

Judicial Elections: The Problem and the Solution

The problem: Illinois

- In 2004, two candidates for a district-based seat on the supreme court set a national record by raising over \$9.3 million.
- The winning candidate received \$2.3 million from business organizations.
- In 2005, this justice voted to overturn the two largest class action judgments in the state's history.

The problem: Wisconsin

- In 2007, two supreme court candidates set a state record for fundraising of more than \$2.6 million.
- Special interest groups spent approximately \$3 million on this race, including \$2 million by business groups in support of the winning candidate.
- In 2008, this justice joined a 4-3 majority in a decision that resulted in \$265 million in tax refunds to state businesses.

The problem: West Virginia

- In 2004, an energy company CEO spent \$3 million to help elect a supreme court justice.
- In 2007, that justice joined a 3-2 majority that overturned a \$50 million verdict against the energy company.
- In 2009, the U.S. Supreme Court ruled that the justice's failure to recuse himself from the case violated the litigants' constitutional right to due process.

The problem:

This could happen in Minnesota.

- Like Minnesota, West Virginia and Wisconsin place limits on campaign contributions to judicial candidates, but no limits may be placed on campaign spending by independent groups.
- Of the six states with the most expensive judicial elections, three are Midwestern states—Illinois, Ohio, and Michigan.

The problem: Minnesotans are concerned about judicial impartiality.

- In a 2008 survey, 59% of Minnesotans agreed that campaign contributions affect the decisions of Minnesota judges.
- In the same survey, 77% were worried about judicial candidates having to raise campaign funds, run TV ads, and seek political party and special interest support.

The problem:

Business leaders are concerned about judicial impartiality.

- In a 2007 survey, 4 in 5 executives nationwide were worried that campaign contributions have a major influence on judicial decisions.
- In the same survey, 93% of business leaders said that judges should not rule on cases involving donors to their campaigns.

The solution:

Judicial merit selection

- Judicial applicants are screened by broad-based, bipartisan committees, and the best-qualified candidates are identified. The governor appoints one of these candidates.
- 96% of Minnesota's judges were first selected through this process. 78% of Minnesota voters believe their judges are impartial, and 87% describe them as qualified.

The solution:

Judicial retention elections

- From 1999 to 2008, more than \$200 million was raised by state high court candidates, but less than \$2.3 million of this was raised for retention elections.
- In 2008, only 3 of the 24 supreme court justices standing for retention raised any money.

The solution:

Judicial performance evaluation

- Judicial performance evaluation programs provide information about judges' legal ability, integrity and impartiality, and temperament.
- Voters say this information makes them more likely to vote in retention elections and influences their votes.
- Judges say this information helps them counter opposition campaigns by special interests.