

As Time Runs Out, Paterson Tries to End the Deadlock

by {ga=dking}

Monday, June 22, 2009 12:00 AM



Photo (c) [NY State Governor's Office](#) Paterson at a press conference June 16th

There was a brief glimpse of hope on Thursday afternoon that the New York State Senate might finally break out of its deadlock and act on the hundreds of pieces of legislation currently pending before it. That is until a fistfight almost broke out.

Monday is the last scheduled day of session -- the day the Assembly will pack up and leave town, possibly until next year. With the Senate still at an impasse, the fate of mayoral control of schools, the New York City budget and several pieces of controversial legislation remains unclear.

Now, Gov. [David Paterson](#) is poised to step in to try to break the logjam and move a Senate chamber ruled by petty power plays, grudges, threats, accusations and insults. On Sunday, Paterson [announced](#) he will call a special session on Tuesday and continue calling them until the leadership dispute is settled and legislation is passed.

Paterson Makes a Move

For a time on Thursday, there appeared to be a [break in the stalemate](#) .

A power-sharing plan was on the table. It would have allowed the Senate to vote on basic legislation reauthorizing programs and funding for municipalities. Upstate Sen. Darrell Aubertine, a Democrat who is [considering a run](#) for Congress in a heavily Republican district, [approached Republicans](#) to arrange an agreement. But there was a disagreement about how Sen. [Pedro Espada Jr.](#) would be involved. And just like that, the [routines](#) that both sides have maintained over the last few days fell back in place.

Republicans returned to the chamber to give speeches about Democrats failing the taxpayers, and Democrats went back into meetings, emerging briefly to decry Republicans for refusing to

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accept "true power sharing." Democrats said they were going home but that negotiations would continue. Republican leader Sen. Dean Skelos told Republicans the session will resume on Monday at 3 p.m.

On Sunday, Paterson announced that he intends to call a special session every day after Monday -- the last official day of session -- until the leadership dispute is solved. "Over the last couple of weeks, the senators' conduct has been laughable but what's going on around here these days is no joke," said Paterson.

Just because Paterson calls a special session, the legislators do not have to act on the bills on his agenda or agree on who should preside over the chamber, the New York Times [noted](#) . Senators could gavel in and out without voting but that could further enrage an increasingly disgusted electorate.

In a further effort to move things ahead, Paterson has proposed bringing in arbitrators to broker a long-term leadership compromise. He recommended that Court of Appeals Chief Judge [Jonathan Lippman](#) preside over the Senate during special session. Republicans, though, say the Senate already has a president: Espada.

More of the Same

It is not clear that Paterson's threat to hold special sessions has changed anything.

Democrats responded by repeating their offer of a [power sharing agreement](#) that would alternate party control of the position of Senate president and majority leader each day. The day there is a Republican functioning as president a Democrat would function as leader.

Republicans and Espada have scoffed at the idea. They say they intend to be in session every day without Paterson's help and expect Democrats to show up to work and acknowledge that Espada and Skelos are now in charge.

"By threatening to call a special session each day, the governor is attempting to dictate a

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solution on a separate branch of government," said Espada in a statement. "New Yorkers would be better served -- and this entire impasse could be resolved immediately -- if the governor would simply encourage Democrats to report to work Monday and attend session." Espada said having Lippman preside over the Senate "would raise troublesome separation of powers issues."

Meanwhile, rumors persist that other Democrats might break ranks and give Republicans the votes to create the quorum needed to bring the Senate into session. Aubertine acknowledged that he [nearly did just that](#) on Thursday, and Sen. [Tom Duane's](#) loyalty to the Democrats seems to be [wavering](#) .

A judge is expected to rule Tuesday on an appeal of last week's dismissal of the Democrat's bid to have Republican control of the Senate declared illegal. In ruling last week, the judge who heard the case [repeatedly warned](#) that the judiciary should not get involved in matters of the legislature.

Into the Sunset

The inaction in the Senate is now running headlong into a June 30 deadline. On that day, a number of pieces of legislation that affect the funding of municipalities will sunset. Sales taxes and other revenue generating measures will cease to be, and local governments across the state will have to look for other ways to balance their budgets. In other words, people will get personally familiar with the effects of the Senate's dysfunction.

Currently, New York City is waiting for the Senate to approve a [revenue package](#) that includes a 0.5 percent increase in the sales tax as well as the rolling back of the sales tax exemption for clothing sales more than \$110. (For more on the city's budget, see [Band-Aid Budget](#) .) The city needs that measure to balance its budget. The Assembly has already approved it, but it has yet to be introduced in the Senate. It isn't likely to face much resistance there -- but it does have to come to a vote.

June 30 also is the day the law authorizing mayoral control of schools in New York City expires. But a group of senators, including new Democratic leader Sen. [John Sampson](#) , do not seem very concerned by the deadline. Sen.

[Kevin Parker](#) , who backs legislation that would drastically alter mayoral control, says the June 30 deadline is

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arbitrary. "It's not like magic dust will come down" to return the system to the way it was before mayoral control was instituted, Parker said.

Last week, the Assembly [passed a bill](#) proposed by Speaker Sheldon Silver that generally leaves mayoral control intact. Senate Republicans support that legislation and, if given the chance, would pass it as is.

Sen. [Malcolm Smith](#), when he was leading the conference, seemed to favor Silver's legislation, but Sampson opposes mayoral control. He and a group of Democrats want to negotiate with the Assembly for further alterations that would put [more checks and balances](#) on the mayor.

The [Better Schools Act](#), otherwise known as Sampson's bill, would not allow the mayor to appoint most members of the [Panel for Education Policy](#), and members would be named for fixed terms, instead of serving at the pleasure of the person who appointed them, as is now the case. The bill also would allow the [Independent Budget Office](#) to audit aspects of city school operations.

Silver has rebuffed approaches by Sampson on mayoral control and released a statement saying he will not agree to negotiate a bill that includes fixed terms for members of the Panel for Education Policy. At this point, Democratic opponents of mayoral control may be out of options. The slate of legislation Paterson has put forward for a special session is said to include Silver's version of mayoral control.

Same Sex Marriage

The picture for gay marriage in Albany certainly looks much bleaker than it did a week ago. Although former Republican Senate Majority Leader Joseph Bruno [lent his support](#) to the measure, his reversal came just as the Senate fell into chaos.

Duane, who has championed gay marriage legislation in the Senate, seemed to be negotiating with Republicans to get the bill to a vote in exchange for his support. He then seemed to retreat, confirming his support for the Democrats. But neither Sampson nor Smith has said anything about bringing the legislation to a vote.

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Duane [sent a letter](#) to his Democratic colleagues this week saying he could not "support any leader who does not demand that marriage equality come to the floor and pass in 2009." What the means for Duane's loyalty is unclear. Meanwhile the legislation is not currently among the bills that Paterson would have legislators consider during the special session. Even if Paterson did include it, it probably would not pass.

Also, despite promises to the contrary by Espada, the bill to repeal a law that removes some vacant apartments from rent regulation seems dead -- a result, tenant advocates say, Espada is more than [pleased with](#) .

Awash in Acrimony

At this point, senators will have to race to pass just the most basic legislation. To put the amount of legislative time already missed in perspective, consider that the Assembly acted on 317 bills last week, while the senators fought and fumed.

Legislation that could be addressed during the special session -- if senators agree on how to run their chamber -- includes the reauthorization of [Power for Jobs](#) , a program that gives businesses low-cost energy if they pledge to create jobs. It will also likely include legislation to [create a new pension tier](#) , reducing pension benefits for newly hired state employees. The fate of a slew of environmental bills that would increase electronics recycling and reduce greenhouse admissions remains unclear.

The truth is that the mood in the Senate has become so ugly and both sides so entrenched that senators will be hard-pressed to make progress on controversial measures even if they do manage to have a session -- with or without Paterson's help.

Espada, who was hoping to woo fellow Democrats, is now the party's [main target](#) . The Democrats are using Espada, his brash nature and the investigations that surround him to paint the Republicans as having made a "deal with the devil." Democrats have issued press releases insisting that they will not consent to any power-sharing agreement that puts Espada in a position of power. "I cannot agree to anything that leaves Pedro Espada in charge of the Senate," Parker said.

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Espada has called the Democrats' tactic "racist."

One Democratic senator said that his colleagues still have their majority offices and control the payroll. Republicans, he said, must find a legal remedy to remove them. For their part, Republicans chided the press on Thursday for not pressing the Democrats to "come to work." They also insisted that they would right the wrongs they say were perpetrated by city Democrats against upstate New York.

No matter when or how the power struggle is resolved, it has caused lasting damage -- not only to the public trust, but to the cordiality that normally allows the Senate to function and address tough issues. One Democratic senator noted he had used his position to help Republican senators pass legislation that helped their communities. He said he now regrets his cooperation. "I'm sorry to say that," he explained. "I don't want to feel this way. I am sorry it has come to this, but I don't know if I will ever stop feeling this way."