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The time is now to reform filibuster rules in U.S. Senate

Filibuster reform will be first thing on the docket when the U.S. Senate convenes on Jan. 22.

U.S. Sen. Jeff Merkley of Oregon, along with Senators Tom Udall of New Mexico, and Tom Harkin of Iowa, are leading the charge for reform. They told reporters during a briefing on Capitol Hill on Jan. 3 that they have the votes needed to make change happen.

There are 55 Democrats in the Senate, and Udall says he has 51 votes.

Under the U.S. Constitution, a majority of each house have the power to change its rules on the first day of the legislative session by a simple majority vote. The Senate convened the first session of the 113th Congress on Jan. 3 — and the three Democratic senators introduced SR 4. Here's what it would do:

- **Clear the path to debate** —

Those objecting to legislation would only have one opportunity to filibuster legislation. Specifically, the ability to bring up a bill for simple debate (the motion to proceed) would not be subjected to a filibuster.

- **Restore the "talking filibuster"** —

Those wishing to filibuster legislation must actually hold the floor and be required to actually debate the legislation. It would end "silent" filibusters



U.S. Sen. Jeff Merkley of Oregon is leading the charge for filibuster reform that would require senators to actually stand and speak on the floor if they are opposed to a piece of legislation or presidential appointment. The Senate will debate the issue Jan. 22.

where one senator quietly objects and is not required to take the Senate floor.

- **Put filibuster supporters on record** — 41 senators would have to affirmatively vote to continue debate, rather than forcing 60 senators to vote

to end debate.

- **Expedite nominations** — The process for approving nominations would be streamlined, shortening the amount of time required for debate once a nomination is brought to the

Senate floor.

Historically, the filibuster was intended to protect the minority party's interests on extraordinary issues, and it was rarely invoked. But in today's contentious political climate the filibuster has been used in record numbers (nearly 400 times in the 112th Congress) to block votes and debate, and the requirement for 60 votes to end a filibuster has proved virtually insurmountable. For example, much of the legislation organized labor has fought for to restore collective bargaining rights and to create jobs — from the Employee Free Choice Act, to the Bring Jobs Home Act, the American Jobs Act, and many more — never received a Senate floor vote because of the filibuster threat, even though the legislation had majority support from senators.

For these reasons, SR 4 is endorsed by the AFL-CIO and some 50 progressive groups — in a coalition called Fix the Senate Now.

Action on the resolution was postponed, however, because another filibuster reform proposal was introduced — this one by Sens. John McCain (R-Ariz.), and Carl Levin (D-Mich.). It is backed by six other senators.

Merkley said the counterproposal "does nothing to take on the secret, silent filibuster that is haunting this body."

The AFL-CIO and Fix the Senate Now say the alternative proposal is a recipe for continued gridlock. "It lacks transparency and accountability; it allows continued minority veto of all legislative matters; it continues to provide multiple chances to filibuster legislation; and it keeps the obstructionist status quo for many executive branch and judicial nominees.

"We will be pressing Sen. Reid [Senate Majority Leader Harry Reid of Nevada] to stand firm in support of real reform, including the 'talking filibuster,'" the coalition said in a press release.

Sen. Reid employed a parliamentary procedure that allowed him to hold off making any rule changes on opening day. Under the procedure (he called for a recess at the close of the first day's proceedings), each day is still considered as the "first day" of the new Congress, under which the Senate can change its rules by a simple majority.

While in "recess" Reid is meeting with Minority Leader Mitch Mc-

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Transit Union Local 757-TriMet conflict accelerates

By **DON McINTOSH**
Associate Editor

Every time you think the relationship can't get any worse between TriMet and Amalgamated Transit Union (ATU) Local 757, it does. Oregon's largest transit agency and the union that represents 2,000 of its workers and 1,200 retirees have been in continuous combat since 2009 — in the workplace, in the Oregon Legislature, in the legal arena, and in the court of public opinion.

The issues of contention range from petty and personal to serious and substantive: Management has stripped away perks that had been added over the years — from the profits from the employee break room vending machines which paid for an annual picnic, to the right of union staff to purchase the agency's group life insurance at their own expense. TriMet gave bus supervisors a quota of high-risk fare enforcement confrontations, without the training or backup that fare inspectors

receive. But by far the biggest source of contention has been TriMet's effort to shift health insurance costs to workers.

TriMet bus and train operators and mechanics earn wages that top out at about \$22 an hour, plus pension and health benefits. (Until 2009, TriMet workers had fully-paid insurance for themselves and their families, with minimal co-pays.) But in 2009, TriMet insisted on reducing benefits to a "90/10" plan, in which employees pay 10 percent of health care costs. When the union didn't agree, the two sides reached impasse in bargaining for a new contract, which led to binding arbitration. In the end, the arbitrator picked TriMet's proposal. But the union is challenging the arbitrator's decision.

Administrative law judge Wendy Greenwald heard arguments from both sides Jan. 8 and 9. Under an expedited process, her conclusions will go directly to the three-member Oregon Employment Relations Board (ERB), which ad-

judicates public-sector labor disputes in Oregon.

But TriMet isn't stopping there. In December, the agency announced that it will push in the next round of bargaining for an 80/20 plan, in which employees pay 20 percent of health costs.

Both sides are gearing up for battle on multiple fronts. To fund their fight, Local 757 members at TriMet voted to approve a special dues assessment beginning this month that will raise upwards of \$40,000 a month.

It may seem strange, but when the Oregon Legislature meets next month, TriMet plans to ask legislators to make it legal again for transit workers to strike. In Oregon, most public employees have the right to strike, but some, like police and firefighters, are barred from striking; their contracts are settled by binding arbitration when labor and management can't agree. In 2007, lawmakers added transit workers to the category of barred-from-striking employ-

ees, at Local 757's request. The union expected that members would achieve better results by having a neutral arbitrator pick the most reasonable of the two proposals. Washington has a similar provision for transit workers.

But in practice, binding arbitration was much messier than expected. TriMet didn't bargain seriously before it declared impasse, ERB ruled: Management waited until the very end to detail its most important proposals, including its wage offer, and then sent to arbitrator David Gaba a "final offer" that it had never shown the union in actual bargaining. Not once but twice, ERB ordered TriMet to play fair and submit a proper final offer to the arbitrator. The legal back-and-forth took so long that the arbitrator's decision was issued 32 months into the 36-month contract.

And the arbitrator's decision, which might have been expected to be final, opened up a new can of worms. Gaba

felt that the employer's health care costs were too high to justify picking ATU's offer. But he also identified items in TriMet's offer that could be illegal and possibly unenforceable, including the need to bill workers for years of retroactive health premiums — and provisions that broke promises to retirees.

Local 757 urged members not to cooperate with attempts to collect the back premiums, and TriMet called that illegal in charges that were added to the union's appeal of the arbitrator's ruling, creating the consolidated case that Greenwald heard.

Since the dispute began, ERB has repeatedly ruled that TriMet violated the law, even ordering TriMet to pay union attorney fees on two occasions.

Meanwhile, the arbitrator-imposed contract has now expired, but bargaining over a new agreement has yet to begin. Local 757 says it wants bargaining

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