89S21287 TYPED

By:  Vasut H.R. No. 128

R E S O L U T I O N

WHEREAS, the house desires to adopt penalties to reduce the frequency with which members absent themselves without leave for the purpose of impeding the action of the house while ensuring that members' constitutional rights are protected, all penalties herein are proportional to the proscribed conduct, and members' constitutional responsibilities as legislators are not unfairly impaired; now, therefore

BE IT RESOLVED by the House of Representatives of the 89th Legislature, that Rule 5, Section 3, of the permanent rules of the House of Representatives of the 89th Legislature is amended to read as follows:

Sec. 3.  LEAVE OF ABSENCE. (a) No member shall be absent from the sessions of the house without leave, and no member shall be excused on his or her own motion.

(b)  A leave of absence may be granted by a majority vote of the house and may be revoked at any time by a similar vote.

(c)  Any member granted a leave of absence due to a meeting of a committee or conference committee that has authority to meet while the house is in session shall be so designated on each roll call or registration for which that member is excused.

(d)  If a member is absent without leave for the purpose of impeding the action of the house, the member is subject to one or more of the following:

(1)  fines as provided by this section;

(2)  payment of costs incurred by the sergeant-at-arms;

(3)  reprimand;

(4)  censure; [~~or~~]

(5)  recalculation of seniority as provided by this section;

(6)  loss of designation of appointment as a chair or vice-chair as provided by this section;

(7)  expulsion in the manner prescribed by Section 11, Article III, Texas Constitution; or

(8)  any other penalty allowed by the house rules in accordance with Section 10, Article III, Texas Constitution, and this section.

(e)  Unless the house excuses the payment by a majority vote, each member who is absent without leave is liable to the house for:

(1)  a fine in an [~~the~~] amount equal to three times the per diem set by the Texas Ethics Commission for each day of a regular or special legislative session under Section 24a(e), Article III, Texas Constitution [~~of $500~~] for each calendar day of absence; and

(2)  the member's pro rata share of the costs incurred by the sergeant-at-arms to secure the attendance of absentees.

(e-1)  (1) Unless the house excuses the following penalty, each member who is absent without leave while the house is operating under a call ordered under this rule shall forfeit the pro rata portion of the member's monthly operating budget for each calendar day of absence.

(2)  If a penalty under this subsection is not excused, the Committee on House Administration shall direct the House Business Office to debit the member's operating budget by the amount calculated under this subsection.

(e-2)  (1) Unless the house excuses the following penalty by a majority vote, each member who is absent without leave for at least two consecutive days while the house is operating under a call ordered under this rule loses the member's designation under Rule 1, Section 15(a), and Rule 4, Section 2(a)(7), appointment under Rule 1, Section 15(d), and appointment under Rule 4, Section 44, as a chair or vice-chair.

(2)  If a penalty under this subsection is not excused: (A) a member losing a designation or appointment is not eligible for a new designation or appointment until the convening of the next legislature; and,

(B)  the speaker or appointing authority, as applicable, may designate or appoint a new chair or vice-chair in the same manner as the original designation or appointment.

(e-3)  (1) Unless the house excuses the following penalty by a majority vote, each member who is absent without leave for at least three consecutive days while the house is operating under a call ordered under this rule shall have the member's seniority under Rule 3, Section 14(a)(6), and Rule 4, Section 2(3), recalculated to reduce the member's seniority by two (2) years for each calendar day of absence.

(2)  If a penalty under this subsection is not excused: (A) the chief clerk shall revise the roster prepared under Rule 2, Section 1(b)(5), to reflect all recalculated seniority; and

(B)  if a member's recalculated seniority falls below another member, the Committee on House Administration may allow members to re-select offices and parking spaces based on recalculated seniority.

(f)  The Committee on House Administration shall notify a member of the total amount of fines and costs for which payment is not excused. A member must pay the amount stated in the committee's notice by making payment of that amount to the House Business Office not later than the third business day of the first calendar month after the date of the committee's notice. A member may not make any payment from funds in the member's operating account or from funds accepted as political contributions under Title 15, Election Code. If a member does not make full payment as required by this subsection, the committee shall direct the House Business Office to reduce the amount of the monthly credit to the member's operating account established under the housekeeping resolution by 30 percent in each month that any amount of a fine remains past due and owing. When a member has made full payment as required by this subsection, the committee shall direct the House Business Office to restore the impounded funds to the member's operating account subject to any limitations on the carrying forward of unexpended funds established by the housekeeping resolution.

(g)  Before a member is expelled under this section, the matter shall be referred to the Committee on House Administration for investigation and report. A report issued under this subsection shall not be considered by the house until a printed copy of the report has been provided to each member of the house at least 24 hours before consideration.

(h)  Before a penalty described by Subsection (d)(8) may be imposed against a member absent without leave:

(1)  the Committee on House Administration must adopt a motion identifying the specific penalty that will be imposed if a member who is currently absent without leave does not return to the house;

(2)  the member must fail to return to the house within twenty-four (24) hours of receiving written notice of the adoption of a motion under Subdivision (1); and,

(3)  the proposed penalty must be referred to the Committee on House Administration for investigation and report subject to the same restrictions set forth in Subsection (g).