

PRESS RELEASE

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CATANIA CALLS FOR ELIMINATING PROHIBITION ON OPEN PRIMARIES

COUNCILMEMBER SAYS DISTRICT'S ELECTION LAW WOULD BE RULED UNCONSTITUTIONAL IF CHALLENGED

Washington, D.C. – Today, Councilmember David Catania (At-Large) introduced a bill to remove the District's prohibition against open primaries. The bill would allow the District's political parties to permit the over 63,000 District voters who are not registered with a political party to vote in their primary elections.

"I am of the opinion that more participation in our local elections is a good thing," said Catania. "District residents value the right to vote and the right to be represented, and with good reason. Yet, nearly 17 percent of our electorate is prohibited from participating in the primary process. It is certainly my hope that the District's political parties will choose to open their primaries when the prohibition is removed."

District law currently prohibits residents from voting "in a primary or party election held by a political party other than that to which he or she has declared himself or herself to be a member." Catania's bill, the "Open Primary Act of 2008," removes this prohibition. If enacted, the District's political parties would ultimately decide whether or not to allow non-affiliated voters to vote in their primary elections.

"It is likely that our current law would be ruled unconstitutional if it was ever challenged," said Catania. "The courts have ruled against laws that both prohibit open primaries and laws that require them. This bill strikes the appropriate balance."

A nearly identical law to that of the District was struck down by the U.S. Supreme Court in Tashjian vs. Republican Party of Connecticut (479 U.S. 208) over 20 years ago. In the ruling the Court held that a prohibition against open primaries placed an unconstitutional burden on the fundamental freedom of political association guaranteed by the First and Fourteenth Amendments. Conversely, the Supreme Court has also overturned laws that require open primaries. In California Democratic Party v. Jones (530 U.S. 567), the Court ruled that the First Amendment right to freedom of association also includes the right of parties *not* to associate.

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