

10.1 - 2. (2009) PRECEDENCE OF MAIN MOTIONS PERTAINING TO DISPOSITION OF CONFERENCE COMMITTEE REPORTS

Rule – House Rule 10.1 states in relevant part:

When a question shall be under consideration, no motion shall be received except as hereinafter specified, which motion shall have precedence in the order stated...

To adopt a conference committee report (not amendable - debatable)

History – During consideration of the Conference Committee Report on Senate Bill 216, Representative Miller moved adoption of the conference committee report. Representative Smithson moved to reject the Conference Committee Report on Senate Bill 216 with attached instructions.

The presiding officer ruled that the motion to adopt the conference committee report would have to fail of adoption before the motion to reject the conference committee report with attached instructions would be in order for consideration. Representative Smithson then moved to table Representative Miller's motion to adopt the conference committee report. The motion to table failed of adoption upon a roll call vote.

Representative Inman raised a point of order stating that a motion to adopt the conference committee report should not be taken up prior to consideration of a motion to reject with instructions and that the House routinely entertained motions to reject with instructions ahead of motions to adopt the conference committee report.

The presiding officer ruled the point not well taken holding that a motion to reject the conference committee report with instructions would not be in order unless the pending motion to adopt the conference committee report failed of adoption. The presiding officer clarified that the Chair had not entertained other main motions such as a motion to reject with instructions when the motion to adopt was pending and that this has been the longstanding practice of the House of Representatives. Representative Inman appealed the ruling of the presiding officer and the decision of the Chair was upheld upon a roll call vote.¹

Ruling – It is the decision of the Chair that the main motion to accept a conference committee report and the main motions to reject a conference committee report with or without attached instructions are all three of equal precedence and shall be taken up in the order they are offered upon recognition by the presiding officer.

Reasoning – When taking up consideration of a conference committee report, by custom the House observes a specific practice. The author of the measure, or his or her designee, is recognized to offer explanation of the report. Upon conclusion of the explanation, the author offers either a motion to adopt the report or a motion to reject the report and request further conference with the Senate. The author may offer either motion without seeking additional recognition from the presiding officer.

In the event the author forgets to offer a motion, the author has failed to put

¹ *Okla. H. Jour.*, 1865-1867, 52nd Leg., 1st Reg. Sess. (May 21, 2009); *Daily H. Sess. Dig. Rec.*, 52nd Leg., 1st Reg. Sess. Track 10:43, 0:00-3:23, 11:22-23:41 (May 21, 2009).

anything before the House for consideration,² thus becoming vulnerable to another main motion³ such as a hostile motion to reject the conference committee report with attached instructions.

By custom there are only three main motions used by the Oklahoma Legislature when dealing with conference committee reports: the motion to adopt the report; the motion to reject the report and request further conference with the Senate with attached instructions; and the motion to reject the report and request further conference with the Senate without attached instructions.⁴

In accordance with the customs of the House and general parliamentary law, each of the three main motions associated with disposition of a conference committee report are of equal standing or precedence and are taken up on the basis of which one was first offered upon recognition by the presiding officer.⁵

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”

² MASON’S MANUAL OF LEGISLATIVE PROCEDURE 109 § 140 (National Conference of State Legislatures 2000).

³ MASON’S at 293 § 440; see also MASON’S at 295, 296 § 442.

⁴ Cf. MASON’S at 293, 294 § 441.

⁵ MASON’S at 123 § 158.

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.⁶

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 from further consideration at that time.⁷ 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

⁶ *Okla. H. Jour.*, 570-571, 52nd Leg., 1st Reg. Sess. (Feb. 19, 2009); *Okla. H. Jour.*, 614, 52nd Leg., 1st Reg. Sess. (Feb. 23, 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).

⁷ MASON’S MANUAL OF LEGISLATIVE PROCEDURE 208 § 274 (National Conference of State Legislatures 2000).

started debate on the motion or taken some other action on the motion.⁸

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.⁹

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

⁸ *Okla. H. Rules*, § 10.5 (52nd Leg.).

⁹ MASON’S MANUAL OF LEGISLATIVE PROCEDURE 109 § 141; 117 § 150 (National Conference of State Legislatures 2000).

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.