

Political Potpourri: A Review of California's Political Reform Issues

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I have titled my talk Political Potpourri: What is a potpourri?

A miscellaneous collection or medley.

The following are Reflections of a Political Reformer.

What is the Center for Governmental Studies or CGS? Founded by my colleague, Tracy Westen, 24 years ago.

We study the issues I am going to discuss with you today and we issue recommendations on how to improve the governmental process and provide more information to voters.

Generally and unfortunately it takes a scandal to enact major reforms.

Nixon, Los Angeles Mayor Tom Bradley, Connecticut Governor John Rowland, Arizona Governors Fife Symington and Evan Meecham.

For each of the topics I am going to present:

Problems: Recommendations

Note: the recommendations are mine and do not necessarily reflect the views of other CGS staff members or the board of directors.

Disclosure of Campaign Contributions and Expenditures

Disclosure is the keystone for all reform.

Problem trying to be addressed: voters want to know who is financially supporting and opposing candidates and ballot measures. While they may not look up the information on-line, they want to know that the press, opponents and other interested parties can access financial information in case anything does not appear to be right.

California law requires disclosure of campaign contributions and expenditures of \$100 or more.

If you hide a \$500 contribution or try to launder it, the press is far more interested in that story than you if publicly disclose a \$50,000 contribution.

We have excellent campaign finance disclosure in California; not perfect but very good. Political Reform Act (Prop. 9) enacted by a 70% vote in 1974 enacted a disclosure law.

Based on legislation introduced in 1973 at the request of Secretary of State Jerry Brown.

Disclosure today is even better because of electronic filing and posting of contributions and expenditures on-line.

Los Angeles City has one of the best on-line systems in the country and it is even selling its program to other cities and governmental jurisdictions for a very nominal fee.

Cases challenging disclosure: Indian tribes say they are a sovereign nation and thus don't need to comply with state laws. Conservative groups say it is an invasion of privacy and a violation of the Free Speech clause of the U.S. Constitution's First Amendment. So far the courts have upheld disclosure, but challenges are continuing. I am an expert witness in Colorado case where anti-annexation people in a county spent \$2,000 fighting annexation without filing disclosure reports.

Money laundering cases would not be uncovered unless there is disclosure: An intern in the Los Angeles City Ethics Commission noted that several people were giving \$500 each on the same day. These people listed their occupations as student, flight attendant, gardener, and unemployed. He called them and asked why they gave, and they confessed that someone had given them the money. This case resulted in an \$895,000 fine against the Evergreen Corporation for money laundering.

CGS is part of the Campaign Disclosure Project that has written a model disclosure law, has a data base of all the states' disclosure laws and grades the states on how good their disclosure program is. California's disclosure law has ranked 1st or 2nd each year.

We need more than disclosure. Frankly, when we were writing the disclosure laws in the 70s, we assumed that the disclosure would reveal such egregious conduct (although legal) that the public would be clamoring for more reform and that the legislature would have to respond. We were wrong.

Recommendation: Make the electronic data more user-friendly and require the Secretary of State to resume publishing summaries of data after each election.

Problem: disclosure does not reduce the influence of money.

Contributions go to winners, to both parties, and are used to influence governmental decision making, not just elections.

In my opinion, 90% of campaign money given to incumbents and winners comes from people or groups who want something from government.

So what else do we need in terms of campaign finance reform?

Contribution Limits

Problem: Contribution limits are necessary because most elected officials do not have competition and are able to raise unlimited funds even when they don't need the money.

As indicated by the CMA example, interest groups want to give money to politicians because they are making decisions that are affecting these groups.

California's contribution limits are among the worst in the country.

They are so high as to be meaningless. \$24,100 for governor is over 10 times what you can give a Presidential candidate. Even the legislative limits of \$3,600 are higher than the \$2,300 limitations for Presidential and other federal candidates.

Whenever you have contribution limitations (no matter how small or large), you will have independent expenditures. Explain independent expenditures

Independent expenditures will only be made in competitive races. We have few competitive races unfortunately.

But because they are not controlled by the candidates, people, particularly incumbents, get very upset.

Under U.S. Supreme Court decisions, you cannot limit independent expenditures, only require disclosure.

The Supreme Court has equated campaign money with speech and you can't limit speech under the First Amendment, it says. However, it limits speech: if you want to argue a case before the court, your time is limited to 30 minutes (sometimes an hour.) The court does not allow you to buy more time if you have the resources.

Recommendation: California's contribution limits should be lowered so that they are the same as the federal limits: \$2,300 per election.

Off Year Contribution Bans

Problem: it is primarily incumbents who raise campaign money in the non-election year.

Recommendation: Enact off year bans on raising campaign contributions, such as in the City of Los Angeles: two years for city wide and 30 months for council.

Expenditure Ceilings

Problem: People believe that too much money is spent in elections.

But we can't have spending limits because of a decision by the U.S. Supreme Court.

Landmark U.S. Supreme Court decision: Buckley v. Valeo.

Recommendation: The only way to limit spending is by public financing.

Public Financing of Elections

Problem: Disclosure by itself, contribution limits by themselves and the lack of constitutional support for spending limits all call for a comprehensive solution that must include some sort of incentive for candidates to accept restrictions,

Need public financing to free candidates from fundraising pressures, to reduce influence by special interests and to allow underfunded candidates to run such as: Jan Perry and Ed Reyes running for city council in Los Angeles.

Public financing also allows candidates to spend more time campaigning and less time dialing for dollars.

LA and older systems have matching funds: contribute up to \$250 and your contribution is matched one to one in LA and up to four to one in NYC with public funds.

Newer systems are clean money or full public financing.

Arizona and Maine have the best new systems.

Clean money is a concept developed just 15 years ago.

Certain number of \$5 contributions gets a candidate full public financing so that they don't have to raise any more funds. IEs and wealthy candidates are matched.

Have to be a serious candidate and face a serious candidate before receiving any public funds. Serious candidate is defined by raising a certain amount of money.

Napolitano and her Republican opponent in Arizona.

Marc Spitzer, former elected Public Corporations Commissioner and former Republican Majority Leader of State Senate, is the best spokesperson.

Used to be that the political parties printed up the ballots for voters. We decided over 100 years ago that the state should print the ballots at public expense. We fund our elections, but not the parties or private individuals.

We need to fund the campaigns, the way it is done in other countries and other states.

Can you imagine a system where I am voting on legislation every day and while I am considering the legislation the people who are directly and financially affected by the legislation give me money? Public officials say that the money has absolutely no impact on their decisions; it just gives the contributor access. Access is worth a lot. Can anybody really believe that money has no impact? If so, why is it given?

But there are problems: where to get the money. Arizona has a creative funding source. In Arizona, a 10% surcharge is added to every criminal and civil fine. Easy to pass because criminals don't have PACs and did not oppose this tax. The public financing program in Arizona is awash in money

In Connecticut, they take unclaimed property after 10 years and use the sale of the property to fund their program.

One concern: public is so turned off to all the TV ads, the mailers and the negativity of campaigns that they are not that interested in providing more resources to candidates.

Recommendation: enact a bill that experiments with public financing in a couple of legislative races and one statewide race, such as Secretary of State.

City and county campaign finance experiments

100 cities and counties have tougher rules than the state law.

San Diego has the toughest law in the country: contribution limits are \$270 for city council and \$320 for city wide races, but only contributions from live human beings: no corporate money, no union money, no PAC money.

However, San Diego has some very sophisticated three year olds who are making \$270 contributions out of their weekly allowances.

But legislature is constantly trying to rein in local laws.

No public financing, no more disclosure for state committees, and now no limits on parties sending out information to their members.

AB1430 is pending in the State Senate.

Recommendation: allow cities and counties to adopt their own laws and stop passing laws that supersede these local laws.

Ballot Measure Committees Controlled by Officeholders

Problem: Governor and legislators raising unlimited funds for ballot measure committees. What is the difference between raising funds for candidate campaign and raising it for ballot measure campaign that candidate controls?

Recommendation: Need limits on what an officeholder can raise for ballot measure committees controlled by the officeholder.

I have been working on campaign finance for over 35 years and have accomplished some of my goals, but not everything. In fact, my wife calls me the Sisyphus of campaign finance.

Voter information

Television now is the most efficient way to communicate with voters particularly in statewide elections, but television is expensive and out of reach for legislative or local elections because it communicates with more voters than in a particular district.

Some people will ask: why not mandate that TV and radio stations provide free air time to all legitimate candidates?

Here's the problem: a very powerful group is against it: namely, incumbents.

When the Federal Communications Commission announced that it was going to study whether TV stations should provide free time to federal candidates, they faced an angry Congress, which threatened to cut their entire budget if the FCC dared study this proposal.

You have to remember: incumbents hate competition. That is why you will often see incumbents and the front runners ducking out of debates.

I am amazed that all the major candidates for President have appeared in all the televised debates thus far.

14 years ago, my colleague Tracy Westen and I were at lunch talking about the most effective way to reach the voters. I said: "Door to door campaigning. Talking to voters and answering their questions."

But almost impossible to accomplish because of the huge districts.

In LA County, a candidate for county supervisor runs in a district that has 2 million people. If the candidate wanted to talk to two voters at a time for 10 minutes, it would take the candidate 50 years to walk her district.

So after Tracy and I talked, he came up with the Democracy Network. It was an interactive television system where voters could use their remote control to choose which candidates and which issues they would like addressed. We actually convinced almost all the major candidates running for governor in 1994 to participate. So you could choose Pete Wilson and he would talk about crime for a minute. The nice part: you could stop the candidate anytime with your remote control.

We also taped editorial writers talking about their papers' positions on ballot measures (LA Times and Sacramento Bee), we had interest groups talking about why they

endorsed certain measures, we ran TV ads and then taped reporters analyzing the true parts and the misleading aspects of the ads.

Interactive TV didn't succeed because the super information highway of 500 channels at a high speed was not developed and something called the Internet came along at about the same time. So we shifted our focus to the Internet but all of our projects had to be text based since the Internet didn't have the speed to show video—until now.

So we have developed video voter, several projects for the internet and for cable TV.

Voter minutes

I participate in a coffee klatch each election where 25 of us gather at someone's home and discuss the ballot measures for about 2 hours.

At the last coffee klatch, instead of my summarizing the measure, I used CGS's voter minute.

Channel 36 professionally produced a one to two minute statement on each of the state propositions.

You can go to videovoter.org and see some samples of what is possible.

Candidate statements

We have worked with New York City, Santa Monica and the California Channel (explain the California Channel) in Sacramento to provide the opportunity for candidates to tape two minute statements describing themselves. At least one of the candidates in NYC taped half the statement in English and half in Spanish. This allows the voters to see and hear the candidates.

These statements were shown on local access cable stations.

Interviews with Candidates

Along with the California Channel, we interviewed each of the statewide candidates for 20 minutes and these interviews were shown several times on the California Channel during the campaign. I interviewed two Supreme Court justices who were up for re-election or confirmation on the ballot.

One of the Lt. Gov. candidates I interviewed actually drove up to Sacramento from Los Angeles so that he could be interviewed. After the interview, he got in his car and drove back.

Description of the office and issues

Channel 36 did a video on describing what an LA mayor does and the mayor's race.

This could be a prototype for each office up for election.

Video voter.org

In addition, we have an internet project called:

Health Vote.org

For voters who want in depth knowledge of the ballot measures that affect health issues, we have a web site that provides the pros, cons, contact info, TV ads, analyses of the ads, and campaign disclosure information before each election. So last year, we posted info on the parental notification measure (Prop. 83), and the tobacco tax increase measure (Prop. 86).

Problem:

Here is the problem: you can offer all of these wonderful voter information tools, but if the voters don't know where to find them or if they are not interested in taking the time to watch them, you have accomplished only half the battle. You will only reach the voters that are seeking out the information.

That is why TV commercials are so effective: they catch voters when they are not looking for political ads. Of course, TIVO and other DVRs are reducing the effectiveness of ads because now we can skip the ads. (I think I am the only person in this audience who uses his TIVO who skips the show to look for political ads.)

Recommendation: The Secretary of State should design a web site that allows voters to see videos on candidates and ballot measures.

Redistricting

What is redistricting? US Constitution requires Congressional districts to be redrawn every 10 years after the census to take into account population shifts. It is also done for state legislative districts.

Problem: simple phrase: voters should choose the politicians; the politicians should not choose the voters.

I was the committee consultant to the Assembly Elections and Reapportionment Committee and attended meetings where legislators begged the Chairman to make sure they would not be subject to possible defeat because of the drawing of a competitive district.

Discuss redistricting done by the legislature in the 80s and 2000s v. redistricting done by the Supreme Court in the 70s and 90s. Almost everyone agrees that the Court did a far better job: more competitive districts, fairer districts, etc.

No California legislator has lost his or her seat since 2002; only one Congress member has lost.

Four major proposals now pending in the legislature to establish an independent commission:

Redistricting proposals from the Senate Democrats, the Senate Republicans, the Assembly Democrats and the Assembly Republicans.

And the governor is pushing the legislature to put an independent commission measure on the ballot.

But, California voters have consistently defeated redistricting measures since 1982.

CGS has issued a report called Redrawing Lines: An Analysis of California's Redistricting Reform Proposals.

One controversial question: should Congressional lines be drawn by the commission or by the legislature?

Concern: California could be put at a disadvantage in terms of seniority if other state legislatures continue to redistrict the state.

Other reason: the California Congressional delegation is likely to spend millions of dollars to defeat a commission just as it did in 2005...

Recommendation: California should have an independent commission do restricting for the state legislature and board of equalization but it should only redistrict California Congressional seats if a majority of Congressional seats across the country are also districted by a commission. This would encourage other states to set up commissions and not put California at a disadvantage.

California voters may have the chance to vote for redistricting reform at the February, 2008 election.

Initiative process

Problem: people are very concerned that initiatives are poorly written and are controlled by the special interest groups

Initiative challenge: name an initiative has passed that today would be repealed by the voters or one where a majority of the voters felt they made a mistake. I can think of one or two since 1964.

When you ask voters what they have more confidence in: the legislative process or the initiative process, two-thirds prefer the initiative process.

But in my view, the legislative process at its best is clearly better than the initiative process.

The legislature and the governor had a good 2006: green house emissions, infrastructure bonds, prescription drugs, budget on time, and the minimum wage.

Some things legislature cannot do: campaign reform, term limits, property tax relief, drug diversion, etc.

1974 example: Legislators making lobbyists out of reporters

Indirect initiative: what is it? Once a measure qualifies for the ballot it goes to legislature for consideration. If the legislature passes it, it is taken off the ballot.

Had it until 1964 but was not used because the legislature only met every two years.

Indirect initiative: have in fact, not in law. Workers comp, charter schools, lemon law, local budget sharing.

Recommendation: Indirect initiative should be adopted only with the proviso that the proponent must agree with what the legislature does.

Here is the controversial part: after the legislature has considered the proposal and turned it down, let the proponent amend the initiative provided that the amendments further the purposes of the measure.

Problem: Once you turn in an initiative to the Attorney General and his office titles it, you can't change a single word.

No one can write a perfect initiative.

Example of Prop. 212 in 1996.

So proponents should be allowed to correct mistakes.

Limits in Ballot Measure Campaigns

Set records in California: last year's measures spent well over \$250 million; one measure, Prop. 87 (oil severance tax), had \$156 million spent on it alone. But Supreme Court has ruled that you don't corrupt ballot measures, so can spend as much as you want.

We think \$100,000 contribution limits would improve the system. But unlikely to be approved by this court.

Circulation of initiatives

Another problem: if you have a million dollars, you can qualify almost anything for the ballot.

Circulating petitions by gathering signatures may be the worst way to qualify an initiative. But all my solutions for this problem are not accepted.

Recommendations:

Polling: collect 50,000 signatures to show that you are serious and then pay the state \$50,000 to conduct a poll asking if your measure should be put on the ballot.

Paying the state \$1 million.

Give me your ideas.

Term Limits

California has the shortest term limits in the country, along with Arkansas: 6 years in the Assembly and 8 years in the State Senate. And we have a lifetime ban. Once you have served the maximum terms, you can't come back.

Problem: It is difficult to acquire the experience needed to be an effective legislative leader.

But people like term limits: they like new blood in the legislature. They don't like people staying in office forever (although if it is their legislator, they may not mind.)

Recommendation:

Extend term limits to 12 years in either house and allow legislators to come back after 4 years away: a sabbatical.

Voters may have the opportunity to vote for this proposal (minus the sabbatical) in February.

Lots of Other Reforms

Will not touch on a number of other issues: lobbying, conflicts of interest, economic interest statements, judicial elections, budget reform

Too many offices on the ballot: does not anyone know the difference in what the state treasurer and the state controller does?

Too many elections

Instant run off voting in nonpartisan elections

Trips paid for by non profits

Inauguration committees

Using campaign funds to pay for staff in governor's office.

No elected official should take campaign funds from other campaigns.

Taxpayers Protection Act: Pasadena.

Challenge

Here is the challenge: how do you get a wide variety of persons and groups interested in these topics?

Some fabulous organizations working on them (and many are here) but these groups tend to be dominated by older white persons (like me.)

We need to reach out to the younger voters and to emerging ethnic groups and let them know that these process problems affect all of their issues. That is a challenge that those of us in the reform community must address and meet.

But most importantly, we need to reform our current election and governmental system in order to increase faith in the process. Without confidence in the process of campaign financing, redistricting, or the initiative process, our democracy is in peril.

My 10 Commandments to Reform California's Political Process

Note: the recommendations are mine and do not necessarily reflect the views of other CGS staff members or the board of directors.

1. Disclosure: Make the electronic data more user-friendly and require the Secretary of State to resume publishing summaries of data after each election.

2. Contribution limitations: California's contribution limits should be lowered so that they are the same as the federal limits: \$2,300 per election.
3. Off year contribution bans: Enact off year bans on raising campaign contributions, such as in the City of Los Angeles: two years for city wide and 30 months for council.
4. Public financing of campaigns: enact a bill that experiments with public financing in a couple of legislative races and one statewide race, such as Secretary of State.
5. City and county contribution laws: allow cities and counties to adopt their own laws and stop passing laws that supersede these local laws.
6. Officeholder controlled ballot measure committees: need limits on what an officeholder can raise for ballot measure committees controlled by the officeholder.
7. Video voter: the Secretary of State should design a web site that allows voters to see videos on candidates and ballot measures.
8. Redistricting: California should have an independent commission do restricting for the state legislature and board of equalization but it should only redistrict California Congressional seats if a majority of Congressional seats across the country are also districted by a commission. This would encourage other states to set up commissions and not put California at a disadvantage.
9. Initiative process: the indirect initiative should be reinstated with the proviso that the proponent must agree with what the legislature does.
10. Term limits: extend term limits to 12 years in either house and allow legislators to come back after 4 years away: a sabbatical.

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