

POLITICS

Closure of Capitol building had ripple effects throughout 2021 legislative session

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During a typical session of the Oregon Legislature, the hallways are filled with a cross-section of Oregonians not seen anywhere else in the state.

Professional lobbyists angling for a five-minute conversation with a lawmaker sit in every nook as schoolchildren tour the historic building and residents pack hearing rooms for the chance to testify on a bill.

Different interest groups take over the main lobby area on different days with booths, displays or free samples, more than willing to talk at length about the virtues of the bills they are backing.

Up in the offices, legislative aides field dozens of phone calls and in-person meetings per day from constituents and activists trying to sway a vote one way or another.

These are the sights and sounds of democracy in action at the Oregon Legislature, of regular people intersecting with the legislative process, with the bills that are going to impact their lives and with lawmakers sent to Salem to represent them.

But this year, the legislative session was unique in state history — closing its doors to in-person public participation. As with almost everything the past 16 months, the session needed to adapt to the coronavirus pandemic.

It was still legislative democracy, but not how the state has known it.

Lawmakers and staff were required to wear masks whenever they were in the building. Committee testimony on bills went fully virtual, with Microsoft Teams and phone calls replacing packed hearing rooms.

Raucous rallies and lobby days were replaced with virtual lobby weeks where organizers planned video conference meetings with as many lawmakers as possible. Lobbyists — absent a lobby to wait in — weren't as involved in the process.

On the other hand, for people who previously were unable to comment on legislation because they couldn't take the day off to travel to Salem or the distance to the Capitol was too great, virtual testimony offered new access.

"The issue of closing the building really was a headache, the mask issue was a problem, we had people who were mostly angry the entire session," Senate President Peter Courtney, D-Salem, said. "We somehow or another fought through it, and I think that's quite an accomplishment."

No fireworks ban: Salem isn't banning fireworks, but officials urge caution

Lawmakers, lobbyists and activists said the pandemic-related restrictions changed how front-of-mind those outside the Capitol were and, perhaps, the outcome of one of the session's most noteworthy bills.

Republicans argued early and often that keeping the building closed to the public was harming the legislative process and was a violation of the Oregon Constitution.

"Transparency suffered as public policy was rushed through behind closed doors," House Republican Leader Christine Drazan, R-Canby, said in her end-of-session statement. "As the Oregon economy recovers, businesses reopen and students return to school, we must ensure the policymaking process also returns to normal, which must include reopening Capitol to the voices of Oregonians."

Impact of absent lobbyists

While the Constitution does state that deliberations of the Legislature "shall be open," it gives lawmakers the authority to set rules to comply with that requirement.

The building was first closed to the public in March 2020 by the presiding officers of the Legislature — Courtney and House Speaker Tina Kotek, D-Portland — on the advice of public health experts.

The building remained closed when the legislative session began in January and stayed that way through the end of the session — four days before Gov. Kate Brown dropped the COVID-19 restrictions and opened the state. The Capitol officially reopens to the public July 12.

The only people allowed in the building were staff members, legislative aides, lawmakers and journalists.

Committee hearings and floor sessions were all streamed live and, as in prior years, available to re-watch on the Oregon Legislative Information System. Information technology staff set up new systems allowing the public the ability to testify via video or phone.

"Our going to virtual allowed people who had never participated in this process to participate," Kotek said. "For the folks who do this more on a regular basis ... we had to work extra time to make sure we could communicate.

"You had to do it multiple ways: emails, phone calls, text messages, Teams calls, Zoom calls, trying to make sure people could hear what needed to be heard. It happened. I think we crafted good legislation, and we're back in session in six months if there is a mistake or two here or there."

Treasure hunt: Bottle Bill's 50th anniversary to be marked with statewide treasure hunt

Paid lobbyists and lawmakers acknowledged that access was significantly reduced during session.

Much of the interactions lawmakers have with lobbyists are during five- to 15-minute conversations that happen organically throughout the day. This session, all of those meetings were scheduled via video conference or held over a phone call or through text — an insufficient substitute for some.

Lawmakers also fretted about not being able to read the body language of people while they were testifying or meeting with them.

"It's great that we have this technology as a substitute, not just in the Legislature but in life," House Democratic Leader Barbara Smith Warner said. "It's a substitute, but it's not the same thing."

Senate Republican Leader Fred Girod, R-Stayton, said lobbyists are critical to the legislative process because more often than not they understand the impacts a bill will have more than the lawmakers do.

"A good lobbyist ... will tell you both sides of the argument, and people don't realize that," Girod said.

Because of their absence, Girod expects lawmakers made far more mistakes in legislation this year than in previous sessions. He said lawmakers didn't spend nearly enough time "cleaning up" bills to avoid unintended consequences, a process particularly helped by lobbyists.

House Democratic Leader Barbara Smith Warner, D-Portland, said the absence of lobbyists meant lawmakers spent more time talking amongst themselves about legislation.

In the early months, widespread in-person conversations were not happening with any regularity due to strict distancing requirements and fear of COVID-19 before vaccinations.

But in the final month, Smith Warner said, the lobby outside the House chamber would often be dotted with small groups of lawmakers talking about legislation in a space where they would in previous sessions be hounded by lobbyists.

"Now you have this ability for members to interact with each other ... in a way you don't have when the building is swarming with lobbyists," Smith Warner said before the session adjourned. "It has let us really focus on the essentials."

Morgan Gratz-Weiser, legislative director for Oregon Environmental Council, said lobbyists had to focus more on building collaborative relationships within the lobby and with activists tracking the same bills to make up for the lack of traditional access.

Lobbyists also needed to be more intentional with their outreach, focusing on text messages and phone calls.

"For folks who are paid lobbyists who are accustomed to being in the building all the time, there was certainly frustration," Gratz-Weiser said.

However, she added that the expansion of virtual testimony was an "important success" for the Legislature and something that should be expanded in future sessions.

Quiet without the people

The power of having crowds of people in the building was also absent this year.

Lawmakers said this was particularly notable surrounding the debate over Senate Bill 554, the session's major piece of gun control legislation. The bill, which was signed by Gov. Kate Brown on June 1, bans guns from the Capitol, allows public schools to adopt policies to ban guns and sets certain firearms storage requirements.

In previous sessions, attempts at passing legislation on guns were met with rallies in and around the Capitol, with opponents often bringing their firearms. Those in support of gun control legislation described this as intimidation, while those on the other side said it was merely an expression of their Second Amendment rights.

Both Republican and Democratic leaders said the legislative process around that bill was eased without them in the Capitol.

"The fact that we were able to get that through; there's an argument to be made that not having the building open helped because the pro-gun people are loud and designed to intimidate. Their lobbying tactics are designed to intimidate," Smith Warner said. "Being able to remove that from the equation I think helped."

Girod felt similarly, from the other side of the issue.

"If you have to walk by 300 people who are carrying signs or doing something inside the building ... that makes a lot of difference. You start understanding that it's more than two or three people (in opposition)," Girod said. "The gun bill, 554, would have been modified a lot more than it was had the building been open."

New laws: Oregon legislative session ends, bills pass on wildfire resiliency, clean energy

Hilary Uhlig, leader of the Oregon chapter of Moms Demand Action, said she isn't sure if the pandemic access restrictions were a factor in SB 554 passing, but added there is political strength in a large rally at the Capitol.

However, she said, giving more people to ability to testify from outside of Salem was important, too. In her organization, she said, many folks wouldn't have participated as much if their only option was to come to the Capitol in the midst of the pandemic.

"It certainly is powerful to be in person," Uhlig said. "Moving forward, we're looking at ways to combine some kind of virtual advocacy for those people who can't travel along with those in-person meetings."

Extended walkouts avoided

While a large crowd wasn't able to support its message from inside the Capitol, gun rights advocates still were able to influence lawmakers, resulting in an attempted walkout to kill SB 554.

Both times the bill passed through the Senate, only six of the 11 Republicans were present, responding to calls from their constituents to stop the bill from passing.

"Denial of quorum is not only legal and constitutional, it is a tactic that has been amazingly successful in the past and one which Republicans were rewarded for with reelection and added seats," the gun rights organization Oregon Firearms Federation wrote in an "alert" before the bill was first considered. "But now the 'leaders' of the House and Senate Republicans are declaring an unconditional surrender, your rights be damned."

Republicans had already walked out for one floor session on Feb. 25 in what they called a protest of coronavirus shutdowns and slow vaccination rollout to seniors. That protest was directed at the governor.

Democrats hold a supermajority with 18 members, but need two Republicans on the floor to reach the two-thirds quorum requirement. If a quorum is not met, no business can be conducted.

It was the fourth time Senate Republicans denied a quorum via walkout over the past three legislative sessions. Previous walkouts were used to kill greenhouse gas emissions cap-and-trade bills in 2019 and 2020, and in protest of a multibillion-dollar K-12 education funding package in 2019.

When SB 554 came to the Senate floor for a vote on March 25, the majority of the caucus decided to come to the floor to speak and vote against the bill.

Girod said it was infeasible to walk out for the remaining three and a half months of session — previous walkouts had lasted a couple weeks at the most. He added that not every member of his caucus was interested in walking out.

"You're only as good as you're weakest link," Girod said.

The disagreement fractured the Senate Republican caucus, with multiple members refusing to show up for caucus meetings afterward and those Republicans who attended the floor session facing recall campaigns.

But while long walkouts were avoided, Republicans in both chambers required bills to be read in full more frequently than in past sessions.

Refusing to suspend this procedural rule is a way for the minority party to display its displeasure, either with particular legislation or with the process. It can significantly slow the legislative process, particularly when some bills are dozens of pages long.

It was used this session to express the GOP's frustration that the Capitol building was closed to the public.

Redistricting efforts: Oregon Legislature has until September to redraw district maps

In the House, bill reading early in the session threatened to clog the entire legislative process as the chamber approached critical bill deadlines. The readings only stopped after leadership struck a deal that gave House Republicans more power on the committee that will oversee setting new Congressional and state legislative district boundary maps this fall.

Republicans considered that one of their biggest wins this session.

The Senate and House both deployed automated bill reading software for the first time ever to speed the process and limit the time lawmakers needed to spend on the floor.

Taking stock of session

Coming into January, legislative leaders on both sides of the aisle said lawmakers most urgently needed to help the state recover from the cascading crises that defined 2020.

Both sides walked away in June touting their work to respond to the coronavirus pandemic and devastating wildfires, particularly through legislation that improved future resiliency and budgets that sent millions in state and federal dollars toward impacted sectors.

Senate Bill 762 was a surprising bipartisan achievement when a critical eleventh-hour amendment saved the bill and garnered Republican support in both chambers. The bill committed millions toward wildfire resiliency and set requirements for defensible space and building codes that proponents say will save lives and property.

Democratic leadership pointed toward legislation passed addressing the state's homeless and housing crisis, improving mental health care and reforming police and criminal justice systems.

As the minority party, Republican leaders praised their colleagues for weakening or eliminating certain pieces of legislation deemed particularly odious as well as getting individual lawmakers' bills through to the governor's desk.

However, as with every session, not every priority bill made it through the process.

A prime example was the Legislature's inability to pass any campaign finance bills limiting contributions or expenditures after voters overwhelmingly supported a Constitutional

amendment in November allowing such laws.

One of the Legislature's major proponents of campaign finance reform, Rep. Dan Rayfield, D-Corvallis, said much of the session was spent understanding stakeholders' values and goals.

The House Rules committee did move forward one bill that would have established a six-to-one public match for small donor election contributions. Rayfield said the Senate was not interested in considering House Bill 2680.

"It was a very high priority for us to try and make progress on the issue," Rayfield said. "Despite not having a bill that everyone agrees with yet, we made significant progress."

Campaign finance reform is one issue that is likely to see additional work in next February's short legislative session, as well as initiative petitions circulating for the November 2022 ballot.

In the meantime, lawmakers will be back in special session this fall to finish redistricting after delayed census data pushed back Oregon's timeline for drawing new legislative maps.

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