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Recall looms if Kitzhaber won't resign

by JOSHUA SPIVAK

Following the revelations of a major scandal involving his fiancée's efforts to seemingly monetize the state's highest office, Oregon Gov. John Kitzhaber is coming under mounting pressure to resign. The push includes two recall petitions, one started by two of the leading strategists for Kitzhaber's most recent Republican opponent. Though there are many hurdles, Kitzhaber looks like a perfect candidate to join the long list of officials to resign in the face of a recall.

Despite being the first state to adopt the modern day recall way back in 1908, Oregon has never used it against a governor. The state has only recalled three state level officials, one in 1935 and two in the 1980s. But it does regularly use the recall.

Over the last four years, there have been at least 40 recall elections, with 23 of the officials actually surviving the vote. However, another eight officials resigned rather than face the electorate — a common result. Nationwide, from 2011-2013, at least 57 officials resigned during a recall effort. The most unusual part of the Oregon recall results might be that many officials don't lose their recall. Not including the resigning officials, there were at least 369 recall votes in the US over the three year period. 209 of those officials were kicked out.

Kitzhaber does have two advantages that could help delay or prevent a recall. One is that Oregon law does not allow any collection of signatures until the official has served in office at least six months in office of his or her current term. This is a common requirement — in fact, in Wisconsin, the law prevented a recall against Governor Scott Walker from starting until he has served a full year.

Oregon actually got to this "cool-down" law stop a potential recall dead in tracks back in 2009. At that time, Portland Mayor Sam Adams was starting his second term, under the cloud of a sex scandal. By the six month time waiting period was over, the Adams recall campaign had lost much of its ardor, and the effort never really went anywhere.

The other protective barrier for Kitzhaber is the sheer number of signatures that petitioners will have to collect in order to get the recall on the ballot — approximately 220,000 valid signatures. They actually will need many more than that. Generally, somewhere between 15-50% of signatures are found invalid, though in Oregon it is usually closer to the lower figure. Just to be safe, they probably need at least 250,000, if not 300,000 signatures.

This may seem like lot of signatures in a short time (they have 90 days). And it is. In US history, there have only been four recalls that have needed over 200,000 signatures and managed to get on the ballot. One was California Governor Gray Davis in 2003, and two of the others were against Wisconsin Governor Scott Walker and Lieutenant Governor Rebecca Kleefisch in 2012. Those recalls have a very significant partisan bent and also saw donors throw in millions of dollars to help promote the recall effort.

The fourth recall may have been a more instructive. That one was the only one launched on ethical grounds — it was against Arizona Gov. Evan Meacham in 1988. Petitioners got over 300,000 signatures (they needed 216,000 but the day the recall was approved, Meacham was impeached by the legislature.

This points out a significant problem that Kitzhaber will face. Most recalls are based on political, personal or policy issues. But when recalls are launched over ethical or potentially criminal action, there appears to be a much greater likelihood of success. It is not always a case — one notable California school board member avoided a recall despite being indicted for attempted murder and pimping (he was later convicted of a number of crimes). However, criminal/serious ethical issues are a huge problem for elected officials. Note the resignation of San Diego Mayor Bob Filner over sexual harassment charges. Despite the fact that San Diego has a very strict recall law, Filner dropped out very soon after people started organizing a recall effort.

Kitzhaber will also come under serious pressure from his fellow Democrats who may feel compelled to push for an impeachment. If Kitzhaber resigns or is impeached, a Democrat will replace him. If he is removed by a recall, there is a good chance that a Republican will gain the office.

Gathering over 200,000 is a monumental task. Having a delay is a nice benefit. But Kitzhaber should not take too much comfort in these facts. Getting a recall on the ballot is more likely than ever, and if it gets there, there is an excellent chance of his removal. Kitzhaber must know this basic fact. Nobody should be surprised with a Kitzhaber resignation.

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