

Scott Walker and the Strange Rise in Recall Elections

Recall elections have become increasingly common in the past three decades, so don't be surprised if other states join Wisconsin by trying to oust their leaders this year.

by JOSHUA SPIVAK

It's rare for a gubernatorial or state legislative election to capture national headlines, but thanks to the recall of Wisconsin Governor Scott Walker, Lieutenant Governor Rebecca Kleefisch and four state legislators, that's already happened. In fact the Walker recall is likely to be the most expensive race in the country this year outside of the presidential contest. And while the recall race is basically a toss-up, voters in other states may still wonder, "Can it happen here?"

The answer is probably not — recall elections aren't possible in most states — but we shouldn't be surprised to see more efforts to recall state executives in those states that permit them. Recall elections have become increasingly common in the past three decades in the states where they are allowed, and the effort to oust Walker is not just the third gubernatorial recall election since the recall was first allowed for a governor in 1908, but the second in the past 9 years.

Only 18 states currently allow recalls for state-level officeholders, and there's a deep divide among those states on how recalls can be used. Eleven of them allow what is called a "political recall" — meaning that people can recall an official for any reason whatsoever (think California Governor Gray Davis or Walker). The other seven states have what is called a "judicial recall" or "malfeasance" standard. In these states, the recall proponents have to show cause — such as incompetence, malfeasance, conviction or an ethical violation — before getting a recall on a ballot. Unsurprisingly, there are very few recalls in the "judicial recall" states. Only one of the 151 state and local recalls that took place last year occurred in one of those states.

Though few of the attempts have succeeded, in the 11 states that permit political recalls, there have been plenty of efforts to recall state governors. Currently, the governors of both Michigan and Louisiana face recall petitions, and within the last year, there was discussion by among New Jersey Democrats about trying to recall Governor Chris Christie.

Outside of Wisconsin, few of these recall efforts have gotten much press, and for good reason — it is very difficult to get a recall against a state-level official on the ballot, thanks to an array of legal and practical hurdles.

The biggest hurdle is the cost of gathering signatures. Wisconsin's unions provided the big bank account for the Walker recall, and in 2003, Davis's recall was underwritten by Republican Congressman Darrell Issa, who made a fortune in car alarms. Even some of the lesser known recalls need a deep pocket to get off the ground — the Miami-Dade mayor was tossed out of office last year thanks to a recall backed by the former owner of the Philadelphia Eagles.

But the expense of backing a successful recall petition — that is, one that gets a recall on a ballot, regardless of the final outcome of the vote — may now be coming down, as technology has made it easier to get a recall moving than ever before. The Internet, email and social media

allow unconnected voters to be drawn into a fight over a politician's alleged misdeeds. Smartphones, spreadsheets and demographic data can maximize signature-gathering efforts. Even basic items like printers and word processing programs have made it simpler and cheaper to make high-quality fliers and other basic documents over the past several decades.

The result has been that recalls are occurring more frequently. Of the 36 state legislative recalls that have gotten on the ballot in U.S. history, 29 have taken place since 1981. Further bolstering the recalls cause is that they work. Incumbents generally have a big advantage when they run, with a reelection rate somewhere in the 75-85 percent range. Recall efforts cut incumbents down a notch. Of the 151 state and local recall efforts that made ballots last year, 85 resulted in removal of the targeted elected official — in nine cases, the official even resigned before the vote. Recalls appear to succeed more than they fail.

That said, each jurisdiction has very different laws, and some of the laws present big problems for anyone thinking that a recall is the answer to their troubles. Michigan is a good case in point. By all rights, Michigan should be the most fertile ground for a gubernatorial recall this year. At this point in time, the state is almost the ground zero of the recent recall boom — last year it was home to almost 20 percent of the recalls around the country that made a ballot, and the attempt to recall Michigan Governor Rick Snyder gained in 500,000 signatures in 90 days.

But Michigan's laws are very different than Wisconsin's or California's. In Wisconsin, a successful recall petition launches a new election against a competitor from the other party. That's why Walker will face Milwaukee Mayor Tom Barrett in an election on June 5th. In Michigan, voters are presented with an up or down vote on the targeted official. Then, months later, the state holds a separate election to fill his or her empty seat. Last year, unions actually succeeded in removing Republican House Representative Paul Scott in November — but his party didn't suffer and a new Republican easily won the February replacement vote.

Such a system is shared by four of the 11 "political recall" states. A fifth state mandates an appointment for a replacement. Such hurdles may not be enough to stop a recall, but they do give proponents pause.

Indeed, each state that permits recalls has quirks that might make a recall difficult to accomplish. The reason for these quirks is usually that legislators weren't thinking about recalls when they drafted changes to election laws.

As the upheaval in Wisconsin shows, the recall is a powerful weapon that has seemingly exploded on to the national political scene. However, as the difficulties faced by the recall proponents in Michigan and Louisiana show, recall aren't likely to be used to regularly pick off governors just yet.

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