

Is this any way for Idaho to hire its judges?

Marty Trillhaase/Lewiston Tribune

By the time voters go to the polls May 20, they will face eight judicial election campaigns - including Boise attorney William (Breck) Seiniger's challenge to Supreme Court Justice Joel Horton, and in north central Idaho, former 2nd District Judge John Bradbury's run against 2nd District Court Judge Jeff Brudie.

It's been 32 years since Idaho had that many judicial contests.

Didn't know that, did you?

Here's something else you may not know: most judges win election in a primary.

Nowhere else is that the case.

Not for governor.

Not for state legislator.

Not for county commissioner.

Idaho leaves those decisions to the voters who show up for the general election in November.

But when it comes to the judiciary, any candidate who nails down a simple majority in the primary is elected.

Because seven of the eight contests feature only two candidates, that's guaranteed.

That puts a lot more power in fewer hands. Primary elections attract less than half the voter turnout of the general election.

It also gives Republican voters a greater say in who sits on Idaho's bench. Republicans swamp Democrat turnout in the primary eight to one. In the fall, with so many more independents and Democrats in the mix, the GOP's edge is less than two to one.

Did you know many incumbent judges must think twice about retiring when someone challenges them for re-election?

A city councilor who is turned out of office can wind up on the county commission.

A state lawmaker who is tossed out may wind up appointed to run a state agency.

A defeated governor or congressman may be handed a federal appointment.

And a failed presidential candidate may be appointed secretary of state.

Defeat at the polls is taken for what it is. It's not deemed a character flaw or interpreted as a sign that the public has lost faith in the individual.

Except for Idaho's judiciary.

Losing a judicial election is a career killer.

Scattered throughout Idaho's magistrate, district and appellate courts are 61 "senior" judges - retired jurists called in to hear a case because a sitting judge isn't available. It's good for the retired judge. He gets 85 percent of his former pay - set at \$112,000 a year for magistrates, \$124,000 for district court judges, \$130,000 for court of appeals members and \$135,000 for the Supreme Court.

And it's a good deal for Idaho taxpayers because they don't have to hire more judges to contend with the growing number of cases flooding the courts.

But there's one odd wrinkle in this system. No matter how talented, knowledgeable or wise a jurist may be, if he loses a re-election bid, he's disqualified from senior status. Bad enough this system can deprive the public of an experienced judge's service. But ask around and you may well hear stories about this judge or that who opted to retire when a threat at the ballot box showed up because he wouldn't risk losing his senior judge status.

Then there's the money. Pore over a Supreme Court contest and you'll find tens of thousands of dollars donated toward the campaigns. The 2000 Supreme Court contest between Dan Eismann and Cathy Silak piled up more than \$300,000.

At the district court level, it's not uncommon to see candidates raising and spending \$20,000 or so each.

That money comes from somewhere.

Lawyers.

Businesses.

The candidates themselves.

Sometimes it comes from Idaho Falls millionaire Frank VanderSloot. For more than a decade, he made his preferences for the bench abundantly clear. In 2000, he bankrolled the bulk of a \$70,000 third party campaign on Eismann's behalf. Six years later, he invested \$15,000 in a successful campaign to oust 7th District Judge James Herndon of Blackfoot. Four years ago, he dumped nearly \$41,000 into a third party campaign that promoted Supreme Court Justice Roger Burdick and hindered Burdick's challenger that year, District Court Judge Bradbury.

The courts are the one place we expect to level the playing field for all citizens. Considering how Idaho goes about electing its judges, you'd be within your rights have some qualms about that. - M.T.