

No Uncertain Terms

THE NEWSLETTER OF THE TERM LIMITS MOVEMENT • NOVEMBER/DECEMBER 2015 • VOLUME 23 • No. 6

How Would an Article V Term Limits Convention Work?

U.S. Term Limits recently opened another front in our efforts to help Americans impose term limits on their congressmen: the movement to call an Article V Term Limits Convention.

To some, bypassing the Congress by this constitutional route seems like an even tougher job than persuading members of Congress themselves to send an appropriately strict term limits amendment to the states for ratification. But the Constitution is unambiguous about our power to bypass Congress to advance a constitutional amendment when Congress won't act. And once a strong congressional term limits amendment were issued by such a convention, chances of passage would be very high given the popularity of congressional term limits.

An ally in this effort, the Convention of States Project (ConventionOfStates.com), argues at its web site that fears that Congress might simply refuse to call a convention even if it receives the requisite 34 applications are unwarranted. "While we agree that Congress is generally disinclined to relinquish its own power (which is precisely why an Article V Convention is necessary), it is a settled matter of constitutional law that Congress must call the Convention upon receipt of the requisite 34 applications on the same subject matter.

"We know from the records of the 1787 Constitutional Convention that George Mason insisted that the new Constitution provide state legislatures a power co-equal to that of Congress to propose amendments, and that the Convention delegates unanimously agreed with him. The Founding Fathers thus used mandatory language in describing Congress's duty to call a Convention under Article V, ensuring that the states would have a means of obtaining amendments they deemed necessary to provide an effective check on federal power" (bit.ly/1LjoPea0).

The relevant provision of Article V states that the U.S. Congress "on the application of the legislatures of two thirds of the several states, shall call a convention for proposing amendments, which...shall be valid to all intents

(Continued on Page 3)



Don't expect a broken government to fix itself.



Resolved: Houston Politicians Won't Get Away With Tricking Voters About Term Limits

Houston residents Phillip Bryant, an investor, and Eric Dick, a lawyer, are suing the city of Houston. They want the results of the November 3 vote to lengthen local term limits to be ruled invalid.

The suit contends that politicians misled voters with the wording of Proposition 2, which passed 65% to 35%. The ballot title seemed to say that if passed, the measure would trim maximum tenure of city officials instead of what it actually does: lengthen it from six years to eight years.

Eric Dick told the *Houston Chronicle* that "the language

on the ballot is clearly tilted to benefit incumbents.... The more I start talking about this, a lot of people come out and say they were tricked."

Proposition 2 asked whether Houston's city charter "[shall] be amended to reduce the number of terms of elective offices to no more than two terms in the same office and limit the length for all terms of elective office to four years, beginning in January 2016; and provide for transition?"

(Continued on Page 3)



President's Corner

BY PHILIP BLUMEL

The recent off-year election was not as action-packed as next year's on-year election will be. But we're always thrilled when ballot measures imposing term limits pass or measures undermining term limits fail, both of which we saw this year.

The voters of Iberia Parish and Tangipahoa Parish, Louisiana; of Whatcom County, Washington; and of San Angelo, Texas passed term limits measures in October and November. Measures to enact term limits unfortunately failed in the two Michigan towns of Keego Harbor and Lathrup Village. But voters deflected attempts to dilute term limits in Ouray, Colorado and to repeal them in Victor, Colorado.

The ballot language used in Ouray and Victor made it easy for voters to know what they were being asked to do. The conduct of elected officials in those two Colorado towns may be contrasted with that of officials in Houston, Texas, who made sure that as many voters as possible would be misled by their ballot measure to weaken term limits there. Some Houston voters are suing the city because of this chicanery. Good for them.

The Houston story is on page 1. Turn to page 4 for the rest of the term limits election news, including news of unfortunate setbacks for presidential term limits in other lands (with the important exception, in Africa, of Tanzania). You'll also learn about term limits petition drives that are underway in Mississippi; in Montgomery County, MD; and in Tualatin, OR. There's also a recall campaign in Douglas County, OR, directed against an incumbent who is suing voters in order to try to avoid being termed out of office. Good luck to all.

Visit Phil Blumel's blog at pblumel.blogspot.com. Visit USTL's Facebook page at on.fb.me/U0blkG.

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“It is not the function of our Government to keep the citizen from falling into error; it is the function of the citizen to keep the Government from falling into error.”

-- U.S. Supreme Court in
American Communications Association v. Douds

Houston (Cont'd from page 1)

Dick notes that the question conspicuously failed to state that, prior to passage, the length of an individual term had been two years. “Second is, it says it will limit the length for all terms of elected office to four years, suggesting that the maximum amount of time an individual can serve would be four years [rather than eight years].”

The measure allows some incumbents to serve longer than the six years to which they were limited before the measure passed.

A spokeswoman for Mayor Annise Parker, Janice Evans, asserts that voters must have “clearly understood” the measure since it passed with 65% of the vote, as if it’s impossible for politicians to mislead a lot of people all at once.

Perhaps Evans should talk to her boss. On November 4, Mayor Parker said: “There may have been some voters confusion out there. I don’t know that [voters] realized that they were giving council members more time in office.”



Attorney Eric Dick is suing Houston.

Article V (Cont'd from page 1)

and purposes, as part of this Constitution, when ratified by the legislatures of three fourths of the several states, or by conventions in three fourths thereof....”

A total of 34 states must pass bills calling for an amendment convention before it is required to be convened in accordance with the Constitution. Most recently, a bill to call a Term Limits Convention has been advancing in the state legislature of Florida (see p. 4).

Congress must designate either state legislatures or state conventions to ratify proposed amendments. If the latter is chosen, each state will hold an election to determine delegates to its ratifying convention. This is a point in the process at which Congress does get to make a choice — but not one that enables them to disrupt the final result.

In addition to concerns about whether the Convention can be called at all, some worry that such a convention would be a “runaway” affair, with the delegates suddenly dropping their reasons for convening and concocting outlandish amendments to send to the states instead. Any Convention called to propose a congressional term limit amendment would be limited by explicit instruction to propose only an amendment that would impose term limits on members of

Congress. The state applications prohibit all parties from proposing or ratifying anything that deviates from the subject at hand.

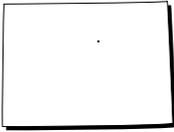
Moreover, the work of the Convention is only Phase Two of a three-phase process. If the delegates did senselessly ignore their instructions and purpose in convening, any renegade amendment they crafted would still have to be ratified by 38 states. Ratification of the expected Term Limits Amendment could be readily accomplished; an amendment that represents an outlandish deviation from that purpose would almost certainly founder.

“I used to buy the argument that it’s a constitutional convention until I actually read Article V,” said political commentator Mark Levin after his book *The Liberty Amendments* was published. “There is no constitutional convention. It’s a convention for proposing amendments.... There can be no runaway convention because three fourths of the states still need to ratify [the amendments a convention proposes]. But we need to make it clear to the people in Washington that we do have a way out. There is a way forward. The states collectively, pressured by we the people, have enormous power.”

“Convening an Article V convention will not be easy. We must lobby state legislatures to support this historic idea. This will be a tough and costly fight. Will you help? Sign the online petition at termlimits.org/ustl-petition. Make a financial contribution at www.termlimits.org/donate-2. When the bill is introduced in your state, U.S. Term Limits will alert you with the bill info and how you can help get it passed.”

— Phil Blumel, President, U.S. Term Limits

Term Limits



COLORADO

Ouray, CO. On November 3, by 62% to 38%, voters defeated a measure to weaken local term limits. County commissioners had asked voters to lengthen commissioner term limits from two terms to three terms — something they’ve tried to do twice before.

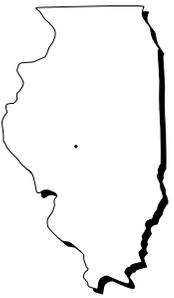
Victor, CO. Given the frequency of blurry or fib-festooned ballot language designed to fool voters into weakening or killing term limits, the politicians of the town of Victor deserve credit for the clarity of Referred Issue 2A: “Shall the term limits imposed [by the Colorado Constitution] be eliminated in the City of Victor, so that the present and future elected Mayor and City Council members of the City of Victor will be authorized to serve an unlimited number of consecutive terms of office?” The wording is precise and unambiguous, and there’s nary a red herring in sight. In consequence, the measure was defeated on November 3 by a 64% majority.



FLORIDA

First the good news. With a 5-4 vote in its favor, the Term Limits Convention Bill (SM360) — a bill to call an Article V convention to draft a constitutional amendment to term-limit the U.S. Congress, which would then be subject to ratification by the states (see p. 1) — emerged from the Florida Senate Ethics and Elections this November. It is now headed to the Senate Rules and House Federal Affairs Committee. If it passes that hurdle, a floor vote is next. (The sister bill in the Florida house is HM417.) We’ll keep you posted.

Now the bad news. Florida State Senator Rene Garcia, Republican, and State Representative Mark Pafford, Democrat, have sponsored a bill to lengthen the eight-year legislative term limit to 12 years. Garcia says the reason is to “make sure that it is elected officials who move agendas forward, not lobbyists.” We’re pretty sure that lobbyists are not allowed to vote Yea or Nay for a bill at any stage of the legislative process in the Florida state legislature. We’ve often asked, without ever getting any good answer, why most lobbyists are antagonistic to term limits if term limits gives them so much new power over lawmakers. (See “Myth-Busting 101: Do Lobbyists Love Term Limits?” at the USTL site at bit.ly/1QOiHDP and USTL Director Nick Tomboulides’s letter to the editor on the subject, quoted on page 7.)



ILLINOIS

First-term Illinois State Senator Jennifer Bertino-Tarrant has filed a proposal, SJR 21, to limit the tenure of legislative leaders to eight years. “I often hear from people throughout the district that Illinois would be better off if there were limits on how long the Speaker of the House and other legislative leaders could stay in power,” she says. “My proposal would prevent someone from making a career out of being a legislative leader.” She declares that “there are already term limits” on members, since voters can always vote out their own member. But they cannot have any influence on either the tenure or the legislative power wielded by leaders elected in other districts. Bertino-Tarrant is thus half-right: there should be term limits on state legislative leaders. But there should also be term limits on all members, as Governor Rauner continues to propose. Then term limits on leadership would exist without the necessity of a separate reform.



LOUISIANA

Iberia Parish, LA. On October 24, 59% of Iberia Parish voters voted Yes to impose limits of three four-year terms on council members and also, by 62%, to increase the maximum term limit of persons serving on parish boards and commissions from two four-year terms to three four-year terms.

Tangipahoa Parish, LA. Also on October 24, by a 64% majority Tangipahoa Parish voters passed term limits of three four-year terms on their parish council members and council president.



MICHIGAN

Keego Harbor, MI. A measure to impose a maximum tenure of two terms on members of the Keego Harbor city council was defeated in November by 63% to 37%.

Lathrup Village, MI. A similarly worded measure to impose a two-term limit on members of the Lathrup Village city council was defeated 62% to 38%.

in the News



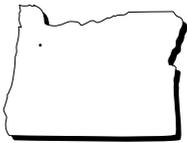
MISSISSIPPI

The group United Conservatives Fund (unitedconservativesfund.com) is planning a petition campaign to gather signatures for a term limits amendment that would limit consecutive terms of service “in the same state house, state senate or statewide elected office to no more than two (2) terms after the adoption of the amendment. Terms would be deemed consecutive unless separated by a full four (4) year term.” The group’s policy and communications director, Keith Plunkett, says the initiative “will encourage new engagement from citizens; it will incentivize coalition building and it will require candidates to discuss why they support policies in much more specific detail to the voting public.” Term previous limits initiatives in Mississippi failed at the ballot box, in 1995 and 1999.



MARYLAND

Montgomery County, MD. In 2008, Robin Ficker proposed an ultimately successful initiative to make it harder for the county to hike property tax rates. Now he’s leading a petition drive to post a retroactive term-limits amendment to the November 2016 ballot. It would limit the tenure of council members and the county executive to three four-year terms. Flicker says he has so far collected more than 8,000 signatures. He has twice before led successful petition drives to post a term limits question, but those measures were narrowly defeated. “There are literally hundreds of thousands of people in this county who are qualified for these jobs but yet, there’s very little turnover,” he told *Bethesda Beat*. “Having an open seat once in a while brings about a robust discussion of the issues. It brings in new people. It brings in fresh ideas.”



OREGON

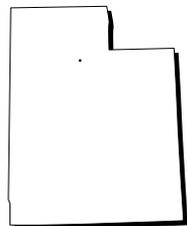
Douglas County, OR. Douglas County residents led by Ralph Larnell have organized a recall petition to oust county commissioner Susan Morgan for suing voters to overturn a successful 2014 initiative to impose term limits on county commissioners. (She wants to run for a third term.) In addition to their recall efforts, the group is demanding that Morgan resign. Larnell to Morgan: “Save yourself the embarrassment and the people of Douglas County the hardships and resign your position of county commissioner.”

Tualatin, OR. Mae Heide and other residents of Tualatin have gathered enough signatures to place a term limits question on the November 2016 ballot. If it passes, the mayor and members of the city council would be limited to a maximum tenure of 12 years during a 20-year span. Heide says she took up the issue of term *limits* after the city approved spending \$160,000 of taxpayer money on a light rail project almost immediately after voters had approved spending limits on light-rail projects. “My jaw just about dropped. I thought things over and decided that just wasn’t right, that they weren’t listening to citizens.”



TEXAS

San Angelo, TX. With 69% in favor, San Angelo voters passed Proposition 2 to impose term limits of two consecutive four-year terms on the mayor and council members. A related measure, to stagger the terms of city council members, passed by the same margin.



UTAH

The folks at Utah Term Limits have abandoned their quest to post a term limits question on the November 2016 ballot. The measure they proposed would have limited the terms of appointees to boards and commissions. When officials rejected the proposed question, the group challenged the decision and requested an expedited ruling from the Utah State Supreme Court. But the court won’t even begin hearing oral arguments until December.

According to an attorney for UTLN, Stephen Clark, “Actions by the Lt. Governor’s office have put us in a situation where, even if we win, we lose. Given a series of long and unexplained delays, it is no longer practical to bring this issue to the voters within the 2016 election cycle.”

Chairman Rick Larsen says, “Everyone involved in this effort is surprised and disappointed with the process. Three in four Utah voters favor term limits on appointments, yet Lt. Governor Cox has ignored that strong preference in favor of politics and procedure. It leaves thousands of supporters and volunteers

and many more Utahns wondering if the voter has a clear path to effect change through the initiative process.”

Utah Term Limits may try again in a future election cycle.

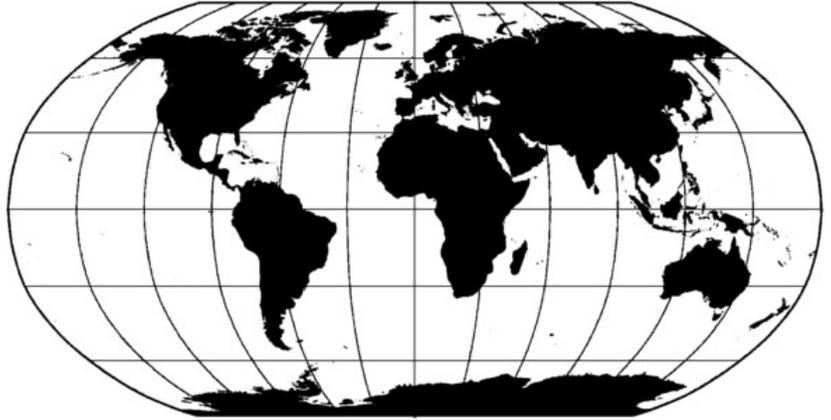


WASHINGTON

Whatcom County, WA. By 69% to 31%, Whatcom County voters on November 3 approved Proposition 7, which non-retroactively imposes term limits of three consecutive terms on the county executive and county council members — a weaker term limit than USTL advocates, but better than no term limit.

BOLIVIA

The Bolivian Congress has endorsed a referendum that, if approved by voters, would enable President Evo Morales to run for a fourth term. The referendum would amend Article 168 to permit a maximum of two reelections of a sitting president instead of only one reelection. Actually, Morales is already on his third term thanks to a judge’s determination that his first term, which he was serving in 2009 when a new constitution was passed, wasn’t subsumed by its term limits provision.



CONGO

A reported 92% of Republic of Congo voters have approved a referendum to permit President Denis Sassou Nguesso to run for a third consecutive term. He has ruled the country for 31 out of the last 36 years. The election was boycotted by the government’s opposition, who have disputed the claim of massive turnout for it. Opposition leader Pascal Tsaty Mabilia said, “There is no way there could have been 70% turnout. For us, this result is a fantasy.” The referendum was preceded by the government’s shutdown of the Internet and by clashes between protestors and the police.

ECUADOR

Although Ecuador President Raffael Correa says he won’t be running for a fourth consecutive term, he wants to undo presidential term limits just in case voters want him back later on — which political opponents fully expect him to do even if he does step down for a term. But there is no guarantee that he’ll accept any hiatus in his tenure. “In underdeveloped countries like ours, the continuity of successful projects like our revolution is fundamental,” Correa said recently, hinting at how unfortunate would be any interruption of his regime. Presidential term limits have already been scuttled in the Latin American countries of Venezuela and Nicaragua. A similar push to undo presidential term limits is underway in Bolivia.

RWANDA

In mid-November, after Rwanda’s senate authorized a draft amendment to let President Paul Kagame stay in office indefinitely (a referendum will follow), the U.S. government urged Kagame and the country’s government to leave presidential term limits alone. But Rwanda lawmakers like Margaret Nyagahura say the legislative body is simply honoring the wishes of the people: “Everybody wants this to happen. More than 60 percent of the electorate has requested this. As far as we know in this country everybody wants our president to continue leading the country at least in the nearest future.” The allusion is to a nationwide petition to get rid of presidential term limits that was allegedly signed by 3.6 million Rwandans, a number that many English-language news stories have been reporting as fact without reference to charges of irregularities in the petition process.

TANZANIA

Voice of America calls Tanzania “the exception and not the rule in Africa.” The exceptional news is that Tanzania’s former president, Jakaya Kikwete, stepped down this October after serving two five-year terms. Adjoa Anyimadu, a research associate at Chatham House, says it’s no surprise: “Since 1992, the return to multi-party democracy in Tanzania, presidents have served for two terms of five years each, and then stepped down, so it’s really not a surprise that President Kikwete is stepping down now.” It would be nice if it were always unsurprising when term limits limit terms. In any case, with so many assaults on presidential term limits elsewhere on the continent, Kikwete’s quiet relinquishing of power deserves at least a nod of acknowledgment.

WHAT THEY'RE SAYING

Is an Article V convention likely to be a “runaway” convention?

“It takes an incredibly wild imagination to believe that delegates appointed by the State legislators would defy their given agenda, and then, after an open rebellion, the State legislators in both houses of thirty-eight states would ratify an errant amendment.

“Congress is a permanent constitutional convention. It can propose amendments on any subject it wants, any day of the week. It is virtually impossible to imagine a Convention of States (appointed by State legislatures) composed of delegates more irresponsible than the governing majorities in Congress. Yet, Congress doesn't ever send out crazy amendments. Why not? Its members are constrained by the political realities posed by ratification — and nothing else.”

— **“Answers to the 16 toughest Article V questions,” Michael Farris, *ConventionOfStates.com*, September 2, 2015, bit.ly/1jgpFSn**



In Illinois (for One), Natural Attrition Can't Pinch-hit for Term Limits

“Opponents often [suggest] that natural attrition already limits the number of terms lawmakers spend in Springfield, making term limits unnecessary.... Attrition in both chambers of the legislature is the norm, with turnover rates ranging from 22 to 38 percent during the past three General Assemblies....

“However, the 35 remaining Democrats who are still serving from prior to 2009 bear much of the responsibility for the current dysfunction in Springfield. (Only 9 Republicans remain from the same period.) So while turnover in membership normally occurs over a few election cycles, term limits would effectively force out House Speaker Mike Madigan, who for three decades has driven the policies that have resulted in Illinois' current fiscal and political crises.”

— **“Illinois needs term limits,” Jim Long, *Madison Record*, October 20, 2015, bit.ly/1PMbCCt**

Incumbents Versus Everybody Else

“The gulf between incumbent officeholders and the American people is never bigger than on the issue of term limits. A Gallup survey from January 2013 found that 75 percent of Americans — including huge majorities of Republicans, Democrats, and independents — support term limits on Congress.

“In the poll, young people (under 30) and older Americans (over 65) both gave the concept 74 percent approval. Blacks favored it even more than did whites, and women more than men. Support is greater now than it was at the height of the term-limits movement in the 1990s. Back then, Martin Plissner, the late political director for CBS News, told me he had ‘never seen an issue on which there [was] so little demographic variation.’”

— **“The Return of Term Limits,” John Fund, *National Review Online*, September 20, 2015, bit.ly/1HmB5zL**

WHAT WE'RE SAYING

Lobbyists Really Wish Term Limits Would Go Away

“[W]e have campaign finance data available from the hundreds of term limits referenda that have occurred in America. In each and every case, lobbyists and the special interests they represent have donated to whichever side wanted to prevent, weaken or abolish term limits.

“So, if term limits make lobbyists more powerful, why would lobbyists spend every dime they have to defeat term limits? It's simply illogical.

“The real reason: Lobbyists despise term limits, because owning one legislator for life is a lot easier than constantly building new relationships.

“Even Jack Abramoff, widely regarded as America's most corrupt lobbyist, admitted in *The Book of Jack* that lobbyists dislike term limits because ‘a representative who stayed in Washington for decades, and was a friend, was worth his weight in gold.’”

— **“Lobbyists really wish term limits would go away,” Nick Tomboulides, *Kennebec Journal / Morning Sentinel*, November 16, 2015, bit.ly/1kQcKsc**

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**— John Fund, *National Review*
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