

**UC Berkeley**  
**California Journal of Politics and Policy**

**Title**

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**Permalink**

<https://escholarship.org/uc/item/7m15q9dn>

**Journal**

California Journal of Politics and Policy, 2(1)

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**Publication Date**

2010-04-24

**DOI**

10.5070/P29K5K

Peer reviewed

## The Good and the Bad of Term Limits

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First, a confession. I served in the California Legislature for eight years. I am a Barry Goldwater/Ronald Reagan Republican. I termed myself out by running for higher office (and losing). I voted for term limits. I have changed my mind, but not without a little agonizing.

After watching term limits in action, two arguments in favor of term limits turn out to be largely illusionary.

1. “Citizen legislators, not career politicians.” That is the slogan from the website of U.S. Term Limits, where I searched in vain for any other philosophical justification.

There are some sad cases of career politicians—especially when they cling to office too long, like Senator Robert Byrd, or the California equivalent, the late Senator Ralph Dills, who was first elected in 1939 and served continuously (except for a few years on the bench) into the ’90s, when he was termed out of office. His last campaign slogan was: “Too old to quit.”

But for everyone who “has been” forced out by term limits, there are at least as many people who are superbly competent, bright, and balanced with profound institutional and policy knowledge.

Examples include the late Senator Ken Maddy, moderate Democratic Senator Bob Presley, Senator Jim Brulte, and I would argue, Speaker Willie Brown, at whom the term limits initiative was aimed. (Brown was at his best getting difficult budgets through for Republican governors—we could use him back!)

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Robert W. Naylor served in the California Legislature as a member of the Assembly for eight years, as Assembly Minority Leader for three years, and as chairman of the California Republican Party.

Furthermore, “citizen legislators” are few and far between. Most new legislators have served for years in local office or are well connected as union organizers or are staff members to the incumbents or other influential officeholders. Some are independently wealthy. Far from serving a few years and returning to their communities, most spend a lot of time figuring what else they can run for next when they are termed out.

2. Overcoming the artificial advantage of gerrymandering. I could assert that we don’t need term limits to do that because we have Prop. 11 (redistricting commission). The truth is, Prop. 11 will not likely make a big difference. Eighty percent or more of all districts will still be safe seats, because our body politic is philosophically polarized among geographical regions—red counties (inland) and blue counties (coastal), hardly any purple counties. Either the top-two or nonpartisan primary proposal on the June ballot may be more relevant to offsetting this polarization and allowing for more competition against incumbents.

Overcoming incumbent advantage. This is one useful result of term limits. Noted conservative blogger Jon Fleischman argues that term limits provide the only practical opportunity for voters to “have a real impact on their representation in Sacramento.” It is true that when incumbents run for re-election, there is little competition, because they raise lots of money, have a big name ID ad-

vantage, and get a decent salary at public expense while they are campaigning. Challengers rarely have a chance, whether the districts are gerrymandered or not.

But term limits are only a partial antidote. Because the stakes are so high, the incumbent or the local political party establishment often recruits a successor and forces competition to drop out.

Furthermore, only a few voters have “a real impact.” In safe seats (about 85% of the total) it is only the voters in the primary of the dominant party who have an impact, and the turnout in those primaries (remember, the presidential primary is an earlier, separate election) is notoriously low.

That will change somewhat for the better if voters enact the nonpartisan primary. Under that measure all voters will be able to vote for any candidate in the primary, but turn-out will likely still be low.

I decided to check on how many primaries for open seats are seriously contested, as opposed to predecided by the dominant political class getting behind their candidate and trying to minimize wasteful expenditure of resources on a campaign that gives voters real input.

Looking at the open seat races in the last three legislative primary cycles, I discovered that of all the Assembly open seat primaries (89 in total) only 37 (42%) of the races were seriously contested (defined as the victor winning by under 15%), and only 9 of 31 Senate primaries

met that test. This is not terribly impressive, but it turns out it represents significantly more competition than before term limits.

In the races in the last three legislative primary cycles before the advent of term limits in 1992, there were only 23 open seat races in the Assembly (compared to 89 post-term limits), and only 14 of those were seriously contested in the primaries. In the Senate, there were only 7 open seats (against 31 post-term limits) and of those 7, there were no contested Senate primaries (all but two involved the elevation of incumbent Assembly members).

Now consider the unintended negative impact of term limits. I would argue that they have helped make our politics even more polarized. In place of people who are secure and long-serving enough to say no to their “anchor tenant” backers when the good of the state demands it, we now have people who are worried about their next primary election when they try to move up after one or two more terms. From their first day in office, they typically toe the line of the unions, or the trial lawyers, the Howard Jarvis Taxpayers Association, or the other special interest groups who dominate the low turnout partisan primaries. The art of finding enough middle ground to do what is necessary to meet a crisis, whether it be attacking the budget problems, education reforms, or infrastructure decay, is almost a historic relic.

It is also a simple fact that two to four years in office are just not enough time to master the political com-

plexities of a 120-member bicameral legislature, let alone attain the policy expertise that has marked the great legislators. First term chairs of major policy committees, sometimes bringing in their own all-new staff in place of staff with expertise and institutional memory, can rarely match the skill of a Bill Lockyer as chair of the Senate Judiciary Committee or Quentin Kopp as chair of the Senate Transportation Committee. There are exceptional performers, of course, but they overcome huge disadvantages that artificially limit the competence and policy expertise of the legislature as a whole.

The legislature as an institution for policymaking has nearly broken down. This is the opinion of everyone I know who has been a close observer of the Capitol for more than a few years.

Is this price worth paying for the difference in the number of competitive elections? Given that competitive elections will be increased at the margin by the new redistricting process and the open primary, I do not believe so. But I would have reservations about abolishing term limits entirely.

The fact is that abolishing term limits is not politically doable, given the low esteem in which the legislature is now held (the public does not understand that term limits themselves limit the legislature’s competence).

The only potentially enactable proposal on the table is to shorten the total potential service from 14 years to 12 years and allow those years to be served in one house. I

view that as a happy compromise. It would reduce churning of leadership, increase expertise of committee chair, and reduce the political polarization caused by virtually every legislator immediately focusing on seeking the next higher office. But it would also retain a large share of the opportunity for voters to impact the legislature without having to overcome incumbent advantage.