



TEXAS LEGISLATIVE COUNCIL HOUSE BILL ANALYSIS PREPARATION (Revised February 2015)

A bill analysis (BA) is required by house rule for the version of a bill or joint resolution being heard in a house committee and for the version passed out of the committee as part of the committee report. The responsibility for a BA lies with the committee to which a bill is referred. The research division of the council provides BA drafting services and most house committees avail themselves of this service. Because of the heavy volume of requests and limited staff resources, the council will not draft a BA unless the bill is set for a hearing or has been voted out of committee. Like a committee, a member may request a BA from the council on any bill the member has authored. However, since a member-requested BA is produced at the same time and is identical to the BA produced for the committee, the council generally does not receive BA requests from members.

House Rule 4, Section 32(c), specifies the required content of a BA on the committee report version of a bill:

(c) Except for the general appropriations bill, each committee report on a bill or joint resolution, including a complete committee substitute, and, to the extent considered necessary by the committee, a committee report on any other resolution, must include in summary or section-by-section form a detailed analysis of the subject matter of the bill or resolution, specifically including:

- (1) background information on the proposal and information on what the bill or resolution proposes to do;
- (2) an analysis of the content of the bill or resolution, including a separate statement that lists each statute or constitutional provision that is expressly repealed by the bill or resolution;
- (3) a statement indicating whether or not any rulemaking authority is expressly delegated to a state officer, department, agency, or institution, and, if so, identifying the sections of the measure in which that rulemaking authority is delegated;
- (4) a statement indicating whether or not the bill or resolution expressly creates a criminal offense, expressly increases the punishment for an existing criminal offense or category of offenses, or expressly changes the eligibility of a person for community supervision, parole, or mandatory supervision;
- (5) a statement of substantial differences between a complete committee substitute and the original bill; and
- (6) a brief explanation of each amendment adopted by the committee.

The house rule allows a BA to be drafted in summary or section-by-section form. Council-drafted BAs use a combination of these forms, as appropriate. All sections of a BA are drafted in summary style except the Comparison of Original and Substitute section, which is drafted as a side-by-side, section-by-section comparison. The BA example on page 4 describes the content of a council-drafted BA.

The vast majority of house committees require the author to provide a background and purpose statement (B&P) when asking for a committee hearing on the bill. If the committee asks the council to draft a BA on the bill, the committee forwards the author's B&P to the council. To avoid delivering a BA that contains a statement that may not meet rule requirements, the council will revise the submitted language as necessary. It may be helpful to remember that a council BA is intended to be informational and to satisfy house rule requirements. Offices that want additional background or persuasive materials to be considered by the committee or during floor debate may wish to consider providing such materials to the members separately. Information on pages 2 and 3 and the informational video "Preparing a Bill Analysis Background and Purpose," available on the Texas Legislative Council YouTube channel (<http://www.YouTube.com/TXLegeCouncil>), provide tips on drafting a B&P that meets rule requirements. This information is not intended to serve as an interpretation of house rules. For specific rule questions, please contact the house parliamentarian's office.

Although the B&P section does not have a word count restriction, in most instances a case for the bill's passage can be made in approximately 200-800 words. Even though the house rules do not specify the structure of the B&P, it usually contains background information describing the circumstances that prompted the filing of the bill and a general statement of purpose regarding the objective of the bill.

Background. Information may include a description of the circumstances that prompted the filing of the bill, written without specificity. For example:

- Interested parties contend/assert/specify that the powers and duties of a regional mobility authority need to be refined and updated.
- According to a government agency, incidents of mortgage fraud have increased significantly for the past several years.
- Recent developments illustrate the need to revise Texas unclaimed property laws.
- Legislative efforts in the past did not provide sufficient direction for school districts to operate on a four-day instructional week.
- Recently enacted legislation exempted certain property tax appraisal information from disclosure under the state's open records law.

Background information also may include a statement about current law that can be corroborated by language in the bill. For example:

- Currently, operating a metal recycling facility without a permit is a Class A misdemeanor.
- Currently, a regional mobility authority is authorized to construct and operate a transportation project.
- Currently, a student-to-teacher ratio of 10 to 1 is required in accelerated instruction classes.
- Currently, a groundwater conservation district is authorized, but not required, to contract with the State Office of Administrative Hearings in order to conduct a contested case hearing.
- Currently, the definition of corporal punishment as it relates to student discipline excludes the use of authorized restraints.

Purpose. The purpose is often stated in terms of the change in law that alleviates a stated problem or provides a desired benefit. For example:

- H.B. XX seeks to revise the applicable laws relating to the authority and powers of a regional mobility authority.
- The goal of H.B. XX is to give more local control to school districts by allowing school districts to decide appropriate student-to-teacher ratios.
- H.B. XX addresses this issue by revising provisions relating to internet dating safety.
- S.B. XX seeks to revise current law relating to a tenant's remedies when a landlord fails to maintain the premises.
- S.B. XX seeks to remedy this situation by adding new requirements regarding the use of corporal punishment.

This handout can be found online at http://capweb/gtlc/drafting/BA_Prep_Tips.pdf.

The following table contains additional tips for drafting the B&P statement. The aim of these tips is (1) to focus the reader’s attention on the key concepts supporting the bill’s passage rather than on specific details that call attention to themselves and away from the concepts the author wishes to present; and (2) to minimize the possibility of introducing an outdated fact that may make the B&P misleading.

Items to avoid when drafting a B&P	Instead of this . . .	Use this
Specific numbers	The program costs \$2.3 million; youth centers in 96 counties; legislation passed in 23 states	The program costs more than \$2 million; youth centers in approximately 100 counties; legislation passed in more than 20 states
Specific dates	May 14, 2014; between 1998 and 2014	Recently; within the past two decades
Lists of specific states, counties, cities, districts, etc.	in California, Massachusetts, Vermont, and Wyoming	in several states
Case citations and other specifics about court cases	<i>Smith v. Jones</i> , 123 S.W.3d 456 (Tex. App.—Texarkana 2011)	a recent case; a recent ruling by a Texas court
Names of private citizens or companies	Sarah Bellum, an employee of Cerebral Dynamics, which is based in Corpus Christi	an employee of a Texas-based company
Statements of opinion as fact without reference to the source of the information	Unattended vehicles are a nuisance.	According to some neighborhood groups, unattended vehicles are a nuisance.
Repetition of information	License fees are too high. Fees have risen more than 300 percent over the past year. The fees are so high, many licensees cannot afford to pay them and are moving to other states.	Recent increases in license fees have been a factor in many licensees leaving Texas.
Overly detailed description of the reasons for the proposed change	DNA testing has been performed since 1985. The procedure involves The procedure was first regulated in 1988. . . . Rules were adopted in 1992. . . . The rules were amended in 2006. . . . The bill requires each facility to be licensed.	The bill requires each DNA testing facility to be licensed.
Incomplete or misleading explanations of what the bill proposes to do	The bill proposes to remedy this situation by requiring all materials to be produced in English and French.	The bill proposes to remedy this situation by requiring all materials to be produced in English, French, <i>or any other appropriate language, or in multiple languages.</i>
Factual statements about intention	Attorneys use this process to avoid scrutiny.	Interested parties assert that this process might be used by attorneys who wish to avoid scrutiny.

BILL ANALYSIS

H.B. ##
By: Member
House Committee Name
Version of Bill

BACKGROUND AND PURPOSE

This section briefly describes the circumstances that prompted the filing of the bill and provides a general statement regarding the purpose of the bill. This section also may contain an author's statement with additional information.

CRIMINAL JUSTICE IMPACT

This section indicates whether or not the bill expressly creates a criminal offense, expressly increases the punishment for an existing criminal offense or category of offenses, or expressly changes the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

This section either states that no rulemaking authority is expressly granted or identifies the bill section that expressly grants or transfers rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

This section provides a sufficiently detailed explanation of the significant provisions of the bill. The purpose of this section is to convey to members the changes the bill makes to existing law.

EFFECTIVE DATE

This section states the effective date or dates of the bill.

EXPLANATION OF AMENDMENTS

This section is drafted only for those bills reported from committee with amendments and briefly describes each amendment adopted by the committee.

COMPARISON OF ORIGINAL AND SUBSTITUTE

This section is drafted only for those bills reported from committee as substituted and depicts the substantial differences between the committee substitute and an introduced version or opposite chamber engrossment, as shown below.

INTRODUCED

SECTION 1. Subchapter C, Chapter 42, Human Resources Code, is amended by adding Section 42.065 to read as follows:

Sec. 42.065. ADMINISTERING MEDICATION. (a) In this section, "medication" means a drug that may be obtained with or without a prescription.

SECTION 2. This Act takes effect September 1, 2013.

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Subchapter C, Chapter 42, Human Resources Code, is amended by adding Section 42.065 to read as follows:

Sec. 42.065. ADMINISTERING MEDICATION. (a) In this section, "medication" means a drug that may be obtained with or without a prescription, excluding a topical ointment obtained without a prescription.

SECTION 2. Same as introduced version.