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Courting the Supremes:
Big money in Wisconsin State Supreme Court Elections 1989-1999

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A note on the data

In this report, we look at overall trends in contribution and expenditure levels from 1989 to 1999. For the purpose of this study, each election year begins July 1 of the year preceding the spring election and ends on June 30 of the election year. Consequently, in calculating, for example, the size of contributions and expenditures for the 1997 election, we look only at funds received and spent by the candidates from July 1, 1996 through June 30, 1997.

The one necessary exception to this rule is the last election in 1999. Because information for that election is incomplete, information on that election stops with expenditures and contributions reported on each candidate's pre-election report due March 22,1999.

Another caveat: in some cases, data before 1993 was not available so we were forced to restrict the scope of the findings from that year forward.

Most if not all of the information in this report is derived from the summary pages of the campaign finance reports filed with the State Elections Board. These reports were processed with the assistance of the National Institute on Money In State Politics.

EXECUTIVE SUMMARY

Wisconsin has long enjoyed a reputation for clean, low-cost elections where special-interest influence was minimized and public faith in the system has been maximized.

However, the last several State Supreme Court elections have shaken this faith. As large amounts of money--derived mainly from contributions of $100 or more from lawyers, lobbyists, and businesspeople-- have flooded into candidates' coffers, public confidence in the system has been eroded. Assembly Speaker Scott Jensen, who has managed several Supreme Court campaigns, got to the heart of the problem in this comment on the 1997 election: **"The people want judges to be impartial, but contributors want judges to be partial."** (*Milwaukee Journal Sentinel*, April 1, 1997)

The basic character of Supreme Court elections has been radically altered by the huge infusion of big money. Here are some of the most significant findings from Wisconsin Citizen Action's study of funding for Supreme Court candidates from 1989-1999:

The problem:

1. Spending and contribution levels have reached stratospheric levels: The 1997 election set a record for candidate fund-raising of $888,924. Just two years later, the extraordinarily nasty Abrahamson-Rose race shattered that record by 16.7%: $1.037 million was contributed to the two candidates as of the March 22 reporting deadline. By the time that final figures are compiled, it is reasonable to expect that the ultimate tally will be at least 30%-40% higher.

Such high-cost campaigns tend to be built around TV advertising, often of a negative variety, and limited exposure to actual voters and their concerns.

2. Candidates self-contributions have increased 150 times since 1989.
In the four elections from 1989 through 1994 the candidates contributed $16,092 to their own campaigns. Since then, candidates have contributed $815,700 of their own money to their committees. The fastest growing category of contributions: self-contributions.

The rapidly-growing importance of candidates' personal wealth has raised the disturbing spectre of a Supreme Court increasingly closed to those who lack such financial resources.

3. Candidates depend overwhelmingly on large individual contributions from a tiny number of wealthy couples and individuals. Just 34 couples or individuals--an infinitesimal **.0003%** of the voting public in Supreme Court elections-- provided **18.5%** of individual donations. A very select 4.1% of donors (less than 2% of voters donate to Supreme Court elections) provided over half of donations (50.7%).

Of individual contributions (excluding self-contributions) since 1993, 78.8% have been for $100 or more. Donations in this range are typically donated only by a tiny fraction of the citizenry. While 10 wealthy and largely-white zip codes provided 43.3% of all contributions, the 10 Wisconsin zip codes where people of color comprise the majority donated only 1.8%.

When candidates rely so heavily on donations from a very small, very wealthy layer of society, is the public likely to retain faith in the judiciary's ability to view legal problems from the perspective of the non-wealthy?

4.. Supreme Court candidates are disproportionately dependent on lawyers and lobbyists. Lawyers and lobbyists provided 29.5% of all contributions of $100 or more. In fact, lawyers and lobbyists provided 36.1% of all contributions of $100 or more to incumbent Supreme Court justices. In a comparable period lawyers and lobbyists provided legislative candidates and the governor with 10.3% and 7.5% of all such contributions. Indeed, no category of contributor supplied as much as 20 of all contributions for either legislative candidates or the governor.

5. Big law firms' donations play crucial role: Of the $413,475 in contributions from "lawyers and lobbyists," nearly one third, or $135,910, has come from attorneys affiliated with just 10 law firms. Moreover, donations from members of these 10 law firms alone accounted for nearly one-tenth (9.7%) of all individual contributions.

6. Partial public-funding is now a non-factor: The innovative partial-public funding system pioneered by Wisconsin in the late 1970's was aimed at allowing candidates to remain at least partially independent from special-interest funding and influence. But because funding for the Wisconsin Election Campaign Fund (WECF) has fallen sharply, the public funding's impact in Supreme Court elections has nearly disappeared. It has declined from a share of 43.7% of all contributions to a mere 2.6% in 1999.

The 'Impartial Justice' alternative:

The fundamental problems of the current system of funding Supreme Court elections--out-of-control spending, dependence on a tiny circle of wealthy donors, huge advantages for wealthy candidates, and the danger of diminishing public faith--are formidable indeed. These problems can be seriously addressed only with a comprehensive plan that substantially replaces private donations with a system of "clean" public funding.

Under such an "Impartial Justice" system advocated by former chief Justice Nathan Heffernan and Wisconsin Citizen Action, qualified candidates could voluntarily choose to rely exclusively on a grant of public funding. Further, candidates running with the public grant would be assured that excessive spending by opponents would be matched by increases in the grant, so that the playing field would be kept level. Such a mechanism would hold down soaring costs by inducing candidates to voluntarily accept the full public grant, and remove any incentive for an ever-escalating spending "arms race." Moreover, the public would feel confident that genuinely "impartial justice was assured by a system of impartial funding of Supreme Court elections.

The public is ready for such fundamental reform. A poll of Wisconsin citizens by Chamberlain Research Jan. 27-Feb. 11, 1999 showed 76.2% support for this kind of full public funding of state elections. This support crossed traditional political boundaries, with 71% backing among regular Republican voters. Public sentiment appears to agree with Justice Heffernan's assessment:

"It would entirely appropriate, indeed it is necessary, for the state to finance 100% of judicial campaigns with a reasonable statutory limit on state funding. Assuring the continuation of an honorable, independent, and qualified judiciary is a public purpose for which tax money may be properly used."

("Judicial Responsibility, Judicial Independence, and the Election of Judges," ***Marquette Law Review***, v. 80, No.4, Summer 1997.)

1. Introduction: Courting the candidates with big money

Our justice system is premised on a broad and deep base of public trust in the impartiality and fairness of the state's court system, with the Supreme Court serving as the highest embodiment.

However, we are concerned that broad public trust cannot be sustained by a campaign-funding system that relies on very narrow pillars of support from highly select and wealthy segments of Wisconsin society.

> ***"Donations, and the appearance by the donors in front of the judge, affect public trust and confidence in the judge's impartiality. Our concern is that there not even be the appearance that a judge might favor a donor over another litigant in a case."***—Kathleen Sampson, American Judicature Society, quoted in ***Nation*** Jan. 26,1998.

Courting the candidates: When big money from a very limited set of major funders is "courting" Supreme Court candidates, can we feel confident that justice imposed by these candidates will ultimately remain impartial?

Assembly Speaker Scott Jensen, who has managed three successful Supreme Court campaigns, underscored that concern in a telling comment on the 1997 Supreme Court election: **"The people want judges to be impartial, but contributors want judges to be partial."** (*Milwaukee Journal Sentinel*, April 1, 1997)

The question of whether "partial" justice has resulted from contributions to Wisconsin Supreme Court candidates is beyond the scope of this report. However, Wisconsin would do well to take heed of distressing developments in other states such as Ohio, Texas, Louisiana, West Virginia and Nevada where tobacco, gambling, coal, and oil interests have sought to influence Supreme Court elections in order to assure favorable outcomes in court. Richard Ieyoub Louisiana attorney general, warned that energy and chemical interests were seeking to influence decisions on environmental issues with their campaign contributions:

> **"'When you threaten individuals with the fact that huge sums of money are going to be used against their candidacy if they don't toe the line, then that is almost extortion-like."** (MSNBC special report by Sheila Kaplan and Zoe Davidson)

The escalating cost of Wisconsin's Supreme Court elections, which will be examined below, provide a vacuum which special interests have been willing to fill. Prior to the 1997 election, Justice William Bablitch estimated that a statewide judicial race would require $350,000 to $400,000,. Of this, only a

"relatively negligible amount"--$25,000 to $40,000—would be available from non-special interest sources, he wrote in a ***Milwaukee Journal Sentinel*** commentary.

Bablitch's estimate was close to the mark, but a bit low. The 1997 election between Justice Jon Wilcox and Walt Kelly set a record for candidate fund-raising of $888,924.

Just two years later, the 1999 Supreme Court race between incumbent Chief Justice Shirley Abrahamson and challenger Sharren Rose was a lightning-bolt whose flash illuminated a severely flawed system for electing Supreme Court justices. The Abrahamson-Rose race easily shattered the Wilcox-Kelly record for contributions by 16.7%: $1.037 million was contributed to the two candidates as of the March 22 reporting deadline. By the time that final figures are compiled, it is reasonable to expect that the ultimate tally will be at least 30%-40% higher.

Particularly noteworthy was the central role of personal wealth that allowed each candidate to make substantial contributions to their own campaigns. Rose poured in $452,500 of her own money, and Abrahamson gave her campaign a self-loan of $110,000.

The 1999 spending orgy may be only a sample of what the future will hold as the Supreme Court becomes perceived as a crucial arena for resolving high-stakes policy issues. The kind of escalating spending witnessed in the other branches of government is providing a model for the judicial branch. For example, R.J. Johnson, a consultant to Sharren Rose in 1999 election, offered up stratospheric spending for the gubernatorial election as a rationale for high spending in Supreme Court elections. Because the Supreme Court can overturn decisions by the governor—who raised some $7 million in his last campaign—high spending for the high court is not excessive, Johnson argued: "The power that is vested in the Supreme Court is an powerful as the governor, more powerful even." The Supreme Court can overrule the governor, it can overrule the Legislature." (***Wisconsin State Journal***, March 30, 1999.)

If Supreme Court campaigns continue to escalate in cost, the widely-condemned negative characteristics of the Abrahamson-Rose race may well become standard features of court campaigns. As former Chief Justice Nathan Heffernan has argued in a post-election commentary ***(see appendix)***, high-spending campaigns like the last one tend to drive a wedge between candidates and citizens. This style of campaign stresses tightly-produced TV ads over unscripted interactions with other candidates and the voters. Thus, we believe it is vital to examine and reform not just the style of campaigns, but more fundamentally, their source of funding which inevitably shapes how they are waged.

As the 1999 campaign unfolded, we were inspired to look at the sources of funding for this campaign and for previous Supreme Court races for which data was available. We hope that this effort will contribute to the public's understanding and serve to inform the much-needed debate about how Wisconsin funds elections for the court and other high public offices.

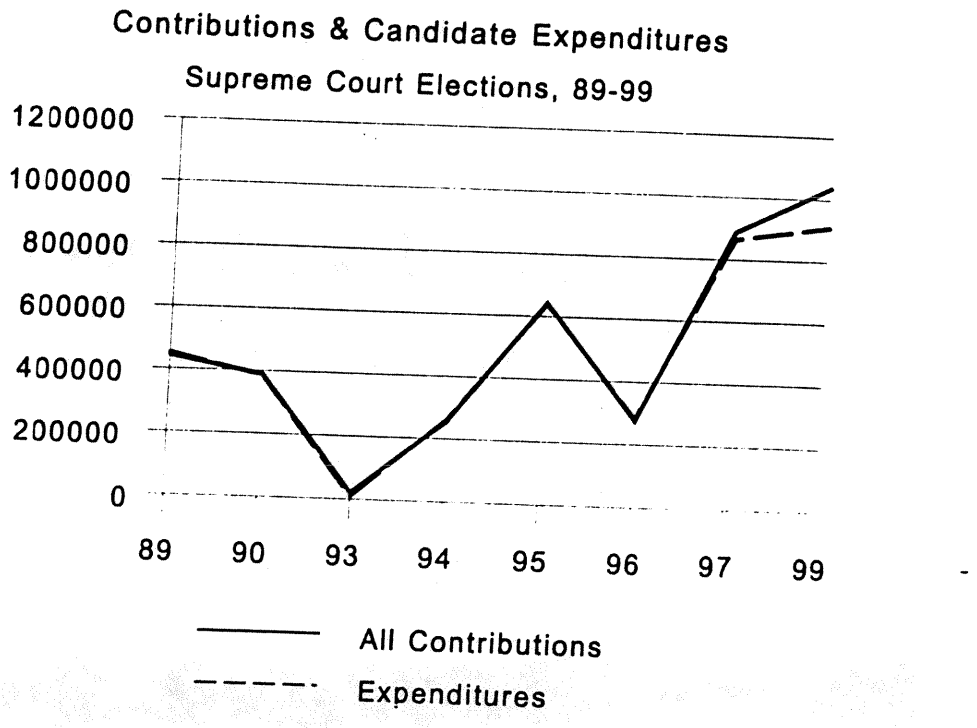
2. Patterns in expenditures and contributions

In this part we look at overall trends in contribution and expenditure levels from 1989 to 1999.

There have been eight Supreme Court Elections, seven of which have been contested, from 1989 through 1999. The 1989 race was a relatively close contest -- the winner received 54% of the vote -- yet total spending and contributions for the election remained below $500,000 for both.

In 1990, the race was even closer with the incumbent winning only 51% of the vote yet total spending declined and contributions raised both declined from 1989's level by $60,000.

However, a far different picture emerged by the late 1990's. In 1997, the two candidates spent over $860,000 and raised nearly $900,000 in total contributions. In 1999, total contributions were already over $1.037 million and spending over $900,000 with at least a week left before the election.



These two races have proven to be the most expensive in Wisconsin history even though there was no primary in either case. Significantly, the two final candidates in 1996 spent under $300,000 even after running through a seven candidate primary.

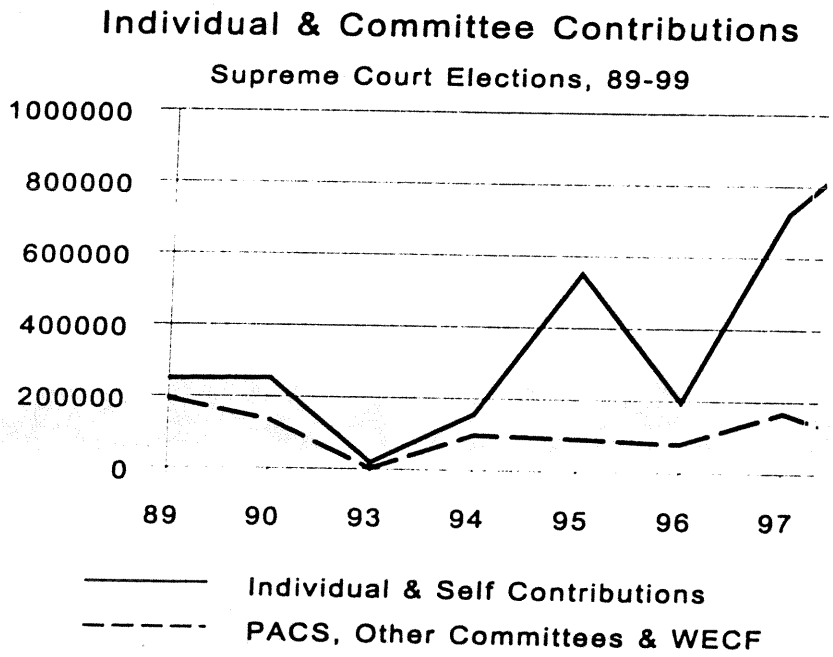
Table I:
Contributions and Candidate Expenditures: Supreme Court Elections,19 89-99

	1989	1990	1993	1994	1995	96	97	99
All Contributions	443,400.32	388,255.69	20,745	253,889.52	642,186.93	275,688.54	888,923.50	1037921.40
Expenditures	451,565.55	385,194.93	9,058.02	259,274.92	639,359.69	282,124.88	864,682.68	910445.35

Table & Chart II:
Individual & Committee Contributions: Supreme Court Elections,1989-99

	1989	1990	1993	1994	1995	1996	1997	1999
Individual & Self Contributions	249338.32	251868.44	18745	156679.31	551308.13	195,835.17	721,255.47	958816.20
PACS, Other Committees & WECF	194062	136387.25	2000	97210.21	90878.80	79853.37	167668.03	79105.29

The only non-contested race in the last decade was 1993's election with incumbent William Bablitch. The non-competitive nature of that election is reflected in the anomalous behavior of every curve in the four following charts. The 1989 and 1990 elections were both closely contested and expensive races, yet neither reached $500,000 in either spending or contributions raised.



As the first chart and table shows both spending and contribution levels fell for the next two elections, spiked for the 1995 election, an open race, and fell again in 1996.

However, in the last two elections spending and contributions rose to new heights. With more than a week to go before the election, the 1999 campaign has more than doubled the contribution and spending levels of 1989 election.

The next table and associated chart begin to clarify the picture. First, we need to note that the State Election Board divides contributions into two main sources:

- Individual contributions, including a candidate's self-contributions
- Committee to committee transfers, money from PACS, party and candidate committees and the Wisconsin Campaign Election Fund.

Chart III shows the trend for these two streams. In 1989 contribution levels from both committees and

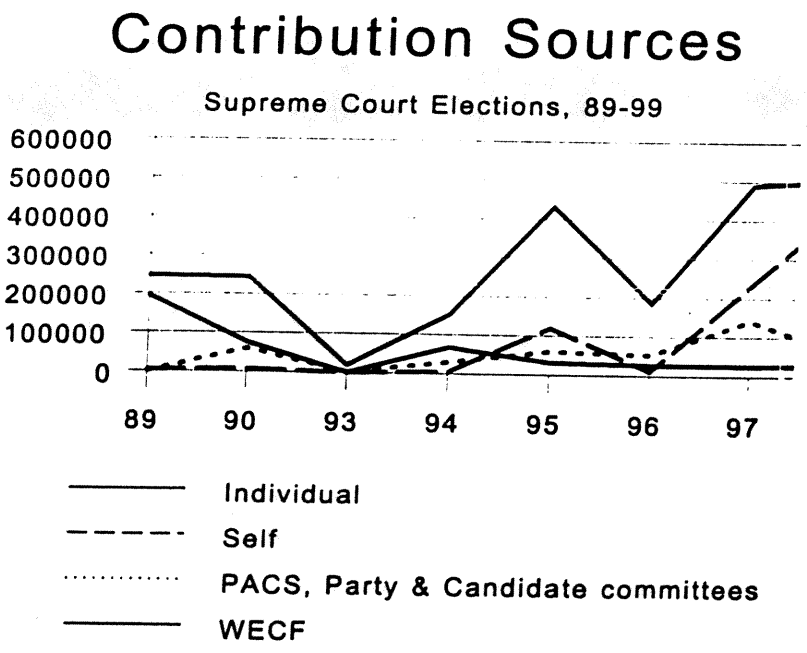
individuals were fairly close. Beginning with the 1995 election, the two began to diverge. While the cumulative amount provided by PACs and the WECF peaked in 1989, individual contributions have gone on to hit new highs.

Table & Chart III:
Contribution Sources: Supreme Court Elections, 89-99

	1989	1990	1993	1994	1995	1996	1997	1999
Indiv.	246,245.14	243,868.44	18,745	151,679.31	431,512.13	185,418.17	489,495.47	505,088.77
Self	3,093.18	8,000	0	5,000	119,796	10,417	231,760	453,727.43
PACS, Party & Cand. Comm.	0	60,348.69	2000	2,9674.53	59,925	53,455.45	141,520	52,100
WECF	194,062	76,038.56	0	67,535.68	30,953.80	26,397.92	26,148.03	27,005.29

The next two tables and charts break down these two sources even further on in absolute terms and the other as percentages of the whole. First, while in absolute terms, individual contributions have more than doubled from 1989 to 1999, in relative terms, their percentage share has declined by almost seven percentage points.

In fact, in both 1997 and 1999 the individual contributions' percentage share of all contributions was lower than in any other year in the past decade.



Self-contribution soaring: What has risen the most is self-contributions. In 1989 they were only slightly more than $3,000 and accounted for only 0.7% of contributions. However, in 1997 they accounted for 26.1% and, so far, in 1999, 48.7%, an absolute increase of more than 150 times. In fact, between 1989 and 1994, candidates, all incumbents, contributed a total of $16,092 to their own campaigns. Beginning with the 1995 election, candidates spent $815,700 of their own money, $624,987 by challengers and $130,213 by contestants for open

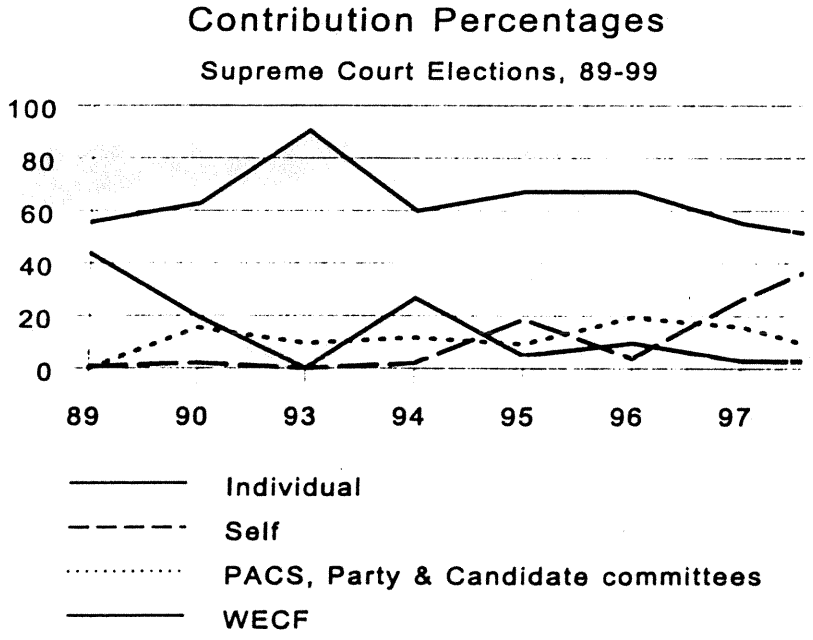
seats. This increase in self-contributions can be attributed at least in part to the decline in the WECF.

In 1989, each candidate took the maximum WECF grant of $97,031. As a result, neither could spend more than $20,000 of his or her own money. Moreover, because every dollar of the WECF is meant to replace a dollar of PAC money, neither candidate could accept PAC contributions. Consequently, there were no PAC contributions that year.

Table & Chart IV: Contribution Percentages: Contributions and Candidate Expenditures, 89-99

	1989	1990	1993	1994	1995	1996	1997	1999
Indiv.	55.6%	62.8%	90.4%	59.8%	67.2%	67.2%	55.15%	48.75%
Self	0.75%	2.1%	0%	2%	18.7%	3.8%	26.1%	43.7%
PACS, Party & Candidate committees	0%	15.5%	9.6%	11.7%	9.3%	19.4%	15.9%	5%
WECF	43.7%	19.6%	0%	26.6%	4.85%	9.6%	2.9%	2.6%

As the decade proceeded, the amount of WECF funds declined. In 1989 they accounted for more than 43% of all contributions. In 1999, a mere 2.6%. was provided by the WECF funding.



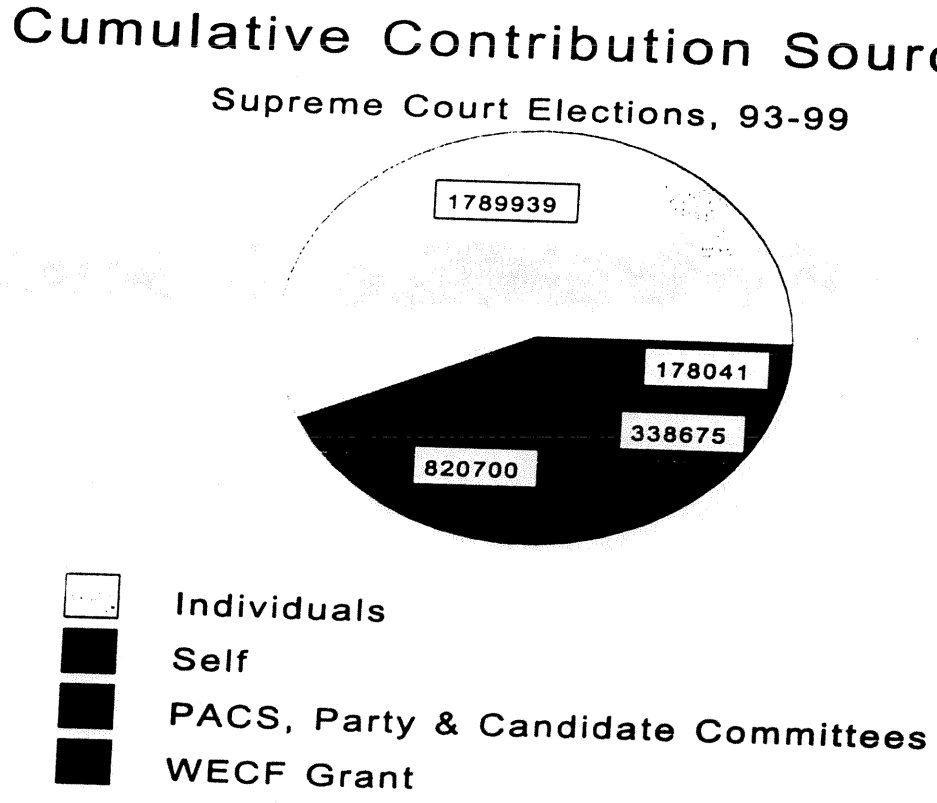
This decline has allowed some room for PAC money to increase, especially as candidates in the 1995, 1997 and 1999 elections chose to decline the grant. However, even candidates who do not take a grant are limited to no more than 45% of all contributions and an absolute maximum of $97,031. Even so, PAC contributions never equaled the maximum possible WECF grant.

The final chart in this section is a pie graph ***(next page)*** showing the cumulative amounts and shares of the four contribution sources to candidates from 1993 to 1999. In this period, these four sources provided Supreme Court candidates with $3,127,355 (rounded to the nearest dollar).

Individuals contributed $1,789,939 (57.2%); self contributions were at $820,700 (26.3%), PACs and other comittees $338,675, and the WECF grant only $178,041 (5.7%).

Table & Chart V:
Cumulative Contribution Sources:
Supreme Court Elections, 1993 - 99

Contribution Source	Amount	Percentage
Individuals	$1,789,939	57.2%
Self	$820,700	26.3%
PACS, Party & Candidate Committees	$338,675	10.8%
WECF Grant	$178,041	5.7%



3. Individual Contributions, 1993-99

Less than 2% of voters donated to Supreme Court elections in recent years. This section will examine the role that the contributions of those individuals have played.

Most of the details for this section can be found in the associated tables and charts. The first chart in this section divides all contributors into five contribution levels. The lowest level consists of contributors whose annual cumulative contribution levels never reached $100. This group, an estimated 75.9% of all contributors (a very rough estimate), provided $386,109 or 21.6% of all individual contributions.

The remaining 24.1% provided $1,403,830 or 78.4% of all individual contributions. More significantly, 34 individuals and couples, 0.2% of all contributors, provided $331,097 or 18.5% all individual contributions. Thus, the contributions (18.5% of individual giving) of this tiny sliver of 0.2% of contributors nearly matched the cumulative contribution of over 75% of all donors,who gave 21.6%

This circle of 34 couples or individuals--an infinitesimal .0003% of the voting public in Supreme Court elections.

An slightly larger but still very select 4.1% of donors of provided over half of donations (50.7%).

Table VI:
Individual contributions: who accounts for how much?

Contributors' Cumulative Contributions	% of contributors	Amount, 1993-99	% of individ. Contributions
Contributors $5000 or more	0.2%	$331,097	18.5%
Contributors $1000 to $4999	1.4%	$336,039	18.7%
Contributors $500 to $999	2.5%	$231,403	12.9%
Contributors $100 to $499	20.1%	$505,291	28.2%
Contributors under $100 per year	75.8%	$386,109	21.6%

Of individual contributions (excluding self-contributions) since 1993, 78.4% have been for $100 or more. Donations in this range are typically donated only by a tiny fraction of the citizenry

The next chart breaks down the $1,403,830 into interest groups. The largest single category of contributors to Supreme Court candidates are lawyers and lobbyists -- with the emphasis on lawyers.

This category of contributor provided $413,475 or 29.5% The next category -- the much broader and general miscellaneous business -- provided less than half as much at $179,060 or 12.8%.

Even more significantly, incumbents received over 36% of individual contributions from lawyers and lobbyists while challengers only 20%. From 1993 through 1998, lawyers and lobbyists provided all legislative candidates and the governor with 10.3% and 7.5% contributions respectively.

In fact, no interest group provided the governor or legislative candidates with more than 20% of their individual contributions.

Even more telling, when PAC and individual contributions are combined for a picture of overall interest group giving, lawyers and lobbyists still predominate with over 23% of all contributions to second place labor's 14%.

Top 10 law firms: Among lawyers and lobbyists some law firms clearly predominate. Ten law firms provided $135,910, nearly one third of all contributions from lawyers and lobbyists and 9.7% of all contributions from individuals. Some of the Top 10 donor firms have major stakes in public policy debates. For example, the Whyte,

Table VII:
Interest Group Categories for Individual Contributions: Supreme Court Elections, 93-99

Interest group	Amount	Percentage
Lawyers & Lobbyists	$413,475	29.5%
Misc Business	$179,060	12.85
Finance, Insurance & Real Estate	$174,485	12.4%
Retired	$112,343	8%
All other	$524,467	37.65

Table VIII:
Individual Contributions Special Interest Categories: Amounts & Percentages, 93-99

Special Interest Category	Amount	Percentage
Lawyers & Lobbyists	$413,475	29.5
Misc Business	$179,060	12.8
Finance, Insurance & Real Estate	$174,485	12.4
Unknown	$117,759	8.3
Retired	$112,343	8.0
Government	$86,985	6.2
Agriculture	$74,045	5.3
Health	$56,662	4.0
Education	$50,823	3.6
Communications/Electronics	$40,182	2.9
Construction	$36,460	2.6
Transportation	$28,754	2.0
Other	$12,757	0.9
Energy & Natural Resources	$8,800	0.6
Labor	$7,598	0.5
Ideological/Single Issue	$3,642	0.3
Total:	**$1,403,830**	**100**

Hirschboeck, the Habush, Habush, Davis and Rottier and the Brennan, Steil law firms are currently seeking $847 million for their role in Wisconsin's settlement with the tobacco industry

Finally, from 1994 to 1999 the winning candidate always received more financial report from lawyers and lobbyists than the losing candidate
(see charts below)

Table X:
Top 10 lawyer contributors

	Lawyer	Amount
1	Mark Bradley Ruder, Ware & Michler	$12,350
2	Robert E Sutton NA	$10,000
3	Adrean Schoone Schoone, Fortune, et al	$6,450
4	Gregory B Conway Liebmann, Conway, et al	$,5278
5	George K Steil Sr Brennan, Steil, Basting & MacDougall	$4,841
6	Robert Habush Habush, Habush, Davis & Rottier	$4,600
7	Daniel Rottier Habush, Habush, Davis & Rottier	$4,000
8	F Joseph Sensenbrenner Remly, Sensenbrenner Law Office	$3,600
9	Frank Steeves Riordan, Crivello, et al	$3,300
10	Paul Scoptur Aiken & Scoptur	$3,200

Table IX:
The Top 10 list:
biggest-giving law firms

Rank	Law Firm	Amount
1	Quarles & Brady	$23,250
2	Habush, Habush, Davis & Rottier	$20,600
3	Ruder, Ware & Michler	$17,750
4	Foley & Lardner	$16,852
5	Godfrey & Kahn	$11,900
6	Liebmann, Conway, et al	$11,003
7	Whyte, Hirschboeck & Dudek	$10,099
8	Michael, Best & Freidrich	S9,415
9	Schoone, Fortune, et al	$8,000
10	Brenn, Steil, Basting& MacDugall	$7,091

Some of the Top 10 donor firms have major stakes in public policy debates.

For example, the Whyte, Hirschboeck, the Habush, Habush, Davis and Rottier and the Brennan, Steil law firms are currently seeking $847 million for their role in Wisconsin's settlement with the tobacco industry.

Table XI:
Category Percentages for All Supreme Court Candidates, Incumbents, Challengers and Candidates for Vacant Positions

Special Interest Category	All	Incumbents	Challengers	Vacancies
Lawyers & Lobbyists	29.5	36.1	20.0	26.7
Misc Business	12.8	7.9	17.4	16.1
Finance, Insurance & Real Estate	12.4	10.4	15.5	13.1
Unknown	8.3	12.2	5.1	5.6
Retired	8.0	5.9	9.6	9.7
Government	6.2	5.4	12.0	4.1
Agriculture	5.3	7.8	4.7	7.8
Health	4.0	2.9	6.0	4.3
Education	3.6	5.1	4.5	1.3
All other	9.9	6.3	5.2	11.3

4. Geographic breakdown: wealthy, white codes have much more financial zip

The zip codes listed in Table XII accounted for 43.3% of the $1,403,830 contributors giving $100 or more per year per candidate and 33.9% of all individual contributions. All 10 are from overwhelmingly white and generally wealthy areas.

By the same token, a comparison of the ten zip-codes identified by Citizen Action as the ones with the largest proportionate population of people of color only provided $25,380 or 1.8%. ("The Color of Money" report, Sept. 23, 1998)

The figures are based on an analysis of the Supreme Court from July 1, 1994 through the pre-election report 1999. Candidates self-contributions are excluded.
Table XIII (following page) does the same as the above but only for the ten zip codes where 50% or more of the population are people of color.

Table XII:
Biggest giving zip-codes

Rank	Zip-code	Amount
1	54301 Green Bay	$111,443
2	53217 North Milwaukee suburbs	$111,215
3	53211 east side Milw., northeast suburbs	$79,990
4	53705 Madison	$61,015
5	54115 DePere	$59,616
6	54401 Wausau	$45,666
7	53202 downtown Milw.	$40,326
8	53092 Mequon	$33,915
9	53132 Franklin	$32,000
10	54403 Wausau	$31,164
	Total:	**$607,240**

The 10 big-giving and overwhelming white and affluent zip codes provide 23.9 times as much as the 10 zip codes across the state where people of color—African-Americans, Hispanics, Asian-Americans, and Indians—comprise a majority.

While these highly-disparate and unequal patterns in contributions have many implications, perhaps the most important is that Wisconsin has never had a person of color sitting on its Supreme Court in its 150-year history.

Table XIII:
Donations from communities of color

Zip	Amount
53206 Milw. north	400
53205 Milw. north	0
54135 Keshena	0
53212 Milw. north	$11,005 *
54538 Lac du Flambeau	0
53216 Milw. north	590
53210 Milw. north	1700
53208 Milw. north	4810
53209 Milw. north	5425
53204 Milw. south	1450
Total:	**$25,380**

*This total for contributions ranks an anomalous 30th highest in the state, and can likely be explained by the fact that many business owners provide their work addresses rather than their residences on disclosure forms for their donations. The 53212 zip-code contains numerous large factories

5. Time for reform: Impartial funding for impartial justice

We believe that the findings of this report reveal an urgent need for bold and fundamental reform on how we fund our elections for Supreme Court. Campaign spending and fund-raising is escalating out of control; personal wealth is becoming an increasingly important "qualification," candidates are forced to rely on a minute fraction of Wisconsin's citizens for funding; and a sizable share of funding comes from special interests with at least a potential interest in matters which could come before the Supreme Court.

The urgency of fundamental reform, in our view, is undeniable. But is the public ready for audacious reform?

The answer would seem to be an unequivocal "yes." A Chamberlain Research Associates poll of 600 state residents conducted for Wisconsin Citizen Action Jan. 27-Feb. 11 revealed that **76.2%** of Wisconsin residents favor ***full*** public funding of elections.

That included support above 71% for all categories of voters, Republicans, Democrats, and independents alike. The poll showed an overwhelming ***51.5%*** to ***20.2%*** preference for full public funding over partial funding plans.

There is clearly a strong public mandate for going beyond half-way measures, for fundamentally breaking the link between those who write the big contribution checks and those who interpret and administer our laws.

Yet some proponents of reform look only to restoring the status quo ante of 1989, when the Wisconsin Election Campaign Fund was able to provide full grants of 45% to both candidates.

But we believe that Wisconsin can do better than to remove only 45% of special-interest money from Supreme Court campaigns. If our drinking wells were polluted, none of us would be content with removing half the contaminants.

So why should we settle for taking out only 45% of the private special-interest money funding our Supreme Court races? Such an approach would not only leave candidates heavily dependent on special interest money, but it in effect gives those special interests a discount in seeking to purchase special influence.

The following chart compares how the partial-funding approach and the full-funding approach we call the "Impartial Justice" plan measure up against public concerns.

VOTERS' MAJOR CONCERNS	Partial public-funding	Impartial Justice plan
Campaigns are too expensive	Would make acceptance of spending limits more palatable for some; however, others would still try to win spending 'arms race'	Limits campaign spending to size of grant; "equalizing" feature discourages spending "arms race"
Too much special-interest influence	Special interests could still provide 55% of funding	Prohibits special-interest contributions to participating candidates
Candidates spend too much time chasing money	Candidates still would need to raise substantial amounts of money	Eliminates need for fundraising
Good people don't have a chance to compete	Even with larger public grant, inequities would still exist	Provides a financially level playing field

The public expects that judges will evaluate cases based strictly on the evidence and the law. But the appearance--if not the substance—of justice is undermined when candidates for the Supreme Court must rely on a relative handful of well-funded interests to finance their campaigns. We believe that the Wisconsin citizens cannot feel fully confident about the State Supreme Court's method of election until the funding system is as impartial and blind as the standard of justice to which the court is dedicated.

To make Wisconsin's system of justice truly impartial, we propose that candidates be provided with a choice of full public funding so they may avoid reliance on private interests but obtain sufficient funds to conduct viable campaigns with a serious chance of winning.

How the Impartial Justice plan would work:

1. Candidates for Supreme Court choose to rely on the "Impartial Justice" method of funding and agree to accept no private funding.
2. Candidates qualify for impartial funding by accumulating a specific number of $5 "qualifying contributions" and signatures showing that they are serious candidates with a broad base of support.
3. Candidates receive full funding from the Impartial Justice Fund, with full funding defined as $300,000 for Supreme Court candidates (with $100,000 for primary elections).
4. If an Impartial Justice-funded candidate encounters a privately-funded candidate, the Impartial Justice Fund would match spending above the grants outlined in #3.
5. Similar equalizing funds would be disbursed from the Impartial Justice Fund in the case of independent expenditures directed against an Impartial Justice-funded candidate, or on behalf of the privately-funded candidate.
6. The "Impartial Justice" funding would be derived from general-purpose tax revenues.

Former Chief Justice Nathan Heffernan strongly made the case for this type of system when he stated: **" It would be entirely appropriate, indeed it is necessary, for the state to finance 100% of judicial campaigns with a reasonable statutory limit on state funding. Assuring the continuation of an honorable, independent, and qualified judiciary as a public purpose for which tax money may be properly used."** ("Judicial Responsibility, Judicial Independence, and the Election of Judges," ***Marquette Law Review***, v. 80, No.4, Summer 1997.)

21 editorials praise Impartial Justice Bill

The Impartial Justice Bill has been praised by 20 daily newspapers and WISC-TV of Madison:

- **Marinette Eagle-Herald:** "…After the outrage over the cost of the last Supreme Court race, some $1.037 million according to early figures, we think people are ready for this lunacy to stop. The Impartial Justice Plan seems like a reasonable solution." **Dec. 29, 1999**
- **Stevens Point Journal:** "We have seen little progress in adopting campaign finance reform legislation at the state or federal level. The Impartial Justice Bill will allow us to take that first step in the right direction. " **Dec. 23, 1999**
- **Ashland Daily News:** "…backers of the change figure it will only cost 25 cents per voter. That's a small price to pay for the knowledge that rich benefactors aren't greasing palms of elected officials." **Dec. 3, 1999.**
- **Chippewa Herald Telegram:** " The fact that the courts are amenable to some limits on campaign spending—the Wisconsin Supreme Court urged state lawmakers to clarify certain rules earlier this years—should convince our state representatives to pass the Impartial Justice Bill." **Nov. 29, 1999.**
- **Shawano Leader:** "The idea is to level the playing field so that one candidate's free speech rights—with the help of large donations—don't drown out the 'little guy' who may not have big-money connections. **Nov. 29, 1999**
- **Daily Jefferson County Union (Fort Atkinson):** "A poll indicates that people don't trust the current system and at least in this case support public financing to deflate the influence of special interests. The state should pass the Impartial Justice Bill(SB 181)…now." **Nov. 26, 1999**
- **Janesville Gazette:"** "We're disappointed in lawmakers who were too busy waving rebate checks in front of voters to make a meaningful change in election law this year. …We encourage Sen. Judy Robson and other co-sponsors of Impartial Justice to revisit this matter next session and be diligent about cleaning up this messy system. " **Nov. 12, 1999.**
- **Waukesha Freeman:**"…when obscene amounts of money pour into Supreme Court races, reasonable people begin to wonder if the motivating factors go much deeper, specifically that the money is used to influence Supreme Court decisions in the donor's favor." **Nov. 6, 1999**
- **Appleton Post-Crescent**: "There is something to like about this plan, too. It makes each candidate accountable to the public he or she serves to run an above-board campaign not beholding to special interests that might have a vested interest in issues that are scheduled to come before the court." **Oct. 22, 1999**
- **The Reporter (Fond du Lac):** "Isn't it an invitation to corruption to have judges bankrolled by certain interests and then having those judges making important decisions in which the people who paid for the judge's campaign may be pitted against people who didn't. " **Nov. 4, 1999**
- **Eau Claire Leader-Telegram:** "Wisconsin has a chance to return at least the Supreme Court election to the people. ..The Senate should pass the Impartial Justice Bill (SB 181)…now." **Oct. 25, 1999**

- **LaCrosse Tribune:** "Wisconsin's judges are elected. To retain their independence, we need to insulate them from the taint of special interest contributions. Senate Bill 181 would do that." **Oct. 5, 1999**
- **Daily Tribune (Wisconsin Rapids):** "Full public funding for these campaigns would help assure that the justices remain impartial without any appearance of monetary influence. AB 377 is the best choice for campaign finance reform this year." **Oct. 4, 1999**
- **Green Bay Press-Gazette:** "Individuals and groups concerned about the influence of big money must press lawmakers to act. In particular, legislators must counter the specter of Supreme Court races, and eventually a high court, dominated by either wealth or by special interests whose agendas may come before justices." **April 29, 1999**
- **Racine Journal Times:** "Legislators—are you listening here—have a variety of campaign finance reforms on the platter this fall. One calls for complete public financing of state Supreme Court elections. If we need any convincing that establishing a moat between special interests and the state high court is a good idea, we need look no further than Ohio…Ohio has the best law that money can buy. If Wisconsin legislators don't act on at least this one area of campaign finance reform before them, we may follow down this unseemly path." **Sept. 13, 1999**
- **Capital Times (Madison):** " People need to be invited back into the process. That can best be done by enacting the Impartial Justice Bill proposed by Citizen Action and a host of other public interest groups." **Oct. 23, 1999**
- **WISC-TV (Madison):** " We only hope the State Senate has the courage lacking in the Assembly to pass the Impartial Justice Bill the citizens of this state demand and deserve." **Oct. 10, 1999**
- **Wisconsin State Journal:** "One idea that will get some attention today is a plan to remove all private contributions from races for the state Supreme Court. Because judges must be, in fact and in perception, above the political fray, this idea deserves serious attention." **June 1, 1999**
- **Sheboygan Press :** "The impartiality of justice in this state comes under suspicion when judges must rely on special-interest money to win elections…Approval is needed to prevent a repeat of the Abrahamson-Rose brouhaha and spending spree in two state Supreme Court elections in the next two years." **May 28, 1999**
- **West Bend Daily News:** "The Impartial Justice Bill is a good idea and should be viewed favorably by state legislators. Special interest money of concern at all levels of government, but it's particularly worrisome in the election of high court justices. …A source of impartial funding would help to make Wisconsin's system of justice truly impartial." **May 28, 1999**
- **Oshkosh Northwestern: "...** Wisconsin Citizen Action provides eye-opening data about campaign contributions to Supreme Court candidatesin our state that shows that the wealthy and lawyers and lobbyists are footing most of the bills for court campaigns….Sponsors of the 'Impartial Justice Bill' promise to be fack next session, and we expect, fully armed with copies of the Times report of ugly campaigns in California, Texas. Ohio, Michigan, Alabama, and Idaho." **June 8, 2000.**

Oshkosh Northwestern
June 8, 2000

State court seats face new threats

An independent judiciary is one of the pillars of American democracy.

A disturbing report in the New York Times on Monday should alarm anyone who cherishes the notion of a judiciary beholden to the law and the constitution instead of campaign contributors.

The Times details an emerging pattern in Supreme Court elections across the nation where millions of dollars are flowing into campaigns and candidates are testing the limits of ethics rules that prevent them from signaling how they might vote on cases.

Of particular interest to Wisconsin is the mention of the ugly 1999 Supreme Court election where Chief Justice Shirley Abrahamson defeated Green Bay Attorney Sharren Rose.

The record-breaking money raised, mean-spirited accusations and breakdown of any semblance of demeanor on the court created wounds that are slowly healing, but the scar clearly still is present.

The Abrahamson-Rose election is widely used as a rallying cry for public financing of state Supreme Court seats to remove the influence of special-interest dollars on the high court.

Indeed, it helped secure passage of an "Impartial Justice Bill" in the Senate last session by a 30-3 vote – a bipartisan rarity in that deeply divided chamber of the Legislature. However, the bill died when a vote was not scheduled in the Assembly before the session expired.

Yet if the Abrahamson-Rose election gave us reason to jeer, the 2000 high court election gave us reason to cheer. Justice Diane Sykes and Louis Butler ran clean, relatively inexpensive and issue-oriented campaigns.

Above all, both candidates made a conscious effort to avoid the rancor of 1999, recognizing that the public would not tolerate a repeat. For all of the potential for abuses of the system, it remains remarkably resilient and self-correcting when it is demanded by the public.

Sponsors of the "Impartial Justice Bill" promise to be back next session, and, we expect, fully armed with copies of the Times report of ugly campaigns in California, Texas, Ohio, Michigan, Alabama and Idaho.

In addition, Wisconsin Citizen Action provides eye-opening data about campaign contributions to Supreme Court candidates in our state that shows that the wealthy and lawyers and lobbyists are footing most of the bills for court campaigns.

It may make someone wonder if judges are acting on the interests of we the people or a few select people.

There are, understandably, strong feelings and arguments on both sides of the campaign finance reform debate.

But, in the end, what's so bad about allowing the Assembly to vote the bill up or down?

COUNTDOWN TO THE YEAR 2000
EAGLE HERALD
Marinette Menominee
A BEACON FOR THE NEW MILLENNIUM
WEDNESDAY DECEMBER 29, 1999

The impartial justice plan seems like a reasonable solution.

Impartial justice plan makes sense

Everybody supports campaign finance reform, but when it comes right down to it, not many are ready to put a plan in action.

"It's too broad." "It doesn't go far enough." "I'm really not comfortable with ..."

If we wait for the perfect, all-encompassing plan, it's unlikely anything will happen. We have to start somewhere; and in Wisconsin, the impartial justice plan is a good place to start.

The plan provides a method of public funding for Supreme Court candidates in an effort to do away with out-of-control spending and heavy donations by those groups who could have a direct interest in the outcome of the election.

According to the Wisconsin Citizen Action group, which has been spearheading efforts to move the proposal, lawyers, lobbyists and big law firms are major contributors in Supreme Court races, along with candidate self-funding and wealthy couples and individuals.

Should these admittedly special interests have that much say in who serves on the court? That is the premise of the impartial justice proposal which would allow qualified candidates to choose to rely solely on public funding for their campaigns. There are built-in mechanisms that are intended to control the cost of campaigning and to keep the playing field level.

Will it work? We don't know, but after the outrage over the cost of the last Supreme Court race, some $1.037 million according to early figures, we think people are ready for this lunacy to stop.

The impartial justice plan seems like a reasonable solution. Right now it is sitting in the Joint Finance Committee and Citizen Action has identified Rep. John Gard, R-Peshtigo, as an obstacle to its further movement.

Gard takes exception to being called an obstacle. He said the committee has not met on bills for a couple of months because of budget work and, quite frankly, it just hasn't come up yet.

That doesn't mean he is a supporter of the measure, and, in fact, he draws the line at using general revenues so candidates can purchase TV ads. But, he adds, that although he hasn't come to the point where he is in favor of the measure, he isn't out to kill it either.

That's OK. Gard doesn't have to favor the bill in order to allow it to be voted out of committee and sent to the Senate. He can maintain his principles but still allow this bill to move to the next level.

Citizen Action claims there is widespread bipartisan support for this bill. Let's send it on to our lawmakers and see what transpires. At this point, it is a measure that makes sense.

Stevens Point Journal
OPINION
Thu 23-Dec-1999

Public must fund state Supreme Court races

We expect the American justice system to treat us fairly. We expect clearly defined laws that are enforced impartially across the board. We expect judges to rule without prejudice.

But that impartiality comes under scrutiny when the stakes for obtaining a judicial office get too high. And that is what's happening with the state Supreme Court race.

Three years ago, a record $888,924 was raised by candidates for the state Supreme Court. That record was crushed in the 1999 campaign between Shirley Abrahmson and Sharren Rose, with the two candidates pulling in $1.3 million in contributions.

Why all the interest in the state's top judicial post? A good question, indeed. A breakdown of contributors shows that 34 couples or individuals provided 18.5 percent of the individual donations to the candidates. A breakdown of those contributors compiled by Wisconsin Citizen Action showed that lawyers and lobbyists provided 29 percent of all contributions.

Something just doesn't seem right about lawyers, who might practice in front of the Supreme Court, and lobbyists, whose job it is to influence, putting money into judicial campaigns. The bi-partisan Fairchild Commission on Supreme Court elections and ethics agrees that there is something wrong with that picture. It has urged the state Legislature to adopt full public financing of Supreme Court elections.

A bill before the Legislature aims to do just that. The Impartial Justice Bill recently passed the Senate Campaign Finance Reform Committee on a bi-partisan vote. It is now before the Joint Finance Committee, co-chaired by Rep. John Gard, R-Peshtigo, waiting for it to be put to a vote.

The Impartial Justice Plan calls for:

- An agreement by Supreme Court candidates to accept no private funds.
- Providing candidates with $100,000 for primary elections and $300,000 for regular elections.
- Matching spending for any impartial justice-funded candidate who encounters a privately-funded candidate.

The bill has gained a wide range of support, including the League of Women Voters of Wisconsin, Wisconsin Academy of Trial Lawyers, Attorney General James Doyle and Nathan S. Heffernan, former chief justice of the Wisconsin Supreme Court. Heffernan called it the first attempt in the nation to break the link between big money and the administration of justice.

Special-interest money has no place in a judicial campaign where we expect those elected to carry out their responsibilities without any outside influence. And although the thought of anyone "buying" a public office with their own personal wealth is objectionable, it is all the more so for the office of Supreme Court justice. Experience and integrity should be the key factors in that election.

We have seen little progress in adopting campaign finance reform legislation at the state or federal level. The Impartial Justice Bill will allow us to take that first step in the right direction. We call upon the committee leadership to let the bill come to a vote. It is in the public's best interest.

Ashland Daily News
December 3, 1999

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FROM THE JANESVILLE GAZETTE

'Impartial Justice' bill would clean up races

When the Wisconsin Supreme Court convened in Janesville last Thursday, no scars were visible on Chief Justice Shirley Abrahamson. But we were still reminded of the knock-down, drag-out fight she had to endure earlier this year to keep her job.

Abrahamson and her challenger, Sharren Rose, spent a total of $1.3 million in the election, and television viewers were assaulted with a barrage of she-said, she-said ads. We think the men and women who sit on the state's highest court should be above such frays.

We're disappointed in lawmakers who were too busy waving rebate checks in front of voters to make a meaningful change in election law this year.

In March, lawmakers were presented with a proposal that its supporters call the Impartial Justice Bill. It provides $300,000 in public funding for Supreme Court candidates who agree to spending limits. If an opponent exceeds that amount, the candidate who agreed to the limits gets extra funds. The idea is to level the playing field so that one candidate's free speech rights — with the help of large donations — don't drown out the "little guy" who may not have big-money connections.

While handing out $300,000 per candidate may seem like a large financial responsibility for the state, backers of the change figure it will only cost 25 cents per voter. That's a small price to pay for the knowledge that rich benefactors aren't greasing the palms of elected officials.

Taking money out of politics isn't easy because the U.S. Supreme Court has equated spending money with free speech. The beauty of this proposal is that the speech limits are voluntary. If the government isn't imposing limits, the law won't run afoul of the First Amendment.

A similar law was upheld last week by a federal court in Boston. Those judges were interpreting Maine's so-called Clean Election Law, which shares many of the same attributes as Wisconsin's bill.

The fact that courts are amenable to some limits on campaign spending — the Wisconsin Supreme Court urged state lawmakers to clarify certain rules earlier this year — should convince our elected representatives to pass the Impartial Justice bill.

Abrahamson is a legal scholar with impeccable credentials. The fact that she was forced to defend herself from unfounded attacks illustrates the need to change our system. Exchanging ideas and explaining philosophies — not running slick ads finding fault with an opponent — ought to be at the center of political campaigns.

We're disappointed in our lawmakers' failing to schedule this matter for a vote. We encourage Sen. Judy Robson and the other co-sponsors of Impartial Justice to revisit this matter next session and be diligent about cleaning up this messy system.

Chippewa Herald-Telegram
Nov. 29, 1999

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OTHER VIEW

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THE JANESVILLE GAZETTE

Shawano Leader
November 29, 1999

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— THE JANESVILLE GAZETTE.

Daily Jefferson County Union
Fort Atkinson, Wis. November 26, 1999

Impartial justice deserves chance

Supporting a bill that would use tax dollars to pay for something the public already funds voluntarily — state Supreme Court elections — seems like a step backwards.

That is, until you realize the explosion of money into state Supreme Court elections and uneasiness about what that money may be buying.

Last year, incumbent Shirley Abrahamson defeated challenger Sharren Rose in a bitter Supreme Court race in which the two sides spent a total of $1.3 million. This was more than twice as much as was spent in a state Supreme Court race the year before. More than half the money poured into the Abrahamson-Rose donnybrook came from just four percent of the donors. Lawyers and lobbyists kicked in more than 30 percent of the contributions of $100 or more.

Of course, not everybody gives candidates money expecting a favor or preferential treatment in return. Many donate because their candidate most closely represents the principles the voter agrees with.

But when obscene amounts of money pour into Supreme Court races, reasonable people begin to wonder if the motivating factors go much deeper, specifically that the money is used to influence Supreme Court decisions in the donor's favor.

Let's not be naive. We all know the home states of the most influential members of Congress always seem to end up with more than their share of pork-barrel projects. The golden rule ("He who has the gold, rules") has been a reality in Washington for years.

But shouldn't it be different with judges? Shouldn't the process be money-neutral, where unions and business groups and rich folks don't have an advantage over everyone else in influencing the outcome and possibly reaping the rewards? Isn't it an invitation to corruption to have judges bankrolled by certain interests and then having those judges making important decisions in which the people who paid for the judge's campaign may be pitted against people who didn't?

The state Assembly apparently thinks so. It passed the Impartial Justice Bill (AB 377), which among other things offers $300,000 grants for the general election to each Supreme Court candidate, and discourages exceeding that amount by offering matching public funds to the opponent of anyone who exceeds that limit.

The bill eliminates the need for fundraising and prohibits special interest contributions. The estimated $1 million needed to fund the primaries and general election amounts to about 25 cents per eligible voter.

Unfortunately, the bill is being derailed in the state Senate in favor of a watered-down version or possibly nothing at all. If the Senate doesn't pass the Assembly version before adjourning on Nov. 11, real reform is dead for this year.

Why not give it a try? This doesn't stifle free speech, it encourages it by putting more emphasis on the grass-roots approach that used to be the norm in Wisconsin before these modern-day multi-million-dollar media blitzes turned campaigns into hollow efforts to build one candidate's image and destroy the opponent's.

Wisconsin has a chance to return at least the Supreme Court election to the people. A poll indicates people don't trust the current system and at least in this case support public financing to deflate the influence of special interests.

The Senate should pass the Impartial Justice Bill (SB 181) . . . now. — Leader-Telegram, Eau Claire.

Janesville Gazette
November 12, 1999

EDITORIALS

'Impartial Justice' cleans up races

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We're disappointed in our lawmakers' failing to schedule this matter for a vote. We encourage Sen. Judy Robson and the other co-sponsors of Impartial Justice to revisit this matter next session and be diligent about cleaning up this messy system.

THE WAUKESHA FREEMAN
Waukesha, Wis. Nov. 6, 1999

Impartial justice deserves a chance

Supporting a bill that would use tax dollars to pay for something the public already funds voluntarily – state Supreme Court elections – seems like a step backwards.

That is, until you realize the explosion of money into state Supreme Court elections and uneasiness about what that money may be buying.

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But when obscene amounts of money pour into Supreme Court races, reasonable people begin to wonder if the motivating factors go much deeper, specifically that the money is used to influence Supreme Court decisions in the donor's favor.

Let's not be naive. We all know the home states of the most influential members of Congress always seem to end up with more than their share of pork-barrel projects. The golden rule ("He who has the gold, rules") has been a reality in Washington for years.

But shouldn't it be different with judges? Shouldn't the process be money-neutral, where unions and business groups and rich folks don't have an advantage over everyone else in influencing the outcome and possibly reaping the rewards? Isn't it an invitation to corruption to have judges bankrolled by certain interests and then having those judges making important decisions in which the people who paid for the judge's campaign may be pitted against people who didn't?

The state Assembly apparently thinks so. It passed the Impartial Justice Bill (AB 377), which among other things offers $300,000 grants for the general election to each Supreme Court candidate, and discourages exceeding that amount by offering matching public funds to the opponent of anyone who exceeds that limit.

The bill eliminates the need for fund-raising and prohibits special interest contributions. The estimated $1 million needed to fund the primaries and general election amounts to about 25 cents per eligible voter.

Unfortunately, the bill is being derailed in the state Senate in favor of a watered-down version or possibly nothing at all. If the Senate doesn't pass the Assembly version before adjourning on Nov. 11, real reform is dead for this year.

Why not give it a try? This doesn't stifle free speech, it encourages it by putting more emphasis on the grass-roots approach that used to be the norm in Wisconsin before these modern day multimillion-dollar media blitzes turned campaigns into hollow efforts to build one candidate's image and destroy the opponent's.

Wisconsin has a chance to return at least the Supreme Court election to the people. A poll indicates people don't trust the current system and at least in this case support public financing to deflate the influence of special interests.

The Senate should pass the Impartial Justice Bill (SB 181) ... now.

– Leader-Telegram
Eau Claire

THE REPORTER
FOND DU LAC, WISCONSIN •
November 4, 1999
Our 127th y
NEWSSTAND PRICE 50¢

Explosion of spending in Supreme Court race points to need for public funding

Supporting a bill that would use tax dollars to pay for something the public already funds voluntarily – state Supreme Court elections – seems like a step backwards.

That is, until you realize the explosion of money into state Supreme Court elections and uneasiness about what that money may be buying.

Last year, incumbent Shirley Abrahamson defeated challenger Sharren Rose in a bitter Supreme Court race in which the two sides spent a total of $1.3 million.

Of course, not everybody gives candidates money expecting a favor or preferential treatment in return.

But when obscene amounts of money pour into Supreme Court races, reasonable people begin to wonder if the motivating factors go much deeper, specifically that the money is used to influence Supreme Court decisions in the donor's favor.

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– *Leader-Telegram, Eau Claire.*

THE POST-CRESCENT

OUR VIEWS

State Supreme Court needs a new process for selection

We've had our differences with Chuck Chvala, D-Madison, the state Senate Majority Leader who has been a key player in each of the past two state budget impasses.

We place much of the blame – not all of it, because there's enough blame for almost all elected officials in the executive and legislative branches of state government – for those two debacles squarely at Chvala's feet.

Aside from that, we can't quibble much with Chvala's call for a new process of selecting the justices who sit on the Wisconsin Supreme Court. The electoral process we have now is simply too fraught with the potential for big-money influences and too convenient for political manipulation by the governor's office, no matter who the governor is.

> The electoral process we have now is simply too fraught with the potential for big-money influences and too convenient for political manipulation ... Wisconsin deserves a Supreme Court that stands above the pig's trough of dirty politics.

Last spring's campaign between Chief Justice Shirley Abrahamson and challenger Sharron Rose, a Green Bay attorney, was a chilling example of how an allegedly nonpartisan race can be overtaken by slick (read that "intentionally misleading") TV ads, finger-pointing and shameless, open bickering among the members of the state's highest court.

And Gov. Tommy Thompson's latest appointment to the bench, Milwaukee County Circuit Judge Diane Sykes, was a clearly political selection. Thompson conveniently overlooked several other highly qualified candidates – including minority candidates – before picking a white female from the state's largest city.

This needs to stop, and it needs to stop soon. Wisconsin deserves a Supreme Court that stands above the pig's trough of dirty politics.

Now, we're aren't naive enough to think that any other system now in use – or ever put into use – would avoid political maneuvering. But we are hopeful that a system can be developed that would again place the emphasis on qualifications, not connections.

Here are a few suggestions:

■ Chvala suggested that the governor nominate each justice to one 15-year term, subject to confirmation by the state Senate. "We need to do something to ensure the long-term viability of our judiciary," said Chvala, who said the Supreme Court appointment would be "the culmination of a person's career."

There is merit to Chvala's proposal. Such a lengthy term on the bench (justices now serve 10-year terms, with an election at the end of each) would give some sense of stability to the court.

■ A political watchdog group from Madison, Wisconsin Citizen Action, has proposed public financing only for the Supreme Court campaign. WCA calls it the "Impartial Justice" plan, and it has the support of many former candidates for Supreme Court seats, and two former Supreme Court justices, Janine Geske and Nathan Heffernan.

Under the "Impartial Justice" plan, candidates would need to choose to rely on public funding and accept no private money. They would also have to qualify for the funding by accumulating a specified number of $5 "qualifying contributions" and signatures to show the legitimacy of their campaigns. Full funding for the Supreme Court election would be capped at $300,000 ($100,000 for primary elections).

There is something to like about this plan, too. It makes each candidate accountable to the public he or she serves to run an above-board campaign not beholding to special interests that might have a vested interest in issues that are scheduled to come before the court.

The WCA plan also has the backing of Wisconsin Atty. Gen. James Doyle, U.S. Sen. Russ Feingold and U.S. Rep. Tammy Baldwin, all Democrats. Current Supreme Court candidate Louis Butler, a Milwaukee municipal judge, also endorses the "Impartial Justice" plan, according to WCA.

■ A system of appointments and elections, similar to the process that works in California, might be worthwhile. The court would be filled by appointments by the governor and confirmed by the state Senate. After a 10-year term, the people of the state would then sit in judgment of each justice in an election to determine only if that justice will continue to serve. There would be no opponent in the election, only a "Does she stay?" or "Does she go" vote.

This option, in our view, might combine the best of all possibilities. It involves the executive and legislative branches and gives the ultimate power to the voters of the state, who would determine if a justice reflected their views.

We're glad Chvala has pushed for reform of our Supreme Court selection process. We hope his comments pave the way to meaningful dialogue on the issue.

And we hope it gets done faster than, say, the discussion on a state budget.

Eau Claire Leader-Telegram
October 25, 1999

'Impartial Justice' deserves a chance

Supporting a bill that would use tax dollars to pay for something the public already funds voluntarily — state Supreme Court elections — seems like a step backwards.

That is, until you realize the explosion of money into state Supreme Court elections and uneasiness about what that money may be buying.

Last year, incumbent Shirley Abrahamson defeated challenger Sharren Rose in a bitter Supreme Court race in which the two sides spent a total of $1.3 million. This was more than twice as much as was spent in a state Supreme Court race two years before. More than half the money poured into Supreme Court races since 1993 came from just 4 percent of the donors. Lawyers and lobbyists kicked in more than 30 percent of the contributions of $100 or more.

Editorial

Of course, not everybody gives candidates money expecting a favor or preferential treatment in return. Many donate because their candidate most closely represents the principles the voter agrees with.

But when obscene amounts of money pour into Supreme Court races, reasonable people begin to wonder if the motivating factors go much deeper, specifically that the money is used to influence Supreme Court decisions in the donors' favor.

Let's not be naive. We all know the home states of the most influential members of Congress always seem to end up with more than their share of pork-barrel projects. The golden rule ("He who has the gold, rules") has been a reality in Washington for years.

But shouldn't it be different with judges? Shouldn't the process be money-neutral, where unions and business groups and rich folks don't have an advantage over everyone else in influencing the outcome and possibly reaping the rewards? Isn't it an invitation to corruption to have judges bankrolled by certain interests and then having those judges making important decisions in which the people who paid for the judge's campaign may be pitted against people who didn't?

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The bill eliminates the need for fund-raising and prohibits special interest contributions. The estimated $1 million needed to fund the primaries and general election amounts to about 25 cents per eligible voter.

Unfortunately, the bill is being derailed in the state Senate in favor of a watered-down version or possibly nothing at all. If the Senate doesn't pass the Assembly version before adjourning on Nov. 11, real reform is dead for this year.

Why not give it a try? This doesn't stifle free speech, it encourages it by putting more emphasis on the grass-roots approach that used to be the norm in Wisconsin before these modern-day multi-million-dollar media blitzes turned campaigns into hollow efforts to build one candidate's image and destroy the opponent's.

Wisconsin has a chance to return at least the Supreme Court election to the people. A poll indicates people don't trust the current system and at least in this case support public financing to deflate the influence of special interests.

The Senate should pass the Impartial Justice Bill (SB 181) ... now.

— Don Huebscher, editor

LA CROSSE Tribune

Tuesday, Oct. 5,1999

❑ OUR VIEW

Legislature should pass 'impartial justice' bill

Last year's race for Wisconsin Supreme Court had candidates spending the most that judicial hopefuls have ever spent.

Between the two candidates — Chief Justice Shirley Abrahamson and Green Bay attorney Sharren Rose — more than $1 million was raised and spent.

In addition, perhaps not coincidentally, the race was one of the nastiest, most personal campaigns in Supreme Court history.

This April, state voters will have another Supreme Court race to decide. A bill now pending in the state Senate could ensure that we do not have another million-dollar court race — by ensuring public financing for Supreme Court candidates.

Senate Bill 181, known as the "impartial justice" bill, would allow for $100,000 in public financing for each Supreme Court candidate in a primary election, and $300,000 for the two candidates in a general election.

Why is public financing a better alternative than the present system?

Let's consider who contributes to Supreme Court races now.

According to a study done by the advocacy group Wisconsin Citizen Action, lawyers and lobbyists contributed 29 percent to Supreme Court campaigns between 1993 and 1999. Finance, insurance and real estate interests contributed nearly 13 percent of all contributions, while miscellaneous businesses also added just under 13 percent.

What is it that they think they are buying? In court races, particularly for the state's highest court, we need to make sure that our judges and justices remain impartial. We need to make sure that they are above even the appearance of partiality.

A quote from the top Republican in the Assembly is telling.

Assembly Speaker Scott Jensen, R-Waukesha, was quoted in the Milwaukee Journal Sentinel during the April 1997 Supreme Court election as saying, "The people want judges to be impartial, but contributors wanted judges to be partial."

Senate Bill 181 is still in committee. Let's urge senators and representatives to approve the bill.

It is sponsored by Sen. Gary George, a Milwaukee Democrat, and it has bipartisan support.

Former Supreme Court Chief Justice Nathan Heffernan is a supporter of the bill, as is Sen. Brian Rude, a Coon Valley Republican who serves as assistant minority leader.

Federal judges and judges in some states are appointed. In some states, judges are appointed and then must face voters to determine whether they stay in office.

Wisconsin judges are elected. To retain their independence, we need to insulate them from the taint of special-interest contributions.

Senate Bill 181 would do that.

Daily Tribune

Randy Graf/President and CEO
Helen Jungwirth/Associate Publisher
Thomas G. Enwright/Managing Editor
Founded May 25, 1914

OUR VIEW

Assembly should approve AB 377

'Impartial justice bill' would provide the best reform for Supreme Court races

The state Assembly has an excellent opportunity to bring about comprehensive campaign finance reform for Supreme Court races. The situation is complicated, however, because there are two competing bills, and one of them would allow lawmakers to take the easy way out.

The better of the two bills is named AB 377/SB 181. It would provide virtually 100 percent public funding to qualified candidates. As such, it is being called the "impartial justice bill." It would limit campaign spending to the size of the grant, and it would prohibit special-interest contributions to participating candidates.

The $1 million a year in funding would come from general purpose revenues. That would amount to about 25 cents per eligible voter

The opposing bill, AB 234, falls fall short of controlling the excessive spending that has become common in Supreme Court races.

The bill wouldn't take effect until 2001, leaving another costly race likely next spring. AB 377 would take effect immediately.

AB 234 would provide only 45 percent public funding, leaving candidates dependent on special-interest money. Because the grant and spending limits are so low, few candidates would likely use them. Instead, they probably would engage in another spending race like we saw last spring.

Funding would come from the existing tax-checkoff account, leaving it with little or no money for public funding of legislative or gubernatorial candidates.

The tendency for a spending race in the Supreme Court brings about too much of an appearance of buying influence on the court. Full public funding for these campaigns would help assure that the justices remain impartial without any appearance of monetary influence.

AB 377 is the best choice for campaign finance reform this year.

The Daily Tribune
Wisconsin Rapids, Wis. Monday, Oct. 4, 1999

Green Bay Press-Gazette

October 28 1999

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IN OUR VIEW

Public should fund high-court campaigns

■ Issue:
Impartial Justice bill

■ Our view:
Survey backs belief that people trust justices more if ability for big bucks to influence decisions is removed

After last spring's nasty state Supreme Court race, we saw three reasons to support public financing of high-court campaigns. Now there is a fourth.

In April we noted that:

■ Races grow more costly. More than $1.3 million was spent on the race in which Chief Justice Shirley Abrahamson beat Green Bay attorney Sharren Rose.

■ Wealthy candidates and interest groups are beginning to dominate court campaigns. That makes running tough for those who are qualified but not wealthy. It raises concern that justices who take interest-group money won't be impartial in cases affecting their benefactors.

■ Big-bucks campaigns tend to be run from inside TV studios, where political consultants live, rather than out in the world where voters reside.

The fourth reason comes from a state survey done for Wisconsin Citizen Action, a public-interest watchdog. It shows strong support for public financing of Supreme Court races. The survey of about 600 adults was done by Chamberlain Research Associates of Madison between Sept. 28 and Oct. 8. It has a margin of error of 3.97 percent.

Citizen Action's Roger Bybee says the survey debunks myths that people don't care about campaign finance and won't support public funding. Citizen Action says 77.1 percent of those polled believe contributions to judges influence their decisions and that 81.1 percent believe interest-group donations bring "better treatment" than that given "regular people."

Citizen Action also says the poll found that 69.5 percent of respondents who are Republicans and 77.3 percent who are members of the Christian Right back the tax-financed Impartial Justice Bill now in the Legislature. The Assembly has passed a substitute and the Senate has yet to act. If the bill is adopted soon, there could be reform in 2000.

Impartial Justice would provide up to $300,000 for candidates who accept public financing. Each would have to gather voter signatures and raise lots of $5 donations to demonstrate support.

Impartial Justice also would match spending by an opponent who did not take public funds and the amounts spent for such a candidate by independent groups.

No one knows how many candidates might run for Supreme Court, so there is no specific cost estimate on the bill. But the amount would not be immense. There are only seven justices. Since they serve 10-year terms, elections are relatively rare.

But as last spring's election and the Citizen Action poll shows, campaign money from wealthy candidates and special-interest groups has many in Wisconsin — including a large majority of those surveyed — wondering if justices can be impartial.

That's chilling evidence of big money's ability to poison politics by creating public cynicism. Passing the Impartial Justice Bill would be a step toward retaining the trust people must have in courts if government is to be respected. It cannot be effective if it is not respected.

Racine Journal Times

Sept. 13, 1999

Look Around

Court campaign reforms should be an easy choice

Wisconsin's newest Supreme Court Justice Diane Sykes barely got the news of her appointment when a state trooper was at her door with pending case files to brush up on for the fall term.

She got busy with some catchup reading over the Labor Day weekend, but not without giving thought to that other judicial duty: forming a campaign committee.

Sykes was appointed to fill the final year of a term held by former Justice Donald W. Steinmetz, who retired in July. While it gives her the advantage of incumbency, it also means Sykes will have to mount a spring campaign for a full 10-year term in short order.

And that will take money.

The question is how much money and where will it come from.

One yardstick could be the heated campaign last spring between Chief Justice Shirley Abrahamson and Green Bay attorney Sharren Rose that ended up with more than $1.3 million in campaign spending.

One of the reasons Steinmetz cited for not running again was the daunting cost of raising money for a campaign. Daunting is one word for it. Unseemly is another.

And, if the cost of running for office continues to accelerates, Wisconsin justices could arrive at "corrupt" before you know it.

Corrupt? Here in clean-as-a-whistle Wisconsin?

Legislators — are you listening here — have a variety of campaign finance reforms on the platter this fall. One calls for complete public financing of state Supreme Court elections.

If we need any convincing that establishing a moat between special interests and the state high court is a good idea, we need look no further than Ohio where the state Supreme Court, on a narrow 4-3 vote, overturned a tort reform bill enacted in 1996 that sought to limit outrageous damage awards and frivolous lawsuits.

A report by National Press Club treasurer David Martin noted the case had been filed by the Ohio Academy of Trial Lawyers, which claimed the reforms cost its members fees and clients.

Which, as Martin pointed out, was evidence the reforms were working. But more to the point, a study by a citizen watchdog group found that contributions from personal injury lawyers to the campaign coffers of the four justices on the prevailing side totalled $1.2 million over a few years.

The lawyer contributions to the three dissenting justices who voted to uphold the tort reform law totalled a paltry $89,000.

Ohio apparently has the best law that money can buy.

If Wisconsin legislators don't act on at least this one area of campaign finance reform before them, we may follow them down that unseemly path.

Wisconsin State Journal, Sunday, May 30, 1999

Views of

The Capital Times

It's time to get serious about reform of campaigns

On Tuesday, when legislators return to the State Capitol from their Memorial Day break, they will have reached the "if not now, when?" point in the quest for fundamental campaign finance reform.

Yet, despite polls that show the overwhelming majority of Wisconsinites favor fundamental campaign finance reform, despite the pledges from a majority of legislators to support reform, despite the work of a gubernatorial commission that developed a framework for reform, despite the work of a citizen commission headed by a former Supreme Court chief justice that developed a workable plan for public funding of campaigns, despite all of the time and energy that have gone into the struggle to cleanse Wisconsin politics of big money and influence peddling, there are no guarantees that this Legislature will enact anything akin to serious reform.

There are, however, opportunities.

State Senate Minority Leader Mike Ellis, R-Neenah, has tried to break the legislative deadlock on the issue. His reform plan, which has drawn support from leaders of Common Cause and the Wisconsin Democracy Campaign, is a modest proposal that would increase public funding for legislative campaigns, reduce spending levels and put limits on the so-called "independent expenditures" by special interest groups.

'99 AGENDA

Find cures for an ailing democracy

The Ellis plan is less reform than is needed, but it's a credible proposal, and his willingness to make concessions has earned him the right to a hearing from legislative Democrats and from progressives. Unluckily, it is far more likely that he will get that hearing from Democrats and progressives than it is that he will be able to persuade Assembly Speaker Scott Jensen, R-Waukesha, and his conservative Republican minions in the Legislature's lower chamber to get on board.

So what happens if Ellis fails to bridge the divide between the Democratic Senate and the Republican Assembly? Does that mean that Wisconsin must give up on the prospect of any meaningful campaign finance reform?

Not necessarily.

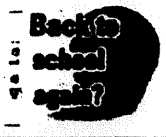
The Impartial Justice Plan, being advanced by Wisconsin Citizen Action, is a meaningful and necessary reform proposal. In the words of former state Supreme Court Chief Justice Nathan Heffernan, it is "the first attempt in the nation to break the link between big money and the administration of justice."

If enacted, the Impartial Justice Plan would limit spending in state Supreme Court races, and it would eliminate the dominance of special interest money in those contests. Qualified candidates would receive public funding grants of $300,000 — more than enough to run a sound campaign, but far less than what has been poured into recent court races. The plan would also provide public funds to allow candidates to counter independent spending on advertisements attacking them — thus removing the incentive for special interest groups to launch these deceptive and almost always negative campaigns.

Wisconsin needs far more campaign finance reform than that contained in the Impartial Justice Plan. But if there is one sector of electioneering where it might be possible to achieve significant reforms during *this* legislative session, it is that of Supreme Court campaigning. (Even Jensen, the Legislature's leading defender of the status quo, has said, "The people want judges to be impartial, but contributors want judges to be partial.")

The Impartial Justice Plan, which will get its first hearing in the Senate Tuesday, is no more than a first step. But it is a step in the right direction. And after so many stumbles in the wrong direction, the Legislature owes Wisconsin at least that much.

The views in this space are provided by The Capital Times, Dane County's afternoon newspaper. You can respond by e-mail to tctvoice@captimes.madison.com or by regular mail to Voice of the People, PO Box 8060, Madison, WI 53708.



editorials

Campaign Finance Reform Impostor

10/10/99

Do not be fooled. The bill passed by the Wisconsin Assembly last week is not true campaign finance reform. It is a sham...a fake...an impostor.

The Assembly had before it the Impartial Justice Bill which would even the playing field, limit campaign spending and prohibit special interest contributions in next Spring's Supreme Court election. Instead, the Assembly passed a cynical alternative that makes nearly meaningless campaign funding changes and delays implementation of those until after next Spring's election, an election that promises to set new spending records.

It remains clear that too many lawmakers have no interest in cleaning up the system. We only hope the State Senate has the courage lacking in the Assembly to pass the Impartial Justice Bill the citizens of this state demand and deserve.

WISCONSIN STATE JOURNAL
JUNE 1, 1999 MADISON, WISCONSIN

OUR OPINION

Changing campaigns is possible

As the Legislature enters its post-Memorial Day stretch run, there are a few pieces of business that must get done. Passing the 1999-2001 budget is one mandatory item; lawmakers should try to get that $41 billion tax and spending package completed before the Fourth of July. Another item on the "must-do" list should be reforming Wisconsin's campaign finance laws.

The Senate committee that deals with election reforms will hold a public hearing at 10 today to consider four bills or bill drafts that would change the existing system. Not every bill under consideration in the Capitol this session is on the committee's docket, but at least two of the leading plans to reform elections for the state Senate and Assembly will be examined.

The timing is important. Unless some (or all) of these bills begin moving now, it will be difficult for the Legislature to rally around a consensus reform plan by the time it adjourns for the summer. And if election reforms are not passed by the time lawmakers quit in July, the chances of passage before the 2000 election year will diminish.

Yes, a reform package could pass in the October session, but that's cutting it close. There is no way a reform plan will pass once the calendar clicks over to 2000. The closer the Legislature gets to the next election, the more lawmakers will fall back on their instinct for self-preservation. Incumbent legislators will not vote to change the existing rules unless they're convinced the substitute system will level the playing field for incumbents and challengers, Democrats and Republicans.

As Gail Shea of the Wisconsin Democracy Campaign writes in a guest column on this page, there are certain key legislators in both parties who don't want to see reform because they have mastered the system as it is. From their perspective, why change?

Public hearing is today on campaign finance bills

The Senate Agriculture, Environmental Resources and Campaign Finance Reform Committee will meet at 10 a.m. in Room 417 North of the Capitol to take testimony on Senate Bill 111, Senate Bill 113 and two Legislative Reference Bureau drafts, 3024 and 3055.

The reason for change is that too many citizens feel alienated by the present campaign-finance system. Increasingly, the candidates themselves have little to say about their own races while special-interest groups spend hundreds of thousands of dollars to control the airwaves. The 1998 elections for state Senate were prime examples of that phenomenon.

Spending alone is not the problem; people and organizations have a constitutional right to get involved. The problem comes when various elements of the campaign-finance system are out of balance, and public interests are subverted, while private interests are not fully disclosed.

One idea that will get some attention today is a plan to remove all private contributions from races for the state Supreme Court. Because judges must be, in fact and in perception, above the political fray, this idea deserves serious attention. If a plan can be written to ensure that challengers have a fair shot against Supreme Court incumbents, change would be welcome.

The next month or so may make or break the cause of campaign finance reform in Wisconsin. True reforms are possible if Democrats and Republicans in both houses work together. Don't let a few, powerful lawmakers hold change hostage.

The Sheboygan Press

Founded December 17, 1907
Larry Antony, Publisher

OUR VIEW
PRESS EDITORIALS

Public funding needed for Supreme Court races

The record, $1 million spending and bitter attack ads that characterized last fall's race between Chief Justice Shirley Abrahamson and challenger Sharren Rose are a powerful argument for campaign finance reform in Supreme Court races.

And now is the time for the Legislature to act. A strong plan for 100 percent public financing of Supreme Court races is scheduled to go before the Senate's Agriculture, Environmental Resources and Campaign Finance Reform Committee June 1. Sheboygan County's senator, Jim Baumgart, is a member of this committee.

Approval is needed to prevent a repeat of the Abrahamson-Rose brouhaha and spending spree in two state Supreme Court elections in the next two years.

Roger Bybee, communications director of Wisconsin Citizen Action, commented, "If any branch (of state government) should be free of any suspicion that financial considerations are coloring decisions, it out to be the Supreme Court." That's why the public-interest watchdog group has proposed its Impartial Justice Fund for financing these court races.

The plan calls for:

■ Letting court candidates get 100 percent of their campaigns paid for in exchange for agreeing to accept no private funds.

■ Having candidates qualify for impartial funding by accumulating a specific number of $5 "qualifying contributions." and signatures showing they are serious candidates with broad bases of support.

■ Setting the level of "full funding" at $300,000 with $100,000 for primary elections.

■ Giving publicly financed candidates matching money if they are opposed by a privately funded candidate who is exceeding the public spending limits.

■ Granting matching funds from the Impartial Justice Fund if independent groups spend money directed against a publicly funded candidate.

The impartiality of justice in this state comes under suspicion when judges must rely on special-interest money to win election.

As Nathan Heffernan, a former chief justice and former Sheboygan resident, says, big-money campaigns contribute to negative campaigning because the 30-second TV ads at the heart of these campaigns are a better format for a quick negative attack than a thoughtful discussion of issues.

Heffernan says that while the people want impartial justice, contributors to campaigns want decision that are partial to them. Thus, dependence on big donors "creates a perception of bias that is potentially disastrous for public faith in our justice system," he says.

We urge Sen. Baumgart and the committee to approve this plan so that it can win support of both houses of the Legislature and get a signature from Gov. Tommy Thompson.

The Sheboygan Press
May 28, 1999

West Bend Daily News

Friday, May 28, 1999

OUR**VIEW**

Keep it impartial

Proposed bill would protect Supreme Court dignity

The dignity of the Wisconsin Supreme Court suffered immensely in the imbroglio that preceded this spring's reelection of Justice Shirley Abrahamson.

Not only was the campaign in which Abrahamson was challenged by Green Bay attorney Sharon Rose marked by acid tongued mud slinging and incessant negative television commercials, it has gone down in the record books as the costliest Supreme Court race ever. Wisconsin Citizen Action, a public interest watchdog group, reports that campaign spending surpassed $1 million, and all the bills haven't been counted yet.

Campaigns for judicial office are non-partisan — wisely so. They should also be free from the dirty politicking that unfortunately degrades the election process for so many other public offices.

Justices of the U.S. Supreme Court are appointed by sitting presidents, freeing the high court of the land from the unpleasantness of the campaign. Appointment by the president does raise the specter of partisanship and attempts to stack the court with conservatives or liberals, but that's a whole separate issue.

Except for the lack of (declared) partisanship, those seeking election to the Wisconsin Supreme Court are forced to become gladiators in the campaign arena. That means the expenditure of lots of money — personal finances, funds raised by campaign committees and dollars made available to candidates by special interest groups.

On Tuesday, a Senate Campaign Finance Reform Committee is scheduled to discuss an Impartial Justice Bill — a piece of legislation that would have candidates for Supreme court justice rely on an "impartial justice" method of funding and agree to accept no private funds. The "impartial justice" funding would be derived from general-purpose tax revenues, much like the campaign checkoff system on state and federal income tax returns.

The Impartial Justice Bill is a good idea and should be viewed favorably by state legislators. Special interest money is of concern at all levels of government, but it's particularly worrisome in the election of high court justices. Like in other races, it's also troublesome when it appears that personal wealth is the key to getting elected.

The most recent Wisconsin Supreme Court race became a spectacle signaling a need for change.

A source of impartial funding would help make Wisconsin's system of justice truly impartial.

We think Wisconsin residents expect the judicial system to be impartial and fair, without regard to financial clout.

It would appear that the Impartial Justice Bill could help make that happen.

Green Bay
Press-Gazette
THURSDAY, APRIL 29, 1999

IN OUR VIEW

Public must fund high-court campaign

■ Issue:
Costly state Supreme Court races

■ Our view:
Wisconsin can't let special interests, wealth dominate justices' agendas

Here are three good reasons for Wisconsin to seriously consider full public funding of state Supreme Court campaigns:

■ The mean-spirited, acid-tongued race this spring between incumbent Justice Shirley Abrahamson and Green Bay attorney Sharren Rose. The contest was costly: The candidates combined to spend more than $1 million. It became particularly nasty when winner Abrahamson answered attack ads from Rose.

■ Financing in court races is being dominated by wealthy individuals and influenced by special-interest groups.

As election watchdog Wisconsin Citizen Action notes, what candidates spend has increased sharply. From 1989 to 1994, they contributed $16,092. Since 1994, hopefuls have anted up $815,700. In the April race, Rose spent more than $450,000 and Abrahamson took about $70,000 from interest groups.

Citizen Action's justifiable concern is that a "narrow base of funding" focused on affluent candidates and wealthy supporters raises "the disturbing specter of a Supreme Court increasingly closed to those who lack such financial resources." Donations from political action committees raise concern about the impartiality of justices who take special-interest money.

According to WCA, 76 percent of those responding to a poll it sponsored favor public financing of court campaigns.

■ A persuasive appeal from former Chief Justice Nathan Heffernan to use tax dollars to establish an Impartial Justice Fund. The fund would provide $300,000 for candidates who take no private donations and would match whatever is spent by an opponent who does not take public funds.

Heffernan also notes correctly that big-bucks campaigns neglect grassroots political efforts, put candidates in the "predictable sanctuary" of a TV studio rather than out meeting voters and spawn 30-second TV ads that "aren't a good format for positive, thoughtful proposals."

Other finance plans are being discussed. Sen. Mike Ellis, R-Neenah, proposes tax funding of legislative and executive races. Gov. Tommy Thompson's budget seeks $750,000 for public financing. On a 12-4 vote Tuesday, the Joint Finance Committee sent that request to the Legislature.

Ellis puts the cost of public funding at about $4 million a year. Half would come from an assessment on lobbyists and the rest from tax revenues. Public financing would cost each state resident about 49 cents a year, Ellis says.

The Impartial Justice Fund and the proposals from Ellis and Thompson deserve careful consideration in the Legislature. Individuals and groups concerned about the influence of big money on state politics must press lawmakers to act.

In particular, legislators must counter the specter of Supreme Court races, and eventually a high court, dominated by either wealth or by special interests whose agendas may come before justices.

Green Bay
Press-Gazette

★ MONDAY, AUGUST 16, 1999 SERVING AN ALL-AMERICA CITY

IN OUR VIEW

Judicial elections need to be funded

■ **Issue:**
Supreme Court election financing

■ **Our view:**
Independent campaign funding forces compromises

Everyone who took a civics class knows government must have three equal and independent branches — executive, legislative and judicial.

But two recent analyses suggest that Wisconsin's judiciary is neither equal nor independent and is being enmeshed in politics and campaigning more commonplace in the executive and legislative branches.

One analysis comes from the Wisconsin Taxpayers Alliance, a respected government watchdog. The other is from a state Commission on Judicial Elections and Ethics formed to study political and campaign activity in court races.

In the June issue of *The Wisconsin Taxpayer*, WTA reviewed a multilevel court system that cost taxpayers $200.5 million in 1997-98. WTA says the share of costs borne by state and counties is becoming an issue. In 1997-98, the state paid $91.1 million, counties $96 million and municipalities with courts $13.4 million.

The group's analysis of circuit courts, which handled nearly 1 million of the state's 1.5 million cases in 1997, also shows a shortage of 25 judges.

Whether courts are adequately funded and staffed is an important question. But the troubling issue raised by the WTA analysis is the blended influence of appointment and incumbency.

Theoretically, judges are accountable to the people through election. But in reality, about half are appointed by the governor to fill vacancies created by retirement or death.

When those incumbents run for office, they almost always win. From 1990 to 1998, incumbents won 96.6 percent of 457 elections for Supreme Court, Appeals Court, circuit court and multijurisdictional municipal courts.

WTA asks: "Can the courts remain an equal branch when funding is provided by the Legislature, and judicial appointment by the executive is the norm?"

The question posed by the Judicial Elections and Ethics Commission is no less pointed. It deals with public perception of judges as being independent of political influence. As the panel notes, the need — primarily at the Supreme Court level — to raise campaign money is "a curse" for judges that invites public skepticism.

"Soliciting money from others, most of whom will be lawyers who practice in the court to which the candidate seeks election, inevitably compromises the judicial candidates' appearance of independence," says the report made public earlier this month.

The panel concludes that there is an "immediate and urgent" need for full public financing of Supreme Court elections. It advocates similar treatment of Appeals Court races and suggests that even circuit- and municipal-court campaign costs be paid with tax dollars.

We also believe that public financing of Supreme Court races will help justices avoid dependency on favor-seeking donors. But that will not automatically make the judicial branch an equal partner.

As the WTA notes, there is little real equality when the executive appoints judges and the Legislature decides what can be spent on the courts.

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WEEKENDER
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MADISON, WISCONSIN
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Views of
The Capital Times

Let people choose judges

It is a measure of the bizarre nature of Sen. Chuck Chvala's plan to stop electing state Supreme Court justices that, when the Senate majority leader announced his scheme, the first reaction of a lot of serious observers of Capitol goings on was to assume he was joking.

He's not.

Chvala

Chvala has proposed a plan under which the governor would nominate Supreme Court justices to serve one-time, 15-year terms that, in the majority leader's phrasing, would be "the culmination of a person's career." The Senate would confirm the governor's selection — much as the U.S. Senate confirms presidential nominees for federal court jobs.

Chvala's plan would make the naming of the high court an inside-the-Capitol operation in which politicians would wheel and deal in order to position their friends in safe sinecures.

Under the proposal, Wisconsinites would be invited to butt out of the judicial selection process.

Chvala says he is motivated by frustration. He points out, appropriately, that Wisconsin Supreme Court elections have "become political with down-and-dirty attack ads and the influence of big money." He's right, of course.

This year's Supreme Court race between Chief Justice Shirley Abrahamson and challenger Sharren Rose was a mire of money and bizarre campaign tactics — most of them by sitting justices whose antipathy for Abrahamson made them statewide laughingstocks.

But the solution to what ails judicial elections is not less democracy. In fact, quite the opposite.

Heffernan

People need to be invited back into the process. That can best be done by enacting the impartial justice bill proposed by Citizen Action and a host of other public interest groups. The bill, which is languishing in the Legislature, would create a system of public financing for judicial campaigns and enact other reforms aimed at cleaning up the electoral process.

Former Chief Justice Nathan Heffernan got it right when he called Chvala's proposal "lousy."

Heffernan, a leading backer of the impartial justice proposal, is the first to admit that Supreme Court elections need to be reformed. And he and others are open to a serious re-examination of how justices are selected.

But they recognize a fundamental tenet of Wisconsin — a tenet that goes back to the founding of the state, that was reinvigorated by Robert M. La Follette, and that must be defended today.

That tenet says that, when it comes to choosing jurists, Wisconsin lets the people be the judge.

The Daily Tribune
Wisconsin Rapids, Wis. March 6, 1998

OUR VIEW

Full public fundin is worth trying

State poll shows strong support for 'Clean Money, Clean Elections' concep

There is strong support for full public funding of state elections in Wisconsin, according to a recent poll commissioned by Wisconsin Citiz Action, a public-interest watchdog group.

The poll shows 76.2 percent of those surveyed favored full public funding. That even was higher tha in three states (Massachusetts, Maine and Arizona) that have passed so-called "Clean Money, Clean Elections" reform. Vermont also has passed such reform, but relevant polling results are pending.

It's significant to note that the Wisconsin results indicate many people want comprehensive reform, nc minor changes that still allow significant influence by special-interest groups.

The key is to draft a plan that will withstand a constitutional test.

Under the "Clean Money, Clean Elections" model, candidates receive a set level of "clean" public funding to run for office and are not allowed to use private money for their campaigns. If there is excessive spending by opposing private interests, the clean candidates' grants are increased to keep the playing field level, according to WCA.

The poll was conducted Jan. 27-Feb. 11 among 600 adults by Chamberlain Research Consultants. The poll had a margin of error of 3.97 percent.

The WCA says that research in other states shows the public is uncomfortable with the way partial public-funding plans combine "clean" public funding with special-interest contributions.

Several Wisconsin senators are working on plans for substantial public funding, but this poll suggests many people would rather see total public funding in order to make campaigns fair again.

It's too difficult for challengers to overcome the money that incumbents have in state races, and the influence of outside groups can substantially sway an election.

Full public funding is worth trying in Wisconsin, if it can be done in a constitutionally correct way.

MADISON
WISC 3 TV

Neil Heinen
Editorial Director

DEMAND BIPARTISAN CAMPAIGN FINANCE REFORM

05/31/99

Tuesday's consideration of campaign finance legislation by the Joint Finance Committee offers hope for true reform. At the very least there should be bipartisan support for full public funding of state Supreme Court campaigns. But we should not be satisfied with anything less than bipartisan support for reform of other statewide races as well. The key is bipartisanship.

There is evidence that this issue has once again become a political football, legislators again playing voters for fools who can't see through their scam. There must be courageous lawmakers who will do what's right rather than what Chuck Chvala or Scott Jensen tell them to do. And you must insist on it. Governor Thompson will sign a bipartisan bill. Partisan legislation will fail. Don't be fooled by it. Don't let one party say it tried and blame the other party.

If a bipartisan campaign finance bill doesn't end up on the Governor's desk they should all be thrown out on their ears.

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THE LEAGUE
OF WOMEN VOTERS OF GREATER GREEN BAY

Statement to the Senate Committee on Judiciary, Consumer Affairs, and Campaign Finance Reform
Regarding SB 115, Impartial Justice

We believe that substantial public financing of Supreme Court elections will enable Wisconsin citizens to have confidence that those holding the highest office in our justice system can serve with independence because they have been able to run campaigns which are adequately financed without needing private, possibly special interest, money.

In addition to providing public financing, this bill also limits private contributions to participating candidates to $100 and substantially reduces the contribution limits to non-participating candidates.

This means that possibilities for special interest influence will be reduced and incentives increased for candidates to use the public funds. This is good on both counts. Campaigns for the Supreme Court will no longer be funded by those with a professional interest in the administration of justice. Most importantly the independence and impartiality of the justices of our highest court will be greatly enhanced.

Additionally, the League believes that meaningful reform involves more than public funding for the candidates. Both independent spending and so called issue advocacy spending must be controlled. We support the provision of this bill for supplemental/matching grants for candidates who are the victims of independent spending. We hope that this will once and for all discourage and effectively eliminate independent spending.

The fact that groups which run ads using the name/likeness of candidates within 60 days of the election, however, will not be required to disclose where they get their money is disturbing. In recent years such ads, which really amount to campaign spending, have been disguised as issue advocacy.

Efforts to regulate and require full disclosure of this activity have failed so far. This bill partially regulates these groups by requiring that they report their spending after the fact so that matching grants can go to their opponents. These matching grants will be important to the process and to the targeted candidates, but we have two concerns: First, will this allow targeted candidates to counter adequately and in time, if attacks are made at the last minute? Second, does not requiring these groups to report or limit their sources and amounts of receipts give the state's permission for corporation treasuries to participate in the unlimited financing of campaign activity which has wisely been prohibited by state law for 94 years?

While corporation have been doing just this in recent years, it has been by way of an unanticipated use of the provisions for issue advocacy. With this bill it would be allowed to happen within the state's campaign finance statutes.

We believe this is a serious red flag and we hope that this can be changed without eliminating the comprehensive aspects -- matching grants -- of this bill.

Thank you for hearing this bill and looking at these issues.

Please contact Sue Lloyd, LWVWI Legislative Committee, if you have questions regarding this statement. E-mail: genfund@lwvwi.org

TESTIMONY IMPARTIAL JUSTICE BILL (SB115)
April 5, 2001

Good afternoon, my name is Mary Goulding and I am here representing my union the American Federation of State and County Employees Union, Council 40 in my position of Vice President.

We support public financing of political campaigns as the only effective and fair way to reform how campaigns are financed and conducted. All elections from the local level to the national level have become expensive ventures for everyone except the rich. The citizen out there that wants to run for an office such as a trustee of a local government has to spend big money on radio ads, yard signs, etc. If you are running against someone with more money or clout within an organization you start behind the line and never get a chance to catch up.

Under this Impartial Justice Bill, candidates for Supreme Court would receive a fixed amount of public funding and not any private money. This is a first step in making the playing field level for all citizens.

The Supreme Court position is the highest legal position we have in the land and they above anyone should not be in question of any ethical issue. We must allow these individuals the time to run for office in telling their views on issues that are important on the court without having the stress of raising monies and worrying where the monies are coming from and will it come back to bite them later. They should be our the people's judge and no special interest or individuals.

This bill is bipartisan and some may question that while I think this is a good step in showing that both sides know there are problems and that this starts the process for fixing it.

We support this bill and ask that this legislature take the first step in cleaning up the election process for all citizens of Wisconsin. We have always been a progressive state and must continue with the tradition and pass this bill.

Thank you for your time and look forward to hearing that this bill has passed and signed by Governor McCallum.

Mary M Goulding, 1503 Carroll Avenue, Green Bay WI 54304 (920) 497-7312

Senate Committee on Judiciary, Consumer Affairs, and Campaign Finance Reform

Green Bay, Wisconsin
April 5, 2001
By
Carolyn Castore
Legislative Director
Wisconsin Citizen Action

I am Carolyn Castore, legislative director for Wisconsin Citizen Action, the state's largest public interest organization. We have over 55,000 individual members and 250 organizational members statewide.

Wisconsin Citizen Action supports SB 115, the Impartial Justice bill. We believe this bill is needed to ensure that the Supreme Court can conduct the public's business without the reality or appearance of conflict of interest. The current system places candidates for the Supreme Court in an untenable ethical situation, in which they must appear objective while raising sizeable contributions from supporters.

Under current law, candidates for the Supreme Court can raise up to $10,000 per individual. While there are few of us that can contribute that much, there are 34 couples or individuals who account for 18.5% of all Supreme Court campaign contributions. Lawyers and lobbyists provided 29.5% of all contributions of $100 or more from 1989 to 1999. In fact, lawyers and lobbyists provided 36.1% of all contributions of $100 or more to incumbent Supreme Court justices. This dependence on lawyers and lobbyists is also disproportionate: in the 1989-99 period lawyers and lobbyists provided legislative candidates and the governor with 10.3% and 7.5% of all such contributions.

The number of candidates who fund their own campaigns is also growing. In the four elections from 1989 through 1994 the candidates contributed $16,092 to their own campaigns. Since then, candidates have contributed $815,700 of their own money to their committees. The rapidly-growing importance of candidates' personal wealth has raised the disturbing spectre of a Supreme Court increasingly closed to those who lack such financial resources of their own.

In the Supreme Court race in 2000, both candidates chose to take public funding. They were bound by spending limits of $215,000. However, the funds available fell far short of the $97,000 to which they were eligible. Instead, each received about $13,500. Even if the 45% public financing had been available, the candidates still would have had to raise significant funds – potentially in contributions of $10,000 each – to reach the spending limit.

The current campaign finance system for Supreme Court races is broken. The pool of contributors is small and wealthy with direct interests in court decisions. Candidates for the court have few choices – raise the money, spend their own money, or enter a contest severely underfunded. Who runs for Justice has less to do today with experience and philosophy than access to funds.

The public understands the problem and likes the solution. In a poll conducted in the fall of 1999 by Chamberlin and Associates found that:

- **77%** of those surveyed believe "campaign contributions to judges from lawyers and plaintiffs in high-profiles cased influence these judges' decisions in court."
- **81%** believe that "Because of campaign contributions, special interest groups get better treatment in our courts and by our elected officials than do regular people."

When asked about support for full public financing for Supreme Court races, the respondents showed strong support exists for full public funding of judicial elections among all sectors of the Wisconsin electorate:

- Republican voters: 69.5%
- Democratic voters: 71%
- Independent voters 73%
- Christian Right voters 77%

Support among each of these groups dropped about 1% when asked about the estimated price tag of $1 million per year.

The concept of full public funding of Supreme Court elections is also supported by the bi-partisan Commission on Judicial Elections and Ethics after two years of deliberations by a distinguished and diverse panel of 27 Wisconsin citizens. The "Fairchild Commission," as it has been known, cited an "immediate and urgent need" for such a plan. Specifically, the commission's report declared:

> "The Commission recommends full public financing of Supreme Court elections as soon as practicable."

SB 115 also addresses the specter of independent spending that occurs during many elections and which has been used in some Supreme Court races. Candidates may be less willing to participate in a public funded system if they fear becoming a target of groups that spend significant money independently to defeat them.

There are several ways to address that problem. This bill provides a mechanism to provide matching funds to targets of such groups while not preventing any individual or group from expressing their political views. It is designed to pass constitutional muster – even with a conservative court. It will however, greatly affect campaign strategy. Currently, groups just plan to outspend the targeted candidate and groups supporting that candidate. Under the Impartial Justice bill, groups will know that for every dollar they spend against a candidate, that candidate will receive an equivalent amount to respond.

This bill has a wide range of supporters including former Chief Justice Nathan Heffernan and former Justice Janine Geske, a number of former candidates for the Supreme Court, many local elected officials including:

- Brown County Executive Nancy Nusbaum
- Waukesha County Executive Dan Finley
- Marinette Mayor Doug Oitzinger
- Waukesha Mayor Carol Lombardi
- Racine Mayor James Smith
- Madison Mayor Susan Bauman
- Former Wauwatosa Mayor Maricolette Walsh

- Peshtigo Mayor Dale Berman
- LaCrosse Mayor John Medinger
- West Allis Mayor Jeanette Bell
- Sheboygan Mayor James Schramm

A wide range of organizations also support the bill, such as WEAC, WEAC retired, AFSCME Council 11, Wisconsin NAACP, Clean Water Action, Sierra Club, AFL-CIO, UAW, United Electrical Workers Local 1111, AARP, Lutheran Office of Public Policy, Interfaith Conference of Greater Milwaukee, National Association of Social Workers-Wisconsin and the Wisconsin Council of Senior Citizens.

Wisconsin is not unique in its elections of Supreme Court justices nor in the problems generated by the need for campaign contributions. Wisconsin has the opportunity, however, for becoming a model for other states. The American Bar Association's Committee on Judicial Independence has held 3 hearings around the country since last fall focused on this issue. One of the primary solutions discussed at each of the hearings has been the Impartial Justice bill. It is time for Wisconsin to resume its leadership in cleaning up government.