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TERM LIMITS FOR BALTIMORE CITY: *OK WITH QUESTION K*

BY DYLAN DIGGS

In this November's election, Baltimore City voters will consider the critical question of whether City officials should be subject to limits that would fix the terms of Mayor, City Council President, City Council Members, and Comptroller to no more than two consecutive full terms.

While this measure (listed as Question K) is no panacea for good governance in a city with abundant challenges, it is a significant step in the right direction. The City Charter, just like an organization's bylaws or the Constitution of the United States, establishes the rules by which individuals and institutions will interact in the system. It doesn't guarantee good behavior, but it should establish a framework of incentives and mechanisms that allows for freely contested power, competent governance, equal access, transparency, and responsiveness.

It should be no surprise that Question K was able to get on the ballot. Term limits are publicly appealing, while their main opponents tend to be incumbents and special interests. Those are the groups that usually have the most to lose from such measures. They have a direct interest in maintaining the status quo. As Lawrence Reed states, "Opponents of term limits are frequently the same interests who milk government for all they can get."¹

This is not an indictment of any specific incumbent or lobbyist, but citizens should want these interests to be challenged. It should be difficult for them to obtain and maintain power and influence. Structured disruption can be a true force for participatory government, especially at the local level.

The approval of Question K would be a healthy development for Baltimore City. It will challenge entrenched interests, encourage new voices to engage in City governance through regular turnover, and build structures to make county government less stagnant and ossified.

BALTIMORE VOTES

This summer, petitioners led by the People for Elected Accountability and Civic Engagement² were successful in collecting the 10,000 signatures needed to get Question K on the ballot. The term limit question will adjust the restrictions for four elected offices (Mayor, City Council Members, City Council President, Comptroller). Starting in 2024, individuals elected to these offices would be limited to serving no more than eight years over a 12-year period, and no more than two consecutive full terms in their elected office.

This is not the first time the issue has come up. In fact, a similar measure was submitted to the Baltimore City Council to amend the constitution. The proposed amendment was co-sponsored by current Mayor Brandon Scott (among others), and though it was recommended favorably by the Equity and Structure Committee, it ultimately failed in the full Council vote.

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It should be emphasized that Question K does not ban term limited officials from holding that office again. Rather, it could be better understood as a “take a break” measure whereby the office holder must relinquish the position after two served terms, but can come back.

Furthermore, it does not limit those officials from serving in other ways. A term-limited Council Member can run for Council President, Mayor, or Comptroller and continue serving their community. A successful two-term mayor can shift and take a spell as Council President for a term and then run again in the future. In some cases, the same officials may just change seats in the same room. But even that has benefits because they bring their experiences to a new role and learn from their experience in a new office.

Even in this most limited sense, then, the churn in City government has benefits.

It is also to be hoped the turnover will allow new community leaders to participate in governance. Any community will gain from expanding and diversifying access to power because a democratic system improves with a larger number of voices contributing. This allows a wider range of interests to participate, but turnover can also facilitate a process more responsive to emergent ideas, constituencies, and needs.

In this vein, I will quote Rev. Dr. Al Hathaway, Sr., from Baltimore, who supported Question K by saying it will let folks waiting on the sidelines take leadership roles in City governance. “It allows them to get involved, get engaged, that persons aren’t just cemented into positions, but that there would be a free flow of ideas, a free flow of personalities. And I believe this is the time for “OK for Question K.”³

Having new leaders in elected office is not just about introducing different people to government. They also bring in their networks, experiences, and constituencies.

TERM LIMITS ARE POPULAR IN MARYLAND

This is not Maryland’s first discussion about term limits. A number of county charters have included term limits for their elected officials for some time.

Maryland Governor Larry Hogan in 2018 proposed term limits for the Maryland General Assembly. At the time, the General Assembly had the longest-tenured presiding officer of any such body in the country—Senate President Mike Miller—who had served 46 consecutive years in the legislature. At the same time, Mike Busch had served as speaker of the Maryland House for 15 straight legislative sessions to fill out more than 30 years in office. It is no discredit to the dedication and contribution they made to our communities, but it’s also true that more competition could have improved the outcome in a democratic system.

Unsurprisingly, however, the Maryland state house keeps rejecting these efforts to change the system. On more than ten separate occasions since 1996, bills have been introduced to limit state lawmakers’ terms in office and each effort has failed. Summing up the lack of incentive by entrenched interests to neuter their own access to power, Gov. Hogan said, “It’s very difficult to convince people to willingly give up their power, but that doesn’t mean we shouldn’t push for it. I’m not sure why people need to stay here for 40 years.”⁴

When put to a public vote, however, term limits have had more success. Voters in Prince Georges County instituted term limits in 1992 and scotched efforts to rescind them in 2000. In neighboring Washington, DC, voters overwhelmingly backed term limits for their Council in 1994, but those efforts were stymied by the Council itself. Harford County's Executive, Barry Glassman, also pushed for term limits just last year, and the proposed referendum would also have allowed district-level council members to shift to at-large positions.⁵

Montgomery County more recently approved term limits in a 2016 measure that received 69 percent support from voters despite significant opposition from sitting officials.⁶

CITIZEN LEGISLATOR OVER THE CAREER POLITICIAN

Taken at face value, term limits are not necessarily good or bad. They should be viewed as a structural tool; They will not guarantee positive results or better governance, but given the context of the power structure in our system, they have clear potential benefits.

In the same way that power, like nature, abhors a vacuum, it is also a constant that once power is obtained, politicians are loathe to relinquish it, except through force. In a democratic system, that force comes from the will of voters in two ways: voting out elected officials or approving structural changes to the rules and norms that govern their ability to remain indefinitely in office.

It goes without saying that politicians are ambitious. Our system embraces that characteristic and uses it to encourage a more participatory government. To quote Federalist 51, "Ambition must be made to counteract ambition."⁷ When power is concentrated among fewer individuals, however, that competition is inherently limited. There are fewer checks and power can more easily be aggregated. Over time, incumbents can use their secure access to gain connections, financial support, and name identification to widen their influence and perhaps use it with less accountability.

The roots created in the institutional power structure will be difficult to remove, but the larger aspect of the problem is that it limits the contestation of ideas. Safe or "career" politicians, as they might be referred to, are left unchecked.

The career politician moniker is a common pejorative, but that's because our system supposedly is built around the idea that government should be not just close to the people, but also of the people. Even in the period before and during framing of the Constitution, there was a sentiment that elected officials should be "citizen legislators" who understood their communities, worked jobs in their communities, and personally felt the impact of their decisions. Those governing should be among the governed.

As one of the framers, Roger Sherman of Rhode Island, put it, those citizen legislators participating in a rotation of office would "return home and mix with the people. By remaining at the seat of government, they would acquire the habits of the place, which might differ from those of their constituents."⁸ Or to quote one Sherman's colleagues, Benjamin Franklin, "In free governments, the rulers are the servants, and the people their superiors. . . For the former to return among the latter does not degrade, but promotes them."⁹

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The current reality of career politicians, though, is that the power of incumbency limits competition in deleterious ways. Incumbents have structural advantages: name identification, connections with media, relationships with grassroots organizations and business, a staff, governing capabilities that let them wield state power, and ongoing campaign knowledge. In contrast, challengers are not well funded on their own and must build from scratch.

The incumbent's advantages are heightened at the local level. Voters' attention is lower down ballot. Local journalists inevitably are struggling for information access that would truly inform voters on the relevant issues or expose incumbents. Businesses' and homeowners' engagement in the local district typically is limited to posting signs on their lawns.

These factors coalesce to protect the incumbent and foster an unhealthy dynamic.

The longer-run aspect of the problem is that when career politicians are left unchallenged it opens the way for special interests to freeze and protect their access to government. Special interests over time make considerable investments in politicians who serve multiple terms. Lobbyists gain access through building relationships and applying resources to pressure points. When a new officeholder comes on the scene, the investment is dramatically reduced. Special interests cannot be summarily branded as bad merely because they seek to extract from government a benefit for whatever is their constituency, but forcing them to restart their efforts and make their case to different officials is a good stress test for that access.¹⁰

We live in an era where citizens consistently express their frustration with the failure of governing institutions to produce results. There is a keen sense of this in Baltimore City, where so many communities are underserved by government. Rather than making it harder for community leaders to challenge the status quo, Baltimore's situation appears to be ripe for the potential improvements that might result from the imposition of term limits.

As the Cato Institute's John Fund said, the goal is to prevent City government from becoming "an ossified structure that accomplishes little of value, wastes much, and impedes progress made by other sectors of society."¹¹ The phrase seems particularly apt for the City of Baltimore.

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WHAT TERM LIMITS CAN NOT GUARANTEE

The discussion of term limits also needs to make clear what they will not do. They are not a panacea for bad government, only an opening for potentially improving its effectiveness, transparency, and responsiveness.

Term limits will not guarantee competition. Entrenched interests are hard to dislodge, whether it's incumbent politicians or lobbyists, and Baltimore may see the sort of increased nepotism experienced in Michigan, where term limited elected officials involve their spouses, siblings, or children to replace them. This is a good argument to do more to challenge those systems, not less.

Term limits will not ensure greater minority representation. It's a common theory among advocates that term limits open the doors for more minorities to take office, but research does not necessarily substantiate the claim.¹² It nonetheless does open the door a bit wider for the underserved and underrepresented, and should also help the sort of turnover that would open discussion on some of the pressing issues that communities are facing. Term limits have to be coupled with other changes to ensure a greater diversity voices can be heard.

Term limits are unlikely to breed bipartisanship. Some term limit proponents say bringing in new voices will change the partisan dynamic. The research neither supports nor disproves the notion, but it is certainly probable that while this is not disproven by research, it is also not backed up by it. Newly elected officials are less likely to be institutionalized in the party structure. Parties are an unfortunate aspect of our system, but not a reason to entrench old guard politicians.¹³

Term limits will not produce better service. At least not immediately. New officials will be less able to deliver on pork to their communities and term limited officials may be less interested in doing so. The intent is that over the long-term, greater access to government will breed better responsiveness, transparency, and trust in governing institutions.¹⁴

Term limits are only the first bite of the axe to take down a deeply rooted tree. While they may not be able to cure all of the maladies of our political system, they can contribute to a better process.

ARGUMENTS AGAINST TERM LIMITS

Term limit detractors have some legitimate concerns that should be addressed.

Term limits are undemocratic: Detractors say voters should be able to choose in elections if they want to “kick the bums out.” If a politician can serve forty years, that reflects voters’ desires and presumably is because it has brought benefits to their district. Studies also demonstrate¹⁵ that such politicians are better at getting government money to their constituents.

It should also be noted, however, that while long-serving incumbents can secure funds for their own district, that may leave others underserved. Resources are not being distributed to the communities in the most need or based on sober policy analysis, but rather on the politicians most skilled at securing pork.

An old boy network of secure incumbents stifles change. This has undemocratic tendencies. As Lawrence Reed argues, “Judging by the huge support that term limits have usually won at the ballot box—and still enjoy in most local polls—large numbers of citizens feel that a political system without limits is a stacked deck. Any system that allows incumbents to amass so much power and attention in office that challengers can rarely win is surely in need of a corrective.”¹⁶

Moreover, candidate qualifications limit voters’ choices all the time. For example, the Baltimore Charter restricts candidates for the City Council to be citizens of the United States, at least eighteen years old, and registered voters of Baltimore City. Question K just adds to those restrictions. If that is undemocratic, the voters should be trusted to approve structural change to build in restrictions that bring the government closer to the governed.

Vacuum Theory: Detractors argue that if elected officials are term limited, newer, less connected and less experienced officials will be weaker against the bureaucracy and lobbyists that surround government. If politics abhors a vacuum, that vacuum will be filled by those other competing interests.

Question K may mitigate some of this effect for Baltimore City because both the executive and legislative offices will be subject to turnover rather than just one branch of government.

Furthermore, Question K has the potential to weaken the entrenched nature of the lobby system. Turnover in elected officials, particularly when it includes executive offices such as the Mayor’s Office and Comptroller, will mean staff turnover as well, and the resulting churn will be a good thing for the system.

Lame Duck: A third common concern is that elected officials who are term limited would end up as lame ducks. Weakened elected officials, particularly council members, may end up less interested in investing in their communities, but the effect is unlikely to be permanent once term limits become well established.

Question K pushes term limited council members to run for different offices if they want to stay in office. They can even come back to the same office after a one-term break. This keeps pressure on the Mayor, Council President, and Controller. They will still rely on the voters they are serving, but now they have to challenge other structures. Instead of a “lame duck” situation, the result may equally well be a gaggle of ducks fighting for different roles. Ambition checks ambition.

Institutional Memory: Finally, a common refrain is that the Council, Mayor’s Office, or the Comptroller’s office will lose critical capacity if entrenched elected officials are forced out of office. This is more a criticism of the capacity of these institutions than of term limits.

Politicians are widely derided as self-interested, ambitious, and spineless. While this is not always the case, most acknowledge this as a feature of our democratic system rather than a bug. Advocates for a participatory, responsive, and competent government should not aspire to have institutional capacity centered in a limited group of politicians who accrue power and influence.

Any such gaps in institutional capacity should be filled by greater research capacity or expanded resources and staff for incoming officers. It is not, however, an argument to sustain the current system.

Our democratic system relies on open access to all for elected positions. No single person serving in government should be indispensable. That would be unhealthy for a democratic system and should be changed.

CONCLUSION

Baltimore City voters deserve better. Question K offers the opportunity to create the structures in city government that will challenge the status quo and make politicians work for their vote. These are the ingredients for a more vibrant and responsive City Government that is both for the people and of the people. If properly implemented over time, Question K can help bring government closer to the communities it should be serving. For that reason, Baltimore citizens should vote “yes” on Question K.

DYLAN DIGGS is a past member of the Frederick County Charter Review Commission and a resident of Frederick County, Maryland.

- 1 Reed, Lawrence W. “Why Term Limits?” Foundation for Economic Education. May 1, 2001. <https://fee.org/articles/why-term-limits/>
- 2 The People for Elected Accountability and Civic Engagement: <https://www.bmoreaccountable.org/>
- 3 Frost, Mikenzie. “Group Backing Term Limits Rallies for Support, Telling Voters To ‘Say OK on Question K,’” Fox 45 News. Sept. 27, 2022. <https://foxbaltimore.com/news/local/group-backing-term-limits-rallies-for-support-Telling-Voters-To-Say-OK-on-QuestionK>
- 4 Dance, Scott. “Hogan proposes term limits for General Assembly, live-streaming of floor deliberation.” Baltimore Sun. Jan. 09, 2018: <https://www.baltimoresun.com/politics/bs-md-hogan-term-limits-20180109-story.html>
- 5 Leckrone, Bennett, “Glassman Wants to Put Harford County Council Term Limits on 2022 Ballot.” Maryland Matters. September 25, 2021. <https://www.marylandmatters.org/2021/09/25/glassman-wants-to-put-harford-county-council-term-limits-on-2022-ballot/>
- 6 Austerhuhle, Martin. “Montgomery County Voters Adopt Term Limits, Promising Big Turnover In 2018.” WAMU 88.5 American University Radio. November 9, 2016: https://wamu.org/story/16/11/09/on_third_try_voters_adopt_term_limits_in_montgomery_county/
- 7 Madison, James. The Federalist 51. “To the People of New York.” <https://billofrightsinstitute.org/primary-sources/federalist-no-51>
- 8 Crane, Edward H., “Congressional Term Limits,” Testimony. CATO Institute. January 25, 1995. www.cato.org/testimony/congressional-term-limits
- 9 Reed, Lawrence W. “Why Term Limits?” Foundation for Economic Education. May 1, 2001. <https://fee.org/articles/why-term-limits/>
- 10 Greenburg, Dan. “Term Limits: The Only Way to Clean Up Congress,” Heritage Foundation. August 10, 1994. <https://www.heritage.org/political-process/report/term-limits-the-only-way-clean-congress>
- 11 Fund, John H. “Cato Institute Policy Analysis No. 141: Term Limitation: An Idea Whose Time Has Come,” Cato Institute. October 30, 1990. <https://www.cato.org/sites/cato.org/files/pubs/pdf/pa141.pdf>
- 12 Carey, John M. Dartmouth College, Richard G. Niemi, University of Rochester, Lynda W. Powell, University of Rochester, Gary F. Moncrief, Boise State University, “The Effects of Term Limits on State Legislatures: A New Survey of the 50 States,” February 1, 2006, http://scholarworks.boisestate.edu/polsci_facpubs/82/
- 13 Carey, John M, Richard G. Niemi, Lynda W. Powell and Gary F. Moncrief. “The Effects of Term Limits on State Legislatures: A New Survey of the 50 States.” Legislative Studies Quarterly 31 (2006): 105-134.
- 14 Carey, Niemi, Powell and Moncrief. “The Effects of Term Limits on State Legislatures.” 105-134.
- 15 Carey, John M, Richard G. Niemi, Lynda W. Powell and Gary F. Moncrief. “The Effects of Term Limits on State Legislatures: A New Survey of the 50 States.” Legislative Studies Quarterly 31 (2006): 105-134.
- 16 Reed, Lawrence W. “Why Term Limits?” Foundation for Economic Education. May 1, 2001. <https://fee.org/articles/why-term-limits/>

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