

The Reform Letter

The Newsletter of the
North Carolina Center for Voter Education

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Photo: Jesse Rutledge

NC Supreme Court Associate Justice Bob Edmunds and Governor Mike Easley display the newly-signed Judicial Campaign Reform Act in Raleigh, October 10, 2002. Also pictured are Sen. Allen Wellons (far left), and Judge Wanda Bryant (rear).

Bill Signing Remarks

"Many a time I can recall the trial judge saying to the jury 'you have no friends to reward, you have no enemies to punish, yours is but to seek the truth.' This bill goes a long way toward making certain that there is no impediment to that anywhere in a court system that we believe has the most integrity in the nation, and we want to keep it that way."

—Governor Mike Easley

"This has been a long trail we've been on for four or five years. We've blended judicial reform with campaign financing, making for the best bill in the country.

A lot of people will be looking at this."

—NC State Senator Allen Wellons

"This would not have happened if it were left up to the legislature, I don't believe. It took extraordinary citizen effort from across the state. I will be grateful eternally...to folks with the coalition that mobilized grassroots support and helped us find the way to do the right thing."

—NC State Senator Wib Gulley

Governor Easley Signs Judicial Campaign Reform Act

On Thursday, October 10, campaign reform groups from across the state and country celebrated a major victory when North Carolina Governor Mike Easley signed the Judicial Campaign Reform Act into law at a public ceremony in Raleigh. The new law makes North Carolina the first state in the nation to offer full public funding to qualified appellate-level judicial candidates who agree to adhere to strict fundraising and campaign spending limits, and marks only the second time that any form of full public financing has been approved through a state legislature.

"Much work remains to be done on campaign finance reform, but this is a significant victory for the people over the special interests," said former US Senator Robert Morgan, now chairman of the NC Center for Voter Education.

The new law does much more than just bring public financing to North Carolina. It also:

- Shifts appellate court races to nonpartisan elections, similar to the system used at the trial court level
- Reduces individual contribution limit to all appellate-level judicial candidates to \$1,000 (from \$4,000)
- Creates a state voter guide with information about appellate-level judicial candidates to be distributed to North Carolina voters

"Credit goes not just to the may reform groups who labored for years to bring public financing to North Carolina, but also to the legislators who voted to improve our method of judicial selection," Morgan continued. He singled out Senators Wib Gulley, Allen Wellons and Dan Clodfelter, as well as Representatives Bill Culpepper, Wayne Goodwin and Martha Alexander for their work in spearheading the initiative and shepherding the bill through the General Assembly. (See a timeline of how this bill became law on page 3).

"This law gives ordinary citizens the chance to play on the same field as special interests and wealthy donors," added Judge James Wynn, Jr. of the North Carolina Court of Appeals. "That will mean more public confidence and trust in the integrity of our courts."

A public opinion survey commissioned by the NC Center for Voter Education in the Spring of 2002 found that 70 percent of North Carolinians favor the reform package, with strong support from Republicans, Democrats and Independents alike. Over 1,000 attorneys across the state, including the current and 12 immediate past presidents of the North Carolina State Bar, and retired members of the NC Supreme Court, signed support statements for the public financing reform proposal (see Executive Notes on page 2).

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did you know...

What's in this issue?

- **Praise for Judicial Reform**
- **Online Voter Guide**
- **2002 Elections Cost Plenty**

Through October 16, Elizabeth Dole and Erskine Bowles spent a combined \$22 million on their U.S. Senate race, making it the most expensive Senate race in the country.

Executive Notes

There is a well-known saying about laws and sausages, that both are nice but you sure don't want to see how they are made. Indeed, it is often easy to get cynical about how public policy is made and to question whether citizen input really can make a difference.

I am pleased to say that, yes, citizen input does make a difference. Thanks to thousands of concerned citizens publicly voicing their support, the state legislature adopted historic reforms to our system of judicial elections.

Back in March of 2002, I began writing to attorneys around the state, asking them to join me in endorsing the principles of judicial campaign finance reform. Wave after wave of signed support statements arrived. Soon, over 1,000 lawyers had signed support statements. Legislators joked that anytime you could get 1,000 attorneys to agree on anything, you must be doing something right.

I want to take this opportunity to say thank you to all of those who joined us in this effort to improve our judicial elections, and I want to express special thanks to: A.P. Carlton, president of the American Bar Association; Tom Ross, executive director of the Z. Smith Reynolds Foundation; the members of our state courts; and the legislators who worked so hard guiding this proposal into law, Senators Wib Gully, Allen Wellons, and Dan Clodfelter, and Representatives Bill Culpepper, Martha Alexander, and Wayne Goodwin. Each deserves credit for helping our courts, our state, and our democracy.

Sincerely,



Robert B. Morgan
Chairman, NC Center for Voter Education

Public Financing Questions and Answers

Q: Who is eligible for public financing?

A: Appellate-level judicial candidates (NC Court of Appeals and NC Supreme Court) may be eligible for public financing. Candidates for trial court judgeships are not eligible. This is a fully voluntary system; no candidate is required to participate.

Q: How do candidates qualify for public financing?

A: Candidates must first file a declaration of intent to participate in the program with the State Board of Elections. In order to qualify for public funds, a Supreme Court candidate must raise at least \$34,500 from at least 350 registered voters before the primary election. Each contribution must be between \$10 and \$500, with the total sum collected not to exceed about \$69,000 (the exact sum is pegged to 60 times the filing fee for the office).

Q: How much would a candidate receive to run their campaign?

A: In the primary election, candidates use only their qualifying contributions from registered voters to run their campaigns, unless they are outspent by a non-participating candidate (see rescue funds, below). Qualifying candidates who win their primaries are then entitled to receive a lump sum disbursement to operate their campaign in the general election. Candidates would receive \$201,300 (slightly higher for Chief Justice) to conduct a general election campaign.

Q: What are “rescue funds” and how are they triggered under this plan?

A: Rescue funds are designed to ensure that a candidate who has voluntarily agreed to limit their spending is not swamped by a candidate who spends great sums of personal wealth or raises big money from special interests. Under this plan, rescue funds to a participating candidate are triggered in either the primary or the general election, whenever a non-participating candidate exceeds the “trigger” amount. The “trigger” amount is equal to the spending limit imposed upon the participating candidate (e.g., \$69,000 in the primary and \$201,300 in the general election).

Q: What is the maximum amount a candidate could receive under this plan?

A: In both the primary and general election, rescue funds are available for up to two times the original spending limit. The most that could be disbursed to one candidate in the general election would be slightly over \$600,00 for a participating candidate for Chief Justice of the Supreme Court, whose opponent had spent in excess of that amount.

Q: How is this program to be funded?

A: The program has three sources of revenue for the Public Campaign Financing Fund. There is a voluntary \$50 contribution from attorneys on their annual license renewal; a voluntary tax form check-off that would allow individual taxpayers to dedicate \$3 to the Public Campaign Financing Fund; and other voluntary contributions to the fund from other sources. ★

State Newspapers Praise Judicial Reform

“This is a significant reform in that it will reduce the need for candidates to raise campaign money from private contributors – often people with business before the courts. It could establish the public financing method as one that serves North Carolina well. The legislature has been smart to endorse such an experiment, and Governor Easley has every reason to put his signature on the bill.”

—*Raleigh News & Observer, October 3, 2002*

“Though our system of justice relies upon the notion that the people must instill some faith in the integrity of those who don the robe, the House is right to tighten the blindfold over the lids of the lady who holds the scales. In a time when institutions from corporate America to the Catholic Church have sullied the public trust, it’s just common sense to place additional safeguards on those who have final say on some of the state’s most important issues.”

—*Elizabeth City Daily Advance, October 1, 2002*

“Having nonpartisan elections will ease the voice of politics in judicial elections. And providing public financing for campaigns can mute the role of special interests.”

—*Greenville Daily Reflector, September 30, 2002*

“A move by the state House to introduce campaign finance reform to the state’s highest courts should help restore people’s faith in the judicial system...this legislation may go down as one of the most important bills to come out of the General Assembly in the past several sessions.”

—*Whiteville News Reporter, September 30, 2002*

“It is a good step to take partisan politics out of judicial elections...judges should not be elected according to their party labels. This change will help ensure that voters make choices based on individual qualifications...”

—*High Point Enterprise, September 29, 2002*

“Nonpartisan races help assure the public that rulings in work-a-day- cases are the result of independent thinking and analysis of legal issues, rather than the application of party-line principles. Jurists can deliberate absent the fear that they will be measured against ideological litmus tests and punished by parties that can withdraw support at election time.”

—*Greensboro News & Record, September 28, 2002*

Bill Signed

continued from page 1

Across the country, 87% of state judges, in 39 states, face some sort of election. North Carolina will become the first state in the nation to offer full public financing for its top courts, amid increasing concerns that many state judges face election systems laden with pitfalls that could potentially compromise their appearance of fairness and impartiality.

The bill’s passage was cheered by a broad coalition of groups and individuals that championed the reform effort. The NC Voters for Clean Elections coalition that worked to create public awareness about the need for reforming judicial elections included among its key members: the NC Center for Voter Education, Democracy South, Common Cause, and the NC League of Women Voters. Other coalition members endorsing the reform proposal included: the Business and Professional Women of NC, the Covenant With North Carolina’s Children, the NAACP of North Carolina, the NC Association of Educators, the NC Council of Churches, NC PIRG, and the NC Conservation Council. ★

Timeline

Passing the
Judicial Campaign Reform Act

November 20, 2001:
Passed the NC Senate

July 29, 2002:
Approved by House Election Law Committee

August 2, 2002:
Approved by House Finance Committee

September 24, 2002:
Re-referred to House Election Law Committee

September 25, 2002:
Amended and approved by House Election Law Committee
by full House

September 25, 2002:
Approved by full House on second reading

September 26, 2002:
Approved by full House on third reading

October 1, 2002:
Senate concurred with House changes

October 10, 2002:
Signed into law by Governor Mike Easley

Selected States with Public Financing

Fifteen states provide direct public financing to candidates for state office. Here is a comparative look at some of the systems used, when and how they were adopted, and what sort of financing (full or partial) they employ.

	Year Adopted	Adoption Method	Office(s) Financed	Financing
Arizona	1998	I	L/E	F
Kentucky	1992	G	E	P
Maine	1996	I	L/E	F
Minnesota	1993*	G	L/E	P
North Carolina	2002	G	J	F
Vermont	1997	G	E	F

Key:

I = Citizen Ballot Initiative

G= General Assembly

L= Legislature

E= Executive (Governor and/or others)

J= Judiciary

P= Partial public financing

F= Full public financing

* Minnesota's system of public financing was first introduced in the 1970s but significantly reformed in 1993.

How the New Law Will Work

The judicial reform bill will have a significant impact on how appellate-level judicial elections are conducted in North Carolina. The bill's provisions go into effect for the 2004 elections. Here is how some of the key provisions will work:

Nonpartisan elections. Candidates for these offices will no longer be identified on the ballot by their party affiliation. However, candidates may still rely on their networks of friends and volunteers in their political party to campaign around the state, and are free to promote their membership in a particular party on the campaign trail if they feel it is appropriate to do so. Candidates will no longer run in partisan primaries; rather, all candidates filing will be listed on the ballot for both parties, and the top two vote-getters in the primary will advance to the general election ballot.

Voter guides. The State Board of Elections will be producing a voter guide with key information about the candidates, which the candidates themselves will supply. This could include information about qualifications, education, legal experience or legal philosophy.

Public financing. Candidates may opt-in to the voluntary public financing system by meeting certain conditions. They must raise qualifying contributions of between \$10 and \$500 from 350 registered voters. They must agree to limit their spending in the primary to the amount they raise in the qualification process. And they must qualify for the general election ballot by placing first or second in the primary. If a candidate meets these qualifiers, they become certified to receive a lump-sum of public funds for use in the general election. The candidate must agree to raise no additional private dollars and to limit their spending in the general election to amount they receive from the fund. There are penalties for abuse of the system, and unused funds must be returned to the state.

Center Gets Foundation Support, Seeks Individual Donors

The NC Center for Voter Education's work is made possible in large part by financial support from the Z. Smith Reynolds Foundation of Winston-Salem. The Foundation was established in 1936, and since then has made grants of more than \$336 million to recipient organizations in all of North Carolina's 100 counties. The Foundation recently re-committed its support to the Center for Voter Education for 2003.

However, the Center also relies on contributions from individuals across the state to support its efforts to improve the quality and

responsiveness of the North Carolina election system. Please consider making a year-end tax-deductible donation to the Center (see the reply card on the back page, or donate online at www.ncvoter.com).

We are grateful for the support offered by the Z. Smith Reynolds Foundation, and ask that you join them in supporting our work.

Center Develops, Promotes Voter Guide as Tool for Voters in 2002 Judicial Elections

According to survey research, North Carolina voters want more information about candidates for judicial office. The NC Center for Voter Education responded to this need by publishing an educational and non-partisan website called the “NC Center for Voter Education Guide to Judicial Elections.” The website was online at www.ncjudges.org from mid-October through Election Day.

The website featured basic information from candidates for the NC Supreme Court and NC Court of Appeals, provided in their own words, with no gloss or spin. Details on the website include the education of each candidate, their professional and legal experience, and a candidate statement of up to 200 words.

The Guide to Judicial Elections was modeled on the voter guide used in the State of Washington, but added one new twist: because it was online, the Center invited all 14 candidates to tape a two-minute video statement, which visitors to www.ncjudges.org could watch using a streaming video application.

Candidate participation in this project was excellent. By mid-October, 13 of the 14 candidates had submitted most of the requested information. Seven of the fourteen candidates participated in the “video statement” portion.

The Center ran televised PSAs around the state encouraging voters to go to the website as a way to help make an informed choice when they vote for judges. Voters also learned about the website through radio advertising commissioned by the Washington-based Justice at Stake campaign, and through coverage in local newspapers around the state.

There were over 4,000 hits to ncjudges.org in the final three weeks of the campaign, including over 1,000 in the 24 hours immediately preceding election day. ★

ncvoter.com
Visit the “Video and Multimedia” section of www.ncvoter.com to hear the radio ad used to promote the Guide to Judicial Elections .

Center, UNC Law Co-Host Election Forum



On October 23rd, Justice Bob Orr (above), Judge Bob Hunter and Justice G.K. Butterfield participated in the only Supreme Court candidates’ forum of the 2002 elections to which all candidates were invited. The forum, co-hosted by the NC Center for Voter Education and the School of Law at the University of North Carolina, was held at the law school in Chapel Hill. Panelists included the Center’s Chris Heagarty, Jack Betts of the Charlotte Observer, Julie Donnelly of North Carolina National Public Radio, and Bryan Beatty from the North Carolina Bar Association. A packed rotunda listened to the candidates discuss questions of judicial ethics and debate methods of judicial selection. The forum was covered by the Raleigh News & Observer, the Charlotte Observer and the Associated Press. The forum was intended to provide voters with more information about the candidates and their qualifications for the state’s highest court.

National Praise for Judicial Reform in NC

“North Carolina is showing the rest of America how to keep politics and special interests out of the courtroom. Across the country, judicial campaigns have been growing noisier, nastier and costlier. People want elections that will keep courts fair and impartial, and now North Carolina is showing how it can be done.”

—*Geri Palast, Executive Director,
Justice at Stake campaign*

“North Carolina makes history as the first state to create a viable alternative electoral system for state appellate judges. This new law potentially removes appellate judges from serious fundraising and eliminates the perception that justice may be for sale.”

—*A.P. Carlton, President, American Bar Association*

“Taxpayer-financed elections are a sound investment. Justice can’t be blind if judges are tempted to keep an eye out for the people who helped put them in office.”

— *USA Today Editorial, September 17, 2002*

Broadcasters See Windfall in 2002 Political Ad Season

Candidates, parties and issue groups spent more than \$1 billion on television ads in 2002, a record for any campaign year and double the amount spent in the 1998 midterm election, according to figures released by the Alliance for Better Campaigns, a Washington, DC nonprofit organization.

Based on data compiled by the Campaign Media Analysis Group (CMAG), a private firm that tracks political advertising on television, the Alliance reported that \$995.5 million was spent on television ads in the nation's 100 largest media markets this year — double the \$499 million spent in 1998 and an increase of more than 25 percent over the \$771 million spent in 2000, a presidential campaign year.

The CMAG survey covers only the top 100 media markets. It does not include the 111 smaller media markets in the nation — among them cities such as Sioux Falls, SD (market-ranked number 112), Corpus Christi, TX (number 128) and Bakersfield, CA (number 130) — that were flooded with ads this year. Thus, the total industry figures were well above \$1 bil-

lion. According to CMAG's count, a total of 1,497,386 political spots aired this year on 573 stations in the nation's top 100 markets, another record.

Data for North Carolina show that the state's two biggest media markets, Raleigh-Durham and Charlotte, saw over 25,000 political ads this campaign season. TV stations serving North Carolina made nearly \$24.7 million from political ads in 2002. The two biggest ad dollar recipients were WRAL and WTVD, both in the Raleigh-Durham market.

The Alliance for Better Campaigns has assembled a coalition of more than 50 national groups that endorse free political airtime as a way to reduce the cost and increase the flow of issue-based political information before elections. In North Carolina, some television stations, including WRAL in Raleigh, WSOC in Charlotte, and the News 14 Carolina cable stations, offered voluntary free airtime segments to candidates in the 2002 elections. ★

Cost of State Campaigns Climb Further

Despite a shortened campaign season, a record number of candidates for the North Carolina legislature raised over \$300,000 for a job that pays about one-tenth that amount, according to an analysis of the latest campaign disclosure reports by the non-partisan watchdog group Democracy South.

A decade ago, only two legislative candidates raised as much as \$100,000 in the entire campaign. By October 19th of this year, at least 44 candidates had raised that much. Eleven candidates reported taking in over \$300,000 in cash, loans and in-kind contributions, compared to five in 2000 at the same point in the campaign.

Democracy South's research shows that the legislative candidate in North Carolina who can outspend his or her opponent wins about 9 out of 10 times.

Many legislative winners will spend less than their counterparts in 2000, and total fund-raising by the general-election candidates is estimated at about \$17 million so far, compared to \$18.8 million at the same point two years ago. However, the candidates' districts are now more compact and often smaller than the old, two- or three-member districts that sprawled across four or more counties. This election season was also compressed from the normal 10 or 12 months to about three months, due to delays in drawing those district lines and in the General Assembly adjourning. ★

Federal Reforms Aim to Prevent Repeat of 2000

The Help America Vote Act of 2002 was signed into law by President Bush on October 29, 2002. The legislation creates national standards for the administration of all federal, state and local elections. Almost \$3.9 billion has been earmarked by the Act for improvements in voting technology and the election process over three years. The legislation deals with three main problem areas: voting equipment and technology, the voting process, and ballot security measures.

Voting Equipment and Technology. About \$700 million of these funds are earmarked for buying out antiquated punch-card and lever voting machines and to improve election administration. Each state is guaranteed to receive at least \$5 million of the funds designated for updating voting machines.

The Voting Process. The legislation stipulates that all voters have the right to cast a "provisional ballot" if their name does not appear on the registration rolls. Such votes are counted when elections officials deem that the voter indeed should have been on the registration rolls. The measure also requires states to develop and maintain computerized voter registration rolls, and to provide better training for poll workers.

Ballot Security Measures. When registering to vote, you will have to provide a valid driver's license or, if you do not have a license, the last four digits of your Social Security number. First time voters who register by mail will be required to show identification at the polls. Some critics of this portion of the legislation worry that selective enforcement of the ID requirements may be aimed at minorities, immigrants, students or other groups and that this will dissuade them from voting. ★

Don't Forget The Money

By J. Barlow Herget

RALEIGH—Watching and reading most of the political commentators explain the November 5 election results reminds me of one of those sordid murder stories on TV.

Some fellow has just been caught after shooting a rival drug dealer or beating the life out of an elderly store clerk. “The television reporter asks the killer’s neighbors and friends about the killer and they say things like, “He always said, Hello,” or “He was real nice to his mother and little brother.”

No one mentions that the thug had a criminal record as long as a legal pad.

In talking about the November 5 Election outcome, political pundits have offered a number of explanations. It was the Republican message. It was the Democrats’ lack of new ideas. It was the Confederate flag in Georgia or bad manners in Minnesota. All of these explanations may have merit.

But no one mentions the money. And in a great majority of the campaigns, the one with the most money wins. Look no further than the NC legislature, where, in the NC House, 88% of the time the candidate spending the most money won.

Candidates must have money to be considered a legitimate contender from the start. They must have money to maintain a campaign and to promote their messages. It’s the money that has become the cornerstone on which all other campaign stratagems stand or fall.

And this mid-term election was awash in money.

In state legislative elections, new records were set in individual races, according to Bob Hall of Democracy South, a non-profit watchdog group based in Carrboro. Hall pointed to the NC Senate campaign in Charlotte between incumbent Democrat Fountain Odom and wealthy challenger Robert Pittenger as the most expensive. The two candidates combined raised over \$786,000 by Oct. 16. Pittenger won the race, outspending Odom by almost \$100,000.

Incumbent Democrat Sen. Allen Wellons lost to Republican Fred Smith in another expensive contest. Wellons also lost the money race, \$189,700 to \$231,100.

The state Senate, however, remained in Democratic hands against a Republican tide because Democratic candidates on average were much better funded. For example, Sen. Eric Reeves, D-Wake, barely won against former Raleigh Mayor Paul Coble but Reeves had \$369,991 to Coble’s \$79,269. District 47 winner, Democrat Joe Sam Queen collected \$309,172 to opponent Gregg Thompson’s \$21,250.

The Center for Responsive Politics in Washington examines campaign spending at the national level, and it reported, “Just over 95 percent of

U.S. House races and 75 percent of Senate races were won by the candidate who spent the most money.”

At first glance, those figures are astounding. They are, however, somewhat misleading, because most of the winners are incumbents who face little competition. The Center stated, for instance, that 157 House and Senate candidates were “financially unopposed” of which 35 had no opponent at all.

In North Carolina, Reps. David Price, Howard Coble, Walter Jones, Mike McIntyre, Richard Burr, Sue Myrick, and Mel Watt faced token opposition. They enjoy not only the power and publicity attached to their office, but also the largesse of lobbyists who want continued access.

It is the handful of open or contested seats that attract the most attention and money. The critical Senate seats in Arkansas, Colorado, Georgia, Missouri, Minnesota, New Hampshire, New Jersey, North Carolina, and Texas were the battlegrounds.

North Carolina’s U.S. Senate race appears to have been the most expensive in the nation.

The two candidates spent over \$22 million through mid-October, and final spending reports are likely to show millions more. Republican winner Elizabeth Dole reported raising and spending over \$2 million more than Democrat Erskine Bowles at last account.

In some of these key races, Republicans were outspent, according to incomplete financial reports, especially in Missouri and Georgia. That fact added to the President’s success in making mid-term elections history when his party added seats in both the Senate and the House, and prompted much of the political commentary about message, competing ideas and strategies as being the keys to victory.

The Florida governor’s race received more than its share of such analysis because of the state’s role in the controversial 2000 presidential election and President Bush’s own commitment to the re-election of his brother, Gov. Jeb Bush. Governor Bush won by a surprisingly large margin. Few note that he outspent his opponent, 3-to-1. Indeed, at the national level, the Republican Party raised \$511 million to the Democrats’ \$327 million for this election.

Elections turn on many issues. Just don’t forget the money. ★

ncvoter.com

Barlow Herget writes regular columns for the NC Center for Voter Education under the title “Follow the Money”. They appear in newspapers across the state. An archive of his columns can be found in the “For the Media” section of www.ncvoter.com.

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