

Democracy North Carolina

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A Profile of the Judicial Public Campaign Program, 2004-10

The Judicial Campaign Reform Act of 2002 gave candidates for the NC Supreme Court and Court of Appeals a choice: They could raise campaign money the old-fashioned way, from private donors, which often had the appearance of impropriety because most of the funds came from attorneys who might argue cases in the candidate's court. Or they could receive a competitive amount of "clean" campaign money from the NC Public Campaign Fund – if they voluntarily accepted fundraising and spending limits and demonstrated broad support from registered voters in the form of hundreds of qualifying donations.

A Model Program for the Nation

The American Bar Association has heralded North Carolina's innovative program as a model for the nation. Its framework was used for the judicial public financing programs adopted by the states of New Mexico, Wisconsin and West Virginia. A July 2009 report by the Center for Government Studies in California concludes:

"North Carolina established the nation's first effective public campaign financing program for judicial elections in 2004. The program is widely considered a model of reform with the potential to expand to other states. . . . The program increases public confidence in the courts by eliminating [the chase for] political contributions in judicial elections."

Voters Authorize "Voter-Owned Elections"

To get access to public funds, the candidate had to raise contributions of \$10-\$500 from at least 350 registered voters, adding up to at least \$39,450 (or 2/3rd of these numbers for candidates in the late-vacancy contests for the Orr seat in 2004 and Wynn seat in 2010). Candidates went well beyond the minimum and engaged a large number of people in judicial elections.

- More than 4,000 registered voters provided donations to the 8 appellate court candidates who successfully qualified for public funds in the 2010 election.
- More than 4,000 voters provided donations to the 8 qualifying candidates in the 2006 election.

Broad Participation by Candidates

The program has gained widespread use by candidates across the political spectrum, but candidates must earn the right to use public funds and several have tried but failed the test.

- 47 of 61 (77%) of the candidates in contested races for the NC Supreme Court and Court of Appeals enrolled in the program in the 2004, 2006, 2008 and 2010 general elections.
- 8 of the 47 candidates who enrolled in the program failed to qualify for a public grant because they did not obtain the necessary number or dollar amount of qualifying contributions.
- All kinds of candidates qualified: incumbents and challengers; black and white; men and women; Democrats and Republicans; winners and losers.

The Public Grant Provides Adequate Funds for a Competitive Campaign

To prevent qualified candidates from being overwhelmed by high-spending opponents or opposition groups, the program provides “rescue” or matching funds, up to twice the amount of the original grant; the original grant is the spending limit accepted by the qualified candidate for the general election. In the race for Supreme Court Associate Justice, a qualified candidate could receive maximum rescue funds of \$467,250 – twice the original grant of \$233,625.

- About \$160,000 was sent to candidate Sarah Parker in 2006 because her opponent, Rusty Duke, had raised that much more than the spending limit she agreed to accept.
- In 2008, Robert Edmunds received about \$5,300 in rescue or matching funds.
- Two other candidates running against each other received matching funds in 2008 because of a political party flyer that promoted both of them – but they returned those funds.

Reduced Special Interest Funding & Conflicts-of-Interest

One of the objectives of the program was to provide judicial candidates with an alternative source of “clean” funding so they did not need to rely so heavily on attorneys and others who appear, or might appear, in their courtrooms.

The figures below illustrate the success of the program in replacing a dependency on self-interested money with public-interest money.

- Before the program began, judicial candidates in the 2002 general election received 73% of their non-family campaign money from attorneys and special interest or political committees
- This figure dropped to 14% for the 12 candidates who qualified to receive public support in the 2004 general election.

A Stable Public Campaign Fund

The income from two sources is sufficient to pay for grants to the candidates, mailing 4 million Judicial Voter Guides to all households in the state, and rescue (or matching) funds as needed.

- The \$3 voluntary check-off on the NC tax form generates \$1.2 million for the Fund.
- The \$50 surcharge on the annual dues paid by attorneys generates \$1.1 million.

The program uses income from a \$3 voluntary check-off on the state income-tax form, which generates about \$1.2 million a year. The biggest problem is that as many as half the taxpayers are not even aware of the check-off and what it does, often because they are not asked the question by their tax preparer or they miss it on electronic and paper forms. Beginning in 2006, attorneys were required to pay a \$50 surcharge on their dues to the State Bar, which generates about \$1.1 million per year for the Fund. Attorneys have a special obligation to protect the integrity of the court system; indeed, their livelihood depends on public trust in the courts.