SENATOR FOR A DAY MOCK LEGISLATION

Senate Bill 10 – Repealing Closed Primaries

Why independents can't vote in the 2024 Pa. primary, and the slow-moving push to change that

https://www.wesa.fm/politics-government/2024-04-15/pennsylvania-closed-primaries-independents-why

By: Kate Huangpu April 15, 2024

Millions of voters are expected to cast ballots during Pennsylvania's April 23 primary, choosing candidates to represent the Democratic and Republican parties in November.

More than 1 million registered voters will also be excluded from that process.

Pennsylvania is one of 10 states with a closed primary system. That means only voters who are registered to a major party may participate in its primary election.

More than 1.3 million people in Pennsylvania are registered without a political affiliation or with a third party. Such voters can still participate in statewide referenda, local ballot initiatives, and special elections that coincide with the primaries.

Good-government advocates and lawmakers from across the political spectrum want to change this system, arguing that the closed primary system disenfranchises independent and third-party voters.

They also say that if the state's primaries were open, unaffiliated voters would serve as a mitigating force that could dilute support for extremist candidates and decrease polarization.

Pennsylvania's five most recent governors signed an open letter last spring that voiced support for the change, writing that "our political system has changed over the past two decades" and now requires the state to adjust its approach.

"Primary elections are often decided by a few more extreme voters. Candidates elected by those more extreme voters don't have as much incentive to engage in the compromise and give and take that is so essential to effective governing. Adding independent voters to the primary mix will help," the governors wrote.

The good-government group Committee of Seventy has an initiative, Ballot PA, dedicated to advocating for open primaries. David Thornburgh, who chairs the initiative and is the son of late Republican Gov. Dick Thornburgh, said he sees the upcoming election as a missed opportunity.

"The bad news is here comes another primary with 1.2 million voters locked out," Thornburgh said. "The good news is that there continue to be windows of opportunity and momentum."

There have been pushes in the legislature to open Pennsylvania primaries over the past few decades, but none have gotten very far.

In 2019, the GOP-controlled state Senate voted 42-8 for a bill that would allow independents to participate in either the Democratic or Republican primary election. The legislation, sponsored by then-President Pro Tempore Joe Scarnati (R., Jefferson), was not considered by the state House.

At the time, the lower chamber was controlled by Republicans. After Democrats won control of the state House in 2022, supporters of open primaries expressed hope that the new majority would prioritize such a measure.

So far, that hasn't happened.

The chamber's State Government Committee passed two bills on the subject last fall — one sponsored by a Democrat, one by a Republican. Only Democrats on the panel voted in favor of the bills.

Both bills would allow unaffiliated voters to choose which major party primary to participate in. The legislation introduced by state Rep. Marla Brown (R., Lawrence) goes a step further and would allow third-party voters to also make that choice.

State House leadership hasn't called up either measure for a vote, and Majority Leader Matt Bradford (D., Montgomery) has not come out in support or against the bills.

A spokesperson for the state House Democratic caucus said it is "still reviewing the bill."

Open primary supporters also face major hurdles in the state Senate

The chair of the upper chamber's State Government Committee, state Sen. Cris Dush (R., Centre), previously told Spotlight PA that he is opposed to opening the state's primaries. Dush controls which bills are considered by the committee, through which any open primary legislation would need to pass.

If a bill did advance out of the committee, it would still need to be called up for a floor vote by Majority Leader Joe Pittman (R., Indiana). A spokesperson for the state Senate Republican caucus said that discussions on open primaries are "ongoing" but its focus is on bills that would "restore voter confidence in our electoral focus."

Despite the lack of legislative action, Thornburgh is hopeful that this upcoming election season will further highlight the need to open primaries, as lawmakers in both parties condemn extremism.

"We're in a political season now and that will be brutal," he said. "We're trying to open up that conversation to make sure that includes independents."

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The U.S. has a 'primary problem,' say advocates who call for new election systems

https://www.npr.org/2023/09/18/1199318220/nonpartisan-open-primaries-explainer

By: Ashley Lopez September 18, 2023

Most state and federal primary elections in the U.S. are divided up by political party, and many are only open to voters who are members of a party.

Reform-minded advocates and many political scientists say this system is not working. They say relatively small numbers of voters are selecting their nominee — often in a district or state that leans strongly toward one party, so whoever wins the primary cruises to victory in a general election.

The group Unite America underscores what it terms the "primary problem" with this finding: In 2020, "only 10% of eligible Americans nationwide cast ballots in primary elections that effectively decided the winners in a supermajority (83%) of Congressional seats."

Experts and advocates say this electoral process excludes voters and leads to more extreme candidates who mainly appeal to activists, and could be exacerbating partisan polarization.

That's why there is a movement to rethink how states set up their primary elections and how voters choose which candidates advance to a general election.

From smoke-filled rooms to party primary elections

Modern-day party primaries in the U.S. originated about 100 years ago, according to Kevin Kosar, senior fellow at a right-leaning think tank called the American Enterprise Institute. He says the earlier system "was often riddled with corruption," and party primaries were created to allow voters a say in who got on their ballots.

"Back in those days, voters and various good government groups got fed up with candidates for office," Kosar says. "Those who appeared on the ballot were being selected by party bosses in smoke-filled back rooms. So the idea was, let's take this party selection process and open it up to the public."

Jeremy Gruber, senior vice president for the advocacy group Open Primaries, says at first, political parties were not happy with this change.

"Parties decided to make peace with primary elections," he says. "And rather than fight them, they began to claim [primaries] were theirs, not the voters'."

That's why at the beginning most primary elections were "closed," meaning you had to be registered with a party to participate. Gruber says initially these primaries worked well because almost everybody was either a Democrat or Republican.

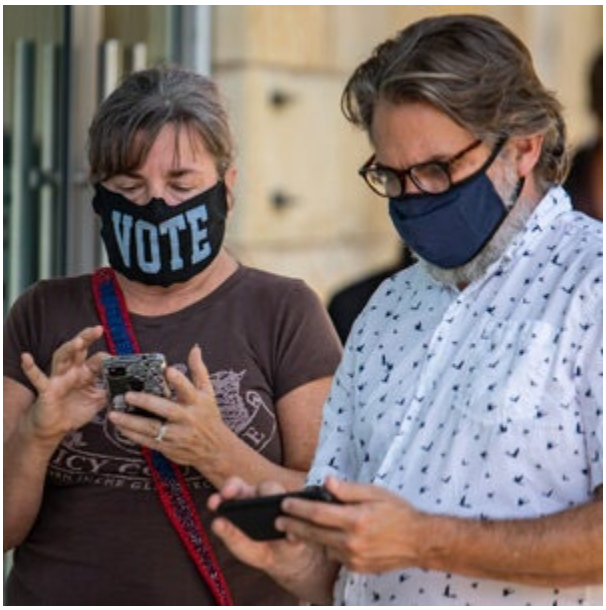
Closed vs. open primary systems

But in the past few decades more voters have identified as independent.

"What's happened is the electorate has gone through a massive sea change over the last 25 years," Gruber says. "Now, independents are the largest and fastest-growing group of voters in the country. Over 50% of our young people — the next generation of voters, millennials and Gen Z voters — are independent."

This is at least partly why many states have moved away from closed primaries. Only 16 states — including populous Florida and New York — still have either completely or partially closed primaries.

"So if you're an independent voter in those 16 states ... you do not get the right to participate in the primary," Gruber says. "Your taxes pay for them, but you don't get the right to participate. You only can participate in the general elections."



ELECTIONS

Voting online is very risky. But hundreds of thousands of people are already doing it

Lawmakers in Pennsylvania and New Mexico, for example, have considered legislation that would open their closed primaries to independent voters by letting them pick a party primary ballot to fill out.

There are efforts in some states to close primaries, however. In Colorado, the Republican Party sued the state in an effort to close its primary elections so that unaffiliated voters — Colorado's largest voting bloc — can't vote in them. In their suit, Republicans say political parties have the right "to choose their nominees for office without interference by those who are not members of the party."

Supporters of closed primaries have argued that sabotage from non-members is a serious issue and that voters who want to vote can simply register with the party that's most closely aligned with their views. According to the Pew Research Center, the vast majority of independent voters tend to "lean" toward either the Republican or Democratic Party.

The polarization problem in U.S. primaries

Gruber says states with closed primaries also have more polarization.

"You are starting to see states that shut out independent voters have primary elections that are more and more insular and are producing candidates that are less and less representative because fewer and fewer people are able to participate in them," he says. "And that's throwing the whole system of democracy in elections out of whack."

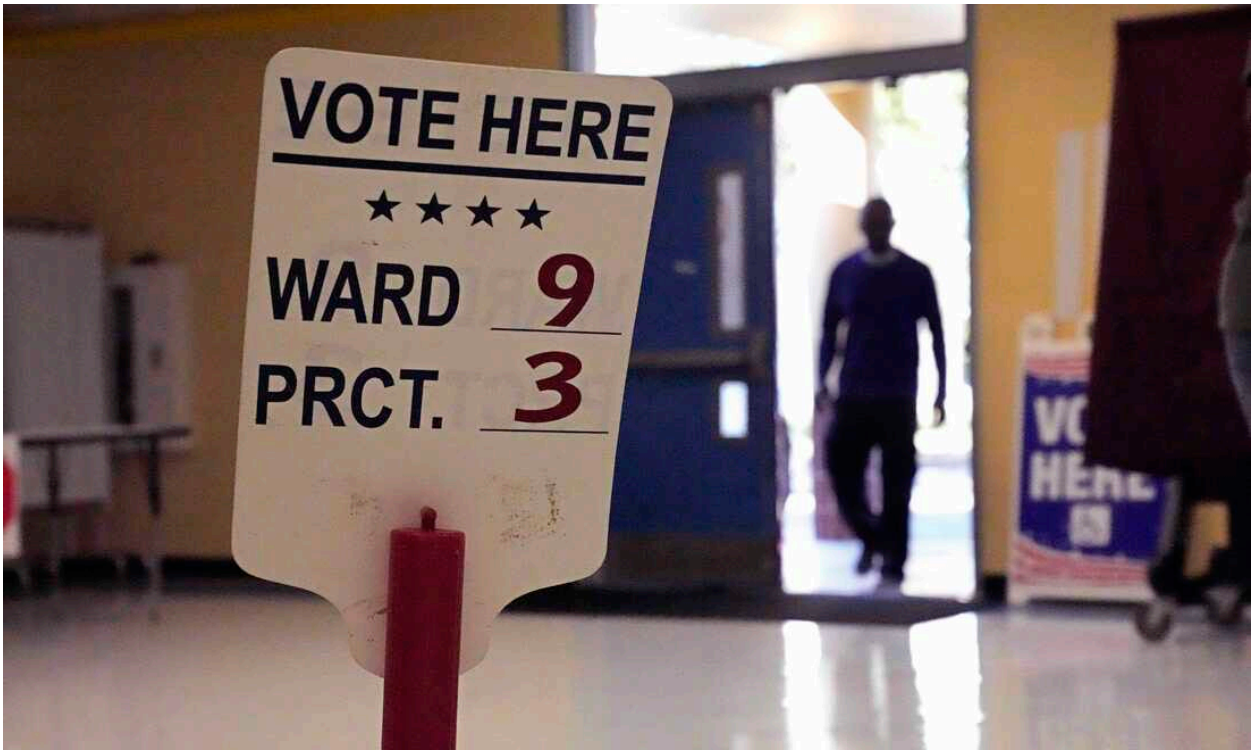
AEI's Kosar says polarization isn't unique to closed primary states, though. Voters have self-sorted themselves and are polarized on their own, but he puts some blame on partisan primaries.

"After 100 years of experimentation with this, we see that there are clear problems with this system — not least of which is that it produces candidates who frequently aren't particularly representative of the average voter," Kosar says. "And that is an issue for democracy."

Gruber says this is why nonpartisan primary elections are ideal. He says candidates who run in a nonpartisan system "no longer have sort of the necessary fealty to their party's agenda," compared with candidates who have to run in a party primary.

"They can run based upon entirely how they see their constituency and the issues that their constituency prioritizes," Gruber says. "You're starting to see a lot more representative politicians coming out of all of these systems ... so, we believe that a move to nonpartisan primaries as a public function is in the best interests of every state."

5 states with nonpartisan primary elections



A polling place in New Orleans is seen on Nov. 8, 2022. Louisiana has a unique nonpartisan primary system.

Gerald Herbert/AP

There are currently five states that run federal or statewide nonpartisan primaries: California, Nebraska, Washington, Alaska and Louisiana.

In these systems, all candidates from all parties are listed on the same ballot, and voters can vote for any candidate. In California, Washington and Nebraska's statehouse elections, the top two vote-getters — regardless of party — move on to the general election. In Alaska, the top four vote-getters move on. These systems are often referred to as "top-two" and "top-four" primaries.

Louisiana has perhaps the most unique system. In October during odd-numbered years and in November during even-numbered years, all the candidates appear on the same ballot. If a candidate wins in a majority (50% plus one vote) in their race, they win that election outright. If no candidate wins a majority, the top two vote-getters — regardless of party — run in a second election the following month. In that second election, whoever gets the most votes wins.

Kosar says states considering moving to a nonpartisan system will have to choose what works best for their population.

"Different voting systems are going to work differently depending on the demographics," he says. "A voting system that produces the best results for a purple state may not work so well in a deep red state."

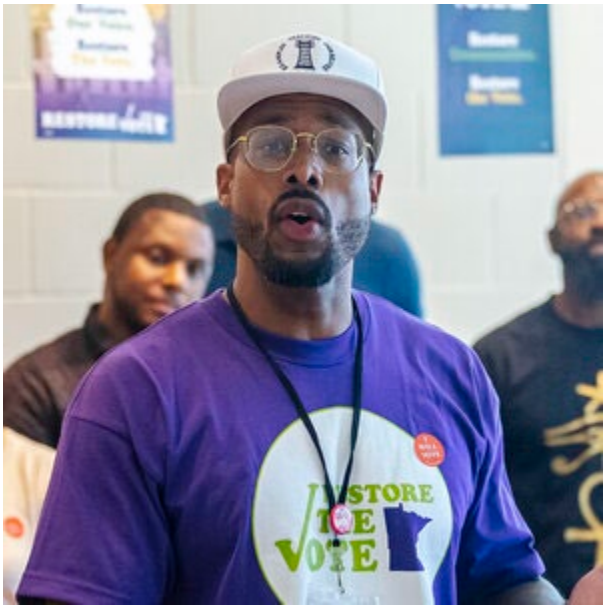
For example, he says, a top-two system would work well in a purple state because you are likely to get two candidates from different parties.

"But if it's a deeply blue or deeply red state, you're going to have a very narrow difference between the two candidates being put forth," Kosar says. "And that may not be the best."

More states are considering nonpartisan primaries. There are tentative proposals in South Dakota and Idaho, for instance. And Nevada voters will weigh final approval of a nonpartisan "top-five" system next year.

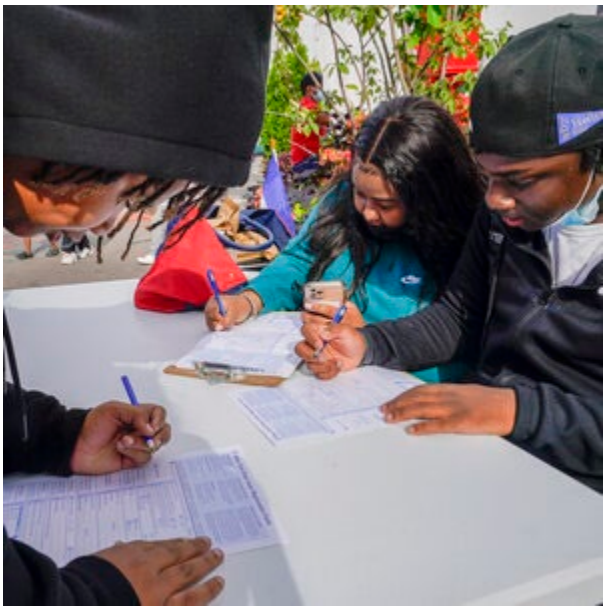
What research says about nonpartisan primaries

Gruber, the open primary advocate, says existing nonpartisan systems have already led to some significant changes. In California and Washington, which have had top-two primaries for over a decade, he says he's seen "quite a few things that I think are very positive," including more bipartisanship.



ELECTIONS

Minnesota returns voting power to thousands. The question is whether they'll use it



ELECTIONS

Some states are trying to boost youth voter registration. Here's what they're doing

But as far as whether these systems have led to the election of more moderate candidates, research has been mixed. A 2017 study published by Cambridge University found "an inconsistent effect since the reform was adopted" in both California and Washington.

"The evidence for post-reform moderation is stronger in California than in Washington, but some of this stronger effect appears to stem from a contemporaneous policy change—district lines drawn by an

independent redistricting commission—while still more might have emerged from a change in term limits that was also adopted at the same time," the researchers wrote.

A newer study, from 2020 from the University of Southern California, however, did find evidence that the top-two system in that state "reduced ideological extremity among legislators, relative to those elected in closed primary systems." Researchers wrote that the "ideological moderation in top-two and open primaries" was found among both incumbents and newly elected legislators.

Andrew Sinclair, an assistant professor at Claremont McKenna College in California, says the effect of nonpartisan primaries on voter engagement and satisfaction is somewhat mixed so far.

In deep red or deep blue states, general elections are not competitive and tend to disengage some voters. But if candidates are chosen in a top-two system, there could be a pretty competitive race between two candidates in the same party.

For example, a top-two primary could have a moderating effect in a race between two Democrats in a deeply Democratic state. That's because presumably Republican and independent voters would weigh in on the race too.

"The argument for moderation is that possibly the more moderate Democrat would have an advantage in that election," Sinclair says, "or perhaps the more competent or the more pragmatic [candidate]."

But Sinclair says concretely identifying that this system "actually has produced a moderating effect is hard" for a whole bunch of reasons.

"There are some political science papers that argue that there is one," he says. "Some argue that there isn't, but that it produces these types of elections in those places is pretty indisputable."

And elections with top-two candidates of the same party can have a serious downside, Sinclair says.

"The downside of the top two is that in those kinds of elections some Republicans don't vote," he says. "Some Republicans will say, 'Well, there's no, you know, person of my own party on the ballot, so I'm just going to skip this race.' And that's true. There is some roll-off in participation."

But Sinclair says this roll-off is what creates moderation.

"What it effectively has done is move the Democratic primary into the general election in those places," he says. "And that dramatically increases the number of Democrats and independents participating, and not all of the Republicans roll off ... and even if some Republicans roll off, you get some Republicans voting. And that's the pathway for moderation."

Regardless of the various tradeoffs, Kosar says, ideally states would be more experimental with how they structure elections so that politics become more palatable to voters — which he thinks is a laudable goal.

"A number of these electoral reforms aim to either depolarize or at least disincentivize gratuitous, bad or toxic behavior, which in many cases is rewarded by the current system," he says. "Being a jerk, being obnoxious, savaging others is rewarded. So if you change the incentives, the politicians are going to run differently. And I think a lot of people like that."