

HILL'S ELECTION EXPERTS: 21 DAYS HARD TO DO

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Roll Call

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As Members debate how best to ensure continuity of Congress, one of the foremost issues is whether special elections could be expedited enough to ensure a representative House.

While the Senate Judiciary Committee has sought the opinions of state elections officials on the feasibility of speeding up special elections, Congress has eight resident experts of its own: Six House Members and two Senators have overseen elections as secretaries of their respective states.

Those interviewed for this article were deeply divided about whether it is possible - or even desirable - to hold special elections three weeks after a catastrophic event. A bill introduced by Reps. David Dreier (R-Calif.), Jim Sensenbrenner (R-Wis.) and Candice Miller (R-Mich.) proposes that time frame if the Speaker determines that more than 100 House Members have been killed. In addition to Miller, who served as Michigan's secretary of state prior to being elected to Congress, the bill is co-sponsored by Rep. Tom Cole (R), who was previously Oklahoma's secretary of state.

"I think, frankly, [a special election] takes a lot less time than people think," Cole said. "In a national emergency situation, people will realize that requires them to move a lot quicker."

Cole said he sees the bill as a starting point and that 30-45 days "is a very

reasonable time frame." In the meantime, he said, "the country can function where the executive functions with Congress approving [the decisions] ex post facto."

When Sen. John Cornyn (R-Texas), chairman of the Judiciary subcommittee on the Constitution, recently requested advice from state and local elections officials, a handful of the 34 who responded agreed with Cole's time frame of 30-45 days. They said with near unanimity that 21 days was too tight - both logistically and as a matter of maintaining democratic integrity.

"It is an incredibly compressed time frame and I am cognizant of that," Miller said. "I realize on first blush how crazy it sounds. Maybe it cannot happen in 21 days. Maybe it needs five weeks."

But she defended the overall premise of the bill - that by eliminating the primary process (state parties would nominate the candidates), special elections could be dramatically compressed from the average of 120 days they now take.

She said Michigan, thanks to the Help America Vote Act, will soon have uniform voting equipment in all of its 5,300 precincts, meaning that vendors could have camera-ready ballots in advance that would only need candidates' names to be plugged in.

"The Department of Defense already has had pilot programs to vote over the Internet," she added.

Sen. Jay Rockefeller (D), who served as West Virginia's top elections official from 1969 to 1973, agreed that "it's tremendously about technology. They

couldn't have [done it] when I was secretary of state because they had paper ballots. Now maybe they can, particularly if they are instructed by law."

Testifying before the Senate Judiciary Committee last week, however, the director of the Military Voting Rights Project tried to pour cold water on the notion that an Internet voting program, at least for the armed services, could be expanded quickly.

Samuel Wright told the panel that although 84 military personnel voted electronically in 2000 and as many as 100,000 will be able to vote that way in 2004, the other 1.3 million active duty service members must vote by traditional means, using snail mail.

"It will be many years, if ever, before the Department of Defense and state and local election officials will be ready to implement electronic absentee voting for a special Congressional election held with just three weeks notice," he said.

At the hearing he chaired, Cornyn expressed deep concern with holding any election that would disenfranchise any segment of the population, especially the military, which would likely have the most at stake in such a vote.

Rep. Sherrod Brown (D), who served as Ohio secretary of state from 1982 to 1990, also voiced reservations about ballot-access issues, which would also affect citizens living overseas and those who usually vote absentee because they have difficulty getting to polling booths.

"It's hard to think you could do it

correctly in less than three months," Brown said.

Demonstrating how conflicted Members themselves are about the issue, Brown then added, "I think elections officials could do it if parties came up with candidates in three to four days."

But the ramifications of holding an election that way caused him to quickly pivot back: "I don't know if that's the best public policy to not give the voters a little more time. While the elections officials could [do] it, I don't think it's fair to the voters to compress it so tightly."

Sen. Evan Bayh (D-Ind.) had similar doubts about the ramifications of holding a special election so quickly.

"Twenty-one days is not a very long period of time for a candidate to become known," said Bayh, Indiana's secretary of state for two years in the 1980s. "In three weeks' time chances are only the wealthy and well-known would get elected" and majority-Democratic districts would probably just send the Democratic candidate and majority Republican candidates send the GOP nominee.

"Clearly it's not an ideal situation," said Rep. James Langevin (D-R.I.), summing up the feelings of most Members about the situation - regardless of whether they think a constitutional amendment is necessary, believe special elections are sufficient or haven't decided.

"Under the normal process it would be very difficult to have an expedited election that could actually occur before 90 days. What is being proposed is

eliminating some of the normal filings and signature requirements. It could be done in some shape or form in an expedited way," said Langevin, secretary of state in Rhode Island from 1994 to 2000. "I would also entertain the possibility of appointing Members to serve. I haven't definitely decided."

The 17th Amendment allows governors to appoint Senators, but House vacancies have to be filled by special election.

At a press conference last week with Reps. Brian Baird (D-Wash.) and Martin Frost (D-Texas) imploring House leaders to allow time for a floor debate on a constitutional amendment allowing the temporary appointment House Members in time of crisis, Langevin seemed to lean toward such an amendment in addition to expediting special elections.

The other two Members who have served as secretaries of state - Rep. Katherine Harris (R-Fla.) and House Majority Whip Roy Blunt (R-Mo.) - didn't respond to requests for comment.

But the concerns voiced by the former secretaries of state now in Congress were raised with much more alarm by current state and local elections officials.

Of the 34 letters received by the Judiciary Committee, only two officials expressed confidence that expedited special elections could be realistically implemented on the 21-day time frame, and even their endorsement wasn't unqualified.

All of the responses, including those two, expressed mild to serious concerns about holding elections so quickly. In addition to issues relating to the actual

mechanics, the issues raised included the likelihood of disenfranchising both candidates and voters and undermining public confidence in the legitimacy of the election process.

At the Judiciary hearing, Doug Lewis, director of the Election Center in Houston, put the issue this way: "Do we suspend democratic processes in order to get democracy? Can we have a special election in 21 days? Yes. But it would not be what American knows and understands as an election.

"If you work with this long enough you find out this doesn't happen overnight. We have done this so successfully for so long that we take it for granted," Lewis said.

Yes, Dreier said in his testimony, but election infrastructure can be built. The character of the House, once changed, cannot be changed back, he said.

"A constitutional amendment may seem easier than planning, creating and implementing the infrastructure necessary to ensure rapid and fair elections in the face of mass vacancies," Dreier told the panel. "However, in the long term, I believe that after a national crisis, we should still choose to have faith in elections, not selection."