



## **Judicial Elections 2010: More States Join Trend of Costly Court Races**

*Illinois Justice Leads All Campaign Spenders, While Activity Heats Up in MN, OH, IA*

OCT. 8, 2010—A Democratic Illinois Supreme Court justice, faced with a potentially costly reelection challenge, has spent more on TV ads than any other candidate or group in this year's state high-court elections, according to data compiled by a reform group, while a Chamber of Commerce group in Ohio last week launched an ad campaign supporting two Republican candidates.

TV ads are now on the air in six states holding judicial elections next month, and Minnesota, a state that long has avoided costly Supreme Court elections, saw worrying signs of an uptick in partisan politicking, the Brennan Center for Justice and the Justice at Stake Campaign reported today.

“The new politics of judicial elections continues to reach states that haven't experienced it before, and that's been the story of the 2010 campaign,” said Charles Hall, a spokesman for the Justice at Stake Campaign in Washington. “Meanwhile, in states like Alabama and Ohio, we're seeing more of the same interest-group spending that has spun out of control in the last decade.”

Nationally, 11 states are holding multi-candidate state Supreme Court elections, with a total of 18 seats at stake, and 37 justices in 15 states face one-candidate retention elections—in which voters choose whether to give incumbents another term. The Brennan Center and Justice at Stake are keeping regular updates of this fall's judicial elections at their joint web page, “[Judicial Elections 2010](#),” which contains TV ads and data, as well as reports on different state elections.

The following are the most significant updates being reported this week at “Judicial Elections 2010.” All TV data were gathered for the Brennan Center by TNS Media Intelligence/CMAG.

**Illinois: Kilbride leads all election TV spenders.** Through Wednesday, Oct. 6, Thomas L. Kilbride, who is running in a one-candidate retention election, had spent an estimated \$393,000 on TV air time. That is approximately \$40,000 more than the second-highest spending candidate, Tracy Cary, who lost an Alabama primary in June.

No television ads have been run by the Illinois Civil Justice League, which says it will spend more than \$1 million to persuade voters to cast a “no” vote and unseat Kilbride. A second group, the Virginia-based Center for Individual Freedom, has sought unsuccessfully in court to avoid Illinois campaign disclosure laws, and it is not clear whether they will pursue plans to air ads against Kilbride.

CFIF has spent heavily in past Alabama and Pennsylvania high-court elections, and is cited as a national “super spender” organization in the recently published report, “New Politics of Judicial Elections 2000-2009: Decade of Change.”

**Ohio: Chamber Spin-Off Airs Ads.** The Partnership for Ohio’s Future, which has received funding from the Ohio and U.S. Chambers of Commerce, entered the airwaves and spent an estimated \$238,000 in less than a week, on ads favoring Republican justices Maureen O’Connor and Judith Ann Lanzinger. O’Connor is challenging recently appointed Chief Justice Eric Brown, a Democrat. Lanzinger is being challenged by Democratic appellate judge Mary Jane Trapp.

The Partnership’s campaign is positive in tone, praising “A Team You Can Trust.” The Partnership for Ohio’s Future spent an estimated \$684,000 on TV ads in 2008, outspending the candidates on the ballot. And various chamber affiliates have spent a total of \$7.6 million on independent election efforts in Ohio since 2000, according to the “New Politics 2000-2009” report.

According to campaign finance reports filed Tuesday, the four candidates have raised a total of \$2.3 million. Republicans O’Connor and Lanzinger are ahead in the money fight, raising \$837,000 and \$755,000 respectively through the end of September. Brown has raised \$461,000, while Trapp reported raising \$291,000.

**Minnesota: Partisan Politicking Shakes Long-Quiet State.** Greg Wersal, a litigant in the landmark Supreme Court case *Republican Party of Minnesota v. White*, which eased restrictions on judicial campaign speech, has taken partisan activities to a new level in Minnesota, a state that holds nonpartisan elections for judges and was unique among Midwest states in avoiding the money explosion in high-court races.

According to an [Associated Press report](#), Wersal “appears at as many Republican events as he can. He goes to tea party gatherings. He's shaken hands at the State Fair, county fairs and retirement homes. And the conservative activist has spent much of the past few weeks asking for donations, something Minnesota's judicial candidates weren't allowed to do until Wersal won his latest court victory in July.”

Wersal, who is challenging Justice Helen Meyer, told the Associated Press, “The sky isn’t falling.”

Wersal’s activities continue a trend reported in a Sept. 23 release from Justice at Stake and the Brennan Center, in which a number of long-quiet states, including those that hold retention elections, have seen greater intensity this year. Others include Iowa, Colorado and Kansas, where incumbents are being contested in retention elections.

**Iowa: Churches Enter Retention Fight, TV Ads Give Way to Robo-Calls.** In Iowa, where three justices are being challenged in a retention election over their 2009 decision permitting same-sex marriage, a fundamentalist Sioux City church has sent a letter to pastors throughout the state urging them to join the ouster effort. The letter, sent by the Rev. Cary Gordon, has led a

Washington-based group to complain to the IRS over possible tax code violations by the Cornerstone World Outreach church. According to an [article by the Iowa Independent](#), a second pastor has formed a web site, [www.iowapastors.com](http://www.iowapastors.com), also urging pastors to lead their congregations in voting to oust “out of control” judges.

Meanwhile, Iowa for Freedom, a group bankrolled by Mississippi-based American Family Association and New Jersey-based National Organization for Marriage, seemingly has slowed its TV ad campaign in the last two weeks, according to Brennan/TNS/CMAG data. The group had spent a total of \$158,000 on TV air time through Oct. 6, only \$37,000 more than it had spent as of Sept. 21.

However, Iowa for Freedom has begun running robo-calls to state voters. According to the Des Moines Register, the telephone script labels the Iowa race one of the “top 10” elections in the country, adding, “Voting no on the retention of three Iowa Supreme Court justices will send a clear message that we are taking back control of our government from political activist judges.”

**Alabama: Super Spenders Dominate Fundraising.** Alabama’s fundraising reports only cover money raised through the June 1 primary, but many familiar organizations dominate the cash battle. According to a [Birmingham News article by Eric Velasco](#), Republican incumbent Mike Bolin has received 93 percent of his \$697,000 war chest from business-related PACs, including \$250,000 from the Alabama Civil Justice Reform Committee and \$200,000 from the Business Council of Alabama.

On the Democratic side, challenger Tom Edwards has raised only \$127,000, but his leading contributor is the state Democratic Party. The Democrats, civil justice committee and business council all were top spenders in Alabama from 2000 to 2009.

### **TV Spending Through Oct. 6**

Nationally, \$2,050,680 has been spent on air time in 2010, including general election and primary ads. Including \$4.6 million spent on TV ads in 2009, the current total for the 2009-2010 election cycle is \$6.6 million. The final 2007-08 TV total was \$26.6 million, the highest TV ad total ever for a two-year election cycle.

From Aug. 1 through Oct. 6, \$1,048,340 has been spent on general election TV ads. Of that, \$662,470 has been spent on normally low-cost retention elections, and only \$385,870 on multi-candidate elections—a ratio with no precedent in earlier years.

“Spending in contested judicial elections will spike over the next three weeks, and will almost certainly surpass the total spent in one-candidate retention elections,” said Adam Skaggs, Counsel at the Brennan Center for Justice. “But the fact that television spending on retention elections has outpaced spending in multi-candidate races is extraordinary. In dollar terms, spending in retention elections has always been much less than in contested contests,” Skaggs continued.

In judicial elections, candidates typically have such low profiles that almost all advertising is done in the last few weeks before an election, making accurate predictions for the 2010 November election season difficult. Ads in the November campaign season have aired in Colorado, Illinois, Iowa, Montana, Ohio and West Virginia.

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The Justice at Stake Campaign is a nonpartisan national partnership working to keep our courts fair, impartial and free from special-interest and partisan agendas. In states across America, Campaign partners work to protect our courts through public education, grass-roots organizing and reform. The Campaign provides strategic coordination and brings organizational, communications and research resources to the work of its partners and allies at the national, state and local levels. For information, visit [www.justiceatstake.org](http://www.justiceatstake.org).

The Brennan Center for Justice at New York University School of Law is a nonpartisan public policy and law institute that focuses on fundamental issues of democracy and justice. The Center works on issues including judicial independence, voting rights, campaign finance reform, racial justice in criminal law and presidential power in the fight against terrorism. Part think tank, part public interest law firm, part advocacy group, the Brennan Center combines scholarship, legislative and legal advocacy, and communications to win meaningful, measurable change in the public sector. For more information, visit [www.brennancenter.org](http://www.brennancenter.org).

### **TV Methodology**

All data on ad airings and spending on ads are calculated and prepared by TNS Media Intelligence/CMAG, which captures satellite data in that nation's largest media markets. CMAG's calculations do not reflect ad agency commissions or the costs of producing advertisements. The costs reported here therefore understate actual expenditures; the estimates are useful principally for purposes of comparison of relative spending levels across states.

### **For More Information:**

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