

2015 House Precedents

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6.1 - 2. (2015) Consideration of Legislation Similar to Existing Law not Prohibited

Rule – House Rule 6.1 states:

The term “bill”, as used in these Rules, shall mean proposed legislation which in order to become law must pass through the Legislature according to the procedures established by the Oklahoma Constitution, including consideration by the Governor. The term shall include proposed laws of a general nature and proposed special or local laws. The procedures of these Rules applicable to the introduction and passage of bills shall also apply to the introduction and passage of joint resolutions.

History – During consideration of Senate Bill 5, Representative Morrisette raised a point of order as to whether it was in order for the House to consider a measure containing proposed language similar to that of existing law.

The presiding officer stated that there is no prohibition in House Rules against consideration of a measure containing language currently present in state law and ruled the point not well taken.¹

Ruling – It is the ruling of the Chair that there is no prohibition in House Rules against consideration of a measure containing proposed language similar to that of existing state law.

¹ *Okla. H. Jour.*, 804, 55th Leg., 1st Reg. Sess. (April 6, 2015); *Daily H. Sess. Video Rec.*, 55th Leg., 1st Reg. Sess., *SB 5*, 00:01:26-01:02:52 (April 6, 2015).

7.21 MANAGEMENT OF LEGISLATION AND COMMITTEE DEADLINES

7.21 - 1. (2015) No Requirement to Publish Bills on ‘Reconsideration List’ Customarily Provided by Majority Floor Leader

Rule – Section 7.21, paragraph (a) of House Rules says:

The Speaker of the House or the Speaker’s designee shall publish a list of measures to be considered by the House of Representatives, and the Speaker of the House or the Speaker’s designee shall determine the order of their consideration.

History – After adoption of a motion to reconsider Senate Bill 612 had previously failed, Representative Shelton raised a point of order stating that Senate Bill 612 was not reflected on the “Reconsideration List” within the House Floor Calendar and therefore should not be considered.

The presiding officer ruled that although the measure had dropped off the House Floor Calendar after adoption of the motion to reconsider, the measure remained available through other means such as *BTO* and the presiding officer ruled the point not well taken.

Representative Shelton appealed the ruling of the Chair and the decision of the Chair was upheld upon a roll call vote.¹

¹ *Okla. H. Jour.*, 990-991, 55th Leg., 1st Reg. Sess. (April 21, 2015); *Daily H. Sess. Video Rec.*, 55th Leg., 1st Reg. Sess., *SB 612*, 03:17:40-03:27:46 (April 21, 2015).

Ruling – It is the ruling of the Chair that consideration of a measure not available on the “reconsideration list” after a motion to reconsider the bill is adopted, may continue because the bill remains available through other means.

Reasoning – There is no requirement that a “reconsideration list” be provided within the House Floor Calendar, which by custom and practice is the electronic platform that fulfills the requirement in Section 7.21 to publish “a list of measures to be considered by the House”.²

In 2014, for the convenience of the members, the Majority Floor Leader began a new practice of publishing a list of measures for which notice had been lodged of possible reconsideration. Senate Bill 612 had been previously published on this “reconsideration list” where it remained until the House adopted a motion to reconsider the vote whereby the bill had previously failed.³

Due to a quirk in the bill status software, the software that controls when a bill is cleared off the “reconsideration list”, Senate Bill 612 was removed from the list before consideration of the bill was completed. When a bill is brought back up on reconsideration and the motion to reconsider is actually adopted, as happened in this case, there is not usually a significant amount of time before the bill is again considered on final passage, meaning not many additional questions are posed

² *Okla. H. Rules*, § 7.21 (55th Leg.).

³ *Okla. H. Jour.*, 990, 55th Leg., 1st Reg. Sess. (April 21, 2015).

to the author. In this case, a number of questions were put to the author and a considerable amount of time was consumed resulting in the bill being cleared off the “reconsideration list”. Though no longer available on the “reconsideration list”, the bill remained permanently available through *BTO*Online, the bill tracking software, which in practical terms meant there was no need to halt its consideration.

8.12 - 4. (2015) House Rule 8.12 Not Applicable to Committee Amendments Offered Later as Floor Amendments

Rule – House Rule 8.12 says:

An amendment is out of order if it is the principal substance of a bill or resolution that has received an unfavorable committee report, has been withdrawn from further consideration by the principal author or has not been reported favorably by the committee of reference in either session of the current Legislature and may not be offered to a bill or resolution on the Floor Calendar and under consideration by the House. Any amendment that is substantially the same, and identical as to specific intent and purpose, as the bill or resolution residing in the committee of reference is covered by this Rule, unless the bill or resolution under amendment is substantially the same as the bill or resolution residing in the committee of reference.

History – During consideration of Senate Bill 459, Representative McCullough offered a floor amendment to the bill and in the course of explaining the proposed floor amendment, Representative McCullough mentioned that he had offered the same amendment previously in a House committee but without success.

Representative Brown raised a point of order as to whether the proposed floor amendment was in order for consideration due to the representation by Representative McCullough that the amendment had been offered previously in a House committee.

The presiding officer ruled that no prohibition existed in House Rules barring later presentation of a committee amendment in

the form of a floor amendment on the House floor and ruled the point not well taken.¹

Ruling – It is the decision of the Chair that the prohibitions applicable to floor amendments contained in House Rule 8.12 do not apply to unsuccessful committee amendments later offered as floor amendments.

¹ *Okla. H. Jour.*, 971, 55th Leg., 1st Reg. Sess. (April 20, 2015); *Daily H. Sess. Video Rec.*, 55th Leg., 1st Reg. Sess., *SB 459*, 03:21:36-03:23:11 (April 20, 2015).

9.2 - 24. (2015) Ruling of Chair not Subject to Appeal during Division Vote

Rule – House Rule 9.2, paragraph (b) says in relevant part:

While in the Chamber, the presiding officer shall preserve order and decorum...

History – After adoption of a main floor amendment during consideration of House Bill 1749, Representative Newell moved that House Bill 1749 be advanced from General Order.

While the vote was in progress on the motion to advance the bill from General Order, Representative Inman raised a point of order inquiring as to how many questions were pending in the electronic queue at the time the Chair entertained the motion to advance from General Order. The presiding officer ruled the point out of order because it did not pertain to the vote in progress.

Representative Inman then attempted to appeal the ruling of the Chair while the vote was in progress on the motion to advance the bill from General Order but was not recognized. The vote continued in the regular manner and the motion to advance the bill from General Order was declared adopted upon a division of the question.

After Third Reading of House Bill 1749, Representative Inman raised the same point of order stating that the presiding officer had not recognized his appeal during the vote and requested notice as to where in House Rules an appeal could not properly be entertained in the course of a vote.

The presiding officer referred to Section 9.2 of House Rules stating that the presiding officer must maintain order and

decorum in the Chamber and that it would be disorderly to entertain an appeal while a vote was in progress.

Representative Inman appealed the ruling of the Chair and the decision of the presiding officer was upheld upon a roll call vote.¹

Ruling – It is the ruling of the Chair that an appeal of the ruling of the Chair attempted while another vote is in progress will not be entertained.

Reasoning – For a presiding officer to entertain an appeal during a division would be disorderly and improper.

Three issues stand out in this case. First, the point of order and attempted appeal did not pertain to the conduct of the vote itself² but rather to whether questions remained in the electronic queue at the time the vote was ordered on the motion.

Second, there is no right to cross examine or pose questions to the author of a bill or motion without the consent of the author. Neither House Rules nor general parliamentary law imposes such a requirement. It is strictly within the discretion of the author or movant as to whether he or she wishes to yield to any questions at all or to yield to further questions.³

The presiding officer should not entertain points of order concerning questions that had been possibly left pending in the

¹ *Okla. H. Jour.*, 350-351, 55th Leg., 1st Reg. Sess. (Feb. 18, 2015); *Daily H. Sess. Video Rec.*, 55th Leg., 1st Reg. Sess., *HB 1749*, 00:33:55-00:54:18 (Feb. 18, 2015).

² *Prec. Okla. H. of Rep.*, § 9.7(1.), 52nd Leg., 1st Reg. Sess. (March 11, 2009); *Mason's Manual of Legislative Procedure* 358 § 524 (National Conference of State Legislatures 2010).

³ *Prec. Okla. H. of Rep.*, § 9.2(13.), 53rd Leg., 1st Reg. Sess. (May 3, 2011).

electronic queue at the time an author indicates either directly or constructively that he or she will not yield to additional questions.⁴ Once an author refuses to yield to further questions, attempts by other members to continue with their line of questioning or to assist other members in pursuing their lines of questioning is not in order.

Third, a point related to questions on the bill should have been raised prior to the ordering of the vote by the presiding officer. Although questions on a bill are sometimes entertained after Third Reading, by custom and practice, questions and answers on the bill ended when the author pressed his motion to advance the bill from General Order.⁵

⁴ An example of constructive refusal to entertain additional questions may be viewed at, *Daily H. Sess. Video Rec.*, 55th Leg., 1st Reg. Sess., *HB 1749*, 00:33:52-00:34:00 (Feb. 18, 2015).

⁵ *Prec. Okla. H. of Rep.*, § 9.2(10.), 52nd Leg., 2nd Reg. Sess. (April 20, 2010); *Mason's Manual of Legislative Procedure* 185 § 241(para. 1) (National Conference of State Legislatures 2010).

9.2 - 25. (2015) Reference to Persons in Gallery during Questions, Answers and Debate

Rule – House Rule 9.2, paragraph (b) says in relevant part:

While in the Chamber, the presiding officer shall preserve order and decorum...

History – During consideration of House Bill 1212, a question was posed to the author of the bill in such a way so as to involve members of the public present in the House Gallery.

Representative Banz raised a point of order as to whether it was proper to engage or involve persons present in the gallery during questions and answers and debate. The presiding officer ruled the point well taken and stated that to do so was not prohibited by House rules but rather was contrary to the customs and practices of the House.¹

Ruling – It is the ruling of the Chair that to engage or involve persons present in the gallery during questions, answers and debate is contrary to the customs and practices of the House.

¹ *Okl. H. Jour.*, 650, 55th Leg., 1st Reg. Sess. (March 11, 2015); *Daily H. Sess. Video Rec.*, 55th Leg., 1st Reg. Sess., *HB 1512*, 00:58:37-01:00:35 (March 11, 2015); Cf. *Mason's Manual of Legislative Procedure* 86, 94 §§ 110, 121 (paras. 1, 2) (National Conference of State Legislatures 2010),

9.2 - 26. (2015) Presiding Officer does not Customarily Solicit Questions during Presentation of Bill

Rule - House Rule 9.2, paragraph (b) says in relevant part:

While in the Chamber, the presiding officer shall preserve order and decorum...

History - After consideration on Fourth Reading and during the vote on House Bill 1748, Representative Rousselot raised a point of order as to why he had not been recognized for an additional question on Fourth Reading, to which the presiding officer responded that it had not been apparent to the Chair, either via the software or through means of a physical gesture, that an additional question was desired. Representative Proctor then raised a point of order as to whether, in the future at the point of Fourth Reading on a measure, the presiding officer would inquire whether there were questions on a measure. In response, the presiding officer ruled that it was not the custom and practice of the House to make such an inquiry at the time of Fourth Reading.¹

Ruling - It is the ruling of the Chair that it is not the custom and practice of the House for the presiding officer to actively inquire if there are questions at the time of Fourth Reading

¹ *Okla. H. Jour.*, 1091, 55th Leg., 1st Reg. Sess. (April 29, 2015); *Daily H. Sess. Video Rec.*, 55th Leg., 1st Reg. Sess., *SA HB 1748*, 01:56:34-02:00:54 (April 29, 2015).

10.4 - 9. (2015) Return to Same Procedural Point where Previous Consideration Ceased

Rule – House Rule 10.4, paragraph (a) states:

When a bill or resolution is under consideration within the House, the principal author or the member designated to present the bill or resolution on behalf of the principal author may withdraw said measure at any time prior to the vote being ordered on adoption of a recommendation or final passage of the bill or resolution.

History – In the course of presenting House Joint Resolution 1030, Representative Faught, the author, withdrew the resolution from further consideration.

Immediately after Representative Faught withdrew the resolution from further consideration, a point of inquiry was raised by another member. After the presiding officer responded to the point of inquiry from the other member, Representative Faught then inquired of the Chair as to whether the House could immediately resume consideration of House Joint Resolution 1030.

Before the presiding officer responded to the inquiry of Representative Faught, Representative Proctor raised a point of order as to whether the procedural steps previously taken on the measure would be repeated when the measure was brought again before the House for consideration, to which the presiding officer responded that the House would proceed with

the measure at the same procedural point where previous consideration had ceased.¹

Ruling – It is the ruling of the Chair that when consideration resumes on a measure previously taken up by the House, such consideration will begin again at the same procedural point where previous consideration ceased.

¹ *Okla. H. Jour.*, 1190, 55th Leg., 1st Reg. Sess. (May 19, 2015); *Daily H. Sess. Video Rec.*, 55th Leg., 1st Reg. Sess., *HJR 1030*, 01:33:28-01:38:14 (May 19, 2015).