

Oregon Judicial Elections

*Updated 9/27/02*

1. Op-ed by Oregon circuit Judge Ellen Rosenblum rebuts George Will's call for the end of candidate speech rules in judicial elections. (See Court Pester, January 3.) In Oregon, judicial elections are non-partisan and candidates are prevented from making "pledges or promises." Judge Rosenblum responds that "Will . . . fails to understand the proper role of the judiciary, and thus the special circumstances surrounding judicial elections." Asserting that Oregon's speech restrictions are "far narrower" than Minnesota's, which are currently being reviewed by the U.S. Supreme Court, she describes them as a "modest limitation on [a candidate's] speech rights reasonable in view of the laudable purpose behind it." Moreover, partisan elections would represent "a major step backward." Although Will contended that judicial appointments are preferable to elections, Judge Rosenblum rejoins that Oregon offers proof that judicial elections are a sound way to choose qualified and fair judges. Ellen Rosenblum, *Oregon's Rules for Judges Work Well, Ensure Fairness*, The Oregonian, January 17, 2002.
2. Column by Garrett Epps, professor of constitutional law at the University of Oregon, decries "the arrival of big-money, single-issue, consultant-driven politics" in Oregon judicial elections. The race between incumbent Judge David Schuman and property rights activist David Hunnicutt for a seat on the Oregon Court of Appeals may cost "as much as half a million dollars." Although the race is officially nonpartisan, the Republican Party has endorsed Hunnicutt in a break with past practice. Noting that it is unlikely that Oregon voters will give up judicial elections, Epps calls on voters to "show they understand judicial elections aren't slimefests or popularity contests" but an opportunity to select the candidate who best embodies the "special blend of intellect, craftsmanship and courage" that characterizes good judging. Garrett Epps, *The Price of Partisan Judges*, The Oregonian (Portland), May 5, 2002.
3. James L. Huffman, a dean and constitutional law professor at Lewis & Clark Law School, argues that in the race between David Hunnicutt and incumbent David Schuman for a seat on the Oregon Court of Appeals, politics will inevitably play a role. (See Court Pester, May 16.) "Elections are by their nature political," Huffman asserts, arguing that voters do not cast ballots in judicial elections based on legal intricacies or judicial temperament, but because they believe "the outcome will make a difference in their lives." In addition, even though the "vast majority" of Oregon judges are appointed by the governor because "most vacancies occur midterm," this does not strip judicial selection of its political nature because the governor is a "political official." "Serious reform of our judicial selection system" may indeed be a good idea, but in the meantime

Oregonians should not castigate challengers in judicial races for “politicizing” an already political process. James L. Huffman, *Politics Already a Part of Judicial Selection*, Portland Oregonian, May 12, 2002.

4. Article reports that, in this fall’s elections, Oregon voters will consider an initiative that would require ‘None of the above’ as a choice in all judicial elections. The petition would amend Oregon’s Constitution and would provide for a special election should ‘None of the above’ get the most votes. Petitioner Don McIntire, a tax activist, said the initiative is “the beginning of judicial reform. Nothing needs reform more than the judicial system.” Oregonians will also vote on an initiative that “would have state Supreme Court and Court of Appeals judges elected by geographic district rather than statewide.” The initiative was initially declared short of signatures, but revised numbers put the measure on the ballot. Dave Hogan, *Initiative Makes the Cut After Officials Flip-Flop; Initiative on Judge Vote Qualifies*, Oregonian, August 1, 2002.