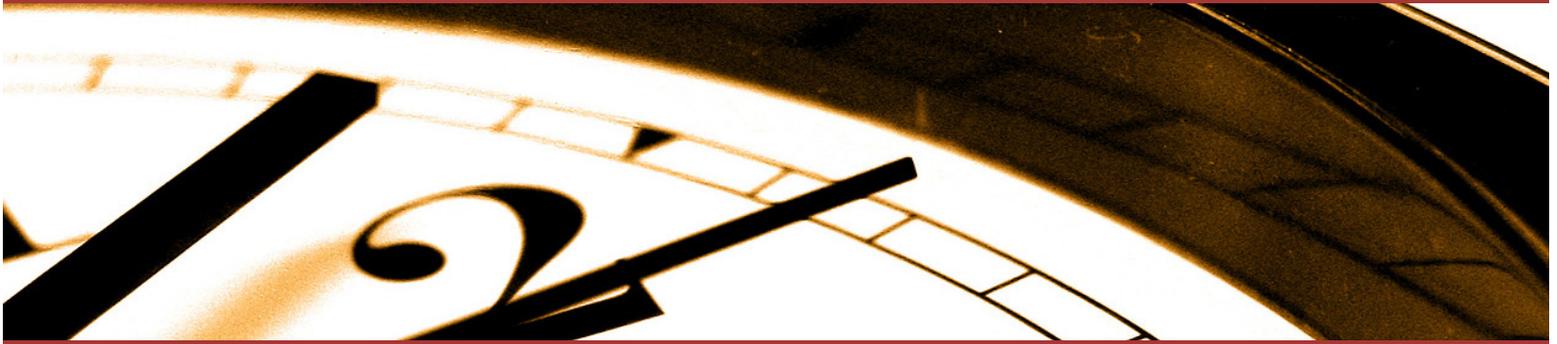


History of County Term Limits



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History of County Term Limits

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The National Association of Counties (NACo) is the only national organization that represents county governments in the United States. Founded in 1935, NACo provides essential services to the nation's 3,068 counties. NACo advances issues with a unified voice before the federal government, improves the public's understanding of county government, assists counties in finding and sharing innovative solutions through education and research, and provides value-added services to save counties and taxpayers money. For more information about NACo, visit www.naco.org.

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The Ancient Greeks and Romans were the first societies to implement term limits. They believed that a change of leadership periodically was good for government. At the end of the last century the demand for term limits started to spread across the United States. Citizens all across the country began to wonder about elected officials who seemed to spend their careers in their elected offices. They began to wonder if they were getting the best representation and leadership for their communities from these state and local officials who ran and were reelected over and over again. As this discontent spread, many began to feel that new ideas and fresh leadership on a periodic basis was a desirable aim. As they contemplated how to achieve these changes, the concept of term limits emerged once again. As the discussion heated up researchers found that there are two types of term limits, the first is a limit on the number of consecutive terms an individual can hold office and the second is a limit on the number of terms individuals can hold office during their lifetimes.

Although many proponents of term limits believe that they allow government to function better, opponents believe that there are downsides also. Chief among the downsides is the belief that term limits make it more difficult to elect minority representation. Since the big movement at the end of the 1990's the push toward imposing new term limits has slowed. No states have added term limits in the last five years and only a handful of counties have taken any action. Of those counties that have addressed term limits in recent years, 10 have rescinded their earlier legislation, 2 have voted to continue the current limits and only 4 have voted to impose new term limits. One of the most notable changes was in New York City, where the two, four-year term limit was changed to three terms in 2008 so that Mayor Michael Bloomberg could run for reelection. An examination of state offices reveals that most states have term limits for governors, but this trend does not extend to counties.

On November 7, 2000, the people of New Mexico voted by wide a majority (74%) to keep term limits for county officials. The proposed constitutional amendment would have changed Article 10, Section 2 of the New Mexico Constitution, eliminating term limits

for county officials completely. The current provision restricts the term of office to two consecutive four-year terms, and allows officials to run again after a two-year break. The state has had some form of term limits legislation in place for county officials since 1914.

In 1999, when state lawmakers attempted to repeal term limits legislation, Idaho's Governor Dirk Kempthorne vetoed the bill, saying Idaho voters had "decided the matter." In response to a lawsuit brought against the state by incumbent officials, in March 2000, Sixth District Judge Randy Smith imposed a temporary injunction suspending term limit restrictions in Idaho for the May 23, 2000 primary. In August 2000, he ruled that term limits were unconstitutional as they applied to city, county and school district officials. In his decision, Judge Smith ruled that "a ban on service infringes on a person's right to vote and hold office and the right to run for office." The law he overruled stated that county commissioners could serve no more than 6 years during an 11 year period, and all other officials could only serve 8 during a 15 year period.

In Santa Clara, California, voters decided to lengthen the number of terms that the Board of Supervisors could serve. Legislation passed in January 1993, limited supervisors to two terms of four years each. The ballot measure passed by 55.5% of the voters, amended Section 202 changing the number of terms from two to three.



By a vote of 60%, Prince George's County, Maryland voted to keep the term limits they had imposed in 1992. Currently, the county limits its officials to two four-year terms. Prince George's neighbor, Montgomery County, however, voted down a measure to limit terms of county officials. The ballot measure, defeated in November 2000, would have amended Sections 105 and 202 of the County Charter to restrict County Executives and members of the County Council to two four-year consecutive. The failure of term limits legislation in Montgomery County is attributed to its already significant turnover [rate] among elected officials." On the council currently, four members are in their first term. Of the last five county executives, none has served more than two terms.

Residents of Fairbanks North Star Borough, Alaska reiterated their desire for the term limits that they set in place in 1990. In the October 7, 1997 election, residents voted to retain the term limits of six years (two consecutive three-year terms), with the option of running again after one year for the offices of Borough Mayor and Borough Council.

In 1994, the state of Colorado amended the State Constitution to impose term limits on all county officials, giving individual counties the option to vote to remove them later if they saw fit. In the following 6 years, the state saw thirteen counties attempt to remove local term limits, with nine succeeding. In the 1996 election, 23 of Colorado's 63 counties (36.5%) asked voters to eliminate term limits for some or all elected officials. Only five counties -- Custer, Dolores, Fremont, San Juan and Washington did so. In the 1999 elections, two counties, Sedgwick and Rio Blanco, voted to remove term limits for all county officials. Seven counties -- Bent, Gunnison, La Plata, Lake, Larimer, Las Animas, and Pueblo -- removed term limits for at least one elected county office. Las Animas County voted to keep term limits for all officials, except the county clerk. That left the county assessor, sheriff, treasurer, coroner, and county commissioners term-limited. Fremont, Gilpin, and Teller Counties retain term limits on all local elected officials. Montezuma County decided to retain its term limits law which allows county officials to serve only two consecutive terms.

There have been noticeable trends observed in the last 10 years regarding term limits in counties. One is exemplified in the Colorado counties' rescinding of term limits. Although 23 of Colorado's 63 counties have voted to remove term limits for at least some elected officials, these 23 counties stand apart from the rest of the counties in the state in that they tend to be more rural than urban. Rural counties found it necessary to consider repealing term limits because they discovered that there were not enough qualified candidates either running or willing to run for office. The more populous counties did not have such a problem.

When some jurisdictions attempted to place term limits on Congressional representatives the US Supreme Court stepped in. The issue of county term limits has also been addressed by the courts. In 1995 the court ruled that congressional term limits are unconstitutional (*U.S. Term Limits v. Thornton*), additional legal battles associated with term limits involve the issue of ballot access. In states that allow write-in campaigns, the question at issue is if candidates who have reached their limit are allowed to be elected through contested write-in campaigns. A ballot access initiative was the driving force behind Judge Randy Smith's suspension of Idaho term limits for county, local and school district officials. Similar challenges may continue in other states until there is a clear ruling on this issue.

At the turn of the century, interest in imposing term limits seems to be waning. Unlike the 1990s, voters around the country seem to be less interested in limiting the terms of elected officials. Since 2002, there have been numerous counties that have either increased the number of term limits for their officials or completely abolished them. In some states, like Florida, the courts are involved in the debate as well. In the two most recent elections, there have been six propositions, or amendments made to extend or abolish term limits in various states. These include legislation in San Diego County, California, El Paso County, Colorado, Broward County, Florida, Westchester County, New York, Multnomah County, Oregon and the state of New Mexico.

The following counties are counties by state that have county term limits or have had recent actions concerning county term limits.

Alaska

Twenty-five percent of the population in Alaska is governed by local officials with term limits. Local term limits are not set by the state but by the locality. The boroughs with term limits are:

- Anchorage
- Fairbanks North Star
- Kenai Peninsula
- Ketchikan Gateway
- Matanuska- Susitna
- North Slope

Five of these boroughs have set the limit at two terms with three-year terms for their mayors and assembly members. Anchorage has a limit of two three-year terms for its mayor and a limit of three three-year terms for its assembly members. All other county official positions such as sheriff, surveyor, treasurer, assessor, and district attorney are appointed and are not subject to term limits. Some cities in Alaska have set term limits as well. Locality term limits, either by city or borough, are set by a charter amendment or ordinance. Most boroughs and cities made term limit changes between 1990 and 1994.

Arkansas

All county officials in Arkansas serve two-year terms with no term limits. Arkansas counties currently elect the positions of clerk, coroner, sheriff, surveyor, treasurer, assessor and justice of the peace. Baxter, Madison, and Pulaski Counties once had short-lived success in establishing term limits for county officials, but in 2000, the Arkansas Supreme Court found such measures unconstitutional at the county level.

California

The following counties in California have term limits for their officials:

- Los Angeles County
- San Joaquin County
- San Mateo County
- El Dorado County
- San Francisco County
- Santa Clara County
- Orange County
- San Diego County
- Ventura County

Los Angeles County, the county in the United States with the largest population, placed term limits on all of its elected county officials. Beginning in 2002, Los Angeles County's board of supervisors, sheriff, district attorney, and assessor were limited to serving three consecutive four-year terms. In Santa Clara County, the board of supervisors, sheriff, district attorney and assessor are also limited to three consecutive four-year terms. However, the Santa Clara County Charter specifies that four years after the expiration of three consecutive terms, an official may run again for an unlimited number of consecutive terms. In San Francisco County, the mayor and supervisors are limited to two consecutive four-year terms. Four years after the expiration of two consecutive terms, the supervisors may run again. The mayor may hold an unlimited number of consecutive terms. In San Mateo and El Dorado Counties, only the county supervisors have term limits. San Mateo County supervisors are limited to three consecutive four-year terms. While in El Dorado, the supervisors



are limited to two consecutive four-year terms. Four years after the expiration of two consecutive terms, in El Dorado County, a supervisor may run again for an unlimited number of consecutive terms. In 2008, residents voted to limit the Ventura County Board of Supervisors to three four-year terms. Similarly on June 8, 2010, voters in San Diego County voted to limit those serving on the San Diego County Board of Supervisors to two four-year terms.

Colorado

In 1994, the state of Colorado enacted a state constitutional amendment that set term limits for any non-judicial officer at the local level. The amendment was approved by Colorado citizens in the general election that year, and imposed a three-term limit on all county positions with a term of two years or less. The term limit was set to two terms for any county officer whose term is longer than two years. The amendment also included a section that allows voters in local governments to lengthen, shorten, or eliminate term limits in their jurisdiction. Since the amendment was enacted, according to information from Colorado Counties Inc., 49 of the 64 counties have lifted term limits for one or more of their elected officials. Twenty-one counties have removed term limits for all of their elected officials. In November 2010, Colorado's most recent effort to extend the term limits of the district attorney, county commissioners, county clerk, treasurer, recorder, assessor and surveyor, from two four-year terms to three four-year terms in El Paso County was successful.

Delaware

Of the three counties in the state of Delaware, only New Castle County has any form of term limits. The county executive of New Castle County is limited to two, four-year terms. The position of county executive does not exist in the other two Delaware counties. Instead, Kent and Sussex Counties both have an appointed county administrator. There are no term limits on the legislative bodies in any other counties. In all three counties, other offices, such as the surveyor, clerks, and district attorney, are appointed positions.

Florida

All of the following counties have term limits for their county commissioners pursuant to their various county charters:

- Brevard County
- Broward County
- Hillsborough County
- Orange County
- Palm Beach County
- Sarasota County
- Volusia County

Volusia and Palm Beach Counties both restrict their commissioners to no more than eight consecutive years of service made up of two four-year terms. Broward County commissioners serve four-year terms and may serve no more than three consecutive terms. However in October 2010, Broward Circuit Court Judge Carol-Lisa Phillips overturned the law ruling that term limits can only be enforceable after an appropriate amendment is made in the Florida Constitution. Orange and Brevard counties commissioners serve four-year terms and are not eligible to serve more than two consecutive terms. Sarasota County commissioners serve four-year terms, with a limit of two consecutive terms. Former county commissioners may run for office again, though not immediately after the last term served. Section 4.05 of the Hillsborough County Charter provides specifications for specific rule district commissioners:

“Each commissioner shall be elected for a term of four years, except as provided for initial commissioners in the transition article and except that, in order to reflect population shifts between decennial censuses as quickly as possible, in 1990 and every ten years thereafter the commissioners to be elected from districts 1 and 3 shall be elected for terms of two years, and in 1992 and every ten years thereafter the commissioners to be elected from districts 2 and 4 shall be elected for terms of two years. Terms of office shall commence on the second Tuesday following the general election at which the commissioner was elected.”

Hawaii

There is no state regulation establishing county term limits in Hawaii. The Honolulu Consolidated Government is the only county government in the state with term limits. A 1992 charter amendment limited the council and mayor to two consecutive four-year terms.

Idaho

There are currently no term limits in the state of Idaho. In 1994, term limits were adopted for all levels of Idaho government. All elected officials, including state legislators, county commissioners, and members of the school board, were given term limits. Term limits were set to go into effect in 2004, and specified that any county commissioner who had served six of the last eleven years would have to retire in 2004. Soon after term limits were adopted in 1994, they were challenged in the Idaho court system on the grounds that term limits violated the right of suffrage provided in the Idaho State Constitution. The Idaho Supreme Court ruled that suffrage did not include ballot and office access and thus ruled in favor of keeping the term limits. However, in 2002, after the court ruling, the Idaho Legislature repealed the term limits. Citizens gathered signatures and succeeded in adding a referendum to reinstate term limits to the ballot in the elections in November 2002, but the referendum failed.

Indiana

Indiana is a rare case because it has placed term limits for county officials in the state constitution. Article 6, Section 2 of the Indiana Constitution reads as follows:

“There shall be elected, in each county by the voters thereof, at the time of holding general elections, a Clerk of the Circuit Court, Auditor, Recorder, Treasurer, Sheriff, Coroner, and Surveyor, who shall, severally, hold their offices for four years; and no person shall be eligible to the office of Clerk, Auditor, Recorder, Treasurer, Sheriff, or Coroner more than eight years in any period of twelve years.”

Only those county offices listed in the state constitution have term limits. An amendment proposed in the 1980s would have removed term limits on county officials in Indiana. But the measure was defeated largely because of popular opinion that the office of sheriff, which controls a large portion of county power and funding, should have a term limit.

Louisiana

In Louisiana, there is no state law that sets term limits for parish officials. Some charter parishes have set their own term limits for officials:

- Caddo Parish
- Lafayette Parish
- Jefferson Parish
- New Orleans Consolidated Government
- St. Bernard Parish
- St. Charles Parish
- St. Mary Parish
- Terrebonne Parish

Jefferson, New Orleans, St. Bernard, and St. Mary Parishes have come up with unique phrasing for their term limit regulations. In these four parishes, neither the council nor the president may run again if he/she has served at least one and one-half term in two consecutive terms. This means that if an official filled a vacancy before or at the halfway point of a term, then that term counts toward the term limit. Each term is four years. In Lafayette Parish, the president and council members may not run again if they have served two and one-half terms in



three consecutive terms. Each term is four years. Terrebonne Parish council members may not run again if they have served two and one-half terms. The Terrebonne Parish president may not run again if one and one-half term has been served in two consecutive terms. Each term is four years. Caddo Parish simply limits its commissioners to three consecutive four-year terms.

Maryland

Three Maryland counties have term limits.

- Anne Arundel County
- Howard County
- Prince George's County

In Anne Arundel County's 1965 charter, there is a term limit provision for the county executive. The Anne Arundel County executive serves a four-year term with a limit of two terms. The term limit restriction for the Anne Arundel County council was established through a charter amendment in 1992. County council members are now restricted to two four-year terms. In 1992, Howard and Prince George's Counties established all of their term limits through a charter amendment. The Howard County executive is limited to two four-year terms and the county council is limited to three four-year terms. The Prince George's County executive and council are all limited to two four-year terms.

Nebraska

A Nebraska State Constitutional Amendment enacted in 1994, placed term limits on all levels of government in Nebraska. Local officials and U.S. Representatives were limited to three consecutive terms, while state officials and U.S. senators were limited to two consecutive terms. When the U.S. Supreme Court determined that term limits were unconstitutional for U.S. Representatives and U.S. Senators, officials in Nebraska challenged the term limits for state and local officials. The Nebraska Supreme Court said the remaining portions of the amendment were "so intertwined with the unconstitutional amendment that they, too, must be declared void." There are currently no term limits in Nebraska.

New Mexico

All county officers in New Mexico have term limits. Term limits for county officers are prescribed in the Constitution of the State of New Mexico under Article X, Section 2(D). County officials serve four-year terms. Officials are limited to two full terms in a twelve year period. A proposal was recently brought before the state senate that would allow county commissioners to submit a referendum to the voters regarding changing or removing term limits. The proposal passed in the State Senate, but it failed in the House. In 2010 however, Senate Joint Resolution 5 was passed to amend article 10, section 2 of the constitution which allows county officials to serve for three consecutive terms instead of two.

New York

Six counties in the state of New York have term limits for their officials.

- Cattaraugus County
- Monroe County
- New York City
- Steuben County
- Suffolk County
- Westchester County

As in some other states, term limits swept across New York counties in the early 1990s. In 1993, Suffolk County adopted a charter amendment that limited all county officials to twelve consecutive years of service. Different offices have different term lengths in Suffolk County. Similarly, in Monroe County, legislators have varying term lengths, but all are limited to ten consecutive years of service. The Monroe County executive serves four-year terms, with a limit of three terms. Cattaraugus and Steuben Counties have term limits for county legislators. Legislators in each county serve four-year terms, with a limit of three terms. New York City has the strictest term limits among the five counties. The mayor of New York City led a successful effort in 2008 that extended the term limits to three consecutive terms for major and council. On December 6, 2010, Westchester County Board of Legislators passed a bill that limits county legislators to six two-year terms and county executives to three four-year terms. These changes will go into effect on January 1, 2012.

Oregon

Multnomah County, the only county in Oregon with term limits for its officials, has term limits on all of its positions. An amendment was made to the county charter in 1982 that states “Effective January 1, 1985, no incumbent or future elected officer of the county shall be eligible to serve more than two full consecutive four-year terms in any one elective county office within any 12-year period.” A measure to repeal the amendment was placed on the ballot in November 2004. The measure failed. Once again on November 2, 2010, Multnomah County residents voted to reject their opportunity to repeal the current amendment that limits elected officials in that county to serve two, four-year terms within a given twelve-year period in a 47.87%/52.13% split.

Tennessee

In 1994, Shelby and Knox Counties both held a referendum that proposed term limits on county commissioners and mayors. Each county’s referendum would impose a limit of two terms for commissioners and mayors. Each county passed the referendum with more than 70% of the vote. Since the referendum was passed, support for term limits in Tennessee has varied. Immediately after the referendum was passed, the Tennessee Attorney General issued an opinion that stated that placing term limits on county officials was unconstitutional.

The matter was taken to court by three Shelby County commissioners in the case of *Bailey v. the County of Shelby*. In November 2005, the Tennessee Court of Appeals ruled that the term limits were unconstitutional. After the ruling, commissioners who would have been forced into retirement for term limits registered to run in the 2006 election. The case was then expedited to the Tennessee Supreme Court, which issued a decision on March 29, 2006 that reversed the decision of the Court of Appeals. The Supreme Court decided that counties with charters have the authority to make further limitations on eligibility requirements for county officials, including term limits.

West Virginia

In 1974, an amendment to the Constitution of West Virginia was enacted that placed state-wide term limits on county sheriffs. Sheriffs are the only county-level officials in West Virginia subject to term limits. The amendment limited sheriffs to two four-year terms. At the time of the amendment, there was great concern in West Virginia regarding the power held by county sheriffs. In counties across the state, sheriffs serve as both the chief of law enforcement and the tax collector. More recently, some of the fear of sheriffs’ power has been alleviated by making deputies part of the civil service. Currently, there is legislation in the state legislature to extend term limits on sheriffs.



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- Various state association executives also made contributions to this report.

