

Tyranny of the majority

6 ways to reduce the dominant party's control of New York's utterly dysfunctional Legislature

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Four years ago, the Urban Justice Center filed a lawsuit in state Supreme Court against the governor, both houses of the Legislature and the majority leadership of each house. The suit challenged six legislative rules that long have made our state government dysfunctional.

The Supreme Court sustained the legal theory of key parts of our case, but the Appellate Division, thinking our complaints too intrusive, dismissed the case. Then, the Court of Appeals, the highest court in New York, refused to even hear the case.

If the courts had ruled in our favor, we might not be witnessing today's embarrassing mess in our state government. The six rules or practices that we challenged have given such outsized power to the majority party and its leader that it has made the minority party, in both the Senate and the Assembly, literally irrelevant. In this environment, one would not want to be in the minority at any cost.

Recent legislative action notwithstanding, here are the six rules that still need attention in both houses:

Insurmountable obstacles to motions for discharge: Without majority leadership approval -- from the majority leader in the Senate or the speaker in the Assembly -- minority parties traditionally have not been able to discharge a bill from committee. With rare exceptions, minority members have had no way for the full chamber to even consider their bills.

Unequal funding of member support: The majority leadership in both houses controls the funds available for each member's personal staff and necessary expenses (computers, mailings, printing costs, etc.) Members of the majority parties have received significantly more funds to operate their offices.

Unequal member items: The Senate majority leader and Assembly speaker also

control the funding for member items, the funds for projects in the member's districts. Majority party members have received significantly more member item funding than the minority party members.

Secret debates and votes: When a bill is ready for discussion by the full Senate or Assembly, the majority party holds a secret debate in caucus. It then finalizes the bill and votes on it, eliminating any role at all for the minority party.

Abuse of messages of necessity: The majority leadership of both houses (with the complicity of the governor) often has given legislators -- of both parties -- less than three days to read a bill before voting on it. The state Constitution prohibits this unless speedy passage is necessary. While abused less frequently under Gov. David Paterson, the leadership of both houses and the governor have routinely violated this requirement, eliminating any meaningful role for legislators.

Leadership control over pay: The Senate majority leader and Assembly speaker control the pay of the individual members by determining which legislators receive lucrative committee chairs. This extra pay -- colorfully and euphemistically referred to as "lulus" -- gives the leadership of each house outsized control over his members.

In other words, we should have seen our current situation coming.

The framers of our state constitution (like those of the federal Constitution) created a representative system of government under which various factions and interests could compete freely to secure passage of legislation. Representatives were intended to have a fair opportunity to represent their constituents and to make the voices of those constituents heard. The people, through their representatives, were to have fair access to the decision-making process to which they could present their grievances.

Legislative practices in New York have made a mockery of these constitutional principles. Rather than being the representatives of their constituents, members of the Legislature have no voice when floor debate is a mere formality. The outsized control of the majority party and its leadership makes the minority party do anything -- including the ridiculous tactics we're seeing today -- to attain majority status.

Let's make sure that in solving this crisis, we go to the foundation of the problem and don't just paper over the sad spectacle that passes for government in New York.

Doug Lasdon is executive director of the Urban Justice Center, a New York City organization that serves the poor and vulnerable through legal service, advocacy, community education and political organizing.