

HOUSE PRECEDENTS

10.5 - 1. (2009) WITHDRAWAL OF MEASURE BY AUTHOR

Rule – House Rule 10.5 states “Prior to commencement of debate thereon, or prior to action being taken thereon if there be no debate, any motion may be withdrawn by the Member making same. Otherwise, such motion may be withdrawn only upon adoption of a motion to withdraw same.”

History – During consideration of House Bill 2013, Representative Miller requested unanimous consent to “lay the bill over” after the bill had undergone Third Reading and debate but prior to the vote on final passage. An objection was lodged and the unanimous consent request was effectively refused. Representative Miller pressed his motion and the Presiding Officer restated the motion and the vote was taken viva voce. The Presiding Officer declared the motion adopted.

After adoption of the motion, Representative Blackwell raised a point of order as to whether it had been the tradition of the House of Representatives that the House would defer to the principal author of a bill on the question of withdrawing the bill from further consideration by the House.

The Presiding Officer agreed to take the question under advisement. Representative Brown then raised a point of inquiry as to whether the bill should be considered property of the House at this point in the legislative process rather than remaining within the sole custody of the author and asked whether the House should proceed with the vote on final passage of the bill.

The Presiding Officer ruled the point well taken except that the House had already adopted the motion by voice vote. At this time, several members requested that a recorded vote be taken on the motion to lay the bill over. The Presiding Officer stated that although in the opinion of the Chair the

“ayes” prevailed on the question of adoption of the Miller motion, the Presiding Officer, as a courtesy, would proceed to order a recorded vote. The motion was again declared adopted subsequent to a roll call vote of the House.

The following legislative day, the Presiding Officer addressed the questions raised in the points of order by Representative Blackwell and Representative Brown by saying that when an author wants to ‘lay a bill over’, and if the bill has not been amended or received debate, the author may withdraw the bill without the consent of the House.

If the bill has been amended or undergone any debate, the bill cannot be withdrawn from further consideration by the House except upon a successful unanimous consent request or upon a successful motion to request leave to withdraw the question.

Okla. H. Jour., 570-571, 52nd Leg., 1st Reg. Sess. (2009); *Okla. H. Jour.*, 614, 52nd Leg., 1st Reg. Sess. (2009); *Daily H. Sess. Dig. Rec.*, 52nd Leg., 1st Reg. Sess. Track 10:08, 42:51-47:03 (Feb. 19, 2009); *H. Sess. Dig. Rec.*, 52nd Leg., 1st Reg. Sess. Track 10:29, 1:31-3:01 (Feb. 23, 2009).

Ruling – It shall be the decision of the Chair that House Rule 10.5 shall be interpreted to mean that a bill may not be unilaterally withdrawn from consideration by its principal author if amendment or other substantive action has taken place on the bill or if debate on the bill has already commenced.

Reasoning – In the Oklahoma House it is common to hear a member request that a measure be “laid over” when that member decides additional work needs to be completed on the measure. Under principles of parliamentary procedure, this effectively is a request to withdraw the bill

HOUSE PRECEDENTS

from further consideration at that time.¹ Depending on the point in the legislative process this request is made, the member may or may not have an absolute right to withdraw the bill from further consideration by the House.

House Rule 10.5 states that a member making a motion may withdraw the motion at any time unless the House has started debate on the motion or taken some other action on the motion.²

When House Rule 10.5 speaks of “motions”, this term encompasses both bills and resolutions in addition to other proposals traditionally referred to as motions. A bill or resolution is included among the main questions or main motions considered by the House, and a bill or resolution is always presented with an implied motion that it be passed whether or not the measure’s author actually verbalizes the phrase “move adoption” after he or she is recognized to offer explanation of the bill’s purpose.³

Typically, a member can tell the Presiding Officer that they desire to “lay over” or withdraw the measure without another member questioning their request. In fact, such a request is so commonly agreed to that members typically don’t frame their request as a unanimous consent request even though such a request may be required depending on where the measure is in the legislative process.

Under the terms of House Rule 10.5, when the author says he or she wants to “lay the bill over”, if the bill has not been amended or received debate, the author may

withdraw the bill without consent of the House.

If the bill has been amended or undergone any debate, the bill cannot be withdrawn from further consideration by the House except by unanimous consent or if objection is heard, by a successful motion to request leave to withdraw the question.

The underlying purpose for Rule 10.5 is to protect the House. If the House has taken time to pursue action on or to debate a motion or in this case a bill, the author should not be permitted to take up the House’s time and then unilaterally withdraw the bill from further consideration without the House first agreeing to allow the author to do so.

In this case, Representative Miller requested to “lay over” House Bill 2013 after it was debated prior to the vote on final passage. This effectively was a unanimous consent request to withdraw the bill to which objection was heard. Because debate had already occurred and the unanimous consent request had been rejected, the Presiding Officer correctly put the motion to the House.

In conclusion, under House Rules, two threshold events, amendment or debate, result in a measure becoming property of the House.

¹ MASON’S MANUAL OF LEGISLATIVE PROCEDURE 208 § 274 (National Conference of State Legislatures 2000).

² *Okla. H. Rules*, § 10.5 (52nd Leg.).

³ MASON’S MANUAL OF LEGISLATIVE PROCEDURE 109 § 141; 117 § 150 (National Conference of State Legislatures 2000).