

2017 SESSIONS • SENATE

SECTION 35 -- VOTES AND VOTING

35-1.16 **CASTING OF TIE-BREAKING VOTE BY ACTING PRESIDENT ON COLLECTIVE BARGAINING AGREEMENT RESOLUTION**

The vote on a Senate resolution approving an agreement between the state and the State Employees Bargaining Agent Coalition resulted in a 17-17 tie. The Senate republican president pro tempore* raised a point of order, stating it was his understanding that there would need to be a majority vote to defeat the resolution and as the vote was tied, this would be an approved resolution and there was no need for the Lieutenant Governor to cast a vote.

The acting president ruled that the relevant statute (CGS § 5-278) states that the General Assembly may approve any such agreement as a whole by a majority vote of each House or may reject any such agreement, and it was her opinion that she was required to vote so that there would be a majority vote to pass the resolution. Wyman, February 1, 2017.

** For the 2017-2018 term, the evenly-divided Senate had a Senate President Pro Tempore, a Senate Republican President Pro Tempore, a Senate Majority Leader, and a Deputy Senate Republican President Pro Tempore.*

2017 SESSIONS • HOUSE

SECTION 2 -- AMENDMENTS

2-2. AMEND A CONSTITUTIONAL AMENDMENT

2-2.2 SUBSTANTIVE STRIKE-ALL AMENDMENT TO HOLDOVER RESOLUTION AMENDING STATE CONSTITUTION OUT OF ORDER; FORM OF HOLDOVER RESOLUTION

The resolution amended the state constitution to prohibit the General Assembly from enacting any law that authorizes funds in the Special Transportation Fund to be expended other than for transportation purposes. It passed the 2015 General Assembly in the December special session by less than a three-fourths majority, so it was resubmitted to the 2017 General Assembly as the constitution requires.

A strike-all amendment, House amendment "A," was introduced, which replaced the language of the underlying resolution with language that included, among other provisions, a definition of "transportation purposes" and the vesting of original jurisdiction in the Connecticut Supreme Court to be exercised on the petition of any resident of the state to compel the General Assembly to perform its duty.

A member raised a point of order that the amendment was not properly before the chamber. Citing to HP 2-2.1, the member stated that the General Assembly may only confirm or reject the action taken by the previous General Assembly.

The speaker ruled the point well taken. The underlying resolution was approved by the majorities of both houses of the General Assembly in December, 2015. House amendment "A" would make substantive changes to the underlying resolution and article twelfth of the amendments to the state constitution provides that any proposed amendment that passes both chambers by a majority of both chambers that is less than three-quarters of both chambers shall be continued in the next General Assembly following the intervening election. The constitution contemplates the exact language being reconsidered in the next elected membership of the legislature.

The speaker allowed debate on the ruling. Speaking in support of overturning the ruling, a member stated that the context of the cited precedent was different than what the members were currently facing since this amendment does not involve minor technical changes and was a strike-all. He continued that nothing in the rules, statutes or the constitution prohibited an amendment to a constitutional amendment and to find otherwise would violate the principle that no legislature can bind a subsequent legislature. He contended the previous constitutional amendment was not held over, as the resolution before them was completely created in this session of the legislature and was a new constitutional amendment that had its own public hearing and was voted on by the Government Administration and Elections committee. He argued this legislature had the power to strike the underlying resolution with a whole new resolution which, if passed by three-quarters majority in both chambers, would go to voters in November of 2018 and if passed by a simple majority, would go to voters in 2020 if passed subsequently in 2019 or 2020.

The member who raised the point of order stated that House amendment "A" was a substantive change from the underlying resolution, that the constitution provided for the houses of the General Assembly to make their own rules and that they have long used precedential material to interpret the way their procedures work. He stated that, with respect to the holdover process, the Secretary of the State, who is responsible for bringing back to the House and Senate the resolution that was passed in the last session, ruled that the underlying resolution is a carryover. He opined that there would be no purpose for the constitutional provision to carry over if the General Assembly could change the resolution and have a new proposal that only had to pass by a simple majority.

Speaking for the second time, the first member noted the purpose of the precedents was not to handcuff the General Assembly. He stated that to take the cited precedent and apply it in the way espoused would mean the committee apparently had no authority to refuse to bring the constitutional amendment before the chamber and would render the committee hearings and votes valueless. He stated the underlying resolution was not the same amendment voted on in 2015 and was not the same document. Speaking for the second time, the other member stated that the underlying resolution was identical to the one passed in the last session and met the constitutional requirements of Article Twelfth, while an amendment to it did not.

On a roll call vote, the ruling was sustained.

The first member then raised a point of order that the resolution was not properly before the chamber because it was not the same resolution that was voted on in 2015. He stated that, pursuant to the constitution, the amendment to be voted on a second time had to be a resolution that was continued from the previous General Assembly.

The speaker ruled the point not well taken. He outlined the longstanding procedures and the custom of the General Assembly for resolutions that are carried over and noted that resolution and bill numbers do not carry over from session to session. The process fulfilled the requirements of Article Twelfth.

On appeal, the first member reiterated his point of order that the original resolution was not in the possession of the house and was not properly before the house for debate. He stated the ruling appeared to be based on a process that was and had been ongoing regarding regular resolutions and regular bills, and had been done in the past with respect to constitutional amendments, but that it was clear that the constitution talked about the resolution having been continued from the previous General Assembly. He argued that the constitution does not make provision for a new resolution being adopted or a deferral to the process that the legislature chooses to adopt for numbering resolutions. He stated that an inadequate numbering system and incorrect past procedure did not justify disregarding constitutional requirements.

The member who spoke supporting the ruling then stated the constitution provided two different paths to get a constitutional amendment to voters and did not require a particular procedure, noting that the constitution gave to the General Assembly the power to create its own procedure, which was followed with respect to the underlying resolution. He noted that, regardless of numbering conventions, the original resolution was introduced by a former member of the chamber and could not be taken up because only members can introduce legislation. He argued the resolution met the constitutional requirement of being considered in identical form in two sessions of the General Assembly with an election intervening and met the rules of the General Assembly adopted for the session.

On a roll call vote, the appeal was rejected. *Aresimowicz, June 6, 2017.*

2-7. COMBINING LANGUAGE

2-7A. AMENDMENT COMBINING BILL AND RESOLUTION

2-7A.3 STRIKE-ALL AMENDMENT THAT SUBSTITUTES BILL FOR RESOLUTION OUT OF ORDER

The underlying resolution was an emergency-certified House resolution approving an agreement between the state and the State Employees Bargaining Agent Coalition. House amendment "A" was a strike-all amendment that substituted a proposed biennial budget bill.

The majority leader raised a point of order that the amendment was out of order. He stated a resolution does not have to be signed by the Governor, and House precedent dictates against amending a resolution with a special act or bill that would require a gubernatorial signature.

The speaker ruled the point well taken. Article Fourth, Section 15 of the state constitution provides that all bills passed by both chambers shall be presented to the Governor for signature or return without a signature. A resolution by its very nature is not presented to the Governor, does not become law by way of executive action, and is a purely legislative action. Citing HPs 2-7A.1 and 2-7A.2, the speaker ruled the amendment out of order.

The proponent of the amendment appealed the ruling and requested a roll call vote. A member opposing the ruling noted that in both precedents cited, an effort was made to take a bill and replace it with a resolution and there was no precedent saying a resolution cannot be replaced by a bill. He argued that the rules are designed to facilitate, not impede, legislative action.

Speaking in support of upholding the ruling, the majority leader stated that no precedent or rule has allowed attaching to a House resolution an amendment that would require Senate approval and gubernatorial signature, and that the other rulings were very similar and on point.

On a roll call vote, the appeal was rejected. *Aresimowicz, July 24, 2017.*

SECTION 10 -- DEBATE

10-2C. MEMBERS' REMARKS; QUESTIONING MOTIVES, CHARACTER

10-2C.21 PERSONAL CHARACTERIZATIONS OF JUDICIAL NOMINEE, IMPROPER DEBATE

During debate on a judicial nominee, a member characterized the nominee as a bad judge and only concerned about money. The minority leader raised a point of order that the member was engaging in improper debate by disparaging the character of the nominee.

The deputy speaker stated the minority leader made a valid point about the decorum in the chamber and that the chamber intended to counsel members as to the importance of that decorum. *Berger, March 8, 2017.*

SECTION 15 -- FISCAL NOTE

15-1. FISCAL NOTE, GENERALLY

15-1.4 FISCAL NOTE ON RESOLUTION NOT REQUIRED TO ADDRESS SPECIFIC PROVISIONS OF COLLECTIVE BARGAINING AGREEMENTS

During debate on an emergency-certified House resolution during the special session approving an agreement between the state and the State Employees Bargaining Agent Coalition, a member raised a point of order that JR 15 of the special session required any substantive resolution to have a fiscal note if the resolution affects state or municipal revenue. The member stated that, as the resolution would change the contributions of state employees, the revenue to the state would be affected, and that the fiscal note failed to address the specific provisions of the individual contracts and the collective bargaining agreements and was insufficient to satisfy JR 15.

The speaker ruled the point not well taken. The rule says a fiscal note must be available. A fiscal note was present and on the system, and was identical to the fiscal note provided in 2009. *Aresimowicz, July 24, 2017.*

15-1.5 SYSTEM EXPERIENCING TECHNICAL ISSUES, PAPER COPY SUFFICIENT

During debate on a state budget bill during the special session, a member introduced House amendment "B." Another member inquired whether a fiscal note for the amendment had been filed. The introducer stated he had received a fiscal note and did not know whether it was online, and offered to make copies for the members. The other member made a point of order that the amendment was not properly before the chamber as the fiscal note was not on the system and was not properly filed.

The deputy speaker ruled the point not well taken. The system was experiencing technical issues that needed to be fixed and, as paper copies had been given to the members, the fiscal note was properly before the chamber. *Godfrey, September 15, 2017.*