



July 18, 2013

Eliot Spitzer and NY's incumbent-protection ballot rules

By JOSHUA SPIVAK

Former Gov. Eliot Spitzer's surprise entrance into the New York City comptroller race highlights one issue that will be ignored — how New York laws continue to serve incumbents and the existing political system at the expense of the voters.

Spitzer's entry was a last-minute decision. He had four days to gather 3,750 signatures on nominating petitions.

This may not seem to be a high bar, but obviously Spitzer didn't agree — he reportedly paid signature gatherers as much as \$800 a day to get their John Hancocks. He said he ended up with 27,000.

Why did Spitzer need to gather so many? It wasn't because he wanted to show that he had a popular following. Nor was it an example of a gross overpayment. Instead, it was simply because New York's ballot-access laws remain convoluted enough to require candidates to get a very large cushion of signatures to prevent them from being tossed off the ballot by party regulars who know — and make — the rules.

Officially, the rules are in place to allow anyone to get a chance at the election, while at the same time weeding out pure nuisance candidates. There is nothing, per se, wrong with having these laws. But New York's sordid history with ballot laws should prevent anyone from giving elected officials the benefit of the doubt on this subject.

In the past, New York's laws were so arcane that signing a petition with the wrong color pen or not knowing an Assembly district number were enough to invalidate petitions and get a candidate kicked out of the race. Eventually, after enough major disgraces — most prominently when the Republican Party used ballot access rules to essentially prevent Steve Forbes and John McCain from waging presidential primary campaigns in New York in 1996 and 2000, the State Legislature loosened the rules a bit. But, as Spitzer shows, not anywhere near enough.

The result is that even after the reforms, the rules are heavily weighted to incumbents and the established party leaders. They know the arcane parts of the rules, and are able to use them to strike down signatures from insurgent opponents.

Even if they fail, they are guaranteed to tie down opposing candidates in a draining, time-consuming and expensive fight just to get on the ballot. The ballot-access rules become a simple political tactic, one that has nothing to do with the race at hand. The only ways to overcome these hurdles are either with connections or, as in the case of Spitzer, with loads of money.

Noteworthy races in other states show how skewed New York law remains. A good example is recall battles. Frequently enough, recalls are launched and run by political neophytes. And yet, their signature failure rate is nowhere near New York. There are almost no prominent recalls where petitioners feel the need to turn in more than seven times the amount of signatures needed to get the petition on the ballot. Instead, in most states a 15 percent failure rate on signatures is expected.

In the recall of California Gov. Gray Davis, when far more than 1 million signatures were gathered (though by professionals), the failure rate was 18 percent. If that recall would have

taken place with New York laws, they may have felt the need to get closer to 7 million signatures.

New York's has long been known for harsh ballot access rules designed as a barbed-wire fence to keep undesirable candidates from challenging incumbents. They didn't stop the extremely wealthy Spitzer, but for other potential candidates, especially on the more local and less well-followed levels, the laws do their job all too well. Unfortunately, the big losers are New York voters.

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