
LEGISLATIVE CONCEPT PROCEDURES

For a successful 2009 Legislative Session, legislative concepts and budgets should be developed together, both of which must be measured against the Governor's policy priorities and the Oregon Benchmarks. The budget and legislative concept processes should be used to examine priorities, look for solutions and outcomes rather than programs and activities, and look for partnerships that can achieve outcomes more effectively and economically than going it alone.

To help with this process, DAS and the Governor's Office will review and approve all legislative concepts. During these reviews, agencies may be asked to provide more information or documentation. Complete submittals will help the process. Contact the DAS Legislative Coordinator at 503-378-3118, if you have questions.

The last day to submit legislative concepts to DAS is April 4, 2008. It helps to submit concepts and supporting information as they are prepared rather than to wait for the final date.

Placeholders will be accepted only when it can be shown that the concept is essential and that timely completion was beyond the control of the agency and its governing body. For example, placeholders may be necessary to provide for proposed initiatives that may be approved by voters at an upcoming election, to provide for anticipated changes in federal laws, or in anticipation of the results of a governor's or legislatively mandated task force. Placeholders still need an explanation of the policy objective of the concept, and draft language. An agency should have a good idea of what they are trying to affect even though they may be waiting on input from a task force. Placeholders must be completed by June 30, 2008, unless the agency receives specific approval from DAS to continue beyond that date. All information submitted for placeholders must be within the scope of the placeholder as originally described.

Agencies may ask the Department of Justice to draft language for them. Although this may be helpful, it does not affect the schedule requirements for submitting information to DAS or Legislative Counsel.

Legislative Concept Policy Guidelines

No executive branch agency may cause a bill or measure to be introduced before the Legislative Assembly without the approval of the Governor. Concepts that have been approved during the early stages of the process may be disapproved prior to pre-session filing.

A concept should accomplish some of these goals:

- Achieving the Governor's policy priorities and the Oregon Benchmarks.
- Achieving solutions and outcomes rather than adding programs and activities.
- Replacing systems and programs that do not produce results.
- Achieving more effective and economical essential services.
- Developing or expanding partnerships across levels of government to achieve better results.
- Making necessary changes required by court decisions and federal changes.
- Fostering public trust and participation in government.

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No concept should be proposed if it:

- Does not match the Governor's priorities.
- Moves or creates programs without needed resources.
- Contains needless red tape.
- Charges fees or assessments without comparable benefit.
- Puts power in one agency when collaboration among entities is needed.
- Will not be supported by adequate data in time for the session.

Concepts usually fall into three categories: 1) major policy and program changes, 2) minor program changes, and 3) housekeeping. Housekeeping means purely technical adjustments or corrections with no policy issues.

Note: All legislative concepts that propose new or expanded regulation should ensure they are consistent with the regulatory streamlining objectives of Executive Order 03-01. Information is available on the Web site of the Office of Regulatory Streamlining at <http://www.streamline.oregon.gov/>.

The estimated fiscal and revenue impact of a legislative concept must be identified at the time the concept is proposed. If the concept is approved for legislative filing, the amount of the fiscal impact must be included in the Agency Request Budget.

The fiscal impact of a legislative concept must be included in the Governor's Recommended Budget in a policy package or the concept will not be approved for pre-session filing, even if the concept has been approved conceptually. This includes concepts with fiscal impacts on other state agencies. For example, proposals to create new criminal penalties or increase the penalties for existing crimes that would increase populations in the Department of Corrections or Oregon Youth Authority must be linked to policy packages in those agencies.

Conversely, policy packages that require statutory changes for which legislative concepts have not been submitted will not be included in the Governor's Recommended Budget.

Overall, the concept process has changed little from last session. Please remember that passage of House Bill 3174 (1999) eliminated state agencies' authority to pre-session file bills. As a result, the Governor will file all approved agency bills. The name of the requesting state agency will also appear on the face of the bill. Some bills related to budget will be filed by DAS. As in the 2007 regular session, Legislative Counsel will charge \$100/hour for drafting services. For more information on Legislative Counsel fees, contact Dexter Johnson at 503-986-1243.

Legislative Concept Form Instructions

Clear ideas and a detailed explanation of what you are trying to achieve are absolutely necessary to produce a bill that meets your intent. Obtain all internal reviews and approvals before submitting a concept to DAS. Consult with the Department of Justice General Counsel Division as needed. Develop the concept in concert with any state and local agencies and all entities affected by it.

All legislative concepts must be reviewed with the agency's Policy Advisor in the Governor's Office prior to submission. Agencies need to supply their Policy Advisor with a written summary of proposed concepts and get their approval before submitting the concepts to DAS.

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The Concept Form

Use the Legislative Concept Form (prepare form 107BF19) to submit concepts to DAS. Include all the detailed information necessary to draft a bill, including draft statutory language. Submitting proposed statutory language does **not** substitute for a clear explanation of the problem and the proposed solution. Legislative Counsel's experience over the years is that rewriting unclear language is more time-consuming and less accurate than starting from a clear statement of the problem and solution. Draft statutory language is especially helpful for the Governor's internal review process.

Draft language can be a photocopy of the statute with hand-written changes. If a hand-written version is not clear, type a document with brackets and underlines. The draft need not be in perfect format, but it helps to check the Legislative Measures Form and Style Manual. It is on-line at <http://www.lc.state.or.us/>. You can also copy and paste current statutes from the legislative site. Use care to copy the correct ORS version.

Please also include contact information for persons in your agency who have direct information about the problem and solution that the concept is to address.

Copy and type directly on the forms provided in Appendix A, or use the interactive form available online at <http://www.das.state.or.us/DAS/BAM/BudgetInstr.shtml>.

Notes on Concept Contents

Be sure to read the instructions on the back of the form. They are not repeated here.

Unfunded Mandates: Attach a fiscal impact and full explanation for any concept that creates a local government mandate. Budgets and legislative concepts must comply with Article XI, Section 15 of the Oregon Constitution. In effect, it requires that the state pay the costs of new work the state requires of local governments. See the law for details.

Fees and Assessments: If a concept would increase a fee or assessment, you must attach form 107BF22 providing detailed information on the fee increase. Attach required narratives (see form instructions). Explain whether the agency can make the change by rule or only through legislation.

Fiscal Impacts: Include a complete Fiscal Impact Estimate form (prepare form 107BF20) and attachments for each concept. Be sure approved concepts with a fiscal impact are included in the Agency Request Budget.

The Concept Process

DAS will notify agencies as concepts are approved or denied. DAS will send approved concepts to Legislative Counsel for bill drafting. Counsel will send its draft directly to the agency. **After receiving Legislative Counsel's first draft, the agency may send it back to Counsel for changes only ONCE.** This request for a revision must be made by October 31, 2008 or 14 calendar days from the date on the bill draft, whichever is sooner. This is to allow time for Counsel to finish drafting all the bills by the filing deadlines. Work with Legislative Counsel to reach a final draft. Send the original and six copies of the final to DAS for review and approval by the Governor's Office. Upon final approval, DAS will coordinate pre-session filing of agency bills by the Governor. DAS will file major budget-related concepts.

Read the development schedule on the next page carefully! Meeting the deadlines is the only way to assure that a concept becomes part of a legislative package supported or authorized by the Governor.

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Legislative Concept Development Schedule

Prior to April 4, 2008	<ul style="list-style-type: none">• Develop concept in conjunction with state and local agencies and others that could be affected by the statute or program change.• Submit concept, detailed explanation, draft language, and Fiscal Impact Estimate to DAS.
April 4, 2008	LAST DATE to submit concepts to DAS.
April 4, 2008 to May 30, 2008	<ul style="list-style-type: none">• DAS Legislative Coordinator and BAM analyst(s) review concepts for policy and fiscal issues and contact agency if needed.• DAS sends concept to the Governor's Office with recommendation to approve or deny.• DAS notifies agency of final action.• DAS sends approved concepts to Legislative Counsel for drafting.
June 2, 2008	LAST DATE for DAS to submit approved concepts to Legislative Counsel for drafting.
July 14, 2008	LAST DATE for agencies to submit additional substantive or administrative detail to Legislative Counsel.
July 14, 2008 to December 1, 2008	Agencies continue to work with Legislative Counsel to finish bill drafting. Legislative Counsel will allow only one revision after its first draft.
October 31, 2008 OR 14 calendar days from the date on the bill draft, whichever is sooner	Request for bill draft revision due from agency to Legislative Counsel. One revision opportunity.
December 1, 2008	<ul style="list-style-type: none">• Legislative Counsel stops <i>all</i> agency drafting.• Draft legislation and updated fiscal impact estimates due from agencies to DAS for final review and approval by DAS and the Governor's Office.• Governor pre-session files approved bills.
December 15, 2008	LAST DATE for Governor to pre-session file bills for the 2009 Legislative Session.
January 12, 2009	2009 Legislative Session begins.