

**The Open Primary: Toward A Legislature
That Reflects the State**

Robert Naylor

In the last two decades, as declining Republican registration has pushed the party into a near death spiral, business groups became alarmed that the Legislature seemed to become inexorably more hostile on matters such as business and environmental regulation and education reform. Improving the climate for job creation seemed to be completely out of reach. At the same time, the Legislature often appeared hopelessly polarized in a way matched only in the House of Representatives.

Neither the anti-business bias nor the polarization reflected the broad electorate, which is more purple than blue and tired of political gridlock.

A funny thing happened on the way to oblivion: a political reform that has actually worked.

The open primary (authored by moderate Republican Senator Abel Maldonado and placed on the ballot by a Legislature that needed his vote to avoid fiscal calamity) is transforming the Legislature.

The reformers who backed the open primary ballot measure hoped that candidates who had to campaign in both the primary and general elections to all the voters in a district, not just to their narrow partisan bases in the primary, would prove to be more centrist in their behavior and not completely beholden to powerful special interests in their parties. In districts where one party is completely dominant, two members of the same party would face off and have to campaign for votes from the other party. It was hoped the more extreme partisan candidate (who often had a lock in the closed primary) would sometimes lose in the general election. That potential challenge from within their party would also face incumbents, tending to moderate their political behavior.

What reformers hoped for has actually happened through two cycles under the open primary.

Before the open primary, there was a small cadre of moderate Democrats from blue collar districts in the Central Valley and the Inland Empire, and once in a while a few others would slip through the partisan primary meat grinder. But their lives were difficult — having to suffer not only derision from colleagues for killing their legislation but also facing the prospect of being “primaried” in the narrow partisan base of a low-turnout primary. The same could be said for Republicans who wanted to be more collaborative — as in supporting bills they felt were improved by their proposed amendments.

There also were not enough moderate Democrats to make a difference unless they held together all the time. That was a high political hurdle, and their influence declined as Republican membership declined.

Now, by some accounts, there are as many as 24 “mod” Democrats in the Assembly, almost half the caucus. As a practical matter, they may well hold the balance of power on many business and environmental issues. The Senate’s “mod” caucus has not reached a critical mass, but it is growing.

This has happened because the business community and moderate Democratic interest groups involved in such issues as education reform and infrastructure development have identified and backed centrist Democrats in districts where, formerly, the most ideologically rigid candidate in a closed primary was the inevitable winner, and many of these centrists have been elected. Tony Quinn’s article in this issue recounts some examples.

The open primary has also unshackled Republicans (in both the Legislature and Congress) with a more moderate bent to vote their consciences on matters such as immigration reform without fearing a closed-primary backlash.

Anecdotally, this reform has improved the civility of politics in the Legislature. I have noticed the style of debate in the contentious Assembly has vaulted in politeness and mutual respect. It must be that campaigning to voters from all parties makes it easier to be friendly across the aisle in the Capitol. (To be fair, Speaker John A. Perez actively promoted civility in public debate.)

It hasn’t hurt matters that the Legislature did not have to pass redistricting plans since the independent redistricting commission performed that task. The 1981 gerrymander poisoned legislative relations for years.

The open primary has had another impact: it has empowered decline-to-state voters by giving them better choices (candidates not exclusively from the partisan extremes and candidates often more evenly matched) in the general election.

By the way, 81 percent of the Assembly has been elected under the new system and will not be termed out until 2024 and 2026.

The chief critics of the open primary are those factions of both parties who used to control most of the closed primary races. Those factions still have ample representation, but no longer a lock on ideas or power. The governmental dysfunction that resulted from closed primaries may now be mostly a thing of the past. Other states should follow California’s example, and that could change Congress.

Robert Naylor is former Minority Floor Leader in the Assembly and chair of the California Republican Party. A former partner of Nielsen, Merksamer, Parrinello, Mueller & Naylor, he is currently President of Robert W. Naylor Advocacy.