were given a chance to offer their own perspective through a four-stop Speaker's Listening Tour.
- Minority-party rule recommendations were made available in advance.
- Majority-party recommendations were produced (although not in advance) after significant dialogue among members rather than presented to rank-and-file members following closed-door leadership sessions.

The process still fell far short of real transparency, with minority party members having little time to review or address rules proposals and no way for the public to see the rules resolution even as it was discussed on the House floor.

## CHANGES IN HOUSE RULES

Some substantive changes were made in the House rules that were adopted for the 2023-24 session, as shown.

**CONGRESSIONAL REDISTRICTING:** *The redrawing of boundaries for US House of Representatives districts every 10 years to ensure that all districts have roughly equivalent populations.*

### **PRIOR RULES**

There were no rules regarding introduction of congressional district plans. Leaders routinely introduced plans with no specific language and amended those bills late in the process. Rank-and-file had to vote on plans and amendments without seeing what the proposed plans would look like.

### **NEW RULES FOR 2023-24 SESSION**

The new rules require that legislation for proposed congressional district boundaries be accompanied by a map, posted online for public review. Amendments to the proposed legislation must also be accompanied by a publicly available map.

**DISCHARGE RESOLUTION:** *The filing of a discharge resolution is intended as a way to move bills to a floor vote when committee chairs refuse action in committee.*

### **PRIOR RULES**

A discharge resolution required 25 sponsors, with no requirements regarding party affiliation. Party leaders or committee chairs could amend a bill or move it to another committee before a vote was taken on the discharge resolution. If the bill was moved, the process for the discharge resolution had to start anew.

### **NEW RULES FOR 2023-24 SESSION**

A discharge resolution must have 50 sponsors, with at least 25 from each party. Once the discharge resolution has 50 signatures and is approved by a majority House vote, the bill must be brought immediately to the House floor and scheduled for consideration, even if the bill has been moved to another committee.

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While the discharge resolution now requires support from both parties, it's not clear that this change will open a path for bipartisan solutions. For this, as for other rules, leaders will still have much discretion.

## CHANGES IN HOUSE RULES, CONTINUED

**COMPOSITION OF HOUSE COMMITTEES:** *Number of majority-party and minority-party members to be appointed to serve on each House committee.*

### **PRIOR RULES**

Each committee consisted of 15 majority-party members and 10 minority-party members. Yea votes from a majority of members present were required to move a bill out of committee.

### **NEW RULES FOR 2023-24 SESSION**

Each committee will consist of 12 majority-party members and 9 minority-party members. Yea votes from a majority of members present are required to move a bill out of committee.

**CONSTITUTIONAL AMENDMENTS:** *Procedure for proposing changes to the Pennsylvania Constitution. Amendments must be passed in both chambers in two successive sessions, with a required three-month advertising period, then put on the ballot for a voters' referendum in the next election.*

### **PRIOR RULES**

The PA Constitution provides rules governing the process described above. The Constitution also requires that all bills cover only one subject. Legislative leaders have interpreted those rules to allow multiple constitutional amendment proposals to be “bundled” into a single bill during the legislature’s voting process.

### **NEW RULES FOR 2023-24 SESSION**

New House rules apply the constitutional single-subject rule to constitutional amendments, stating that amendments originating in the PA House can cover only one subject.

Rules also require that constitutional amendments

- Must be considered in a public hearing.
- Must be scheduled for a referendum vote in a general (not primary) election.

## DISCRIMINATION AND SEXUAL HARASSMENT

### **PRIOR RULES**

One-hour training per session was required on discrimination and sexual harassment, with no prohibitions or consequences associated with violations. Prohibitions and consequences for harassment of House employees were added to the 2019-2020 rules, but disappeared in the 2021-2022 rules.

### **NEW RULES FOR 2023-24 SESSION**

One-hour training required. Prohibitions and consequences for discrimination and sexual harassment are expanded to apply to cover any instances while performing duties of the House, on any House property, or at any House event.

## CAN THE RULES BE CHANGED AFTER INITIAL ADOPTION?

Yes—but past experience suggests that the prospects for success are unlikely.

### THE PROCESS:

In the past 16 years, a Fair Districts PA researcher found that, of 79 proposed House rules resolutions authored by Democrats and Republicans during this period, only one was approved by the House and adopted. (HR263, which was approved in 2007, changed how Ethics Committee members were chosen.)

This history underscores how important it is for newly elected members to understand the rules prior to the start of the legislative session.

OVER A 16-YEAR PERIOD  
79 RULES CHANGES WERE PROPOSED  
78 NEVER RECEIVED A VOTE IN RULES COMMITTEE  
ONLY 1 WAS APPROVED

### CREATING A CULTURE OF COLLABORATION

The 2016 FairVote and Bipartisan Policy Center report, *Best Practices for Collaborative Policymaking*, identified two key principles:

1. Centralization of agenda-setting power in the hands of party leaders constrains opportunities for bipartisan policymaking.
2. Prospects for bipartisan policymaking are enhanced where there are strong relationships between legislators and legislative leaders of different parties.

The new House rules do little to decentralize agenda-setting power but greater collaboration is still possible.

At the Philadelphia session of the Speaker's Listening Tour, Patrick Christmas, Policy Director of the Committee of Seventy, said,

*Rules reform cannot guarantee positive outcomes on its own. The building and maintenance of relationships among lawmakers within and between their partisan caucuses is also essential. Such relationships engender the trust and civility that allows for individuals with different life experiences, ideologies and viewpoints to sit across from each other and work to find common ground, acknowledge points of disagreement and, where necessary, compromise to make forward progress on a given issue*

*The Capitol All-Stars softball game is a perfect example of a simple exercise that brings together—and integrates within teams—lawmakers from both parties, even if temporarily. As one party leader noted, the game “is a great reminder to all of us why we ran for office in the first place,” while another called it “a rare and welcome moment of unity.”*

## WHY MUST THESE MOMENTS BE SO RARE?

Collaboration and cooperation among members on both sides of the aisle AND between House and Senate are essential. In recent sessions, **more than half** of the bills approved in one chamber failed to reach a final vote in the other. A review of legislative action in 2021-2022 shows that **more than 50%** of the bills stuck in the second chamber passed out of the first unanimously. That was true for a total of 208 bills: 125 bills passed unanimously from the House weren't given a final vote in the Senate; 83 bills passed unanimously from the Senate weren't given a final vote in the House.

| 2021-2022 PA LEGISLATIVE SESSION  |       |       |        |
|---|-------|-------|--------|
|   | Total | House | Senate |
| Bills passed in at least one chamber  | 738   | 457   | 281    |
| Bills passed in one chamber but did not get a floor vote in the second chamber                    | 402   | 247   | 155    |
|   | 54%   | 54%   | 55%    |
| Bills passed <b>unanimously</b> in one chamber but did not get a floor vote in the second chamber | 208   | 125   | 83     |
|   | 52%   | 51%   | 54%    |

### **Public confidence in the General Assembly would increase if legislative leaders supported three broad principles as their guide to future lawmaking.**

- Bills with demonstrated bipartisan support are given a committee hearing and a committee vote;
- Bills voted out of committee with bipartisan support are given a vote on the chamber floor; and
- Bills passed in one chamber with demonstrated bipartisan support are given speedy consideration in the other chamber.

### **In addition to adopting these three principles, legislative leaders should consider related operational questions, including the following.**

- What constitutes a bipartisan bill? Is any bill with a cosponsor from both the majority party and the minority party bipartisan? Or should a minimum number of cosponsors from each party be specified, or some other evidence of bipartisan support be required?
- What provisions should be made for public review of proposed legislation, including the scheduling of a public hearing as part of the committee review process?
- What related information, copies of legislation and amendments and transcripts and video recordings of hearings, can be made available online in advance of voting?

The adoption of operational protocols to address these and similar questions will make the legislative process more transparent, collaborative, and efficient. It will also increase public confidence in the integrity of the General Assembly during the 2023-24 session.