

An Open and Closed Case Ending Closed Primaries to Strengthen Democracy in Pennsylvania

**Testimony by the Committee of Seventy
In Support of Senate Bill 300
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Overview

Democracy in Pennsylvania needs a shot in the arm. It needs to be strengthened. And it needs to be made more open. Voters across the state are frustrated that the Legislature too often struggles to tackle the big issues that impact their lives on a daily basis. Although they may like their own representative, state government and the Legislature as a whole receive low marks. The increasing polarization in our politics and lack of competition in our elections is a leading cause and can be attributed in great part to closed primaries, which require primary election voters to be registered to the same party as the candidates running for election.

Especially when voter registration has become increasingly lopsided in specific communities, which are becoming darker blue or red, the political extremes now have an outsized influence on election results. Restricting a large and growing block of voters from participating in the primaries also contributes to voter apathy and distrust in government. In short, closed primaries may have constituted reform generations ago, but today they hinder good governance and contribute to the sense among citizens that the game is rigged.

“America’s political system was long the envy of the world,” Harvard Business School professor Michael Porter--whose books on competitive strategy are required reading in every CEO’s library--and former CEO Katherine Gehl wrote in a 2017 report titled “Why Competition in the Politics Industry is Failing America.”¹ “It advanced public interest and gave rise to a grand history of policy innovations that fostered both economic and social progress. Today, however, our political system has become the major barrier to solving nearly every important challenge our nation needs to address.” The majority of voters want lawmakers to work together, according to a 2015 poll. Yet, compromise over major legislation has been increasingly difficult to achieve, both in Harrisburg and in Washington. Just as troubling: a 2016 Pew Research Center poll found majorities in both parties view the other side with fear and anger.

¹ Why Competition in the Politics Industry is Failing America: A strategy for reinvigorating our democracy. Katherine M. Gehl and Michael E. Porter. September 2017.

What went wrong? The center of the political debate and of the political process, seems to have evaporated. Moderate politicians from both parties have largely been drummed out of politics. As a result, Harrisburg, Washington, D.C. and other states and cities are mired in gridlock and partisanship. The root cause can be traced to closed primaries and its cousin, partisan gerrymandering, which also helps rig elections by drawing district boundaries to favor one party over the other, effectively determining the outcome of an election before a vote is cast.

One part of the solution to this problem—necessary but not sufficient—is simple: open primaries to unaffiliated voters so that all voters matter and all votes count.

Closed Primaries Shut Voters Out of the Process

Closed primaries disenfranchise a huge swath of the Pennsylvania electorate. The Commonwealth is one of just 11 states with a closed primary. That means on primary day, voters can only vote for candidates in the political party where they are registered. For example, a person who is registered as a Republican cannot vote in the primary for a Democrat. Those who are registered as independents or with a third party cannot vote in either the Democratic or Republican primaries—in Pennsylvania, this is more than 1.2 million voters.

In Philadelphia, voters who are not registered to the Democratic Party are essentially shut out of the election process. Unaffiliated voters can still vote on ballot questions and in the general election. But by then, the elections have been decided. That's because the number of voters registered to the Democratic Party outnumbers Republicans seven to one, making it nearly impossible for a GOP candidate to win general elections. Meanwhile, the number of voters who are unaffiliated to any party or registered to a third party is growing in Philadelphia, and is now more than the number of registered Republicans. In 1997, there were 52,600 independents and third-party voters. Today, that number has swelled to 127,000 of those voters—a jump of 241 percent—all of whom are prevented from participating in decisive primary contests.

Across Pennsylvania, the number of independent and third-party voters has also continued to increase to 1,228,000, a nearly eight percent leap from 2013. And where lopsided party registration towards one side or another has become the norm in many Pennsylvanian communities, this means more and more voters are not participating in a critical part of the electoral process.

This disenfranchisement occurs despite the fact that elections are funded with taxpayers' dollars. Indeed, a study by the nationwide advocate, Open Primaries, found Pennsylvania's primaries were the fifth most expensive in the country. But the closed primary system prevents all voters from

participating in the election. So one could argue that closed primaries are akin to taxation without representation.

Closed Primaries Lead to Voter Apathy and Distrust in Government

Closed primaries contribute to lower voter turnout and diminished trust in the electoral process. The utter absence of competitive elections for numerous offices and in various levels of government is pervasive in Pennsylvania. The lack of choices and dominance of one party or the other creates the sense that voting has little or no impact on the outcome, and consequently, that the process is broken in some way.

“Competition in politics appears intense, which is usually good for customers,” Porter and Gehl wrote. “But today’s competition is failing, delivering gridlock and growing division instead of offering practical solutions to the nation’s problems. The parties compete on ideology and unrealistic promises, not on action and results. The parties compete to divide voters and serve special interests, rather than weigh and balance the interests of all citizens and find common ground to move the country forward. And there is no accountability for results. The underlying root cause is the kind of political competition that the parties have created, including their insulation from new competition that would better serve the public interest.”

Turnout is sometimes low even in national races. The November 2016 race between Donald Trump and Hillary Clinton was close and received immense media coverage. Pennsylvania, in particular, was a hotly contested battleground state. Yet, nearly 40 percent of eligible voters did not cast a ballot.

Clearly, American politics are deeply troubled. Nine in 10 Americans lack confidence in the country’s political system. Seventy percent of Americans from both parties were frustrated with the two candidates for president in 2016, according to a poll by the Associated Press-NORC Center for Public Affairs Research.

As a result, public trust in government remains near historic lows. Only 18 percent of Americans today say they can trust the government in Washington to do what is right “just about always” (3 percent) or “most of the time” (15 percent), according to a poll by the Pew Research Center. Eliminating closed primaries will not solve all of the problems. But it will go a long way toward producing elected officials who better represent the public at large instead of the partisan wings. The experience of states that have implemented open primaries demonstrates what a difference it makes in eliminating dysfunction and partisanship, and creating a governing body that is truly of the people and for the people.

Closed Primaries Reduce Competition and Protect Incumbents

A system of closed primaries undermines competition. Despite regular elections, Pennsylvania lawmakers rarely get voted out of office. Among 604 who ran in the last three general elections, 588—more than 97 percent—won, the *Reading Eagle* reported in January 2016.

In 2016, 92 percent of the Pennsylvania state legislators ran for re-election. In 86 percent of the races, the incumbent ran unopposed in the primary, according to Ballotpedia. In 49 percent of the general election races, one of the two major parties did not field any candidates, leaving the major party candidate unopposed.

In the 2014 general election, 98 percent of the state incumbents were re-elected. And 51 percent of the incumbents faced no opponent in the general election. The lack of competition has become the norm in recent years.

In 2012, all 203 state House seats were up for election along with half of the 50 state Senate seats. But 43 percent of the House seats did not have an opponent in the primary or general election. Another 24 House members faced an opponent in the primary but not in the general election. In the Senate, 44 percent (11 of 25) of the senators facing re-election did not have an opponent in the primary or general election, according to *Metropolis*. The limitation that closed primaries create by assuring a small pool of party voters have outsized influence hampers the larger electorate's ability to hold public officials accountable.

Closed Primaries Produce Extreme Candidates

Closed primaries produce politicians on the far ends of the political spectrum. Candidates in primary elections focus on their political base, sometimes by taking ideologically extreme and partisan positions. Once the candidates get past the primary, the general election will often be uncompetitive, whether due to a lopsidedness in party registration, partisan gerrymandering or both.

So the real election is in the primary. Once in office, elected officials know to stay the partisan course for fear of getting “primaried” by a candidate who takes extreme positions or challenges them for not being politically pure. As a result, elected officials are less often incentivized to reach out to moderate and independent voters to win elections.

“The closed primary undoubtedly creates more polarized and extreme candidates, which definitely leads to gridlock,” Slippery Rock University political science professor David Kershaw said.

“Ideologues will refuse to cooperate. Their way is correct, everyone else is not.”



Opening Primary Elections and Strengthening Democracy

Porter and Gehl recommend a series of reforms in order to create a political system that better represents citizens and improves the ability of lawmakers to govern. The recommendations include both primary reform and rank choice voting:

- **Establish nonpartisan top-four primaries.** States should move to a single primary ballot for all candidates of all party affiliations, and open up primaries to all voters, not just registered party voters. The top four vote getters would advance to the general election. This system incentivizes candidates to campaign to the full electorate rather than toward a political extreme.
- **Institute ranked-choice voting with instant runoff in general elections.** This system ensures that no candidate is elected with less than majority support, resulting in the election of candidates with the broadest appeal to the most voters.

As the National Conference of State Legislatures has documented, 39 states currently use some variation of an open primary. Although nonpartisan top-two or top-four primaries and rank choice voting are being debated in states around the country, the issue at hand in Pennsylvania is far more simple:

Should the more than 740,000 Pennsylvanians currently unaffiliated with a political party be able to participate in the primary elections that often determine who enters public office and that they support with their tax dollars?

We believe the answer is an unequivocal “Yes.” It’s time for Pennsylvania to send a message that we are serious about continuing to reform our electoral process so the voices of all Pennsylvanians are heard in government. And it’s time to send a message that we’re serious about strengthening our democracy. The change proposed by Senate Bill 300 would be an important step in this direction.