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LITIGATION

## Term limits reform: not far enough

By Paul Kujawsky

Legislative term limits descended on California 22 years ago when voters approved Proposition 140. They have proved a nightmare. On June 5 the electorate passed Proposition 28, which loosens but retains term limits for members of the state Senate and Assembly. It amends Article IV, Section 2 of the state constitution by lowering the number of years a person can serve in the Legislature from 14 to 12 years. However, she can serve her entire legislative career in one chamber.

This is good news for good governance, but not great news. The next step would be blowing up the term limits regime altogether.

Proposition 28 gives politicians a bit more time to acquire seniority, expertise and the other intangibles of effective legislators. But it's not enough to overcome the crippling disabilities that term limits inflict on California. Term limits are not the only reason our politics are idiotic, but they play a big role.

Here's how. Hiring an apprentice when we could have the master is irrational. Competence comes from experience. But term limits ignore this fundamental reality. We heave politicians into the Legislature, then haul them out on an iron schedule, regardless of accomplishment.

If a management consultant had proposed, "Let Steve Jobs run Apple for a dozen years, then force him into retirement no matter how brilliantly he's performing," we would ask, is he nuts or is he crazy? But that's how we treat our legislators. Mastering the skills of drafting effective legislation and building relationships to get bills passed takes time. As one legislator remarked: "I felt like I was just beginning to become an effective member at the end of my third term in the Assembly" — when she was termed-out.

Like fine wines, legislators often improve with age. But the current setup cuts short the

maturation process.

As a result of this churning conga line of earnest but unripe legislators in and out of Sacramento, un-term-limited staffers and lobbyists acquired Sacramento's long-term memory and institutional fluency. And since knowledge really is power, the bureaucracy and the special interests have the upper hand.

Moreover, term limits are the prime cause of legislative ADHD. If you give people perverse incentives, they'll act perversely; when legislators have only short terms in office, they'll engage in short-term thinking and focus on short-term projects. Today's officeholder has but small reason to tackle over-the-horizon issues: laying the groundwork for others to take credit in the future for solving the big problems has little appeal. Self-interest dictates taking credit right now for immediate achievements, however trivial.

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Jittery Sacramento politicians are always obsessing on their "exit strategy." With no hope of job stability, they're constantly on the lookout for the next political office they can jump to. Worse, this unceasing game of musical chairs is a war of all against all, since other politicians are potential rivals for future office. Ambition becomes the enemy of amity, cooperation another casualty of term limits.

Proponents of term limits hoped that they would throw out the professional politicians and bring back an imagined golden age of the "citizen-legislator." But in fact the professional politicians are as thick on the ground as ever — just less able to do their jobs well. Special interests have been strengthened, not weakened.

True, term limits have broken the power of incumbency; that is their single success. But

why is incumbency evil? The evisceration of the power of voters to reelect representatives of their choice reveals the hidden premise of term limits advocates: politicians are bad people, and they invariably get worse as time goes on. Therefore, get rid of them fast and automatically, without voters having to think about it or have any say in it.

Now, no one is foolish enough to deny that there are bad politicians. But there is a remedy: elections. In a properly functioning democracy, elections are term limits enough. Terms limits are in essence a vote of no confidence in our capacity to be a self-governing people, and in democracy itself.

Term limits are a mistake, heavy with unintended consequences. Proposition 28 is a good start at undoing the damage, but nothing more.

The passage of Proposition 28 should be seen as a moment of opportunity. It should be a springboard for educating the public on the failure of term limits, and the need to abolish them entirely.

This should be a bipartisan effort. Although the California Republican Party opposed Proposition 28, it isn't too late to change its mind. Otherwise, voters will conclude that Republicans actually favor the sort of hobbled, ineffectual state government that has run California into a ditch. Because the choice isn't small or big, liberal or conservative. The choice is functional or dysfunctional.



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