

HOUSE PRECEDENTS

9.2 - 1. (2005) MANNER BY WHICH BUSINESS IS CONDUCTED ON HOUSE FLOOR

Rule – House Rule 9.2, paragraph (a) states in part that, “While in the [House] Chamber, the Presiding Officer shall preserve order and decorum...”

History - Representative Toure objected to the decision of the Presiding Officer that motions had to be scheduled through the Floor Leader.

The Presiding Officer ruled that the Floor Leader is charged by the Speaker with setting the agenda for the business of the House for every legislative day. Any motion that puts new business before the House must go through the Floor Leader or it is out of order. The agenda for the floor and introducing new business is within the exclusive authority of the Floor Leader.

Okla. H. Jour., 1175, 1176, 50th Leg., 1st Reg. Sess. (2005); *Daily H. Sess. Dig. Rec.*, 50th Leg., 1st Reg. Sess. Track 10:06, 6:10-11:04 (April 7, 2005).

Ruling - It shall be the decision of the Chair that the phrase “the Presiding Officer shall preserve order and decorum” contained in House Rule 9.2(a) shall be interpreted to mean that all motions affecting order and business of the day must first be presented to the Majority Floor Leader before the member desiring to make the motion will be recognized by the Presiding Officer.

Reasoning - In general terms, every legislative body must have some expression of procedural rules in order that business pending before the body may receive proper contemplation and consideration. Without clearly defined rules, the will of the majority cannot be determined and

presented in a coherent manner,¹ the rights of the minority are not protected and the majority is not protected from obstructive tactics on the part of the minority.²

In Oklahoma, the power to regulate and order the deliberative process is left to the discretion of the respective houses of the legislature under Article V, Section 30 of the Oklahoma Constitution. Specifically, Article V, Section 30 permits each house to determine its own rules. On this basis the Oklahoma House of Representatives passed its own set of procedural rules on February 7, 2005.³

Before examining the relevant rules, it must be noted that while the Speaker may honor the House custom of delegating the scheduling of floor action to the Majority Floor Leader, the authority of the Speaker is not absolute. In this situation, the Speaker’s specific decision to require that all motions affecting order and introduction of new business be scheduled through the Floor Leader is subject to House Rule 9.2(e) which provides a means of appeal of the Chair’s ruling.

For the purposes of this case, the question of order is addressed several ways under House Rules. Rules 1.2(a), and 9.2(a) charge the Speaker or the Speaker’s designee in the Chair with the task of actively maintaining order and decorum. Additionally, Rule 8.1(a), impliedly provides the general framework for the daily order of business. Rules 10.1 and 10.2 govern the order of presentation of motions.

Under House Rules 1.2(a) and 9.2(a), the Presiding Officer is tasked with preserving

¹ MASON’S MANUAL OF LEGISLATIVE PROCEDURE 9 § 1(1) (National Conference of State Legislatures 2000).

² MASON’S MANUAL OF LEGISLATIVE PROCEDURE 10 § 1(3) (National Conference of State Legislatures 2000).

³ *H. Jour.*, 57, 50th Leg, 1st Reg. Sess. (2005).

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“order and decorum” in the House. When Rules 1.2(a) and 9.2(a) are read in conjunction with Rule 9.1 which empowers the Speaker to interpret the House Rules in all deliberations, it becomes clear that it is entirely appropriate for the Speaker to interpret the mandate of Rule 9.2(a) to mean that all motions affecting order and business of the day must go through the Majority Floor Leader.

The responsibility of the presiding officer to maintain order and decorum has existed throughout Oklahoma’s existence, first as a territory and later as a state. Such authority can be found in House Rules of the First Session of 1890 Territorial Legislature.⁴ Specifically, Rule 2 of the House of Representatives, First Oklahoma Territorial Legislature, contains the following language, “He [the Speaker] shall preserve order and decorum, and speak to ‘points of order’ in preference to other members...he shall decide questions of order subject to an appeal to the House...”⁵ This authority continued in House Rules throughout the remainder of Oklahoma’s territorial years, continued after statehood and has remained until the present time.

The authority of the Speaker to maintain order is not unique to Oklahoma, but is well established in the principles of general parliamentary procedure. The parliamentary authority, Luther S. Cushing, in his venerable work *Elements of the Law and Practice of Legislative Assemblies of the United States of America* includes among the duties of the presiding officer such provisions as, “To enforce the observance of order and decorum among members, to inform the assembly...in a point of order or practice, to decide in first instance, and subject to the revision of the house, all questions of order, that may arise,

⁴ Okla. Terr. H. *House Rules*, 1st Leg. 2 (1890).

⁵ *Id.*

or be submitted for his decision.”⁶ More recently, *Mason’s Manual of Legislative Procedure* states that the presiding officer shall, “...preserve order and decorum,” and shall “...guide and direct the proceedings of the body...”⁷ All told, general parliamentary authorities, the historical rules of the Oklahoma House of Representatives and current House Rules indicate that the Speaker can and should take the initiative to preserve order in the House by any reasonable means.

House Rule 10.1 establishes which motions receive precedence and can be offered even if unrelated to the business under consideration. House Rule 10.2 provides that motions incidental to the business under consideration may be permitted at the time of consideration of that business. Again, even though it is a fundamental right both under House Rules and general parliamentary law for a member to present any proper proposal for consideration by the body, appropriate timing must be observed.⁸

Finally, in this case where the ruling of the Chair was sustained by the body of the House, the Speaker’s decision that all motions affecting order and business of the day must go through the Majority Floor Leader became ratified as the will of the House.

⁶ CUSHING, LUTHER STEARNS, *ELEMENTS OF THE LAW AND PRACTICE OF LEGISLATIVE ASSEMBLIES OF THE UNITED STATES OF AMERICA* 113 § 291 (Little, Brown and Co. 1856).

⁷ MASON’S MANUAL OF LEGISLATIVE PROCEDURE 416 § 575 (e), (k) (National Conference of State Legislatures 2000).

⁸ MASON’S MANUAL OF LEGISLATIVE PROCEDURE 118 § 155 (1) (National Conference of State Legislatures 2000).

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Reaffirmed:

Okla. H. Jour., 562, 52nd Leg., 1st Reg. Sess. (2009); *Daily H. Sess. Dig. Rec.*, 52nd Leg., 1st Reg. Sess. Track 10:25, 15:30-18:16 (Feb. 18, 2009).

Okla. H. Jour., 629, 52nd Leg., 1st Reg. Sess. (2009); *Daily H. Sess. Dig. Rec.*, 52nd Leg., 1st Reg. Sess. Track 10:25, 6:37-8:01 (Feb. 24, 2009).