

CITY LIMITS

June 2, 2010

Drive For Nonpartisan Voting Confronts '03 Failure

Those pushing the Charter Revision Commission to propose an end to party primaries say politics has changed since voters rejected a similar bid seven years ago.

By Jarrett Murphy



Jarrett Murphy/City Limits

Those calling for an end to party primaries say that they exclude thousands of voters who do not belong to the Democratic party, whose nominees win most races in the city.

The city's Charter Revision Commission on Wednesday night was nearing the end of three hours of expert testimony--most of it about whether nonpartisan elections would be good or bad for New York City's democracy--when Commissioner Ernie Hart raised a practical question.

If a proposal to have nonpartisan elections were put before the voters in 2010, how would the commission do to avoid a repeat of what happened in 2003, when voters rejected such a change by a 70-30 margin?

That's the kind of strategic quandary now facing the 15 mayor-appointed commissioners as they mull ways to improve voter participation in municipal elections, which has dropped almost without interruption since the 1960s. One measure--the percentage of New York's presidential

race voters who return for the mayoral race the following year--fell from 67 percent in 2001 to 45 percent in 2009.

Wednesday's testimony--only the second of five "issue forums" where the panel is hearing from policy experts on areas of the charter that might change--raised a host of thorny issues. How much of the turnout problem is due to the mechanics of voting versus the larger political culture? What aspects of the democratic machinery can the charter commission change, given overriding state and federal law? How should the needs of different groups--un-affiliated voters, noncitizens, low-income residents, blacks and Latinos--be addressed? And how will the commission package its proposals come election day?

Supporters of the Independence Party who packed the hearing at Lehman College in the Bronx saw a simple answer to those questions: get rid of closed party primaries that prevent third-party members from voting in the contests that often determine the general election winner, thanks to the Democratic party's enormous registration advantage. They roared in approval of speakers who agreed with them, and hissed and booed those who didn't. And they found support on the expert panel, where two of the five witnesses backed nonpartisan elections.

"Right now, primary elections exclude 752,000 nonaligned voters," said Harry Kresky, a lawyer. And because the winner of the Democratic primary wins most general elections, "1.4 million are excluded," because Republicans also don't get to pick the winner. Kresky, who noted that 43 of the 50 largest U.S. cities and nine of the top 10 have nonpartisan elections, called for a "top two" voting system in which all candidates run in a single race with party identifications, and the top two vote-getters move to a second and decisive round. He rejected open primaries, which exist in several states where parties have voluntarily opened their primaries to voters registered in different parties, because those would still give particular parties outsized influence.

To the question of what is different since voters rejected nonpartisan elections seven years ago, Kresky pointed to Barack Obama's outsider run for the White House. "The political culture has changed, even since 2003," he said.

MIT Professor J. Phillip Thompson also backed nonpartisan elections, arguing that they would be unlikely to diminish black, Latino or low-income turnout, a common concern. To the argument that nonpartisan politics would empower self-financed candidates with little grassroots support, Thompson said: "I think the horse is already out of the barn on that." He added that nonpartisan voting is unlikely to affect mayoral races, but would "open up races at the City Council level."

Thompson's measured expectations contrasted with the sweeping terms in which some cast the question of nonpartisan elections. "This is a civil rights issue," Independence Party activist Bryan Puertas said after the hearing, comparing the plight of independent voters to blacks who were barred from white lunch counters in the Jim Crow south. Kresky compared the move toward nonpartisan elections to the historical shifts that gave blacks and women the vote. But election lawyer Jerry Goldfeder, another expert witness, pointed out that unlike blacks or women, the city's independent voters "have chosen not to affiliate, which is their right."

There was little debate about the underlying problem: turnout in the city is, in Commissioner Anthony Cassino's phrase, "abysmal." What's more, expert witness and Barnard professor Lorraine C. Minnite said, turnout in the city has a distinct class bias: One third of city residents have college degrees but 55 percent of those who turned out for the 2009 mayoral race did.

"There are real policy consequences when low-income voters don't get their voices heard," she said.

Indeed, while nonpartisan elections stole the spotlight, the evening's testimony placed a host of other methods for increasing turnout on the table. Primaries could be held in June to avoid the post-Labor Day dead zone of a September vote. Goldfeder mentioned early voting, instant runoff voting, weekend voting and same day registration as ways to open the process, along with "no excuse absentee voting," which would lift most of the current restrictions on who can mail in their vote. Commissioner Betty Chen raised the possibility of Internet voting, although the experts testified that such an approach comes with deep security and class-bias concerns. Minnite suggested the possibility of synchronizing the municipal elections with higher-turnout presidential races.

Making it easier not just for voters but for candidates is another area of potential reform. Despite reforms to make ballot access easier, "We still have 50 percent of the election litigation in this country," said Goldfeder, admitting that as an election lawyer he is part of that phenomenon.

Much of the evening focused on those who are registered but do not vote. Thompson, however, called attention to noncitizens, who pay taxes and can serve in the military but cannot vote. "At least 20 percent of New York City's voting age population are disenfranchised all the time," he said, warning darkly that disenfranchised people are "often tempted to find illegal means to have their needs met."

David Jones, president and CEO of the Community Service Society (which owns *City Limits*) noted that New York's formerly incarcerated are also disenfranchised.

What's more, Jones said, there are 800,000 New Yorkers who are eligible to vote but not registered. He argued that blame for their absence falls partly on the city's Voter Assistance Commission (VAC), which an earlier charter revision empowered to sign such voters up.

"Unfortunately VAC has been slowly diminished by budget cuts by each successive administration since 1989 and its nonpartisanship has been diminished by its being run out of the mayor's office," Jones said. Incumbents can't be trusted to oversee voter registration efforts, he added, because, "they have a real fear of voters they don't understand yet."