

NOTES

YOU'RE FIRED!, THE VOTERS' VERSION OF "THE APPRENTICE": AN ANALYSIS OF LOCAL RECALL ELECTIONS IN CALIFORNIA

RACHEL WEINSTEIN¹

I. INTRODUCTION

Direct democracy provisions provide American voters in many parts of the United States with the power to write new laws, repeal old laws, and throw out public officials. "Direct democracy" encompasses the initiative, referendum, and recall: the common thread among these three tools is their "delegation of political decisions to the ordinary voter."² The three devices are used at both the state and local levels of government, though they are more common at the local level.³ Although there is significant scholarship detailing the use of direct democracy at the state level, despite the frequent use of direct democracy, little is known about it at the local level. A recent study provides some insight into local initiative use, but to date there have been no comprehensive studies detailing the widespread use of the recall at the local level.⁴

Similar to the initiative and referendum, recall provisions are more likely to be found in larger, central cities in the West.⁵ Estimates suggest that as many as 4,000 to 5,000 recall elections have been held and several thousand more petitions have been circulated.⁶ Approximately three-fourths of all recall elections occur at the city council or school district level.⁷

¹ J.D. candidate, 2006, University of Southern California Law School; B.A., Political Science, University of California, San Diego, 2001. I would like to thank Professor Elizabeth Garrett for her insight and guidance throughout the writing process. I would also like to thank my family for all their love and support.

² Nathaniel Persily, *The Peculiar Geography of Direct Democracy: Why the Initiative, Referendum, and Recall Developed in the American West*, 2 MICH. L. & POL'Y REV. 11, 13 (1997).

³ See Initiative & Referendum Inst., *Information on the Initiative and Referendum Process at the Local Level*, <http://www.iandrinstitute.org/Local%20I&R.htm> (last visited Feb. 13, 2005) [hereinafter Initiative & Referendum Inst., *Initiative Process at the Local Level*].

⁴ This study on the local initiative in California, written by Tracy Gordon, Research Fellow, Public Policy Institute of California, will be relied on extensively throughout this Note.

⁵ See Persily, *supra* note 1, at 15.

⁶ See Kurt A. Gardinier, *Recall in the United States*, <http://www.iandrinstitute.org/Recall.htm> (last visited Feb. 13, 2005) [hereinafter Gardinier, *Recall in the United States*].

⁷ See Nat'l Conf. of St. Legislatures, *Recall of State Officials* (June 15, 2005), <http://www.ncsl.org/programs/legman/elect/recallprovision.htm> [hereinafter Nat'l Conf. of St. Legislatures, *Recall of State Officials*].

Since California is at the forefront of the direct democracy movement and home to Los Angeles, the birthplace of the modern recall device, it provides a unique location for an exploration of local recall issues and trends.⁸

Part II traces the history of the direct democracy movement in the United States and the recall device in particular. It provides a brief overview of the initiative, referendum, and recall, and details why and how direct democracy first developed in the western United States as the centerpiece of the Progressive Party platform. Even though direct democracy devices, including the local recall, are used throughout the United States, this section places particular emphasis on California as it is the focus of this Note. It details the adoption of the recall in California and comments on its early use at the local and state levels.

Part III discusses the statutes that lay out the requirements for a recall. It contains an overview of the different types of recall statutes currently used in the United States. It explains the differences in how recalls are brought and how recall elections are conducted across the United States. It also details the specific features of California's local recall statutes and traces the steps necessary to qualify a recall at the local level in California.

The most complete set of local recall data encompasses California elections between 1995 and 2003. Part IV examines this data and also explores the reasons for the specific recalls during that period. A thorough examination of the election data combined with census population data reveals that local recalls are most common and most successful at the city and school district level as compared to the county level. The clearest trend among local recalls relates to population size: recalls occur most frequently in cities and counties at or below the 50th percentile in terms of population and in school districts at or below the 50th percentile in terms of enrollment. Anecdotal evidence further shows that the reasons behind local recall campaigns can generally be divided into three categories: an ideological divide, mismanagement or financial crisis, and response to a specific action taken by a public official. This Part also compares trends related to population size, income diversity, political party affiliation, and election timing and success rates between local recalls and local initiatives and reveals significant differences. It also lays out possible explanations for these differences and provides guidance for how future studies may further explore these issues.

This Note provides a starting point for a more complete analysis of local recalls. It discusses the basic trends in local recalls in California and offers hypotheses to explain these trends. It also compares these trends to those found with local initiatives. Throughout the analysis, it suggests methods to further test these hypotheses and identifies additional issues that would be worth exploring in future studies.

⁸ See Joshua Spivak, *California's Recall: Adoption of the "Grand Bounce" for Elected Officials*, 81 CAL. HIST. 20, 23 (2004).

II. THE CONTROVERSIAL NATURE OF THE RECALL AND ITS ORIGINS

“Direct democracy” encompasses three methods by which citizens have the power to be more directly involved in government beyond voting in periodic elections for representatives.⁹ The initiative gives voters the opportunity to propose a legislative measure or constitutional amendment by submitting a petition containing the number of signatures required by the state statute authorizing the initiative.¹⁰ Since the inception of the initiative at the statewide level in Oregon in 1904, twenty-four states have adopted the process.

A referendum “refers a proposed or existing law or statute to voters for their approval or rejection.”¹¹ Popular referendum, used much less frequently than the initiative, is available in twenty-four states including California.¹² It gives the people the power to refer specific legislation that was enacted by the legislature to the voters for approval or rejection.¹³ Legislative referendum, available in all states, occurs when the state legislature, an elected official, state appointed constitutional revision commission or other government agency submits propositions, including constitutional amendments, statutes, and bond issues, to the voters for their approval or rejection.¹⁴

The recall gives voters the chance to remove an elected official from office by submitting a petition containing the required number of valid signatures requesting a vote on whether the official should remain in office.¹⁵ Similar to the initiative, the number of signatures varies by state and locality.¹⁶ As noted earlier, like other forms of direct democracy, recall use is more widespread at the local level.¹⁷ The recall differs from impeachment because citizens, not the legislature, initiate the recall.¹⁸ Officeholders are also often able to counteract efforts to impeach themselves through “varied cover-up [measures] and legal maneuverings” and this is especially true at the local level where elected officials often enjoy “considerable behind-the-scenes influence in their communities.”¹⁹

Recall, the most controversial direct democracy device, has long had its share of supporters and critics. The origins of the recall can be traced back

⁹ See Persily, *supra* note 1, at 13.

¹⁰ See THOMAS E. CRONIN, *THE POLITICS OF INITIATIVE, REFERENDUM, AND RECALL 2* (Twentieth Century Fund ed., 1989).

¹¹ *Id.*

¹² See *id.*

¹³ See Initiative & Referendum Inst., *What is the Initiative and Referendum Process?*, <http://www.ianrinstitute.org/Quick%20Fact%20-%20What%20is%20I&R.htm> (last visited Mar. 5, 2005) [hereinafter Initiative & Referendum Inst., *Initiative and Referendum Process*]; Initiative & Referendum Inst., *Information on the Statewide Initiative Process in the United States*, http://www.ianrinstitute.org/statewide_i&r.htm (last visited Mar. 5, 2005).

¹⁴ See Initiative & Referendum Inst., *Initiative and Referendum Process*, *supra* note 12.

¹⁵ See CRONIN, *supra* note 9.

¹⁶ See Nat'l Conf. of St. Legislatures, *Recall of State Officials*, *supra* note 6.

¹⁷ See Gardinier, *Recall in the United States*, *supra* note 5.

¹⁸ See CRONIN, *supra* note 9, at 2.

¹⁹ *Id.* at 135.

to Athenian democracy's use of the ostracism of a politician by citizen vote, which "caused an official to be banished from the city-state for ten years."²⁰ Internationally, Swiss law provides for the recall by permitting a specified number of citizens to require a vote on the discharge of a councilman, although this device is rarely used.²¹ The recall device "first appeared in the [United States] in the laws of the General Court of the Massachusetts Bay Colony in 1631."²² The Articles of Confederation also contained a provision for the recall and replacement of delegates, but because state legislatures appointed the delegates, this provision was used by the legislatures rather than the citizens.²³

Although the idea of a recall received some attention at the ratifying conventions, its controversial nature prevented its inclusion in the Constitution.²⁴ The New York convention offered a constitutional amendment "allowing state legislatures to recall either or both of their senators."²⁵ Patrick Henry spoke in support of the recall in Virginia arguing that the proposed constitution lacked a mechanism to ensure that senators would follow the instructions of their states.²⁶ Opponents of the recall claimed that the device would force senators to be controlled by the "emotionalism of the people."²⁷ Alexander Hamilton and other Federalists also noted that "far from being the servant delegates of a particular state, members of the newly proposed national senate should be in some measure a check upon the state governments."²⁸ In the end, the notion of including a recall provision in the Constitution failed to garner sufficient support.²⁹ The framers and ratifiers were attempting to cure the defects in the Articles of Confederation and their state constitutions and for many of them these defects included an "excess of democracy."³⁰ Thus, they viewed the inclusion of the recall as a step in the wrong direction.

Direct democracy, including the recall, did not resurface again in American politics until the rise of the Progressive movement in the West.³¹ The movement developed in the West because, unlike the in the South and Northeast, western states were still in the process of creating new constitutions during the 1890s, the heyday of the Progressive movement.³² Progressives viewed the initiative and referendum as a way to take back some of the legislature's control over policy-making authority and thought

²⁰ *Id.* at 128.

²¹ *See id.* at 129.

²² Spivak, *supra* note 7, at 22.

²³ *See* CRONIN, *supra* note 9, at 129; Houghton Mifflin, *The Reader's Companion to American History: Articles of Confederation*, http://college.hmco.com/history/readerscomp/rc/ah/html/rc_05400.articlesofco.htm (last visited Mar. 14, 2005).

²⁴ *See* CRONIN, *supra* note 9, at 129.

²⁵ *Id.*

²⁶ *See id.*

²⁷ *Id.*

²⁸ *Id.*

²⁹ *See id.*

³⁰ *Id.*

³¹ *See* Persily, *supra* note 1, at 15.

³² *See id.* at 18.

that the recall would provide them with a powerful tool to threaten state or local officials who were being controlled by wealthy interest groups.³³ Unlike its western counterparts, the Progressive movement in the Northeast and South did not revolve around a Populist foundation and was instead based on elitism.³⁴ Other obstacles to implementing direct democracy in the Northeast and South included a high immigrant population in the Northeast and a weak labor movement and widespread illiteracy in the South.³⁵ The white residents in the Northeast questioned the ability of the large immigrant population to read and understand ballot measures and the South felt less pressure to enact direct democracy from the American Federation of Labor's (AFL's) labor activists.³⁶ Moreover, widespread illiteracy in the South left many citizens unable to participate in direct democracy and thus it was of little use to them.³⁷

Initially states and localities that approved direct democracy limited it to the initiative and referendum.³⁸ In 1898, when South Dakota became the first state to adopt direct democracy provisions, it did not include the recall.³⁹ In California, the adoption of direct democracy provisions began at the municipal level when the state legislature passed a constitutional amendment in 1902 allowing certain cities to amend their charters by initiative.⁴⁰ Los Angeles and San Francisco led the way and by the end of 1910, twenty cities had adopted direct legislation provisions.⁴¹ Soon citizens throughout California began employing the initiative, referendum, and recall to combat local political machines.⁴²

Nationally, when Theodore Roosevelt, a loyal Progressive, became President, the direct democracy movement began to take off.⁴³ Between 1898 and 1918, twenty-four states, mainly in the West, and many cities adopted the initiative or popular referendum.⁴⁴ After 1918, it took forty years before another state adopted the initiative as fear of the German military movement led Americans to focus on patriotism and embrace the status quo.⁴⁵ In 1959, Alaska was admitted into the United States with the initiative and popular referendum in its constitution, and other non-western

³³ See *id.* at 27.

³⁴ See DAVID D. SCHMIDT, *CITIZEN LAWMAKERS: THE BALLOT INITIATIVE REVOLUTION* 10, 12 (1989).

³⁵ See *id.* at 12-14.

³⁶ See *id.* at 12-13.

³⁷ See *id.* at 14.

³⁸ See Spivak, *supra* note 7, at 23.

³⁹ See *id.* at 22-23.

⁴⁰ See V.O. KEY & WINSTON W. CROUCH, *THE INITIATIVE AND THE REFERENDUM IN CALIFORNIA* 428 (G.M. McBride et al. eds., 1939).

⁴¹ The cities that adopted the initiative and referendum were: Alameda, Berkeley, Eureka, Long Beach, Los Angeles, Modesto, Monterey, Palo Alto, Petaluma, Richmond, Riverside, Sacramento, Salinas (referendum only), San Bernardino, San Diego, San Francisco, San Louis Obispo, Santa Barbara, Santa Cruz, and Santa Monica. See *id.* at 428 n.14.

⁴² See Persily, *supra* note 1, at 30.

⁴³ See Spivak, *supra* note 7, at 23.

⁴⁴ See Initiative & Referendum Inst., *A Brief History of the Initiative and Referendum Process in the United States*,

<http://www.iandrinstitute.org/New%20IRI%20Website%20Info/Drop%20Down%20Boxes/Quick%20Facts/History%20of%20IR.pdf> (last visited Mar. 6, 2005).

⁴⁵ See *id.*

states, including Florida, Mississippi, and Illinois, also adopted direct democracy in the modern era; however, it is not widely used in all of these states.⁴⁶

Although the notion of the recall returned to the United States in 1892 and 1896 as part of the platforms of the Socialist-Labor and Populist Parties, more mainstream proponents of direct democracy did not support it, claiming it was too personal and could be used for revenge.⁴⁷ Recall supporters countered that impeachment provisions were inadequate because they required a crime to have been committed, and urged the adoption of the recall to counter rampant corruption and secrecy of government proceedings.⁴⁸ They argued that if officials could be elected for non-job related reasons, it should also be possible to remove them for a number of reasons.⁴⁹ At a national conference on direct legislation organized by the Populist Party in 1896, delegates affirmed their commitment to direct legislation at the municipal, state, and national levels of government, but after a prolonged debate they withdrew a motion to include the recall, which they termed the “imperative mandate” as part of direct legislation.⁵⁰

When a Los Angeles physician brought the recall into broader public view, only a few small communities in the West had implemented it.⁵¹ During an 1898 attempt to revise the Los Angeles charter, the Board of Freeholders accepted the initiative and referendum, but left out the recall.⁵² San Francisco voters approved a new city charter in 1898 that also only included provisions for the initiative and referendum.⁵³ In 1900, Dr. John Randolph Haynes formed the Direct Legislation League of Los Angeles and served on the committee to revise the city’s charter.⁵⁴ Dr. Haynes had seen the recall in Switzerland and “he believed democracy to be most successful when the people have the greatest participation.”⁵⁵ He argued that the recall would allow citizens to remove public officials who proved to be “incompetent, unfaithful, or corrupt.”⁵⁶ In 1903, when Los Angeles approved its new charter, which included the recall, it became the first major locality to do so. From there, the recall spread to other California cities and states, including San Francisco in 1907⁵⁷ and Oregon in 1908.⁵⁸

The first use of the recall occurred in Los Angeles in 1904 and similar to California’s 2003 gubernatorial recall, it received national attention

⁴⁶ These states adopted the initiative process via a constitutional amendment. *See id.*

⁴⁷ *See Spivak, supra note 7, at 22.*

⁴⁸ *See CRONIN, supra note 9, at 130.*

⁴⁹ *See id.*

⁵⁰ STEVEN L. PIOTT, GIVING VOTERS A VOICE: THE ORIGINS OF THE INITIATIVE AND REFERENDUM IN AMERICA 160 (2003).

⁵¹ *See CRONIN, supra note 9, at 130.*

⁵² *See Spivak, supra note 7, at 23.*

⁵³ *See PIOTT, supra note 49.*

⁵⁴ *See Spivak, supra note 7, at 23.*

⁵⁵ LAURA TALLIAN, DIRECT DEMOCRACY: AN HISTORICAL ANALYSIS OF THE INITIATIVE, REFERENDUM, AND RECALL PROCESS 24 (1977).

⁵⁶ CRONIN, *supra note 9, at 131.*

⁵⁷ *See PIOTT, supra note 49, at 160.*

⁵⁸ *See Spivak, supra note 7, at 23.*

for amending the Constitution and permitting the recall of members of Congress and the President.⁷⁴

III. RECALL STATUTES

A. GENERALLY

Eighteen states currently allow for the recall of state officials and at least thirty-six states and the District of Columbia permit the recall of various local officials.⁷⁵ Of these states, twenty-nine allow for its use at the local level throughout the state and include procedures for local recalls in their statutes.⁷⁶ In the remaining seven states, certain towns have adopted local recall provisions on their own as part of their charters.⁷⁷ According to the National Civic League and the 2001 International City/County Management Association survey, 60.9% of cities in the United States have recall provisions, 57.8% have the initiative, and 46.7% have the referendum.⁷⁸ Additionally, only three states do not have any provisions for some form of direct democracy in their local governments.⁷⁹ Similar to the initiative and referendum, recall provisions are more likely to be found in larger, central cities in the West.⁸⁰ As many as 4,000 to 5,000 recall elections have been held and several thousand more petitions have been filed.⁸¹ Additionally, approximately three-fourths of all recall elections occur at the city council or school board level.⁸²

Although specific recall statutes vary from state to state, they generally follow the same three-step process.⁸³ As with the initiative, voters must first circulate a petition, which is then reviewed by election officials within a certain period of time to determine whether it contains the required number of valid signatures.⁸⁴ If the petition and signatures are sufficient, a recall

⁷⁴ See *id.* at 132. Sixty-seven percent favor recall of Congress and 55% favor recall of the President. See *id.*

⁷⁵ See Nat'l Conf. of St. Legislatures, *Recall of State Officials*, *supra* note 6; CRONIN, *supra* note 9, at 125. These states include: Alaska, Arizona, California, Colorado, Georgia, Idaho, Kansas, Louisiana, Michigan, Minnesota, Montana, Nevada, New Jersey, North Dakota, Oregon, Rhode Island, Washington, and Wisconsin. Virginia is not listed as a recall state because its process allows a recall trial rather than an election. See Nat'l Conf. of St. Legislatures, *Recall of State Officials*, *supra* note 6.

⁷⁶ See Nat'l Conf. of St. Legislatures, *Recall of Local Officials*, <http://www.ncsl.org/programs/legman/elect/localrecall.htm> (last visited Feb. 13, 2005) [hereinafter Nat'l Conf. of St. Legislatures, *Recall of Local Officials*]. These states include: Alabama, Alaska, Arizona, Arkansas, California, Colorado, Florida, Georgia, Idaho, Kansas, Louisiana, Michigan, Minnesota, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, North Dakota, Ohio, Oregon, South Dakota, Tennessee, Washington, West Virginia, Wisconsin, and Wyoming. See *id.*

⁷⁷ See *id.*

⁷⁸ Gardinier, *Recall in the United States*, *supra* note 5. This survey was sent to city clerks in American cities with 2,500 people or more and the total number of jurisdictions has ranged from 4,200 to 5,000 in recent surveys.

⁷⁹ See Initiative & Referendum Inst., *Initiative Process at the Local Level*, *supra* note 2.

⁸⁰ See *id.*

⁸¹ Gardinier, *Recall in the United States*, *supra* note 5.

⁸² Nat'l Conf. of St. Legislatures, *Recall of State Officials*, *supra* note 6.

⁸³ See Elizabeth Mack, Comment, *The Use and Abuse of Recall: A Proposal for Legislative Recall Reform*, 67 NEB. L. REV. 617, 625 (1988).

⁸⁴ See *id.*

election is held.⁸⁵ Similar to state recalls,⁸⁶ signature requirements for local recalls are based on a formula: generally a percentage of the vote in the last election for the office in question.⁸⁷ However, some states base it on the number of eligible voters,⁸⁸ or on all votes cast in the previous election.⁸⁹ Many statutes also provide that public officials are not subject to a recall within a certain time period before the expiration of their term.⁹⁰ Some recall statutes, including California's, allow a recall for any reason and simply require a general statement articulating the reasons for the recall,⁹¹ while other statutes allow for a general statement, but do not require it.⁹² At least ten states provide for the use of the recall only in certain instances of misconduct.⁹³ In these states it is up to the courts to determine if the grounds for a recall are sufficient and the recall resembles impeachment, but instead of being carried out through the legislature, the decision is put to a vote of the people.⁹⁴

The method for choosing a successor also varies among states. Similar to recalls of state officers, at local recall elections in California voters decide whether or not to recall the officer, and if there is a candidate, also choose a successor if the recall is successful.⁹⁵ The ballot contains two parts.⁹⁶ The first asks whether the incumbent should be recalled and the second contains a list of candidates to fill the office if the incumbent is recalled.⁹⁷ Voters who vote no on the first part may still select a successor in the second part and incumbent targets of recalls are not permitted to run to succeed themselves.⁹⁸ The successor is the candidate who receives the highest number of votes cast, which need not be a majority, and serves the remainder of the recalled officer's term.⁹⁹ Some states allow the name of the incumbent target of the recall to appear on the ballot for reelection.¹⁰⁰ In

⁸⁵ *See id.*

⁸⁶ *See* Gardinier, *Recall in the United States*, *supra* note 5. The signature requirements for statewide recalls range from a high of 40% in Kansas to a low of 12% in California.

⁸⁷ Arizona's local recall statute sets the signature requirement equal to 25% of the votes cast for that office in the last regular election. *See* Nat'l Conf. of St. Legislatures, *Recall of Local Officials*, *supra* note 72.

⁸⁸ Montana's signature requirement for county officials is 15% of the persons registered to vote at the last county general election; for municipal or school district officials the requirement is 20% of the persons registered to vote at the last election. *See id.*

⁸⁹ North Dakota requires the signatures of 25% of those who voted in the last election. *See id.*

⁹⁰ *See* Mack, *supra* note 79.

⁹¹ *See* CAL. ELEC. CODE § 11020 (West 2005).

⁹² *See* N.J. STAT. ANN. § 19:27A-6 (West 2005).

⁹³ *See* Nat'l Conf. of St. Legislatures, *Recall of Local Officials*, *supra* note 72. These states include Alaska, Florida, Georgia, Kansas, Minnesota, Missouri, Montana, New Mexico, South Dakota, and Washington. The specific grounds vary among the states. In Montana, the grounds for a recall are: physical or mental lack of fitness, incompetence; violation of oath of office; official misconduct; or conviction of a felony offense. *See* MONT. CODE ANN. § 2-16-603 (West 2005). Washington's statute simply requires malfeasance or misfeasance while in office or violation of oath of office. *See* WASH. REV. CODE ANN. (West 2005).

⁹⁴ *See* Mack, *supra* note 79, at 628.

⁹⁵ *See* CAL. ELEC. CODE § 11320 (West 2005).

⁹⁶ *See* Nat'l Conf. of St. Legislatures, *Recall of State Officials*, *supra* note 6, at tbl.2.

⁹⁷ *See id.*

⁹⁸ *See id.*

⁹⁹ *See* CAL. ELEC. CODE § 11381(c), 11384, 11385 (West 2005); CAL. CONST. art. II, § 15.

¹⁰⁰ *See* Nat'l Conf. of St. Legislatures, *Recall of State Officials*, *supra* note 6, at tbl.2.

other states, a successor is appointed after the recall election is held.¹⁰¹ Finally, some states hold a separate election to choose a successor after the initial recall election.¹⁰²

B. CALIFORNIA

Proposition 9, approved by California voters in 1974, clarified and amended the state's recall procedures.¹⁰³ Before its passage, the recall procedures set forth in California's constitution allowed voters to remove state elected officials from office and provided for the recall of city and county elected officials through procedures enacted by the legislature.¹⁰⁴ The proposition enacted a 160-day time limit in which to gather petition signatures, eliminated "grace" periods so that a recall could be started immediately following an official's election, and made all local officials subject to recall rather than just officers of cities and counties.¹⁰⁵ However, these changes did not affect counties and cities whose charters provided for a recall.¹⁰⁶ Charter cities are permitted to enact their own provisions for recalls and the Elections Code "does not supersede the provisions of a city or county charter, or of ordinances adopted pursuant to a city charter or county charter, relating to recall."¹⁰⁷

The California Elections Code defines local officer as "an elective officer of a city, county, school district, community college district, or special district, or a judge of a superior or municipal court."¹⁰⁸ It lays out the required number of signatures as follows:

If an officer of a city, county, school district, county board of education, or resident voting district is sought to be recalled, the number of signatures must be equal in number to not less than the following percent of registered voters in the electoral jurisdiction.: (1) thirty percent if the registration is less than 1,000; (2) twenty-five percent if the registration is less than 10,000 but at least 1,000; (3) twenty percent if the registration is less than 50,000 but at least 10,000; (4) fifteen percent if the registration

¹⁰¹ See *id.*

¹⁰² See *id.*

¹⁰³ See BERNARD L. HYINK & DAVID H. PROVOST, POLITICS AND GOVERNMENT IN CALIFORNIA 91 (Pamela Gordon ed., 1998).

¹⁰⁴ See *Official California Voters Pamphlet*, Nov. 5, 1974, available at http://holmes.uchastings.edu/ballot_pdf/1974g.pdf (last visited Feb. 12, 2005).

¹⁰⁵ See *id.*

¹⁰⁶ See CAL. CONST. art. II, § 19.

¹⁰⁷ CAL. ELEC. CODE § 11000 (West 2005). Most charter cities have simply adopted the provisions of the California Elections Code to govern their elections. See TRACY M. GORDON, THE LOCAL INITIATIVE IN CALIFORNIA 30 (2004) (noting that although charter cities are free to set their own procedures, many defer to the state elections code). Oroville, Adelanto, and Tehama are the only charter cities and counties that had recalls between 1995 and 2003 and of those cities, Oroville is the only one whose provisions differ from the elections code. See Institute for Social Research, *California Elections Data Archives*, at <http://www.csus.edu/isr3.html> (last updated Jul. 14, 2004) [hereinafter, *California Elections Data*]. Oroville requires the signatures of 25% of the electors voting in the last general municipal election, rather than 25% of the registered voters. See OROVILLE, CAL., CHARTER art. V, § 1(1933), available at <http://www.cityoforoville.org/citycode/index.htm>. See also 1997 Planners' Book of Lists, *List of California's Charter Cities and Counties*, at <http://ceres.ca.gov/planning/bol/1997/charter.html> (last visited Mar. 2, 2005) [hereinafter *Charter Cities and Counties*].

¹⁰⁸ CAL. ELEC. CODE §§ 11001, 11004 (West 2005).

is less than 100,000 but at least 50,000; and (5) ten percent if the registration is 100,000 or above.¹⁰⁹

The Code further requires that the petition contain “a statement, not exceeding 200 words in length, of the reasons for the proposed recall.”¹¹⁰ Additionally, although the state constitution allows recall proceedings to begin immediately against a statewide elected official, the legislature has set limits on local recalls that prohibit recalls against local officials who have not held office during their current term for more than ninety days; a recall election has been determined in their favor in the last six months; or their term of office ends in six months or less.¹¹¹ As discussed above, at local recall elections in California voters decide whether or not to recall the officer and also choose a successor if the recall is successful.¹¹²

IV. DATA AND ANALYSIS

A. ELECTION DATA SOURCES AND RESULTS

The local recall data studied in this Note are limited to California elections that occurred between 1995 and 2003.¹¹³ Despite their frequency, it is challenging to locate comprehensive and reliable data on local recall elections. While California's Elections Code contains a provision that requires city and county election officials to report to the Secretary of State every two years the number of local initiative petitions circulated, qualified, approved by the voters, and adopted by the legislative body, there is no such requirement governing local recall elections.¹¹⁴ The local recall data analyzed here comes from the California Elections Data Archives (CEDA) housed at the Institute for Social Research (ISR) at the California State University at Sacramento. CEDA summarizes candidate and ballot measure results for city, county, community college, and school district elections in over 6,000 jurisdictions in California. ISR collects annual election results directly from the counties, cataloguing ballot measures by type and topic, reproducing the text and summarizing vote totals by county. Table 1 contains a basic summary of local recall elections at the county, city, and school district level for every year between 1995 and 2003 as well as cumulative totals.

¹⁰⁹ § 11221.

¹¹⁰ § 11020.

¹¹¹ See § 11007.

¹¹² See §§ 11320, 11322.

¹¹³ Data for elections after 2003 was not available.

¹¹⁴ See TRACY M. GORDON, *THE LOCAL INITIATIVE IN CALIFORNIA* 57 (2004); CAL. ELEC. CODE §§ 9213, 9112 (West 2005).

Table 1¹¹⁵

Year	Entity	Recalls Passed	Recalls Failed	Total Recalls	Passage Rate (%)
1995	County	0	0	0	N/A
	City	0	0	0	N/A
	School district	7	1	8	87.5
1995 Totals		7	1	8	87.5
1996	County	4	1	5	80.0
	City	20	5	25	80.0
	School district	0	3	3	0
1996 Totals		24	9	33	72.7
1997	County	1	1	2	50.0
	City	4	5	9	44.4
	School district	8	8	16	50.0
1997 Totals		13	14	27	48.1
1998	County	0	0	0	N/A
	City	3	4	7	42.9
	School district	11	1	12	91.7
1998 Totals		14	5	19	73.6
1999	County	0	0	0	N/A
	City	8	0	8	100
	School district	2	4	6	33.3
1999 Totals		10	4	14	71.4
2000	County	0	0	0	N/A
	City	6	0	6	100
	School district	5	0	5	100
2000 Totals		11	0	11	100
2001	County	3	1	4	75.0

¹¹⁵ See Inst. for Soc. Res., *California Elections Data Archives*, at <http://www.csus.edu/isr/isr3.html> (last updated Jul. 14, 2004) [hereinafter *California Elections Data*].

Year	Entity	Recalls Passed	Recalls Failed	Total Recalls	Passage Rate (%)
	City	3	0	3	100
	School district	9	5	14	64.3
2001 Totals		15	6	21	71.4
2002	County	0	1	1	0
	City	3	2	5	60.0
	School district	2	0	2	100
2002 Totals		5	3	8	62.5
2003	County	0	1	1	0
	City	6	0	6	100
	School district	2	0	2	100
2003 Totals		8	1	9	88.9
1995 – 2003 Totals	County	8	5	13	61.5
1995 – 2003 Totals	City	53	16	69	76.8
1995 – 2003 Totals	School district	46	24	70	67.6
1995 – 2003 Totals		107	45	152	71.3

A cursory review of the data confirms the notion that recalls occur very regularly at the local level and enjoy a fairly high success rate. During the nine year period, 152 recalls were attempted and 107 of them were successful, a 71.3% success rate.¹¹⁶ Recalls at the city and school district level were attempted much more often than at the county level and were also somewhat more successful, enjoying a 76.8% and 67.6% success rate respectively compared to the 61.5% success rate for recalls at the county level.¹¹⁷ These success rates are much higher than the rates for local initiatives, which succeeded only at 45% at the city level and 42% at the county level in the 1990s.¹¹⁸

Of the fifty-eight counties in California, thirty-one had at least one recall during this period at either the county, city, or school district level.¹¹⁹ Most of the recalls at the city level were of city council members, with only four directed at mayors, three that succeeded, and one at a treasurer.¹²⁰ The

¹¹⁶ *See id.*

¹¹⁷ *See id.*

¹¹⁸ *See* GORDON, *supra* note 110, at 20. The comparison between local recalls and local initiatives will be discussed in greater detail in Part D of this Section.

¹¹⁹ *See California Elections Data*, *supra* note 111.

¹²⁰ *See id.*

county recalls included supervisors, a district attorney, and a sheriff-coroner.¹²¹ The school district recalls were all focused on school board members as they are the only school district level officials who can be recalled.¹²²

B. REASONS FOR RECALLS

In addition to collecting the data on recall usage, I conducted a search of newspaper accounts of local recall campaigns between 1995 and 2003 to provide some insight into the motivations for certain recalls and categorized these motivations.¹²³ A review of the articles reveals that the reasons for recalls can be divided into three general categories. First, many recalls occur because of a divide between the ideologies of the voters and those of the public officials. Recalls of this type often pit pro-development against anti-development forces or junior politicians against senior politicians. Voters may turn to the recall in these instances because they have been unable to elect candidates who mirror their preferences in general elections. It may also be the case that because of a recent election, a new governing majority has arisen and voters do not want to wait until the next general election to vote out these officials.

A successful recall campaign was launched against the mayor and two city council members in Glendora in 2002.¹²⁴ Supporters of the recall faulted the three for being advocates of slow growth in a city that had traditionally been favorable to developers of upscale homes.¹²⁵ Additionally, supporters claimed that the three began abusing their power once they became a governing majority of the city council and fired popular long-time city commissioners and a city manager.¹²⁶ Further, proponents in an unsuccessful recall attempt in Dana Point in 2002 alleged that mayor and a city councilman were too supportive of development.¹²⁷

A second category of recall campaigns is those that stem from allegations of mismanagement and financial crisis. These recalls often involve more than one official at a time. In the case of mismanagement and fiscal crises, voters likely turn to recalls because they feel they need to act quickly to combat the crisis and cannot wait until the next general election. The most interesting example of mismanagement as a reason for recall occurred in Tehama County in 1996 when voters recalled three supervisors who were sometimes referred to as the "Tehama Mamas."¹²⁸ Organizers of

¹²¹ *See id.*

¹²² *See id.*

¹²³ The anecdotal information was located through a search for information on the specific recalls from the election data in news databases on Lexis and Westlaw.

¹²⁴ *See* Richard Winton, *Elections 2002 Recall Campaign Jolts Glendora Drive to Oust Three City Council Members for Alleged Abuse of Power is the First Such Campaign in City's History*, L.A. TIMES, Mar. 3, 2002, at B4.

¹²⁵ *See id.*

¹²⁶ *See id.*

¹²⁷ *See* Len Hall & John Pope, *Municipal Races: Dana Point Mayor in Tight Race as Peer Survives Recall*, L.A. TIMES, Mar. 27, 1996, at B1.

¹²⁸ *See* Phil Garlington, *California Album: Bucolic Red Bluff Riled by Political Dust-Up*, L.A. TIMES, Dec. 4, 1995, at A3.

the recall effort criticized the council members' management style and claimed that their behavior jeopardized several development projects that would have solved the county's financial woes.¹²⁹ Proponents further accused the three of being pro-militia and denying the opposition a chance to be heard due to their ignorance of parliamentary procedure.¹³⁰ Residents in San Jacinto recalled two city council members in 1999 for alleged mismanagement after they appointed the police chief to the additional post of city manager.¹³¹ In 1998, residents of the Sausalito Elementary School District recalled three school board members after an audit of the district revealed that it was a "system in crisis" and faulted the board for having a poor relationship with the community.¹³²

Recalls in this second category also resulted from corruption allegations and other scandals. The most notable example occurred in South Gate in 2003 when voters successfully recalled three city council members and the city treasurer. Recall supporters accused the four officials of awarding contracts to people under investigation and allocating more than \$10 million for legal fees to defend the city treasurer against criminal charges that he threatened other officials.¹³³

A third category includes recall campaigns sparked by a specific decision. Here voters do not wait until the next election to oust these officials because they want to quickly punish them for a specific action or possibly use the threat of the recall to force them to reconsider their original decision. For example, voters in the Pittsburg Unified School District successfully recalled three school board members in 1997 in a dispute that stemmed from the board's decision to remove the superintendent.¹³⁴ A similar situation occurred in the Mendocino Unified School District when residents recalled two school board members for assuming some of the superintendent's powers without informing the public.¹³⁵

C. ANALYZING THE DATA

An in-depth examination of the data, taking into account population figures, yields further insight into the local recall process. The population figures used to carry out this analysis were taken from the 2000 census for

¹²⁹ See *id.*

¹³⁰ See *id.*

¹³¹ See Laurie Koch Thrower, *Voters Oust Smedley, Cornett: San Jacinto Council Members Recalled*, THE PRESS ENTERPRISE (Riverside), Aug. 25, 1999, at HN01.

¹³² See Maria L. La Ganga, *Audit Sees 'Chaos' in Sausalito Schools Education: Report Finds Disruptive Students and a Lack of Communication Among Adults in District, Which Gets Below-Average Results Despite Above Average Spending*, L.A. TIMES, Sept. 26, 1997, at A3.

¹³³ See *South Gate Has Had Enough*, L.A. TIMES, Jan. 27, 2003, at B12; Richard Marosi & Li Fellers, *California Treasurer, Three Council Allies Recalled: Voters in all Fifteen South Gate Precincts Overwhelmingly Choose to End Tenure of Four Elected Officials*, L.A. TIMES, Jan. 29, 2003, at B1.

¹³⁴ See Tanya Schevitz, *Pittsburg to Vote on Recall: Push to Remove Three on Board*, S.F. CHRON., Aug. 18, 1997, at A17; See also Tanya Schevitz, *Three School Board Members Recalled in Pittsburg Vote*, S.F. CHRON. Aug. 20, 1997, at A13.

¹³⁵ See also Uclia Wang, *School Board Recall Mounted: Mendocino Parents Say State Law Broken*, PRESS DEMOCRAT (Santa Rosa), Oct. 7, 2000, at B1.

city and county level recalls. It is difficult to locate population information for school district areas. Thus the figures relied on for the analysis of school district recalls were the enrolled student population for each district. While not a perfect substitute for general population data, the enrollment figures allow for a comparative analysis of recall measures based on the size of the school district.¹³⁶ When examining population data for recall elections to determine trends, it is also useful to compare these trends to those found with initiatives at the local level to determine similarities and differences.¹³⁷

1. County Data Analysis

Counties are responsible for providing a number of state-related services at the local level, including: property tax assessment and collection, deed recording, law enforcement, jails, courts, highways, public works, welfare and social services, health services and agricultural, and economic development.¹³⁸ Counties in metropolitan areas have separate governing bodies with legislative powers, which may also control mass transit, planning, zoning, parks and recreation, and airports.¹³⁹ The significance of counties has declined in many urban areas as cities now handle many of their duties.¹⁴⁰ California's counties usually have control over less than 20% of their budget.¹⁴¹

There were thirteen recall campaigns at the county level in eight counties between 1995 and 2003.¹⁴² The overwhelming majority of these campaigns occurred in less populated counties.¹⁴³ The most populated county to hold a recall election during this period was Kern County, which ranked fourteenth out of fifty-eight based on population in 2000.¹⁴⁴ It was also the only county to have a recall whose population was at or above the 75th percentile of population (563,598). Five counties, which accounted for eight recall attempts, were at or below the 50th percentile of population (159,777.5) and four of these five were at or below the 25th percentile

¹³⁶ One drawback of relying on school enrollment as opposed to population figures for school districts is that it does not account for the number of residents without children who reside in the school district area and may vote in school district elections. Future studies should attempt to locate total population figures for school districts to determine if this is a significant drawback.

¹³⁷ This analysis will be carried out in Part IV.D.1 of this Note, using Gordon's local initiative study for comparison.

¹³⁸ See DANIEL R. MANDELKER, DAWN CLARK NETSCH, PETER W. SALSICH, JR. & JUDITH WELCH WEGNER, STATE AND LOCAL GOVERNMENT IN A FEDERAL SYSTEM 33 (5th ed. 2004).

¹³⁹ See *id.*

¹⁴⁰ See TERRY CHRISTENSEN, LOCAL POLITICS: GOVERNING AT THE GRASSROOTS 70 (Brian Gore ed., 1994).

¹⁴¹ See *id.* at 288.

¹⁴² See *California Elections Data*, *supra* note 111. Recall elections at the county level took place in Alpine, Glenn, Tehama, Lassen, Marin, Kern, Santa Barbara, and Plumas counties. See *id.*

¹⁴³ See U.S. Census Bureau, *Population, Housing Units, Area, and Density for California Counties* (2000), available at http://factfinder.census.gov/servlet/GCTTable?_bm=y&-geo_id=04000US06&-box_head_nbr=GCT-PH1&-ds_name=DEC_2000_SF1_U&-redoLog=false&-mt_name=DEC_2000_SF1_U_GCTPH1_ST7&-format=ST-2 (last visited Feb. 16, 2005) [hereinafter *County Population Data*].

¹⁴⁴ See *id.*

(44,301).¹⁴⁵ While population data confirms that, at least at the county level, recalls are more likely to occur as population decreases, it does not hold true that recalls are more successful at the county level as population decreases.¹⁴⁶ No clear pattern arises between county population and recall success rate: recalls in the five counties whose population was at or below the 50th percentile enjoyed a 62.5% success rate while recalls in the counties at or above the 50th percentile were successful 60% of the time.

As noted earlier, California charter cities and counties are not governed by the Elections Code and may decide on their own whether or not to provide a recall and may also set the specific requirements. A few of California's largest counties and cities, including Los Angeles, San Diego, and San Francisco, are charter cities.¹⁴⁷ A review of the charters for these cities, as well as a sampling of other charter cities, indicates that they include provisions for a recall, although a few include slightly higher signature requirements (*i.e.* 15% versus 10%) than the Elections Code mandates.¹⁴⁸ However, the slightly higher signature requirement alone is not enough to explain why recalls are far more common in less populated municipalities.¹⁴⁹

2. *City Data Analysis*

Cities tend to operate within counties and are carved out of county territory.¹⁵⁰ The majority of the services are still provided by the county, including "administration of elections, record keeping, tax assessment, courts, and jails within the city, but the city takes over responsibility for police and fire protection and land-use planning."¹⁵¹ Cities also manage "streets, parks, libraries, sewers, [and] garbage collection."¹⁵² Larger cities "may also manage welfare, public health, and schools."¹⁵³ As cities are more responsible for providing services to residents on a daily basis than counties, it is not surprising that the number of recalls at the city level is roughly five times greater than at the county level.¹⁵⁴

The data shows that sixty-nine recall elections occurred at the city level between 1995 and 2003.¹⁵⁵ Similar to the county level, they occurred more

¹⁴⁵ See *id.* The population for the five counties according to the 2000 census is as follows: Alpine – 1,208; Glenn – 26,453; Lassen – 33,828; Plumas – 20,824; and Tehama – 56,039. See *id.*

¹⁴⁶ See *California Elections Data*, *supra* note 111.

¹⁴⁷ See *Charter Cities and Counties*, *supra* note 103.

¹⁴⁸ See, e.g., LOS ANGELES, CAL., CHARTER & ADMINISTRATIVE CODE vol. 1, art. IV, § 431(a) (2000), available at <http://lacodes.lacity.org/NXT/gateway.dll?f=templates&fn=default.htm>; SAN FRANCISCO, CAL., ELECTIONS CODE art. II, § 200 (1997), available at http://www.amlegal.com/sfelection_nxt/gateway.dll?f=templates&fn=default.htm&vid=alp:sf_election; SAN DIEGO, CAL., CHARTER art. III, § 23 (1989), available at http://clerkdoc.sannet.gov/RightSite/getcontent/local.pdf?DMW_OBJECTID=09001451800a946c.

¹⁴⁹ This reasoning applies to both charter cities and counties and San Francisco is both a city and a county.

¹⁵⁰ See CHRISTENSEN, *supra* note 136, at 71.

¹⁵¹ See *id.*

¹⁵² See *id.*

¹⁵³ See *id.*

¹⁵⁴ See *California Elections Data*, *supra* note 111.

¹⁵⁵ See *id.*

frequently in less populated cities.¹⁵⁶ Only three cities whose population was at or above the 75th percentile of population (58,598)¹⁵⁷ experienced recall elections during this period while eleven cities whose population was at or below the 25th percentile of population (9,199) had recall elections.¹⁵⁸ Additionally, the remaining city recall elections occurred in eleven cities whose population was far closer to the 25th percentile than the 75th. Further, the largest city to experience a recall election was Thousand Oaks, which ranks forty-third out of the fifty most populous California cities.¹⁵⁹ Similar to county recall elections, no clear relationship exists between city population and recall success as cities at or above the 50th percentile in terms of population had successful recalls 75% of the time while recalls in cities at or below the 50th percentile were successful 77.6% of the time.¹⁶⁰

3. School District Data Analysis

School districts are a form of special district organized to perform one or a few public functions.¹⁶¹ They “account for over one third of all governmental expenditure at the local level.”¹⁶² School districts tend to be “independently organized and may serve more than one municipality.”¹⁶³ They are governed by school boards and most board members are parents as opposed to education experts.¹⁶⁴ They serve only part-time and generally delegate the management of the schools to the superintendents they appoint.¹⁶⁵

School district level recall elections occurred sixty-eight times between 1995 and 2003.¹⁶⁶ Like recall campaigns at the city and county level, school district recall elections were more frequent in smaller school districts.¹⁶⁷ Twenty-six were held in ten school districts at or above the 50th percentile in terms of enrollment (1,497 students) while forty-two were held in twenty-two districts at or below the 50th percentile.¹⁶⁸ However, unlike counties and cities, recalls in larger school districts were actually more successful, passing at a rate of 73% compared to a success rate of

¹⁵⁶ See U.S. Census Bureau, *Population, Housing Units, Area and Density for California Places* (2000), available at http://factfinder.census.gov/servlet/GCTTable?_bm=y&-geo_id=04000US06&-box_head_nbr=GCT-PH1&-ds_name=DEC_2000_SF1_U&-format=ST-7 (last visited Feb. 11, 2005) [hereinafter *City Population Data*].

¹⁵⁷ See *id.* The population for the three cities according to the 2000 census is as follows: Antioch – 90,532; South Gate – 96,375; and Thousand Oaks – 117,005. See *id.*

¹⁵⁸ See *id.* The population for the eleven cities according to the 2000 census is as follows: Colfax – 1,496; Colma – 1,191; Etna – 781; Farmersville – 8,737; Huron – 6,306; Isleton – 828; Montague – 1,456; Taft – 6,400; Trinidad – 311; Tulelake – 1,020; and Weed – 2,978. See *id.*

¹⁵⁹ See *California Cities by Population*, http://www.maps-n-stats.com/us_ca_population.html (last visited Feb. 17, 2005).

¹⁶⁰ See *California Elections Data*, *supra* note 111.

¹⁶¹ See MANDELKER ET AL., *supra* note 134, at 34-35.

¹⁶² *Id.* at 35.

¹⁶³ *Id.*

¹⁶⁴ See *id.*

¹⁶⁵ See *id.*

¹⁶⁶ See *California Elections Data*, *supra* note 111.

¹⁶⁷ See *id.*

¹⁶⁸ See Data Quest, *Enrollment in California Public Schools*, <http://data1.cde.ca.gov/dataquest/OthEnrPg2.asp> (last visited Feb. 18, 2005); *California Elections Data*, *supra* note 103.

64.3% for smaller school districts.¹⁶⁹ Although these rates are not significantly different from each other, they are farther apart than city and county recalls. This difference may be due to the fact that school enrollment and not school district population was used in this analysis. Other factors involved in the school district recalls during this period, such as the reasons behind each of the specific recalls, may also play a role in this trend.

4. *Explaining Local Recall Trends*

The most obvious trend in local recalls was their widespread use in localities with smaller populations. Potential explanations for this trend, discussed in greater detail in the following sections, include: signature requirements; characteristics and motivations of the elected officials; homogeneity and interest group dynamics; and citizens' ability to monitor local government officials. Additional trends related to median home value and income, political party affiliation, and election timing and success are discussed in a separate section comparing local recalls with local initiatives.

a. *Signature Requirements*

The relationship between municipality population size and frequency of recalls, combined with the lack of a relationship between municipality size and recall success rates points to the conclusion that one of the main hurdles in qualifying a recall for the ballot may be gathering enough signatures. Thus, because municipalities with smaller populations have lower signature requirements for qualification, recall elections are more widespread in these areas. This conclusion is further supported by the fact that recalls are very infrequent at the state level, which requires a higher number of signatures. One of the reasons the gubernatorial recall in 2003 was successful was due to the fact that the prior election had a low voter turnout and thus the number of signatures needed to qualify the recall was relatively low.¹⁷⁰ The same holds true for local initiatives as cities with higher signature requirements or shortened circulation periods had fewer initiatives in the 1990s.¹⁷¹ As the required number of signatures increases, the cost of qualifying a recall or ballot measure increases.¹⁷² Thus, it is less expensive to qualify recalls in less populated localities and therefore more recalls occur in these areas.

The hypothesis that recalls occur more frequently in less populated areas because of the lower number of signatures required may be too simple, however, when population density is taken into account. The cost

¹⁶⁹ See *California Elections Data*, *supra* note 111.

¹⁷⁰ See Spivak, *supra* note 7, at 34.

¹⁷¹ See GORDON, *supra* note 110, at vii.

¹⁷² These costs include monetary costs, costs of volunteer efforts, and opportunity costs.

of signature gathering decreases as the population density increases because it is easier to collect signatures in localities where the residents live in close proximity to each other. Therefore, if the frequency of recalls in less populated areas was solely due to the signature requirement, more recalls would also occur in higher density areas. A study of local initiatives found this to be true, as cities with at least three approved measures had one-third more residents per square mile than cities with no initiatives.¹⁷³ However, this same analysis for local recalls yields a different result. The average population density per square mile of land in cities with recalls was 3,129.79 residents compared to 3,119.89 residents in cities without recalls.¹⁷⁴ Although the population density was slightly higher in cities with recalls, it was not large enough to explain the prevalence of recalls in these areas. In counties, the result was the reverse as the population density in counties with recalls was 386.13 residents compared to 661.96 residents in counties without recalls.¹⁷⁵ Specific data related to the cost of recall campaigns in various localities would prove useful in future analyses to confirm that, like initiatives, it is less expensive to qualify a recall in smaller localities. Thus, examining population density suggests that factors besides signature requirements may better explain the prevalence of recalls in smaller localities.

b. Characteristics and Motivations of Elected Officials

The abundance of recalls at the local level and their prevalence in less populous cities, counties, and school districts may also stem from the characteristics of elected officials at the local level and, more specifically, in smaller localities compared to those at the state level or in larger cities and counties. Elected officials are aware of the ever-present threat of direct democracy and may adjust their behavior based on the threat of direct legislation.¹⁷⁶ Legislators in cities and states with direct democracy must consider the reaction of their constituents throughout their time in office and not just during the reelection process.¹⁷⁷

Many scholars, most notably Elisabeth Gerber, argue that in addition to giving voters the chance to directly implement legislation, the initiative process provides voters with a tool to indirectly influence legislators “by affecting their behavior and policy choices.”¹⁷⁸ This results in a game involving sequential actions by multiple players — legislators and voters — each with the power to control policy. Legislators understand that voters have the power to circulate initiatives in response to legislation or may

¹⁷³ See GORDON, *supra* note 103, at 34.

¹⁷⁴ See *City Population Data*, *supra* note 152.

¹⁷⁵ See *County Population Data*, *supra* note 139.

¹⁷⁶ See WILLIAM N. ESKRIDGE, JR., PHILIP P. FRICKEY & ELIZABETH GARRETT, *CASES AND MATERIALS ON LEGISLATION: STATUTES AND THE CREATION OF PUBLIC POLICY* 74 (3d ed. 2001).

¹⁷⁷ See *id.*

¹⁷⁸ Elisabeth Gerber, *Legislative Response to the Threat of Popular Initiatives*, *AM. J. POL. SCI.* 99, 100 (1996).

implement their own policies through the initiative process.¹⁷⁹ As a result, the possibility arises that the policies implemented may differ from the legislators' own policy preferences.¹⁸⁰ In order to avoid this outcome, legislators may instead attempt to anticipate this behavior and pass legislation to preempt it.¹⁸¹ Applying this theory to state limitations on access to abortion, Gerber found that policy can be affected through the initiative process even when no initiatives are actually proposed, and that legislative policy is closer to median voter preference when initiatives are less costly to bring.¹⁸²

This game theory model is also applicable to the recall device. Similar to the threat of initiatives, the threat of a recall also provides incentives to legislators to pass certain types of legislation.¹⁸³ The legislation passed may be closer to the preferences of those likely to vote for the recall in order to thwart a recall attempt entirely. On the other hand, if a recall election is already scheduled, the legislation passed may appeal to citizens likely to vote against the recall to motivate them to get out and vote, which may result in not appealing to the median voter.¹⁸⁴

Given that legislators may adjust their behavior to ward off the threat of a recall, the next step is to determine which elected officials are most likely to actually do so. We can assume that there are two types of elected officials. One type derives more of their utility from careerist interests. As characterized by John Schlesinger in his work on ambition and politics, these officials have "progressive ambitions," meaning that they "aspire to attain an office more important than the one [they] now...hold[]." ¹⁸⁵ A second group derives more of their utility from advancing legislation that reflects their own policy preferences. Schlesinger termed this "discrete ambition" meaning that these officials "want the particular office for its specified term."¹⁸⁶ He further noted that "this type of ambition [was] not uncommon for many lesser local offices."¹⁸⁷ Schlesinger contended that "the traditional local policy positions which make up the category of local elective office are not, in most states, on the main path to high office."¹⁸⁸ Further, most council members report that they are motivated by the desire to volunteer and help their communities.¹⁸⁹ Although some expect to further their personal careers, this usually does not mean in politics.¹⁹⁰ With the exception of mayors of large cities, the majority of local politicians do not

¹⁷⁹ See *id.* at 101.

¹⁸⁰ See *id.*

¹⁸¹ See *id.*

¹⁸² See *id.* at 124.

¹⁸³ See Elizabeth Garrett, *Democracy in the Wake of the California Recall*, 153 U. PA. L. REV. 239, 279 (2004).

¹⁸⁴ See *id.*

¹⁸⁵ JOHN SCHLESINGER, *AMBITION AND POLITICS: POLITICAL CAREERS IN THE UNITED STATES* 10 (Aaron Wildavsky ed., 1966).

¹⁸⁶ *Id.*

¹⁸⁷ *Id.*

¹⁸⁸ *Id.* at 74.

¹⁸⁹ See CHRISTENSEN, *supra* note 136, at 153.

¹⁹⁰ See *id.*

move on to higher office,¹⁹¹ although more local politicians may move on to higher office as term limits become more widespread.

The group of officials with careerist interests are more likely to be found at the federal and state level and in larger localities where there is real potential for advancement to higher office. Since these politicians have careerist interests, they are more concerned about a recall threat and will alter their behavior accordingly. On the other hand, officials who are more discretely ambitious, usually local politicians from less populous areas, may not be as accountable because their motivations for seeking public service are quite different. As a result of these motivations they may also lack the same desire to further their political careers and be less likely to pass policies that conflict with their own policy preferences. It follows that more recalls occur at the local level, and within that level, in smaller areas.

More information is needed to determine why voters elect the discretely ambitious politicians in the first place. It may be that the preferences of the citizens changed and thus fell out of line with those of the elected official, or it could be that a different set of voters votes in recall elections. Evidence suggests that at least in some states, "regular (partisan) voters were more likely to be mobilized to turnout by ballot initiatives than episodic (non-partisan) voters."¹⁹² Although there are no studies confirming it, this may be true for the recall as well. Discretely ambitious politicians may be elected in a general election where voters tend to be less partisan and have less intense policy preferences. On the other hand, voters who have stronger policy preferences may turn out in larger numbers for recall elections. Since discretely ambitious politicians are less likely to have altered their behavior to satisfy the policy preferences of their constituents, these politicians may be more likely to be recalled. Thus, a different make-up of voters in the recall election may lead to a different outcome for the incumbent target.

A simple model can explain why careerists are more likely to be found at higher levels and in more populous areas. I present a simple version of this story in Table 2. The particular parameters I assume can be changed without changing the basic insight. For this initial analysis, I assume that the initial pool of candidates in a given local election is made up of 10% careerists, more likely to adjust their behavior, and 90% discretely ambitious politicians, less likely to adjust their behavior. In an election between a careerist and a discretely ambitious politician, a careerist wins 70% of the time. Based on these initial figures, 1% of the time the election for the first local office will be between two careerists; 18% of the time it will be between a careerist and a discretely ambitious politician; and of these the careerist will win 70% of the time.¹⁹³ As a result of this, 13.6% of

¹⁹¹ *See id.*

¹⁹² Caroline Tolbert, *The Ballot Measure/Citizen Interest Link: Information, Engagement and Population* (2005), http://lawweb.usc.edu/cslp/conferences/direct_democracy_05/documents/tolbert.pdf (unpublished paper presented at The Impact of Direct Democracy Conference at UC Irvine).

¹⁹³ The 70% figure here is based on the initial parameter I set that a careerist wins 70% of the time.

the winners for this local office are careerists even though they made up only 10% of the initial candidate pool.

Now assume that for candidates to run for a higher office they must have already served in a lower office. Thus, the pool of candidates for the second level office is now 13.6% careerist and of those who win these elections 18.3% will be careerists. If we move up to the next highest office with the same assumptions, the make-up will be 27.7% careerists. Thus, the higher the office, the more likely it is to be filled by careerists who are more likely to alter their behavior in response to the threat of a recall and, therefore, there are less recalls for state and larger locality offices. Additionally, at a given level, state or local, we would expect to find more recalls in lower offices because there will be fewer careerists. The recall election data supports this finding: city council members were far more likely to face recalls than mayors. Between 1995 and 2003, sixty-one city council members faced recalls as opposed to only three mayors.¹⁹⁴ Moreover, of the seven statewide recall attempts in California, six were against state senators or assembly members and only one was against a governor.¹⁹⁵ This model may also be applied to compare larger localities versus smaller localities as the numbers indicate that as the initial pool of careerists increases, the number of careerists elected increases. Thus, based on the previous discussion of political ambition, smaller localities will have more discretely ambitious politicians elected than larger localities and thus, there will be fewer elected officials willing to alter their behavior to thwart a recall attempt.

Table 2

Office Number ¹⁹⁶	Candidates in the election ¹⁹⁷	Frequency of this pairing in an election (%)	Percent of winners that are careerists ¹⁹⁸	Total percent of careerists in that office
1	C versus C	1	1	
	C versus D	18	12.6	
	D versus D	81	0	
				13.6
2	C versus C	1.85	1.85	
	C versus D	23.5	16.4	
	D versus D	74.6	0	

¹⁹⁴ See *California Elections Data*, *supra* note 103.. This finding is still significant even though it is true that there are likely more city council members than mayors in California.

¹⁹⁵ This may also be partially due to the fact that the governor has been constrained by term limits and, until 1996, state legislators were not. See Spivak *supra* note 7, at 28-31.

¹⁹⁶ The offices are ordered from lowest to highest (*i.e.* city council, mayor, state senator).

¹⁹⁷ "C" stands for careerist and "D" stands for discretely ambitious politician.

¹⁹⁸ This figure is equal to the percent of times the election occurs with at least one candidate who is a C multiplied by the 70% probability that C will win when running against a D. If a C runs against a C, the winner must be a C.

Office Number ¹⁹⁶	Candidates in the election ¹⁹⁷	Frequency of this pairing in an election (%)	Percent of winners that are careerists ¹⁹⁸	Total percent of careerists in that office
2 (cont.)				18.3
3	C versus C	3.4	3.4	
	C versus D	29.9	24.3	
	D versus D	66.8	0	
				27.7

c. *Homogeneity and Interest Group Dynamics*

An additional explanation for why local recalls are more widespread in smaller localities is rooted in James Madison's writings in Federalist No. 10. In his essay, Madison warned of the existence of factions that he defined as groups "united and actuated by some common impulse or passion, or of interest, adverse to the rights of other citizens, or to the permanent and aggregate interests of the community."¹⁹⁹ Madison further suggested that factions or interest groups will have more success in smaller republics versus larger ones.²⁰⁰ Although Madison had a negative view of factions, modern scholars such as Robert Dahl view them in a more neutral manner as "any group that, on the basis of one or more shared attitudes, makes certain claims upon other groups in society for the establishment, maintenance, or enhancement of forms of behavior that are implied by the shared attitudes."²⁰¹ The important issue here is not whether Madison's or Dahl's view of factions is correct, but rather, the shared insight that factions form when citizens with a common goal come together.

In his work on collective action, Mancur Olson detailed why interest groups are likely to form.²⁰² According to Olson, "when a number of individuals have a common or collective interest—when they share a single purpose or objective — individual, unorganized action . . . will either not be able to advance that common interest at all, or will not be able to advance that interest adequately."²⁰³ Thus, the primary function of groups is to advance the common interests of a group of individuals.²⁰⁴ "Though all of the members of the group . . . have a common interest in obtaining this collective benefit, they have no common interest in paying the cost of

¹⁹⁹ THE FEDERALIST NO. 10 (James Madison).

²⁰⁰ See Clayton P. Gillette, Comment, *Interest Groups in the 21st Century*, 32 URB. L. 423, 426 (2000).

²⁰¹ ESKRIDGE ET. AL., *supra* note 172, at 48 (quoting ROBERT DAHL, A PREFACE TO DEMOCRATIC THEORY (1956)).

²⁰² See MANCUR OLSON, JR., THE LOGIC OF COLLECTIVE ACTION: PUBLIC GOODS AND THE THEORY OF GROUPS 7 (1965).

²⁰³ *Id.*

²⁰⁴ *See id.*

providing that collective good.”²⁰⁵ However, smaller groups may fare better than larger ones in obtaining a collective good and furthering common interests because: as group size increases, the benefit any one group member receives decreases; members of large groups are less likely to gain enough from getting the collective good to bear the burden of helping to obtain it; and organization costs increase as group size increases.²⁰⁶

Recall campaigns often begin when groups like those described above band together and begin the petition process. These groups organize around the common goal of recalling the elected official. Based on the prior discussion, we would expect interest groups formed for the express purpose of mounting a recall campaign to enjoy greater success in small localities. Since the members of these groups form based on a common interest or goal, and “[w]ithin countries smaller communities tend to be relatively homogeneous,”²⁰⁷ it may be easier to find a group of citizens with common goals and ideologies in smaller, less populated areas than it would be in large cities or on a statewide level where people’s interests tend to vary more. Additionally, as previously discussed, smaller groups may find it easier to organize and work toward the common goal. Thus, recall campaigns undertaken by these groups are more likely to make it to the election stage. In contrast, however, recalls may also be triggered when already organized groups get outraged. These groups face no start-up costs so they are more likely to engage in political action. Since these groups are more widespread in larger localities, additional research focused on exactly which types of groups are bringing the recalls at the local level is needed to confirm the earlier hypothesis.

d. Citizens' Ability to Monitor Local Government

A final explanation for the prevalence of local recalls in smaller localities relates to how citizens view local government and their ability to monitor it. Evidence suggests that many citizens see local government as “a more human-sized institution.”²⁰⁸ It is easier for them to understand government at the local level because it handles issues they can comprehend and therefore it “is more rewarding, less costly, to deal with.”²⁰⁹

In his work on congressional policymaking, R. Douglas Arnold examined the incumbent performance rule through which “voters first evaluate the current conditions in society, decide how acceptable those conditions are, and then either reward or punish incumbent legislators for actions they think contributed to the current state of affairs.”²¹⁰ Although this rule deals with incumbents in general elections, the same theory may

²⁰⁵ *Id.* at 21.

²⁰⁶ *See id.* at 46.

²⁰⁷ ROBERT A. DAHL & EDWARD R. TUFT, SIZE AND DEMOCRACY 33 (Hans Daalder et al. eds., 1973).

²⁰⁸ *Id.* at 55.

²⁰⁹ *Id.*

²¹⁰ R. DOUGLAS ARNOLD, THE LOGIC OF CONGRESSIONAL ACTION 44 (1990).

also apply to recall elections. In order for a voter to reward or punish a legislator for a given effect, that effect must be traceable. Arnold defines an effect as traceable “if a citizen can plausibly trace an observed effect first back to a governmental action and then back to a representative’s individual contribution.”²¹¹ Three conditions must be present for traceability to exist: (1) a perceptible effect; (2) an identifiable government action; and (3) a legislator’s individual contribution.²¹² Thus, in recall elections, voters will either reward or punish the incumbent target based on traceable policy effects.

Recalls are typically a reaction to an elected official’s specific actions or inactions or the fiscal condition of a particular locality. Since citizens have a better understanding of local government they have an easier time monitoring officials at the local level, and more specifically, in smaller localities. Moreover, because of these conditions, it is easier to trace the effects of policies at the local level. For instance, if residents in a large municipality like Los Angeles are angered by a decision, it is difficult for them to select a recall target because of the complex nature of the decision-making process and the number of government officials involved. Therefore, more local recalls occur in smaller, less populous areas. This perspective also helps explain why recalls are less common at the county level versus the city or school district level: County government tends to be larger and more complicated than city government.

This does not mean that recalls never occur in places with larger populations; it simply means that recalls in those areas are less common. They may also be solely triggered by clear and easily traceable evidence of wrongdoing by public officials, as was the case in the South Gate recalls of 2003, which were motivated by corruption charges. Although traceability is easier to ascertain in smaller settings, as Arnold notes, politicians in any government setting may go out of their way to increase traceability if they think the effects of the policy will help them win reelection.²¹³ Additionally, politicians at any level of government tend to be aware of how well citizens can monitor their actions. Thus, since it is easier for residents of smaller localities to monitor their elected officials, we might expect to see less recalls in these areas as politicians are aware of the increased monitoring. However, if we also take into account the previously discussed theory that politicians in these areas are less progressively ambitious and are therefore less likely to alter their behavior in response to monitoring, we can see why that is in fact not the case. These discretely ambitious politicians are less inclined to modify their behavior even with the existence of better monitoring because they place more value on passing policies that reflect their own preferences than on pleasing their constituents in an attempt to attain a higher office.

²¹¹ *Id.* at 47

²¹² *See id.*

²¹³ *See id.* at 73.

Additional information about incumbent election rates in various localities would prove useful in confirming this hypothesis. If citizens have a more thorough understanding of local government and are better able to monitor elected officials in smaller localities, we might expect to see lower reelection rates in these areas as well. Further, more complete information regarding the triggers for local recalls and citizen participation rates in local government activities will also be useful in testing this theory. If local recalls in larger, more populous localities are triggered only by clearly traceable wrongdoing, and citizens in these areas report that they have difficulty monitoring their elected officials, it would lend further support to the hypothesis.

D. COMPARING THE TRENDS: LOCAL RECALLS VS. LOCAL INITIATIVES

1. *Population*

As noted earlier, the clearest trend with respect to local recalls is their widespread use in smaller, less populated localities. Unlike local recalls, local initiatives are most common in large, growing, economically diverse cities.²¹⁴ In the 1990s, "cities at or above the 75th percentile of population could expect 80% more initiatives than cities at or below the 25th percentile."²¹⁵ Contrary to local recalls, this is consistent with traditional political science theory because it is more difficult for representatives in these areas to determine the preferences of their constituents and thus, it is more likely that they enact unpopular policies or fail to act at all, which forces citizens to turn to initiatives.²¹⁶ The greater use of initiatives in larger cities is also at least partially due to the signature requirements for local initiatives in those cities. Many larger cities that experienced wide use of the initiative process in the 1990s were charter cities that did not follow the state Elections Code and thus had lower signature requirements.²¹⁷ This explanation does not hold true for local recalls, as most were held in general law cities and even the charter cities with recalls followed the state Elections Code.²¹⁸ Thus, this difference between local recalls and local initiatives cannot be explained simply by examining signature requirements.

The prevalence of local recalls in less populated localities as compared to initiatives may instead be due to the fact that it is an easier and less expensive process to put together a recall petition than it is to write an initiative. In California, a recall petition only requires a short general statement of the reasons for the recall.²¹⁹ This is a relatively simple process that does not require any knowledge of legislative drafting or legal issues. Initiatives, on the other hand, "are often lengthy and technically

²¹⁴ See GORDON, *supra* note 110, at vii.

²¹⁵ *Id.*

²¹⁶ See *id.* at 47.

²¹⁷ See *id.* at vii.

²¹⁸ See *Charter Cities and Counties*, *supra* note 103.

²¹⁹ See CAL. ELEC. CODE § 11020(b) (West 2005).

worded.”²²⁰ Initiative campaigns are usually very costly as supporters and opponents put up large sums of money to educate voters about these complicated measures and many initiative campaigns hire paid signature gatherers and consultants and involve significant interest group support.²²¹

High spending on initiative campaigns serves two purposes: (1) it helps proposals qualify for the ballot; and (2) it is a way to inform voters of the specifics of the measures. The complexity of initiatives makes it difficult for many ordinary voters to understand the issues they are voting on. Interest groups’ involvement in these campaigns acts as a cue for voters.²²² Thus, voters cast their vote for or against an initiative depending on how closely aligned they are with the views of the interest groups who have voiced their support or opposition for the measure.²²³ Interest group cues are not widespread in recall campaigns because cues in the form of the candidates themselves are already built in. The cues in recall campaigns — including candidates, political parties, and incumbency — are more similar to those in general and primary elections. As a result, supporters of a recall are forced to spend a significant amount of money combating these powerful cues. However, the entire recall process may be less expensive than initiatives because, although supporters must still spend money to combat the cues like initiative supporters spend money to educate voters, it remains less expensive to draft and qualify a recall petition for the ballot.

It is difficult to locate campaign finance data for initiatives and recalls at the local level in order to compare the actual spending between these two devices. However, one city provides anecdotal evidence to support the claim that spending is greater in local initiative campaigns than in local recalls. In 1996, supporters and opponents of an initiative related to whether a gambling hall should be allowed within the city of Colma spent more than \$150,000.²²⁴ Comparatively, supporters of a recall campaign against four Colma city council members related to this same issue only spent \$11,296.²²⁵ Although the recall figures are only for the pro-recall campaign it is unlikely that the anti-recall effort spent more than \$140,000, and thus the total spent on the recall was less than that spent on the initiative. However, because this evidence only relates to one city, future studies are needed to determine if this trend continues.

²²⁰ David B. Magelby, *Let the Voters Decide? An Assessment of the Initiative and Referendum Process*, 66 U. COLO. L. REV. 13, 24 (1995).

²²¹ In 1998, issue committees spent nearly \$400 million promoting and opposing ballot measures in forty-four states. and, in CA, an estimated \$256 million alone was spent. See Elizabeth Garrett & Elisabeth Gerber, *Money in the Initiative and Referendum Process: Evidence of Its Effects and Prospects for Reform*, in THE BATTLE OVER CITIZEN LAWMAKING 73 (M. Dane Waters ed., 2001). California’s 2003 gubernatorial recall was also very expensive with an estimated \$83.6 million being spent. See LARRY N. GERSTON & TERRY CHRISTENSEN, RECALL! CALIFORNIA’S POLITICAL EARTHQUAKE 108 (2004). The effects of spending on ballot measure or recall outcomes is not an issue for this Note, but it is still important to note the figures.

²²² See JOHN G. MATSUSAKA, FOR THE MANY OR THE FEW: THE INITIATIVE, PUBLIC POLICY, AND AMERICAN DEMOCRACY 10 (Benjamin I. Page ed., 2004).

²²³ See *id.*

²²⁴ See John Wildermuth, *Stakes Rise in Colma Election: Cemeteries’ Costly Opposition*, S.F. CHRON., May 8, 1996, at A13.

²²⁵ See *Voters Vote to Keep Colma’s Casino Backers*, ASSOCIATED PRESS, Sept. 17, 1997, available at 1997 WL 2550052.

Additionally, based on the foregoing analysis, one might expect to see a greater number of initiatives in larger, more populous, and wealthy cities as groups shy away from spending the necessary amount of money to qualify initiatives in smaller, less wealthy cities. However, if spending is lower in recall campaigns than initiative campaigns, we would also expect to see more recalls than initiatives in all localities, not just smaller ones. Thus, it is likely that while cost may play a factor, additional variables are needed to explain this difference.

Another reason why initiative campaigns are more widespread in more populous localities stems from the basic differences between recalls and initiatives. Since recalls are often sparked by the specific actions or inactions of elected officials, it is necessary for citizens to have an understanding of the decision-making process and the ability to easily monitor their elected officials in order to reward or punish them for these actions. On the other hand, initiatives involve proposals for new laws or changes to existing laws and are not usually related to specific decisions of elected officials.²²⁶ It is less necessary for citizens to have intimate knowledge of the policymaking process or elected officials when launching initiative campaigns. Although some ability to monitor is necessary in initiative campaigns to determine that the policy citizens want has not been implemented, the level of traceability that is required in recall campaigns need not be present. Thus, initiative campaigns may occur in more populous localities where, due to monitoring difficulties and complex policymaking procedures, it would be difficult to launch a recall campaign.

2. *Election Timing and Success Rates*

Both local initiatives and recalls enjoy greater success than their statewide counterparts in California. Close to 80% of county initiatives and 75% of city initiatives qualified for the ballot in the 1990s.²²⁷ City measures had a 45% approval rate and county measures had a 42% approval rate.²²⁸ Comparatively, only 15% of statewide initiatives qualified for the ballot during this same period and 40% of those were approved by voters.²²⁹ As noted earlier, only five state level recalls have qualified for the ballot in California and out of the over 100 local recalls that made it to the ballot, 71% of them were successful.²³⁰

Local recall elections as well as local initiatives may appear on the ballot in state and local (concurrent) or local-only (non-concurrent) elections, including odd-year November and special (off-cycle) elections.²³¹ The most recall elections for cities, counties, and school districts overwhelmingly took place at special elections.²³² The next most popular

²²⁶ See GORDON, *supra* note 110, at 1.

²²⁷ See *id.* at 20.

²²⁸ See *id.*

²²⁹ See *id.*

²³⁰ See *California Elections Data*, *supra* note 111.

²³¹ See GORDON, *supra* note 110, at 27-28.

²³² See *California Election Data*, *supra* note 111. Ninety-three recall elections were off-cycle (special) elections. See *id.*

time to hold recall elections was during odd-year November and presidential primary elections.²³³ Local recalls were most successful when held during presidential and gubernatorial general elections and presidential primary elections.²³⁴ On the other hand, most local initiatives were circulated in presidential and gubernatorial general elections.²³⁵ Local initiatives enjoyed greatest success in gubernatorial and presidential primary, special, and odd-year November elections.²³⁶

The success of local initiatives in these elections may be due to the fact that primary, special, and odd-year November elections have lower participation rates and thus attract more interested and informed voters.²³⁷ Additionally, these voters may have outlying preferences that differ from those of the median voter who tends to be better represented at general elections. As noted earlier, studies have confirmed that ballot measure elections attract more partisan voters and recall elections may be similar.²³⁸

The large number of recalls held at special elections indicates that recall supporters fear the incumbency advantage. When a recall is on the ballot, the incumbent target likely has a built in advantage against the recall supporters. Since special elections attract more interested voters, the incumbency advantage may be lessened in these instances. On the other hand, because voters that turn out for general elections are less likely to be informed about the nature of the recall, the incumbency advantage may play a greater role in causing these voters to side with the recall target. Therefore, recall supporters want to schedule recalls for special elections and thus strategically choose to begin their campaigns far away from general elections. Further, the slightly lower success rate of recalls at special elections may be due to the fact that supporters are more likely to schedule recalls that are unlikely to succeed for special elections because it is more essential to lessen the incumbency advantage in these cases. Thus, if these recalls were held during general elections, they might be even less successful.

3. Median Home Value/Income

Further examination of local initiative use also reveals that cities with higher median home values had more widespread initiative use: The median home value in cities with three or more initiatives was \$244,088 compared to \$186,115 in cities with no initiatives.²³⁹ However, when a multivariate analysis, controlling for additional factors, was performed, there was no significant relation between frequency of initiative and

²³³ See *id.* Eighteen recall elections were held in odd-year November elections and sixteen were held in presidential primary elections. See *id.*

²³⁴ See *id.* The success rates were 90%, 87.5%, and 81.25%, respectively. See *id.*

²³⁵ See GORDON, *supra* note 110, at 28.

²³⁶ See *id.* The success rates were 52%, 51%, 52%, and 45%, respectively. See *id.*

²³⁷ See *id.* See also ZOLTAN L. HAJNAL, PAUL G. LEWIS & HUGH LOUCH, MUNICIPAL ELECTIONS IN CALIFORNIA: TURNOUT, TIMING, AND COMPETITION 36 (2002).

²³⁸ See Tolbert, *supra* note 188.

²³⁹ See GORDON, *supra* note 110, at 35 tbl.4.1.

median home value.²⁴⁰ On the other hand, a similar analysis of local recalls reveals that the median home value was lower in cities with recalls. The average median home value in cities with recalls was \$144,941 compared to \$266,051 in cities without recalls.²⁴¹ Additionally, the median income in cities with recalls was also lower than in cities without. The median income in cities with recalls was \$37,546, while for cities without recalls it was \$53,549.²⁴²

This difference between initiatives and recalls is interesting. As opposed to initiatives, where activity increases with median home value and where there is no evidence that it decreases with median income, univariate analyses show that for recalls, activity is significantly and negatively related to these variables. However, without a multivariate analysis of the type performed in Tracy Gordon's local initiative study—which is beyond the scope of this Note—we cannot be sure that this finding is not a statistical artifact. A multivariate analysis should control for factors including race, ethnicity, and party affiliation. If this result holds up, it would be interesting to explore further because, while the common perception is that political activity increases as wealth increases, the trend in recalls is the opposite.

4. Political Party Affiliation

Initiative activity also depends on political party affiliation as cities with more Democrats (56% compared to 40% of all registered voters) experienced greater initiative use.²⁴³ The same also held true for cities with more political Independents.²⁴⁴ Similarly, cities with recalls also had a higher percentage of Democrats (47% compared to 33% of all registered voters).²⁴⁵ However, the spread is less than with initiatives and also closely mirrors the breakdown of political party affiliation in California, which is 43% Democrat and 34.7% Republican.²⁴⁶ Again, no explanation is given as to exactly why Democrats are more likely to employ the initiative. Additionally, political party affiliation may have little effect on local recall use as the numbers resemble the statewide breakdown.

²⁴⁰ See *id.* at 62 tbl.B.1.

²⁴¹ This difference is significant at the 1% level, as is the difference in median income I report next. See U.S. Census Bureau, *Financial Housing Characteristics* (2000), http://factfinder.census.gov/servlet/GCTTable?_bm=y&-context=gct&-ds_name=DEC_2000_SF3_U&-mt_name=DEC_2000_SF3_U_GCTH9_ST7&-CONTEXT=gct&-tree_id=403&-geo_id=04000US06&-format=ST-7&-lang=en (last visited Mar. 17, 2005).

²⁴² See U.S. Census Bureau, *Income and Poverty* (1999), http://factfinder.census.gov/servlet/GCTTable?_bm=y&-context=gct&-ds_name=DEC_2000_SF3_U&-mt_name=DEC_2000_SF3_U_GCTP14_ST7&-CONTEXT=gct&-tree_id=403&-redoLog=true&-geo_id=04000US06&-format=ST-7&-lang=en (last visited Mar. 2, 2005).

²⁴³ See GORDON, *supra* note 110, at 42.

²⁴⁴ See *id.*

²⁴⁵ See Cal. Sec'y St., *Report of Registration by Political Subdivision by County* (Oct. 18, 2004), http://www.ss.ca.gov/elections/ror/pol_sub_10_18_04.pdf [hereinafter *Political Party Registration by Subdivision*].

²⁴⁶ See Cal. Sec'y St., *Historical Voter Registration Statistics* (Oct. 18, 2004), http://www.ss.ca.gov/elections/ror/reg_stats_10_18_04.pdf [hereinafter *Statewide Voter Registration*].

Unlike cities, counties with recalls had a higher percentage of Republicans (41% compared to 37% of registered voters).²⁴⁷ Similar results were found with respect to initiatives as counties with greater initiative use had more Republicans (45% compared to 38% of registered voters).²⁴⁸ Although this departs from California's statewide breakdown, because California has nearly double the amount of Republican counties as Democratic counties (thirty-seven compared to twenty-one) this result may not be all that surprising. Also, it may further support the theory that recall use at the local level is not correlated with political party affiliation because the numbers closely resemble the statewide breakdown.²⁴⁹

Additional information is needed to determine the significance of political party affiliation with respect to recalls. Although many opponents of recalls charge that they are purely partisan devices used by the party out of power to harass elected officials, a study of recalls in Los Angeles revealed that at least in that city, "voters generally have rejected 'politically inspired' recalls — movements in which sour grapes or personal feuds and ambitions were the chief reason behind the recall."²⁵⁰ The study further found that "voters have generally preferred to reserve the recall for its originally intended use (to weed out malfeasance and corruption) and to settle political questions at regular elections."²⁵¹ However, we would expect to find that even though they may not always succeed, a large number of recalls are initiated by the party out of power.

Data regarding the party affiliation of candidates targeted for recalls or the affiliation of the recall supporters was not available, but it is essential for a complete analysis of this hypothesis. Further complicating this issue for local recalls is the fact that some local races are nonpartisan. If a number of recalls are initiated by the party out of power, they may be less likely to occur in localities with nonpartisan local elections. However, even in these localities, citizens tend to know the basic political alignment of the candidates. Further, it may also be true that recall campaigns are more likely in places where the minority party is larger because even though they do not have enough strength to elect candidates, they do have enough strength to mount a petition drive and hope to gain the support of disenchanted members of the majority party at a recall election.

5. *Future Studies*

As discussed at the outset of this Note, this analysis is only intended to provide a starting place for the analysis of recall use at the local level. Thus, the previous comparisons between local initiatives and local recalls with respect to a number of variables are only preliminary. Studies of local initiatives have revealed other trends, which might also yield interesting results when examined in relation to local recalls. Cities with greater

²⁴⁷ See *Political Party Registration by Subdivision*, *supra* note 241.

²⁴⁸ See GORDON, *supra* note 110, at 38.

²⁴⁹ See *Statewide Voter Registration*, *supra* note 242.

²⁵⁰ CRONIN, *supra* note 9, at 143.

²⁵¹ *Id.* (internal quotations omitted).

