

North Carolina

data-net

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is a non-partisan organization devoted to serving the people of North Carolina and the South by informing the public agenda and nurturing leadership.

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The Program on Public Life is part of the Center for the Study of the American South at the University of North Carolina at Chapel Hill.

Director's Note

FERREL GUILLORY*Director*

The judicial branch of state government usually receives less public attention than the executive and legislative branches. On election day, voters regularly cast fewer ballots in judgeship races than in elections for governor and other state offices.

In 1987, former state Chief Justice James Exum convened a commission to examine the process of selecting judges, but with no major changes resulting. The General Assembly has regularly resisted calls to shift from an elected to an appointed judiciary.

In 2002, the legislature altered judicial election laws in an attempt to make judgeship elections less partisan and less dependent on private fundraising. In the new law, justices of the Supreme Court and judges on the Court of Appeal have access to public financing and run in nonpartisan races.

This new law, along with the fact that 2007 marks the 40th anniversary of the inception of the state Court of Appeals, offers us an appropriate moment to examine electoral trends in the selection of members of the state Supreme Court and Court of Appeals. This issue of *NC DataNet* pulls together data from a variety of sources to present an analysis of electoral trends and campaign financing in appeals court elections.

The presentation in this *DataNet* is largely the work of Andrew Holton, assistant director for research of the UNC Program on Public Life. Born and raised in Durham, N.C., Andrew holds a J.D. from the University of Wisconsin Law School and an undergraduate degree from the University of North Carolina at Chapel Hill.

In developing this *DataNet* and in preparing for a forthcoming issue of the *Carolina Context* white paper series, we have collaborated with Michael Gerhardt, the Samuel Ashe Distinguished Professor in Constitutional Law & Director of the Center for Law and Government at the UNC Law School. Professor Gerhardt and law school students are examining North Carolina's judicial selection process in the context of other states and will evaluate different models for selecting judges.

In addition, we have consulted with—and would like to thank—former Supreme Court Justice Willis Whichard; Jim Drennan, a faculty member of the UNC School of Government; Tom Davis and Barrett Fish from the N.C. Supreme Court Library; Mark Slagle, a Ph.D. student in the School of Journalism; and Adam Linker, a master's graduate of the School of Journalism and Mass Communication and now reporting for the *Triangle Business Journal*, for their assistance in collecting and advice in how to present it. ☒

Appeals Courts in North Carolina: A Timeline

From 1776 until 1799, North Carolina did not have an appellate court. During that early statehood period, a constitutional provision and a court case set the stage for the eventual creation of an appeals court.

First, the 1776 Constitution gave the General Assembly the power to appoint “judges of the Supreme Court,” and thus it created the authority for an appellate court. Second, in the 1787 case of *Bayard v. Singleton*—16 years before the U.S. Supreme Court’s historic ruling in *Marbury v. Madison*—the North Carolina courts established the principle of judicial review. This ruling gave state courts the ability to interpret laws and overturn those it found to be inconsistent with the state constitution.

In 1799, two North Carolina Superior Court judges began meeting in Raleigh to decide disputed questions of law. Their sessions were originally called the Court of Conference and then renamed the “Supreme Court” in 1805. In 1810, the workings of this court became public record, and judges were paid extra to record their opinions on paper. The early Supreme Court, therefore, consisted of Superior Court judges meeting to review their own decisions.

In 1818, however, the General Assembly created a separate Supreme Court, as provided by the 1776 Constitution. This separate court consisted of a chief judge and two associate judges who were appointed by the General Assembly and had exclusive jurisdiction over questions of law and equity.

During the Reconstruction period following the Civil War, North Carolina adopted a new Constitution that made several changes to the Supreme Court: the number of judges went from three to five; the Supreme Court basis in law shifted from a statutory construct to an explicit Constitution provision; and popular election of judges replaced the system of legislative appointment.

In 1936, the Constitution was amended to create the current structure of the Court: six associate justices plus one chief justice.

In the 1950s, the Bar Association, at the request of Gov. Luther Hodges, appointed a “Committee on Improving and Expediting the Administration of Justice in North Carolina.” Three years later, the committee presented its final report, which, in addition to recommending the creation of a district court system,

called on the General Assembly to establish an intermediate appellate court division. Between 1959 and 1964, the General Assembly discussed several plans but took no action. In 1965, the Supreme Court communicated to the General Assembly that its work load was extremely heavy and that an intermediate court was necessary.

A Courts Commission, working under Gov. Dan Moore, developed a proposed constitutional amendment authorizing the creation of a Court of Appeals. The amendment was approved in a 1965 special election. Following the authorization of the intermediate courts, the Courts Commission studied the systems of 16 other states and developed a model adopted by the 1967 General Assembly.

The law provided that the Court of Appeals would have six members appointed by the governor in 1967. These initial appointees would stand for election at the 1968 general election. The law also provided that the intermediate court would increase to nine members in 1969. Though the court’s membership was to be elected, the Chief Judge of the Court of Appeals was to be designated by the Chief Justice of the Supreme Court.

Since 1969, the number of judges sitting on the Court of Appeals has been expanded twice. In 1977, the Court grew from nine to 12 judges, and in 2000, the Court grew to its current membership of 15.

Until 1986, judicial elections generally reflected North Carolina’s status as a one-party, Democratic-dominated state, along with the rest of the South through much of the 20th Century. Between 1967 and 1986, competitive races would occasionally erupt, but for the most part judges initially appointed by the Governor to fill a vacancy were elected by the people. In 1986, Gov. Jim Martin filled Supreme Court vacancies with Republican judges. Those judges lost to Democratic candidates in the 1986 election, but that election marked the first election in which election results and campaign expenditures between candidates of the two major parties were relatively equal.

TIMELINE OF THE N.C. APPELLATE COURTS

1776

N.C. Constitution gives the General Assembly the power to appoint Supreme Court judges.

1787

Bayard v. Singleton gives N.C. courts judicial review of legislative action.

1799

Court of Conference (earliest appellate court) meets in Raleigh to review superior court cases. Seated superior court judges conduct the review.

1805

Court of Conference renamed the Supreme Court.

1818

The General Assembly created a separate Supreme Court, which consisted of a chief judge and two associate judges who were appointed (for life) by the General Assembly.

1868

N.C. adopts the post-Civil War Constitution which calls for the election of judges.

1967

State establishes the Court of Appeals with 6 member judges.

1969

State expands the Court of Appeals from 6 to 9 judges.

1977

State expands the Court of Appeals from 9 to 12 judges.

2000

State expands the Court of Appeals from 12 to 15 judges.

2002

N.C. appellate courts change to a nonpartisan election system and begin publicly financed elections.

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Most States, including N.C., Elect Judges

North Carolina is one of 31 states that use popular elections to fill at least some judgeships and one of 21 states to use elections to select all of its judges. Twenty-one states hold elections for judges serving on courts of last resort, such as the N.C. Supreme Court.

In the states without elections, either the governor assisted by a judicial nominating commission, the governor alone, or the legislature appoints justices in the states' highest court.

Forty-one states have intermediate appellate courts. Of those, 17 elect appellate judges. In the remaining 24 states, the governor either appoints intermediate appellate justices on the advice of a judicial selection commission (18) or does so alone. ☒

HOW APPELLATE JUDGES ARE SELECTED THROUGHOUT THE U.S.

Initial Selection: Courts of Last Resort

MERIT SELECTION	PARTISAN ELECTION	NON-PARTISAN ELECTION	GUBERNATORIAL APPOINTMENT	LEGISLATIVE APPOINTMENT
Alaska	Alabama	Arkansas	California	South Carolina
Arizona	Illinois	Georgia	Maine	Virginia
Colorado	Louisiana	Idaho	New Hampshire	
Connecticut	Michigan	Kentucky	New Jersey	
Delaware	Ohio	Minnesota		
District of Columbia	Pennsylvania	Mississippi		
Florida	Texas	Montana		
Hawaii	West Virginia	Nevada		
Indiana		North Carolina		
Iowa		North Dakota		
Kansas		Oregon		
Maryland		Washington		
Massachusetts		Wisconsin		
Missouri				
Nebraska				
New Mexico				
New York				
Oklahoma				
Rhode Island				
South Dakota				
Tennessee				
Utah				
Vermont				
Wyoming				

Initial Selection: Intermediate Appellate Courts

MERIT SELECTION	PARTISAN ELECTION	NON-PARTISAN ELECTION	GUBERNATORIAL APPOINTMENT	LEGISLATIVE APPOINTMENT
Alaska	Alabama	Arkansas	California	South Carolina
Arizona	Illinois	Georgia	New Jersey	Virginia
Colorado	Louisiana	Idaho		
Connecticut	Ohio	Kentucky		
Florida	Pennsylvania	Michigan		
Hawaii	Texas	Minnesota		
Indiana		Mississippi		
Iowa		North Carolina		
Kansas		Oregon		
Maryland		Washington		
Massachusetts		Wisconsin		
Missouri				
Nebraska				
New Mexico				
New York				
Oklahoma				
Tennessee				
Utah				

Source: American Judicature Society, www.ajs.org

Appeals Courts in North Carolina: A Timeline

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In 1988, for the first time, a Republican candidate defeated a Democrat in a Court of Appeals election. 1994 provided a similar point for Republican justices in the Supreme Court, marking the first time Republican candidates were elected since the 19th century. The same candidate, Robert Orr, was a winning candidate in both watershed years. Since 1994, Republicans have held an advantage in elections for Supreme Court seats, electing ten justices to the Democrats' six. On the Court of Appeals, the Democrats have a slight edge, electing 12 judges to the Republicans' 11. For a complete history of appellate elections, please visit our website: www.southnow.org.

In contrast to legislative elections in which Democratic electoral strength has been directly connected to the party's ability to raise money, the outcome of judicial races does not appear as directly connected to any notable fundraising strength by one party. In some races the Republican has had a significant fundraising advantage, in others the Democrat. ☒

IN THE QUEUE

Later this summer, we will release the next issue of *SouthNow*, which will look at entrepreneurship in the southern states.

This fall, we will publish two issues of our *Carolina Context* white paper series. One issue will examine the furniture manufacturing industry and how its evolution has affected North Carolina. The other will continue examining North Carolina's appellate judiciary and the process by which judges are selected.

Also in the fall, look for the next issue of *DataNet*, in which we will examine data related to North Carolina's congressional delegation.

We at the Program on Public Life would like to thank the North Carolina General Assembly, Progress Energy, and the Z. Smith Reynolds Foundation for their support.

CAMPAIGN EXPENDITURES IN SUPREME COURT ELECTIONS

	% VOTE	VOTES	EXPENDITURES (ACTUAL \$)	EXPENDITURES (2007 \$)	COST PER VOTE
2006					
Sarah Parker (D)☐* [chief]	66.7%	1,138,346	\$459,582	\$474,066	\$0.36
Rusty Duke (R)	33.3%	568,980	\$367,491	\$379,064	\$0.66
Mark Martin (R)☐	62.5%	1,000,792	\$465,112	\$479,760	\$0.46
Rachel Lea Hunter (D)	37.5%	601,676	\$145,781	\$150,372	\$0.24
Patricia Timmons-Goodson (D)☐*	58.3%	953,976	\$294,735	\$304,017	\$0.31
Eric Levinson (R)*	41.7%	682,641	\$289,501	\$298,618	\$0.42
Robin Hudson (D)*	50.6%	806,861	\$273,759	\$282,381	\$0.34
Ann Marie Calabria (R)*	49.4%	786,310	\$291,056	\$200,333	\$0.37
2004					
Sarah Parker (D)☐*	63.9%	1,732,399	\$292,933	\$322,473	\$0.17
John M. Tyson (R)*	36.1%	977,861	\$252,701	\$278,184	\$0.26
Paul Martin Newby (R)*	22.6%	582,684	\$171,224	\$188,491	\$0.29
James Wynn (D)*	19.7%	508,416	\$155,042	\$170,677	\$0.30
Rachel Lea Hunter (R)	17.5%	452,298	\$24,452	\$26,918	\$0.05
Howard E. Manning, Jr. (R)*	12.1%	213,319	\$131,986	\$145,296	\$0.62
Betsy McCrodden (D)*	10.9%	281,777	\$126,354	\$139,096	\$0.45
Ronnie Ansley (D)	8.3%	213,657	\$12,780	\$14,069	\$0.06
Fred Morrison (D)*	6.3%	163,601	\$163,252	\$179,715	\$1.00
Marvin Schiller (R)	2.5%	64,824	\$27,373	\$30,133	\$0.42
2002					
Robert Orr (R)☐	54.6%	1,189,751	\$217,420	\$251,319	\$0.18
Robert Hunter (D)	45.4%	987,447	\$123,255	\$142,819	\$0.12
Edward Brady (R)	53.8%	1,159,476	\$79,376	\$91,752	\$0.07
G.W. Butterfield (D)☐	46.2%	992,603	\$230,497	\$266,435	\$0.23
2000					
I. Beverly Lake, Jr. (R) [chief]	51.3%	1,453,039	\$232,668	\$280,970	\$0.16
Henry Frye (D)☐	48.6%	1,375,820	\$907,491	\$1,095,888	\$0.66
Robert Edmunds (R)	52.0%	1,436,510	\$201,974	\$243,904	\$0.14
Franklin Freeman (D)☐	48.0%	1,328,623	\$443,411	\$535,464	\$0.33
1998					
George Wainwright (R)	50.1%	933,692	\$141,450	\$180,456	\$0.15
James Wynn (D)☐	49.9%	929,761	\$51,812	\$66,100	\$0.06
Mark Martin (R)	58.7%	1,127,779	\$389,164	\$496,480	\$0.35
Jim Martin (D)	41.3%	792,908	\$56,849	\$72,526	\$0.07
1996					
General Election: 11/5/1996					
Burley Mitchell (D)☐ [chief]	51.3%	1,221,232	\$293,092	\$388,452	\$0.24
Ray Warren (R)	48.7%	1,159,678	\$27,183	\$36,027	\$0.02
Sarah Parker (D)☐	55.7%	1,323,327	\$96,175	\$127,467	\$0.07
Carl Tilghman (R)	44.3%	1,052,786	\$22,759	\$30,164	\$0.02
Primary Election: 5/7/1996					
Carl Tilghman (R)	Data Not Available	Data Not Available	\$3,003	\$3,980	—
Nathaniel Pendley (R)			\$0	\$0	—
1994					
General Election: 11/8/1994					
Sarah Parker (D)☐	45.0%	689,910	\$61,498	\$86,292	\$0.09
I. Beverly Lake, Jr. (R)	55.0%	843,818	\$30,275	\$42,481	\$0.04
Jim Fuller (D)	44.0%	648,583	\$239,872	\$336,580	\$0.37
Robert Orr (R)	56.5%	843,967	\$115,156	\$161,583	\$0.14

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CAMPAIGN EXPENDITURES IN SUPREME COURT ELECTIONS *(continued from page 4)*

	% VOTE	VOTES	EXPENDITURES (ACTUAL \$)	EXPENDITURES (2007 \$)	COST PER VOTE
1994 (continued)					
Primary Election: 5/3/1994					
Jim Fuller (D)	58.5%	287,011	\$50,031	\$70,202	—
Louis Meyer (D)□	41.5%	203,239	\$136,141	\$191,028	—
1992					
General Election: 11/3/1992					
Henry Frye (D)□	100.0%	1,443,280	—	—	—
Burly Mitchell (D)□	100.0%	1,408,266	—	—	—
Sarah Parker (D)	53.3%	1,290,030	\$77,693	\$115,155	\$0.06
I. Beverly Lake, Jr. (R)□	46.7%	1,129,408	\$70,081	\$103,872	\$0.06
Primary Election: 5/5/1992					
Sidney Eagles (D)	34.8%	197,850	\$35,508	\$52,629	—
Sarah Parker (D)	65.2%	371,346	\$15,474	\$22,935	—
1990					
General Election: 11/6/1990					
James Exum (D)□ [chief]	54.6%		\$47,295	\$75,248	
Howard E. Manning, Jr. (R)	45.0%		\$29,229	\$46,505	
John Webb (D)	50.1%	927,981	\$29,768	\$47,362	\$0.03
I. Beverly Lake, Jr. (R)	50.0%	926,084	\$44,431	\$70,692	\$0.05
Willis Whichard (D)	52.1%	936,277	\$44,068	\$70,114	\$0.05
Samuel Currin (R)	48.0%	861,368	\$17,959	\$28,574	\$0.02
1988					
NO SUPREME COURT ELECTION					
1986					
General Election: 11/4/1986					
James Exum (D) [chief]	54.6%	762,919	\$90,312	\$171,353	\$0.12
Rhoda Billings (R)□	45.4%	634,065	\$81,476	\$154,588	\$0.13
Harry Martin (D)□	56.7%	816,252	\$29,316	\$55,623	\$0.04
Donald Smith (R)	43.3%	623,270	\$21,863	\$41,482	\$0.04
Louis Meyer (D)□	54.8%	778,015	\$23,172	\$43,965	\$0.03
Arthur Donaldson (R)	45.2%	640,675	\$4,162	\$7,897	\$0.01
John Webb (D)	53.9%	757,860	\$27,988	\$53,103	\$0.04
Francis Parker (R)□	46.1%	649,199	\$32,533	\$61,726	\$0.05
Willis Whichard (D)	54.0%	745,876	\$30,675	\$58,201	\$0.04
Robert Browning (R)□	46.0%	635,199	\$22,627	\$42,931	\$0.04
Burley Mitchell (D)□	100.0%		—	—	—
Henry Frye (D)□	100.0%		—	—	—

□ Incumbent judge

* Candidates who chose to participate in N.C.'s Public Financing Program.

◆ In 2006, a private political action committee, Fairjudges.net, spent \$259,101 for advertising for four Supreme Court candidates: Sarah Parker, Mark Martin, Patricia Timmons-Goodson, and Robin Hudson.

Source: North Carolina Board of Elections Abstracts and Campaign Finance Reports (web-based and archived); N.C. Manual

CAMPAIGN EXPENDITURES IN COURT OF APPEALS ELECTIONS

	% VOTE	VOTES	EXPENDITURES (ACTUAL \$)	EXPENDITURES (2007 \$)	COST PER VOTE
2006					
General Election:					
Robert Hunter (D)□*	58.1%	903,691	\$224,388	\$231,455	\$0.26
Kris Bailey (R)	41.9%	652,733	\$30,575	\$31,538	\$0.05
Donna Stroud (R)*	50.1%	774,819	\$203,637	\$210,050	\$0.27
Linda Stephens (D)□*	49.9%	771,353	\$224,010	\$231,065	\$0.30
2004					
General Election:					
Linda McGee (D)□*	57.8%	1,520,455	\$207,088	\$227,971	\$0.15
Bill Parker (R)*	42.2%	1,112,128	\$174,734	\$192,354	\$0.17
Wanda G. Bryant (D)□*	54.5%	1,416,123	\$207,103	\$227,988	\$0.15
Alice Stubbs (R)*	45.5%	1,183,962	\$212,588	\$234,026	\$0.20
Barbara Jackson (R)*	55.1%	1,399,528	\$30,556	\$33,637	\$0.02
Alan Thornburg (D)□*	44.9%	1,141,896	\$200,921	\$221,182	\$0.19
2002					
General Election:					
Martha Geer (D)	50.4%	1,073,423	\$185,937	\$214,927	\$0.20
Bill Constangy (R)	49.6%	1,058,485	\$35,551	\$41,094	\$0.04
Rick Elmore (R)	52.0%	1,109,317	\$5,648	\$6,529	\$0.01
George Barrett (D)	48.0%	1,022,078	\$1,931	\$2,232	\$0.00
Eric Levinson (R)	51.0%	1,089,728	\$84,781	\$98,000	\$0.09
Hugh Campbell (D)□	49.0%	1,046,594	\$74,338	\$85,928	\$0.08
Sanford Steelman (R)	51.0%	1,083,194	\$68,578	\$79,270	\$0.07
Loretta Biggs (D)□	49.1%	1,046,689	\$117,867	\$136,244	\$0.13
Ann Marie Calabria (R)	52.1%	1,108,615	\$98,514	\$113,874	\$0.10
Wanda Bryant (D)□	47.9%	1,020,286	\$90,123	\$104,174	\$0.10
2000					
General Election:					
Douglas McCullough (R)	50.3%	1,371,798	\$7,627	\$9,210	\$0.01
Clarence Horton (D)□	49.7%	1,354,543	\$92,770	\$112,029	\$0.08
John Tyson (R)	50.1%	1,364,239	\$70,688	\$85,363	\$0.06
Jim Fuller (D)□	49.9%	1,360,309	\$53,161	\$64,197	\$0.05
Robin Hudson (D)	51.5%	1,396,957	\$268,155	\$323,824	\$0.23
Paul Stam (R)	48.5%	1,317,677	\$28,492	\$34,407	\$0.03
John C. Martin (D)□	50.6%	1,375,920	\$79,468	\$95,966	\$0.07
Wendy Enochs (R)	49.4%	1,341,854	\$8,978	\$10,842	\$0.01
James Wynn (D)□	51.5%	1,390,169	\$115,418	\$139,379	\$0.10
Wendell Schollander (R)	48.5%	1,309,655	\$2,308	\$2,787	\$0.00
1998					
General Election:					
Sidney Eagles (D)□	52.8%	968,582	\$104,343	\$133,117	\$0.14
Wendell Schollander (R)	47.2%	867,471	\$4,490	\$5,728	\$0.01
K. Edward Greene (D)□	53.0%	970,847	\$39,190	\$49,997	\$0.05
Paul Stam (R)	47.0%	862,197	\$31,072	\$39,640	\$0.05
Robert Edmunds (R)	51.6%	949,110	\$79,388	\$101,280	\$0.11
Clarence Horton (D)□	49.4%	890,533	\$35,927	\$45,834	\$0.05
Patricia Timmons-Goodson (D)□	51.6%	948,652	\$107,271	\$136,852	\$0.14
Douglas McCullough (R)	49.4%	888,669	\$11,945	\$15,239	\$0.02
Robert Hunter (D)	50.1%	914,301	\$89,284	\$113,905	\$0.12
Raymond Warren (R)	49.9%	910,482	\$5,414	\$6,907	\$0.01

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CAMPAIGN EXPENDITURES IN COURT OF APPEALS ELECTIONS *(continued from page 6)*

	% VOTE	VOTES	EXPENDITURES (ACTUAL \$)	EXPENDITURES (2007 \$)	COST PER VOTE
1996					
General Election: 11/5/1996					
Linda McGee (D)□	52.0%	1,221,653	\$86,139	\$114,165	\$0.09
Betty Pearce (R)	48.0%	1,126,013	\$15,753	\$20,878	\$0.02
Primary Election: 5/7/1996					
Linda McGee (D)□	Data Not Available	Data Not Available	\$29,641	\$39,285	Data Not Available
Lonnie Carraway (D)			\$22,796	\$30,213	
1994					
General Election: 11/8/1994					
Mark Martin (R)	56.3%	840,893	\$206,727	\$290,072	\$0.34
Elizabeth McCrodden (D)□	43.7%	653,906	\$151,984	\$213,259	\$0.33
Ralph Walker (R)	57.3%	838,326	\$29,628	\$41,573	\$0.05
Sydnor Thompson (D)□	42.7%	625,883	\$79,741	\$111,890	\$0.18
Primary Election: 5/3/1994					
Elizabeth McCrodden (D)□	34.7%	166,711	\$16,067	\$22,545	\$0.14
E.Yvonne Pugh (D)	26.5%	127,158	\$13,216	\$18,544	\$0.15
John Tyson (D)	38.8%	186,085	\$92,107	\$129,241	\$0.69
1992					
General Election: 11/3/1992					
Robert Orr (R)□	50.1%	1,157,127	\$58,270	\$86,366	\$0.07
Anthony Brannon (D)	49.9%	1,152,432	\$16,999	\$25,195	\$0.02
Joseph John (D)	50.9%	1,167,172	\$34,303	\$50,843	\$0.04
Ralph Walker (R)□	49.1%	1,124,712	\$29,231	\$43,325	\$0.04
John C. Martin (D)□	55.2%	1,259,595	\$27,860	\$41,293	\$0.03
Ronald Boyle (R)	44.8%	1,023,352	\$18,216	\$26,999	\$0.03
Gerald Arnold (D)□	100.0%	1,384,130	–	–	–
Jack Cozort (D)□	100.0%	1,360,606	–	–	–
Jack Lewis (D)□	100.0%	1,359,003	–	–	–
James Wynn (D)□	100.0%	1,345,729	–	–	–
Primary Election: 5/5/1992					
John C. Martin (D)□	60.8%	308,016	\$2,187	\$3,242	\$0.01
John Hill Parker (D)	39.2%	198,658	\$7,336	\$10,873	\$0.05
Jack Cozort (D)□	57.4%	288,044	\$44,536	\$66,010	\$0.23
Steven Bernholz (D)	42.6%	213,572	\$12,798	\$18,969	\$0.09
Joseph John (D)	53.2%	262,572	\$17,172	\$25,452	\$0.10
Gordon Widenhouse	46.8%	231,057	\$26,022	\$38,569	\$0.17
1990					
General Election: 11/6/1990					
Hugh Wells (D)□	53.4%	945,392	\$21,474	\$34,166	\$0.04
J. Randolph Ward (R)	46.6%	825,326	\$11,321	\$18,012	\$0.02
Eugene Phillips (D)□	53.7%	949,676	\$42,881	\$68,225	\$0.07
Ralph Walker (R)	46.3%	818,590	\$18,463	\$29,375	\$0.04
Clifton Johnson (D)□	54.3%	954,422	\$11,982	\$19,064	\$0.02
Carter Lambeth (R)	45.7%	804,671	\$32,980	\$52,473	\$0.07
Sarah Parker (D)□	57.9%	1,024,639	\$41,106	\$65,401	\$0.06
Dena Lingle (R)	42.1%	745,122	\$4,994	\$7,946	\$0.01
Sidney Eagles (D)□	53.2%	929,956	\$23,760	\$37,803	\$0.04
William Neely (R)	46.8%	818,979	\$3,117	\$4,959	\$0.01
K. Edward Greene (D)□	54.5%	954,436	\$18,183	\$28,930	\$0.03
Sherry Alloway (R)	45.5%	797,891	\$16,636	\$26,469	\$0.03

continued on page 8

CAMPAIGN EXPENDITURES IN COURT OF APPEALS ELECTIONS *(continued from page 7)*

	% VOTE	VOTES	EXPENDITURES (ACTUAL \$)	EXPENDITURES (2007 \$)	COST PER VOTE
1990 (continued)					
James Wynn (D)	50.8%	893,673	\$8,295	\$13,198	\$0.01
Allyson Duncan (R) <input type="checkbox"/>	49.2%	865,714	\$30,449	\$48,446	\$0.06
Primary Election: 5/8/1990					
Eugene Phillips (D) <input type="checkbox"/>	65.6%	353,438	\$3,615	\$5,752	\$0.02
Ellen Sconten (D)	34.4%	185,213	\$13,095	\$20,835	\$0.11
1988					
General Election: 11/8/1988					
Robert Orr (R) <input type="checkbox"/>	51.4%	1,010,053	\$70,083	\$123,193	\$0.12
John Friday (D)	48.6%	953,642	\$17,624	\$30,980	\$0.03
Jack Lewis (D)	50.4%	983,850	\$56,345	\$99,044	\$0.10
Donald Smith (R) <input type="checkbox"/>	49.6%	967,992	\$22,078	\$28,809	\$0.03
Second Primary Election: 5/31/1988					
William Davis	41.4%	72,507	\$1,356	\$2,384	\$0.03
Jack Lewis	58.6%	102,777	\$56,345	\$99,044	\$0.96
First Primary Election: 5/3/1988					
John Friday (D)	57.9%	233,208	\$17,624	\$30,980	\$0.13
Alan Hicks (D)	42.1%	169,664	\$19,713	\$34,652	\$0.20
William Davis (D)	41.5%	163,006	\$1,356	\$2,384	\$0.01
William Houck (D)	16.0%	62,743	NA	—	
Jack Lewis (D)	42.6%	167,301	\$56,345	\$99,044	\$0.59
1986					
General Election: 11/4/1986					
Jack Cozort (D) <input type="checkbox"/>	54.6%	762,919	\$5,910	\$11,213	\$0.01
Betty Pearce (R)	45.4%	634,065	\$869	\$1,649	\$0.00
Sarah Parker (D) <input type="checkbox"/>	57.2%	817,677	\$66,226	\$125,654	\$0.15
Thomas McNamara (R)	42.8%	611,218	\$8,145	\$15,454	\$0.03
K Edward Greene (D)	55.5%	779,678	\$37,930	\$71,966	\$0.09
Robert Orr (R) <input type="checkbox"/>	44.5%	625,232	\$19,809	\$37,585	\$0.06
Primary Election: 5/6/1986					
Joseph John (D)	35.6%	184,797	\$12,031	\$22,827	\$0.12
Sarah Parker (D) <input type="checkbox"/>	64.4%	334,889	\$66,226	\$125,654	\$0.38

Incumbent judge

* Candidates who chose to participate in N.C.'s Public Financing Program.

Source: North Carolina Board of Elections Abstracts and Campaign Finance Reports (web-based and archived); N.C. Manual

The Appeals Benches: A Profile of Judges

Since 1967, 64 judges have served on the Court of Appeals and 37 justices on the Supreme Court. The average tenure on the Supreme Court has been nine years, while the average service on the court of appeals has been eight years.

During this modern era, four Supreme Court justices—Carlisle Higgins, William Bobbitt, Joseph Branch, and James Exum—have served for more than 20 years, as has one Court of Appeal judge—Robert Hedrick. During the past 40 years, 14 member of the Court of Appeals have been women; five women have served as justices of the Supreme Court. Three of the five women on the Supreme Court have gone on to serve as Chief Justice.

Though the percentage of women on appellate benches has been relatively small, women have served on both courts since 1967. For a brief period in 1979, North Carolina had the distinction of having a woman as chief of the Supreme Court (Justice Susie Sharp) and of the Court of Appeals (Judge Naomi Morris).

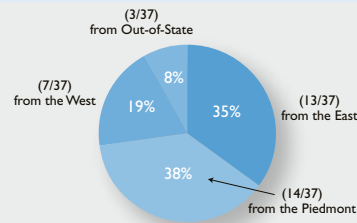
The presence of women has been especially notable from 1990 to the present: Twelve of the 14 women on the Court of Appeals and three of the five women on the Supreme Court have served since 1990.

Eight African-Americans have served on the Court of Appeals and four African-Americans have served on the Supreme Court. One of these four—Justice Henry Fry—went on to serve as chief justice.

Most appellate court justices were born, raised, and/or went to high school in North Carolina. Of 64 judges on the Court of Appeals, 51 were “from” North Carolina, as were 34 of 37 Supreme Court justices. Of these Supreme Court justices, 13 were from the Piedmont, 14 from the East, and seven from the West. On the Court of Appeals, 19 were from the Piedmont, 21 were from the East, and 16 were from the West.

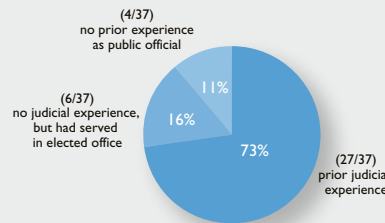
Of the 95 appellate court judges, 80 attended college in North Carolina, and 82

WHERE N.C. SUPREME COURT JUSTICES “COME FROM,” 1967–2007

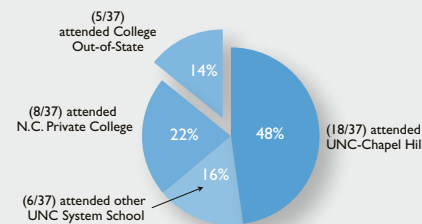


NOTE: Justices “Came From” an area if they were born, raised, or attended high school in a region. Justices coming from multiple regions were identified with the region where they spent the most time.

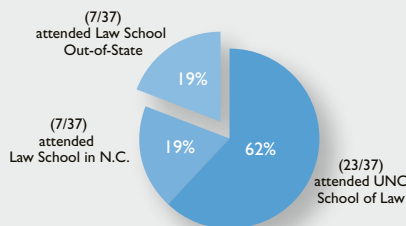
PRIOR EXPERIENCE OF N.C. SUPREME COURT JUSTICES, 1967–2007



WHERE N.C. SUPREME COURT JUSTICES RECEIVED THEIR UNDERGRADUATE DEGREE, 1967–2007



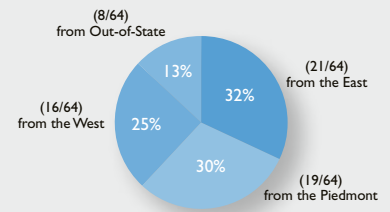
WHERE N.C. SUPREME COURT JUSTICES RECEIVED THEIR LAW DEGREES, 1967–2007



went to law school in North Carolina. Of those educated in North Carolina, 56 attended UNC system schools for their undergraduate degree, while 43 attended UNC-Chapel Hill. For law school, 60 out of 95 attended UNC-Chapel Hill and 9 attended Wake Forest.

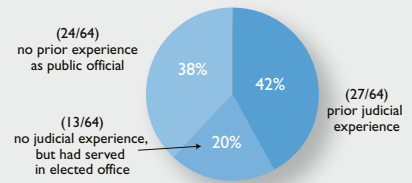
Many of North Carolina’s appellate jurists had significant prior experience. Of 37 Supreme Court justices, 27 had prior judicial experience; 32 had prior experience holding

WHERE N.C. COURT OF APPEALS JUDGES “COME FROM,” 1967–2007

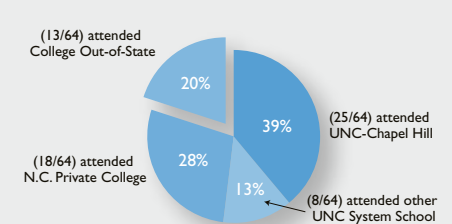


NOTE: Justices “Came From” an area if they were born, raised, or attended high school in a region. Justices coming from multiple regions were identified with the region where they spent the most time.

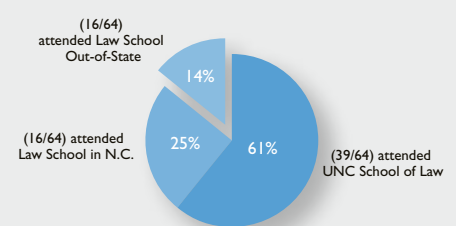
PRIOR EXPERIENCE OF N.C. COURT OF APPEALS JUDGES, 1967–2007



WHERE N.C. COURT OF APPEALS JUDGES RECEIVED THEIR UNDERGRADUATE DEGREE, 1967–2007



WHERE N.C. COURT OF APPEALS JUDGES RECEIVED THEIR LAW DEGREES, 1967–2007



an elected office; and 33 had prior public legal experience. On the Court of Appeals, 27 out of 64 judges had prior judicial experience; 30 had prior experience holding a public, elected office; and 31 had prior public legal experience.

The religious affiliation of appellate judiciary was predictably mixed: 30% Baptists, 21% Methodist, 15% Episcopalian, 11% Presbyterian, 7% other Christian denominations, 1% Jewish, and 22% of unknown faith. ☒

Shift in Campaign Finance since 2002

Five years ago, the General Assembly changed the way in which appellate judges are elected.

The legislature made two major changes. First, candidates for appellate judge no longer run in party-primary elections. Candidates of all parties run in the same election. Second, the new law set up a system of public financing of judicial elections. For additional information about the 2002 change, see the NC Center for Voter Education's NC Judges site: www.ncjudges.org/jcra/pcf.html.

Under the new system, there have been two statewide judicial elections. Of the 28 appellate court candidates in these elections, 20 have qualified for and accepted public funding rather rely on private fund-raising. Nine out of the 11 winners in these elections were publicly financed.

Two election cycles do not add up to a strong trend. Still, our examination of the records for the 2004 and 2006 elections lead to these findings:

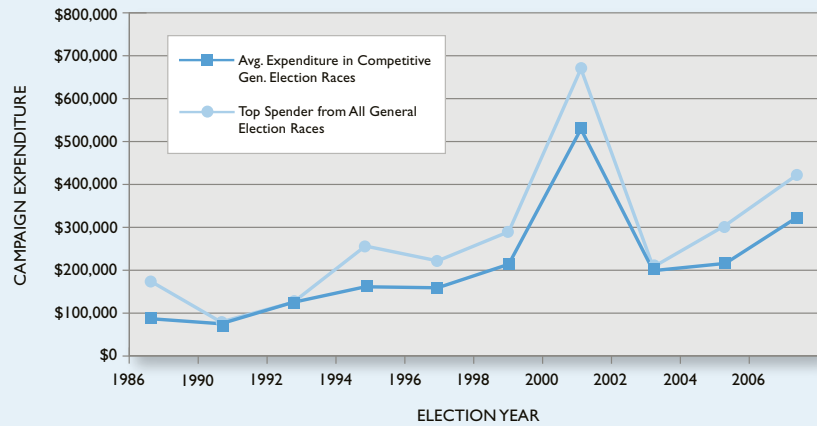
- 1 Public financing does not provide sufficient resources to run "effective" statewide campaigns, at least in comparison to campaigns for other statewide offices. In 2004, for example, the Attorney General candidates spent \$2,007,903. The average of total expenditures of all candidates for the Supreme Court that year was \$610,975. The candidates in the race for Chief Justice spent \$787,221. In 2000, the candidates for attorney general spent \$2,868,898. Candidates in the Supreme Court races spent \$1,065,414.

- 2 While the current level of public financing may feel insufficient to candidates, the money available to appellate judgeship candidates in 2004 and 2006 exceeded the money raised by candidates in the recent past. In terms of 2007 dollars, candidates in the 2002, 1998, and 1996 elections all spent less than did candidates in 2006.

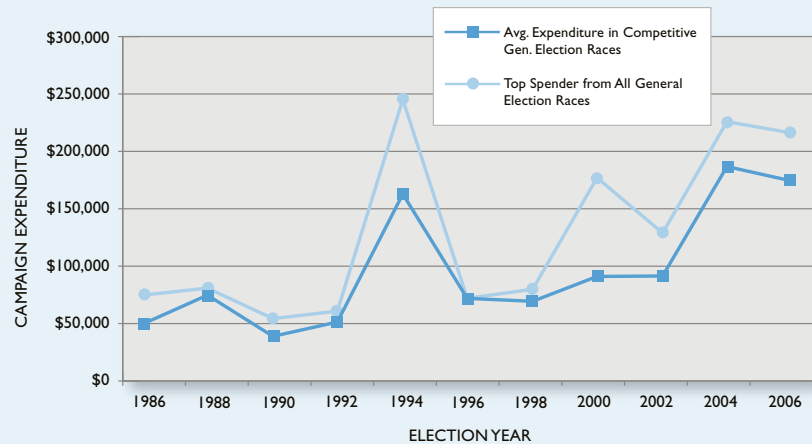
- 3 Candidate identification is weaker without party affiliation. Put another way, voters know even less about judgeship candidates when they do not know to which party the candidates belong. Thus, non-partisan

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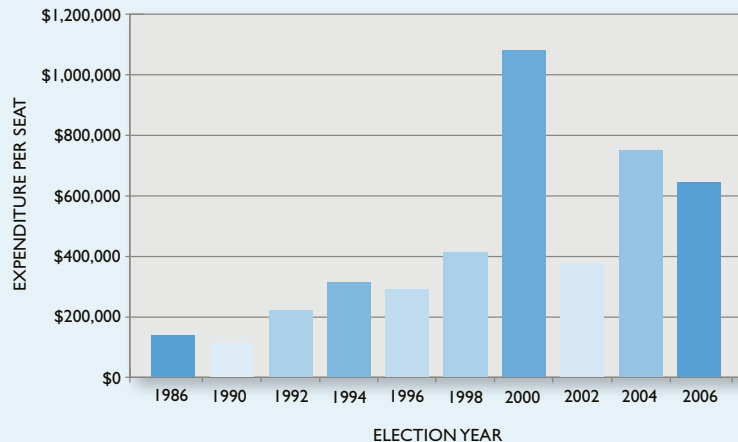
CAMPAIGN EXPENDITURES FOR SUPREME COURT CANDIDATES IN COMPETITIVE GENERAL ELECTIONS



CAMPAIGN EXPENDITURES FOR COURT OF APPEALS CANDIDATES IN COMPETITIVE GENERAL ELECTIONS



AVERAGE EXPENDITURE PER SUPREME COURT SEAT FOR CANDIDATES IN THE GENERAL ELECTION



Source: North Carolina Board of Elections

Shift in Campaign Finance since 2002

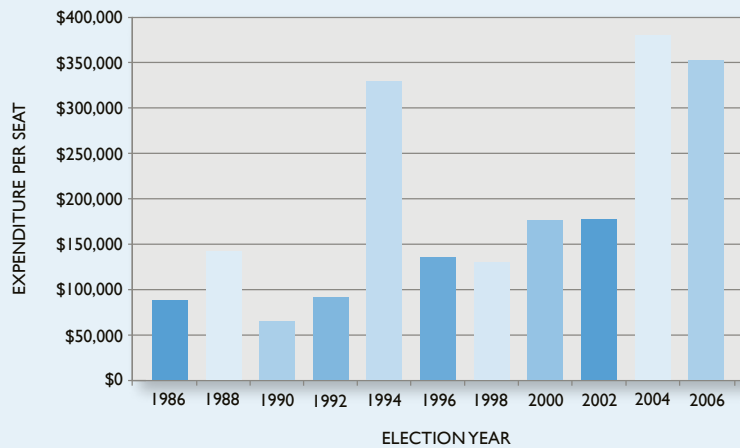
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elections may have had the effect of diminishing the ballots cast in judgeship elections. (Our colleague Thad Beyle, UNC professor of political science, has long tracked the fall-off in ballots cast from the top of the ticket to the bottom. That is, usually more people vote for governor than for judge or legislator. You may find Beyle's charts in previous issues of *DataNet* at our website, www.southnow.org). It is too early to know conclusively whether the lack of partisan identification has adversely affected votes cast for judges. Early indications show that, without the partisan delineation, more voters chose to abstain, as the following data suggest.

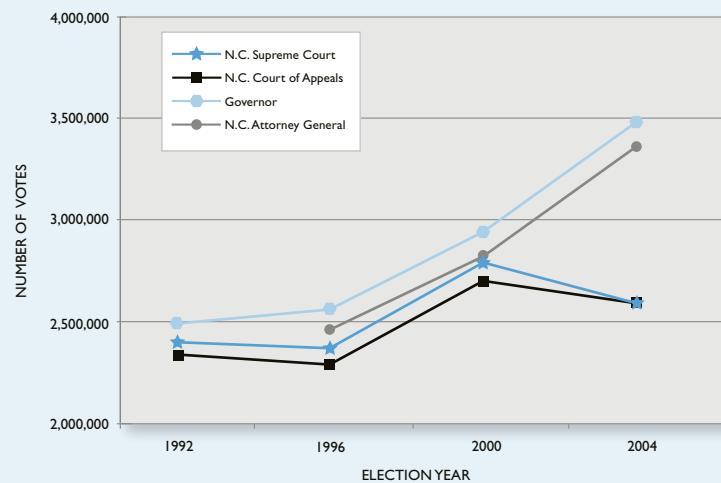
In the 1992, 1996 and 2000 statewide elections, appellate court election voting mirrored that of other statewide races—consistently about 100,000 fewer votes were cast in judgeship races than in other statewide elections. After the shift from partisan to nonpartisan elections, nearly 500,000 fewer voters cast ballots in judicial statewide elections than voted in other elections.

In 2006, judicial elections were the only statewide races. To provide some basis of comparison, we added the cumulative vote totals for all 13 Congressional elections. About 1.63 million voters cast ballots in each Supreme Court election and 1.55 million voted in each Court of Appeals election. By contrast, 1.94 millions votes were cast for Congressional candidates, approximately 300,000 votes more than were cast for the Supreme Court. ☒

AVERAGE EXPENDITURE PER COURT OF APPEALS SEAT FOR CANDIDATES IN THE GENERAL ELECTION



TOTAL VOTES CAST IN STATEWIDE ELECTIONS



Source: North Carolina Board of Elections

The Mechanics of Appellate Elections

While North Carolina is a “judicial elections” state, a wide majority of the state’s appellate judges initially joined the bench through appointment by the governor.

Until 1995, the gubernatorial appointments lasted until the following biennial election. In that election the appointed official would run for the unexpired term of the resigning judge or justice. Then, after serving out what was left of the resigning judge’s term, the judge would have to run again for his or her own, eight year term.

For example, in early 1992 Justice Beverly Lake, Jr. was appointed by Governor James Martin to the seat of Justice Harry Martin

which was to expire in 1994. Justice Lake then lost in a 1992 election to Justice Sarah Parker, who then served out the remainder of Justice Martin’s term. In 1994, with the term now expired, Justices Parker and Lake ran again for a new, eight year term. This time, Justice Lake prevailed and again served in Justice Martin’s seat for his own eight year term. Justice Parker was re-appointed in 1995 and then successfully ran for re-election in 1996.

In 1995, in response to feedback that judges were having to spend too much time running for office, the General Assembly changed the law. Now, upon a judge’s resignation, the appointee serves until the following biennial election. The winner of that election then goes on to immediately begin his or her own, eight year appellate term, with no consideration to how long the previous judge or justice served.

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The Mechanics of Appellate Elections *(continued from page 11)*

A Shift in How Judges Rise to Appellate Courts

From 1930–1980, 25 justices served on the Supreme Court. During that time, only two justices initially rose to office through election.

More recently, however, appellate judges are more likely to be elected than appointed. This represents a distinct shift in the pattern of how aspiring judges rise to the bench.

Thirty-seven Supreme Court justices have served since 1967. Of those, 23 initially rose to office through appointment, and 14 were elected. The vast majority of the first-elected judges have served in the past 13 years.

Since 1994, 13 justices have begun service on the Supreme Court, and nine of them have risen through election. Five of the seven current justices joined the court through election. In the previous 25 years, 24 justices began service on the Supreme Court, but only five rose through election.

This means that since 1994, 69% of justices initially rose through election, while from 1967 to 1991 only 20% were first-elected.

Of the 14 first-elected justices, nine were elected directly from the state Court of Appeals.

Since the inception of the Court of Appeals in 1967, 22 of the 64 judges initially rose to office through election. Since 1994, 27 judges have begun service on the Court of Appeals, and 13 have come to office through election. In the preceding 25 years, 38 justices began service on the intermediate appellate court, but only nine were first elected.

Since 1992, 48% of North Carolina Court of Appeals judges initially rose to office through election, whereas from 1967–1991 only 24% were first-elected. ☒