

The Post and Courier – Leave judicial reform intact

May 1, 2003

The Post and Courier Editorials

With virtually no debate, the state House of Representatives recently agreed to remove the restraint on sitting legislators running for judgeships. The one-year waiting period now in effect was one of the major planks in the 1996 judicial reform package. The Senate should kill the bill. If enacted, it would be an astonishing reform setback.

That reform didn't come easy. It took two years of debate and a public outcry before the lawmakers finally put some controls on the judicial selection process. It was only after the General Assembly elected two candidates, including a sitting legislator, who had been found unqualified by the SC Bar Association and among the least qualified by legislative screeners, that the reform movement gained momentum.

A major reform rule took sitting lawmakers out of the running for judgeships. Lawmakers were required to wait a year after leaving the Legislature before seeking that office. While the one-year waiting period can be triggered when a lawmaker decides not to file for re-election, that still puts eight months' distance between the time the Legislature adjourns and when the former lawmaker would be eligible for a judgeship. That's a vast improvement over the days when a legislator could stay a legislator until elected to the bench. In the old days, when a lawmaker let it be known he was in the running, those on the outside didn't bother to try.

The bill to scuttle the reform was sponsored by Rep. Robert Leach, a full-time Republican lawmaker from Greenville. The legislation, now in the Senate Judiciary Committee, would only require a legislator to resign before he filed for a seat on the bench. There's usually only weeks between the filing period, screening and election. And before he filed for the judgeship, the lawmaker could be quietly campaigning on the House and Senate floors.

Rep. Leach tells us that there's still plenty of arm-twisting on judgeships and that he sees no reason to ban someone he knows to be qualified who happens to be in the Legislature from running. Rep. Leach may think he's seen some arm-twisting, but he's only been in the House seven years. He's never been subjected to the kind of battling that can go on between two sitting legislators who want a judicial plum. Neither has he experienced the subtle pressure that a colleague who's running for a seat can exert. Certainly he hasn't seen the vote-swapping that has gone on in the past in exchange for commitments.

House leaders tell us they were surprised that there was so little comment on the Leach

legislation, which actually passed the House by a voice vote. In fact, the bill went through so quickly and quietly that it took the SC Bar Association, one of the main advocates of judicial reform, by surprise.

In a recent letter to the editor, Bar President Richard Rosen of Charleston cited that organization's "grave concern" over the House-passed bill. "With the waiting period in place, well-qualified candidates can operate on a level playing field. The Legislature should do nothing to discourage otherwise qualified nonlegislator candidates from seeking office," he wrote.

The Senate should let it be known that it still favors this major aspect of judicial reform by stopping the House bill in its tracks.