

March 4, 2009

**H 398. MODEL HOUSE RULES.** Filed 3/4/09. *ADOPTING THE RULES OF THE HOUSE OF REPRESENTATIVES FOR THE 2009 SESSION.*

Differs from the temporary House rules as follows: In Rule 1, removes the prohibition from holding session on Friday and deletes language that provides that session may continue after 10:00 PM on Monday or after 9:00 PM on any other days *with leave of the House*. Requires that actual time governs the applicability of Rule 1, and that the clock in the chamber will not be followed if it reflects the incorrect time. Makes a technical change.

In Rule 4, clarifies that the Speaker calls for the Journal report, as to whether the proceedings from the previous day have been correctly recorded, immediately following the opening prayer *and the Pledge of Allegiance*, and upon the appearance of a quorum.

In Rule 5, provides that the order of business may not be varied unless a particular variance is requested by the Speaker or another member without objection (was, unless otherwise ordered by the Speaker) and if an objection is made, the variance must be approved by a majority of the members present. Makes a conforming change to Rule 40.

In Rule 6, requires the Speaker to enforce, apply, and interpret the rules of the House in all deliberations of the House and enforce the legislative rules prescribed by state law. Also requires the Speaker to lay before the House its business in the order indicated by the rules and receive propositions made by members and out them to the House. Makes a clarifying change.

In Rule 7, prohibits the Speaker from declining recognition of a member unless a call of the question has been sustained pursuant to Rule 19 on the question to which the member desires to be recognized. Establishes the Speaker's right to inquire for what purpose the member rises to ascertain whether the member proposes business that is in order. Requires that (1) the Speaker recognize a member for any proper motion or other matter if in order and (2) if the Speaker refuses to recognize the member for a purpose ruled as out of order, then the Speaker must state the precise reason such recognition is out of order under these rules. Makes a technical change.

In Rule 8, extends the time any member may speak to a question of privilege to a maximum of five minutes (was, three minutes). Allows the Speaker to recognize a member to speak to any subject, other than a bill, resolution, proposed bill, or proposed resolution, as the member may desire. The Speaker may confine such points of Personal Privilege until after the conclusion of the House's regular business. Requires a five-minute limit on the time for such recognition. Makes conforming changes.

In Rule 9, requires the Speaker or other presiding officer to enforce the rules and orders of the House without delay and without waiting for attention to be called to a breach of order. Provides that it is the right of every member who notices a breach of order or of a rule to insist upon its enforcement through a point of order. Requires that a majority (was, two-thirds) vote of members present *and voting* is necessary to sustain any appeal from the ruling of the chair concerning a question of order. Makes technical and conforming changes.

In Rule 12, prohibits the distribution in the chamber of written material attacking members of the House while the House is in session.

In Rule 14, makes a motion to recess fourth (was, second) in the order of precedence for motions and adjusts the order of other motions accordingly. Makes conforming changes to Rule 16 and Rule 19.

In Rule 16, prohibits a motion to table from being paired with a motion to reconsider and deletes that a motion to table *shall be decided without debate*.

In Rule 18, provides that, when a question has been decided, it is in order for *a member of the prevailing side* (was, any member; provided that if the vote by which the motion was originally decided was taken by a recorded vote, only a member of the prevailing side may move for reconsideration) to move for reconsideration thereof on the same or succeeding legislative day. Deletes that a motion to reconsider the vote by which a person has been elected as Speaker or Speaker Pro Tempore is out of order.

In Rule 19, adds that the previous question may be called by the majority leader *or a majority whip or the minority leader or minority whip*. Provides that the previous question may only be called after at least three members have spoken in the affirmative and three members in the negative if there are three or more members desiring to speak on each side of the question.

Changes the format for calling the previous question as follows: "Call for the previous question having been made, is the call sustained?" (was, "Shall the main question now be put?").

In Rule 23, prohibits the Speaker or presiding officer from disregarding a timely call for a division by a member.

In Rule 24, prohibits the Speaker from disregarding a timely request for the ayes and noes. Also prohibits a member from changing a vote without leave of the House.

In Rule 24.1A, provides that a member is excused, upon request, from the deliberations and voting on a particular bill, but to do so must make the request before the second reading of the bill and before any motion or vote on the bill or any amendment thereto (was, upon request, excused, *in advance*, at any time that the reason for the request arises in the proceedings on the bill).

Allows for a request to be excused at the time a reason arises later in the proceedings. Deletes that an excused member is prohibited from debating the bill or any amendment to the bill, vote on the bill, offer or vote on any amendment to the bill, or offer or vote on any motion concerning the bill in committee. Makes clarifying changes.

In Rule 26, provides that, instead of the Speaker, the party caucus of the political party which has a majority of the House members (majority caucus) appoints a chair, or co-chairs, of every standing committee, permanent subcommittee, and select committee, if any. Deletes that the Speaker has the *exclusive right* to establish select committees. Provides that the majority caucus appoint majority party members, and the minority caucus appoint minority members of all standing committees having no permanent subcommittees before the end of the tenth legislative day of the first regular session. Requires the House to establish the size of each committee and subcommittee by resolution in a manner that reflects the partisan membership of the House on a mathematical basis. If the two largest parties have a different number of members, the majority party is required to have at least one more member on each committee and subcommittee than the minority party, except that the Ethics Committee must have an equal number of members from both. Provides that the majority party members and the minority party members of all permanent subcommittees of each standing committee be appointed by the majority caucus and minority caucus, respectively, with the appointed members constituting the standing committee of which the permanent subcommittee is part. Requires the majority caucus and minority caucus appoint all members of permanent subcommittees before the end of the tenth legislative day of the first regular session in a manner that reflects the partisan membership of the House on a mathematical basis. Each caucus must report its appointments to the Principal Clerk. Allows the majority caucus to name other members as vice-chairs for any standing committee. Provides for removal of an appointed member to a committee or permanent subcommittee by the member's appointing caucus for cause and prohibits additional members from being appointed except to fill a vacancy. Requires that each member of the House, other than the Speaker or Speaker Pro Tempore, be assigned to either the Committee on Appropriations or the Committee on Finance, and if appointed to the Committee on Appropriations, the member must also be appointed to one of its subcommittees.

In Rule 27, removes Agribusiness and Agricultural Economy and Children, Youth and Families from the list of standing committees and permanent subcommittees and adds Marine Resources and Aquaculture and Water Resources and Infrastructure to that list. Renames the following committees: (1) Rules, Calendar, and Operations of the House is changed to the Operations of the House, (2) State Personnel is changed to State Government/State Personnel, and (3) Ways and Means is changed to Ways and Means/Broadband Connectivity.

In Rule 28, prohibits meetings of standing committees and permanent subcommittees from being held on the floor of the House. Requires the chair of a standing committee or permanent subcommittee to set the agenda for each committee meeting subject to the approval of the committee. Makes a conforming change.

In Rule 28.1, provides that the Ethics Committee is required to inquire into any alleged violation by members of the House of any rule, standard of conduct, or law that applies to conduct of the business of the House or the conduct of House members (was, alleged violations of the Open Meetings Law, Article 33C of GS Chapter 143). Makes conforming changes. Requires that the Ethics Committee consider complaints against presiding officers for violations of these rules if the violation was brought to the attention of the presiding officer in a timely manner and the presiding officer failed to immediately redress the violation.

In Rule 29, requires the chair of a standing committee or permanent subcommittee to notify, or cause notification to, the sponsor of each bill that is set for hearing *at least one day in advance of the committee meeting* regarding the date, time, and place of that meeting.

In Rule 31, deletes that the captions of bills may be amended only by amendment proposed by the standing committee to which the bill was referred. Prohibits a bill containing no substantive provisions from being introduced.

In Rule 32, requires that each bill not introduced on the report of a standing committee be referred by the Speaker, immediately upon its first reading, to the standing committee or permanent subcommittee whose usual jurisdiction most closely relates to the subject matter of the bill (was, as the Speaker deems appropriate).

In Rule 34, deletes that a bill is prohibited from being filed for introduction if the draft contains names preprinted on the bill jacket and body of the bill (either as primary sponsors or cosponsors) until each member has signed the jacket.

In Rule 36, provides that all House bills and resolutions *that have a cumulative total of 10 or more principal sponsors or co-sponsors* be reported from the standing committee or permanent subcommittee to which referred with such recommendations as it desired to make except in the case where the principal introducer requests in writing to the chair of the standing committee or permanent subcommittee that the bill not be considered. Requires that, when a standing committee or permanent subcommittee gives a bill a favorable report, the bill must be placed on the favorable calendar on the second legislative day (was, on the day and in the order designated by the Chair of the Standing Committee on Rules, Calendar, and Operations of the House, with limitations). Adds to the exceptions to that rule (1) when the bill has not yet been placed on the calendar, and the Speaker refers the bill to another committee, *if such referral is approved by a majority vote of the House* or (2) the principal sponsor of the bill requests in writing that the Chairman of the Standing Committee on Rules, Calendar, and Operations of the House delay the calendaring of the bill up to five legislative days. Prohibits, except by vote of two-thirds of the committee members present, a committee substitute from being considered in a committee unless the committee substitute is sent by electronic mail to each committee member at least one legislative day prior to its consideration. Makes technical changes.

In Rule 36.1, clarifies that when a bill, resolution, or amendment is removed from the calendar due to a request for a fiscal note, that once that fiscal note is attached it will be placed back on the calendar. Makes a technical change.

In Rule 36.4, prohibits provisions *changing existing law* from being included in specified appropriations bills or amendments to such bills. Allows specified appropriations bills to change existing law if the change (1) alters expenditures or salaries; (2) changes the scope or character of a program which must be reduced, increased, or changed because of an increase or decrease of appropriated funds or because of changes in federal law or regulation; and (3) modifies any function of state government which necessitates a transfer of funds from one department to another, provided it is recommended in a written report by the Appropriations Committee before or at the same time the bill is reported or, if such a provision is contained in a floor amendment, the sponsor presents to the Principal Clerk, at or before the amendment is offered, an explanation to be distributed to the House members. Requires that each individual expenditure or special provision included in the budget be accompanied by the name of the House member (or in the case of the conference report, the name of the House or Senate member) who requested the expenditure, and no such expenditure be placed in the bill unless it was also contained in a separately filed bill.

Enacts a new Rule 38.1, Special Rules Relating to the Budget, to provide that any proposed allocation of availability among the appropriations subcommittees must be put to a vote of the membership of the House for approval at least two legislative days prior to the meeting of the full Appropriations Committee at which a vote on approval of the Current Operations Appropriations Bill takes place. Prohibits a vote on the Current Operations Appropriations Bill on either second or third reading until after at least 10 hours of debate on the bill or after consideration of amendments to the bill, unless no member seeks to further debate or offer further amendments. Prohibits (1) additional rules on consideration of the Current Operations Appropriations Act from being enforced unless agreed to by a majority vote of members present and voting and (2) an

additional rule that prohibits amendments to Current Operations Appropriations Bill that transfers funds from one subcommittee area to another subcommittee area.

In Rule 39, requires a vote of the majority (was, three-fifths) of the members on a motion to recall a bill from standing committee, when the committee has failed to act after 10 legislative days, to the floor of the House for consideration and action as a majority of members may direct. Provides that the re-referral of a bill to another committee or subcommittee does not restart the 10-day period after notice has been given pursuant to this rule. Makes a technical change.

Enacts a new Rule 39.3, Discharge Petition, to provide that a motion to discharge a committee from consideration of a bill or resolution may be filed with the Principal Clerk if accompanied by a petition signed by 61 members of the House asking that a committee be discharged from further consideration of the bill or resolution. The Principal Clerk must place the motion on the calendar for the next legislative day as a special order of business and if adopted, the bill or resolution is placed on the calendar for the next legislative day, with any adopted amendments or committee substitutes. Prohibits a petition from being circulated for signatures (1) until 10 legislative days after referral to the committee and (2) until notice has been given on the House floor that the petition is to be circulated. Requires the Principal Clerk to provide a form for discharge petitions.

In Rule 43, deletes language providing that an amendment that is clearly unconstitutional is out of order. Deletes rules regarding amendments to specified appropriations bills. Makes a technical change.

In Rule 44, requires the Speaker to refer a report back to the conference committee if matters other than those in difference between the two houses is considered in the report and, in that case, the report must be referred to a standing committee for its recommendation before further action by the House. Prohibits a vote on the adoption of a conference report until the second legislative day (was, next legislative day) following the *distribution of the report to the office of each member of the House*. Provides that the Conference Report for the Current Operations Appropriations Bill and the Conference Report on a bill making general revisions in that act for the second fiscal year of a biennium must not be placed on the calendar for action earlier than the third legislative day after the Conference Report is distributed to the office of all members of the House.

In Rule 45, provides for the election of the Speaker by a call of the roll of the members of the House and prohibits the election from being done by resolution or combined with any other matter.

In Rule 61, provides for the assignment of seats within each party caucus, with each member choosing a seat in order of seniority. The democratic members must be seated in the 60 seats to the Speaker's left and the Republican members in the 60 seats to the Speaker's right. Provides that excess members of one party in the majority are to be seated first in the center aisle seats on the other side of the chamber, being allocated first, front to rear.

In Rule 61.1, provides for office assignments to be made on the basis of seniority, with the Chair of the Committee on Rules, Calendar, and Operations of the House making assignments in conformity with the request of each member to the extent practicable.

In Rule 62, provides that custom and usage may supplement these rules in governing operation of the House, in addition to Mason's Manual of Legislative Procedure, but may not supersede them.

Makes technical changes to Rule 25, Rule 30, Rule 36.2, Rule 40, Rule 42, and Rule 59.

**Intro. by Blust.**

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