

HOUSE PRECEDENTS

RULE 7 - COMMITTEES

7.4 - 1. COGNIZANCE OF COMMITTEE PROCEDURES BY PRESIDING OFFICER

Rule – House Rule 7.4, paragraph (b) states in part that, “Except as otherwise provided in these Rules, the Chair has all authority necessary to ensure the efficient operation of the committee or subcommittees, including, but not limited to, presiding over the committee or subcommittees, establishing the agenda for the committee or subcommittees, recognition of members or presenters, deciding all questions of order in committee or subcommittees and determining the order in which matters are considered in committee or subcommittees...”

History – Representative Covey raised a point of order pursuant to House Rules 7.2(a) and (b) concerning lack of notice for a committee meeting conducted on the previous day. Specifically, his point of order included a question of the Chair as to whether or not a meeting notice should include attached language for legislation to be considered at the committee meeting announced in the published notice.

The Presiding Officer, Representative Don Armes, held that it was not within the jurisdiction of the Presiding Officer on the House Floor to address a member’s concerns regarding a possible violation of committee procedures and that such complaints or concerns should be taken up with the relevant committee chairperson. Representative Covey appealed the ruling of the Chair and the House upheld the ruling upon roll call.¹

¹ *Okla. H. Jour.*, 587, 588, 51st Leg., 2nd Reg. Sess. (March 4, 2008); *Daily H. Sess. Dig. Rec.*, 51st Leg., 2nd Reg. Sess. Track 10:20, 10:45-15:25 (March 4, 2008); affirmed at *Okla. H. Jour.*, 1077, 51st Leg. 2nd Reg. Sess. (April 2, 2008); *Daily H. Sess. Dig. Rec.*, 51st Leg., 2nd Reg. Sess. Track 10:19, 0:00-0:54 (April 2, 2008).

Precedent – It shall be the decision of the Chair that the Presiding Officer will not take cognizance of or attempt to exercise jurisdiction over alleged violations of committee procedure while presiding on the House Floor.

Reasoning – In practical terms, the Presiding Officer is not in a position to effectively handle complaints pertaining to committee procedure. There are, however, other appropriate ways for a member to raise concerns regarding committee procedure within the House.

Under the rules and traditions of the Oklahoma House of Representatives, the concerned member has several options available to them if they believe a committee chairperson is violating House rules pertaining to committee operations. First, the member may approach the offending chairperson directly. If this does not end in a positive result, the member may approach the Speaker directly and raise his or her concerns.

If this does not satisfy the member, House rules provide an outlet that is public and specifically designed for airing of complaints about procedures and processes within the House.² This is known colloquially as a “question of privilege of the House.” To be recognized for this purpose, the member should notify the Majority Floor Leader of his or her intention to seek recognition for a question of privilege of the House.³ At the appropriate time within the course of the day’s legislative business, unless a more privileged motion is lodged, the Majority Floor Leader must seek recognition on behalf of the requesting member. Upon receiving recognition, the member would

² *Okla. H. Rules*, § 9.5 (51st Leg.).

³ *Prec. Okla. H. of Rep.*, § 9.2(1.), 50th Leg., 1st Reg. Sess. (April 7, 2005).

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approach the well of the House and notify the full House of his or her concerns regarding appropriate notice of committee meetings.

7.11 - 1. FISCAL IMPACT STATEMENTS*

Rule – House Rule *7.12, paragraph (a) states in part that “All bills and resolutions whose adoption will have a fiscal impact, including the affecting of revenues, expenditures or fiscal liability shall not be scheduled for floor consideration unless accompanied by a fiscal analysis.”

History - Representative Wright raised a point of order pursuant to House Rule *7.12(a) that a fiscal impact statement is required for consideration of House Bill 1230.

The Speaker Pro Tempore Susan Winchester ruled the point well taken and pursuant to House Rule *7.12(a), HB 1230 would be laid over until a fiscal impact statement was distributed.⁴

Ruling - It shall be the decision of the Chair that the phrase “accompanied by a fiscal analysis” contained in House Rule *7.12(a) shall be interpreted to mean that the fiscal analysis prepared for a particular bill or resolution must be distributed on the House Floor before that bill or resolution may be heard.

7.11 - 2. MEASURES WITH NO FISCAL IMPACT

Rule – House Rule 7.11, paragraph (a) states in part that, “All bills and resolutions

* Interpreted Rule 7.12, 50th Leg., this rule was renumbered as Rule 7.11 in House Rules adopted for 51st Leg.

⁴ *Okla. H. Jour.*, 425, 50th Leg., 1st Reg. Sess. (Feb. 24, 2005); *Daily H. Sess. Dig. Rec.*, 50th Leg., 1st Reg. Sess. Track 12:30, 8:27-11:48 (Feb. 24, 2005).

whose adoption will have a fiscal impact, including the affecting of revenues, expenditures or fiscal liability shall not be scheduled for floor consideration unless accompanied by a fiscal analysis.”

History – During floor consideration of Senate Bill 633, Representative Morrisette raised a point of inquiry regarding whether or not the bill under consideration was required to be accompanied by a “fiscal impact statement.” The Presiding Officer ruled that if no fiscal impact was identified by the House fiscal staff and the measure’s author represented to the House that there was not a fiscal impact associated with the measure, the Chair would rely upon the author’s representation.⁵

Ruling – It shall be the decision of the Chair that House Rule 7.11(a) shall be interpreted to mean that if no fiscal impact is identified by the House fiscal staff and the measure’s author represents to the House that there is not a fiscal impact associated with the measure, the Chair will rely upon the author’s representation.

7.11 - 3. AVAILABILITY OF FISCAL ANALYSIS IN SECOND SESSION OF LEGISLATURE

Rule - House Rule 7.11, paragraph (c) states in part that, “If any bill...is scheduled for floor consideration without a fiscal...analysis having been prepared, it shall be the right of any Member to raise a point of order on the Floor...”

History - Representative Covey raised a question of the Chair pursuant to House Rule 7.11 as to whether or not it was proper for House Bill 1897 to be considered without the availability of a fiscal impact statement.

⁵ *Okla. H. Jour.*, 1146, 51st Leg., 1st Reg. Sess. (April 9, 2007); *Daily H. Sess. Dig. Rec.*, 51st Leg., 1st Reg. Sess. Track 10:11, 2:16-4:32 (April 9, 2007).

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HB 1897 was introduced in the First Session of the 51st Oklahoma Legislature. It received a favorable committee recommendation but was not scheduled for consideration by the full House. In the Second Session of the 51st Oklahoma Legislature, HB 1897 was scheduled for consideration and was taken up by the full House.

Although a proper fiscal analysis of the measure was drafted in anticipation of consideration by the full House in the First Session of the Legislature, the fiscal analysis had not been published on the House Floor Calendar at the time the measure was actually taken up in the Second Session of the Legislature.⁶

Precedent - In response to the question of the Chair, Speaker Pro Tempore Gus Blackwell directed that HB 1897 be laid over until a fiscal impact statement was provided or the measure's author provided additional information describing the parameters of the measure's fiscal impact.

7.15 - 1. LAYOVER REQUIREMENT FOR SENATE CONFERENCE COMMITTEE REPORTS*

Rule – House Rule *7.16, paragraph (c) states that, “Prior to consideration, a conference committee report shall lie over thirty-six (36) hours after it is filed. No conference committee report shall be considered for adoption or rejection if Members of the House have not been provided a printed or electronically

⁶ *Okla. H. Jour.*, 414, 51st Leg., 2nd Reg. Sess. (Feb. 19, 2008); *Daily H. Sess. Dig. Rec.*, 51st Leg., 2nd Reg. Sess. Track 10:02, 2:18-4:55 (Feb. 19, 2008).

* Interpreted Rule 7.16, paragraph (c) from 2005; a variation of this rule was adopted and renumbered as Rule 7.15 in House Rules adopted in 2009; the required layover period for House conference committee reports is contained in paragraph (d) of Rule 7.15 of 2009.

transmitted copy of the report twenty-four (24) hours before the consideration of the report. The report must be accompanied by a separate summary of the changes made to the bill or resolution sent to conference. This subsection shall not apply on the last two (2) days of any legislative session once the date of the sine die adjournment has been set.”

History - Representative Gilbert raised a point of order citing House Rule *7.16(c) that the conference committee report on Senate Bill 556 had not lain over for thirty-six (36) hours prior to consideration.

The Presiding Officer ruled the point not well taken and House Rule *7.16(c) applies to the filing of conference committee reports.⁷

Ruling - It shall be the decision of the Chair that the timing requirements delineated in House Rule *7.16(c) shall be interpreted as to not apply to conference committee reports associated with Senate bills.

Reasoning - When any House rule is considered only in the sterile and isolated context of the House rules themselves, there exists the danger that the rule may be interpreted too narrowly. It is therefore incumbent upon the Speaker when exercising his expansive authority to interpret House rules that he not do so on a whim but employ a broadly encompassing view not only of the letter of the rules, but upon the publicly announced policies of the Speaker, the customs and precedents of the House and parliamentary law.

⁷ *Okla. H. Jour.*, 1687, 50th Leg., 1st Reg. Sess. (May 18, 2005); *Daily H. Sess. Dig. Rec.*, 50th Leg., 1st Reg. Sess. Track 10:07, 0:23-2:39 (May 18, 2005); affirmed at *Okla. H. Jour.*, 1759, 52nd Leg., 1st Reg. Sess. (May 19, 2009); *Daily H. Sess. Dig. Rec.*, 52nd Leg., 1st Reg. Sess. Track 10:10, 0:39-4:30 (May 19, 2009).

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While House Rule *7.16(c) does not explicitly state that the rule only applies to House conference committee reports, it does strongly imply such a holding. In the first sentence of Rule *7.16(c) it states, “Prior to consideration, a conference committee report shall lie over thirty-six (36) hours after it is filed.” The operative term for the question at hand is the word “filed” as it is used in Rule *7.16(c). On the basis of the broad authority given under House Rule 3.1 to the Chief Clerk to oversee the legislative process in the House along with due consideration of the customs of the House, this means filed in the Chief Clerk’s office within the House of Representatives.

The logical progression is as follows, if the generally understood meaning of the term “filed” as expressed in House Rule *7.16(c) means filed in the Chief Clerk’s office, then it is impossible for Senate conference committee reports to fall under the time requirements of Rule *7.16(c) because they are never “filed” in the Chief Clerk’s office. They are only filed in the Senate by whatever method the Senate prescribes.

From a practical perspective a conference committee report pertaining to a Senate bill may be filed, considered and accepted on the Senate side and not be transmitted to the House for several days. Furthermore, upon arrival in the House, there is no readily ascertainable event on which to base the timing requirements imposed by House Rule *7.16(c). At what point would a Senate conference committee report be considered “filed”? Would it be when the message arrives from the Senate notifying the House of the conference committee report’s transmission to the House? Might it be when the message of submission is distributed to other House clerks for processing and inclusion in the bill tracking system, or perhaps would it be when the Senate measure was distributed on the House Floor? Which event could reasonably be considered “filing” for the

purposes of timing under Rule *7.16(c)? Put succinctly, there is no practical method of pinpointing when a Senate conference committee report is “filed” for the purposes of observing and calculating the timing requirements imposed by Rule *7.16(c).

Therefore, on the basis of practical considerations and the custom of the House, the time constraints imposed by House Rule *7.16(c) cannot and do not apply to Senate conference committee reports.