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An Empirical Analysis of State Supreme Court Candidate Fundraising

Michael Briach
University of Akron Main Campus, mrb108@zips.uakron.edu

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An Empirical Analysis of State Supreme Court Candidate Fundraising

Michael Briach

University of Akron

Honors Research Project

May 2015

Abstract

As political elections are becoming more expensive, judicial elections are also following this trend. This project focuses on elections at the state supreme court level. There are three different methods used to select state supreme court justices, which are: partisan, nonpartisan, and merit selections. The intent of this project is to provide an empirical analysis of the differences in amounts raised between judicial selection methods. This will be done by examining the amount of money that is raised by state supreme court candidates in Ohio, compared to Florida. Ohio is a state that uses partisan elections, while Florida uses the merit system. By empirically showing that more money is raised in a state that uses partisan elections, this serves to supplement and strengthen the existing research regarding the differences in amounts raised between judicial selection methods.

I: Introduction

Constitutionally states have been free to adopt any method they deem appropriate to select judges, and states have chosen multiple methods to do this. The three most popular selection methods are partisan elections, nonpartisan elections, and merit selections. The purpose of this project is to examine the amount of money raised by state supreme court candidates running in two different selection methods. The results of this project will serve to highlight the differences in amounts raised between the various selection methods. For my analyses, I chose to examine elections in Ohio and Florida for several different reasons. Both states have the size and popularity to have attention drawn to their judicial elections. Additionally, Ohio uses partisan elections and Florida uses a form of the merit system. By selecting these two states, it allows for a comparison between the fundraising of candidates from different selection methods. Judicial elections at the federal level are stagnant, but there is greater freedom at the state level to experiment and adopt different methods. A brief outline of the historical backgrounds between Florida and Ohio, illustrates this freedom in judicial selection.

Florida Election System

In 1845, Florida's State Supreme Court justices were elected by the state legislature to five-year terms. The state then transitioned to directly electing their judges in 1853. Moreover, in 1861 Florida began to have the governor appoint supreme court justices with consent from the senate. This system reverted back to having justices directly elected by the people in 1885 and that remained the method of selection until 1971. This is when Florida's legislature established nonpartisan judicial elections, and Governor Askew made an executive order calling for the use of nominating commissions to fill judicial vacancies[1]. This was their first step in adopting the merit system. Finally in 1976, voters approved a constitutional amendment that implemented merit selection and retention elections in the state[2], which is their current system.

Ohio Election System

Ohio on the other hand, has been more resistant to change over the years. In 1802, Ohio started off by having both houses of the general assembly chose their judges. This method was in place until 1850, when Ohio first began to have direct elections for judges. In 1912 Ohio held a Constitutional Convention, which made judicial elections in the state officially nonpartisan. Since then there have been several attempts to implement a merit system in the

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[1] History of Florida's judicial selection process available at

<http://www.judicialselection.us/judicial_selection/reform_efforts/formal_changes_since_inception.cfm?state=>

[2] Ibid.

state, but all attempts have failed[3]. Ohio has a hybrid election system, which includes a partisan primary and then a nonpartisan general election[4]. While Ohio is officially a state with nonpartisan elections, most literature classifies it as having partisan elections, due to its partisan element.

Now that the different historical backgrounds of these states have been shown, I must delineate the increasing importance that has been placed on money in judicial elections. Even with various attempts for reform like those tried in Ohio, judicial elections have become increasingly politicized in recent years[5]. With this increase in politicization, judicial races have also become more competitive[6]. As politicization and competitiveness have increased, money used in these elections has also followed this rising trend. This has caused groups that have vested interests in the outcomes of these elections to contribute large sums of money. These groups include: lawyers, lobbyists, businesses, interest groups, political parties, and labor unions; all of which are groups that regularly appear before the very justices that they

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[3] In 1938 and 1986, voters defeated proposed amendments to Ohio's Constitution that would have implemented merit selection for state supreme court judges.

[4] Michael E Solimine, Carolyn Chavez, Thomas Pulley, and Lee Sprouse, *Judicial Selection In Ohio: History, Recent Developments, and An Analysis of Reform Proposals*. Report of the Center for Law and Justice at the University of Cincinnati College of Law, September 2003. History of Ohio's judicial selection process available at <http://www.lwvohio.org/assets/attachments/file/JUDICIAL SELECTION IN OHIO_ HISTORY, RECENT.pdf>

[5] Joanna Shepherd, *Justice at Risk an Empirical Analysis of Campaign Contributions and Judicial Decisions*. American Constitution Society (2013), available at http://www.acslaw.org/ACS%20Justice%20at%20Risk%20%28FINAL%29%206_10_13.pdf

[6] Ibid.

contribute to. This dynamic between judges and their contributors has given rise to a growing suspicion of the judicial election process[7]. An analysis conducted by Shepherd confirmed that judges are in fact influenced by the contributions they receive[8]. A majority of the research examining this issue was conducted before two major Supreme Court decisions. While certainly still relevant, cases such as *Republican Party of Minnesota v. White* and *Citizens United v. FEC* have dramatically changed the landscape of campaigning in judicial elections[9]. These cases, in addition to the recent large increase in campaign funding, have made it more essential than ever to examine the relationship between money and judicial elections.

II: Background

In order to have a better understanding of the relevant terms and a full scope of the issue, reviewing the literature is necessary. I will start by further defining and examining the different methods used in judicial elections. Then transition into a review of the cases that have significantly impacted, and transformed judicial elections into what they are today. Lastly, I will review the data surrounding money in these elections. By bringing in quantitative metrics, this will show some of the practical implications and the profound effect that it has on campaigns. This review will serve as a basis for deeper insight into the many aspects surrounding judicial elections.

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[7] Ibid.

[8] Ibid. *The Justice at Risk* analysis confirmed a positive relationship between campaign contributions from business groups and justices' voting in favor of business interests.

[9] Ibid.

Judicial Elections

The Framers of the Constitution in selecting judges at the federal level opted for presidential appointment with advice and confirmation by the senate, with lifetime tenure for all federal judges. This model was thought to be the method of judicial selection most conducive to an independent judiciary and the preservation of the rule of law[10]. In describing the rationale for the judiciary set up by the Constitution, Alexander Hamilton in The Federalist No. 78 explained the need for an independent judiciary with lifetime tenure. Stating "If, then, the courts of justice are to be considered as the bulwarks of a limited Constitution against legislative encroachments, this consideration will afford a strong argument for the permanent tenure of judicial offices, since nothing will contribute so much as this to that independent spirit in the judges which must be essential to the faithful performance of so arduous a duty" (1788). He further asserted "that the independence of the judges may be an essential safeguard against the effects of occasional ill humors in the society" (1788)[11].

When the Constitution was ratified, most judges at the state-court level were either appointed by their legislature, or by the governor with legislative confirmation[12]. However,

[10] Diane Sykes, *Independence v. Accountability: Finding a Balance Amidst the Changing Politics of State-Court Judicial Selection.* Marquette University Law Review (2008) Vol. 92 No. 341. Available at http://scholarship.law.marquette.edu/cgi/viewcontent.cgi?article=1309&context=mulr

[11] Alexander Hamilton, The Federalist No. 78 available at http://www.constitution.org/fed/federa78.htm

[12] John L. Dodd, Christopher Murray, Stephen B. Presser, Mark Pulliam, Alfred W. Putnam, Paula M. Stannard, *The Case for Judicial Appointments.* The Federalist Society, (2003). Available at http://www.fed-soc.org/publications/detail/the-case-for-judicial-appointments

during Andrew Jackson's presidency, there was a shift in thought concerning the manner in which judges should obtain their positions. During this time, Jackson was a large proponent of direct democracy and the states began to adopt this mindset[13]. The focus went from judicial independence to judicial accountability, with the prevailing notion being that if judges were insulated from accountability, it would likely lead to an unresponsive judiciary[14]. Scholars have also put forward reasons such as judges needed to be more responsive to their communities[15] and that the judiciary needed more independence from state legislatures[16] as to why states decided to adopt elections during this time.

From this, partisan and nonpartisan elections emerged. In partisan elections, candidates typically run in an initial primary to gain nomination. Once nominated, candidates stand in the general election, in which party affiliation is indicted on the ballot[17]. However, these elections were not to the satisfaction of everyone. In 1906, the famous legal scholar Roscoe Pound was

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[13] Ibid.

[14] Ibid.

[15] Laura Zaccari*, Judicial Elections: Recent Developments, Historical Perspective, and Continued Viability*. Richmond Journal of Law and the Public Interest (2004*)* Vol. 8 No. 1.

[16] Charles H. Sheldon, Linda S. Maule, *Choosing Justice: The Recruitment of State and Federal Judges*. The American Political Science Review Vol. 94, No. 2 (June 2000) pp. 446-468.

[17] American Bar Association Coalition For Justice, *Judicial Selection: The Process of Choosing Judges.* Available at http://www.americanbar.org/content/dam/aba/migrated/JusticeCenter/Justice/PublicDocuments/judicial_selection_roadmap.authcheckdam.pdf

quoted saying “putting courts into politics, and compelling judges to become politicians, in many jurisdictions has almost destroyed the traditional respect for the bench”[18].

In light of criticism from Pound and others, pressure to reform partisan elections began to gain traction. The most popular reform method that surfaced was nonpartisan elections. These are contested elections that may include a primary and general election, but voters are unable to see a judicial candidate’s party affiliation on the ballot[19]. Even with nonpartisan and partisan elections, concerns remained with the states about the effectiveness of these methods. Politics were still believed to be a part of the process because candidates were required to campaign for office, and doubts began to rise about the abilities of voters to cast informed ballots in nonpartisan elections[20].

Due to these concerns, the American Judicature Society pushed for another reform of judicial selection that combined the positives of all selection systems, naming it the merit system[21]. While there are subtle variances from state to state, several aspects are standard in

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[18] Roscoe Pound, Speaking at the Annual Meeting of the American Bar Association, reading a paper entitled *The Causes of Popular Disaffection with the Administration of Justice*, 1906. Available at http://www.encyclopedia.com/doc/1G2-3437704909.html

[19] Ibid. at 17.

[20] Matthew J. Streb, *The Study of Judicial Elections*. New York University, available at http://www.nyupress.org/webchapters/0814740340chapt1.pdf

[21] Ibid. This system is also known as retention elections and the Missouri Plan, as Missouri was the first state to adopt it in 1940. These terms are used interchangeably, but for purposes of this project, I will stick with merit system.

this selection method. A nominating commission screens and selects the most qualified candidates for a judicial vacancy, and then typically the governor appoints one of the recommended candidates to the bench for a specified term. The nominating commission is a group of impartial individuals, typically appointed by the governor of the state in accordance with the state's Bar Association. Once the judge's term is up, they are then subject to a retention election. The incumbent's name is placed on the ballot and voters have two choices. Either vote yes and retain the judge, or vote no and declare the position vacant. Most states require a simple majority for retention of the position. If a seat is declared vacant, a new candidate is then appointed by using this same system[22]. This system seeks to combine judicial independence (judges do not have to run against an opponent) with judicial accountability (they still face the possibility of being removed for their decisions)[23].

Florida utilizes the merit system by having their governor appoint a candidate from a list of three to six names that are selected by a judicial nominating commission. At the conclusion of their six year term, they are then subject to a retention election[24]. In contrast, Ohio has a hybrid system which consists of a partisan primary, followed by a nonpartisan general election[25]. Across the country in the selection of justices to their highest state court, nine states

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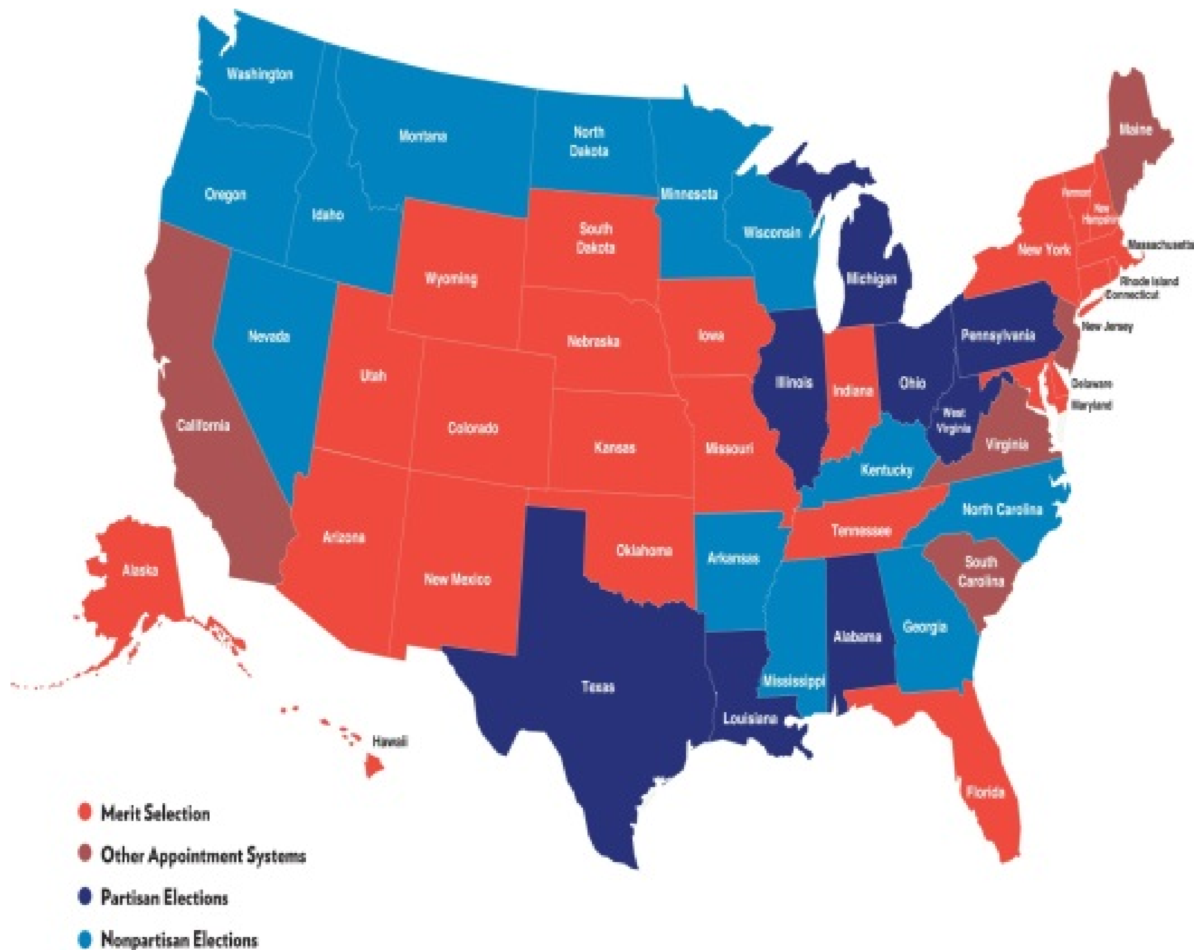
[22] Merit system definition Ibid at 17.

[23] Ibid at 20.

[24] Florida Supreme Court, *Merit Retention & Mandatory Retirement of Justices of the Supreme Court.* Available at http://www.floridasupremecourt.org/justices/merit.shtml

[25] Ibid at 4.

use partisan elections and twelve states use nonpartisan elections[26]. In twenty-nine states, the governor or legislature appoints the justice, with twenty-four of these states using some form of the merit system[27]. The breakdown of all states by which method they utilize can be observed from the chart below.



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[26] Justice at Stake. *Your State National Map* available at http://www.justiceatstake.org/state/index.cfm

[27] Ibid.

[28] Chart available at http://www.justiceatstake.org/

Landmark Cases

There are two main landmark cases that have significantly transformed and shaped judicial elections into what they are today. The first case took place in 2002, entitled *Republican Party of Minnesota v. White*[29]*.* The next case took place in 2010, entitled *Citizens United v. Federal Elections Commission*[30]. These cases in conjunction with each other have had a huge impact on campaigns and elections, and require further examination to see their full significance.

Prior to the decision in *White*, Minnesota, like many other states had laws to regulate the speech of judicial candidates seeking election. These laws consisted of provisions that precluded justices from announcing their positions on issues that could potentially come before them, and from making pledges or promises of conduct outside of faithful and impartial decisions while in office[31]. The issue that came before the Supreme Court in *White* was the constitutionality of a provision in Minnesota's Code of Judicial Conduct that prohibited a candidate running for judicial office from announcing their views on disputed legal or political

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[29] 536 U.S. 765 (2002). Full case and opinion authored by Justice Scalia available at https://supreme.justia.com/cases/federal/us/536/765/

[30] 558 U.S. 310 (2010). Full case and opinion authored by Justice Kennedy available at https://supreme.justia.com/cases/federal/us/558/08-205/

[31] Brennan Center For Justice, *Republican Party of Minnesota v. White: What Does the Decision Mean?* New York University School of Law (2002). Available at https://www.brennancenter.org/analysis/republican-party-minnesota-v-white-what-does-decision-mean

issues[32]. The Court, in a narrow 5-4 decision, held that the First Amendment applied to judicial campaign code, thus ruling that Minnesota's announce clause was in violation and unconstitutional[33]. Moreover, in the Court's rationale they held that the traditional sense of judicial impartiality is the requirement of a judge to not favor a party in a case, and showing partiality towards an issue does not violate that[34].

The decision in *White* has had a considerable effect on state elections[35]. Judicial candidates are now able to speak in a more partisan fashion, with less fear of reprimand from state judicial standards commissions or state bars[36]. This has made state judicial elections more politicized, because candidates can now engage in divisive political speech to attract votes[37]. With this increase in politicization it is now more likely that unqualified candidates will run for election[38]. Potential candidates that may be great judges could be dissuaded from running due to the large cost and effort needed to win these highly political elections[39]. Due to this, it gives other potentially less qualified, but more popular individuals a greater opportunity to campaign

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[32] Ibid.

[33] Ibid. at 29.

[34] Ibid.

[35] Louis Alfred Trosch, Sr. and Ronald A. Madsen, *The Effect of Minnesota v. White on Campaigning for the Judiciary,* Vol. 39, Business Law Review. Available at http://www.ctklawyers.com/wp-content/uploads/LAT2.pdf.pdf

[36] Ibid.

[37] Ibid.

[38] Ibid.

[39] Ibid.

and win elections[40]. Additionally and perhaps the biggest impact that the *White* decision has had, is on the increase in money being contributed from interest groups to campaigns[41]. Since judicial candidates are now free to comment on policy issues, this gives interest groups an incentive to elicit responses from candidates to see which candidate supports their interests, thus likely receiving their contributions[42].

While the *White* case only impacts judicial elections, *Citizens United* has had a profound effect on elections of all types, but the most severe impact of this case may be felt in state judicial elections[43]. Prior to this decision, there were long-standing federal bans on corporate independent expenditures in elections[44]. In this case, the Supreme Court examined the constitutionality of these bans, and the bans on "electioneering communications"[45]. In a tight 5-4 decision, the Court struck down the regulations on free speech, as they were ruled to be in violation of the First Amendment[46]. This effectively held that political spending is a form of speech protected under the First Amendment, and the government may not keep organizations

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[40] Ibid.

[41] Ibid.

[42] Ibid.

[43] Adam Skaggs, *Buying Justice: The Impact of Citizens United on Judicial Elections.* Brennan Center for Justice, New York University School of Law. Available at https://www.brennancenter.org/sites/default/files/legacy/publications/BCReportBuyingJustice.pdf?nocdn=1

[44] Ibid.

[45] Ibid at 30.

[46] Ibid.

(corporations, unions, and non-profit organizations) from spending money to support or oppose candidates in elections, so long as it comes in the form of independent expenditures[47].

Justice Kennedy in writing the majority opinion further asserted that corporations as associations of individuals have speech rights under the First Amendment (2010, p.33)[48]. In addition, the Court stated that there is no such thing as too much free speech and this decision will not enhance the perception of corruption in elections (2010, p. 44)[49]. In authoring a strong dissent, Justice Stevens voiced the disapproval of this decision saying "At a time when concerns about the conduct of judicial elections have reached a fever pitch... the Court today unleashes the floodgates of corporate and union general treasury spending in these races" (2010, p. 176) [50].

The *Citizens United* decision did not directly affect any state law. However, twenty-four states that had laws restricting corporate spending in judicial elections have subsequently called into question the constitutionality of these laws[51]. Since 2010, many states have repealed

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[47] Ibid.

[48] Ibid.

[49] Ibid.

[50] Ibid.

[51] Carmen Lo, Katie Londenberg, David Nims, Joanna K. Weinberg, *Spending in Judicial Elections: State Trends in the Wake of Citizens United.* (2011) Available at http://gov.uchastings.edu/public-law/docs/judicial-elections-report-and-appendices-corrected.pdf

their laws prohibiting independent expenditures by corporations, with Ohio being one of those states[52].

White allowed for candidates to engage in political speech, which triggered an increase in campaign contributions. *Citizens United* then removed the limits on campaign contributions in elections, further contributing to the increase in spending in judicial elections. These two cases have drastically changed the landscape of judicial elections, which made it essential to delve into them to better understand the current environment surrounding those elections. Now that these cases have been discussed, it is an appropriate time to examine the data regarding money in judicial elections.

<u>Money in Judicial Elections</u>

As judicial elections have become increasingly politicized, they have also become more competitive[53]. In 1980, 4.3 percent of incumbents running in nonpartisan elections were defeated, while in 2000, 8 percent of incumbents were defeated running in these same elections[54]. Partisan elections in 1980 had 26.3 percent of incumbents defeated, but by 2000, the loss rate for incumbents in these elections rose to 45.5 percent[55]. Due to this continuing trend, it has led to the skyrocketing of spending in judicial elections[56] Keep in mind that the

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[52] Ibid.

[53] Ibid. at 5.

[54] Ibid.

[55] Ibid.

[56] Ibid.

Citizens United case was decided in 2010, so I will examine figures that were collected both before and after this decision.

Campaign fundraising for state supreme court candidates has more than doubled in the last two decades, going from $83.3 million in 1990-99 to $206.9 million in 2000-09[57]. This can be observed by viewing figure 1 below. During that same time period, candidates in partisan elections raised the most money at $153.8 million nationally, compared with $50.9 million in nonpartisan elections, and $2.2 million for merit selections[58]. Additionally fueling the increase in spending was television advertising. From 2000-2009, $93.6 million was spent on television advertising, which is viewed as an effective tool for name recognition and attacking opposing candidates[59]. Some of the largest contributors to campaigns in 2000-09 were business groups, lawyers and lobbyists, and political parties. Business groups contributed $62.6 million (30 percent of total contributions), Lawyers and lobbyists contributed $59.3 million (28 percent of total contributions), and political parties contributed $22.2 million (11 percent of total contributions)[60]. A breakdown of all sectors that contributed during those years is shown in Figure 3.

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[57] James Sample, Adam Skaggs, Jonathan Blitzer, Linda Casey, *The New Politics of Judicial Elections, 2000-2009: Decade of Change.* Justice at Stake Campaign, Brennan Center for Justice, and the National Institute on Money in State Politics, August 2010. Available at <http://www.justiceatstake.org/media/cms/JASNPJEDecadeONLINE_8E7FD3FEB83E3.pdf>

[58] Ibid.

[59] Ibid.

[60] Ibid. at 5.

Total spending in state supreme court races for 2011-12 was slightly lower at $56.4 million, compared to total spending in 2007-08 which was $57.1 million[61]. However, spending by special-interest groups and political parties on television ads and other electioneering rose to unprecedented levels[62]. Special-interest groups alone spent a record $15.4 million on television ads, surpassing the previous record of $9.8 million spent by special-interest groups in 2003-04[63]. Moreover, in 2011-12 the record for total spending on television ads was also surpassed. In the 2011-12 cycle $33.7 million was spent on television ads, far exceeding the previous two year record of $26.6 million set in 2007-08[64]. This data can be viewed from the chart below showing total spending on television ads from 2001-12. Lastly, non-candidate spending as a portion of total spending also rose to a new level in the 2011-12 cycle. It was approximately $24 million, which exceeded the previous record of $14.4 million set in 2003-04, which is also displayed below[65]. These figures show the large impact that the *Citizens United* decision has had on judicial elections, highlighting the record increases in spending by outside groups as a result of this.

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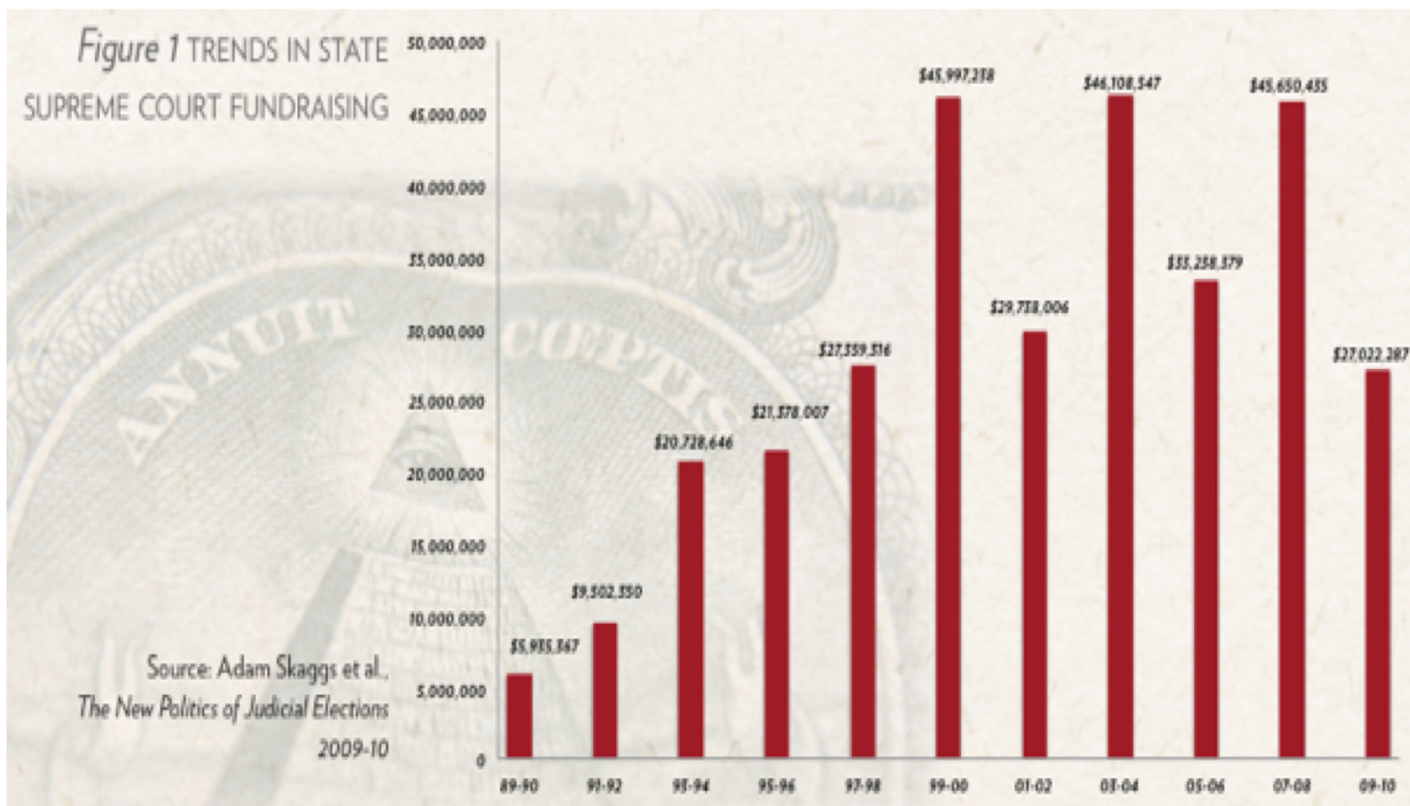
[61] Alicia Bannon, Eric Valasco, Linda Casey, Lianna Reagan, *The New Politics of Judicial Elections 2011-12*, Justice at Stake Campaign, Brennan Center for Justice, and the National Institute on Money in State Politics. Available at http://newpoliticsreport.org/content/uploads/JAS-NewPolitics2012-Online.pdf

[62] Ibid.

[63] Ibid.

[64] Ibid.

[65] Ibid.



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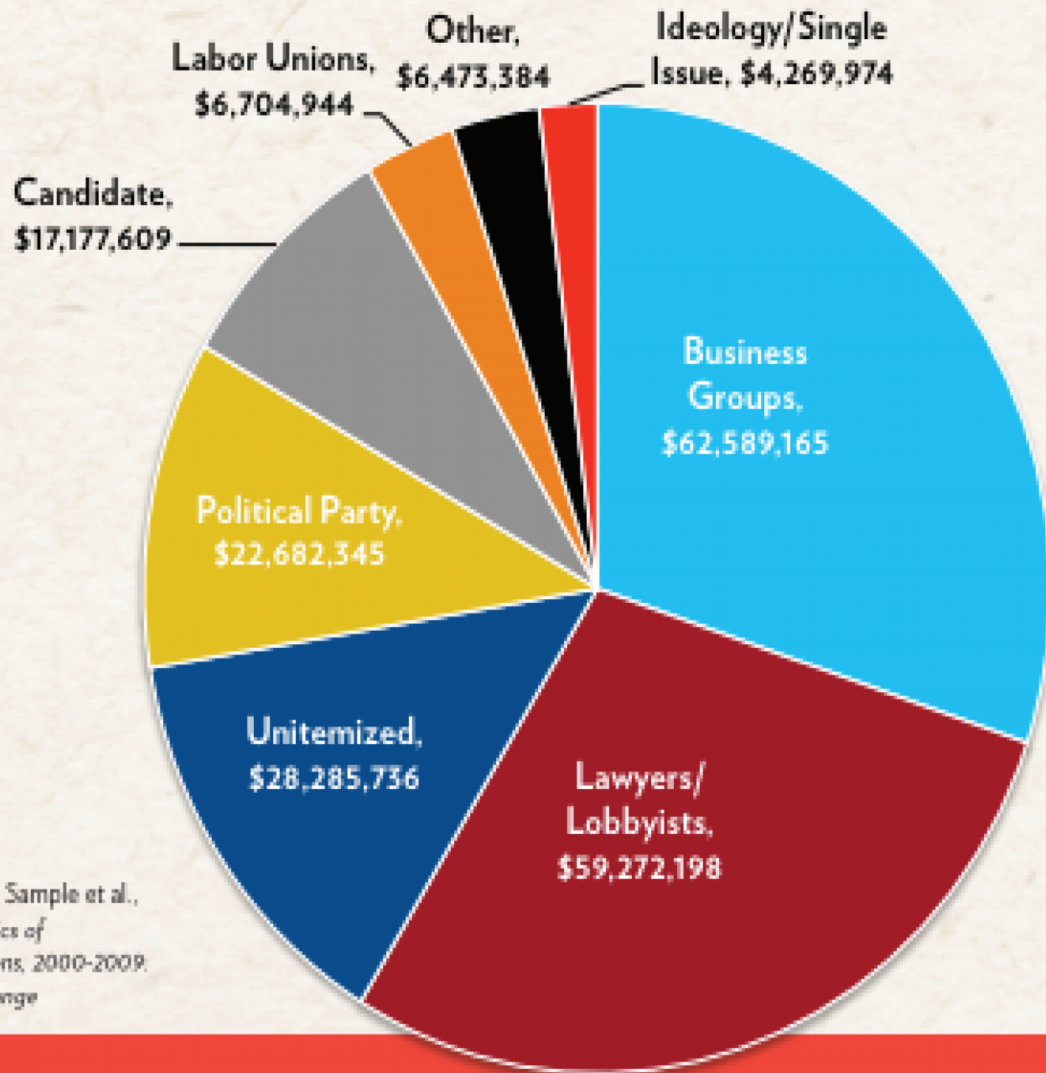
[66] Figure 1 Ibid. at 57.



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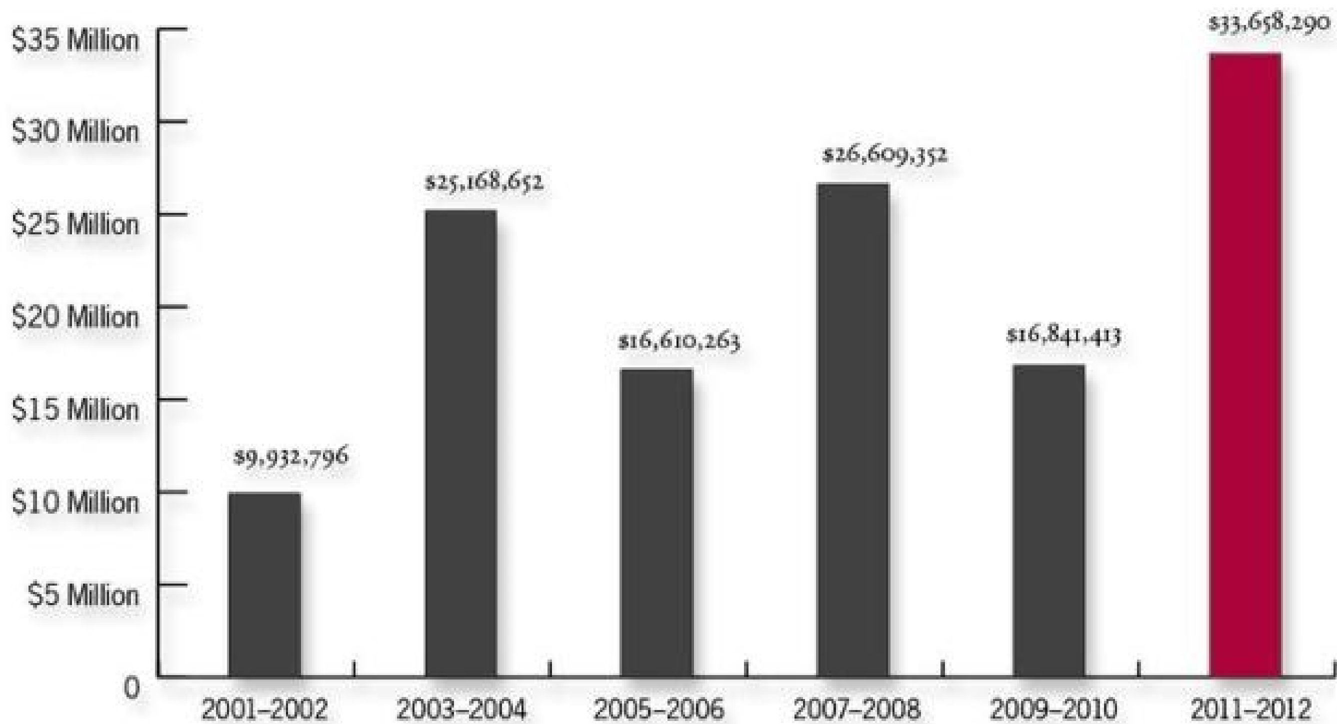
[67] Ibid.



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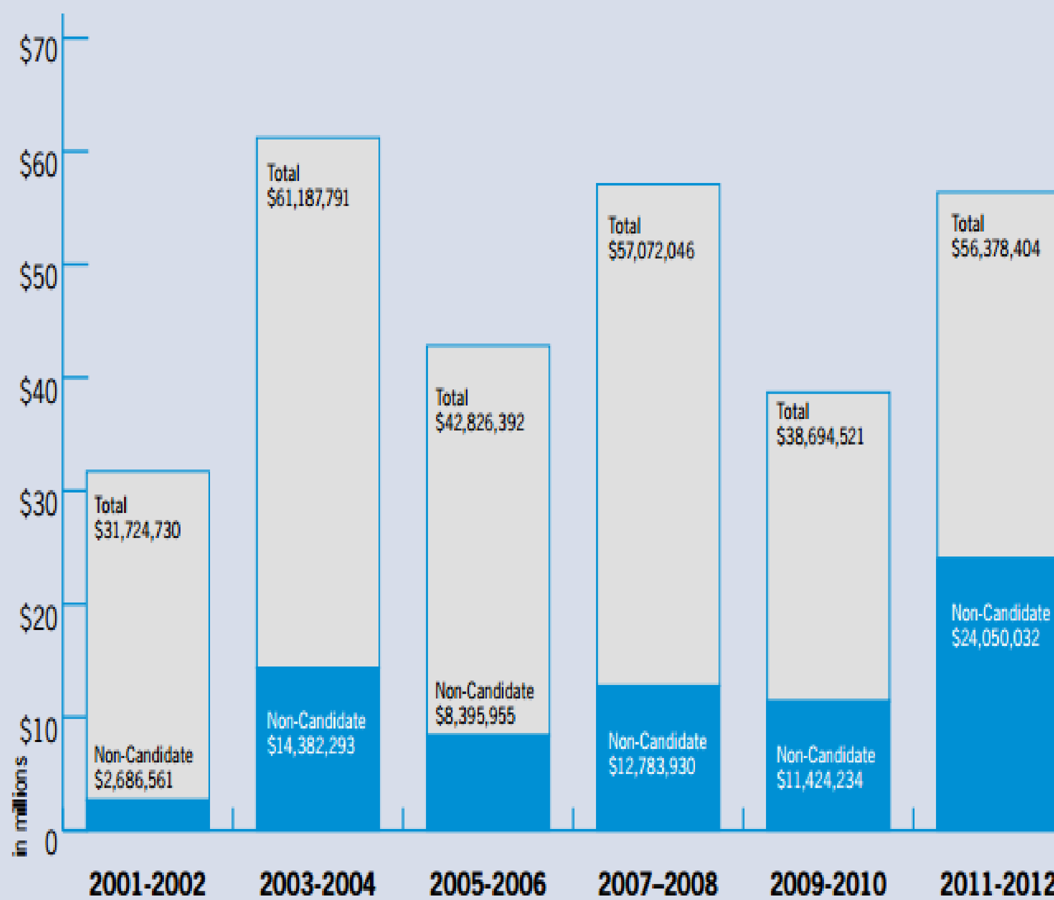
[68] Chart Ibid. at 61.



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[69] Ibid.

III: Data and Methods

The next section of this project will be an empirical analysis of state supreme court candidate fundraising between Ohio and Florida. The independent variables will be selection methods, with partisan elections being Ohio and merit selections being Florida. Candidate fundraising, which is the amount of money a candidate raises during their campaign (including contributions received from outside sources), will serve as the dependent variable in this analysis. I will take a quantitative approach by first examining candidate fundraising between each state from the period of 2000-08, and then examine how the states compared in candidate fundraising for the 2011-12 election cycle.

Data will be collected primarily from the two prominent reports that have been cited throughout this project. Both reports are collaboration projects authored by the Justice at Stake Campaign, Brennan Center for Justice, and the National Institute on Money in State Politics[70]. Additional data will be collected from the National Institute on Money in State Politics Follow the Money website. I expect the results from this analysis to show that more money was raised in Ohio's partisan elections, compared to Florida's merit system retention elections over a span of twelve years. This comparative analysis will strengthen existing research regarding the differences in amounts raised between judicial selection methods.

IV: Results

[70] Ibid. at 57 and 61.

The first relationship examined was a comparison of the fundraising efforts of state supreme court candidates from 2000-08 in both states. During that period in Ohio, there were twenty-seven total candidates running in twelve different races. The 2000 Ohio election had five candidates running in two races, which raised a total of $3.3 million. In 2002 there were four candidates running in two races, raising $6.2 million. The 2004 election was the most expensive in that time period at $6.3 million, consisting of eight candidates running in four races. The 2006 election had six candidates running in two races, raising $2.8 million. Finally in 2008, there were four candidates running in two races, which raised $2.4 million[71]. The total amount raised in Ohio during this period was $21.2 million[72].

Florida's Supreme Court elections during this period were significantly different. There were eleven candidates running in eleven races, but the total amount raised was only $7,500[73]. This entire amount was raised in the 2000 election, which had three judges up for retention that year. In 2002, two judges were up for retention and raised $0. The election in 2004 had two judges also up for retention, and raised $0. Similarly in 2006, there were three judges facing a retention election, in which $0 was raised. Lastly in 2008, one judge faced a retention election and raised $0[74]. The graph below displays the enormous difference in money raised during the period of 2000-08.

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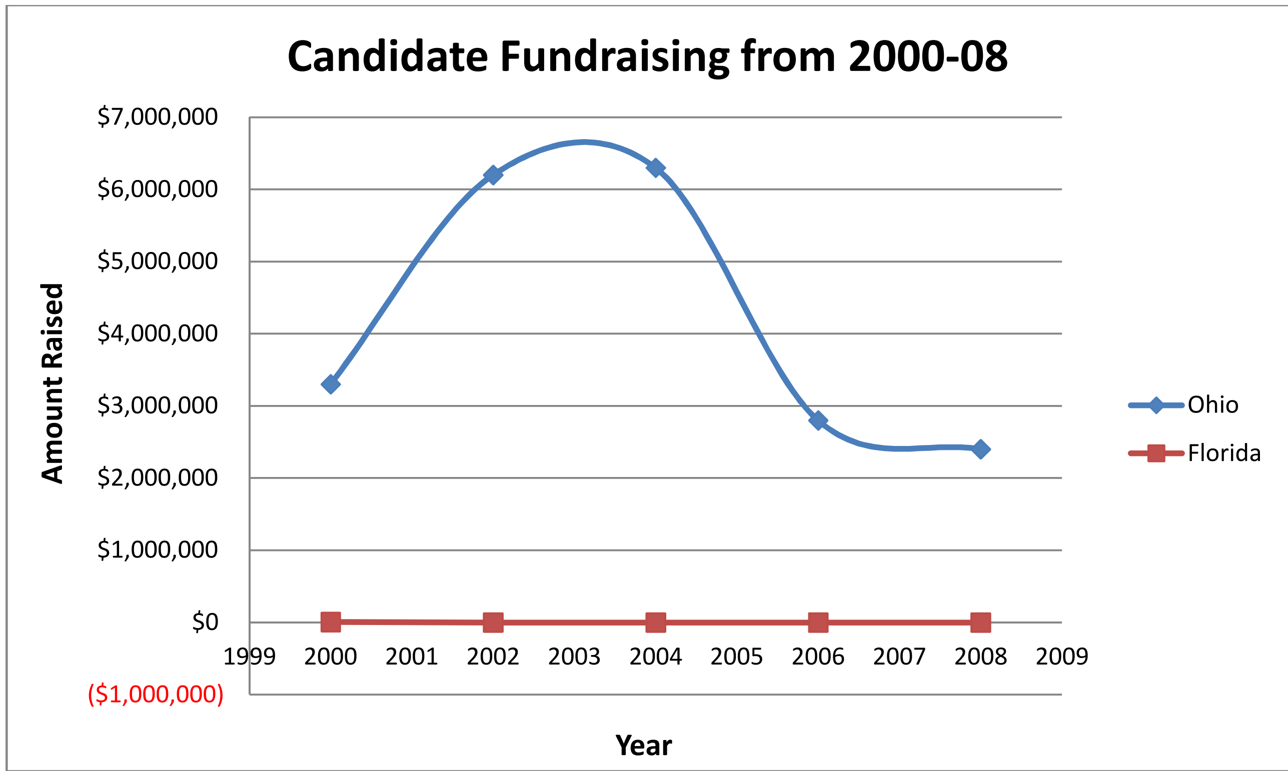
[71] All figures and campaign contributions for judicial elections in each state can be found at http://www.followthemoney.org/.

[72] Ibid. at 57 and 71.

[73] Ibid.

[74] Ibid.



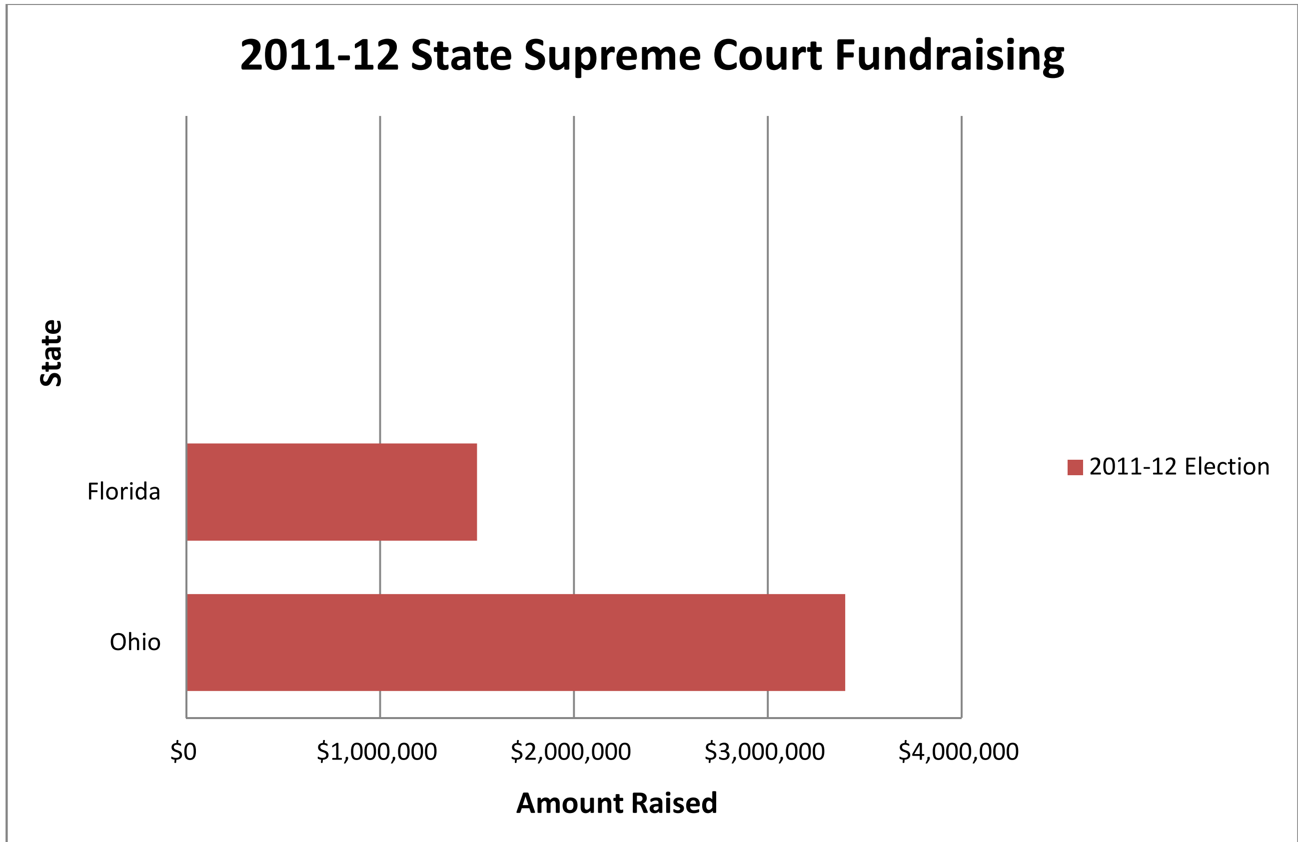
The second relationship examined was how the two states compared in the 2011-12 election cycle, which was the first election following the *Citizens United* decision. Ohio had eight Supreme Court candidates running in three races, raising a total of $3.4 million[75]. This cycle was the most expensive election Florida has ever held for a Supreme Court seat, with an amount totaling $1.5 million from three judges in three retention elections[76]. This was a highly politicized retention election, which contributed to the drastic increase in fundraising from outside sources, made possible by the *Citizens United* decision[77]. This election in Florida also demonstrated that retention elections, which were previously believed to be removed from

[75] Ibid. at 61 and 71.

[76] Ibid.

[77] Ibid.

politics, may also be following the trend of increasing politicization as a result of the *Citizens United* decision[78]. The results of this analysis can be observed in the graph below.



The last graph combines the data used in the previous two graphs, and adds in the amount raised in 2010 to show how the states compared over the entire twelve years. In 2010 Ohio had five candidates running in three races, raising $2.9 million total[79]. There were four judges running in retention elections in Florida that year, in which $0 was raised[80]. This graph illustrates the impact that *Citizens United* had on Florida's retention elections.

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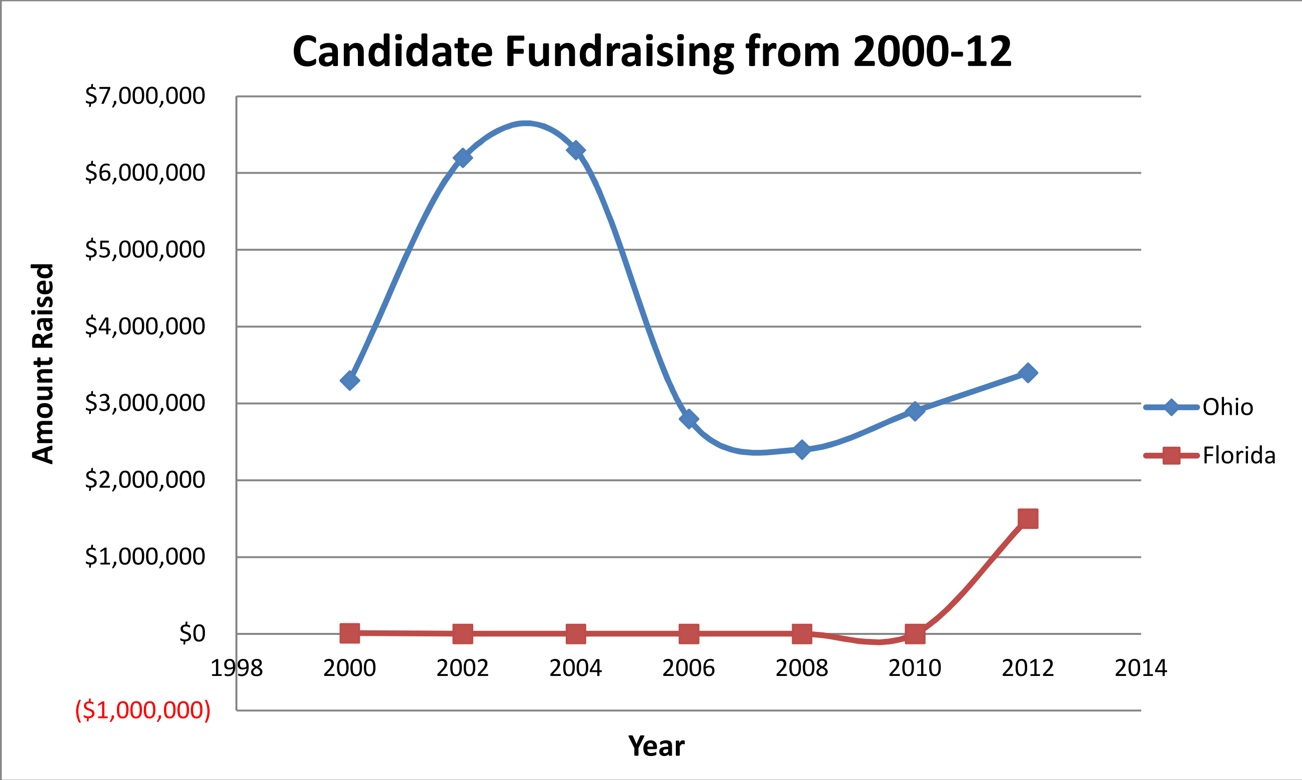
[78] Ibid at 61.

[79] Ibid. at 71

[80] Ibid.



V: Conclusion

The two analyses conducted in this project exhibit that more money was raised in Ohio's Supreme Court races compared to Florida's. While this research only compared two states, the analyses conducted in this project were examining six different election cycles over a period of twelve years, which is an adequate period of time to draw conclusions from. During these twelve years, judicial elections experienced two landmark Supreme Court decisions that dramatically changed the landscape of judicial campaigning.

The first decision in *White* started the trend for increased politicization of judicial elections by allowing judicial candidates to engage in partisan speech while campaigning. By candidates being able to openly favor or oppose issues, this gives interest groups and other

outside parties an added incentive to contribute to the candidate that best supports their interests, essentially fueling the flow of contributions. Years later when the *Citizens United* decision was handed out, judicial elections really started taking their present-day structure. This decision struck down federal bans on independent corporate expenditures, which has subsequently led to most states repealing their own state law bans on these expenditures as well. The impact of this decision has been profound, as several spending records have since been taken to new levels by special-interest groups seeking to influence state supreme court elections. The two states analyzed in this project accurately reflect and illustrate the growing importance of money in judicial elections, while also empirically showing that more money was raised in Ohio, a state with partisan elections, compared to Florida, which uses the merit system.

Candidate fundraising from 2000-08 in Ohio totaled $21.2 million, while only $7,500 was raised over that same time period in Florida. The difference between the amounts raised in both states was substantial and extremely significant. Additionally when the 2011-12 election cycles between the two states were compared and analyzed, two important findings emerged. The first finding showed the effects of the *Citizens United* decision, which led to Florida setting a new record for spending in a Supreme Court election at $1.5 million. The second finding was another continuation of Ohio Supreme Court candidates raising more money than those involved in retention elections in Florida. Ohio candidates raised a total of $3.4 million in that cycle, making the difference in amounts raised approximately $1.9 million.

When the 2010 election cycle was included to show how the states compared over the entire twelve year span, Ohio raised significantly more money. In five out of the seven elections analyzed, Florida judges running in retention elections raised a total of $0. Over the entire twelve years analyzed in this project, Ohio Supreme Court candidates raised approximately $27,500,000, while Florida candidates raised a total of $1,507,500.

This project only directly compares two states, so there are certainly some limitations and other avenues available for future research on this topic. One limitation is the latest data analyzed in this project is for the 2011-12 election cycle, which omits figures from the most recent judicial elections that occurred in 2014. Moreover, this project does not analyze any amounts raised by candidates running in nonpartisan elections. Future research could compare different states, and possibly compare the amounts rose using a three-state study, with each state having a different selection method. In conclusion, the findings in this project substantiate that more money was raised in Ohio, a state with partisan elections, than Florida which uses the merit system. Thus showing the differences in amounts raised between the various methods of judicial selection at the state level.

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