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Some candidates say state should change ballot position rules

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LOUISVILLE, Ky. - Some candidates say Kentucky's system for determining which political party takes the top ballot spot on election day needs to be changed.

The first name on ballots in Kentucky is determined by the party that carried the state in the last presidential election. After Bill Clinton won the state in 1992, Democratic candidates got the top line in most of the races until 2000, when Republican George W. Bush won the state.

Kentucky is one of at least 18 states that decide the ballot order based on past election results. But some candidates and political experts said that system may be unfair and should be changed.

Scott Alexander, who ran as a Democrat for the state House, said ballot position may have been a factor in his close loss on Nov. 7.

Alexander, of Hazard, lost to incumbent Republican Brandon Smith by just 40 votes out of 13,918 that were cast.

Alexander said he would have won if just 21 Smith voters had went for him instead.

"I definitely think it made 21 votes of difference," he said.

Smith disagreed, arguing that name recognition and personal contact with voters are far bigger factors.

"You don't order the first thing off the menu," he said.

One political expert thinks Alexander has a strong argument.

"He should absolutely go to court," said Jon A. Krosnick, a professor of communication, political science and psychology at Stanford University. Krosnick has been a critic of election systems like those in Kentucky.

"As far as I'm concerned, it's the only way these laws are going to get changed - through legal efforts." A study that Krosnick and two colleagues published in 2004 even suggested that ballot order may have decided the 2000 presidential election.

The debate about the "primacy effect" is going on throughout the country. The effect refers to the idea that someone faced with a choice from among a group of items is inclined, even if only slightly, to select the first one offered.

Three months ago, the New Hampshire Supreme Court considered primacy and concluded that a state statute giving first ballot position to candidates based on a previous election violated a section of the state's constitution.

Kentucky's constitution has a similar section that declares, "All elections shall be free and equal."

In the New Hampshire case, the state's secretary of state testified that "studies showed that the primacy effect can confer as much as a six to ten percent advantage upon candidates whose names appear on lists as long as twelve candidates."

Hopkins Circuit Judge Susan Wesley McClure may have felt some of the primacy effect.

She was listed as second on the ballot in the race to retain her seat in Madisonville in western Kentucky. She said she tried to lead voters to her name on the ballot by circulating literature that said, "Vote '2' keep Judge McClure."

But, she said, "No one really understood what that meant." She lost by less than 5 percentage points to James C. Brantley.

"You can never get inside the mind of the voter and find out what is their basis for voting for someone, the real basis for it," McClure said. But, "I would think rotation (of candidates' names on ballots) ... would give you a better equalization of any benefit that ballot placement would have."

Krosnick and R. Michael Alvarez, a professor of political science at California Institute of Technology in Pasadena, Calif., said they believe the best ballot-ordering systems are those that select candidates at random, and rotate their names on ballots.

Krosnick said he believes the best system is in Ohio, which rotates candidates' names from precinct to precinct, so that all candidates will be listed first in roughly an equal number of precincts. Seven states currently rotate candidates' names in some fashion.

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