
**State Government & Tribal
Affairs Committee**

HB 1589

Brief Description: Providing for public funding of judicial campaigns.

Sponsors: Representatives Schual-Berke, Hunt, Appleton, McIntire, Kagi, Pedersen, Moeller, Kenney, Miloscia, O'Brien, Wood, Goodman, McDermott and Ormsby; by request of Governor Gregoire.

Brief Summary of Bill

- Establishes a pilot program for public financing for the offices of Supreme Court Justice and Court of Appeals Judge.

Hearing Date: 2/7/07

Staff: Marsha Reilly (786-7135).

Background:

The Fair Campaign Practices Act was enacted following passage of Initiative 134 in 1992. The initiative imposed campaign contribution limits on elections for statewide and legislative office, further regulated independent expenditures, restricted the use of public funds for political purposes, and required public officials to report gifts received in excess of \$50. In 2006, contribution limits were expanded to include elections for certain county and special purpose district offices, and for judicial office.

A series of court decisions have identified a number of constitutional limitations on the regulation of campaign financing. Certain constitutionally permissible restrictions on such financing have also been identified in those decisions. In those cases, the courts found the following to be permissible:

- limitations on contributions by individuals or organizations to candidates;
- limitations on contributions by individuals or organizations to political action committees;
- limitations on contributions by political action committees to candidates;

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

- limitations on total contributions by individuals in a calendar year to candidates and political committees;
- prohibition of the use of corporation and labor organization general treasury funds to support or oppose the nomination or election of a candidate through contributions to political action committees, independent expenditures, or electioneering communications;
- public financing of campaigns; and
- reporting and disclosure of independent expenditures and electioneering communications.

Found to be impermissible were ceilings on candidate expenditures or on "independent expenditures" (that is, campaign expenditures not subject to the control of a candidate). Upheld, however, were ceilings on a candidate's expenditures which become effective only as part of a public financing agreement under which a candidate agrees to abide by the limits in exchange for public financing.

Arizona and Maine have enacted public financing programs for statewide and legislative offices. More recently, North Carolina has enacted a public financing program for Supreme Court and Court of Appeals offices.

Summary of Bill:

A pilot program of public campaign funding is established for candidates for the office of Court of Appeals Judge and Supreme Court Justice. The Public Disclosure Commission (PDC) enforces the program and is authorized to adopt rules regarding reporting and auditing of qualifying contributions.

Clean Campaign Pledge

The Washington State Commission on Judicial Conduct must develop a clean campaign pledge that a participating candidate must agree to. The pledge must include, at a minimum, that participating candidates:

- include in all campaign communications a declaration that he or she is running a clean campaign under the Act;
- not use funds for disparaging or disrespectful communications;
- request that no independent expenditures be made favoring the participating candidate or opposing competing candidates;
- participate in at least one judicial forum; and
- if they have withdrawn or are removed from the program, must indicate that fact in all campaign communications .

Exploratory Funds

Potential candidates may raise funds during the exploratory period beginning 120 days before the date when filing for the office is first permitted and ending at the close of the regular filing period. Exploratory contributions may not exceed \$100 per donor and may only be accepted from individuals. The total amount of exploratory funds is limited to \$20,000 for Supreme Court candidates and \$10,000 for Court of Appeals candidates.

Candidates may contribute no more than \$5,000 of their personal money and may receive an aggregate total of \$5,000 from immediate family members during the exploratory period.

Qualifying Contributions:

In order to qualify for participation, a candidate for the Supreme Court must raise at least \$10,000 and not more than \$50,000 from at least 500 individuals. A candidate for the Court of Appeals must raise at least \$2,000 and not more than \$10,000 from at least 100 individuals.

Qualifying contributions must be made by an individual registered to vote in this state, in an amount between \$10 and \$100, and made in the form of a check. The contribution must include the name and address of the individual donor and be identified as a qualifying contribution.

Participation in the Program

In order for a candidate to participate in the program the PDC must determine that the candidate:

- received only exploratory funds during the exploratory period;
- received a sufficient number of qualifying contributions;
- did not receive funds from prohibited sources; and
- signed the clean campaign pledge.

Once a candidate has qualified to participate in the program, he or she may not raise or receive any additional funds.

Public Financing

A participating candidate for Supreme Court justice shall receive public financing equal to 60 times the candidate filing fee for each election, primary and general, in which he or she is contested. A participating candidate for Court of Appeals Judge shall receive public financing equal to eight times the filing fee and only for a contested general election.

The PDC shall disburse funds for a primary election within three days of becoming certified as a participating candidate, and for a general election within three days of becoming eligible to participate in the general election.

Matching Funds

A participating candidate is eligible for matching funds in the event that a nonparticipating candidate expends more than was allotted to the participating candidate. Independent expenditures made in support of a nonparticipating candidate or opposing a participating candidate are considered in determining eligibility for matching funds. A Supreme Court candidate may receive up to 480 times the filing fee and a Court of Appeals candidate may receive up to 40 times the filing fee in matching funds.

Participating candidates determine when to access matching funds. If the candidate chooses not to use matching funds in a contested primary, he or she is not eligible to use those funds in an uncontested general. The PDC must disburse matching funds within five calendar days of receiving a request.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill is passed.