

## Are Senate bills legit?

Assembly speaker is leery of actions passed during the "wandering Padavan" session

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ALBANY -- The state Assembly won't accept more than 120 bills passed Tuesday by the Senate Democratic conference until Speaker Sheldon Silver's staff is able to determine the legitimacy of the Senate proceedings.

Tuesday's action by the Senate Democrats was made possible by the unexpected presence of Republican Sen. Frank Padavan of Queens, who wandered through the chamber as the Democrats convened for session just after noon. Democrats, who still claim control of the chamber despite the June 8 coup by the GOP and breakaway Democrat Pedro Espada Jr., used Padavan's presence to establish quorum and begin passing time-sensitive bills ranging from local sales-tax extenders to bond issues.

Padavan and the GOP blasted the Democrats' tactics as "chicanery," and threatened legal action. Gov. David Paterson said he would not sign the Democrats' legislation due to the dispute.

On Wednesday, a spokeswoman for Silver, a Democrat, said the matter is under review.

Under the normal legislative process -- something the Capitol hasn't experienced for almost a month -- the chamber that initiates passage of a bill accepts it back after passage in the other chamber, and then sends it to the governor's desk.

If the Assembly relents and accepts the Senate Democrats' bills, Paterson could ignore the legislation and still see them become law after "aging" for 10 days.

At a news conference Wednesday, Paterson repeated his refusal to sign the bills, but also refused to rule out either of his alternate courses of action: vetoing them, or allowing the bills to become law without his signature. The governor did, however, say he would look more favorably upon the legislation if Senate Republicans guaranteed they would not mount a legal challenge to the bills, which are noncontroversial.

Paterson spokesman Peter Kaufman said the executive branch doesn't expect the Assembly to send the bills to the governor's desk.

Also Wednesday, the Senate Democrats' chief counsel, Shelley Meyer, released a copy of her letter to Paterson and Silver sent after the completion of Tuesday's session.

"I write to reiterate the validity of Senate action today on numerous important and time-sensitive bills," Meyer wrote. " ... The Senate properly convened in regular session, obtained a quorum and passed legislation on the Senate's Active List. Accordingly, the Assembly and Governor must accept these bills as properly passed by the Senate, and these bills must be presented to the Governor for executive action."

While the use of the word "must" is significant, Mayer said the conference would rather not be forced to press the matter in court. "It's not our choice to go down that road," she said of possible action against the Assembly.

The Assembly's acceptance of Tuesday's bills would implicitly give that chamber stamp of approval to the Democrats' purported control of the chamber despite the events of June 8. Such a move would likely result in a challenge from Republicans -- and the even more troubling possibility of endless legal action brought by anyone who would rather not be subject to the legislation.

In comparison to Tuesday's developments, Wednesday's Senate action was downright subdued.

The GOP and Espada announced the first public leaders' meeting to negotiate a resolution to the deadlock. Despite what Espada described as encouraging statements from Sen. John Sampson, the Democrats' conference president, the noon meeting featured only Espada and Republican leader Dean Skelos.

The pair took the opportunity to present the assembled press corps with a PowerPoint presentation on the events of June 8 -- an event virtually everyone in the room was groaningly well-acquainted with by this point.

Espada repeated his offer to have a "re-vote" for the post of Senate president pro tempore between himself and Democratic leader Malcolm Smith, who also claims that title. Espada refused to speculate on what would happen in the event of a 31-31 tie.

Sampson said he and Smith would attend a leaders' meeting today after settling on an agenda, but ruled out taking part in an extended debate over the parliamentary procedure of the June 8 coup.

"This is about statesmanship versus gamesmanship," said Sampson, who held his own news conference in the Democratic conference room without Smith at his side.

A 3 p.m. special session saw all 62 members once again convened in the chamber with Democratic Sen. Andrea Stewart-Cousins presiding -- despite pro forma objections from Skelos, who said the Democrats had no need to post Senate staff on either side of the presiding officer's rostrum.

"We're not going to rush the podium," Skelos said.

Despite Wednesday's almost collegial mood on the Senate floor, Paterson said the continued Senate morass meant "we have moved from conflict to crisis," citing the number of municipalities that are at risk of losing millions of dollars due to the Senate stalemate.

Paterson called the next special session for 3 p.m. today, and took an unexpected additional step of calling subsequent sessions for the same hour Friday through Monday.

"Yes, legislators are spending the July Fourth weekend in Albany -- hopefully, resolving this conflict," Paterson said