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Office of Legislative Counsel: Senate

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Background and History

The original Legislative Drafting Service,¹ established by Section 1303 of the Revenue Act of 1918,² was a single agency composed of two independent branches, one under the direction of the Senate and the other under the direction of the House. In 1970, the House Office of Legislative Counsel was given its own separate legislative charter,³ but the Senate Office of Legislative Counsel continues to operate under the authority of the original statutory mandate.

Structure and Functions

The office is under the direction of the Legislative Counsel of the Senate, who is appointed by the President pro tempore of the Senate, “without reference to political affiliations and solely on the ground of fitness to perform the duties of the office.” The Legislative Counsel is empowered to appoint senior and assistant counsels, clerks, and other employees “necessary for the proper performance of the duties of the Office.” In 1999, the Legislative Counsel was given the authority to designate a deputy legislative counsel to serve during his absence or disability or when the position of Legislative Counsel is vacant.⁴ The professional staff of the office also includes approximately 30 attorneys and an administrative support staff.

The statutory mandate of the office is to provide aid in drafting public bills and resolutions and amendments thereto. This requires the office to be impartial as to the issues of legislative policy and to maintain the attorney-client relationship with respect to any communications with Senators or staff. The work of the office typically includes

- Drafting bills and resolutions for introduction, and drafting of amendments for use by Senators during subcommittee, committee, and floor consideration of bills and resolutions.
- Drafting bills reported by Senate committees and conference reports for House and Senate conference committees.
- Providing advice (including advice on form and procedure) on drafts of bills, resolutions, and amendments.
- Providing advice on constitutional, legal, and technical problems in statutes, proposed legislation, and reports and explanatory statements accompanying proposed legislation.

Drafting assistance is provided only upon request as there is no requirement in the rules of the Senate that bills, resolutions, or amendments be drafted by the office. The ability of the office to respond to requests for assistance can be affected by the volume of requests for drafting assistance, as well as the complexity of the issues presented. The Senate Committee on Rules and Administration has determined the order of preference to be given to legislative drafting requests:

¹ The Legislative Drafting Service was renamed the Office of Legislative Counsel by Section 1101 of the Revenue Act of 1924, 43 Stat. 353 (1924), to avoid confusion with the Legislative Reference Service of the Library of Congress (now the Congressional Research Service).

² Revenue Act of 1918, 40 Stat. 1141 (1919), 2 U.S.C. 271-276b

³ Title V of the Legislative Reorganization Act of 1970, (2 U.S.C. 281-282e).

⁴ See P.L. 106-57, Title I, Section 6, 113 Stat. 412.

(1) measures in conference; (2) amendments to measures pending on the floor; (3) amendments to measures pending before a committee; and (4) measures to be prepared for individual Senators. Within each of these categories, priority is given to requests based upon the time of receipt.

The office may perform other legal services for the Senate not inconsistent with statutory mandates. Matters involving legal advocacy and litigation relating to Senators' performance of official duties, however, are the province of the Senate Legal Counsel and the Senate Chief Counsel for Employment.

Contact Information

The Office of Legislative Counsel is located in Room SD-668, Dirksen Senate Office Building. Requests for assistance may be made in person, in writing, by telephone (4-6461), by fax (4-0567), or via email (receptionist@slc.senate.gov). Additional information on the office's policies, procedures, and services is available from the Legislative Counsel's website at <http://slc.senate.gov/index.htm>.

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This report was originally written by Thomas P. Carr, formerly an analyst in American National Government at CRS. The listed author updated the report and is available to answer questions concerning its contents.