

Wallace renomination a test for Governor

By Carl Golden

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While all attention is focused on the confrontation between Gov. Chris Christie and the Democratically-controlled Legislature over the proposed state budget, a less visible issue is playing itself out in the background, one which could have precedent-breaking and far reaching implications for the Executive and Judicial branches of government.

On May 20, the initial seven-year term of Supreme Court Associate Justice John Wallace of Gloucester County will expire, presenting the Governor with the opportunity to deal with what is arguably the most important nomination within the Governor's authority --- a seat on the state's highest court. If nominated and confirmed, Wallace will receive tenure, although he will reach the mandatory retirement age of 70 in two years.

Christie has been a critic of the court --- although not of Wallace specifically --- and there is growing pressure on him to deny Wallace re-nomination, primarily from those who feel the court has too often overstepped its authority and usurped the Constitutional prerogatives of the Legislature.

Accusations that the court is guilty of legislating from the bench are not new, of course, but have taken on added weight as a result of growing discontent with the court's opinions, in particular those ordering vastly increased funding for urban school districts; requiring every municipality to include affordable housing components in local zoning ordinances, and in 2002 allowing Frank Lautenberg to run as a last minute substitution on the ballot, a decision which arguably cost Republicans a seat in the U. S. Senate.

Denying Wallace re-nomination would be largely symbolic since he reaches retirement age in 2012, giving Christie the opportunity to fill the open seat then. To the court's critics, however, the symbolism involved is crucial since it is an unmistakable signal that the elected branches of government --- the Executive and Legislative --- have had enough judicial activism and are willing to curb the court's power.

There is concern that replacing justices based on the prevailing political environment will destroy the state's

term expirations, Christie will have the opportunity to alter a majority.

The term of Justice Roberto Rivera-Soto expires in 2011 and that of Justice Helen Hoens in 2013. Justice Virginia Long will reach retirement age in 2012, as will Justice Wallace.

Despite occasional suggestions to amend the Constitution to provide an elected judiciary, rather than gubernatorial nominations, the state has maintained the current system.

And, while there have been controversies and frequent expressions of displeasure over some nominees, there has never been an instance in which a sitting