

NCSL: The Perils of Success

State Legislatures

By Tim Storey

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It is hard to find a Democrat who isn't bullish about the party's chances in legislative elections this fall.

They cite President Bush's low job approval ratings and polling data indicating voters prefer generic Democratic candidates to Republicans by more than 10 percent. A large majority of Americans think that the country is on the wrong track, according to polls, so the Democratic message of change may be a powerful rallying cry. However, the biggest challenge for Democrats may be their success in 2006.

Republican political strategist Reed Galen agrees this year appears to favor Democrats, conceding that "the Republican brand is damaged goods right now." But, he adds, "a week is a lifetime in politics and three months is an eternity."

Anything can happen before Nov. 4, and Galen is optimistic. "They have to believe they can turn it around and work hard to make the race about local issues."

In terms of legislative seats, there may be few easy targets left for Democrats after they scored big gains in the last election cycle. Democrats picked up more than 325 seats and 10 legislative chambers in 2006. They now hold just under 55 percent of all legislative seats. It is the high mark for Democrats since Republicans crushed them in 1994 and brought partisan parity to legislatures for most of the past decade.

Charlie Cook, publisher of the Cook Political Report, agrees the outlook for additional Democratic gains is good. "I think optimism by Democrats is understandable because of the numbers—whether it's fundraising, polling or projected turnout, Democrats hold a big advantage," he says. "If Democrats don't score a boatload of victories in congressional, Senate and state races, I'll be shocked."

Then again, Cook admits "the political pundit class has been so wrong about so much in the past year" that anything can happen.

With only a small number of governor races in 2008, legislatures are the main battlefield for control of states. There are legislative elections in 44 states with a total of 5,824 legislative seats up for grabs. That represents 79 percent of the 7,382 total legislative seats in the United States. In addition, 78 legislative seats are up in Puerto Rico, 20 in American Samoa and all 15 Senate seats in the U.S. Virgin Islands. There are no legislative elections this year in Alabama, Louisiana, Maryland, Mississippi, New Jersey and Virginia. In Michigan and Minnesota, there are no senate elections, but all house seats are up.

Delaware, Indiana, Missouri, Montana, North Carolina, North Dakota, New Hampshire, Utah, Vermont, Washington and West Virginia elect governors this year. Most are not considered competitive, with the exception of Missouri and Washington. University of Virginia political scientist Larry Sabato rates both as toss-ups. Headed into 2008, Democrats control the governor's mansion in 28 states and Republicans in 22. In the 11 states up this year, Democrats hold six of the governors and Republicans five.

Partisan Landscape

The Democratic advantage in governors is matched in legislatures. Democrats control both chambers in 23 states compared to 14 for Republicans. In 12 states, party control is divided. (The Nebraska Legislature is both nonpartisan and unicameral.) The last time Democrats controlled more than 23 states was before the 1994 election, when Republicans walloped Democrats by seizing the majority in 21 chambers. Currently, Democrats have a 57 to 39 edge in control of individual chambers. There are two legislative bodies that have an equal number of Republicans and Democrats—the Oklahoma and Tennessee senates.

History suggests that success for either Senator John McCain or Senator Barack Obama will produce a coattail effect. Since the 1940 election of Franklin Roosevelt, the party winning the presidency has gained legislative seats in 11 of the 17 elections. That trend did not hold in 2004 when Republicans suffered a net loss of 25 seats despite George Bush's reelection. On average, the party that wins the White House adds more than 125 legislative seats to its column.

Going into this election, there are 3,993 Democratic legislators—almost 55 percent of all seats held by the two major parties. There are 3,310 Republican legislators—45 percent of the total. Only 21 legislators are independent or from other parties.

On The Bubble

At least 28 of the 84 legislative chambers with elections this year can be called battlegrounds with either party having a chance to emerge with a majority. At the top of the list are the Oklahoma and Tennessee senates, which are tied. In nine other chambers (Alaska Senate, Maine Senate, Montana Senate, Nevada Senate, New York Senate, Indiana House, Montana House, Oregon House, and Pennsylvania House) a shift of only one seat would change the majority.

The list of key states that are on the bubble may be most remarkable because it includes several of the biggest states where legislative control could have a major impact on congressional redistricting of large U.S. House delegations in 2011. The house in Michigan, Ohio, Pennsylvania and Texas, along with the New York Senate, are all close enough to be in play.

Republicans have only a one-seat majority in the New York Senate after Democrats won a special election earlier this year. Democrats have not controlled the Empire State Senate since the 1966 election and have had the majority for only 14 of the past 100 years. It would be a big prize for Democrats.

But many of the closest battleground chambers will have Democrats on the defensive. Republican strategists are especially hopeful about the GOP's prospects in the Indiana House, Maine Senate, Michigan House, Pennsylvania House, Tennessee House and Wisconsin Senate. The key according to Carrie Cantrell, spokeswoman for the Republican State Leadership Committee, is remembering that all politics are local. She says Republican candidates "have had great success by running races focused on local issues and things that matter directly to the district." Cantrell adds that the national GOP legislative effort is meeting fundraising targets and has a strong organization in place.

For Democrats, the best chances for taking control appear to be the Delaware House, Montana House, Nevada Senate, New York Senate, Ohio House, and Wisconsin Assembly. None of these will be easy. Michael Sargeant, executive director of the Democratic Legislative Campaign Committee, is taking nothing for granted. "We're excited about our chances for gains this year, but our candidates still have to get out and work hard."

Turnout

The fate of legislative races in 2008 may hinge on which presidential campaign wins the "ground game," also known as get-out-the-vote. Getting voters to the polls is always a vital exercise and many signs point to 2008 voter turnout breaking all records.

Kathleen Hall Jamieson, director of the Annenberg Public Policy Center at the University of Pennsylvania, says "if the Obama campaign successfully mobilizes younger voters, that will be the single biggest new factor in this election and could have a huge impact on state legislative races."

Because of hotly contested primaries, particularly on the Democratic side, voter participation in primaries (not including caucuses) shattered previous high marks. According to political researcher Rhodes Cook, who publishes the Rhodes Cook Letter, more than 58 million voters showed up to cast ballots in the 2008 primaries representing a 65 percent increase from the previous high of 35 million in 1988. Voter registration numbers also surged because of enthusiasm about the primaries and caucuses, especially among Democrats who added 1 million new voters in the 37 states that register by party.

Voters under 30 showed up in dramatic numbers for the 2008 primaries and caucuses. According to The Center for Information & Research on Civic Learning & Engagement, more than 6 million voters under the age of 30 participated in the presidential nominating process. The youth turnout rate for primaries more than doubled in 2008 from 2000.

Rhodes Cook says that the bulk of new registrants are on the Democratic side, but cautions that "many new voters are still up for grabs" because both McCain and Obama are relatively unknown.

Campaign Spending

It seems likely 2008 will again set records for spending on legislative campaigns, even accounting for inflation. The money needed to run state legislative campaigns has increased dramatically in recent years with the most expensive races being the handful of targeted, highly competitive seats that determine chamber control. In 2006, candidates and party caucuses raised a whopping \$1 billion to spend on legislative elections. Data from The National Institute on Money

in State Politics show that for the 2006 general election, legislative candidates raised \$859 million, 32 percent more than the \$653 million raised in 2002. In addition, legislative caucuses kicked in more than \$163 million.

Ed Bender, the director of the institute, says campaign money in large states like California, Pennsylvania and Illinois accounts for the biggest share of the total. And the money gets directed primarily toward the swing districts. Most candidates do not spend more than a few thousand dollars—most of it raised from friends, family and constituents. However, it is not unusual for a handful of races to spike into the millions even in medium-size states.

Redistricting Impact

The key motivation to control a legislature, and the overall state government, is to advance the party's agenda, and Democrats and Republicans offer clear policy differences. In a range of issues—immigration, health care and energy to name three—the federal government is deadlocked, and states are both innovators and leaders.

However, this election year there is an added incentive for victory—redistricting.

For the party seeking to wield influence over the pending redistricting cycle, 2008 stands as a critical election. This year, 642 senate seats in 30 states will be filled and not be up again until after the 2010 census numbers are reported and redistricting starts in 2011. Those senators, elected to four-year terms, will help redraw boundaries for congressional and state legislative districts to be used throughout the next decade.

In most cases, it is half of the senate seats that are elected this year to four-year terms, but in three states (Kansas, New Mexico and South Carolina) the entire state senate will be elected. The North Dakota House is the only lower chamber in the country where members serve four-year terms and the terms are staggered. Half of North Dakota House seats are up this year and those 47 legislators will also be in office for redistricting.

Economy An Overriding Issue

Sabato, of the University of Virginia, is emphatic that the only issue that will matter this year is the economy. Pocketbook issues seem to be in the front of voters' minds in every poll and focus group, with frustration over rising gas and food prices leading the list. Terry Madonna, director of the Center for Politics and Public Affairs at Franklin and Marshall College in Pennsylvania, says that "when legislative candidates are out knocking on doors, they're going to hear about gas prices, energy, affordable health care, the mortgage crisis—classic kitchen table issues."

And a U.S. economy weathering troubling times may lead to an unpredictable campaign. It will also be a big challenge for whichever party holds the reins when legislatures convene in 2009. Many lawmakers will be welcomed by dismal news about state budget prospects. While a few states, primarily those with oil and gas, have a positive economic outlook, most face a very challenging budget environment.

So will it be a Democratic year? Most political pundits and consultants looking at the polling numbers in the middle of the summer think so, although the race for the White House could be very close.

“The strong trend is for a big Democratic year, but everything in politics is cyclical,” Sabato says. “2010 might very well be a big Republican year. It’s quite possible that the pendulum swings the other way in 2010—just in time for Republicans to bounce back for redistricting.”

CHECK OUT StateVote 2008 for a rundown on how the legislative races stack up, campaign news and more at www.ncsl.org/magazine.

Leaders Not Returning in 2008

At least three dozen state legislative leaders are leaving office at the end of the year.

This is a list of who is leaving as of press time.

Arizona

Senate Minority Leader Marsha Arzberger
Senate President Timothy Bee

Arkansas

Senate President Pro Tem Jack Critcher
House Speaker Benny Petrus
House Minority Leader Johnny Key

California

Senate President Pro Tem Don Perata
Senate Minority Leader Dick Ackerman
House Speaker Fabian Núñez

Colorado

Senate Majority Leader Ken Gordon
Senate Minority Leader Andy McElhany
House Speaker Andrew Romanoff
House Majority Leader Alice Madden

Connecticut

House Speaker Jim Amann

Florida

Senate Majority Leader Daniel Webster
Senate Minority Leader Steven Geller
House Speaker Pro Tem Marsha "Marty" Bowen
House Minority Leader Dan Gelber

Maine
Senate President Beth Edmonds
House Speaker Glenn Cummings

Michigan
House Minority Leader Craig DeRoche

Missouri
Senate Minority Leader Maida Coleman
Senate President Pro Tem Michael Gibbons
House Speaker Rod Jetton

Montana
Senate Minority Leader Corey Stapleton

Nebraska
Senate Executive Board Chairman L. Patrick Engel

New York
Senate President Pro Tem and Majority Leader Joseph Bruno

Ohio
President Pro Tem Jeff Jacobson
House Speaker Jon Husted
House Majority Leader Larry Flowers
House Minority Leader Joyce Beatty

Oklahoma
President Pro Tem Mike Morgan

Oregon
House Speaker Jeff Merkley

South Dakota
House Majority Leader Larry Rhoden
House Minority Leader Dale Hargens

Vermont
House Speaker Gaye Symington

Tim Storey is NCSL's elections expert.

http://www.ncsl.org/magazine/articles/2008/08slsep08_perils.htm