

# Term limits produce changes

*As legislatures in 19 states prepare for or adjust to term limits, they are changing their ways of conducting business.*

**BY DONALD R. HUNTER  
AND FRED J. VICKERS**

**L**egislative term limits have had a turbulent history in the past decade. A prime example is the 1995 session of the California Assembly, which had three different speakers in the initial period of turmoil that accompanied the transition to term limits after it was adopted by voters in 1990. Since then, 11 state legislatures have made their own transition, and term limits soon will take effect in eight more state legislatures.

Looking at CSG's four regions, the 19 states with term limits include one of 10 states in the East (Maine), four of 11 states in the Midwest (Michigan, Nebraska, Ohio and South Dakota), five of 16 states in the South (Arkansas, Florida, Louisiana, Missouri and Oklahoma) and nine of 13 states in the West (Arizona, California, Colorado, Idaho, Montana, Nevada, Oregon, Utah and Wyoming).

Heated battles over whether to enact term limits for state and federal lawmakers began to flare in the 1980s, when supporters saw term limits as a way to open seats held by powerful incumbents in a Congress under Democratic control for 40 years. Term-limit supporters gained voter approval in 1990 of initiatives in California, Colorado and Oklahoma and followed with initiative campaigns in states allowing them.



*Term limits remain popular with voters but not with politicians. One recent CSG survey showed 76 percent of elected officials opposed term limits. Illustration by Susie Bush.*

Most Western states, where the initiative process is widely available, now have term limits. Louisiana is the only state without the initiative process to enact term limits. While term limits originally were sought to root out incumbent members of Congress, the U.S. Supreme Court's 1995 ruling in *U.S. Term Limits Inc., et al. v. Thornton* overturned state efforts to impose term limits on federal lawmakers and shifted the movement to the states.

Term limits remain popular with voters. Patrick Basham, in *Assessing the Term Limits Experiment: California and Beyond*, cites polls from 1999-2000 that show public support ranging in percentage approval from the low 60s to mid 70s in California, Maine, Missouri, Ohio and South Dakota.

On the other hand, a recent CSG survey of elected officials showed 76 percent of politicians opposed to term limits. Expressing the feelings of many officials, Arizona Senate President Randall Gnant said term limits "have led to a



Arizona  
Senate President  
Randall Gnant

decline in civility in the legislative process, a decline in institutional memory and an erosion of representative government, increased power to the unelected bureaucracy and the rise of free agency among members."

Other politicians, however, maintain the positive effects of term limits can outweigh the negative. Florida House Speaker Tom Feeney cited an increased ethnic and professional diversity in the House as a result of election of



Florida  
House Speaker  
Tom Feeney

new members. "Overall, term limits have brought many new opportunities and individuals with a high level of energy to the political process in the state of Florida," he said.

A middle-ground perspective was expressed by Arkansas Speaker Shane

Broadway, who observed, "Term limits have been neither the panacea proclaimed by supporters, nor have they wrought the destruction predicted by naysayers."

Now that states are experiencing the effects of term limits, those in the political arena are adopting one of two strategies. Opponents have sought judicial or legislative action to overturn or ease the restrictions of term limits. On the other hand, legislatures with term limits are working to incorporate them into the legislative framework and are taking steps to address their effects.

### Limits targeted

Opponents are attempting to or have succeeded in overturning term limits in many states through judicial rulings or legislative revisions. In 2001, 10 of 19 states with term limits considered proposals to modify or repeal them. Proposed modifications include lengthening the terms of office, staggering terms of office and allowing term-limited incumbents the right to re-election by gathering signatures of voters in their district.

In the East, the Massachusetts Supreme Judicial Court held in 1997 that keeping term-limited elected officials off the ballot might violate the Constitution. If the term-limited officials won by a write-in vote, they would have to serve without salary, and in some cases, without paid expenses.

The District of Columbia Council voted in June 2000 to repeal term limits, the first time an elected body has overturned a measure of this kind that voters enacted. Also on the local level, New York City Mayor Rudolph Giuliani discussed getting either the City Council or Legislature to extend his term in the wake of the Sept. 11 attacks, but later dropped the effort.

In the Midwest, Nebraska's voters approved term limits in 1992, 1994, 1996 and 2000. The Nebraska Supreme Court invalidated the 1992 vote due to an inadequate number of signatures on the initiative petition and overturned the 1994 mandate by ruling that Nebraska could not set eligibility for members of Congress in violation of the U.S. Constitution. The U.S. District Court nullified the 1996 vote due to a "scarlet

letter" provision that would identify candidates opposed to term limits. The fourth version of a term-limits law, passed by voters in 2000, takes effect in 2008.

In the South, Mississippi voters rejected term limits for legislators in 1999. In February 2001, the U.S. Supreme Court overturned Missouri's "scarlet letter" provision of its term-limits law that labeled candidates as anti-term limits. Proposals to change Missouri's constitutional term limits from 8 to 12 years also were discussed in the 2001 session. Oklahoma's Association of County Commissioners considered using the initiative process in August 2001 to overturn term limits. Louisiana turned down a measure in October that would have let New Orleans Mayor Marc Morial run for a third term.

In the West, Washington's Supreme Court overturned the state's term-limits law in 1998, ruling that term limits could only be enacted by a constitutional amendment. In Oregon, the Senate debated proposals in May 2001 that would have allowed voters to decide whether to modify term limits. At its July adjournment, the proposals remained in committee. Also in July, Marion County Circuit Judge Richard Barber nullified Oregon's term-limits law. Barber ruled that Oregon's Constitution required "separate votes" for election-law revisions. Arguments were made in Oregon's Supreme Court on Nov. 6. A decision will affect current officeholders, and primary elections will be held this spring. In the event the law is overturned, proponents have filed a ballot initiative to restore term limits.

A California initiative on the ballot in June 2002 will allow voters to decide whether term-limited legislators may seek an additional four years in the Assembly or Senate by obtaining signatures from 20 percent of registered voters. Arizona participants in the biannual Town Hall recommended in October that state legislative term limits "should be eliminated as soon as possible," according to *The Arizona Republic*. The group was made up of lobbyists, legislators, public- and private-sector leaders, attorneys and city-council members.

In Idaho, Sixth District Judge Randy Smith ruled the state's term-limits law vio-

lated the constitutional rights of those limited. However, the Idaho Supreme Court overturned the decision Dec. 13, upholding term limits imposed by voters in 1994. Term-limited legislators will be barred from seeking office beginning in 2004 unless they launch a write-in bid.

### Adjusting to limits

While some legislators and other interested parties are trying to revise term limits, others are trying to change the way they conduct their business to reflect the new paradigm. Legislators in term-limited states are adjusting their behaviors. Both the effects of term limits and the responses vary, as do legislative culture and organization in each state.

“Much has been said about the impacts of term limits on both governing and politics,” said Ohio House Speaker Larry Householder. “From our vantage point, one of the most significant changes is how one builds a model for success.



*Ohio  
House Speaker  
Larry Householder*

Our model for governance under term limits places an emphasis on recruiting and training quality candidates, and nurturing a spirit of teamwork.”

Under term limits there are more open seats in every election. Efforts to deal with term limits begin with recruiting candidates. The shortened term of service requires potential members to learn quickly. The pool of candidates



*California  
Assembly Speaker  
Robert M. Hertzberg*

includes many with experience and leadership skills in either the private sector or local government. “Given the interaction between state and local government on a wide range of issues, many freshmen join the Assembly with direct experience with — and with valuable perspectives in — the pressing policy issues of the day,” said California Assembly Speaker Robert M. Hertzberg.

Legislative leaders in several states report they are helping recruit candidates with compatible views who will be good members, leaders and teachers of future legislators. Legislative leaders, political parties, special-interest groups and others understand that recruitment and campaigning can generate loyalty from candidates. They hope this loyalty can be turned into votes supporting their policy positions.

### Orientation and training offered

Once elected, new members must become familiar with the maze of legislative procedures, jungle of policy issues and demands of constituent service. Legislative boot camps take on greater importance under term limits. New members no longer have the luxury of learning from the back bench. Term-limited legislatures are beefing up their orientation programs and accelerating the learning curves for their members.

California has developed a 10-day comprehensive training program to prepare its new members and staff. Arkansas and Ohio conduct issue seminars periodically. In Colorado, the central staff agency offers weekly skills training during session.

Not all aspects of legislative life can be taught in structured sessions. A way to fill this gap is through the use of mentoring programs. These programs achieve practical benefits not only by counseling new legislators, but also by helping develop a sense of community and respect within the legislature. The Arkansas Legislature lost 48 members with 720 years of collective experience when term limits took effect in 1998. Shane Broadway, who rose from a freshman in 1997 to House speaker in his third term, sees the key to success as offering newcomers frequent and intensive continuing-education programs and leadership positions. Since 1998, the Arkansas House leadership has met with small groups of unopposed candidates before sessions and offered orientation to new lawmakers.

Increasingly, orientation involves providing information on substantive issues. Seminars on specific topics can use presenters from the academic, state-agency and special-interest communities to help legislators understand the back-

ground, solutions and complexities of these issues.

### So little time

Term limits compress the window of time legislators have to complete their agendas. Since they don’t have as many terms to win passage of legislation, they need to expedite tasks. As a result, some legislatures are making rules and procedures more flexible and effective.

Options for responding to term limits include controlling the volume of legislation and modifying legislative schedules. Many chambers limit the number of bills each member is allowed to introduce. Others limit the amount of legislation that can be carried over to the next term, and some prohibit killed proposals from being reintroduced during the same term. Traditional methods to control legislative calendars include setting deadlines for bills to be introduced, committee reports to be submitted and action to be taken on the floor. Such steps limit the amount of legislation being considered and keep the process moving.

Another option is to build more time into the legislative schedule. This can be done by splitting a session and allowing a period for committee work on pending legislation before taking final action, or by making better use of the interim periods between regular sessions. Both methods allow more time to study issues, meet with interested parties, develop better solutions, and attract broader support.

Altering the committee structure can improve the ability of members to address policy issues. Some states have increased the number of committees and subcommittees, allowing these groups to focus on a narrower range of issues. Others have reduced the number of committees, allowing members to serve on fewer committees and become more knowledgeable about a particular issue area. A third alternative is to establish joint committees of members from both chambers.

Holding more legislative caucus meetings allows members to improve their understanding of pending issues. The Ohio House majority used this approach to educate new members on the proposed budget and received unanimous caucus support.

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The California Assembly had three different speakers in 1995, during a period of turmoil that followed the adoption of term limits by voters in 1990. A state initiative in 2002 will allow voters to decide whether term-limited legislators may seek an additional four years. Pictured is the state Capitol.

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## Leadership turnover

The turnover of members because of term limits has a major impact on legislative leadership. Constant turnover means that members don't have time to gain extensive experience before assuming positions of authority. This loss of veteran leaders has resulted in a change in control over the process and policy work of legislatures.

The changing power and influence of presiding officers has changed the way leaders make committee assignments, set agendas, control party caucuses, finance campaigns, hire staff and manage legislative institutions. Leaders in term-limited states also need training so they can be more effective in conducting all aspects of legislative business.

Legislative leaders recognize they are at a disadvantage to the executive branch and special interests. To counter this, several legislatures have increased the number of leadership positions. This can

help increase legislators' power base and build support, as well as provide more members with leadership opportunities.

Several states employ a leadership-succession plan. This process identifies the next group of leaders in advance, easing the transition from one session to the next. Arkansas, California and Florida all provide examples of this approach. Some states limit the number of years members can serve in certain leadership positions, opening opportunities for more members.

Effective committee chairs are vital to legislative operations. Some new members become chairs in their first terms. Training is being provided on parliamentary procedures and other skills. "Many incoming lawmakers are chairing committees during their first term in office," Michigan House Speaker Rick Johnson



Michigan House Speaker Rick Johnson

noted. "As they learn the inner workings of state government, these freshman lawmakers must take charge of their individual committees and move the items on their agenda. While these members may not enjoy the institutional memory of the chairs in the past, this is offset by their innovative approaches to the job. Empowering these freshmen committee chairs is a key part of the process and one of the most challenging aspects of being speaker."

The selection of committee chairs and members is changing. Instead of the seniority system, presiding officers and caucuses are making appointments. Appointments to multiple committees are being restricted to allow more members to serve.

The struggle over term limits is far from over. Current and future legislative and judicial actions may alter their course. Many other topics including campaign finance, post-legislative career plans, constituent service, the role of staff and the use of technology are all important factors in the reshaping of state legislatures. Term limits will have long-term effects on government in all states, whether or not they have them. What these effects are and whether they will be positive or negative remains to be seen. ★

Donald R. Hunter is a Toll Fellow and former manager of information and membership services, and Fred J. Vickers is a senior editor at The Council of State Governments.

## Resources

Articles by scholars and legislative leaders on term limits can be found in the Fall 2001 *Spectrum: The Journal of State Government*, published by The Council of State Governments.

In addition, CSG is participating in a three-year study on term limits, a joint project with the National Conference of State Legislatures and State Legislative Leadership Foundation. The three national organizations, with financial support from the Smith Richardson Foundation, will conduct surveys of legislators and case studies.