

# RULE FOUR

## MEMBERS

### § 4.4 DECORUM

#### 4.4 - 1. (2011) Discipline Determined By House Of Representatives

**Rule** – House Rule 4.4, paragraph (d) states:

*Profane, obscene or indecent language is prohibited in the House and in all committees and subcommittees of the House.*

**History** – Representative Ortega moved that Representative Terrill be publicly reprimanded for the comments made in the office of the Majority Floor Leader.

Representative Ritze raised a point of order stating that pursuant to House Rule 4.4 the motion was out of order. The presiding officer ruled the point not well taken and the motion to be in order.

Representative Terrill raised a point of inquiry pursuant to House Rule 4.4, paragraph (c) as to whether speech within private House offices is actionable. The presiding officer stated that it was up to the House to determine whether to reprimand a member and ruled the objection out of order.

Representative Blackwell raised a point of inquiry as to whether any conduct or speech in the House offices would be subject to reprimand on the House floor. The presiding officer stated that it would be up to the House to determine.<sup>1</sup>

**Ruling** – It is the ruling of the Chair that the question of whether or not to discipline a member for conduct or speech is to be determined by the House of Representatives.

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<sup>1</sup> *Okla. H. Jour.*, 578, 579 53rd Leg., 1st Reg. Sess. (March 14, 2011); *Daily H. Sess. Video Rec.*, 53rd Leg., 1st Reg. Sess., *Motion to Reprimand*, 03:37:11-04:11:47 (March 14, 2011); see also OK CONST V, 30; *Daily H. Sess. Video Rec.*, 53rd Leg., 1st Reg. Sess., *Motion to Reprimand*, 03:23:05-03:37:06 (March 14, 2011); *Okla. H. Jour.*, 577 53rd Leg., 1st Reg. Sess. (March 14, 2011); *Okla. H. Jour.*, 1195, 1196 53rd Leg., 1st Reg. Sess. (May 2, 2011); *Daily H. Sess. Video Rec.*, 53rd Leg., 1st Reg. Sess., *Motion to Reprimand*, 01:53:48-02:00:25 (May 2, 2011).

**RULE EIGHT**  
**ORDER OF BUSINESS**  
**AND**  
**LEGISLATIVE PROCESS**

**§ 8.7 CONSIDERATION AND  
PRESENTATION**

**8.7 - 3. (2011) Determination Whether  
Amendment Is Floor Substitute**

**Rule** – House Rule 8.7, paragraph (e) states:

*(e) The House of Representatives shall not consider any floor amendments offered in the form of a floor substitute.*

**History** – During consideration of House Bill 1953, Representative McNiel moved to amend the bill by deleting Section 2 and by inserting a new Section 2.

Representative Inman requested a ruling as to whether the McNiel amendment was a floor substitute and as such not in order for consideration pursuant to House Rule 8.7, paragraph (e).

The presiding officer stated that the amendment was not in the form of a floor substitute and ruled the point not well taken.

Representative Inman appealed the ruling of the presiding officer. Representative Sullivan moved to table the Inman appeal of the ruling of the Presiding Officer, which tabling motion was declared adopted upon a roll call vote.

Representative Terrill raised a point of clarification as to whether the Chair would determine the existence of a floor substitute on the basis of the amendment's form rather than upon its substance.

The presiding officer stated that the Chair would make such a determination on the basis of whether the amendment purports to be a floor substitute.<sup>1</sup>

The next day, during consideration of House Bill 1909, Representative Jackson moved to amend the bill by deleting all of Sections 1 and 2 and by inserting in lieu thereof new Sections 1-8.

Representative Reynolds raised a point of order as to whether the Jackson amendment constituted a floor substitute prohibited by House Rules.

The presiding officer stated that as the Chair ruled the day before, determining the existence of a floor substitute would be done on the basis of whether or not the amendment is styled as a floor substitute and has the procedural effect of preventing consideration of other main amendments.

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<sup>1</sup> *Okla. H. Jour.*, 663-665 53rd Leg., 1st Reg. Sess. (March 16, 2011); *Daily H. Sess. Video Rec.*, 53rd Leg., 1st Reg. Sess., *HB 1953*, 00:37:52-00:50:31 (March 16, 2011).

In the opinion of the Chair, this amendment was not styled as a floor substitute and would not prevent consideration of other main amendments.

Representative Reynolds appealed the ruling of the Chair but failed to receive the required 15 seconds.<sup>2</sup>

**Ruling** – It is the ruling of the Chair that determination of the existence of a floor substitute will be made on the basis of how the amendment is styled and whether it has the procedural effect of preventing consideration of other main amendments.

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<sup>2</sup> *Okla. H. Jour.*, 740 53rd Leg., 1st Reg. Sess. (March 17, 2011); *Daily H. Sess. Video Rec.*, 53rd Leg., 1st Reg. Sess., *HB 1909*, 09:49:28-09:57:34 (March 17, 2011).

# RULE NINE

## Chamber Protocol

### § 9.8 PREVIOUS QUESTION

#### 9.8 - 2. (2011) Recognition Of Previous Question After Adoption Of Motion To Advance Question

**Rule** – House Rule 9.8 states:

*When a debatable question is before the House, any member may move the Previous Question. It shall be put in the following form: "The Previous Question has been moved. The Question is, shall the pending Question now be put?" If the motion for the Previous Question passes, the pending question shall be put immediately and no member shall be heard to debate it further or seek to amend it.*

**History** – After Senate Bill 923 underwent Third Reading, Representative Peters moved to advance the question.

Representative Shelton moved to table the Peters motion, which tabling motion failed of adoption upon a roll call vote.

Representative Peters pressed his motion to advance the question, which motion was declared adopted upon a roll call vote.

Representative Shelton moved to table Senate Bill 923 itself, which tabling motion failed upon a roll call vote.

Representative Inman then moved to extend debate time by two and one-half (2 1/2) minutes per side, which motion was not recognized.

Representative Inman raised a point of order as to what House Rule prevented consideration of his motion to extend debate. The presiding officer ruled that because the House had voted to limit debate it would be dilatory to recognize a motion to extend debate and as such, the motion was out of order.

Representative Inman moved to appeal the ruling of the Chair. Representative Peters moved to table the appeal of the Chair, which tabling motion was adopted upon a division of the question.

Representative Inman moved to suspend House Rules for the purpose of extending debate time, which motion failed of adoption upon a roll call vote.

Representative Proctor moved to suspend House Rules for the purpose of allowing consideration of an untimely filed floor amendment on Third Reading, which motion failed of adoption upon a roll call vote.

Representative Shelton moved to postpone indefinitely consideration of Senate Bill 923. Representative Peters moved to put the previous question on the Shelton motion to postpone indefinitely.

Representative Dorman moved to table the Peters motion to put the previous question, which tabling motion failed of adoption upon a roll call vote.

Representative Peters pressed his motion to put the previous question on the Shelton motion to postpone indefinitely, which motion was declared adopted upon a roll call vote.

Representative Shelton then pressed his motion to postpone indefinitely, which motion failed of adoption upon a roll call vote.

Representative Peters moved to put the previous question on the question of passage of Senate Bill 923.

Representative Inman raised a point of order as to whether the motion to put the previous question was in order subsequent to adoption by the House of a motion to advance the question.

The presiding officer ruled that the motion to put the previous question was a different question and according to Section 361, Paragraph 2 of *Mason's Manual* a legislative body may stop or prevent debate at any time.<sup>1</sup> As such it would be in order for the House to consider the motion to put the previous question at any time prior to recognition of the first member for debate.

Representative Inman moved to appeal the ruling of the Chair. Representative Peters moved to table the Inman appeal of the Chair, which tabling motion was adopted upon a division of the question.

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<sup>1</sup> *Mason's Manual of Legislative Procedure* 252 § 361(2) (National Conference of State Legislatures 2000).

Representative Peters pressed his motion to put the previous question on Senate Bill 923, which motion was adopted upon a division of the question.<sup>2</sup>

**Ruling** – It is the ruling of the Chair that a motion to put the previous question is in order subsequent to adoption of a motion to advance the question.

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<sup>2</sup> *Okla. H. Jour.*, 1033-1038 53rd Leg., 1st Reg. Sess. (April 20, 2011); *Daily H. Sess. Video Rec.*, 53rd Leg., 1st Reg. Sess., *SB 923*, 04:39:44-05:00:42 (April 20, 2011).

# RULE NINE

## Chamber Protocol

### § 9.10 RECONSIDERATION

#### 9.10 - 7. (2011) Main Question Open To Debate Upon Reconsideration

**Rule** – House Rule 9.10, paragraph (a) and House Rule 10.1, paragraph (d) state in relevant part:<sup>1</sup>

*The final vote on Third Reading...may be reconsidered...*

*When a question shall be under consideration... [a] motion...shall be...debatable or not debatable, as set forth below:*

*(d) Main Motions*

*To reconsider (not amendable - debatable)*

**History** – Representative Key moved to reconsider the vote whereby Senate Bill 801 failed, which motion prevailed upon a roll call vote. Senate Bill 801 was then read at length for the third time and passed by the House.<sup>2</sup>

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<sup>1</sup> See also *Okla. H. Rules*, §§ 8.16(a), 9.4(a) (53rd Leg.).

<sup>2</sup> *Okla. H. Jour.*, 916, 53rd Leg., 1st Reg. Sess. (April 13, 2011); *Daily H. Sess. Video Rec.*, 53rd Leg., 1st Reg. Sess., *SB 801*, 00:37:19-00:42:18 (April 13, 2011).

After consideration of additional business, Representative McPeak raised a point of order stating that when Senate Bill 801 was under reconsideration, the presiding officer called for questions and debate on the motion to reconsider but did not call for questions or debate on the measure itself when the measure was before the House on Third Reading.

The presiding officer observed that Representative McPeak did not request debate upon Third Reading prior to the vote being ordered and noted that debate on the bill itself would have been in order at the time the motion to reconsider was before the House.<sup>3</sup>

After consideration of additional business, Representative Reynolds raised a point of inquiry regarding Representative McPeak's point of order. Representative Reynolds inquired as to whether the Chair had ruled that debate would not be recognized on Third Reading after a motion to reconsider had been adopted.

The presiding officer stated that requests for debate on Third Reading would continue to be recognized and that debate offered on a motion to reconsider could include discussion of the merits of the bill under reconsideration.<sup>4</sup>

**Ruling** – It is the ruling of the Chair that debate offered on a motion to reconsider could properly include discussion of the merits of the bill under reconsideration.

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<sup>3</sup> *Okla. H. Jour.*, 918, 53rd Leg., 1st Reg. Sess. (April 13, 2011); *Daily H. Sess. Video Rec.*, 53rd Leg., 1st Reg. Sess., *SB 801*, 01:11:22-01:13:52 (April 13, 2011); *Mason's Manual of Legislative Procedure* 318, 319 § 471(1) (National Conference of State Legislatures 2000).

<sup>4</sup> *Okla. H. Jour.*, 918, 53rd Leg., 1st Reg. Sess. (April 13, 2011); *Daily H. Sess. Video Rec.*, 53rd Leg., 1st Reg. Sess., *SB 801*, 01:20:40-01:23:53 (April 13, 2011).

# RULE TEN

## MOTIONS

### § 10.1 PRECEDENCE OF MOTIONS

#### 10.1 - 2. (2011) Precedence Of Main Motions Pertaining To Disposition Of Senate Amendments

**Rule** – House Rule House Rule 10.1, paragraph (d) states:

*(d) Main Motions*

*A main motion shall be defined as a substantive proposal such as a bill, resolution or any other question which requires passage, adoption, rejection, approval or disapproval by the House of Representatives.*

*Main questions include but are not limited to the following and shall rank in the following order:*

*To reconsider (not amendable - debatable)*

*To rescind (not amendable - debatable)*

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

*To reject a conference committee report/joint committee report (not amendable - debatable)*

*To reject a conference committee report/joint committee report with instructions (instructions amendable - debatable)*

*To commit with instructions (instructions amendable - debatable)*

*Any other main question not specifically listed shall be taken up in the order offered.*

**History** – Representative Wright moved to reject the Senate Amendments to House Bill 1319.

Representative Terrill raised a point of inquiry as to whether a motion to accept Senate amendments would take priority over a motion to reject Senate amendments.

The presiding officer stated that motions to accept or reject Senate amendments would be taken up in the order they are offered.

Representative Wright pressed his motion to reject the Senate Amendments to House Bill 1319, which motion was adopted upon a division of the question.<sup>1</sup>

**Ruling** – It is the ruling of the Chair that motions to accept or reject Senate amendments will be taken up in the order they are offered.

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<sup>1</sup> *Okla. H. Jour.*, 1209, 53rd Leg., 1st Reg. Sess. (May 3, 2011); *Daily H. Sess. Video Rec.*, 53rd Leg., 1st Reg. Sess., *SA HB 1319*, 00:52:42-01:04:35 (May 3, 2011).

# RULE TEN

## MOTIONS

### § 10.1 PRECEDENCE OF MOTIONS

#### 10.1 - 3. (2011) Renewal Of Motion To Adopt Senate Amendments On Subsequent Legislative Day

**Rule** – House Rule 10.1, paragraph (d) says in relevant part:

*A main motion shall be defined as a substantive proposal such as a bill, resolution or any other question which requires passage, adoption, rejection, approval or disapproval by the House of Representatives...*

**History** – The pending Senate Amendments to House Bill 1223 were called up for consideration.

Representative McCullough moved that the House adopt the Senate Amendments to House Bill 1223.

Representative Thomsen then raised a point of inquiry as to whether the measure under consideration was the same measure that had previously failed in the House.

The presiding officer stated that while the motion to adopt the Senate Amendments to House Bill 1223 had failed of adoption, the measure itself had not failed.

Representative Inman raised a point of order as to whether it was proper to consider a renewed motion to adopt the Senate Amendments to House Bill 1223 when the same motion had been previously defeated by the House.

The presiding officer ruled that because the motion had failed on a previous legislative day resulting in a change in the parliamentary situation, a renewed motion to adopt Senate Amendments to House Bill 1223 was in order.<sup>1</sup>

**Ruling** – It is the ruling of the Chair that the House may properly entertain a renewed motion to adopt Senate Amendments to a House bill when such Senate Amendments failed of adoption on a previous legislative day.

**Explanation** – In this instance Representative McCullough offered a motion to adopt the Senate Amendments on May 10, 2011 and the motion failed of adoption.<sup>2</sup> On a subsequent legislative day, Representative

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<sup>1</sup> *Okla. H. Jour.*, 1359, 53rd Leg., 1st Reg. Sess. (May 18, 2011); *Daily H. Sess. Video Rec.*, 53rd Leg., 1st Reg. Sess., SA HB 1223, 00:22:47-00:24:30 (May 18, 2011); *Daily H. Sess. Video Rec.*, 53rd Leg., 1st Reg. Sess., SA HB 1223, 02:26:30-02:33:50 (May 18, 2011). The video record cited in this footnote includes significant discussion regarding resolution of conflicts arising between provisions of the House Rules and *Mason's Manual*. When in conflict, adopted House Rules take precedence over *Mason's Manual*. Also, there is discussion regarding the limitations on use of the motion to reconsider as expressed in House Rules.

<sup>2</sup> *Okla. H. Jour.*, 1257, 53rd Leg., 1st Reg. Sess. (May 10, 2011); *Daily H. Sess. Video Rec.*, 53rd Leg., 1st Reg. Sess., SA HB 1223, 00:10:18-00:48:27 (May 10, 2011).

McCullough again moved to adopt the Senate Amendments on House Bill 1223.<sup>3</sup>

House Rules do not address the question of whether or not a failed motion to adopt Senate Amendments may be renewed; however, Sections 8.13 and 9.10 of House Rules clearly identify which motions may be reconsidered. Without question, motions dispositive of Senate Amendments are not among the motions that can be reconsidered.<sup>4</sup>

With this mind, Section 161 of *Mason's Manual* provides helpful guidance. Paragraph (1) says that “main motions or other substantive proposals, such as amendments to main motions that may be reconsidered, may not be renewed”.<sup>5</sup> If a failed motion to adopt Senate Amendments cannot be reconsidered under House Rules, it may be properly renewed at some future time.

If renewal of a motion to adopt Senate Amendments is proper at some future time, when should the presiding officer entertain such a motion?

Again, Section 161 is helpful. Paragraph (2) says that a motion to adopt an amendment that is identical to one that was previously refused cannot be attempted on the same legislative day.

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<sup>3</sup> See footnote 1.

<sup>4</sup> *Okla. H. Rules*, §§ 8.13, 9.10 (53rd Leg.); see also *Okla. H. Rules*, § 6.8 (53rd Leg.).

<sup>5</sup> *Mason's Manual of Legislative Procedure* 127 § 161 (National Conference of State Legislatures 2000).

The converse is therefore true. Consideration of an amendment that failed on a previous legislative day may be properly renewed on a subsequent legislative day.<sup>6</sup>

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<sup>6</sup> As defined under the customs and practices of the Oklahoma House, the term “properly” as used above, means requesting that the Majority Floor Leader schedule your renewed motion to adopt Senate Amendments on a subsequent legislative day, see *Prec. Okla. H. of Rep.*, § 6.3(1.), 50th Leg., 1st Reg. Sess. (April 7, 2005). In addition, the House measure to which the Senate Amendments are attached must yet be within the physical custody of the House of Representatives at the time the motion to adopt Senate Amendments is renewed. At the point a motion to adopt Senate Amendments initially fails and perhaps is followed by a successful motion to reject Senate Amendments and request conference with the Senate, the bill may enter a status whereupon it is no possible to entertain a renewed motion to adopt Senate Amendments, see *Mason’s Manual of Legislative Procedure* 549 § 761 (National Conference of State Legislatures 2000).

# RULE TEN

## Motions

### § 10.4 WITHDRAWAL OF MOTIONS

#### 10.4 - 2. (2011) Withdrawal Of Amendment After Adoption Of Motion To Reconsider Amendment

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

*Except as provided in paragraph (b) of this section, 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** – Representative McNiel moved to reconsider the vote whereby House Bill 1954 failed, which motion prevailed upon a roll call vote.

Representative McNiel moved to rescind the Third Reading of the measure, which motion was declared adopted upon a roll call vote.

Representative McNiel moved to rescind the previously adopted motion to advance House Bill House Bill 1954

from General Order, which motion was declared adopted upon a roll call vote.

Once the bill was returned to General Order status, Representative McNiel then moved to reconsider the vote whereby the Derby amendment was adopted.

Representative Reynolds raised a point of order as to whether reconsideration of an amendment was in order. The presiding officer ruled the reconsideration motion in order pursuant to House Rule 8.13.

Representative Reynolds moved to table the McNiel motion to reconsider the Derby amendment, which tabling motion failed of adoption upon a roll call vote.

Representative McNiel pressed her motion to reconsider the vote whereby the Derby amendment was adopted, which motion was declared adopted upon a roll call vote.

Upon adoption of the motion to reconsider the amendment, Representative Derby requested that the amendment be withdrawn.

Representative Reynolds raised a point of order stating that because the Derby amendment had been previously considered by the House, the amendment was in possession of the House and the Derby request was not in order.

The presiding officer stated that pursuant to Section 468 of *Mason's Manual*, once the House had voted to reconsider adoption of the Derby amendment, the House effectively had not yet taken action on the Derby amendment.<sup>1</sup> As such, it was proper for Representative Derby to request to

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<sup>1</sup> *Mason's Manual of Legislative Procedure* 316, 317 § 468 (National Conference of State Legislatures 2000).

withdraw his amendment. The presiding officer ruled the point not well taken.<sup>2</sup>

**Ruling** – It is the ruling of the Chair that upon adoption of a motion to reconsider an amendment, the author of the amendment may request to withdraw the amendment.

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<sup>2</sup> *Okla. H. Jour.*, 540, 544 53rd Leg., 1st Reg. Sess. (March 10, 2011); *Daily H. Sess. Video Rec.*, 53rd Leg., 1st Reg. Sess., *HB 1954*, 01:59:53-02:15:37 (March 10, 2011).

# RULE TEN

## Motions

### § 10.4 WITHDRAWAL OF MOTIONS

#### 10.4 - 3. (2011) Withdrawal Of Motion To Reconsider Prior To Action Or Debate

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

*Except as provided in paragraph (b) of this section, 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** – Upon consideration of Senate Bill 935 on Fourth Reading, the measure failed upon a roll call vote.

Representative McCullough attempted to serve notice to reconsider the vote whereby Senate Bill 935 failed.

The presiding officer stated that the measure would have to be reconsidered immediately pursuant to House Rule 9.10, paragraph (f). Representative McCullough then moved to reconsider the vote whereby Senate Bill 935 failed.

Representative Blackwell raised a point of order as to whether the House had adopted a resolution setting the date for sine die adjournment. The presiding officer stated that the present ruling was based on statements made by the Speaker of the House and the Majority Floor Leader indicating that Friday, May 20, 2011, would be the final day of the First Session of the Fifty-Third Oklahoma Legislature.

Representative Proctor moved to table the motion offered by Representative McCullough to reconsider the vote on Senate Bill 935. The motion to table was not stated to the body by the presiding officer.

The presiding officer then recognized Representative Sullivan, the Majority Floor Leader, for explanation of matters related to sine die adjournment of the House of Representatives.

The Majority Floor Leader stated that because a resolution setting the date of sine die adjournment had not been considered by the House, in his opinion, it was proper for notice to be served for a possible motion to reconsider without requiring that such motion be taken up immediately.

As such, Representative McCullough withdrew his motion to reconsider the vote whereby Senate Bill 935 failed.

Representative Reynolds raised a point of order stating that Representative McCullough had moved to reconsider the vote and Representative Proctor had subsequently moved to table the McCullough motion, and therefore the House should take immediate action on the pending motion to table.

The presiding officer stated that the motion by Representative McCullough had been withdrawn and ruled the point not well taken.

Representative Reynolds appealed the ruling of the Chair.

Representative Terrill raised a point of order as to whether it was proper for Representative McCullough to withdraw his motion to reconsider the vote.

The presiding officer ruled the point not well taken pursuant to House Rule 10.1, paragraph (a).

Representative Wright moved to table the pending appeal of the Chair, which motion was declared adopted upon a roll call vote.<sup>1</sup>

**Ruling** – It is the ruling of the Chair that unless action or debate occurs on a motion to reconsider, it may be withdrawn by the member offering the motion.

**Explanation** – The McCullough motion to reconsider the vote by which Senate Bill 935 failed was not ever put to the body as a question for its determination.<sup>2</sup> Discussion arose as to whether or not the motion to reconsider had to be taken up immediately because that day, Friday, May 20, 2011, might possibly conclude with the sine die adjournment of the House of Representatives.

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<sup>1</sup> *Okla. H. Jour.*, 1426-1428, 53rd Leg., 1st Reg. Sess. (May 20, 2011); *Daily H. Sess. Video Rec.*, 53rd Leg., 1st Reg. Sess., SB 935, 00:37:59-00:51:11 (May 20, 2011).

<sup>2</sup> *Mason's Manual of Legislative Procedure* 119 § 156(2-3) (National Conference of State Legislatures 2000).

The presiding officer recognized the Majority Floor Leader for the purpose of hearing his opinion regarding the date of sine die adjournment.

After the Majority Floor Leader rendered his opinion on the matter, Representative Proctor offered a motion to table the McCullough motion to reconsider which the presiding officer did not put to the body. Before any further action was taken, Representative McCullough withdrew his motion to reconsider. Prior to notification to the presiding officer of Representative McCullough's intent to withdraw the motion, no motion to table was put to the House by the presiding officer and no debate on the motion to reconsider was entertained or attempted. As such, the motion to reconsider did not become property of the House and Representative McCullough was properly allowed to withdraw his motion.

# RULE TWELVE

## ADJOURNMENT OR RECESS

### § 12.3 Sine Die Adjournment

#### 12.3 - 1. (2011) Early Sine Die Adjournment Determined By House

**Rule** – House Rule 12.3 says:

*The date and time of sine die adjournment of each Regular Session of the Legislature shall be fixed by motion or resolution. Once the date and time so fixed has arrived, no further business shall be conducted by the House and the presiding officer shall declare the House adjourned sine die.*

**History** – Upon consideration of Senate Bill 935 on Fourth Reading, the measure failed upon a roll call vote.

Representative McCullough attempted to serve notice to reconsider the vote whereby SB 935 failed.

The Presiding Officer stated that the measure would have to be reconsidered immediately pursuant to House Rule 9.10, paragraph (f).

Representative Blackwell raised a point of order as to whether the House had adopted a resolution setting the date for sine die adjournment. The presiding officer stated that

the present ruling was based on statements made by the Speaker of the House and the Majority Floor Leader indicating that Friday, May 20, 2011, would be the final day of the First Session of the Fifty-Third Oklahoma Legislature.

The presiding officer recognized Representative Sullivan, the Majority Floor Leader, for explanation of matters related to sine die adjournment of the House of Representatives.

The Majority Floor Leader stated that because a resolution setting the date of sine die adjournment had not been considered by the House, in his opinion, it was proper for notice to be served for a possible motion to reconsider without requiring that such motion be taken up immediately.<sup>1</sup>

**Precedent** – It is the precedent of the House that the date of early sine die adjournment will be determined by the House and that applicable deadlines within House Rules will be calculated on the basis of an established date for sine die adjournment.

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<sup>1</sup> *Okla. H. Jour.*, 1426-1428, 53rd Leg., 1st Reg. Sess. (May 20, 2011); *Daily H. Sess. Video Rec.*, 53rd Leg., 1st Reg. Sess., SB 935, 00:37:59-00:51:11 (May 20, 2011). See also *Senate Concurrent Resolution 20* adopted by the House of Representatives later in the day on May 20, 2011. SCR 20 provided that after regular adjournment on May 20, 2011, each chamber could reconvene at any time prior to 5:00 p.m. on Friday, May 27, 2011, the constitutionally required date of sine die adjournment, upon the mutual agreement of the President Pro Tempore of the Senate and the Speaker of the House of Representatives and with at least twenty-four (24) hours of notice.

# JOINT RULE SEVEN

## JOINT COMMITTEE ON APPROPRIATIONS AND BUDGET

### § JOINT RULE 7.4 NOTICE OF MEETINGS

#### (Joint Rule) 7.4 - 1. (2011) Modification Of Meeting Notice Requirement

**Rule** – Joint Rule 7.4 states:

*Unless otherwise established by agreement between the Speaker of the House and the President Pro Tempore of the Senate, twenty-four (24) hours of notice to the public shall be provided for meetings of the Joint Committee whether such meetings shall be held jointly or separately.*

**History** – Representative Sears moved adoption of the Joint Committee Report on House Bill 2170.

Representative Reynolds raised a point of order as to whether it was appropriate to consider adoption of the Joint Committee Report on House Bill 2170 stating that the presiding officer had ruled previously that a suspension of the rules was required to change the public notice requirements for meetings of the Joint Committee on Appropriations and Budget.

The presiding officer stated that the previous inquiry pertained to the manner of suspending a joint rule.<sup>1</sup>

The presiding officer's response to the previous inquiry did not address the provision which allows the Speaker of the House and the President Pro Tempore of the Senate to modify the meeting times of the Joint Committee on Appropriations and Budget.

Representative Reynolds raised a point of order as to whether it was appropriate to consider adoption of the Joint Committee Report on House Bill 2170 because the announced meeting time of the Joint Committee on Appropriations and Budget was revised and the Joint Committee convened without twenty-four (24) hours of public notice as required by Joint Rule 7.4.<sup>2</sup>

The presiding officer stated that Section 7.4 of the Joint Rules permits the Speaker of the House and the President Pro Tempore of the Senate to modify public notice requirements for meetings of the Joint Committee on Appropriations and Budget and ruled the point not well taken.

Representative Morrissette raised a point of order as to the existence of such an agreement between the Speaker of the House and the President Pro Tempore of the Senate. The presiding officer referenced an e-mail published by the Speaker and ruled that the Chair would rely upon the representations of the Speaker of the House.

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<sup>1</sup> *Daily H. Sess. Video Rec.*, 53rd Leg., 1st Reg. Sess., 00:55:59-00:56:51 (May 12, 2011).

<sup>2</sup> *Okla. H. Jour.*, 1286, 53rd Leg., 1st Reg. Sess. (May 13, 2011); *Daily H. Sess. Video Rec.*, 53rd Leg., 1st Reg. Sess., *JCR HB 2170*, 00:41:17-00:46:51 (May 13, 2011); see also *Okla. J. Rules*, § 7.5 (53rd Leg.).

Representative Morrissette raised a point of order as to the method used by the Speaker to arrive at such an agreement and was not recognized by the Presiding Officer.

**Ruling** – It is the ruling of the Chair that in the event the meeting time of the Joint Committee on Appropriations and Budget is modified by agreement between the Speaker of the House and the President Pro Tempore of the Senate, the Chair will rely on the representations of the Speaker that such an agreement in fact exists.

# JOINT RULE SEVEN

## JOINT COMMITTEE ON APPROPRIATIONS AND BUDGET

### § JOINT RULE 7.11 RECOMMENDATIONS

#### (Joint Rule) 7.11 - 1. (2011) Cognizance Of Jurisdictional Question By The Chair

**Rule** – Joint Rule 7.11, paragraph (d) states:

*No measure shall be recommended by the Joint Committee to the chamber of origin which does not have a fiscal impact. A fiscal impact may arise from provisions affecting revenues or expenditures or from provisions giving rise to a fiscal impact upon any governmental subdivision of the State of Oklahoma.*

**History** – Representative Peters moved to reconsider the vote whereby House Bill 2184 passed. Representative Hickman moved to table the Peters motion.

Representative Terrill then raised a point of order as to whether, pursuant to Joint Rule 7.11, paragraph (d), it was proper to consider House Bill 2184 because the published fiscal analysis stated that there was no fiscal impact on the measure.

The presiding officer stated that the question of whether a measure reported from the Joint Committee on Appropriations and Budget has a fiscal impact is a jurisdictional question pursuant to Joint Rule 7.11, paragraph (d), and that upon a motion to reconsider the measure the main question would again be under consideration thus allowing the presiding officer to review such a question.

The presiding officer stated that the pending motion was the motion to table and that upon failure of the motion to table, the motion to reconsider would again be before the House and at that time the presiding officer would take cognizance of the jurisdictional question.

Representative Hickman pressed his motion to table the Peters reconsideration motion, which motion was declared adopted upon a division of the question.<sup>1</sup>

**Ruling** – It is the ruling of the Chair that the Chair will not take cognizance of a jurisdictional question pertaining to a main question until the main question itself is before the House for consideration.

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<sup>1</sup> *Okla. H. Jour.*, 1363, 53rd Leg., 1st Reg. Sess. (May 18, 2011); *Daily H. Sess. Video Rec.*, 53rd Leg., 1st Reg. Sess., *JCR HB 2184*, 01:46:10-02:03:55 (May 18, 2011).

# JOINT RULE EIGHT

## CONFERENCE COMMITTEES

### § JOINT RULE 8.1 PROCEDURES

#### **(Joint Rule) 8.1 - 1. (2011) Rejection Of Senate Amendments (SAs) Not Permitted After Internal House Deadline**

**Rule** – Joint Rule 8.1, paragraph (a) states in relevant part:

*When a bill or resolution is returned by either chamber to the other with amendments, and the chamber where the bill or resolution originated refuses to concur in said amendments, a conference, by a majority vote of those present and voting, may be requested...*

**History** – Senate Amendments to House Bill 1223 were called up for consideration.

Representative McCullough moved that the House adopt the Senate Amendments to House Bill 1223, which motion failed of adoption upon a roll call vote.

Representative McCullough then moved to reject the Senate Amendments to House Bill 1223, which motion was not recognized pursuant to the internal deadline established by the Speaker of the House for motions to reject Senate Amendments to House measures and request conference.

Representative Blackwell moved to suspend House Rules for the purpose of allowing consideration of a motion to reject the Senate Amendments to House Bill 1223, which motion was not recognized.<sup>1</sup>

**Ruling** – It is the decision of the Chair that a motion to reject Senate Amendments (SAs) will not be recognized after the deadline customarily established by the Speaker of the House.

**Explanation** – It is the custom and practice of the House of Representatives for the Speaker to publish a memorandum establishing a specific deadline for principal House authors to move to reject Senate Amendments and make their initial request for conference with the Senate.<sup>2</sup>

A successful motion to “reject Senate Amendments and request conference” with the opposite chamber is a prerequisite to the conference committee process in the Oklahoma Legislature.<sup>3</sup>

Once the deadline passes, Senate Amendments may only be “accepted” but not “rejected” thus limiting the late entry of bills into the conference process. This reflects an on-going practice by the Speakers of the House intended to prevent an insurmountable “pile-up” of bills immediately prior to the required time of sine die adjournment.<sup>4</sup>

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<sup>1</sup> *Okla. H. Jour.*, 1257, 53rd Leg., 1st Reg. Sess. (May 10, 2011); *Daily H. Sess. Video Rec.*, 53rd Leg., 1st Reg. Sess., SA HB 1223, 00:10:18-00:48:27 (May 10, 2011).

<sup>2</sup> The Speaker electronically published a memorandum on Wednesday, April 6, 2011, establishing the internal House deadline for rejection of Senate Amendments (SAs) to House measures. A reminder containing the same deadline and instructions was sent by the Speaker’s office via e-mail to the House of Representatives on Monday, May 2, 2011.

<sup>3</sup> *Okla. J. Rules*, § 8.1 (53rd Leg.).

<sup>4</sup> OK CONST V, 26.

# GENERAL PRECEDENTS

## GP - 2. (2011) Reliance On General Parliamentary Law Prior To Adoption Of House Rules

**History** – Upon presentation of House Resolution 1008, Representative Hoskin moved to postpone consideration of the resolution for a twenty-four (24) hour period.

Representative Sullivan moved to table the Hoskin motion to postpone to a definite time. Representative Reynolds then raised a point of order that the motion to table offered by Representative Sullivan was out of order.

The presiding officer ruled the point well taken pursuant to Section 370 of *Mason's Manual*.<sup>1</sup>

**Ruling** – It is the ruling of the Chair that a motion to table a motion to postpone to a definite time offered prior to adoption of House rules is out of order pursuant to Section 370 of *Mason's Manual*.

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<sup>1</sup>*Okla. H. Jour.*, 253, 254, 53rd Leg., 1st Reg. Sess. (Feb. 7, 2011); *Daily H. Sess. Video Rec.*, 53rd Leg., 1st Reg. Sess., *HR 1008*, 02:53:15-02:57:47 (Feb. 7, 2011).

**Reasoning** – In practical terms, this ruling has limited effect. Section 370 of *Mason’s Manual* says that it is not in order to table a motion to postpone to a definite time.<sup>2</sup> This ruling was made prior to adoption of House Rules for the 53rd Oklahoma Legislature. Under House Rule 10.1, as subsequently adopted, a motion to postpone to a definite time is subject to a motion to table. However, in view of the fact that House Rules for the 53rd Oklahoma Legislature had not yet been adopted, the Chair relied on general parliamentary law when deciding questions of order.<sup>3</sup>

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<sup>2</sup> *Mason’s Manual of Legislative Procedure* 256-258 § 370(1) (National Conference of State Legislatures 2000).

<sup>3</sup> *Okla. H. Rules*, § 10.1 (53rd Leg.); this is not in agreement with the general principle expressed in Section 370 of *Mason’s Manual* which says that a motion to postpone to a definite time is not subject to the subsidiary motion to table. When adopted House Rules conflict with general parliamentary law, the House rule in question takes precedence over general parliamentary law and should be applied even if in direct conflict with the general principle expressed in a general parliamentary authority. *Cf. Mason’s Manual of Legislative Procedure* 32-33 § 37 (National Conference of State Legislatures 2000); Durham, W.F., *DURHAM’S LEGISLATIVE MANUAL* 73 § 160 (Harlow Publishing Company 1935).

# GENERAL PRECEDENTS

## **GP - 3. (2011) Motion To Extend Debate Not In Order Immediately After Adoption Of Motion To Limit Debate**

**History** – Representative Peters moved to advance the question, which motion was declared adopted upon a roll call vote.

Representative Dorman raised a point of inquiry as to whether it would be appropriate to offer a motion to extend debate.

The presiding officer stated that because the House had just voted to limit debate, it would not be appropriate to immediately consider a motion to extend debate.

Representative Reynolds raised a point of inquiry as to the basis for the Presiding Officer's ruling due to the fact that the House had not yet adopted its rules.

The presiding officer stated that he was relying on the customs of the House.<sup>1</sup>

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<sup>1</sup> *Okla. H. Jour.*, 257, 258, 53rd Leg., 1st Reg. Sess. (Feb. 7, 2011); *Daily H. Sess. Video Rec.*, 53rd Leg., 1st Reg. Sess., *HR 1008*, 04:38:18-04:43:22 (Feb. 7, 2011).

**Ruling** – It is the decision of the Chair that a motion to extend debate offered immediately after adoption of a motion to limit debate is out of order.

**Reasoning** – The Oklahoma Constitution establishes that the House of Representatives will determine its own rules of procedure.<sup>2</sup> This constitutional right exists even when the House is organizing itself prior to the time the House formally adopts its rules.<sup>3</sup>

During this initial stage, the presiding officer must maintain an orderly process for adoption of House rules, all the while observing the relatively few procedural requirements present in the Oklahoma Constitution.<sup>4</sup> In practicality, this means relying on the customs and practices of the House and general parliamentary law.<sup>5</sup>

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<sup>2</sup> OK CONST V, 30.

<sup>3</sup> *Prec. Okla. H. of Rep.*, GP(1.), 52nd Leg., 1st Reg. Sess. (Feb. 2, 2009).

<sup>4</sup> *Mason's Manual of Legislative Procedure* 17-18 §§ 6-7 (National Conference of State Legislatures 2000); *Cf.* OK CONST V, 7, 18, 19, 24-27A, 29-36, 42, 46, 54-59; VI, 7, 11, 12, 14; VIII, 3; X, 23, 25; XXIV, 1.

<sup>5</sup> *Prec. Okla. H. of Rep.*, GP(1.), 52nd Leg., 1st Reg. Sess. (Feb. 2, 2009); *Prec. Okla. H. of Rep.*, GP(2.), 53rd Leg., 1st Reg. Sess. (Feb. 7, 2011); *Mason's Manual of Legislative Procedure* 32-33 § 37 (National Conference of State Legislatures 2000); see *Okla. H. Jour.*, 1201 52nd Leg., 2nd Reg. Sess. (April 8, 2010); see also *Okla. H. Jour.*, 1474 52nd Leg., 2nd Reg. Sess. (April 28, 2010), the presiding officer entertained the motion to extend debate but only after a failed motion to table the motion to advance the question and with the caveat that such a motion would normally be ruled as dilatory. Obviously, the instances cited from 2010 are not exhaustive and do not contemplate the entire history of the Oklahoma House of Representatives but rather demonstrate the recent habits and usages of the House.