

LEGISLATIVE LAW
AND STATUTORY
INTERPRETATION:
CASES AND MATERIALS

Fourth Edition

LEGISLATIVE LAW AND STATUTORY INTERPRETATION: CASES AND MATERIALS

Fourth Edition

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Preface

Preface to the Fourth Edition

During the first decade of the twenty-first century the interest among judges, lawyers, and legal academics in statutory interpretation and legislative process issues continued unabated from the 1980's and 1990's. This Fourth Edition continues the basic structure of the first three editions, but has been improved in a number of important ways.

Chapter 1 has been expanded slightly to introduce students to the wide variety of lawmaking mechanisms in addition to common law development. New material on judicial rulemaking, executive orders, and the use of statutory change to affect pending litigation have been added.

Chapter 2 continues its central focus on the interaction of legislation and statutory changes in the common law system, particularly the use of statutes as precedents, or in reasoning by analogy. New materials indicate other indirect effects of statutes, such as in the area of preemption.

Chapter 3 has been completely revised and shortened, with a specific focus on aspects of the legislative process that have specific consequences for statutory interpretation.

Chapter 4 has also been completely revised, with a single, lengthy state case illustrating a wide variety of the state constitutional restrictions on the legislative process. Materials from the prior edition, reflecting the federal legislative process, have been retained.

A new Chapter 5 has been created, utilizing the materials from the earlier edition concerning the executive branch roles in the legislative process.

The materials on statutory interpretation are retained as Chapters 6 through 9 of this Fourth Edition. Chapter 6, on textual approaches to statutory interpretation remains much the same, having been updated to reflect the recent literature. Section F has been expanded to include material from the former Chapter 10 on the federal appropriations process, as an introduction to the materials on substantive legislation in appropriations acts.

Chapter 7, on legislative intent and purpose also remains much the same, with some additional material on the *Weber* case and the debate over the use of legislative history in statutory interpretation.

Chapter 8, concerning canons of interpretation, has been expanded to include important new literature on the canons.

Chapter 9, on institutional competence, has been expanded to include an updated section on *Chevron* deference, and an expanded section on severability. Finally, there is a new section on interpretation of state statutes in federal courts and *vice versa*.

Chapters 10, on the appropriation process, and 11, on lobbying, have both been eliminated from this edition.

DEDICATIONS

This Edition is again dedicated to the memory of my parents who stimulated me in my passion for teaching, to those students over the years who have shared their experiences in legislative matters with me on many occasions contributing to my own knowledge as well, and especially to the steadfast support for my creative efforts by my wife, Bonnie, who has endured the tolls of the production of these editions and has contributed her excellent editing skills to my prose, when requested.

OJH

To the memory of my father Roland V. Libonati who served thirty-two years as a member of both chambers of the Illinois state legislature and the U.S. House of Representatives:

Sunt hic etiam praemia laudi

Sunt lacrimae rerum et mentem mortalia tangunt.

Solve metus: feret haec aliquam tibi fama salutem.

MEL

For Alaine, Sarah and Tyler.

RFW

ACKNOWLEDGMENTS

I want to express my appreciation for the greater understanding of legislative law, process, and interpretation that a number of my colleagues, elected officials, professional, and academic, have provided me over the years, especially from those who have served in state and federal legislative bodies, that has enabled me to share their experiences to others interested in these subjects through these materials.

OJH

Many thanks to the library staff, in particular Paul Carino, John Necci, and the ever forbearant and resourceful Larry Reilly.

Shirley Hall continues to be the First Lady of word-processing, remarkable for her patience and fortitude.

MEL

I would like to acknowledge the ongoing learning experience of working with Michael Libonati and Otto Hetzel, and the tireless assistance of Denise Johnson-Steinert and David Batista, without whose help and competence this project could not have been completed. I have also had an ongoing, reciprocal learning experience with the Rutgers law students.

RFW

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