

Democracy North Carolina

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CHOOSING JUDGES: MONEY GIVEN IN PAST RACES IS RESTRICTED, REPLACED UNDER NEW PROGRAM

Cost of Seat on Top Courts Climbs, With Most Money Coming from Attorneys and Special-Interest Groups

More than \$300,000 raised in the 2002 elections for the state's top two courts would no longer be permitted, if candidates for these offices accept the restrictions – and benefits – of a new “Voter-Owned” public financing program that begins this year.

The prohibited funds came from special-interest groups and donors with a direct stake in how courts rule. They include checks totaling \$44,000 from the N.C. Academy of Trial Lawyers and \$10,000 from political committees sponsored by physicians, who oppose the trial attorneys in medical malpractice lawsuits; nearly \$200,000 from Democratic and Republican party committees, who oppose each other in court fights over redistricting; and \$80,000 from other PACs for such interests as banks, insurance companies, defense attorneys, and labor unions.

“A relatively small amount of this special-interest money can still find its way into campaigns, particularly in the very early stage,” said Bob Hall, research director for Democracy North Carolina, a nonpartisan organization that tracks money in state politics. “But under the new program, where registered voters authorize a candidate to receive ‘clean’ public funds, the amount supplied by parties with a vested interest in a court’s decisions will be dramatically reduced.”

Candidates for the N.C. Supreme Court and N.C. Court of Appeals raised \$1.3 million in the 2002 elections, *not counting loans or donations from themselves and their families*. Democracy North Carolina’s research shows that two thirds of the \$1.3 million came from attorneys, attorney-backed committees, and special-interest donors frequently involved in court cases.*

By contrast, Hall said that two thirds or more of the funds used by a candidate in the new public financing program would come from the Public Campaign Financing Fund. To qualify for \$137,500 or \$201,000 from the Fund, depending on the office sought, a candidate must first raise \$33,000 to \$69,000 from at least 350 registered voters giving \$10 to \$500 each.

The Fund gets most of its money from a \$3 designation or check-off on the state income-tax form. “Agreeing to the check-off doesn’t increase a person’s tax or reduce any refund,” said Gary Bartlett, executive director of the State Board of Elections. “It simply tells the Revenue Department to send \$3 to the Fund.”

Bartlett has publicly worried that if not enough taxpayers mark the check-off box for the Public Campaign Financing Fund, it will not have enough money for all qualified candidates or, more at risk, enough for wide distribution of a Judicial Voter Guide describing the candidates and courts.

* This assumes that unitemized small donations follow the same profile of identified donation. It also excludes more than \$200,000 in loans and donations from the candidates (who are all attorneys) and their families, which would make the percent coming from attorneys even higher.

“We’d like to mail the voter guide to every potential voter in the state,” Bartlett said. “But that can’t happen unless people recognize this benefit and mark the check-off box for the Fund.”

Television ads featuring former governors Jim Hunt (D) and Jim Holshouser (R) are promoting the check-off. Democracy North Carolina and other election reform groups are also distributing 1,000,000 “buckslips” to tax offices, companies and civic organizations describing the Fund’s benefits and urging taxpayers to “Put Your Mark on History.”

“The basic costs of the new program should be covered if 10 percent of taxpayers mark ‘Yes’ on the check-off,” said Hall. “But we’ll need closer to 15 percent participation to get the voter guide mailed to households for both the primary and general election.”

The new program is voluntary for candidates as well as taxpayers. So far, four candidates for 2004 have filed papers indicating their intent to abide by the program’s strict fund-raising and spending limits. They are Justice Sarah Parker of the N.C. Supreme Court, judges Wanda Bryant and Linda McGee of the N.C. Court of Appeals, and challenger Doug Berger.

Under the new law, appellate judges will no longer run with party labels and that could mean they’ll need more money to get their message out without the help of political parties.

According to Democracy North Carolina analysis, the cost of running for the appellate court has trended upward. Between 1998 and 2002, spending jumped 60 percent per candidate for the Court of Appeals and 11 percent per candidate for the state Supreme Court.

In 2000, a record \$1.1 million was spent in the race for Chief Justice of the Supreme Court, with the better-funded incumbent Henry E. Frye, an African-American Democrat, losing to the white Republican I. Beverly Lake, then an associate justice on the court.

Hall noted that the Frye-Lake pattern has continued, with three more incumbent African-American Democrats losing appellate court races in 2002 to lesser-funded white Republicans.

Democracy North Carolina’s analysis shows that six of the seven Republican appellate candidates won in 2002, regardless of whether or not they out-spent their opponent. By contrast, in 1998, all seven candidates who out-spent their opponents won, regardless of their party affiliation.

“A candidate’s party label or fund-raising ability should not determine who wins, because neither tells us about the candidate’s judicial training or temperament,” said Peg Chapin of Charlotte, co-chair of the League of Women Voters of N.C. The League and other members of N.C. Voters for Clean Elections lobbied to lower contribution limits and make appellate elections nonpartisan in the same legislation that launched the public financing program and voter guide.

“There is a strong consensus, inside and outside the legal community, that judges should not be beholden to large campaign donors, nor should they represent partisan interests,” said Sen. Wib Gulley, the chief sponsor of the Judicial Campaign Reform Act.

“We want judges who are independent, impartial and fair, and the new law helps make that happen,” said Rep. William Culpepper, chief sponsor in the state House.

“The American Bar Association, National Center for State Courts, campaign reform experts, and others have praised the new program as a national model,” Gulley added. “The new law will work – but only if people participate in the check-off. It’s the best way to say, ‘Yes, judges should have an independent source of clean money for their campaigns and voters should have more information about the candidates seeking to serve on our highest courts.’”

FUNDS RAISED BY APPELLATE COURT CANDIDATES IN 2002 ELECTION THAT WOULD BE RESTRICTED IN 2004

Total Funds Raised, Not Counting Loans	\$1,480,796
Amount from Candidate or Family Members, Not Counting Loans	- 117,075
Funds Raised, Excluding Loans and Family Contributions	\$1,363,721
Amount from Unitemized and Small Donations	- 73,696
Net Funds Raised (excludes loans, family money, small donors)	\$1,290,025

Amount Raised From Attorney and Attorney Committees **\$ 704,234**

Percent of Funds Raised from Attys/Atty Comm.: 54.6%

FUNDS FROM SOURCES THAT ARE RESTRICTED UNDER PUBLIC FINANCING PROGRAM:

Amount Raised From Attorney Committees **\$ 86,855**

Examples of Funds from Attorney Committees:

NC Academy of Trial Lawyers PAC -	\$ 44,000
NC Assn. of Defense Attorneys PAC -	5,000

Amount Raised from Political Parties **\$ 198,588**

Percent of Funds Raised from Party Committees: 15.4%

Examples of Funds from Political Parties:

NC Democratic Executive Committee -	\$133,200
Moore County Republican Men -	4,600

Amount Raised from Other Special-Interest Committees **\$ 38,816**

Percent of Funds from Other Special Interests: 3.0%

Examples of Funds from Other Special Interests:

Wachovia Bank PAC -	\$ 5,000
BB&T PAC -	2,500
NC Medical Society PAC	8,000
Eastern Bank of Cherokee Indians -	3,100
Communication Workers of Amer. PAC -	6,500

Total from these restricted sources **\$ 324,259**

**Percent of Funds from Attorneys, Attorney Committees,
Other Special Interests, and Political Parties - 73.0%**

Prepared by Democracy North Carolina, Feb. 2004, based on reports filed at the State Board of Elections. Some reports have not been audited for errors or completeness by the State Board, so some numbers may change.

SPENDING BY CANDIDATES FOR APPELLATE COURT SEATS IN NORTH CAROLINA, 1998-2002

<u>2002 Election Cycle</u>			<u>2000 Election Cycle</u>			<u>1998 Election Cycle</u>		
Name & Party	Election Results	Amount Spent	Name & Party	Election Results	Amount Spent	Name & Party	Election Results	Amount Spent
<u>SUPREME COURT</u>								
G. K. Butterfield-D	Lost	\$229,710	Henry E. Frye - D	Lost	\$907,491	Jim Wynn - D	Lost	\$51,812
Ed Brady - R	Won	90,724	I. Beverly Lake - R	Won	232,668	George Wainwright -R	Won	146,551
Bob Hunter - D	Lost	155,881	Franklin Freeman -D	Lost	443,411	James Martin - D	Lost	56,849
Bob Orr -R	Won	237,684	Bob Edmunds - R	Won	201,971	Mark Martin - R	Won	388,839
Total Spending for Supremes		\$713,999			\$1,785,541			\$644,051
Average per Supreme Court Candidate in Gen. Elec.		\$178,500			\$446,385			\$161,013
<u>COURT OF APPEALS</u>								
Loretta Biggs - D	Lost	\$124,505	Robin Hudson - D	Won	\$268,055	P. Timmons-Goodson-D	Won	\$107,271
Sanford Steelman -R	Won	70,736	Paul Stam - R	Lost	28,492	Doug McCullough - R	Lost	11,945
Wanda Bryant - D	Lost	106,055	Clarence Horton - D	Lost	92,770	Sid Eagles - D	Won	104,343
AnnMarie Calabria-R	Won	89,248	Doug McCullough - R	Won	7,422	W. Schollander - R	Lost	5,549
Martha Geer - D	Won	196,867	Jim Wynn - D	Won	83,741	Bob Hunter - D	Won	89,284
Bill Constangy - R	Lost	38,693	W. Schollander - R	Lost	3,369	Ray Warren - R	Lost	5,414
George Barrett - D	Lost	1,930	John Martin - D	Won	78,745	Clarence Horton - D	Lost	36,926
Rick Elmore - R	Won	5,648	Wendy Enochs - R	Lost	8,978	Bob Edmunds - R	Won	79,706
Hugh Campbell - D	Lost	95,179	Jim Fuller - D	Lost	49,583	K Edward Greene - D	Won	39,190
Eric Levinson - R	Won	88,405	John Tyson - R	Won	70,688	Paul Stam - R	Lost	31,072
Total Spending for Appeals		\$817,266			\$691,843			\$510,700
Average per Appeals Court Candidate in Gen. Elec.		\$81,727			\$69,184			\$51,070
All Spending, Both Courts		\$1,531,265			\$2,477,384			\$1,154,751
Average Spending by Appellate Candidates in Gen. Elec.		\$109,376			\$176,956			\$82,482

- The number of seats up for election was the same in the last three cycles. Total spending for both courts (7 seats) jumped 33% from 1998 to 2002.
- The chart shows the steady increase in spending for the 5 Court of Appeals seats in each election (a 60% increase from 1998 to 2002).
- An expensive Supreme Court Chief Justice race in 2002 topped \$1.1 million and broke all records.
- Comparing Supreme Court spending in 2002 to 1998, when the Chief Justice seat was not on the ballot, shows spending climbing 11%.
- In 1998, all top spenders won, regardless of their party. In 2002, all but one Republican won, regardless of whether they outspent the opponent.