

Opinion: Sorry, Republicans, the Oregon Constitution doesn't legitimize a walkout

Posted Jul 07, 2019

FILE - In this May 7, 2019, file photo, a group including three Democratic senators stand among the empty desks of Republican senators during a Senate floor session at the Oregon State Capitol in Salem, Ore. The divide in Oregon between the state's liberal urban centers and its conservative rural areas makes it ripe for the political crisis unfolding over sweeping climate legislation. Eleven Republican senators are entering the seventh day of a walkout to deny the supermajority Democrats the quorum needed to vote on a cap-and-trade bill that would be the second of its kind in the U.S. (Connor Radnovich/Statesman-Journal via AP, File) APAP

By [Guest Columnist](#)

By Lane Shetterly

Shetterly is a former Republican member of the Oregon House of Representatives. He served as Speaker pro tem of the House from 2001 to 2004.

Before the dust settles on this just-completed legislative session, we need to debunk a false narrative about the Senate Republicans' two walkouts that disrupted legislative business.

In his press conference a week and a half ago, Sen. Herman Baertschiger Jr., R- Grants Pass, claimed the walkouts were a legitimate legislative strategy authorized in the Oregon Constitution:

"The founders put [the] quorum in there for this very reason when you get a super majority. By denying quorum, you force parties to come back together."

That's not true. In fact, the constitution pointedly disapproves of a walkout to deny a quorum.

The quorum requirement is found in Article IV, section 12:

"Two thirds of each house shall constitute a quorum to do business, but a smaller number may meet; adjourn from day to day, and compel the attendance of absent members."

This says two things about a quorum. First, two-thirds of each house constitutes a quorum to do business. Second, if there isn't a quorum, those members present can "compel the attendance of absent members."

Webster's dictionary says "compel" means "to impel or force to appear." "Compel" does not mean to sit and wait, plead or negotiate. Nothing in this constitutional provision suggests the founders "put [the] quorum in there" to give any faction of the Legislature the right to deny a quorum for any purpose.

It's important to note that both parties have used the walkout as a legislative strategy. When I was speaker pro tem of the Republican-controlled Oregon House in 2001, it was the Democrats who left town to deny us a quorum to enact a redistricting plan. House Speaker Mark Simmons and I signed summonses to bring in the absent members.

Our summonses were not effective in compelling the missing members to return in 2001. And they won't be effective in future walkouts. For one thing, it's not their job, and to mount a concerted search for AWOL members would detract from their mission of public safety. For another, members can evade troopers by leaving the state. Sen. Brian Boquist, R-Dallas introduced a chilling new reason not to send troopers to compel absent members last month when he threatened anyone who tried to bring him in. We should not ask state troopers to put their lives in danger just to enforce the constitution's quorum requirement.

A better answer would be to amend the constitution to include automatic penalties for those who, for whatever reason, would be absent without an excuse during a legislative session. This could include fines that escalate on a daily basis, with an ultimate penalty of expulsion after so many days of unexcused absence.

Such an amendment would ensure that the walkout does not become normalized as a legislative strategy. That's a recipe for gridlock and anarchy.

For those concerned about protecting a minority from an oppressive majority, there are already protections in place. Tax measures require a three-fifths supermajority. With divided government, each chamber can limit the other and the governor can counter both with the veto. Oregon has the referendum and initiative, by which actions of the Legislature can be put to a vote of the people. There is recourse to the courts. And there is always the ballot box, where voters can throw out a party that has acted against their interest.

Of all the constitution's protections for the minority, walking out on the job is not one of them. No, in fact, the opposite: By allowing members to be "compelled" to attend, the constitution places highest priority on members being present to do the work for which they were elected. If our system lacks meaningful tools to enforce that expectation, we should put them in place.

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