

From: [Reed Scott-Schwalbach](#)
To: [SOS Elections * SOS](#)
Subject: Ballot measure public comment - Measure 113
Date: Wednesday, August 3, 2022 10:35:25 AM

To the Explanatory Statement Committee for Measure 113:

My name is Reed Scott-Schwalbach. Thank you for the time and energy you've put into the draft statement.

It's clear that much thought was given to which definitions and current law to include in the statement in order to clarify the often obscure meaning and history behind legislative and parliamentary terms. Unfortunately, in an attempt to provide ample definitions and background, I'm afraid that the statement now fails to do the one job it has: explaining what the *measure* does.

It is more important to make clear the impact of the measure itself than to fully detail what the Constitution currently does or does not say.

The first paragraph currently says:

Ballot Measure IP-14 amends the Oregon Constitution to create a constitutional ban to stand for state legislative office, for one term, if a state Senator or Representative is absent without excuse ten or more times from floor sessions during any one legislative session. The measure deems the failure to attend to be disorderly behavior and disqualifies the legislator from standing for office after the legislator's current term ends.

The term "constitutional ban to stand for legislative office" is not a clear way to lay out this concept. "Stand for office" is not a term commonly used by the average Oregonian. This could be more clearly stated by simply saying:

Ballot Measure 113 amends the constitution to ban a Senator or Representative from holding office for one term as a consequence for having ten or more unexcused absences from floor sessions during any single legislative session. The measure does so by defining ten failures to attend, without permission or excuse, as "disorderly behavior" and creates the prohibition on running for re-election after the legislator's current term ends as a punishment.

Punishment is the correct word to use here because its meaning is common is very well understood and the measure itself amends Article 15 of the constitution, titled "Punishment and expulsion of members."

In the remaining three paragraphs of this statement, there isn't another single reference to what the measure itself does. That is unfortunate, because as written the remaining paragraphs actually obscure what the result of the measure will be if passed by the voters.

For example, the third paragraph of the explanatory statement goes to great length to describe what the constitution currently says, but says nothing about what would change under this measure. It reads:

The Constitution currently does not establish automatic consequences for a legislator being unexcused and absent from floor session but does authorize members of the Senate or the House who are present for a scheduled floor session to compel the attendance of absent members. The Constitution also authorizes the Senate or the House to discipline a member of their respective legislative chamber for disorderly behavior, including the authority to expel a member by a two-thirds vote in favor of expulsion. The Constitution currently leaves it up to each chamber to determine whether particular conduct of a member of that chamber amounts to disorderly behavior.

There is no reason to mention expulsion, since Measure 113 has nothing to do with a vote to expel a member. A clearer version would cut that sentence and add clearer language on what changes would result if the measure passes. One way to do that is:

The Constitution currently does not establish automatic consequences for a legislator being unexcused and absent from floor session but does authorize members of the Senate or the House who are present for a scheduled floor session to compel the attendance of absent members or choose their own punishment for disorderly behavior. The Constitution currently leaves it up to each chamber to determine whether particular conduct of a member of that chamber amounts to disorderly behavior. Measure 113 defines ten or more unexcused absences by a legislator as disorderly behavior and creates a prohibition from holding office the following term as an automatic consequence for this type of disorderly behavior.

Thank you for taking these comments under consideration. And thank you again for your hard work on this committee.

Sincerely,

Reed Scott-Schwalbach



Reed Scott-Schwalbach

(She/her/ella) [Why use pronouns?](#)

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Via email: Elections.SOS@sos.oregon.gov

TO: Explanatory Statement Committee – Measure 113 (IP 14)
FROM: Margaret Olney
RE: Public Comments on Draft Explanatory Statement
DATE: August 3, 2022

I write to comment on the draft explanatory statement for Measure 113. I worked with the Chief Petitioners to craft this simple ballot measure that would impose an automatic consequence on legislators who fail to attend floor sessions without excuse. I believe portions can be improved, and other portions must be substantially revised to provide voters with a simple and understandable statement explaining how the measure works and its effects. More specifically:

- The first sentence, which attempts to cram into one sentence all aspects of the proposal, is not simple and understandable. A better alternative would be to describe the essential purpose of the proposal – to create consequences for not showing up – and to then describe those consequences in more detail. In addition, the draft statement uses the phrase “ban to stand for state legislative office” rather than “holding office,” the phrase used in the measure itself. The reason for this change is unclear and the phrase itself is very confusing. An easier to understand and accurate description of the operative provisions of the measure would be:

“Ballot measure 113 amends the Oregon Constitution to create consequences for legislators who fail to attend floor sessions without excuse. If a legislator has ten or more unexcused absences from legislative floor session, the measure deems that failure to attend to be disorderly behavior that disqualifies the legislator from holding office as a Senator or a Representative for the term of office after the legislator’s current term ends.”

- The second paragraph then moves to a description of current law. This is appropriate as it provides helpful context for the changes proposed by the measure. However, it too can be simplified to make it more understandable. Where possible, “legislators” should be substituted for the “members of the House of Representatives or Senate.” In addition, the statement should identify the kind of legislative business that is conducted in floor sessions – debating and voting on bills and not committee meetings and hearings (although those are certainly “legislative business”).
- Naming the problem – intentionally not showing up in order to prevent bills from coming to a vote is appropriately included in the statement to provide context for why we need the measure. However, the statement should not use the term “quorum” in that description. Measure 113 does not change the quorum requirements and introducing that word in the statement creates potential confusion while reference to legislators from both parties being “absent without excuse to avoid allow a vote on a bill” is clear. We suggest the following:

“Currently, the Oregon Constitution requires two-thirds of all members of the Senate or of the House of Representatives to be present for the Senate or the House of Representatives to conduct legislative business. A “floor session” is the term used when the Senate or the House is convened to debate and vote on bills. A “floor session” does not include committee meetings or hearings.

If less than two-thirds of the members of the Senate or the House are present, the Senate or the House cannot conduct legislative business. Elected members from both major political parties have sometimes been absent without excuse for various reasons, including to avoid allowing a vote on a bill.

- The last paragraph describes the legislative rule making process incompletely and inaccurately. There is nothing surprising or unusual that there are not current rules addressing what constitutes and “unexcused” absence or a process for appealing that determination. That is the point of including this automatic consequence in the Constitution. Voters should understand that legislative rules are voted on by all members at the beginning of each session and that they may enact rules to implement the constitutional mandate. But characterizing the current practice or “historical variations” in making this determination requires a fact-based determination that is beyond the scope of this committee. There is no reason to worry that legislators who are legitimately unable to attend session and give notice will not be “excused” from attending. This measure applies to legislators who repeatedly refuse to show up to work and creates a consequence.

The Constitution currently authorizes the Senate or the House to discipline a member of their respective legislative chamber for “disorderly behavior” with each chamber being able to determine what conduct amounts to disorderly behavior. This measure defines “disorderly behavior” to include “failure to attend, without permission or excuse, ten or more legislative floor sessions.” A member found to have engaged in disorderly behavior due to ten or more unexcused absences is automatically disqualified from holding office as a legislator for the term following the legislator’s current term of office. Legislative rules, voted on by all members of the respective legislative chamber at the beginning of each session, may define and specify the process for determining an excused or unexcused absence.

From: [Greg Terhune](#)
To: [SOS Elections * SOS](#)
Subject: Initiative Petition 14 (2022): Comment on summary
Date: Wednesday, August 3, 2022 2:52:24 PM
Importance: High

Committee Members,

The summary for IP 14 must include information of how this proposed amendment to the Oregon Constitution will mute the voice of any minority to take a stand against oppression from the majority. Without the safeguard of denying a quorum, the minority loses the last vestige of protection from being steamrolled by the majority. The current denial of a quorum does not come without costs to those who implement it. Therefore it is not used very often; but should be available when the minority feels particularly set upon.

Greg Terhune
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August 2, 2022

Subject: Ballot measure public comment - Measure 113

To the Explanatory Statement Committee for Measure 113:

My name is Paige Spence and I am submitting comments on behalf of the Oregon Nurses Association. Thank you for your work on the explanatory statement for Measure 113.

I think that the statement includes a great deal of helpful information, but we find the final paragraph to be misleading. The statement currently reads:

Legislative rules governing absences are voted on by both chambers and those rules may define and specify the process for determining an excused or unexcused absence. Currently there is no formal definition or limit in Oregon legislative rules concerning what constitutes an “unexcused” absence. Through the years, there have been wide variations in making this determination. Currently there is no right of appeal against those determinations and no requirement for the Senate President or House Speaker to formally explain their decision to declare a legislator’s absence as unexcused.

For the following reasons, this paragraph is insufficient for actually explaining the legislative rules and how they function:

- From this statement, it is very unclear to the voter that the current process is not permanent or when there is an opportunity to change it.
- That statement skips over what I believe to be an important part in the process of getting an absence excused. Instead, it leads the reader to think that the decision is made by the presiding officer with no chance at all for the lawmaker to explain themselves, when in fact, each lawmaker is given the opportunity to file paperwork with a non-partisan office prior to their absence.

A less misleading version of this paragraph could read:

The rules governing absences are determined through a vote in each legislative chamber at the beginning of every legislative session, at a minimum of once per year. Currently there is no formal definition or limit in Oregon legislative rules concerning what constitutes an “excused” versus “unexcused” absence. The process to have an absence excused begins with filing paperwork explaining the absence with non-partisan chamber staff, with a final determination made by the Senate President or House Speaker, who are also elected by a vote of the chamber at the beginning of each session. Currently there is no right of appeal against those determinations and no requirement for the Senate President or House Speaker to formally explain their decision to declare a legislator’s absence as unexcused.



Thank you for your work and consideration.

Sincerely,

A handwritten signature in black ink that reads "Paige Spence". The signature is written in a cursive style with a long horizontal flourish extending to the right.

Paige Spence
Director of Government Relations
spence@oregonrn.org



A STRONG VOICE FOR OREGON'S WORKERS

To: Explanatory Statement Committee for Measure 113:
Re: Ballot measure public comment - Measure 113
August 2, 2022

My name is Graham Trainor and I am submitting comments on behalf of the Oregon AFL-CIO, the statewide labor federation representing over 300,000 workers across the state. Thank you for the opportunity to comment today.

As I read through the explanatory statement draft, I found the second paragraph to be repetitive and confusing. It reads:

The Oregon Constitution currently requires two-thirds of all members of the Senate or of the House of Representatives to be present for the Senate or the House of Representatives to conduct legislative business. A "floor session" is the term used when the Senate or the House meets to conduct legislative business. If less than two-thirds of the members of the Senate or the House are present, the Senate or the House cannot conduct legislative business. Elected members from both major political parties have sometimes been absent without excuse to deny quorum.

Some changes that could help simplify this paragraph and keep it true to explaining Measure 113, are:

A "floor session" is the term used when the Senate or the House meets to conduct legislative business. If less than two-thirds of the members of the Senate or the House are present, the Senate or the House cannot conduct legislative business.

By deleting the top and bottom sentences of this paragraph it mentions that "two-thirds are needed to conduct business" only once, instead of twice, and removes confusing words like "quorum" that aren't regularly used in conversational English.

I hope these comments are helpful and thank you for your work.

Graham Trainor
President, Oregon AFL-CIO

Subject: Ballot measure public comment - Measure 113

To the Explanatory Statement Committee for Measure 113:

My name is Isabela Villarreal, and I am submitting comments on behalf of Next Up. We are a nonprofit organization that amplifies the voice and leadership of diverse young people to achieve a more just and equitable Oregon. Thank you for the opportunity to comment on the explanatory statement.

I would like to point out a potential issue that I noticed. In the measure's original language I did not see any mention of "quorum" and so I am confused as to why it is in the explanatory statement. It is important to inform voters what this measure does and not overly describe what elected officials have done or may do.

I would recommend deleting the final sentence of the second paragraph, which reads:

Elected members from both major political parties have sometimes been absent without excuse to deny quorum.

Including this sentence feels like a random non sequitur and does not explain what Measure 113 does. However, if the committee feels that it's vital to explain more about the history of unexcused absences in the legislature, I think that a more accurate and less prescriptive way to word it would be:

Elected members from both major political parties have sometimes been absent without excuse for a variety of reasons.

Thank you for accepting my comments and for your work.

Isabela Villarreal, she/her
Policy and Communications Manager