

## Senator Kim Thatcher

### Vote explanations on motions to uphold the rulings of the Senate President on May 2, 2023

I voted NO on upholding the several rulings of the Senate President on May 2, 2023 because not only are these rulings non-compliant with the intent of the Oregon Constitution Article IV Section 21; they also do not comply with rule 13.02 (3) of the Eighty-second Oregon Legislative Assembly Rules of the Senate, adopted January 9, 2023; nor with ORS 171.134 passed in 1979.

Article IV Section 21 of the Oregon Constitution says that all acts need to be plainly worded. Though a summary is not a part of an act or bill, it is what the public relies upon to understand what a bill actually does. That is why the legislature passed a statute in 1979 requiring bill summaries to be written in such a way that they are understandable to the average 8<sup>th</sup> or 9<sup>th</sup> grader.

Rule 13.02, adopted by the Senate in January this year mandates that measure summaries conform to ORS 171.134 which says, "Any measure digest or measure summary prepared by the Legislative Assembly shall be written in a manner that results in a score of at least 60 on the Flesch readability test or meets an equivalent standard of a comparable test."

The rule that refers to the statute happens to fall under a section caption of "Introduction of Measures" which has seemingly been used as an excuse by the Senate President to interpret that the whole of rule 13 only applies to the introduction of measures. I believe that the captions included in the rule book is only for the convenience and organization of the rule book and is not a part of the actual rules. This is similar to how captions in bills are treated. The captions do not become part of the law. Additionally, 13.02 (3) says that "If a material error in a printed summary is brought to the attention of Legislative Counsel, Counsel shall cause a corrected summary to be prepared that shows the changes made in the summary."

Since Legislative Counsel is fully aware that a material error has occurred which violates Senate Rule and Oregon Statute and is inconsistent with Article IV Section 21, Counsel is to correct the summary. Easy fix. Why the refusal? The same Legislative Counsel has advised the Senate President that he can somehow wave a magic wand and deem a rule as having been complied with. However, there are clear steps laid out in the most recently adopted Rules of the Senate. Specifically, section 2 of the rule book.

Section 2.05 lays out a procedure for rescinding rules. It says that the rule to be rescinded "shall be proposed in writing, read at a regular business session...distributed to members' desks and allowed to lie on the table for at least one session day prior to any vote thereon" It also says: "No standing rule of the Senate shall be...rescinded except upon the affirmative vote of a constitutional majority..." That's only a vote of 16. Easily accomplished by the majority party. Why won't the Senate President follow the rule to rescind the rule regarding measure summaries in Section 13.02?

Further, the rule in Section 2.10 lays out the procedure for suspending a rule. It says: "No rule of the Senate shall be suspended except by unanimous consent...or by the affirmative vote of two-thirds of the members." Why doesn't the Senate President attempt to suspend Section 13.02 as it applies to measure summaries?

Further, if the Senate President is advised by legislative counsel to be granted the authority to declare that chamber rules have been complied with, simply by declaring it so, then why even have rules if there is not going to be even a pretense of an effort to actually comply with all of them? Why bother having statutes that apply to the legislature and further have them referenced in a rule if there is no intention of adhering to them? Why even have rules that direct how a rule is suspended or rescinded if the Senate President can waive a rule by simply deeming it to have been complied with? To allow such an abuse of the rules, statues, and spirit of the Oregon constitution in such a manner makes me call into question whether we actually have a true representative democracy.

A handwritten signature in blue ink, appearing to read "K. H. H. H.", written in a cursive style.