

**Attitudes and Views  
of American Business Leaders  
on State Judicial Elections  
and Political Contributions to Judges**

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## Table of Contents

<b>Subject</b>	<b>Page</b>
I. Methodology and Sample Characteristics	2
II. Executive Summary	3
III. Narrative Analysis	4

  

<b>Tables</b>	
1. Levels of concern about factors arising from political contributions	5
2. Levels of support for proposed solutions to judicial-race funding	7

## I. Methodology and Sample Characteristics

### Methodology: National Survey of Businesses, 3/30/07 through 4/26/07

This is a national telephone survey of businesses, conducted by Zogby International. The target sample is 200 interviews with approximately 18 questions asked. Samples are randomly drawn purchased telephone lists of businesses with at least 100 employees. Zogby International surveys employ sampling strategies in which selection probabilities are proportional to population size within area codes and exchanges. Up to ten calls are made to reach a sampled phone number. Cooperation rates are calculated using one of AAPOR's approved methodologies<sup>1</sup> and are comparable to other professional public-opinion surveys conducted using similar sampling strategies.<sup>2</sup> Margin of error is +/- 7.1 percentage points. Margins of error are higher in sub-groups.

Zogby International's sampling and weighting procedures also have been validated through its political polling: more than 95% of the firm's polls have come within 1% of actual election-day outcomes.

Sample Characteristics	Frequency	Valid Percent*
Sample size	200	100
Fewer than 100 employees	1	1
100-250 employees	5	3
251-500 employees	16	8
501-750 employees	75	38
751-1,000 employees	36	18
1,000 or more employees	66	33
Not sure of employees	1	1
Male	69	35
Female	131	65

\* Numbers have been rounded to the nearest percent and might not total 100.

<sup>1</sup> See COOP4 (p.38) in *Standard Definitions: Final Dispositions of Case Codes and Outcome Rates of Surveys*. The American Association for Public Opinion Research, (2000).

<sup>2</sup> *Cooperation Tracking Study: April 2003 Update*, Jane M. Sheppard and Shelly Haas. The Council for Marketing & Opinion Research (CMOR). Cincinnati, Ohio (2003).

## II. Executive Summary

American business leaders offer a clear mandate for significant reform of the politics and funding of state judicial elections. A poll of 200 business leaders, primarily drawn from companies employing at least 500 workers, conducted on behalf of the Committee for Economic Development and Justice at Stake, found overwhelming support for reforms aimed at bolstering the transparency of state judicial races or severely limiting the impact of money on such contests. This willingness to reform judicial contest funding seemed to come from a belief that financial contributions in judicial race campaigns endangered the independence of the judiciary.

Among the key findings of the survey are the following:

- ❖ Four in five business leaders worry that financial contributions have a major influence on decisions rendered by judges.
- ❖ There is *near-universal* concern among business leaders that “Campaign contributions and political pressure will make judges accountable to politicians and special interest groups instead of the law and the Constitution.”
- ❖ The business community is virtually unanimous in its strong view that judges must recuse themselves from cases involving those who have contributed financially to their political campaigns.
- ❖ Nine in ten business leaders back requiring full disclosure of financing sources in campaigns.
- ❖ Four in five business leaders back restrictions on either the amount of money allowed from contributors or the amount of spending allowed in races.
- ❖ Seventy-three percent of business leaders would support public financing of state judicial elections.
- ❖ Seventy-one percent of business leaders would support a system whereby the state governor selected a judicial nominee from a non-partisan panel of citizens and leaders, with elections to retain or reject such judges.
- ❖ The business community strongly backs competitive pay for state judges.

The data suggest that the business community is oriented strongly in support of reforming state judicial elections. The survey also finds strong evidence that business leaders are solution-oriented and willing to work with “opponents” such as trial lawyers and their allies on mutually-acceptable solutions, although one in four business leaders would be willing to escalate spending on judicial races if trial lawyers chose that route, instead of one of mutual compromise.

There is clearly a mandate from the business community for judicial reform, and a willingness to support not only “conventional” approaches such as disclosure and limits, but more inventive proposals, such as the Missouri Plan to replace competitive elections with appointment tempered by regular up-or-down votes on the continued service of judges.

### III. Narrative Analysis

1. *May I ask your title with your company?*

2. *Which of the following best represents the size of your company or place of business?*

1,000 or more employees	33%
751-1,000 employees	18
501-750 employees	38
251-500 employees	8
100-250 employees	3
Fewer than 100 employees	1
Not sure	1

The majority (51%) of respondents came from companies with at least 750 employees, while nine in ten (89%) came from companies with at least 500 employees. They were selected from Zogby International databases, including a contact database of *Fortune 1000* firms.

*As you may or may not be aware, 87% of America's state judges face some form of election, including Supreme Court justices in your state. In recent years, fundraising and political spending in these campaigns has been rising dramatically, breaking records around the country. Please answer these based on your experience as a business leader and what you believe is in the best interests of both your company and the American political system.*

3. *How much influence do you think that campaign contributions made to judges have on their decisions – a great deal of influence, some influence, just a little influence, or no influence at all?*

A great deal of influence	26%		
Some influence	53	<b>Major</b>	<b>79%</b>
Just a little influence	14		
No influence at all	5	<b>Minor</b>	<b>18</b>
Not sure	4		

The data clearly reflect a belief that a *quid pro quo* of sorts exists under the current funding system for state judicial elections, with four in five executive-level respondents from the companies surveyed (79%) indicating a belief that campaign contributions have an impact on judges' decisions.

The data suggest, as well, that women are more inclined to this belief than men, with 83% of women and 71% of men holding the view that judicial contributions have an impact on the decisions of judges.

4 – 6. Are you very concerned, somewhat concerned, somewhat unconcerned or not concerned at all about the following?

**Table 1. Levels of concern about factors arising from political contributions**

	<b>*More concerned</b>	<b>Less concerned</b>	<b>Not sure</b>
<i>Campaign contributions and political pressure will make judges accountable to politicians and special interest groups instead of the law and the Constitution</i>	90	10	--
<i>Attempts to exert political pressure on the legal system</i>	80	20	1
<i>The rising cost of judicial elections around the country is forcing businesses to spend more of their money contributing to judicial campaigns</i>	61	39	1

**(\*More concerned combines very concerned and somewhat concerned; less concerned combines somewhat unconcerned and not at all concerned.)**

A series of questions designed to measure levels of concern about issues related to financial contributions made in state judiciary races reveals that the highest level of concern—and correspondingly, the message with the most resonance for the business community—is accorded to the notion that “Campaign contributions and political pressure will make judges accountable to politicians and special interest groups instead of the law and the Constitution.” A full 90% of respondents indicated they were very or somewhat concerned about this issue, versus just one in ten who indicated low levels of concern over this issue. This is also the issue with the most intensity, with 72% saying they are *very* concerned about it.

The issue with the second most resonance for respondents is “Attempts to exert political pressure on the legal system,” which is a concern of four in five respondents—and something that three in five say they are very concerned about.

The message “The rising cost of judicial elections around the country is forcing businesses to spend more of their money contributing to judicial campaigns” has the least resonance, suggesting that the business community is less concerned about the economic impact of political contributions and more concerned about the effect of such contributions on the functioning of democracy and an independent judiciary.

7. *Some say that if a judge receives a campaign contribution from someone whose case he or she is presiding over, that the judge should not rule on the case. Do you strongly agree, somewhat agree, somewhat disagree, or completely disagree?*

Strongly agree	93%		
Somewhat agree	4	<b>Agree</b>	<b>97%</b>
Somewhat disagree	0		
Completely disagree	3	<b>Disagree</b>	<b>3</b>
Not sure	1		

The business community is virtually unanimous in its strong view that judges must recuse themselves from cases involving those who have contributed financially to their political campaigns.

8. *If plaintiffs’ attorneys and their allies were to escalate their spending on judicial races, should businesses and business groups seek to keep up with them?*

Yes	25%
No	69
Not sure	7

Significantly, one in four business leaders would back an escalation in spending on judicial races to match a similar increase by plaintiffs’ attorneys. However, this is clearly not a majority viewpoint, suggesting, in combination with question no. 9, that much of the business community is more reform-minded, rather than seeking to perpetuate the current status quo.

It is particularly noteworthy, however, that men are far less conciliatory in their views than women, with one in three men (32%) backing an “arms race” solution, versus one in five women (21%).

9. *If plaintiffs’ attorneys and their allies were to consider reforms to reduce fundraising in judicial races, should businesses and business groups work with them to seek reforms?*

Yes	84%
No	15
Not sure	2

In this question, we see a lopsided degree of support for cooperation with plaintiffs’ attorneys and their allies to take money out of judicial races, with more than four in five backing a collaborative solution.

10 – 13. I am now going to read you a series of proposals that are aimed at improving the way that we select judges. For each one, please tell me whether you support or oppose the proposal.

**Table 2. Levels of support for proposed solutions to judicial-race funding**

	Support	Oppose	Not sure
<i>States should require that candidates, political parties or organizations that receive contributions during judicial campaigns disclose their donors to the public</i>	92	8	1
<i>States should require that independent organizations that spend money on TV ads or other communications to influence judicial elections disclose their donors to the public</i>	92	8	1
<i>States should place limits on the size of campaign contributions to judicial candidates from individuals, political parties, or organizations</i>	84	15	1
<i>States should limit campaign contributions to judicial candidates</i>	82	17	2

A series of questions testing overall levels of support for various reform solutions to the current funding regime for judicial races were tested for overall levels of support.

The two most popular reforms were “States should require that candidates, political parties or organizations that receive contributions during judicial campaigns disclose their donors to the public” and “States should require that independent organizations that spend money on TV ads or other communications to influence judicial elections disclose their donors to the public,” proposals very much in line with current campaign finance disclosure requirements. These concepts were supported by more than nine in ten business leaders.

Somewhat less popular, but still receiving overwhelming backing, were proposals to place limits on campaign contributions. In these instances, more than eight in ten business leaders supported such requirements, although limits on the size of campaigns, versus outright limits on contributions, seemed a marginally more popular approach.



*Do you strongly support, somewhat support, somewhat oppose, or strongly oppose the following proposals?*

*14. In judicial elections, judicial candidates would no longer raise money from private sources. Instead, each candidate could choose to receive a set amount of money from a publicly financed election fund. Spending by candidates would be limited to the amount they receive from the fund.*

Strongly support	54%		
Somewhat support	19	<b>Support</b>	<b>73%</b>
Somewhat oppose	7		
Strongly oppose	19	<b>Oppose</b>	<b>26</b>
Not sure	1		

There is strong support for publicly funding state judicial elections, with three in four business leaders favoring an approach that would allow voluntary participation in a public-financing program.

In addition to the three in four who back this approach, it is strongly favored by a majority of business leaders.

It is worth noting, however, that this approach is a strong sell for women, but gains much more tepid support from men: with 60% of women strongly supporting the measure versus 44% of men, the intensity is all on the female side.

*15. Under a different proposal, a non-partisan panel of citizens, legal professional, and civic leaders would evaluate and recommend a short list of potential judges to the governor. The governor would then choose a nominee from the list. After each term, the public then votes on whether a judge should keep the seat, or be removed from office. If a judge is rejected, the selection process starts again.*

Strongly support	54%		
Somewhat support	17	<b>Support</b>	<b>71%</b>
Somewhat oppose	6		
Strongly oppose	20	<b>Oppose</b>	<b>26</b>
Not sure	3		

This method, the “Missouri Plan,” receives nearly identical levels of support to the previously mentioned public financing program. While this runs slightly behind public financing overall, the level of intense support is no different, suggesting this approach could be made just as palatable to the business community.

As with public financing, there is a strong gender gap present—here, even more pronounced: 63% of women strongly back such a program, while the strong support level among men is a much lower 38%. This suggests that, while the measure is

overwhelmingly popular, steps must be taken to gain the endorsement of influential men, while relying on women in the business community to “carry water” for the initiative.

16. *Some Legislators have threatened to impeach judges for rulings that they disagree with. Do you strongly agree, somewhat agree, somewhat disagree, or completely disagree that members of Legislatures should avoid making such statements?*

Strongly agree	68%		
Somewhat agree	12	<b>Agree</b>	<b>80%</b>
Somewhat disagree	7		
Completely disagree	13	<b>Disagree</b>	<b>20</b>
Not sure	1		

As with previous questions asked of business leaders about Congressional critics of the federal judiciary, we find here strong distaste for legislative criticism of the judiciary that crosses into threats of impeachment.

These statements are condemned by four in five business leaders, with solid majorities of men (59%) and women (72%) saying they *strongly agree* that state legislators should avoid making statements that imply a threat of impeachment for rulings they disagree with.

17. *In some states, new lawyers earn far more than state Supreme Court justices. Do you strongly agree, somewhat agree, somewhat disagree, or completely disagree that judges should be paid competitively in order to attract top-quality attorneys to serve on the courts.*

Strongly agree	60%		
Somewhat agree	12	<b>Agree</b>	<b>72%</b>
Somewhat disagree	5		
Completely disagree	21	<b>Disagree</b>	<b>26</b>
Not sure	3		

The business community clearly backs adequate pay levels for the judiciary to attract the most capable candidates, with nearly three in four saying they agree that judges should be paid competitively in light of the information provided in the question.

Significantly, strong support levels do not differ widely according to gender, although this issue appears to have a bit more resonance with male business leaders.