

# St. Paul Politics / Judge rules instant-runoff campaign should go on trial

## Vote-no group accuses vote-yes group of lying about endorsements

By Dave Orrick

A judge ruled Friday that there is probably cause to believe an allegation the campaign behind the successful instant-runoff voting ballot question in St. Paul broke state laws by claiming endorsements of President Barack Obama, the state Democratic Party and the St. Paul League of Women Voters.

The ruling by Administrative Law Judge Kathleen Sheehy sends the matter to a three-judge panel, which will hear arguments similar to a trial.

It's unclear whether the outcome of that trial could have any real impact on the election, in which voters chose to adopt instant-runoff voting, also known as ranked-choice voting, for mayoral and city council elections beginning in 2011. The margin was 52.45 percent to 47.55 percent; at least 51 percent was needed for the yes vote to succeed.

The new voting method will eliminate primaries for the affected offices by allowing voters to rank their choices in order of preference. Minneapolis employed the method for the first time Tuesday.

Sheehy weighed arguments from both sides, which include both high rhetoric and legal nuance.

"I'd bet a million dollars it won't happen," said Jay Benanav, a former St. Paul City Council member and attorney for the vote-yes Better Ballot Campaign. "To overturn an election is virtually impossible."

Chuck Repke, a St. Paul activist who filed a complaint shortly before the election with the state Office of Administrative Hearings, has another take. "This campaign won by lying about it, and I think they knew it," he said.

Repke, the leader of the vote-no No Bad Ballots group, accused the Better Ballot Campaign of knowingly making false statements on pre-election mailings that claimed the endorsements of Obama, the state Democratic-Farmer-Labor Party and the St. Paul League of Women Voters.

State law says candidate literature cannot carry endorsements of someone without the expressed

written consent of purported endorser, and Repke said the Better Ballot group lacked such permission — at least, as it applied specifically to Tuesday's St. Paul ballot.

Benanav said in some cases his group did have permission and in other cases the law didn't apply.

Here's a summary:

**Obama:** For several weeks, the White House press office has failed to return numerous Pioneer Press inquiries. Obama has supported instant-runoff voting in the past, but it's unclear if he might have a beef with having his name on a local initiative. Repke said none of that matters because the Better Ballot group didn't have his permission, anyway.

Benanav said the written permission law doesn't apply to Obama: "Our contention is that's really for local and state officials."

**St. Paul League of Women Voters:** The group raised alarm bells after the mailings went out. That is, the league's co-presidents, Sigrid Johnson and Phyllis Hollihan, did, in the form of a letter to the Pioneer Press that emphasized that the nonprofit doesn't — and probably legally can't — advocate specifically for or against anything on a ballot. The state league's position is murky, supporting a change to IRV and supporting no change.

Meanwhile, Benanav points to written permission from St. Paul league member Bobbi Megard, who worked for the vote-yes camp, as well as minutes from a 2007 league meeting that show a vote to "endorse the Better Ballot Campaign."

Repke counters that that vote was only to endorse the petition drive of the Better Ballot Campaign to get the issue on the ballot.

**State DFL:** "We are staying out of this dispute," said Kristin Sosanie, spokeswoman for the state DFL. Benanav said the DFL supported the IRV cause in its 2008 platform. Repke said that's not good enough.