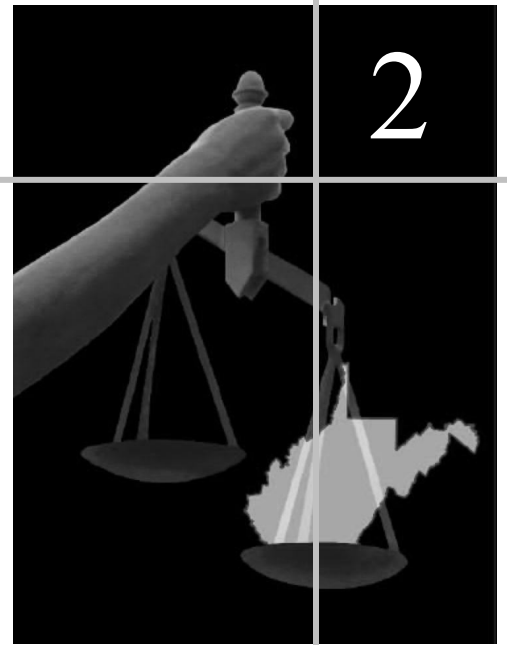


# CHAPTER 2

## STATEMENT ON JUDICIAL CAMPAIGN FINANCE REFORM

*by The Honorable Wanda G. Bryant*

**The Rule of Law**





# 2

## STATEMENT ON JUDICIAL CAMPAIGN FINANCE REFORM

*The Honorable Wanda G. Bryant*

I was appointed to the North Carolina Court of Appeals in 2001 by Gov. Mike Easley. Since then I have run for election under the old partisan system which allowed private financing of judicial campaigns as well as the new public financing system. The 2002 judicial election was partisan and I ran on the Democratic ticket along with several other incumbent judges on my Court. Despite our experience as Court of Appeals judges, we all lost our elections. However, a vacancy occurred in December 2002 and I was reappointed to the Court.

In order to keep my seat I had to again run a statewide election in 2004. Meanwhile, our legislature had enacted a Judicial Campaign Finance Reform Act (JCFRA) which changed the way in which appellate judicial races are conducted. The JCFRA made judicial races nonpartisan and gave appellate judicial candidates (for the North Carolina Supreme Court and Court of Appeals) the option to voluntarily participate and receive public funding upon agreeing to certain fund raising and spending limits. As a sitting judge and statewide judicial candidate, I was one of the first candidates to opt-in and participate and win election under this new system. I was strongly in favor of a reform that would limit the influence of big money contributions and reduce partisan politics in judicial campaigns. I am very pleased to say that North Carolina's first-ever publicly funded appellate judicial elections were successful, just as subsequent ones have been.

This system of electing appellate judges provides a very important step toward an independent and impartial judiciary. By voluntarily agreeing to opt-in and abide by fund raising and spending limits as required, candidates receive public financing. Candidates are required to show a broad base of public support by collecting a select number of small donations (\$10 to \$500) from a large number of people (at least 350 registered North Carolina voters) prior to the primary elections. After qualifying to participate in the funding program and upon certification by the North Carolina Board of Elections, candidates agree to take no private money and to adhere to strict spending limits. If a publicly financed candidate faces a privately financed opponent, matching rescue funds are available under certain circumstances to ensure a level playing field.

These requirements not only help to dispel the perception of large money influence on judicial campaigns in North Carolina, but help judicial candidates obtain a larger base of

committed voters (and campaign volunteers) at an early point in the campaign season. Once the qualifications are met, candidates are certified and public funding received pursuant to the Act, judicial campaigns know exactly how much money is available for a campaign budget. This allows candidates to make informed decisions on early media buys and other important campaign expenditures, one of the many positive aspects of the financial portion of the JCFRA.

Funds to support this program come from several sources, most notably a check off option for taxpayers on the state income tax form. The check off is a designation, not an additional tax. All North Carolina lawyers are assessed a fee, currently \$50 per year, that is also deposited into the public fund. Because of public financing, appellate judicial campaigns in 2004 relied on attorneys and special-interest groups for less than 14 percent of their non-family qualifying funds, compared to 73 percent for candidates in 2002, before judicial campaign reform was implemented. The level of public funding of judicial races might seem to some to be insufficient to adequately reach the attention of the voting public in an increasingly expensive media environment; however, the fact is the amount of money available to candidates in appellate judicial races (particularly Court of Appeals) in the 2004, 2006 and likely 2008 elections under the public financing program was greater than the amount candidates raised in previous election cycles.

The nonpartisan aspect of campaign reform is also a welcome change. Trial judges in North Carolina, District and Superior Court judges, have been elected on nonpartisan ballots at the local level for several years now. Only appellate judicial races recently became nonpartisan. While statewide judicial campaigns require more time—more grassroots efforts and more direct contact with voters—it helps to ensure that the voting public cast their ballots for judicial candidates based on something other than party affiliation. Voters are no longer able to vote for judges along party lines by simply voting a straight ticket. Voters now have to go to a separate, nonpartisan portion of the ballot and make a decision about which judicial candidates will receive their vote.

The Judicial Voter Guide, an integral part of the JCFRA, is another one of the most positive aspects of the Act. The voter guide is a great educational piece which sets out the qualifications and experience of the appellate judicial candidates and also contains a statement (approximately 300 words) from each candidate. The voter guide is distributed by mail to the households of all registered voters in North Carolina. It is also available on line.

As a candidate, I found the voter guide to be extremely helpful in disseminating information to registered voters in a timely manner to enable them to make “informed” decisions about the candidates for the two highest courts in our state. Notwithstanding statistics which show that after enactment of campaign finance reform and the shift to nonpartisan judicial elections significantly fewer votes were cast for judicial candidates than for candidates in other statewide races, I prefer the nonpartisan system with all its frailties, to the former partisan judicial election system. And I prefer “informed voters” voting the separate nonpartisan ballot rather than “uninformed voters” pulling a straight-party ticket.

We have had public financing of judicial races in place for three election cycles in North Carolina. During those three cycles in which a total of forty-one (41) appellate court candidates were on the ballot, thirty-one (31) candidates qualified for and accepted public financing. Of the eighteen (18) seats up for election in those three cycles—2004, 2006, and 2008—fifteen (15) have been won by publicly financed candidates. To date, fourteen (14) justices and judges on the North Carolina Supreme Court and Court of Appeals have been

elected using the system, including our Chief Justice, Sarah Parker (who has won twice as a publicly financed candidate).

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In 2007 the North Carolina General Assembly took the extraordinary step of expanding public financing to three Council of State elections: State Auditor, Insurance Commissioner and Superintendent of Public Instruction. The legislation known as the “Voter-Owned Elections Act,” ratified on August 2, 2007 and signed by Governor Easley, is a pilot program designed to work much like the judicial campaign financing program, absent the nonpartisan requirement. Five of the six candidates opted to use the program in the 2008 election. Four candidates were certified and two won office as publicly financed candidates. The new “Voter-Owned Elections Act” appears to have had a successful debut. It remains to be seen whether it will be as popular as Judicial Campaign Finance Reform.

I fully support judicial public financing. I think it is a strong means of ensuring an independent judiciary. Public financing reduces the concern of undue influence perceived in large-money contributions, and protects the integrity of the individual judicial candidate. Further, public financing under North Carolina’s JCFRA benefits the voters, allowing them direct participation through funding of candidates prior to primary elections as well as casting informed ballots. Voters who are donors who contribute small amounts of money can feel like they make a difference; because they do.

Public financing may not be a perfect solution. However, if the ultimate goal is, as I believe, to have an independent judiciary immune to outside influences, this system of public financing is far superior to judicial races run on strictly privately financed campaigns.

Not only does public financing prevent the appearance of undue influence, it also curbs the escalating costs of campaign spending. As a recent (and future) participant in the judicial public financing system and with over 25 years of legal experience, I fully support a system which: 1) allows for fewer concerns about the influence of big money campaign contributions; 2) promotes a better educated electorate; and 3) promotes less blatant partisanship.

Isn’t that a better way to run our judicial elections?

Isn’t that a better way to ensure judicial independence? I think so.

