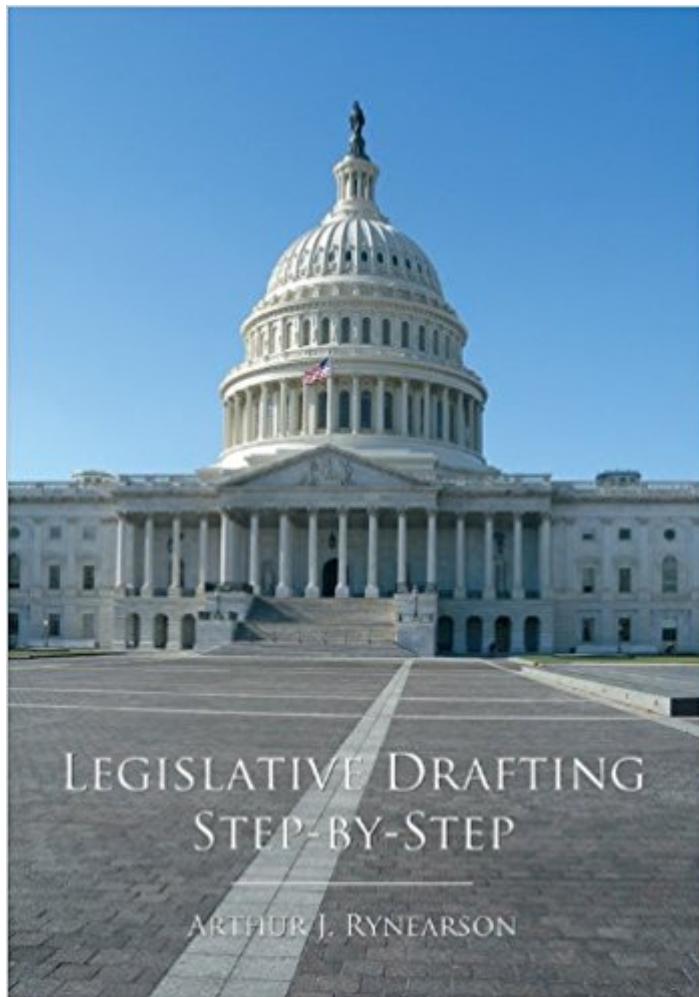


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# Legislative Drafting Step-by-Step



## **Synopsis**

Legislative Drafting Step-by-Step is a practical, step-by-step guide to drafting legislation. This "how to" book untangles the web of confusion and technical detail that surrounds legislative drafting and presents drafting in an easy-to-understand way. In so doing, legislative drafting is shown to be a fun, intellectually engaging endeavor and not an intimidating prospect to be dreaded. In short, this concise, user-friendly guide seeks to de-mystify legislative drafting. Legislative Drafting Step-by-Step includes the following:- A five-step framework for analysis to guide the drafter in converting any legislative proposal into an actual bill, resolution, or amendment.- Easy-to-learn rules to carry out each step of drafting.- More than 150 examples of draft legislative language.- 19 charts and tables illustrating the text.- 9 drafting exercises, together with the answers, to test drafting skills.- A description of the United States legislative process, as viewed by a legislative drafter.- 16 House and Senate bill, resolution, and amendment forms. Legislative Drafting Step-by-Step is designed to assist legislators, their staffs, and all who read or write legislation to better understand the basics of legislative drafting and the important role that well written legislation plays in promoting the rule of law. To this end, this guide may be used either as an essential reference tool for any office drafting legislation or as an introduction to legislative drafting for anyone seeking to learn the craft. Legislative Drafting Step-by-Step is copublished by the International Law Institute.

## **Book Information**

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## **Customer Reviews**

"Mr. Ryneарson has produced a guide for the legislative drafter that is both concise and complete. It

is very well organized and presents a very complicated subject as clearly and directly as possible. Throughout the book, Mr. Rynearson has included drafting problems that are perfectly conceived to test the reader's understanding of each of the teaching points presented. And he very thoughtfully provides answers for the exercises at the end of the book. The book concludes with a series of appendices that should be very helpful to the aspiring drafter. All-in-all, *Legislative Drafting Step-by-Step* is a highly readable and useful introduction to the art of legislative drafting, but it would also serve well as an excellent refresher course for the experienced drafter." --Francis L. ("Frank") Burk, Jr., Legislative Counsel of the United States Senate, 1991-1999, and currently self-employed as a legislative drafting consultant" Arthur Rynearson's quarter century career as legislative draftsman, ultimately as Deputy Legislative Counsel of the United States Senate, enables him to draw on the experience of drafting literally thousands of legislative instruments for the US Senate. [...] There is a very detailed table of contents, a useful index and more than 50 pages of exercises (and answers!). To conclude: it has been an almost unadulterated pleasure to read this book. I heartily recommend it." --Don Wallace, Jr., Professor of Law, Georgetown University Law Center, and Chairman, International law Institute

Arthur Rynearson, the former Deputy Legislative Counsel of the United States Senate, drafted thousands of bills, resolutions, and amendments while serving as an attorney-drafter in the nonpartisan Senate Legislative Counsel's Office. He is currently Course Advisor and Principal Faculty to the International Law Institute of Washington, D.C., in its legislative drafting workshops. Mr. Rynearson is a member of the District of Columbia Bar.

An essential book for those interested in drafting legislation. Rynearson provides a clear framework and lots of precise examples. His experience as a legislative counsel and as law professor give his book unique authority.

The people who are best at doing things are not always equally adept at explaining what they do and how they do it. That is why I am so pleased that we have Arthur Rynearson's *Legislative Drafting Step-by-Step* to explain, carefully and lucidly, how bills and other legislative documents are drafted for consideration by Congress in Washington. This book should be required reading for every Representative and Senator, every congressional staffer involved in the legislative process, every lobbyist, and every lawyer and law student who is interested in public policy and how it is made. For many years, Mr. Rynearson was a senior attorney and legislative drafter in the

Senate's Office of Legislative Counsel. With its counterpart in the House of Representatives, these offices provide expert, non-partisan, and confidential services to all the members and committees of both houses: drafting bills, resolutions, amendments, and conference reports, on request, to transform legislators' policy proposals and decisions into technically correct, complete, and effective legislative language. Senators and Representatives are not required to use the services of Mr. Rynearson and his colleagues, but they are foolish when they do not. As the book's title implies, Mr. Rynearson takes his readers through all the elements of legislative drafting. For example, should a proposal be drafted as a bill as opposed to a joint resolution or even a concurrent resolution? This choice makes a very important difference. What sections do bills usually include, and in what order do they appear? What terms need to be defined in a bill? Should duties and authorities be assigned to the President, or to a particular Cabinet secretary, or to a subordinate official within a department? Because most bills today amend one or more existing laws, or have effects on them, how should a new bill best be incorporated into the corpus of federal law? How are judges likely to interpret laws and how can a bill be written to minimize the risk of judicial misinterpretation? These are only some of the questions that Mr. Rynearson raises and answers. His topics range from the most conceptual to the most detailed. How does effective legislative drafting contribute to implementing democratic values and promoting the rule of law? When is it appropriate to use "which" instead of "that", and why? This book will not make you a competent legislative drafter. As the author notes in his foreword, "I served in the Senate Legislative Counsel's Office and learned my skill at drafting from other more senior attorneys, who in turn had learned from their predecessors." To my mind, these attorney-drafters are craftspeople of the highest order: men and women, most of whom devote their careers to mastering their craft when, incidentally, they undoubtedly could be earning several times their government salaries in the private sector. Any of us may think from time to time that it would be simple to write a bill that will resolve some problem that particularly bothers us. A reading of this book should demonstrate why that is rarely, if ever, true. There are almost certain to be considerations and complications that need to be addressed and that would not even occur to us. H. L. Mencken is reputed to have said something to the effect that for every complex problem there is an answer that is clear, simple, and wrong. So this is not a book that teaches you how to do it yourself; it is a book that should teach you why not to do it yourself. Washington, DC is full of lawyers, too many of whom evidently say to themselves that "I went to law school, so I can draft a law. No problem!" Not so. Representatives and Senators, or at least

newly-elected ones, may believe they can do their own drafting, or they may believe that the legislative staff working for them surely should be able to do it, or they may believe that it would be wiser to ask for the help of those friendly lobbyists who are so anxious to help and who seem to know so much. Following any of these courses is all too likely to lead to a defective bill which, for that reason alone, is unlikely to receive the support its congressional sponsor hopes and expects it will receive. Instead, the course of wisdom is to take a proposal for new legislation to the expert attorneys in the House or Senate Office of Legislative Counsel and be prepared to answer their questions as they try to discern exactly what your intentions really are and exactly how you propose to change existing law on the same subject. Mr. Rynearson's book, as you might expect, is lucid and carefully organized. It does demand the reader's attention, but it is not at all intimidating. And a careful reader will come to appreciate Mr.

Rynearson's enthusiasm for and pride in his chosen profession. At the end of the book, he asks rhetorically if legislative drafting is mind-numbing. No, replies:

"Legislative drafting is a constant challenge to capture someone else's intent precisely. There always seems to be a clearer way to express a matter that is eluding the drafter. Choosing the correct words to capture policy and to achieve economy of language is both intellectually challenging and highly absorbing. Readers will come to appreciate why this is so. What they also will come to appreciate is that there are so many serious and dedicated people like Mr. Rynearson who devote their professional lives to enabling our government to do what we want it to do.

As a professional legislative drafter, I highly recommend *Legislative Drafting Step-by-Step*. It's a very thorough and well-organized examination of legislative drafting. Students of the craft would benefit from a cover-to-cover read (drafting exercises are even included) and there's a lot in the book for experienced drafters as well, especially as the book offers comprehensive (and comprehensible) explanations of why we draft the way that we do.

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