

Gavel to Gavel

A review of state legislation affecting the courts

February 1, 2007

Volume 1, Issue 5

Focus: Judicial Election Financing

Efforts to reform how judicial campaigns are financed have been introduced in at least eight states in the last few years. While none became law in 2005/6, 2007 is already proving to be a very active year.

Programs limited to the appellate courts were introduced in five states. New Mexico's [SB 5034 of 2005](#) and [HB 990 of 2005](#) would be open to candidates able to gather five-dollar contributions from at least one-tenth of one percent of the registered voters in their district. The Senate version died in committee; HB 990 passed in both the House Judiciary and Appropriations & Finance Committees and was approved by the full House. It was then sent to the Senate where it died. New Mexico's governor has announced he will reintroduce the legislation in 2007 [as part of his ethics in government reforms](#) and expand the program to all judicial races.

Georgia's [HB 102 of 2007](#) would be open to appellate court candidates able to gather between \$50,000 and \$100,000 through contributions of up to \$500 each. It is

currently in the House Governmental Affairs committee. Similar legislation was introduced as [HB 102 of 2005](#) with no actions taken.

Montana's [SB 202 of 2007](#) would be limited to Supreme Court candidates who receive 500 contributions of five-dollars a piece. The Senate Judiciary committee held a hearing on January 25 with no action taken.

Washington State's [HB 1186 of 2007](#) is limited to Supreme Court candidates who receive 250 ten-dollar contributions and Court of Appeals candidates who receive 100 such contributions. \$4 million in funding to start the program has been placed in the [Governor's proposed budget](#) as the Judicial Independence Act Account. [SB 5226](#) and the identical [HB 1589](#), known as the "Judicial Independence Act" would introduce a voluntary pilot campaign funding system for all appellate judicial races. HB 1186 and HB 1589 are set for a February 7 hearing before the House Committee on State Government & Tribal Affairs; SB 5226 had a January 25 hearing before the Senate Committee on Government Operations & Elections.

Finally, Michigan's [SB 128 of 2007](#) would apply to Supreme Court candidates who



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collected at least \$50,000. It is currently before the Senate Campaign and Election Oversight Committee.

Three programs would have been open to all candidates. Oklahoma's [SB 2001 of 2005](#) required candidates receive \$10-\$25 contributions from 50 to 250 registered voters, depending on district size. The bill died in the Senate Judiciary committee.

Kentucky's [HB 682 of 2006](#) would have required 50, five-dollar contributions. It was reported favorably out the House Elections, Const. Amendments & Intergovernmental Affairs committee. A floor amendment would have permitted the Kentucky Supreme Court to create a \$25 fee on all bar members for the fund. The bill died at the end of the session.

Finally, New York's AB 8 and AB 7315 of 2005 (not currently online) would have provided matching funds for candidates who raised at least \$5,000. AB 8 would also have required the candidate receive at least twenty-five \$10 donations. AB 8 passed the Assembly Election Law, Codes and Ways and Means committees before being passed by the entire Assembly. No action was taken in the Senate. AB 7315 died in the Assembly Election Law committee.

Newly Introduced

Selection

[ARIZONA SCR 1012 \(2007\)](#) Merit selection threshold raised from counties of 250,000 to counties of 600,000. Even in counties over 600,000 anyone may run against judge seeking retention. Vacancies in office to be filled by Governor with

Senate confirmation and without regard for names submitted by the Commission on Trial Court Appointments. Voted out of Senate Judiciary with a DO PASS recommendation 4-3. Referred to Senate Rules Committee

[CONNECTICUT HB 6817 \(2007\)](#) Removes power to name Probate Court administrator from Chief Justice and grants it to Governor with General Assembly confirmation. In Joint Committee on Judiciary

[HAWAII SB 947 \(2007\)](#) Provides that the Senate's failure to reject or act on an appointment to any office, including justices and certain judges, within 30 days thereof shall be deemed to be a rejection of the appointment. In Senate Committee on Judiciary and Labor

[INDIANA HB 1571 \(2007\)](#) Repeals merit selection for Superior Court in St. Joseph County. Makes the judge of the St. Joseph circuit court the chief judge of the St. Joseph superior court. Transfers juvenile jurisdiction in St. Joseph County from the probate court to the circuit court. In House Committee on Rules and Legislative Procedures

[KANSAS SB 45 \(2007\)](#) Chief judge of the judicial district elected by district judges, not designated by the Supreme Court. In Senate Judiciary which held a hearing January 22.

[KANSAS HB 2261 \(2007\)](#) Chief judge of the judicial district elected by district judges, not designated by the Supreme Court (similar but not identical to KANSAS SB 45). In House Judiciary committee

[KANSAS HCR 5008 \(2007\)](#) Provides that vacancies in Supreme Court to be filled by Governor with Senate confirmation. Retention election required at end of initial term. In House Federal and State Affairs committee

[MARYLAND HB 290 \(2007\)](#) Merit selection for Circuit Court Judges. In House Judiciary Committee

[MARYLAND SB 46 \(2007\)](#) Provides for the nonpartisan election of Circuit Court judges. Hearing February 1 in Senate Education Health and Environmental Affairs committee.

[MINNESOTA SF 324 \(2007\)](#) Ends judicial elections and replaces with nomination by Governor and confirmation by Senate. Judges must be reconfirmed at end of term. In Senate Judiciary Committee

[MISSISSIPPI SCR 549 \(2007\)](#) Provides for appointment of appellate judges with retention elections. Supreme Court permitted to sit in panels of 3. Died in Senate Judiciary Committee

[NEW MEXICO HJR 5 \(2007\)](#) Requires a person appointed to fill a vacancy in office serve at least one year before facing election. House Voters and Elections Committee recommended it DO NOT PASS 6-5. Referred to House Judiciary Committee

[OKLAHOMA HJR 1042 \(2007\)](#) Increases from 1 to 3 members of the Judicial Nomination Commission elected by members of the state bar. Reduces from 12 to 10 commission members selected by Governor and requires they receive Senate confirmation. No committee assigned yet

[SOUTH CAROLINA SB 105 \(2007\)](#) Prohibits judicial candidates from seeking pledge of support from members of the General Assembly until qualifications for all candidates are determined. Passed Senate Judiciary and full Senate and sent to House. In House Judiciary

[TENNESSEE HB 171 \(2007\)](#) Requires appellate judges be elected from “grand divisions.” Changes composition of the judicial selection commission, making all meetings and records of the commission open to the public. Requires judicial applicants to submit to work and credit history checks and to submit to criminal record checks. No committee assigned yet

[UTAH SB 221 \(2007\)](#) Creates the Judicial Retention Election Task Force and requires it report on the value of the existing judicial evaluation program and any other matters relating to judicial retention elections. In Senate Rules committee

[VIRGINIA HB 2089 \(2007\)](#) Repeals Supreme Court’s power to vote on Chief Justice. Chief Justice to be longest serving member of court. In House Committee for Courts of Justice

Qualifications and Terms

[GEORGIA SB 11 \(2007\)](#) Permits judges who are performing ordered military duty to continue in office and be eligible for reelection during such duty. Passed by Senate Judiciary and unanimously by full Senate. In House Judiciary

[HAWAII SB 184 \(2007\)](#) Provides for recall of every elected state official for any reason including and specifically “unresponsiveness to the needs of the

officer's constituents.” In Senate Committee on Judiciary and Labor

[HAWAII SB 185 \(2007\)](#) Provides for initiative, referendum, and recall. In Senate Committee on Judiciary and Labor

[HAWII HB 789 \(2007\)](#) See HAWAII SB 185 (2007). In House Judiciary and House Finance committees

[IDAHO SB 1006 \(2007\)](#) Clarifies that should a person appointed to fill a district judge vacancy lose in the subsequent election, the winner does not take office immediately but in the January after the election. Passed Senate Judiciary and unanimously approved by Senate. In House Judiciary committee

[MARYLAND HB 77 \(2007\)](#) Requires judges of the Orphan’s Court have at least a J.D., or its equivalent, from an accredited law school; those currently serving are exempt. Hearing held in House Judiciary committee January 31.

[MONTANA HB 165 \(2007\)](#) Requires District Court candidates have tried at least five cases to final judgment. Exempts current judges. Tabled in House Judiciary committee.

[TENNESSEE HB 127 \(2007\)](#) Ends the merit selection process for appellate races in the state and replaces with partisan elections. No committee assigned yet

[WASHINGTON HJR 4209 \(2007\)](#) Removes mandatory retirement ages for judges. In House Judiciary Committee with hearing January 31.

Rule Making Authority

[COLORADO SB 142 \(2007\)](#) Repeals Supreme Court’s authority to approve the rules of the state commission on judicial performance. Repeals the authority of the Chief Justice of the Supreme Court to appoint members of judicial performance commissions. In Senate Judiciary committee

[CONNECTICUT SB 126 \(2007\)](#) Enacts numerous recommendations of the Judicial Branch's Public Access Task Force. Specifies rules and procedures for openness of judicial rules committees and permits broadcasting. Defines “administrative record” and that such records are open to the public. Complaints regarding judicial conduct to be referred to Chief Court Administrator who may then forward the complaint to the Judicial Review Council. Provides that criminal docket information will be available to the public. In Joint Committee on Judiciary, which held a [hearing on January 17](#).

[CONNECTICUT SB 835 \(2007\)](#) Requires meetings of the judicial rules committee and annual judicial convention be open to the public. Requires internet postings of all criminal dockets and conviction records. Requires court provide information on dismissals, acquittals, suspended prosecutions and cases referred to the pretrial diversionary programs. Affirms the public's right to take notes in a courtroom, and establishes a committee of judges and journalists to provide quick review of and possible redress when access to court proceedings or records is denied. In Joint Committee on Judiciary

[CONNECTICUT HB 5258 \(2007\)](#) Enacts numerous recommendations of Governor's Commission on Judicial Reform. Creates presumption all appellate proceedings shall be open for broadcasting. Redefines "administrative functions" of the judiciary. Requires pilot program of broadcasting of a select trial court. Provides that members of the public may attend neglect/termination of parental rights cases and provides requirements to be met to remove a person from such hearings. Requires that where judges speak privately with children in such proceedings, the judge is required to share on the record the knowledge gained in the private interview. All documents filed with court presumptively public. Permits Judicial Review Council to reveal it is investigating a judge. If the Council admonishes a judge, it must be made public. In Joint Committee on Judiciary, which held a [hearing on January 17](#).

[NEW HAMPSHIRE HB 210 \(2007\)](#) Establishes committee to study the effects of rescinding the charter of the New Hampshire Bar Association. Specifies the Supreme Court shall regulate the practice of law by attorneys and their admission to practice law and removes any reference to the New Hampshire Bar Association. In House Judiciary committee

[PENNSYLVANIA HB 148 \(2007\)](#) Provides that Courts of Common Pleas must have procedures for hearing and deciding cases involving dissolution of marriage, custody, child support, spousal support, alimony, equitable division of marital property and related family law matters. In House Judiciary committee

[SOUTH DAKOTA HB 1093 \(2007\)](#) Provides that the Supreme Court may

declare judicial emergencies, permit suspension of court operations, designate another facility for cases to be heard, and toll deadlines and other time limits. Passed House Judiciary and passed unanimously by full House. In Senate Judiciary

Structure Changes

[MONTANA SB 382 \(2007\)](#) Permits but does not require mental health courts in each judicial district. In Senate Judiciary committee

[MONTANA HB 251 \(2007\)](#) Creates city courts of record, similar to existing city courts not of record. Passed House Judiciary Committee 15-2 and sent to full House.

[NEW HAMPSHIRE HB 245 \(2007\)](#) Creates a "common law court." Prohibits the judges of the court from being attorneys, plea bargaining or settlements, and requires a jury trial in every case. In House Judiciary committee

[OREGON SB 267 \(2007\)](#) Provides that justice or municipal court may commence or cease operation as court of record only after entry of order by Supreme Court. No committee assigned yet

[PENNSYLVANIA HB 80 \(2007\)](#) Permits but does not require the creation of mental health division in the Court of Common Pleas for a county or judicial district. In House Judiciary committee

Jurisdiction

[CONNECTICUT HB 6286 \(2007\)](#) Raises the age of juvenile court jurisdiction to eighteen. In Joint Committee on Judiciary

[GEORGIA HB 197 \(2007\)](#) Repeals provisions allowing review of sentences of imprisonment for a period exceeding 12 years by a three-judge panel. In House Committee on Judiciary Non-Civil

[IOWA HJR 1 \(2007\)](#) Provides that all new taxes or tax increases must be submitted to voters and grants Supreme Court original jurisdiction in cases arising from the amendment. In House Ways and Means committee

[KENTUCKY SB 54 \(2007\)](#) Requires Circuit Court and Court of Appeals give certain election challenges priority over all other civil cases and sets deadlines by which the courts must render certain decisions. No committee assigned yet

[KENTUCKY HB 198 \(2007\)](#) Raises small claims court jurisdiction from \$1,500 to \$3,000. No committee assigned yet

[MICHIGAN SB 105 \(2007\)](#) Permits magistrates to oversee certain arraignments. In Senate Judiciary committee

[MISSISSIPPI HCR 33 \(2007\)](#) Provides that County Court shall have concurrent jurisdiction with the Chancery Court on child custody matters. Died in House Judiciary Committee

[MISSOURI HB 123 \(2007\)](#) Raises small claims court jurisdiction from \$3,000 to \$5,000. In House Judiciary committee

[MISSOURI HJR 12 \(2007\)](#) Provides that impeachments be tried by the Senate (currently, impeachments are tried by the Supreme Court). No committee assigned yet

[MISSOURI HJR 15 \(2007\)](#) Requires Senate confirmation of Governor's judicial appointments to the Missouri Supreme Court and the Courts of Appeals, ends merit selection for those offices and provides judges of those courts may serve only one, eight-year term. Provides all circuit judges and associate circuit judges to serve eight-year terms, however judges subject to the merit selection plan may only serve one term. No committee assigned yet

[MONTANA SB 227 \(2007\)](#) Extends jurisdiction of Justice Courts with regards to writ of execution, such writ may be served anywhere in state. Passed unanimously in Senate Judiciary. Passed unanimously by full Senate. In House, no committee yet assigned

[NEW HAMPSHIRE SB 39 \(2007\)](#) Permits newly-retired Supreme Court justice to continue to participate as a temporary justice in a case held before retirement but decided after. Senate Judiciary committee voted recommendation OUGHT TO PASS WITH AMENDMENT January 23.

[NEW HAMPSHIRE SB 109 \(2007\)](#) Grants Chief Justice power to suspend, toll, or otherwise grant relief from time deadlines when certain emergency situations occur. In Senate Judiciary committee

[NEW YORK AB 2540 \(2007\)](#) Legislative reapportionment. Sets timetable for petitions to court challenge new districts and requires courts render decisions by certain deadlines.

In Assembly Governmental Operations committee

[OKLAHOMA HJR 1045 \(2007\)](#) Permits Court of the Judiciary to suspend, censure or reprimand judges (Currently, they may only remove or force retirement). No committee assigned yet

[OREGON HB 2123 \(2007\)](#) Provides that court may not declare rule invalid in facial challenge to rule because rule could be applied in manner that violates constitutional provision, statute or statewide planning goal. No committee assigned yet

[PENNSYLVANIA HB 81 \(2007\)](#) Redistricting. Supreme Court to name chair of Reapportionment Commission if other commission members unable to do so. Challenges to reapportionment plans to be heard directly by Supreme Court. In House State Government committee

[RHODE ISLAND SB 36 \(2007\)](#) Creates initiative and referendum system and grants Superior Court original jurisdiction over challenges to the proposals. In Senate Constitutional and Regulatory Issues committee

[SOUTH DAKOTA HB 1098 \(2007\)](#) Expands magistrate court's jurisdiction to allow for acceptance of pleas in cases involving fines of up to \$2,000 (current limit is \$1,000). Passed House Judiciary and passed unanimously by full House. In Senate Judiciary

[WEST VIRGINIA SB 141 \(2007\)](#) Grants jurisdiction over sibling visitation to Family Court. Passed Senate Judiciary and full Senate. Passed in House Judiciary

Salary and Budget

[CONNECTICUT HB 5678 \(2007\)](#) Provides \$1 million for courthouse related security evaluations and \$9 million for security systems. In Joint Committee on Judiciary

[CONNECTICUT HB 6827 \(2007\)](#) Provides for funding of health insurance coverage for Probate Court judges and employees under the state employee health insurance plan. In Joint Committee on Judiciary

[OREGON HB 2417 \(2007\)](#) Directs State Court Administrator to prepare report every two years on compensation of state judges. Requires that report include computation of average compensation paid in other states to judges with closely equivalent responsibilities. Requires that State Court Administrator include statement of amounts needed during immediately following biennium to increase compensation of Oregon judges to equal average compensation received by judges with equivalent responsibilities in other states. No committee assigned yet

[RHODE ISLAND SB 43 \(2007\)](#) Permits judges without spouses or minor children to designate beneficiary for their judicial retirement benefits account should they die before retirement. In Senate Finance committee

[WEST VIRGINIA HB 2497 \(2007\)](#) Creates Judicial Compensation Commission to make recommendations to the Legislature concerning the level of salary for magistrates, judges and justices. In House Judiciary committee

Other

[CONNECTICUT HB 6674 \(2007\)](#) Removes court security marshals from the jurisdiction of the Judiciary and places them under the jurisdiction of the Department of Public Safety. In Joint Committee on Judiciary

[KANSAS SB 86 \(2007\)](#) In civil cases, permits party to change judge once without cause and additional times for cause. Hearing held in Senate Judiciary committee January 29.

[MINNESOTA HF 322 \(2007\)](#) Prohibits the judicial branch from imposing restrictions on certain political activities of its represented employees unless provided for by contract. In House Governmental Operations, Reform, Technology and Elections committee

[MINNESOTA SF 472 \(2007\)](#) See [MINNESOTA HF 322 \(2007\)](#) In Senate State and Local Government Operations and Oversight committee

[MINNESOTA SF 233 \(2007\)](#) Prohibits judicial branch from imposing restrictions on the political activities of its employees outside of the workplace. In Senate Judiciary committee

[MONTANA HB 229 \(2007\)](#) Requires judges recuse themselves when attorney for party has made a contribution to their campaigns. All parties and attorneys involved may waive the recusal requirement. Tabled in House Judiciary committee.

[NEW HAMPSHIRE SB 31 \(2007\)](#) Includes Chief Justice on the state's Advisory Council on Emergency Preparedness and

Security. In Senate Executive Departments and Administration committee

[NEW HAMPSHIRE SB 51 \(2007\)](#) Transfers authority over court forms from the Supreme Court to the judicial branch administrative council. Senate Judiciary committee voted recommendation OUGHT TO PASS January 30.

[NEW HAMPSHIRE SB 79 \(2007\)](#) Provides that the state is required to maintain court security, under conditions deemed appropriate by the Supreme Court, through the county sheriffs. In Senate Judiciary committee

[PENNSYLVANIA HB 56 \(2007\)](#) Permits magisterial district judges to serve as arbitrators in certain circumstances. In House Judiciary committee.

[TENNESSEE SJR 36 \(2007\)](#) Attorney General selected by statewide election (currently, selected by state's Supreme Court). No committee assigned yet

[TENNESSEE SB 56 \(2007\)](#) Requires Clerk of Court of Criminal Appeals report to Board of Professional Responsibility attorneys whose ineffective representation of criminal defendants results in conviction being overturned. No committee assigned yet

[TEXAS HB 842 \(2007\)](#) Requires the addresses of judges and justices be removed from publicly available copies of their personal financial statements. No committee assigned yet

[RHODE ISLAND SB 50 \(2007\)](#) Modifies information that must be reported to state to track and collect court fines and costs.

Permits state court administrator to enter into contracts with collection agencies. Passed Senate Judiciary and full Senate. In House Finance committee.

[VIRGINIA HB 2478 \(2007\)](#) Creates the Wrongful Incarceration Fund to be paid for with fees assessed against each attorney and full-time judge in the Commonwealth and set by the General Assembly. In House Committee for Courts of Justice

Floor and Committee Activity

Provisions of [SOUTH CAROLINA SB 101 \(2007\)](#) that would have required vacancies in the courts be filled by the Governor with

Senate confirmation were stricken from the bill via a floor amendment on January 24. The remainder of the bill, which addressed provisions relating to the election and terms of the other branches, was voted down on the floor 22 to 23 and sent back to the Senate Judiciary committee.

Missouri's efforts at increasing judicial salaries have succeeded. [HCR 13](#), which would have overridden the salary increase recommended by the Missouri Citizens' Commission on Compensation of Elected Officials, passed the House 118-37 but died in the Senate Rules, Joint Rules, Resolutions & Ethics committee for want of a second. The deadline to override the recommendation was February 1.

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