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Electoral Competition and the New Incumbency Advantage

We already have term limits. They are called elections.

Donald Moody, then executive director of ROAR
(Restore Our American Rights, a Florida anti-term limits group)

Opponents argued term limits were unnecessary, urging that the proper way to rotate members out of office was through the ballot box. If voters wanted to dump their legislator, it was suggested, they already had the mechanism with which to do it. But proponents pointed to historically low rates of turnover, gerrymandering of legislative districts, and incumbency advantages—including the ability to raise vast amounts of campaign cash—that allow legislators to effectively “own” their seats.¹ If the purpose of term limits is to create predictable levels of turnover with a larger pool of open seats, prevailing wisdom suggests it would lead to greater electoral competitiveness.

Since the implementation of term limits, however, recent studies have not shown this to be the case, arguing that the only advantage of term limits is the regular intervals of open seats.² In fact, a new kind of incumbent has emerged, perhaps more protected than ever before. This chapter explores levels of competitiveness in both general and primary elections and campaign fundraising to examine Florida’s electoral environment in this post-term limits era.

Legislative Candidates

Term limits mandate that legislators in Florida vacate their seats within a specified time frame—at most, every eight years. Because of the predict-

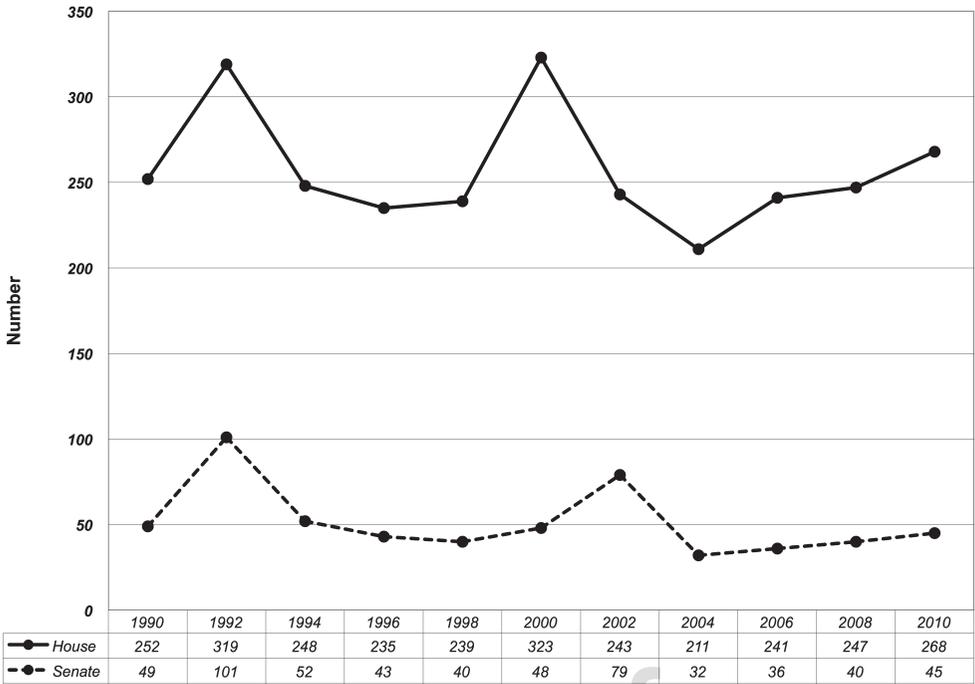


Figure 2.1. Number of major party candidates. Compiled from the Florida Secretary of State, Division of Elections.

able turnover of each legislative seat, term limits encourage more candidates to enter the political process. Presumably, with an increase in the number of open seat contests, the candidate pool for these seats would also grow, leading to higher levels of electoral competition.³

Figure 2.1 lends some credence to this theory. The implementation of term limits in the House in 2000 provided the largest number of major party candidates during the entire twenty-year period from 1990–2010, a high-water mark of 323 candidates. The number of major party candidates was almost identical, at 319 candidates in the redistricting year of 1992, the only other year during this time frame to provide such a jolt to the legislative body. The implementation of term limits affected the Senate in two electoral cycles, with 48 major party candidates in 2000 compared to 79 major party candidates in 2002 (also a redistricting year). Comparing the 1992 and 2002 redistricting years when all 40 Senate seats were up for election, the total number of major party candidates was higher in

1992 than in 2002, with 101 and 79 candidates, respectively. The fact remains that 2002 brought about the second-highest number of candidates during the period for the Senate. The initial election in which term limits are implemented sees the same effect as other major institutional changes, including the redistricting process: encouraging more candidates to run.

These effects appear to be cyclical, however, as turnover levels fall once term limits take effect. The number of major party candidates in House and Senate races in 2004 decreased to its lowest point, with only 212 candidates in the House and 32 candidates in the Senate. The reason for such a low number appears to be twofold. First, some of this effect is due to partisan gerrymandering in the House and to a slightly lesser extent in the Senate in favor of the Republican Party. According to qualifying reports with the Florida secretary of state, third party candidates actually outnumbered Democratic candidates in state legislative races in 2004.⁴ While third party candidates did not make any substantive contribution to electoral competition and certainly none approached victory, the lesson of 2004 is that redistricting remains a powerful tool for the majority party to retain power and stifle two-party electoral competition.

Second, because the 2000 election (and 2002 election in the Senate) affected such a large number of seats, by 2004, stability seemed to have been restored, at least in the short run, with low turnover and a small cadre of legislative candidates. Significantly, the second wave of term limits in 2008 did not provide a corresponding influx of House candidates. This is likely due to the drop-off of legislators first elected in 2000, nearly two-thirds of whom left early to pursue other opportunities.⁵ The number of major party candidates increased slightly in the 2010 election in both the House and Senate, but in terms of the number of candidates, most electoral cycles post-term limits mirror those in the pre-term limits era, with redistricting years providing the exception.

What is clear is that term limits have not created a constant mass of candidates entering the legislative electoral process. The combination of chaotic redistricting years, such as 1992, and the initial effect of term limits taking hold in 2000 provided the greatest emergence of candidates. The increased proportion of open seats attributable to a combination of term limits and early retirements has provided numbers of major party candidates similar to those in the 1990s, a time of great electoral competition, when Republicans were actively competing against Democrats.

The tendency of the candidate pool to level off in subsequent elections

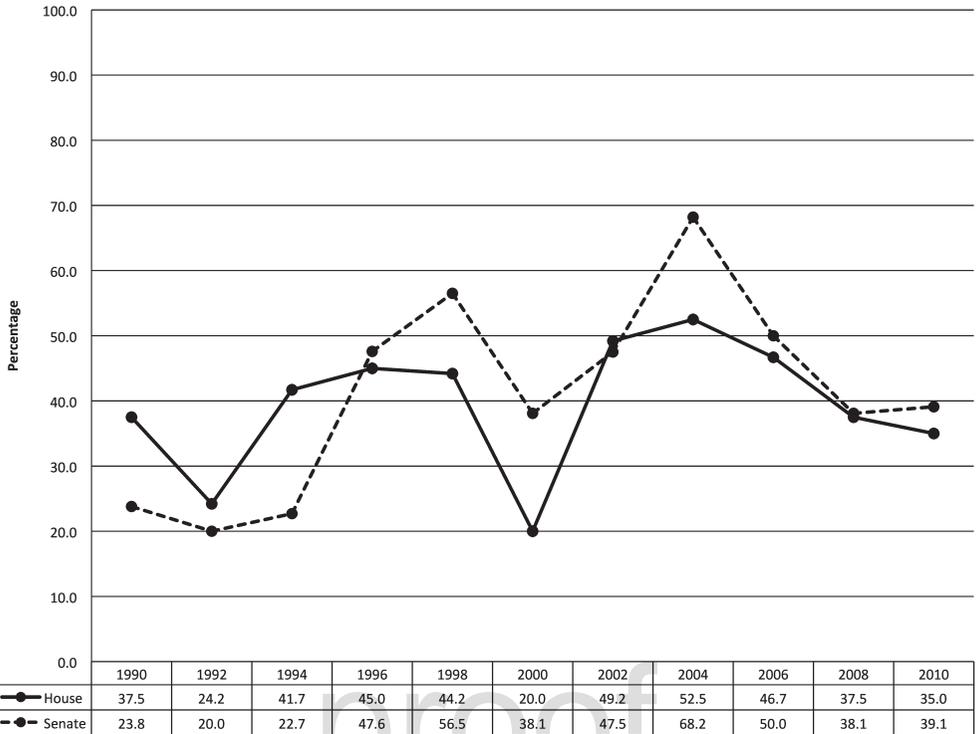


Figure 2.2. Percentage of races unopposed. Compiled from the Florida Secretary of State, Division of Elections.

may also indicate a new kind of incumbency advantage, in which incumbents run unopposed at higher percentages and potential challengers bide their time until an open seat becomes available. Uncontested seats are certainly more common in state legislatures than in U.S. House elections.⁶ If term limits are supposed to create greater electoral competition, the number of contested seats should be higher in the post-term limits era.

Figure 2.2 does not show support for increased competition with term limits in place; and in fact, in view of the absence of challengers in both primary and general elections, the opposite appears to be the case. Again, this study does not include third party or write-in candidates, who historically have only been blips on the screen in state legislative elections. The percentage of candidates unopposed in a race is actually higher post-term limits during the mid-cycle election years between 2002 and 2006. Astoundingly, more than a majority of seats in the House and Senate were uncontested in 2004. While this data corresponds to lower levels of

turnover and smaller numbers of candidates in 2004, it is perhaps surprising given that it was only two elections removed from the initial wave of term limits. The two elections prior to term limits kicking in, those of 1996 and 1998, certainly had higher percentages of uncontested seats than the three preceding electoral cycles, perhaps anticipating the effect of a huge opening of seats caused by vacating incumbents. In 2000, the percentage of candidates unopposed dropped significantly in the House, with only 20 percent of seats unopposed—even lower than the tumultuous 1992 redistricting year. The second wave of term limits in 2008 and the following election in 2010 yielded a drop in the percentage of seats uncontested in both the House and Senate, likely corresponding to an increase in open seat opportunities.

While term limits proponents argued that more open seats would increase competition, this has not been demonstrated. Looking at the increase in the number of seats that go uncontested, redistricting perhaps mitigates electoral competitiveness to the advantage of both the majority party and incumbents in general. Redistricting in term limited states can have a dramatic impact on levels of competition. The majority party has the ability to redraw districts for party gain rather than protecting incumbent members, many of whom are forced to vacate their seats due to term limits.⁷ This can have a profound effect on reducing district competitiveness, even with term limits in place.

Additionally, in the pre-term limits era, from 1990 through the 1998 elections, almost 100 percent of unopposed seats in the House and 95 percent of unopposed seats in the Senate were incumbent seats. In the post-term limits era, from 2000–2010, that number dropped in the House and Senate to 95 percent and 86 percent, respectively. This means that the number of open seats that contain only one major party candidate has risen dramatically in both chambers, up from 0.9 percent to 5.5 percent in the House and from 4.9 percent to 14.5 percent in the Senate. While it may not be surprising to see a general election candidate go uncontested, it is more surprising that these contests also did not include a primary. Party leaders and outgoing members are becoming very skilled at strategically selecting their replacements in these cases, as legislative lobbyist Ron Book attests: “Oftentimes we will hear from a lawmaker who is supporting somebody for their seat because they have decided to run for something else or they have been termed out . . . trying to anoint [their] successor.”⁸ Incoming party leaders are tasked with recruiting candidates