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H.3643 and H.3310, Closing Primaries by Party Affiliation

House of Representatives Constitutional Laws Subcommittee, Judiciary Committee

For 105 years the League of Women Voters has worked to ensure that all qualified electors have a voice in how we are governed. Closing South Carolina's primaries would surely impede that effort. Therefore, the League of Women Voters of South Carolina opposes H.3643 and H.3310. These bills would restrict participation in some of the most important elections in South Carolina and silence the voices of thousands of voters throughout the state.

The bills differ but each would limit voting in partisan primaries to registered supporters of those parties, with limited recourse for independent and otherwise unaffiliated voters. This matters because primaries are the elections in which individual votes are most powerful, with the greatest potential to allow a voter to elect someone of their choosing. For democracy to thrive, every voter must be able to participate fully in this primary election process, without impediment.

Issues around "Crossover" Voting

Voting in a partisan election by those not normally affiliated with that party might involve both those who usually support an opposing party and those who are unaffiliated with any party.

H.3643 attempts to include unaffiliated voters by allowing them to vote in a primary of their choosing, but only on condition that they subsequently register with that party. That requires a fundamental distortion of the identity of the elector who is not, in fact, a partisan of one party or the other. H.3310 permits parties to make their own decisions about whether unaffiliated electors are eligible to vote in their primaries. Neither option adequately addresses the right of electors to a meaningful vote even if they do not adopt a partisan identity.

There are two typical factors that might motivate "crossover" voting:

- A voter might decide that regardless of partisan affiliation a candidate of the party with which they are not normally affiliated is simply the best candidate for the office in question.
- A voter might recognize that a November election will not be genuinely competitive and wish to ensure that the candidate that the elector believes has a chance to win and is best qualified to govern wins, even though that candidate is not of a party usually supported by the voter.

The wish to help select a candidate that the elector believes is best qualified to represent their interests and has a realistic chance of winning, is entirely legitimate. Every voter, whether affiliated or independent, should be able to do this without claiming a false identity by registering in a party with which they normally disagree.

While some argue that open primaries open the door to malicious crossovers, in which members of an opposing party intervene to weaken the opposition to their favored party, in practice this is not a significant problem. The best-known malicious attempt to manipulate a primary in our state

using crossover voters, Operation Chaos in 2020, failed badly in its mission.¹ Few voters are interested in that game.

The Right of Association vs. The Right to Vote

Political parties have claimed a constitutional right of association, a right to prevent those not committed to their party from helping determine their candidates. This is a legitimate constitutional right that has been protected by the courts, but should not overcome the most basic of rights, that of all citizens to cast a meaningful vote to select someone who will govern according to their interests and wishes. This is especially true when these same officials already have been instrumental in drawing distorted maps that significantly affect general election outcomes.

In South Carolina the primary is usually the last truly competitive opportunity for a voter to choose a candidate who represents their interests and concerns. This is very often true of statewide elections and of most federal and local elections. In some cases, this is a product of natural population distributions. However, gerrymandering has made even those South Carolina elections that should be highly competitive heavily biased toward one party.² The primary election of that party therefore assumes great importance in how we are governed, in part because of intentional manipulation.

Consequences of Closed Primaries

Preventing any qualified elector from voting in the primary of their choice deprives that voter of a genuine opportunity to help elect someone most consistent with their interests and views, but this individual impact is not the end of the unfortunate consequences. Closed primaries increase extremism in candidates and consequently in governance.

Our South Carolina primaries already face a serious problem with turnout – historically, both major parties have failed to motivate their voters to participate in any primary election. Turnout in South Carolina is routinely a pathetic 12%-20% for the major parties combined. The results of this low participation already include the election of “unrepresentative” candidates who do not actually represent, and are often more extreme than, the voters of each party.³

¹ “Operation Chaos” encouraged Republican voters in South Carolina to cross over to vote for Bernie Sanders in the 2020 Democratic presidential primary. The goal was to promote a candidate who could not be elected nationally. However, this was insufficient to have the intended effect. Sanders came in a distant second. Few voters are willing to cooperate in this strategy. Jarrett Renshaw, “Republicans’ ‘Operation Chaos’ seeks to undermine South Carolina’s Democratic primary, Reuters, 27 Feb 2020. <https://www.reuters.com/article/us-usa-election-south-carolina-republican/republicans-operation-chaos-seeks-to-undermine-south-carolinas-democratic-primary-idUSKCN20L1FF>

² General Assembly leadership has admitted their distortion of the election process through gerrymandering in both federal and state courts. South Carolina Congressional District 1 (SC CD-1), for example, would be highly competitive if designed according to traditional redistricting principles without distortion to protect incumbents or parties. League of Women Voters statistical assessments, presented in testimony during and after the 2020 census redistricting process, demonstrate that the South Carolina General Assembly districts were drawn to protect incumbent and partisan interests. South Carolina’s electorate is basically 60% Republican and 40% Democratic, but the state has strong legislative supermajorities for one party and artificially inflated majorities in individual districts.

³ Kevin Singer, “How Closed Primaries Give Us Unrepresentative Candidates – and How to Fix It.” Unite America. 12 September, 2025. <https://www.uniteamerica.org/articles/how-closed-primaries-give-us-unrepresentative-candidates-and-how-to-fix-it>

Those who follow the very reputable Winthrop Polls know that our state politics are already skewed away from the dominant views of voters, even adjusted for party affiliation. The majority in each party is more moderate than many of the candidates selected in primary elections. With independents effectively shut out of a meaningful electoral role by these bills (unless they are willing to claim an affiliation that they do not actually support) election results would be even more reduced to the most partisan and extreme core of each party.

Furthermore, special interests are impacting primaries. Ideological groups are two to six times more likely than business or labor groups to contribute campaign funds in primaries. When those challengers face incumbents backed by mainstream PACs or party networks, the ideological candidates are four times more likely to win.⁴ This too tends to increase extremism. We should not amplify this effect.

Our problem with primaries is not crossovers; it is not too many people with too broad a range of perspectives voting in any election. Our votes matter most in the primaries, and every voter has a right to cast their vote in a way most likely to shape how they are governed. South Carolina's citizens must be encouraged to participate in these important elections. We don't need to make a bad situation worse by closing our primaries.

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⁴ Ibid.