

Democracy North Carolina

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Profile of Judicial Public Financing Program, 2004-2012

In 2004, North Carolina began a voluntary program to address the inherent conflict of judges raising large amounts of money from special interests and attorneys who appear in their courts. The program provides a statewide voter guide and an alternative source of campaign money to candidates for the NC Supreme Court and Court of Appeals if they meet certain public trust conditions. Participation is voluntary. Candidates can raise campaign money the old-fashioned way, from private donors, OR they can qualify for a competitive amount of campaign money from the NC Public Campaign Fund – IF they accept strict fundraising limits and demonstrate broad public support by raising hundreds of qualifying donations from registered NC voters.

Bipartisan Support for a National Model

A bipartisan group of NC business and civic leaders wrote state legislators to encourage their continued support of the program. The letter was signed by former Gov. Jim Holshouser, Gov. Jim Martin and Gov. Jim Hunt, two dozen former presidents of the State Bar and NC Bar Association, and hundreds of other civic leaders. The May 2011 letter concluded:

“ . . . we join together to urge you to protect the integrity of the judicial system and preserve the judicial public financing program and Public Campaign Fund. Many of us would prefer a different model for selecting judges, but as long as we elect the members of our state’s top courts, we should continue this vital program.”

The American Bar Association has heralded North Carolina’s innovative program as a model for the nation. Its framework has now been used for judicial public financing programs in New Mexico, Wisconsin and West Virginia. A 2009 report by the Center for Government Studies says:

“North Carolina established the nation’s first effective public campaign financing program for judicial elections in 2004. . . . The program increases public confidence in the courts by eliminating [the chase for] political contributions in judicial elections.”

Voters Must Authorize Use of Public Funds

To get access to public funds, the candidate first must raise donations of \$10-\$500 from at least 350 registered voters, adding up to at least \$39,450. Candidates went well beyond the minimum and engaged a large number of small donors.

- More than 4,200 different registered voters provided qualifying donations to the 8 appellate court candidates in the 2012 election. Over 4,000 voters donated in the 2006 and 2008 elections.

Broad Participation by Candidates

The program has gained widespread use by candidates across the political spectrum, including all 8 appellate candidates in 2012. Several have tried but failed to meet the public support test.

- 55 of 69 (80%) of the candidates in contested races for the NC Supreme Court and Court of

Appeals enrolled in the program in the 2004, 2006, 2008, 2010 and 2012 general elections.

- 8 of the 55 candidates who enrolled in the program failed to qualify for a public grant because they did not obtain the threshold number of donors or dollar amount of qualifying contributions.
- All kinds of candidates have qualified: incumbents and challengers; black and white; men and women; Democrats and Republicans; winners and losers.

Funds for a Competitive Campaign

The public grant supplements the qualifying donations; together, they provide a viable amount of funding for a campaign. The candidate can raise up to about \$80,000 of private donations from hundreds of voters and then receive the public grant. In 2012, qualifying candidates for Supreme Court Associate Justice received \$240,100 and Court of Appeals candidates received \$164,400.

- Before 2012, qualifying candidates who were hit by a large amount of opposition spending could receive a second grant (“rescue funds”) to stay competitive, but the U.S. Supreme Court has ruled that awarding extra public funds based on the action of an opponent is not allowed.
- In the 2012 election, more than \$2 million was spent by outside groups to help Justice Paul Newby defeat Judge Sam J. Ervin IV. Now that rescue funds are not allowed, consideration should be given to raise the amount of the public grant.

Reduced Special Interest Funding & Conflicts-of-Interest

One objective 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 those who appear in their courtrooms. The program has replaced 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, special-interest PACs or political committees
- This figure dropped to 14% for the 12 candidates who qualified to receive public support in the 2004 general election and has remained low since then.

A Sustainable Public Campaign Fund

The Public Campaign Fund receives its income from two sources, which are sufficient to pay for grants to the candidates and mail 4 million Judicial Voter Guides to all households in the state.

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

The \$3 voluntary check-off appears on the state income-tax form, but research shows that more than half the taxpayers are not aware of it, 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. Attorneys in the NC General Assembly sponsored this addition because attorneys have a special obligation to protect the integrity of the court system; indeed, their livelihood depends on the public’s trust in the courts.