

# Gavel to Gavel

A review of state legislation affecting the courts

January 2010

Special Edition

## *Special Edition: Judicial Campaign Contributions and Expenditures*

The U.S. Supreme Court's decision today in [Citizens United v. Federal Election Commission](#), coupled with last year's decision in [Caperton v. Massey](#), has drawn even more attention to role of campaign contributions in judicial elections. While the courts themselves have attempted to grapple with these issues through Canons and recusal rules, state legislatures have been actively engaged in addressing the issue in 2009 and 2010. Some of these efforts are detailed below.

## Law

[Illinois SB 1466 \(2009\)](#) Sets contribution limits for campaigns: \$125,000 for Supreme or Appellate Court or Circuit Court (First Judicial District only); \$75,000 for Supreme or Appellate Court or Circuit Court Supreme or Appellate Court or Circuit Court (all other Judicial Districts). Signed into law by Governor 12/9/09.

[North Carolina HB 907 \(2009\)](#) Provides that matching funds from the state's public financing system for judicial races are available as a result of a communication that

supports or opposes all candidates for the same office. Signed into law by Governor 8/28/09.

Texas [HB 1359](#) and [SB 1152](#) (both 2009) Prohibits a person from knowingly making or authorizing a political contribution while in a courthouse. Senate version signed into law by Governor 6/19/09.

[Wisconsin SB 40 \(2009\)](#) Limits contributions to supreme court candidates to \$1,000. Creates the Democracy Trust Fund from which eligible candidates for the Office of Justice of the Supreme Court may receive public financing derived from general purpose revenues and from an expanded income tax check-off. Requires eligible candidate not accept private contributions other than seed money contributions and qualifying contributions, not accept more than \$25 in cash from any contributor or accept cash from all sources in a total amount greater than .1% of the public financing benefit or \$500, whichever is greater and not make any disbursement derived from personal funds after the close of the public financing qualifying period. Grants eligible candidate \$100,000 for a primary election campaign and \$300,000 for a general election campaign. Makes amounts subject to a biennial cost of living adjustment. Provides for rescue and other funds where an opposing candidate does not participate in public financing or where



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independent expenditures exceed 120% of the public funding given to the candidate. Signed into law with partial veto by Governor 12/1/09.

## Vetoed

[Indiana HB 1491 \(2009\)](#) Eliminates merit selection system for election of Superior Court judges in St. Joseph County and replaces with nonpartisan elections. Puts in campaign contributions limits for St. Joseph County Superior Court race: \$500 per person, \$1000 per law firm, \$10,000 total from all sources. Creates a Sixth District of the Court of Appeals with three judges to be selected via existing merit selection system. Sixth District to sit in Indianapolis and have statewide jurisdiction. Governor vetoed 5/13/09.

## Passed first chamber only

[Minnesota HB 1206 \(2009/2010\)](#) and [SB 80 \(2009/2010\)](#) Sets contributions limits for judicial candidates: \$2,000 in an election year for the office sought and \$500 in other years. Approved by Senate in May 2009, carried over into 2010 session.

## Pending

[Alabama HB 46 \(2010\)](#) Imposes a \$500 limit on contributions for candidates for election to the Alabama Supreme Court, Alabama Court of Appeals, Alabama Court of Criminal Appeals, Circuit Court, or District Court per election. Provides for increasing the allowed contribution amount based on the application of the consumer price index. Prefiled.

[Georgia HB 601 \(2009/2010\)](#) Requires judicial recusal where a judge either a) failed to set up a campaign committee to accept contributions and instead directly solicited contributions from any party or attorney or law firm representing a party in a case pending before his or her court or b) involving a party or his or her attorney that has made an influential action concerning a campaign of the judge presiding over the party's case during the election of such judge. Requires any person domiciled outside Georgia who contributes to judicial or other campaigns file disclosures similar to instate contributions. Carried over into the 2010 session.

[Georgia HB 892 \(2010\)](#) Creates Georgia Fund for Judicial Campaigns Act to provide for an alternative source of campaign financing for candidates who demonstrate qualifying broad public support and voluntarily accept fund-raising expenditure limitations in conjunction with acceptance of fund moneys. Limits Fund to Supreme Court and Court of Appeals races. Provides funding from, among other sources, attorney contributions as directed by the Supreme Court and voluntary contributions made on state income tax forms. Prefiled.

[Illinois HB 887 \(2009/2010\)](#) Establishes a voluntary system of public financing of campaigns for the offices of judges of the Illinois Supreme and Appellate Courts, administered by the State Board of Elections. Specifies limits on campaign contributions and expenditures with respect to all candidates for those offices. Carried over into the 2010 session.

[Illinois HB 2631 \(2009/2010\)](#) Establishes a voluntary system of public financing of

campaigns for the offices of judges of the Illinois Supreme and Appellate Courts, administered by the State Board of Elections. Specifies limits on campaign contributions and expenditures with respect to all candidates for those offices. Carried over into the 2010 session.

[Illinois HB 4561 \(2009/2010\)](#) Creates the Illinois Public Financing Program Act. Establishes an alternative campaign financing mechanism for candidates for the office of Governor or Illinois Supreme Court Judge. Provides for various funding sources. In House Rules Committee. Carried over into the 2010 session.

[Illinois SB 2144 \(2009/2010\)](#) Establishes a voluntary system of public financing of campaigns for the offices of judges of the Illinois Supreme and Appellate Courts, administered by the State Board of Elections. Specifies limits on campaign contributions and expenditures with respect to all candidates for those offices. Carried over into the 2010 session.

[Michigan SB 53 \(2009/2010\)](#) Provides for voluntary public financing of Supreme Court campaigns. Carried over into the 2010 session.

Missouri [HB 1322](#), [HB 1326](#), [HB 1337](#), [SB 648](#) (all 2010) Imposes campaign contribution limits for judicial candidates of \$325, \$650 or \$1,275 (depending on size of district elected from). Prefiled.

[New York AB 6728 \(2009/2010\)](#) Limits judicial campaign contributions to \$500. Provides for optional public financing of judicial elections. Carried over into the 2010 session.

[New York AB 6879 \(2009/2010\)](#) Requires parties and their counsel disclose to opposing counsel campaign contributions above \$500 in the last five years to campaign of the judge presiding over their case. Provides if the other side has made no such contributions themselves, the judge must recuse upon timely application of the non-contributing party. Carried over into the 2010 session.

[Pennsylvania HB 1837 \(2009/2010\)](#) Creates public financing system for appellate court races. Carried over into the 2010 session.

Tennessee [HB 1936](#) and [SB 2035](#) (2009/2010) Creates voluntary public financing system for Supreme Court races. Carried over into the 2010 session.

[Washington HB 1738 \(2009/2010\)](#) Establishes the judicial election reform act to introduce a voluntary pilot project to provide an alternative source of financing candidates for the Washington Supreme Court who demonstrate public support and voluntarily accept strict fundraising and spending limits. Prohibits the public disclosure commission from offering the public financing program until an appropriation of three million dollars is made for the program. Creates the judicial election reform act fund. Carried over into the 2010 session.

[Washington SB 5912 \(2009/2010\)](#) Provides for the public funding for Supreme Court campaigns. Carried over into the 2010 session.

## Died or rejected in first chamber in 2009

Alabama [HB 55](#) and [SB 99](#) would impose a \$500 limit on contributions for candidates for election to the Alabama Supreme Court, Alabama Court of Appeals, Alabama Court of Criminal Appeals, Circuit Court, or District Courts per election. Provides for increasing the allowed contribution amount based on the application of the consumer price index. House version: died when legislature adjourned. Senate version: Rejected by Senate Constitution, Campaign Finance, Ethics, and Elections Committee.

Missouri [HB 633](#) and [HB 687](#) Imposes campaign contribution limits. For judicial candidates \$325, \$650 or \$1,275 (depending on size of district elected from). Died when legislature adjourned.

[Montana LC 2027](#) Prohibits justice of the Supreme Court from participating in cases in which the party or party's attorney gave money to the justice's campaign in excess of existing campaign contribution limits. Died when legislature adjourned.

[New Mexico SB 646](#) Prohibits judges or judicial candidates from personally soliciting campaign contributions and requires they establish a campaign committee to solicit and accept funds. Prohibits campaign committees from soliciting or accepting contributions from lawyers. Prohibits lawyers from make contributions to a judge or judicial candidate. Prohibits lawyers from endorsing a judge or candidate for judicial office, or allowing themselves to be used in any media

endorsing the candidate. Died when legislature adjourned.

[Oregon HB 3009](#) Sets campaign contribution limits for judicial and other races. Individuals: \$1,000 for a candidate for the Supreme Court, Court of Appeals or Oregon Tax Court and \$500 for all judicial other races. Sets limits on PACs and "small donor organization" groups. Died when legislature adjourned.

[Oregon HB 3109](#) Sets contribution limits for judicial and other campaigns. In House Rules Committee. Died when legislature adjourned.

[Oregon HB 3404](#) Establishes Voter Owned Elections Fund to provide public financing to candidates for the Supreme Court and certain other public offices. Establishes Voter Owned Elections Commission to administer fund. Died when legislature adjourned.

[Texas HB 3146](#) Provides public financing of campaigns for appellate judicial office. Places on limits on political contributions to and direct campaign expenditures made on behalf of judicial candidates. Died when legislature adjourned.

Texas [HB 391](#) and [SB 246](#) Sets limits on political contributions and direct campaign expenditures by individuals, partnerships, partners, and limited liability companies for Supreme Court, Court of Criminal Appeals, Court of Appeals, and District Court races as well as others. Died when legislature adjourned.

[Texas HB 4548](#) Requires recusal by a judge/justice of the Supreme Court or Court

of Criminal Appeals where the judge's campaign received \$1,000 over the prior four years from a party to the case, an attorney of record in the case, the law firm of an attorney of record in the case, the managing agent of a party to the case, a member of the board of directors of a party to the case, or an election committee established or administered by a person who is a party to the case. Died when legislature adjourned.

[Texas SB 1888](#) Requires reporting by candidates, officeholders, and specific-purpose committees in connection with certain judicial offices of political contributions and expenditures following the end of the period during which those entities may accept political contributions. Died when legislature adjourned.

[West Virginia HB 3050](#) Requires disclosure by judicial officers of campaign contributions in excess of \$250. Died when legislature adjourned.

[West Virginia HB 3309](#) Creates a system for public funding of election campaigns for candidates for the West Virginia Supreme Court of Appeals, who agree to and do abide by restrictions on campaign contributions from private sources and limits on campaign spending, to avoid creating an appearance of impropriety in the event those candidates are later elected to the court. Died when legislature adjourned.

[West Virginia SB 311](#) Creates 2012 Supreme Court of Appeals Public Campaign Financing Pilot Program. Died when legislature adjourned.

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