



This article is from Cal-Tax Digest, published  
by the California Taxpayers' Association.  
Cal-Tax Home Page | About Cal-Tax | Subscribe

June 2000

## Guest Commentary

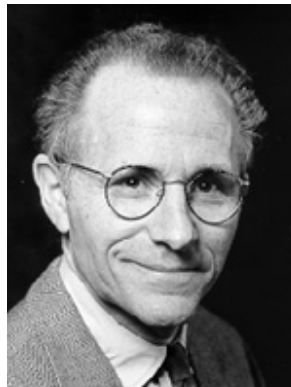


### Term Limits - 10 Years Later

*(Editor's Note: These commentaries were published April 30 in the "Forum" section of The Sacramento Bee. Reprinted with permission.*



*Tony Quinn, co-author of "The Target Book" on state legislative elections, was a Republican staffer in the Legislature and is now a public affairs consultant in Sacramento*



*Walter A. Zelman is president and CEO of the California Association of Health Plans, representing managed care organizations. From 1978 to 1989, he was executive director of California Common Cause, a political reform organization.*

### Tony Quinn: Corruption and clout of special interests wane, diversity grows

Has the 1990 passage of term limits improved or hurt the Legislature? Here's one way to measure: Ten years after term limits were put in place, no legislator elected under term limits has gone to prison.

### Walter Zelman: Emphasis now is on the short term, at expense of expertise

Long before I began representing the managed care industry, I worked for the political reform group Common Cause. The organization's focus, then as now, was on campaign reform. But the subject of term limits, which did not then exist in California, was often on the agenda, partly

That may seem a crude index, but it represents a marked improvement. Those who pine for the good old days of long-term lawmakers ought to remember Democratic Senators Joe Montoya, Paul Carpenter and Alan Robbins along with Republican Senator Frank Hill and GOP Assemblyman Pat Nolan - legislators with decades of service, all of whom went to federal prison for corruption.

The corruption scandal of the 1980s was the byproduct of legislators who had long since lost touch with their home districts and whose rationale for being in Sacramento was to squeeze money from special interests in exchange for legislative favors. Safe in districts they had gerrymandered for themselves, all too many members saw politics as a game of political enrichment. Bills were "speakerized," meaning powerful Assembly Speaker Willie Brown demanded a favor before a bill was passed. Too often that favor turned up in the form of a campaign contribution.

Career politicians lived in the cocoon of Sacramento, arbitrating between special interests while long-term state problems such as education funding, health-care costs and social impacts of illegal immigration were ignored.

Term limits did not clean up this mess overnight. But term limits and the blanket primary, reforms imposed on the Legislature by the initiative process, and fairly drawn and competitive legislative districts have given California a better Legislature today and one that far more closely reflects the state's ethnic diversity than the "good ol' boy" Legislature it replaced.

Ten years ago, term-limit opponents warned of a parade of horrors if terms limits passed: The governor would dominate,

because the two issues seem inextricably linked. Without campaign reform, it seemed, incumbents would continue to maintain enormous fundraising advantages, reducing legislative turnover to absolutely minimal levels. That, in fact, was the case, at least until term limits were approved in 1990.

Still, I was never very attracted to term limits, even in the absence of campaign reform. While some legislative turnover and new blood seemed valuable, so too were legislative experience and expertise. The popular rhetoric about the need for legislative turnover and "citizen legislators" ignores the need for lawmakers to digest and manage huge quantities of information about a seemingly unlimited number of policy areas. They also need to learn the intricacies - technical and political - of the process. And they generally need to find and develop some areas of expertise.

The intervening years, the imposition of term limits in California and my own career changes have not dramatically altered my point of view.

Certainly, I can see some value in the new term-limited Capitol reality. Substantially higher levels of legislative turnover have brought some very bright and talented people to Sacramento, some of whom would never have had the opportunity to serve had some incumbent not been "termed out." And the new law does not seem to have produced, as many feared it might, a dominance of special interests or legislative staff. The legislators themselves still rule.

On the other hand, the two-term, eight-year limit in the state Senate and

lobbyists would run amok, legislators wouldn't even know where to find the rest room. None of this happened. Ask Senate President Pro Tem John Burton if Governor Gray Davis runs the Legislature. Lobbyists who depended on long-term relationships saw their power ebb, not increase. New legislators proved themselves at least as capable as the political class they replaced.

Before term limits, legislative elections had evolved into entrenched politicians' transferring millions of campaign dollars to favored staffers and privileged friends to buy legislative office. The rapid turnover under term limits results in legislators more focused on building support in their districts, a reality enforced by the newly discovered need of lobbyists to work a legislator's constituency, not merely to work the Sacramento watering holes.

Would California have had two Latino Assembly speakers in a row without term limits? Of course not. Speaker Brown intended to pass the speakership on to a white male lieutenant, although the voters briefly got in his way when they elected a Republican Assembly in 1994. But Lieutenant Governor Cruz Bustamante became speaker following Democratic recapture of the Assembly in 1996 only because Brown's chosen successor was termed out.

The political phenomenon of the 1990s was the rise of Latino politicians to positions of real power as that community became politically energized. Term limits helped them acquire legislative power because it removed long-entrenched incumbents. The same is true of women, whose legislative numbers dramatically increased in the 1990s as seats opened up that otherwise would

especially the three-term, six-year limit in the Assembly have also hurt the quality of lawmaking.

Above all, legislators have been forced into an even more aggressive and consistent focus on politics and electoral mobility than was the case prior to term limits. They are still not "citizen politicians," interested in serving a few years and returning to private life. They may have the best of intentions in performing public service, but most of them also have every intention of remaining in elective office.

Legislators in pre-term-limit days were no strangers to ambition. But in those days, legislative ambition required members to develop expertise and a power base in a legislative house. Legislators today have far less incentive to invest in those goals. Their rise to power may be very fast (too fast in many cases to be adequately prepared) but they can't stay there very long. Almost immediately, the reality of term limits forces them to begin looking around for the next electoral opportunity.

Thus, rather than minimizing the role of politics and elections in legislative life, term limits have intensified it.

Term limits may also encourage legislators to look more at short-term rather than long-term consequences. To the lawmaker interested in the next office and next election, what count most are instant visibility and the chance to point to a bill passed, a problem quickly addressed.

Building long-term credibility with colleagues and an enduring scaffolding of policy may become a luxury.

Without question, term limits have also led to a dramatic and serious loss of legislative expertise. Subjects like health care,

have remained occupied by male incumbents.

Term-limit opponents like to point to the loss of institutional memory as legislators are termed out before their time. But institutional memory also carries institutional hatred. Throughout the 14-year speakership of Willie Brown, Republicans flayed at him consistently because of bitterness that grew out of the 1981 reapportionment battle. New Assembly Speaker Robert Hertzberg is the first speaker in more than two decades elected by acclamation and without acrimony.

Institutional memory also means institutional bureaucracy. Long-term legislators tend to become defenders of the bureaucratic creations they gave life to. Former Governor Wilson tried to change the California Energy Commission (CEC); his efforts were blocked in the Senate because Senator Al Alquist, author of CEC legislation two decades before, wouldn't hear of changing his pet project. One reason congressional reformers finally modified the seniority system was to rid the system of stodgy empire builders. Term limits do the same thing.

The worst hogwash of all is the notion that only graybeards are capable of making laws. This is disproved by the occasional change of party, which suddenly elevates new blood to powerful positions. In 1995, Republicans took over the Assembly, ousting very senior Democrats from major committee chairmanships. Amazingly, the budget got out on time, the place did not fall apart, and, in retrospect, the Republicans did a decent and competent job the year they ran the Assembly.

In the 1997-98 term, a closely divided Assembly forced bipartisan cooperation, and

education, transportation or state tax policy simply cannot be mastered in a few months, or even a legislative term or two.

Policymaking thus suffers both from the lack of a few real experts in a policy area (they are forced to move on) and from the reality that the great majority of legislators have only very limited knowledge of even the central issues in many policy areas.

So what, if anything, should be done?

Abandoning term limits is politically unthinkable, and would probably be going further than might be appropriate. With campaign finance reform still in the future, term limits may be necessary to generate a reasonable amount of turnover.

The problem, then, may not be term limits themselves but the fact that they were imposed in such an extreme form. Especially in the Assembly, the three two-year term limit turns a reasonable concept into an unreasonable straitjacket. Allowing an Assembly career of at least four terms - six would be preferable - would generate a much more reasonable balance between the need for turnover and the needs for leadership, experience and expertise. In the Senate, a three- rather than a two-term limit would achieve the same objective.

In such a restructured system, it should be emphasized, turnover would still be considerable. In any given year, there would still be a significant proportion of legislators who were ineligible for reelection, and there would still be many others who would be approaching their limits and looking around for new electoral or other options.

Legislators may be reluctant to raise this issue themselves. In all probability, they should not be expected to take the lead in asserting the need to adjust the current limits. But I believe there is a widespread

Republicans, led by former Speaker Curt Pringle, and Democrats, led by Speaker Bustamante, negotiated a relatively productive session. Since the open primary passed in 1996, it has been easier for local officials to win partisan nominations. Most current Sacramento-area legislators began their service in local government. These people are not exactly amateurs when they arrive at the Capitol, and most have far more real-world experience than the career politicians the political bosses used to promote to the Legislature.

No one would deny the loss of fine legislators such as the late GOP Senator Ken Maddy, termed out in 1998, and Democratic Senator Patrick Johnston, termed out this year. Nevertheless, term limits has had a positive impact, especially in the Senate, by forcing the retirement of ancient relics who held office long past their time. Eighty-eight-year-old Senator Ralph Dills, first elected to the Assembly in 1938 and whose campaign theme in his last re-election was "too old to quit," would have equaled Queen Victoria's reign in England with one more term in the Senate.

The existing term limit is six years in the Assembly and eight years in the Senate, a maximum of 14 years of legislative service.

An argument can be made that the Assembly and Senate should both be at eight years, but 14 years gives a good legislator plenty of time to make a sound contribution. Before term limits, many of California's better legislators served less than 14 years. Pre-term limits Speakers Bob Monagan, Bob Moretti and Leo McCarthy served 13, 10 and 14 years, respectively, before voluntarily leaving the Assembly. Governors Wilson and Davis served five and four years, respectively, in the Legislature.

recognition, at least among those of us who regularly participate in the process, that such a modification is in order. The time, then, may be right for a broad coalition, including political reform groups, Sacramento-based interest groups, legislators, opinion leaders and others to begin thinking about supporting a modification of the current limits.

The general voting public may, at first, be wary. But the public may never have seen any magic in the specifics of the current configuration. Indeed, had term-limit advocates originally proposed something less extreme, it, too, would almost certainly have been approved by voters. Moreover, the public may today feel less hostile (not warmer, perhaps, but less hostile) towards politicians than it did a decade ago. Today, voters might respond to a reasoned appeal for moderation, especially one offered by a broad coalition of respected organizations.

Were that effort to prove successful, the chief beneficiaries would be state politics, policymaking and the general public.

Although all polling since 1990 shows a public very happy with term limits, some people never give up. A former legislator is sponsoring an initiative to lengthen terms in both houses to 12 years, a 24-year maximum. Twenty-four-year term limits mean no term limits. This is an unusually cynical fraud; the real proponents, certain entrenched legislators about to feel the term limits axe, know the public would never repeal term limits, so they have come up with a scheme to gut them.

In Gilbert and Sullivan's "The Mikado," the Lord High Executioner sings a ditty that begins: "I have a little list and they surely won't be missed." Few Californians miss the senators and assemblymen who populated federal prisons; few miss the Willie Browns; few miss the arrogant politicians who thought their office was a mandate from heaven. Meanwhile, Californians give this term-limited Legislature a high approval rating. Can it be they actually believe representatives are better than career politicians?

---