

THE WISCONSIN TAXPAYER

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Wisconsin's Spring Elections

Candidates for Supreme Court, Superintendent

On April 2, Wisconsin voters will choose a state Supreme Court Justice and a State Superintendent of Public Instruction. In the Supreme Court race, Justice Pat Roggensack seeks to retain her seat against attorney and Marquette Law professor Ed Fallone. Current state superintendent Tony Evers is being challenged by state representative Don Pridemore. Their biographies and answers to several questions from WISTAX are reprinted beginning on page four.

On Tuesday April 2, Wisconsin voters will elect members of their city councils, village or town boards, and local school boards. In some parts of the state, they will also elect local judges.

However, two races have state-wide impact. Voters will elect a Supreme Court Justice to serve for the next ten years. Justice Pat Roggensack is being challenged by attorney and law school professor Edward Fallone. In the race for State Superintendent of Public Instruction, Tony Evers faces Don Pridemore.

In an effort to inform voters, the Wisconsin Taxpayers Alliance asked candidates in both nonpartisan races about their backgrounds, why they

are running, and other questions specific to their races. Their verbatim responses begin on page four.

First, though, is a discussion of state approaches to overseeing K-12 education. While most residents have a cursory understanding of Wisconsin's system, they probably do not realize how different the Badger State approach is.

GOVERNING EDUCATION

In Wisconsin, K-12 education is overseen by a State Superintendent of Public Instruction, the only constitutional officer elected on a non-partisan basis. The superintendent is elected to a four-year term as head of the Wisconsin Department of Public Instruction (DPI). He or she is not a member of the governor's cabinet.

How a state oversees and selects leaders for K-12 education can have wide-ranging implications. A selection process that is too political can affect public trust and hamper reform. However, if the state's education and political leaders do not have the same vision, needed change may be difficult to achieve.

State Education Governance

Most forms of state education governance combine a state education board with a chief state school officer (CSSO).

Also in this issue:

State Retirees See Cut • Number of Governments Up • School Referenda Results

State education boards are generally policymaking bodies with six functions:

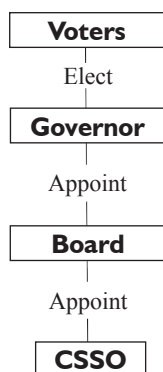
- create teacher and administrator certification standards;
- establish accreditation standards for teacher and administrator preparation programs;
- set high school graduation requirements;
- establish state testing programs;
- review and approve the budget of the state K-12 education agency; and
- develop rules and regulations for administering state K-12 education programs.

The CSSO is generally responsible for supervising the state education agency (DPI in Wisconsin). Some states have two positions dedicated to overall educational governance. In addition to the CSSO, they have an education post in the governor's cabinet.

Varied Approaches

States generally take one of four approaches to education governance. Each has some combination of election or appointment of the CSSO and board members. Elected officials are more accountable to voters, but appointments may make political gridlock less likely. In some cases the board has more power; in others, the CSSO does.

Governing Education: Model I



Appointed Board Appoints Superintendent. In the most common approach (13 states), the governor appoints members of a state board of education. That board then appoints the CSSO.

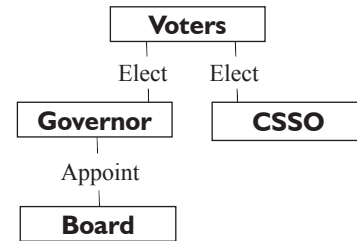
Among these 13 states, four make the CSSO a cabinet position: Connecticut, Maryland, Missouri, and West Virginia. Two states, Kentucky and Massachusetts, have a second education leader in the governor's cabinet.

With this approach, the views of the board and CSSO are more likely to be in line with the governor's. But, that can also lead to a perception of partisanship, which can be lessened if appointees have to be approved by the legislature or if board terms are staggered.

Appointed Board, Elected Superintendent. In a second approach used by 11 states, the Governor appoints a state board of education, but the CSSO is elected.

The CSSO is a cabinet-level position in four of the 11 states using this model: California, Georgia, Idaho,

Governing Education: Model 2



and North Carolina. Another state, Oklahoma, has two education heads. The constitutionally-established Superintendent of Public Instruction is the CSSO who heads the state Department of Education and is president of the state board of education. The Secretary of Education is a gubernatorial appointee who serves in the governor's cabinet and oversees K-12 education, the university system, and vocational education.

Prior to 2011, California also had two education heads. However, the Secretary of Education position was eliminated in 2011, leaving only the constitutionally-established Superintendent of Public Instruction (also a cabinet position).

Although Oregon currently uses this approach, that will change in 2014. Oregon's constitution names the governor as Superintendent of Public Instruction

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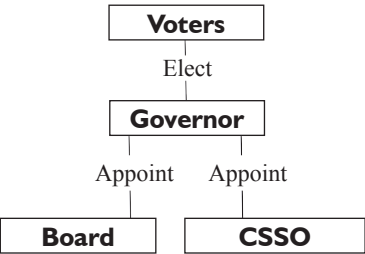
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but authorizes the legislature to create an elected superintendent. Lawmakers there recently eliminated the elected superintendent position effective in 2014, specified a process for the governor to appoint a deputy superintendent, and clarified that the governor is responsible for K-12 education.

This model creates some checks and balances by combining election and appointment. However, it may create unnecessary tension if the state board and CSSO do not share a vision for K-12 education. The board, which typically has more power, will likely reflect the governor’s views.

Governor Appoints Board and CSSO. In nine states, the governor appoints members of the education board and the CSSO. In four (Delaware, Maine, Pennsylvania, and Tennessee), the CSSO is a cabinet position. In Virginia, the governor appoints both the CSSO, who heads the state’s Department of Education,

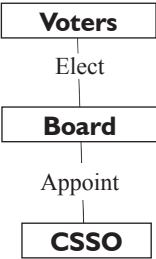
Governing Education: Model 3



and a Secretary of Education, a cabinet officer who oversees the K-12, university, and community college systems.

This approach generally has the same advantages and disadvantages as the first model. Here, though, the governor has more influence, since he or she appoints the CSSO.

Governing Education: Model 4



Elected Board Appoints CSSO.

Seven states use a fourth approach. Voters elect a state board of education, which then appoints the CSSO. In three of those states—Colorado, Michigan, and Nevada—the CSSO is a member of the governor’s cabinet.

This model is seen as less political than the others. However, the board and CSSO may lack the political backing that is often needed to affect change.

Other Models. Ten states (Louisiana, Minnesota, Mississippi, New Mexico, New York, Ohio, South Carolina, Texas, Washington, and Wisconsin) approach governance in other ways. Most approaches are similar to one of those outlined above.

In Louisiana and Ohio, some state board members are elected, while others are appointed by the governor. In both states, the CSSO is appointed by the state board.

In New York and South Carolina, the state legislature appoints the board. In New York, the CSSO is appointed by the board; in South Carolina, it is an elected position.

In Mississippi and Washington, board members are appointed by multiple individuals or organizations. In Mississippi, the governor, lieutenant governor, and Speaker of the House all make appointments. The CSSO is then appointed by the board. In Washington, the board is comprised of elected members, gubernatorial appointees, a private-school representative, the elected CSSO, and two students.

In Texas, the board is elected, and the governor appoints the CSSO. In Minnesota (which has no board) and New Mexico (which has an advisory Public Education Commission), the CSSO is appointed by the governor.

Wisconsin is one of only 14 states with an elected CSSO, and one of only two with no state board. It is the only state with no state education board and an elected CSSO. Similar to the fourth model discussed, some consider the Wisconsin approach less partisan than others. However, Wisconsin also illustrates at least one of the drawbacks of that model. Often, Wisconsin’s Superintendent of Public Instruction does not have enough political support to propose, enact, and implement needed change.

GOVERNANCE AND OUTCOMES

Is any one model better than another? Many factors play a role in the effectiveness of each form of educational governance. That said, a 2006 study from political scientists at the College of William and Mary found that states perform better when governors appoint the CSSO. However, that advantage fades when the governors are also allowed to appoint board members. □

DATA SOURCES:

College of William and Mary; Education Commission of the States; Washington State Senate.

Candidates for Superintendent of Public Instruction and Supreme Court were asked in January to respond to a short questionnaire. All but one candidate provided answers and were given the opportunity to review them before publication. Their answers are reprinted verbatim below. Despite attempts to reach Supreme Court candidate Ed Fallone by U.S. mail, email, fax, and telephone, he did not reply. As a public service, where appropriate, we have included information from Mr. Fallone's campaign website.

SUPERINTENDENT OF PUBLIC INSTRUCTION



**Tony
Evers**

Professional experience

I have 36 years of public school experience, as a teacher and administrator in Tomah, Oakfield, and Verona. Furthermore, I have served as a regional education agency administrator. Before being elected State Superintendent in 2009, I was Wisconsin's Deputy State Superintendent.

Awards and distinctions

I have been recognized and honored for my advocacy for our students by various education groups ranging from the Wisconsin School Nurses to fair funding groups. Most importantly, I cherish the recognition by the people of Wisconsin in the 2009 election.



**Don
Pridemore**

Professional experience

I graduated from Marquette University in 1977 with a B.S.E.E. and worked as an electronics research technician, electronics design engineer, and senior electronics project engineer.

I have 34 years experience in the private sector as an engineer and technician for such outstanding Wisconsin companies as Johnson Controls and Badger Meter. I have 15 years of voluntary service in the outdoor classroom as a Baseball Coach, President of the Erin Youth Baseball Club, Commissioner of the Land-O-Hills Baseball League, former ASM and Merit Badge Councilor for the Boy Scouts of America Troops 741 and 745.

Since being elected to the legislature in 2004, I've always been involved with education, serving on the

Education, Education Reform (past Chair), Colleges and Universities and now as the Chairman of the Urban Education Committee.

My two passions while serving in the legislature have been Education and Election law.

Awards and distinctions

I received the Vietnam Service Award in 1968 while serving in the US Air Force. I am the former President of the Hartford Area Taxpayers Association and was a charter member and former president of the Greater Hartford Optimists Club.

I'm also a member of the Washington, Waukesha and Milwaukee County Republican Parties, the American Legion, VFW, NRA, and former member of the Erin Park Board for 15 years. I am a lifetime member of HKN (an Engineering Honor Society) and a member of the Senior Friends in Hartford. I'm a former member of the IEEE, former state director of the Wis. Citizens for Legal Reform and I was awarded 4 US Patents for my design work in various fields in Electronics including RF, microwaves, functional implementation of assembly code, Doppler motion detection and gate array chip design. I was recognized as an expert in the field Lithium Thynol Chloride Battery design and testing.

CANDIDATE QUESTIONS

Why are you running for the Superintendent of Public Instruction?

Pridemore: As a husband and father of three sons, I believe that the most important reason to have public education is to get our graduates into employment. Our current system has been and is currently failing far too many students in this capacity. That coupled with the fact that 64% of all kids in Wisconsin are not proficient in reading and 52% are behind in math! I'm running because I know we can fix these problems and finally put children first.

Evers: While I have a great agenda to improve our schools, there is no question that we need to reinvest

in our public schools and to once again recognize that our teachers and support staff are the key folks to moving our system forward. We need to unite around small class size, the wise use of technology to free our staff to customize learning, and to create an accountability system that is about supporting improvement.

What is the most pressing problem facing public education in Wisconsin and how would you solve it?

Evers: We must adopt a fair and sustainable funding system. I believe my Fair Funding for our Future plan does that. The system needs to be transparent, guarantee a minimum amount of aid for each school district, and recognize that poorer areas of our state need to be prioritized for funding. This plan, in addition a reinvestment in our schools allow our kids to get personalized learning so that we close our large achievement gaps.

Pridemore: Although Wisconsin is comparable to other states, the US is ranked 18th in the world as far as our ability to educate our kids by a recent UNICEF report. We cannot remain an economic leader or remain a super power in this world if we continue to lose ground with other nations. I want Wisconsin to lead the nation in Education reform much the same way we have lead with budget reform. Common sense, conservative reform will allow us to regain our leadership in the world in much the same way we did in first 150 years since our founding. Not that we want to go back to the same curriculum we had back in the 50's but combine those same principles we used back then while applying modern technology and computer science.

It's my goal to reduce significantly, paperwork and redundancy in my first six months in office. The "educrats" in Madison have created layer upon layer of bureaucracy in the Wisconsin school system and then diverted millions of dollars away from the classroom to pay for it. It is time to get the power and the money out of Madison and back to the local schools. We spend over 500 million dollars per year on special programs. School districts should be allowed to spend that money where they decide it would be most beneficial so we can graduate employable people ready and excited to enter the job market.

Coordination of education policy in Wisconsin is less than ideal. Should Wisconsin consider moving

toward consolidated oversight of K-12, technical colleges, and the UW System? If so, how would it be accomplished: Expanding DPI's duties? A cabinet secretary for education? An elected or appointed state board? Another approach?

Pridemore: More bureaucracy is not going to solve our educational problems. It will only make them worse and drain even more dollars from our education budget. I do believe that Wisconsin should have an elected technical college board and for two reasons. First, most Wisconsinites are unaware of the Technical College Board system, specifically how board members are appointed, which leads to less oversight and accountability by individual taxpayers.

Second, WISTAX found in its "Options for County Organization" report, which was published in 2003, that electing additional governing members has been shown to reduce costs. Once we have seen the results of an elected technical college board, we can then work on further development of our K-16 system.

Evers: The Wisconsin Constitution clearly recognizes that the state's K-12 public education system shall be led by an elected state superintendent. Several years ago the Supreme Court reinforced the will of our Constitutional framers. I serve on the Wisconsin Technical College Board, as well as the University of Wisconsin's Board of Regents. Regular conversations and briefings among the leaders of the various higher education systems, along with those representing the independent colleges and universities greatly increase our alignment of initiatives and resources.

Nationally, state superintendents are elected or appointed (either by the governor or a state board). Wisconsin is one of fourteen states that elects its superintendent. Although it would take a constitutional amendment to change Wisconsin's method of selection, which of these three approaches would achieve the best results and why?

Evers: I believe the present Wisconsin system is best. I am directly accountable to the citizens of the state via the electoral process. In turn, it is necessary for me to have ongoing collaboration among the parents and students of the state, the local schools, other state agencies the legislature other state agencies and Governor's office. I have made that ongoing listening and sharing of information a priority.

Pridemore: Electing a statewide superintendent was the choice of those who wrote our state constitution and wisely so. An elected superintendent is responsible only to the people but has only in recent times become under the strong influence of unions, most notably WEAC. Unions once had a positive influence over improving working conditions for most workers they served and they still could today but in many cases they are not. They have become corrupted by their own success and all too often protect the weakest among them. The problem is not the individual union members like the teachers but union leadership itself, clinging to old fashioned thinking

and outdated methods, all the while protecting their own bloated salaries.

Union influence can be traced all the way down to the School Board elections and the annual district budget meetings. Now that 2011 Act 10 has weakened the unions influence, the opportunity to elect a wider verity of qualified people at every level of our educational system can become a reality. Once “educrats” are replaced by business people, taxpayers and parents, our system can once again thrive and become a vehicle for reform and real progress. After all it really should be about the kids and not just the union teachers and others that put themselves ahead of our kids!

SUPREME COURT



**Pat
Roggensack**

CANDIDATE BACKGROUNDS

Professional experience

I graduated from University of Wisconsin Law School, with honors, in 1980. I practiced law for 16 years, appearing in court on a frequent basis. I was elected to the Wisconsin Court of Appeals in 1996 and was re-elected in 2002. I was elected to the Wisconsin Supreme Court in 2003. Therefore, I have been a judge for almost 17 years. That experience is critical to being a Supreme Court Justice because a large part of what a justice does is to decide whether a judge on another court correctly applied the law. Because I have done the work of a judge, I know where there may have been problems in the process applied by a previous court, and can give a more thorough review of the case. Also, my knowledge of substantive law is very broad because of my service on the Supreme Court and the Court of Appeals.

Awards and distinctions

I am a Justice of the Wisconsin Supreme Court. I graduated from the University of Wisconsin Law School, with honors, in 1980. I am Wisconsin's Commissioner on the Uniform Laws Commission, where I represent Wisconsin's interests as Uniform Laws for the United States are considered. I am a Fellow of the American Bar Foundation, the Supreme Court's delegate to the Wisconsin Judicial Council, a member

of the Committee for Public Trust and Confidence in the Courts, a member of the Supreme Court Finance Committee, a member of the Supreme Court Rules Procedure Committee.

Professional memberships

I am a Fellow of the American Bar Foundation; a member of American Bar Association, State Bar of Wisconsin, Association of Women Lawyers, Dane County Bar Association, Bar Association for the Western District of Wisconsin (of which I am a past president), American Judicature Society; International Women's Forum, Wisconsin Forum (of which I am a past president).



**Ed
Fallone**

Biography (from campaign website)

Ed Fallon is a law professor at Marquette University, a constitutional scholar and a practicing attorney. Professor Fallon has a broad base of legal experience. He has taught at Marquette University Law School for two decades, focusing on constitutional law, immigration law, securities regulation and corporate law. He also practices law with Gonzalez, Saggio & Harlan LLP specializing in complex civil litigation including corporate law and contractual issues.

Fallone is active in the community having worked extensively with several nonprofit organizations

serving at risk populations. He has also been active in promoting education and support for stem cell research in the state as the President of Wisconsin Stem Cell Now. Fallon was recognized with the President's Award from Community Shares of Greater Milwaukee in 2010.

Fallone would be the first Latino Justice on the Wisconsin Supreme Court. His mother immigrated to the United State from Mexico and Fallon grew up in a family equally proud of both its Italian and Mexican heritages. Fallon is married, with two children and lives in Whitefish Bay.

CANDIDATE QUESTIONS

Why are you running for the Wisconsin Supreme Court?

Roggensack: I am running for re-election to the Wisconsin Supreme Court to continue to serve the people of Wisconsin by assuring that all facets of the legal issues presented for review are fully explored in a fair and even-handed way and to facilitate the Supreme Court's more efficient and timely service of the public. During my more than 9 years of service on the Supreme Court, I have focused on trying to improve the efficiency of the Court so that it will better serve the public with decisions that are more timely. I have had some success in this regard, but more needs to be done.

Fallone (from his campaign website): All Wisconsin families deserve Equal Access to Justice. We need to level the playing field so that working families have as much access as the special interests.

I am running to ensure that the court is not tilted toward special interests. I would work to change the rules of the Court to make it more transparent by bringing administrative meetings into the open. I would work to repeal the rule that allows lawyers and parties with a pending case before the Court to give campaign contributions to Justices hearing the case.

We need Justices that have the courage to be independent in the face of political pressure and rule according to the law. I will be that kind of Justice on the Supreme Court. [Mr. Fallon did not provide answers to the remaining questions]

Who or what most influenced your judicial philosophy? Why?

Roggensack: Wisconsin's tripartite system of government, which consists of the legislative, executive

and judicial branches, has been most influential on my judicial philosophy.

This constitutional system requires that when a justice interprets a statute, she interprets it consistent with legislative intent, thereby recognizing that the Wisconsin Constitution granted the legislative power to the Senate and Assembly. Interpreting a Wisconsin statute is the most frequent duty that a Supreme Court justice performs.

Thinking about state Supreme Court decisions over the past 10 years, what one stands out as particularly wise or unwise?

Roggensack: I am not accustomed to evaluating cases as "wise or unwise." The decisions are what the rules of law require. However, some cases become more significant because they answer a question in an activity that regularly occurs in Wisconsin. Admanco v. 700 Stanton Drive, LLC is such a case. There, the security for business transactions that had been provided by letters of credit was affirmed, thereby providing continued certainty for many business transactions through the state.

Do you favor elections or gubernatorial appointment of Supreme Court justices? If the former, do you favor partisan or nonpartisan elections? Why?

Roggensack: I favor judicial elections conducted on a nonpartisan basis for at least two reasons. First, the constitutional provision that requires elections was given a lot of study and thought before enactment; second, Wisconsin voters get a broader selection of candidates from which to choose with nonpartisan elections because the candidates are not required to have any connection with the sitting governor or a political party.

With controversial laws increasingly litigated in courts, how will you distinguish between political and judicial arguments?

Roggensack: While it is true that some cases brought before the Court have political overtones, all of the cases for which the Supreme Court accepts review have significant legal questions or the Court would not grant review. The types of arguments that lawyers choose to make do not drive the decisions of the Supreme Court. Rather, our decisions are grounded in the application of the rule of law upon which the legal question turns. □



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TAXPAYER CORRECTION

On page four of the January issue of the *Wisconsin Taxpayer*, “Raising the Curtain on the New Legislature,” assembly districts were incorrectly matched with their corresponding senate districts. A corrected version can be found at www.wistax/facts/other or by contacting WISTAX by phone at 608-241-9789 or email at wistax@wistax.org.

WISTAX NOTES

■ **State Retirees See Cut.** Despite a 13.7% gain in the Wisconsin Retirement System (WRS) core plan, benefit payments for many WRS participants will be reduced 9.6% this year. WRS smooths gains and losses over a five-year period, and this is the last benefit cut to offset a \$21 billion loss in 2008. Annuity payments were reduced 2.1% in 2009, 1.3% in 2010, 1.2% in 2011, and 7.0% in 2012.

Since a beneficiary’s payment cannot be reduced to less than his or her original benefit, recent retirees will not be affected. State officials estimate the cut will affect more than half of all annuitants, though mostly those who retired before 2000. The average benefit paid in 2011 was \$24,916.

■ **Number of Governments Up.** Wisconsin had 3,123 units of government in 2012, three more than it had in 2007. Nationally, there were 472 (0.5%) fewer governments in 2012, according to the U.S. Census Bureau.

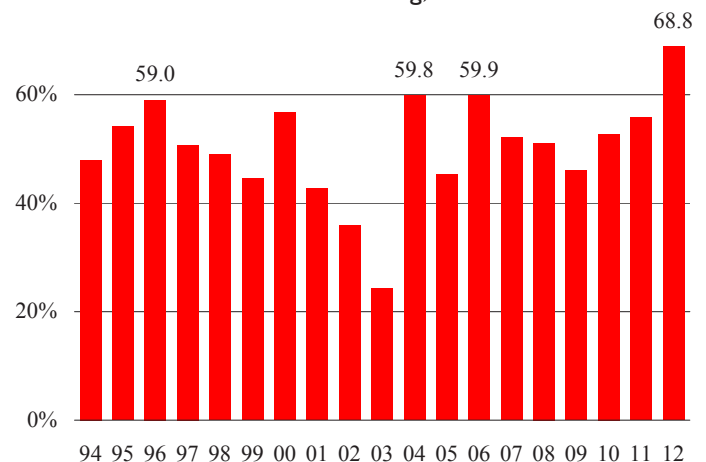
Wisconsin’s increase was due largely to five new special districts. Census numbers indicate that the Badger State has added three cities or villages but lost four towns since 2007. Wisconsin also had one fewer school district in 2012 than in 2007.

Nationally, 16 states had more units of government in 2012, with the largest increase in Colorado (402). Nearly all of the additional units were special districts. Indiana

had the biggest decline (-537), with nearly all of the drop coming in special districts.

■ **School Referenda Results.** Voters approved 53 of 77 (68.8%) school district referenda in 2012, the highest approval rate since Wisconsin’s revenue-limit law became effective in 1994. Thirty of 42 (71.4%) referenda to issue debt for building and renovation were passed. Voters also allowed, at near record levels, districts to exceed their state-mandated revenue limits. Of 35 requests, 23 (65.7%) were approved. The only year in which a greater percentage of revenue-cap referenda were approved was 2011 (26 of 37, or 70.3%). □

Figure 1: School Referenda Approved at Record Rate
% of Referenda Passing, 1994-2012



In FOCUS . . . recently in our biweekly newsletter

- State of the state (I): Job talk vs. job facts (#1-13)
- State of the state (II): Jobs, firm creation, and wages (#2-13)