

AUGUST 3, 2016 5:02 PM

State's chief justice unsure she still has an opponent



State Supreme Court Chief Justice Barbara Madsen speaks during a 2015 press conference. Madsen is hoping to be re-elected to the high court this fall. Steve Bloom Staff photographer

By Walker Orenstein

worenstein@thenewstribune.com

No question about it: Washington state Supreme Court Chief Justice Barbara Madsen soundly defeated challenger “Zamboni” John Scannell in the primary election for high court Tuesday.

Less settled: Whether she also eliminated second-place finisher Greg Zempel and secured her re-election.

Madsen herself isn't sure.

Her wide margin of victory could assure she's the only candidate to appear on the general election ballot and therefore the winner. Or she could be facing Zempel in a November showdown.

It all depends on which state law applies.

Washington's old election rules for judges allowed candidates who earned more than 50 percent of votes in the primary to advance unopposed to the general election.

But the Legislature amended the statute twice in 2013. One amendment tweaked the law while keeping the provision for state Supreme Court elections in place. The other deleted the provision, tying justices to the top-two primary system used by other elected offices.

"I think at a minimum, it's confusing," Madsen said.

Officials with the Secretary of State's office, however, do not appear torn on the issue.

David Ammons, spokesman for Secretary of State Kim Wyman, said Madsen and Zempel will appear on the general election ballot.

We think top-two trumps the rest and does send the top two forward

Secretary of State spokesman David Ammons

"We think top-two trumps the rest and does send the top two forward," he said of the competing amendments.

Madsen said Wednesday she was waiting to speak with Secretary of State's Office herself on the matter before she takes an stance on the issue.

She hinted at a possible challenge of the office's decision, based on how it interprets the law.

"This just seems to fit right within that common framework of challenging or at least questioning" whether certain candidates should appear on a ballot, she said.

A state law intended to bring clarity to such a mixup exists. It says if two conflicting amendments to the same law are passed in a legislative session, "the act last filed" with the Secretary of State "shall control."

I think at a minimum, it's confusing

State Supreme Court Chief Justice Barbara Madsen

The bill subjecting judges to the conventional top-two system was filed with the Secretary of State about a month after the conflicting bill.

Madsen said she will look at the law "very closely" soon but isn't "overly concerned" .

"It just seems to me to be the judicious thing to take a look and satisfy myself," she said.

Proponents of charter schools **have poured money** into the race in support of Zempel, the elected Kittitas County prosecutor. Madsen authored last year's controversial decision that declared charter schools unconstitutional.

Lawmakers this year **resurrected the schools** by passing a bill that changed their funding source, among other provisions. Teachers unions, parents and other groups filed a lawsuit Wednesday in King County Superior Court challenging the revamped law.

WALKER ORENSTEIN: 360-786-1826 ON TWITTER: @WALKERORENSTEIN

Read more here: <http://www.theolympian.com/news/politics-government/election/article93614807.html#storylink=cpy>