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Background Brief on...

Term Limits

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Background

The term limits movement in the United States began in the late 1980s, and resulted in voters approving term limits through citizen initiatives in California, Colorado and Oklahoma in 1990. Eighteen other states have since followed suit, resulting in 21 states with some form of state legislative term limits law by 1995. All but two of these came as a result of citizen initiatives. Currently, 16 states have legislative term limits in place whereas the courts in Massachusetts, Oregon and Washington as well as the Legislature in Idaho have overturned term limits.

Oregon's Law

In Oregon, Ballot Measure 3 (a constitutional amendment) was approved by 69.6 percent of voters in the November 1992 General Election. The measure established state legislative and congressional term limits and limits for statewide elected officials. Ballot Measure 3 prohibited individuals elected or appointed after December 3, 1992, from serving in the legislature for more than 12 years in a lifetime, with additional limits of six years (three 2-year terms) in the House of Representatives and eight years (two 4-year terms) in the Senate.

Since the passage of Ballot Measure 3 and the enactment of term limits in 1992, each Legislative Assembly has considered amendments to the new sections of the Oregon Constitution. Although legislators have suggested a variety of proposals over the years, none have passed both House and Senate.

Litigation History

The 1998 General Election was the first in which state legislators affected by the 1992 law were ineligible for re-election. After attempting to file for office and being denied, a term-limited state representative filed a lawsuit in U.S. District Court alleging that Oregon's law was unconstitutional on the grounds that it violated the First and Fourteenth Amendments (specifically voters' rights to vote for a candidate of choice and lawmakers' rights to run for office). In December 1997, U.S. Magistrate Tom Coffin agreed and declared Oregon's lifetime term limits provisions in violation of the U.S. Constitution.

Soon after that decision, the Ninth Circuit Court of Appeals ruled on legislation pending on its docket, upholding California's nearly identical term limits law. The court held that the limits approved by voters were "not severe," and rejected arguments that they should be overturned because the lifetime ban was unconstitutional. Following the higher court's decision, Judge Coffin vacated his

opinion that Oregon’s term limits law was unconstitutional. As a result, Oregon’s law went into effect as scheduled.

The 2001 Legislative Assembly approved House Bill 2674, which allowed for an expedited court process to review the constitutionality of Oregon’s term limits law. A suit was subsequently filed by several former state representatives, and in July 2001, a Marion County Judge ruled that Oregon’s term limits law was unconstitutional on the grounds that it violated Oregon’s “single subject rule” for constitutional amendments. This ruling was appealed and argued before the Oregon Supreme Court in November 2001, and in January 2002, the Supreme Court affirmed the lower court ruling that Ballot Measure 3 violated the “single subject rule” for constitutional amendments, thereby overturning the provisions contained in the measure.

Citizen Initiatives in Oregon

In 2000, Initiative 146 was proposed by a group of chief petitioners to amend the term limits approved in 1992, so that there would be a 12-year limit on legislative service removing the chamber limits of 3 terms in the House and 2 terms in the Senate. Proponents were not able to gather enough signatures and the initiative did not qualify for the November 2000 General Election. In December 2001, after term limits were overturned in Oregon, Initiative 168 was filed by a chief petitioner to restore term limits that were previously in effect. Proponents were not able to gather enough signatures to qualify the measure for the November, 2002 General Election.

For the 2004 General Election, two citizen initiatives imposing legislative term limits have been approved for signature gathering. Initiative 20 allows for up to 6 years in the House, up to 8 years in the Senate and a total of no more than 14 years in the legislature. The initiative appears to apply to future elections only. Initiative 39 allows for up to 6 years in the House, up to 8 years in the Senate, and a total of no more than 12 years in the legislature. It appears that the initiative applies to members currently serving or elected to service at the 2004 General Election.

Term Limits in Other States

Currently, 16 states limit the terms of state legislators. California, Colorado, and Oklahoma were the first states to adopt term limit laws in 1990. Eighteen other states adopted term limits; however, the state supreme courts of Massachusetts, Washington, and Oregon threw out the laws. The Idaho Legislature voted in 2002 to overturn term limits and overrode the Governor’s veto of their effort. In 2003, the Utah Legislature overturned their self-imposed term limits.

Of the states that have term limits, all but one has had limits imposed on state legislators by citizen initiative. The Louisiana Legislature referred a constitutional amendment to the voters, which was subsequently approved. The Utah Legislature imposed term limits on itself to ward off a citizen initiative, but the legislature repealed term limits in 2003.

States WITH Citizen Initiative Process	Term Limits Status
Arizona, Arkansas, California, Colorado, Florida, Maine, Michigan, Missouri, Montana, Nebraska, Nevada, Ohio, Oklahoma, South Dakota, Wyoming	Term limits passed by citizen initiative
Utah	Self-imposed term limits repealed by the legislature
Massachusetts, Oregon, Washington	Term limits struck down by high court
Idaho	Term limits overturned by legislature
Mississippi, North Dakota	Term limits rejected by voters
Alaska, Illinois	No limits AK had voluntary limits IL not easy to get on the ballot

States WITHOUT Citizen Initiative Process	Term Limits Status
Louisiana	Term limits measure, referred by legislature, approved by voters
Alabama, Connecticut, Delaware, Georgia, Hawaii, Indiana, Iowa, Kansas, Kentucky, Maryland, Minnesota, New Hampshire, New Jersey, New Mexico, New York, North Carolina, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Vermont, Virginia, West Virginia, Wisconsin	No term limits

Staff and Agency Contacts:

SOS Term Limits Matrix, <http://www.sos.state.or.us/elections/Publications/term.pdf>
 Secretary of State, Elections Division 503 986-1518 or <http://www.sos.state.or.us>
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