



Everything Jersey

'Courtesy' has no place in Senate confirmation process

By Star-Ledger Guest Columnist

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The U.S. Capitol and U.S. Senate chamber in Washington, DC.

By Bill Schluter/ Star-Ledger Guest Columnist

New Jersey's constitution says the state Senate must give its "advice and consent" on gubernatorial nominations, including judges, cabinet officers, state officials and members of a multitude of state commissions and advisory boards. Senate rules require that all such nominees come before the Senate Judiciary Committee for approval before being submitted to the full Senate.

Over the years, however, this straight-forward process has been distorted into what amounts to a secret black-ball system. The unwritten practice known as "senatorial courtesy" allows a single senator to block a governor's nominee who resides in the same legislative district or county as that senator.

This issue was raised in a Star-Ledger OpEd column last month. Its author, **John Weingart**, has had an outstanding career serving the people of New Jersey, formerly as director of the Division of Coastal Resources in the Department of Environmental Protection and currently as deputy director of the Eagleton Institute of Politics. Weingart lamented the fact that an inordinate number of state appointive positions are vacant, including 12 of the 15 members of the Highlands Council, which he chairs.

Weingart advocated elimination of senatorial courtesy for appointments to boards and commissions — but curiously, he justified continuing the practice when it comes to important paid state positions.

But if senatorial courtesy is bad for routine appointments to volunteer commissions, why is it not even worse for high-stake paid offices of the judiciary and top state jobs?

Senatorial courtesy has no formal status in law or legislative rule. It is merely an unwritten custom or tradition — which also means there is no legal grounds for the courts to overturn it.

Yet it has developed its own set of absolutes: A nominee must have approval, by written memo to the Judiciary Committee, of the senator who represents the nominee's district and of any other senator who resides in the same county as the nominee. Without such approval, the Judiciary Committee will not consider the appointment. An objecting senator does not have to give any reason for withholding approval of a nomination.

Senatorial courtesy is the antithesis of sound, open government, and is used by its practitioners as a bartering system. Nominees are held hostage allowing the senator to negotiate — in reality, extort — concessions from the governor's office, such as a quid-pro-quo appointment of an ally, or a commitment to support a legislative initiative of the senator. Sometimes, it is used as political pay-back against an adversary of the senator.

Why not an open system? Senators are perfectly capable of discussing pending appointments with the governor's office based on qualifications. The senator still retains the ability to persuade colleagues to reject a nominee who is seriously flawed. And the Senate Judiciary Committee would have to do its job of thoroughly reviewing and evaluating nominees, rather than rubber stamping those who have been signed off by their senators. An open system, in my view, insures that the "brightest and best" would emerge as candidates for important state posts.

To try to justify senatorial courtesy for appointees to paid positions, as John Weingart does, because it allows a senator the "means to gain the governor's attention on unrelated matters" or that "when a senator threatens to block a nomination, the governor's office is quick to negotiate," is to use the very arguments that make the practice so nefarious. Besides, the terms "negotiate" and "governor's attention" suggest casual, respectful interaction. In actuality, senatorial courtesy is very one-sided. The senator has all the power.

A black-ball process where one senator can secretly extort self-serving advantages under threat of unilaterally rejecting a duly nominated official has no redeeming value regardless of the office for which the person is nominated.

It is time that senatorial courtesy is abolished. This can be done by a simple constitutional amendment mandating that any nominee subject to "advice and consent" by the Senate must come before the full Senate for an open vote within 90 days.

Bill Schluter, of Pennington, is a former Republican state senator.