

## HOUSE WEIGHS RESPONSE TO A TERROR ATTACK

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Seeking to avoid a constitutional amendment, House members are eyeing rule or statute changes to enable Congress to cope with a terrorist attack that kills or incapacitates many of its members.

Republican Policy Committee Chairman Christopher Cox (Calif.), who is co-chairing a bipartisan task force with Democratic Caucus Chairman Martin Frost (Texas) to explore continuity issues, said the group sees a “big opportunity” to make changes when the House adopts its rules for the next Congress.

“Whatever we can’t do by rules or statute we will then look to a constitutional amendment,” Cox added. “We’re saving that for last because there’s a sentiment you don’t rush to judgment.”

After the Sept. 11 terrorist attacks, several lawmakers became concerned that Congress is not prepared to handle the situations that could arise if a large number of members are killed or incapacitated in an attack on the Capitol.

Over the last few months, the task force has convened several meetings with leaders from the three committees with jurisdiction — Judiciary, Rules and House Administration — as well as other lawmakers, outside scholars and Parliamentarian Charlie Johnson in an attempt to work through some of these issues.

“This has been going on in earnest for several months now,” explained Rep. Brian Baird (D-Wash.), who has been active in the discussions. “What we’ve tried to do is identify the areas where there might be problems, and for each area there is a problem, and identify

possible solutions.”

The working group is looking at amending the definition of what constitutes a quorum. Presently, a quorum consists of a majority of members “chosen, sworn and living.”

Cox, Baird and other members have expressed concerns that if a large number of members are incapacitated and unable to serve, it would be impossible for Congress to make a quorum and proceed with legislative business.

Leaders are also considering including language in future adjournment resolutions — perhaps even as early as the August recess — that would allow the Speaker of the House and the Senate majority leader to tap designees who could call Congress back into session during a recess.

The way such resolutions are currently drafted, the Speaker and majority leader are the only two lawmakers who can call Congress back into session.

“That’s one of the variety of things they are looking at to update the rules to deal with continuity of government,” said John Feehery, a spokesman for Speaker J. Dennis Hastert (R-Ill.). “It’s too early to say — we’re looking at a variety of options at this point.”

Baird said he also hopes to clarify some ambiguities in the order of presidential succession. He pointed out that a Cabinet secretary could become president if both the congressional leadership and the president were unable to serve, but could be supplanted by a newly elected Speaker, a potential source for a power struggle in time of crisis.

“That’s the kind of thing that could be done by a written statute change pretty quickly,” he said.

The odds are slim to none that the House will consider the thorny topic of altering the

Constitution this year.

In addition to a jam-packed agenda for the remainder of the year, neither Judiciary Committee Chairman James Sensenbrenner (R-Wis.) nor Constitution Subcommittee Chairman Steve Chabot (R-Ohio) is in any hurry to debate such a change.

“My principle rule is to say, “Let’s be cautious and deliberative before amending the Constitution,” said Chabot, calling a rule or statutory changes the “preferred route.”

Baird, who has proposed a constitutional amendment to allow governors to make temporary appointments in the case that 25 percent or more of House members are killed or incapacitated, still believes an amendment is necessary in some instances.

“It is my opinion that if we wish to have a mechanism to quickly replace House members and to have a functioning Congress ..... I believe we will need a constitutional amendment to amend that,” he said.

Don Wolfensberger, director of the Congress Project at the Woodrow Wilson Center, said one idea on the table to avoid an amendment in that case is to allow for expedited special elections in the state.

“That might be something they’re looking at still,” said Wolfensberger, who has attended some of the task force meetings.