Ballot Access Restrictions and Candidate Entry in Elections

Thomas Stratmann
Department of Economics
George Mason University
tstratma@gmu.edu

and

Graduate School of Business
University of Chicago

Abstract
In many states candidates must meet certain requirements in order to be listed on the ballot. Such requirements include filing fees and minimum number of collected signatures. Incumbents have incentives to use these requirements to shield themselves from competition and to reduce entry of challengers. To date, there is very little evidence regarding whether such requirements have negative consequences for candidate competition in elections and challenger entry into electoral races. This paper examines the impact of filing fees and signature requirements on the number of candidates in state races by analyzing state lower house elections in 1998 and 2000. The findings show that higher filing fees reduce the number of major party candidates and the number of minor party candidates. Filing fees more easily dissuade minor party candidates to run for office than major party candidates. More stringent signature requirements reduce the number of major party candidates in elections.

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I. Introduction

Incumbent politicians prefer less competition to more competition in much the same way that dominant firms prefer restrictions on competition. The seminal work of George Stigler (1971) shows that firms lobby governments for entry restrictions since these restrictions protect incumbents from competition. Entry restrictions in business take the form of regulations which increase the cost of entry, such as filing requirements. Filing requirements raise entrants’ average cost of providing services and put them at a competitive disadvantage. In an otherwise competitive industry, these restrictions reduce the number of firms in the market and increase each surviving firm’s market share.

Incumbent politicians face competition from other candidates when running for reelection. While firms lobby the government in to pass laws restricting entry, incumbent politicians can pass legislation that restricts entry into electoral contests without having to lobby the government.

Barriers to entry for candidates in elections come in various forms. Ballot access restrictions include party endorsement, filing fees, and signature requirements. Both major and minor party candidates face some or all of these requirements. However, legal barriers to entry are typically higher for minor party candidates than for major party candidates, putting minor party candidates at a competitive disadvantage.

To date, there is little academic work that examines the effects of ballot access restrictions. Some work at the federal level examines support levels for third party presidential
candidates,¹ but this work does not analyze the effects of restrictions for getting onto the ballot (Abrahams and Aldrich 1995). Other work at the federal level examines whether filing fees and signature requirements determine whether an incumbent is uncontested and whether a seat is open (Ansolabehere and Gerber 1996). At the state level, for example, Elliot, Gryski and Reed (1990) study third parties in state governments, but not the effects of ballot access restrictions.² Work by Cook (2002) examines the effect of ballot access restrictions for third party state candidates. She finds that these measures have little explanatory power for explaining vote shares of these candidates. Recently, the “first report ever to take a comprehensive measure of the burdens of ballot access” was published (Brennan Center 1996, p.7). This report documents differences in state ballot access requirements for presidential candidates but provides no analysis of the effect of these differences.

This study takes a new approach to examine barriers to entry into the political market. It examines the effect of ballot access restrictions on the candidate’s decision to run in an election. In product markets, a barrier to entry determines whether a firm enters the market but may not be related to the market share of the entrant. A similar consideration arises with respect to entry into political competition. Consequently, I analyze whether restrictions help explain the number of candidates to enter electoral races but do not examine whether candidates’ vote shares are related to ballot access restrictions.

¹For example, John Anderson, Ross Perot, and George Wallace.

²Berry and Canon (1993) examine the determinants of the number of gubernatorial candidate by focusing on whether the incumbent governor runs for reelection, the strength of the opposition party, the type of the primary and endorsements.
Entry restrictions for state and federal offices are regulated by the states. This study examines the effect of state regulations for candidates to state lower houses. Examining the effect of the restrictions on state, as opposed to federal, races is more promising since there is a greater variability in minor party candidates and greater variability in the degree of competition for state offices than for federal offices (Gillespie 1993). Moreover, some states have only few federal congressional districts, providing less variability than if each state had many districts within its boundaries.

In contrast, the states provide a much richer environment to analyze entry restrictions, because each state has many lower house districts. Thus, this study focuses on the effects of restrictions to entry for the number of candidates to state lower houses. Finally, low levels of competition have been documented at the state level, and it has been noted that uncontested races occur relatively frequently (Hamm and Moncrief, 1999, Squire 2000). Determining whether restrictive entry rules depress candidate competition in state races is one of the goals of this study.

The next section provides some background on the recent court debates regarding ballot access restrictions, and section III presents the hypothesis. Section IV develops the empirical model and describes the data. Results are presented in section V and section VI contains concluding remarks.

III. Background

In two landmark cases in the 1970s (Bullock v. Carter and Lubin v. Panish) the U.S.
Supreme Court declared filing fees as unconstitutional unless the state provides low income candidates, who can not afford the fee, with alterative ways to gain access to the ballot. Otherwise the fee would prevent participation by low income candidates, and that would violate the equal protection clause of the 14th amendment.

This however, does not mean that the filing fees, for all practical purposes, are irrelevant as those two US Supreme Court filing fee decisions have had little impact. The courts have allowed states to limit exceptions to "paupers" requiring payment of the fee unless the candidate can demonstrate that she is a "pauper". Thus, the filing fee is a barrier to entry to those who can not claim low income status. As most candidates for office do not come from low income groups, the filing fee applies to most potential candidates. 

Further, the courts have also allowed the states to impose petitions in lieu of filing fees. However meeting the petition requirements often costs more than paying the fees. One example is an old Florida regulation, which allowed potential candidates for state-wide office not to pay the fee if they obtain three percent of the eligible signers, to be collected within twenty-one days For a state-wide office this requirement implied the collection of hundreds of thousands of signatures within three weeks. Thus, even for those with low income, the alternative to paying the filing fee is often costly in other ways, which in turn makes the fee binding for those individuals. 

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3For those low income candidates, the cost of demonstrating that they are paupers also represents a barrier to entry.

4Unfortunately we do not have data indicating in which on states particular individuals can avoid paying the fees and the corresponding (non-monetary) cost of avoiding the filing fee.
Filing fees are still a subject of debate in the courts. For example, a mandatory $200 filing fee in Pennsylvania was recently challenged in court since Pennsylvania provided no alternative for low income candidates. In 2001, a U. S. district court ruled that the Pennsylvania filing fees are illegal and unconstitutional, unless the state provided an alternative way for low income candidates to gain access to the ballot. In the judge’s opinion, mandatory filing fees preclude some candidates from appearing on the ballot, and this deprives a certain portion of the electorate the right to vote for its preferred candidates, violating the equal protection clause.

Although monetary fees have come under scrutiny, as described above, signature requirements have not. However, the monetary resources to obtain the required signatures often exceed the filing fee requirement. For example, the average filing fee in the thirty states requiring such a fee was $208 in the year 2000. Since the collection of signatures is likely to involve larger monetary and non-monetary costs than the average filing fee, I test whether signature requirements constitute one form of an entry restriction.

III. Hypotheses

A simple model that postulates that legislators act in their own interest predicts that incumbents vote for ballot access restrictions, because they prefer to face as little competition as possible in their reelection race. Consistent with this hypothesis, previous work claims that legislators adopt electoral reform or electoral rules that put them at an advantageous position. Ware (2000), for example, argues that self-interested party elites pushed for the adoption of the Australian ballot in the United States. This change in the electoral rule has been important, as it
Most research analyzes the impact of electoral rules for voting behavior. One recent example of this line of research is the work by Shaffner, Streb, and Wright (2001) who find that the removal of party identification from the ballot has the largest impact on less informed citizens as they lose an important information shortcut.

Related is the hypothesis that incumbent Republicans and Democrats have erected campaign finance laws that keep third parties out of the political process (Raskin and Bonifaz 1993). ⁶

The hypothesis that incumbent politicians of the main parties impose hurdles to third party participation through stringent ballot access requirements has been in the scholarly literature for a long time (Argersinger 1980, Rosenstone, Behr, and Lazarus 1996, Rush 2001). ⁶ One recent example of this line of thinking is Winger (1992, p.7) who hypothesizes that “changes [in ballot access rules] began during the 1930’s when major party politicians were eager to discourage labor from starting its own party . . . laws were again made more restrictive during the period of 1948-1953 when fear and hatred of the Communist Party were very strong, . . . [and] ballot access laws were tightened further during 1969-1975 after George Wallace’s 1968 third party showing of 13% shocked [major party] politicians.”

This study focuses on two types of ballot access restrictions – signature requirements and filing fees. Higher filing fee reduce the demand for getting on the ballot, leading to fewer candidates in electoral races. Obtaining signatures is costly and higher signature requirements imply that larger funds are required to collect signatures. Consequently higher signature requirements imply a more costly campaign and fewer candidates in electoral races.

Whether ballot access restrictions reduce the number of candidates in electoral races is of

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interest for several reasons. Low entry restrictions can help to ensure a better representation of voter preferences by elected officials. If an incumbent strays too far from the preferences of his constituency, another candidate can successfully challenge him by taking a position closer to the median voter or the majority of voters. If incumbents know that challenger entry into the race is easy, they are more likely to behave in accordance to the wishes of voters while in office. Conversely, if they believe that they will not face a strong challenge, they may feel free to depart from voter preferences. Scholars has examined electoral competition as a means to assure a closer mapping of constituency and representative preferences. Key (1949), for example, hypothesized that parties and candidates act differently with respect to their constituents when they face competition, and many others have examined this hypothesis (see Miller 1964 and Fiorina 1974 for some early studies).  

If incumbents do not expect to face a challenger, they have little incentive to represent the preferences of their constituency. The threat of challenger entry assures a close mapping between legislator voting records and constituency preferences. Thus higher barriers to entry lead to more slack in the principal (constituency) - agent (legislator) relationship. Another reason some are concerned about the effect of entry restrictions into politics has to do with the democratic goal of achieving equal access to the political process manifest in the equal protection clause of the Fourteenth Amendment of the U.S. Constitution. Some believe that monetary ballot access restrictions are similar to purchasing a slot on the ballot and that the 

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7Recent work on the U.S. Senate shows that incumbents closer to elections pay closer attention to voter preferences (Levitt 1996, Stratmann 2000). This finding suggests that they are responsive because they expect a reelection fight, as typical for U.S. Senate races.
burden of paying this price is unevenly distributed across population groups. If the goal of democracy is to grant equal access to all citizens to being a candidate in elections, then a finding that restrictions deter entry might suggest that this the democratic goal of equal access is not met.

While ballot access restrictions might change incentives to run as a candidate, there are many other determinants of candidates’ decisions to enter an electoral contest. One of those determinants is the expected salary. The higher the expected salary, the more likely it is worthwhile for citizens run as a candidate (McCormick and Tollison 1978). However, higher salaries are also associated with more professional legislatures in which incumbents have more staff, monetary resources, and other perquisites (Hibbing 1999), making their work environment more attractive and increasing their incentive to desire a long career (Fiorina 1994, Moncrief 1999). These resources make incumbents less vulnerable to electoral tides (Squire 1997) and this reduces challenges’ incentive to enter the race.  

One important institution that might limit competition and the number of candidates is the type of electoral systems employed. For example, first-pass-the-post (FPTP) electoral rule is employed in state single member districts. This electoral system has been hypothesized to lead to the dominance of two parties which is a pattern referred to as Duverger’s Law. The FPTP electoral rule provides a barrier to entry for minor party candidates, quite apart form ballot access restriction. Individuals considering entry as a minor party candidate might simply decide not to

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enter given their small chance of being elected.

The nature of competition between major parties sometimes prevents the successful entry of a minor party candidate. Using the analogy of product market where incumbent firms innovate to prevent rival firms from entering, major parties tend to adopt versions of popular aspects of minor party platforms (Gillespie 1993). Such adaptation increases or maintains major party support at the expense of minor parties.

IV. Research Design and Methods

To analyze the effect ballot access restrictions on candidates’ entry decisions, I use the state House single member district in the 1998 and 2000 elections as the unit of analysis. The empirical models are

\[
Y_{\text{major}}_{ijt} = \beta \text{BEmajor}_{it} + \mathbf{X}_{ijt} \gamma_i + \nu_t + \epsilon_{ijt}, \tag{1}
\]

\[
Y_{\text{minor}}_{ijt} = \beta \text{BEminor}_{it} + \mathbf{X}_{ijt} \gamma_i + \nu_t + \epsilon_{ijt}, \tag{2}
\]

where \(Y_{\text{major}}_{ijt}\) is the number major party candidates state \(i\), district \(j\), and election year \(t\) and \(Y_{\text{minor}}_{ijt}\) is the number of minor candidates. I adjust all standard errors for non-independence of the observations within states.\\(^9\)

The variable \(\text{BEmajor}_{it}\) is a measure for major candidate ballot access restriction and the \(\text{BEminor}_{it}\) variable measures restrictions for minor party candidates. We will analyze the impact of filing fees and signature requirements. In some specifications I measure these restrictions with

\(^9\)Standard errors are adjusted to allows for clustering by state.
a simple indicator variable that measures whether a state has such a restrictions. In an alternative specification, the restriction variable is the number of signatures required, or the filing fee dollar amount.

The \( X_{ijt} \) vector includes state candidate and district specific variables such as the expected closeness of the electoral race. I include this variable because when the incumbent is expected to win with a large margin, fewer candidates have an incentive to enter the race.

As shown in equations 1 and 2, this study’s measure of electoral competition is the number of candidates in electoral races. The number of candidates in a race is affected by many observed and unobserved variables in a district. However, the advantage of this research design is that it requires fewer control variables than a design that would examine vote shares of, for example, incumbents. For example, whether ballot access restrictions influence the number of candidates in a race does not require controlling for the party affiliation of the incumbent or for coattail effects. However, among the control variables used in this study is the expected closeness of the electoral race. This variable captures political extremism of a district as well at incumbent ability, as high ability incumbents and incumbents in strong Republican or strong Democrat leaning districts tend to win with wide margins. Thus we predict that the closer the expected margin of victory, the more candidates will enter the race.

Other variables included are state income and state population since a seat may be more valuable in a wealthy or populous state. I include salaries of legislators since higher salaries give candidates an incentive to enter the race. However, as discussed previously, salary is also a measure of legislature professionalism which is associated with a higher probability of incumbent reelection.
This higher reelection probability could act as a deterrent to challenger entry.

The $X_{ij}$ vector also includes an indicator for those states that implemented term limits. Term limits reduce the lifespan of a legislator making public office less valuable, thus giving a candidate less incentive to enter the race. I predict that the passage of term limit laws reduces candidate entry.

Besides ballot access restrictions, there are other deterrents for challenger entry. For example, theoretical work suggests that incumbent fundraising deters challengers from entering the race (Epstain and Zemsky 1995), and empirical support for this proposition has been found (Box-Steffensmeier 1996). Unfortunately, no data on war chests for state house incumbents are available; thus I can not control for this variable in this analysis.

Data on the 1998 and 2000 general elections in state House single member districts come from each state’s Elections Division or its State Board of Elections. I focus on single member districts since over 80 percent of all state legislators are elected to these districts. Since, at the federal level, all House districts are single member districts, the focus on single member districts also allows one to more easily generalize the results to federal level.

Data for minor party ballot access restrictions come from Cook (2002). For minor party candidates signature requirements are measured in terms of number of signature required and filing fees are measured in dollars. The source for major party ballot access restrictions is the editor of Ballot Access News, Richard Winger. This data set does not have the simple metrics that are available from the minor party data set. For major parties I use indicators for whether a state has a signature requirement and indicators for fees. Also, I constructed a filing fee dollar
measure which equals the filing fee listed in *Ballot Access News*, or when the filing fee is a percentage of legislator salary, the dollar amount corresponding to this percentage.\(^\text{10}\)

V. Results

Table 1 describes the data. The correlation coefficient between the number of major and minor party candidates is 0.03 and is statistically significant at the two percent level. The coefficient indicates that races with more major party candidates tend also to have more minor party candidates. Table 1 also shows the correlation coefficients between the various ballot access restrictions manures and the number of minor and major party candidates. With the exception of signature requirements, all major party ballot access restrictions are negatively correlated with the number of major party candidates in electoral races. This finding shows that fewer candidates in races are associated with higher barriers to entry. The finding for minor party mirrors those for major party candidates, in that the higher the minor party candidate filing fees, the fewer the number of minor party candidates. The correlation coefficient between signature requirements and candidate entry is not statistically significant.

Table 2 presents the regression results for major party candidates. Since the dependent variable is the number of candidates, I employ a Poisson regression model. While I obtained similar results as reported here when I estimated the regressions with the ordinary least square

\(^\text{10}\)Since states did not change the filing fee and signature requirements between 1998 and 2000, the empirical work can only exploit the cross state variation and we cannot include state fixed effects. However, as noted previously, we correct of non-independence of observations within states allowing for state clustering of observations.
estimator, the Poisson regression is the proper model to use when the dependent variable involves count data such as is the case here. In all regressions, the unit of observation is a state lower house race between 1998 and 2000 where there is at least one major party candidate. All regressions have the same control variables, namely term limits, legislator salary, state population, per capita income, the expected closeness of the election, and an electoral cycle indicator.

The first four columns examine the various measures of ballot access restrictions separately, and the last two columns examine these restrictions jointly. All regression are adjusted for non-independence of observations within states. Without such corrections, the t-statistics on all coefficients more than triple. Even with this adjustment, which puts the odds against finding statistically significant effects of ballot access restrictions on candidate entry (because observations are within states are positively correlated), the regression results show that monetary ballot access restrictions reduce the number of candidates in races.

The mere existence of a filing fee significantly lowers the number of major party candidates by approximately two percent. Filing fees that are greater than $100 further lower the number of major party candidates by another three percent. Having a filing fee that is based on the expected legislator salary reduces the number of candidates by three percent, and this finding is statistically significant. Using the dollar filing fee measure, the results show that a $1,000 increase in the filing fee leads to a four percent decrease in the number of major party candidates. Higher signature requirements also lead to a decrease in the number of major party candidates and this coefficient is statistically significant at the seven percent level. Table 2 column 5
combines the monetary ballot access restriction indicators with the signature requirements and the previous results are strengthened. A fee over $100 now reduces the number of candidates by seven percent. The regression in the last column includes the fee variable, measured in dollars, along with the signature requirement variable. In this specification, a $1,000 increase in the fee reduces the number of candidates by over five percent.

Table 3 examines the effect of minor party ballot access restrictions on minor party candidates. Signature requirements have no statistically significant effect on a minor party candidate’s decision to enter the race. However, fees reduce the number of minor party candidates. Table 3, column 1 and column 2 differ in that column 2 allows for a non-linear effect of filing fees. Evaluated at the sample mean, a $1,000 increase in filing fees reduce the number of minor party candidates by forty-three percent. Thus, the entry decision of minor party candidates is much more sensitive to monetary barriers to entry than major party candidates.

VI. Conclusions

This analysis uses a novel data set to test hypotheses about the effect of filing fees and signature requirements on candidate entry into electoral contests.

The data analysis reveals that monetary ballot access restrictions are an impediment to both major and minor candidate entry into electoral races. Incumbents face more competition when filing fees are lower than when they are higher. Each dollar of a filing fee is a larger deterrent to entry for a minor party candidate than for a major party candidates.

Signature requirements also reduce candidate entry, but this effects is concentrated among
major party candidates. The findings imply that a $1,000 increase in the filing fee leads to a five percent decrease in major party candidates and a forty-three percent decrease in minor party candidates. The results are consistent with the hypothesis that incumbents set high barriers to entry in order to insulate them from competition.

The findings have important implications for which candidates run and which candidates are most likely to represent the voting population. The results establish that fewer candidates run in elections in the presence of filing fees. If filing fees are more likely to deter candidates with lower incomes then the concern that low income individuals are not represented by their peers may be justified.
References


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<tr>
<th>Sample Statistics</th>
<th>Correlation Analysis</th>
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<tr>
<td></td>
<td>Number of Major Party Candidates</td>
</tr>
<tr>
<td>Mean [Std Dev]</td>
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<td>Number of Minor Party Candidates</td>
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<td>Signature requirement for minor party candidates measured in number of signatures</td>
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N=6,641 for the minor party candidate variable and N=6,348 for major party candidate variable.
<table>
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<tr>
<th>Indicator for filing fee for major party candidates</th>
<th>(i)</th>
<th>(ii)</th>
<th>(iii)</th>
<th>(iv)</th>
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<tr>
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<td>-</td>
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<td>-</td>
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<td>-0.008</td>
<td>-0.016</td>
<td>-0.014</td>
<td>-0.011</td>
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<td>0.158</td>
<td>0.218</td>
<td>0.195</td>
<td>0.192</td>
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<td>1.511</td>
<td>-0.318</td>
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<td>1.740</td>
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<td>0.203</td>
<td>0.156</td>
<td>-0.020</td>
<td>0.111</td>
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<td>-0.015</td>
<td>-0.015</td>
<td>-0.015</td>
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<td>-7,482</td>
<td>-7,482</td>
<td>-7,481</td>
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Notes to Table 2: Means and (standard deviations) are for the term limit 0.181 (0.385), legislator salary 0.267 (0.218), state population 0.007 (0.006), per capita income 0.165 (0.024), expected closeness of the election 0.801 (19.15).
TABLE 3: Estimation relating the number of minor party candidates to various measures of ballot access restrictions for 1998 and 2000 state House elections
N = 6,641 member-years. Robust standard errors are in parentheses below coefficient estimates. Estimates adjusted for non-independence of observations within states.

<table>
<thead>
<tr>
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<th>(ii)</th>
<th>(iii)</th>
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<td>candidates in real 2,000 dollars</td>
<td>(0.0004)</td>
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<td>2.47e-7</td>
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<td>2.48e-7</td>
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<tr>
<td>candidates squared</td>
<td>(1.43e-7)</td>
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<td>(1.35e-7)</td>
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<td>Signature requirement for minor party candidates</td>
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<td>-</td>
<td>-7.78e-6</td>
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<td></td>
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<td>(8.83e-6)</td>
<td>(1.13e-5)</td>
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<td>0.237</td>
<td>0.277</td>
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<td>(0.358)</td>
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<td>(0.004)</td>
</tr>
<tr>
<td>obtained by winning candidate)</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Election year indicator</td>
<td>YES</td>
<td>YES</td>
<td>YES</td>
<td>YES</td>
</tr>
<tr>
<td>Log-likelihood</td>
<td>-3,571</td>
<td>-3,533</td>
<td>-3,655</td>
<td>-3,533</td>
</tr>
</tbody>
</table>

Notes to Table 3: Means and (standard deviations) are for the term limit 0.179 (0.384), legislator salary 0.262 (0.218), state population 0.007 (0.006), per capita income 0.164 (0.024), expected closeness of the election 0.80.1 (19.20).