

**2009**  
**Marks the 101<sup>st</sup> Anniversary  
of Recall in Michigan**

**Michigan and Oregon**  
**First two States to  
provide for recall  
of public officials  
in their Constitutions  
in 1908**

**Earlier in 1903**  
**Los Angeles, CA**  
**Became the first city to  
provide for  
recall in their  
City Charter**

**16 States provide for  
recall of state officials**  
  
**36 states provide for  
recall of local officials**

**Since 1908**  
**Nationally only**  
**2 Governors have  
been recalled**  
**Lynn Frazier, North Dakota in 1921**  
**Gray Davis, California in 2003**

**Since 1908**  
**only 9 state legislators have  
been recalled**  
**CA – 1913, 1914, 1995 (2)**  
**MI – 1983 (2)**  
**OR – 1988**  
**WI – 1996, 2003**

**Recall is much more common  
at the local level  
than at the state level**

**In 1926 in  
*Newberg v. Donnelly*  
Michigan Supreme Court  
Required a showing of  
Malfeasance, Misfeasance  
or Nonfeasance before  
Recall could be commenced**

**That standard lasted 34 years when  
Michigan Supreme Court  
in 1960 reversed *Newberg* precedent  
and held that recall was a political  
not a  
judicial question  
(*Wallace v. Tripp*)**

**In 1961-62 delegates  
to Constitutional Convention  
were well aware of  
the *Wallace* Case  
reversing *Newberg***

**1963 Constitution  
Specifically provided:  
“...the reasons or grounds  
shall be a political rather than a  
judicial question”**

**In 1979 in an Attorney General Opinion,  
Frank Kelley opined that  
pending legislation to  
limit recall to malfeasance, misfeasance  
or nonfeasance would be  
unconstitutional in violation of the  
express terms of Article II, Section 8**

**Recall is not a self executing provision  
in the state Constitution  
It requires the legislature to enact  
laws regarding recall**

**Michigan Recall Law  
consists of 26 Sections  
of the Election Code**

**The problem with recall is a little like  
Michigan's problem with term limits:  
  
Not all Term Limits are created equal  
Not all Recall Laws are created equal  
Michigan adopted the wrong model for both**

**15 States have Legislative Term Limits  
  
Michigan followed a model adopted by  
only 3 states (MI, CA and AR)  
3 (2yr) terms – State House  
2 (4yr) terms – State Senate  
Lifetime ban**

**12 States have more flexible Term Limits  
  
Ohio Model  
4 (2 yr) terms – State House  
2 (4yr) terms – State Senate  
  
Can come back and serve again  
Restriction only on consecutive terms, not a  
lifetime ban**

**Three Models for Recall:  
  
Michigan  
California  
Wisconsin**

**Michigan Model:**

- **Clarity Hearing** on reasons for recall
- **90 Day Petition Drive**
- **Signature requirements equal to 25% of the total vote cast for Governor in that jurisdiction (Constitutional Requirement)**
- **Determination of signature sufficiency**
- **Special Recall Election**
- **Special Election to fill vacancy if Public Official is recalled. Recalled official cannot run in this Election**

**Process can last 10 – 11 months or more**

**Keeps a community in turmoil  
for far too long**

**California Model:**

- **120 day petition drive**
  - **Signature requirement equal to 12% of the total vote cast for Governor in that jurisdiction (Constitutional Requirement)**
  - **Two part recall election**
- **First question:**  
**Shall Gray Davis be recalled (removed)  
from the office of Governor?**
- Yes**  
 **No**

– **Second question:**

**Candidates listed to succeed Gray Davis  
as Governor, if he is recalled**

**Vote for one:**

**In 2003 Arnold Schwarzenegger was one  
of 135 candidates**

**If recall against Davis had failed,  
a lot of wasted effort**

**CA Model provides a greater incentive to  
toss the incumbent out**

**Wisconsin Model:**

- **Recall Committee simply registers (no need to state reasons for recall of state officials) and has 60 days to complete the petition drive**
- **Signature requirement equal to 25% of the total vote cast for Governor in that jurisdiction (Constitutional Requirement)**
- **Special Recall Election – Incumbent is automatically placed on the ballot. Other candidates can file to be on the ballot**
- **The highest vote getter finishes out the remainder of the term**

**Advantages of Wisconsin Model  
over Michigan's Recall Process**

- 1) **Limit petition drive to 60 days not 90 days**
- 2) **Allow incumbent's name to automatically appear on ballot – gives public official more of a fighting chance to keep his/her office by running against other candidates**

- 3) **Michigan's Recall Election: Public Official is measured against some imaginary ideal. Don't know who is likely to be the potential successor if the public official is recalled.**
- 4) **Recall in Michigan has become a public humiliation. In Wisconsin it is more a political contest between competing candidates.**

**The Michigan Legislature can adopt the  
Wisconsin Model  
by statute without the need to amend the  
State Constitution**