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Bar panel urges nonpartisan judge races, public funding

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A joint task force created by the Illinois State and Chicago bar associations has recommended nonpartisan judicial elections.

That proposal from the Task Force on Judicial Independence is one of several suggestions presented in a report that the ISBA's Board of Governors will consider at its meeting at 9 a.m. Friday at the Park Hyatt Chicago, 800 N. Michigan Ave.

The Board of Governors is the 25-member managing body of the ISBA. The ISBA will not take any action on the report's recommendations on Friday, said ISBA President [Irene F. Bahr](#) of Wheaton. Instead, the report will be referred for study to the appropriate sections or committees, likely including the Bench & Bar Section.

"There's some very substantial recommendations in there and whether the bar association will adopt them or not will take some time to decide," Bahr said.

The ISBA has long favored merit selection of judges, but Bahr said that doesn't mean the association would not take a position on this report.

The task force was co-chaired by [Ann M. Lousin](#), a professor at The John Marshall Law School, who represented the CBA, and [James J. Ayres](#) of Novoselsky Law Offices, who represented the ISBA.

The task force was created in the fall of 2005 by then-ISBA President [Robert K. Downs](#) and then-CBA President [Michael B. Hyman](#), now a Cook County circuit judge, and Lousin praised them for their efforts.

Downs said he would urge the ISBA's leadership to support the recommendations in the report. Downs said nonpartisan elections would help change a system in which the selection of judges is driven by political party bosses. He called the task force's work potentially the most important activity that occurred during his presidency.

"The real question is what is done with that report," Downs said.

CBA President [Kevin P. Durkin](#) said the organization's board approved the report in June and supports the recommendations.

Lousin said the idea of nonpartisan elections ties in with the task force's recommendation to enact legislation providing for the public funding of judicial campaigns.

The amount of money spent on judicial campaigns has been increasing in recent years, with the \$9.3 million 2004 Supreme Court race between [Lloyd A. Karmeier](#) and [Gordon E. Maag](#) the most expensive state Supreme Court race ever, according to the Justice at Stake Campaign, a Washington, D.C.-based project

aimed at maintaining the independence of the judiciary.

Lousin said she has seen no evidence that judges can be bought. But the perception is there, Downs said.

He described Maag and Karmeier as "two good candidates who were both victims of obscene financial efforts to discredit them."

"I think the judiciary is faced with unprecedented challenges to its integrity," Downs said.

Lousin said the task force learned from the experiences of North Carolina and Wisconsin, which have public financing laws, that the public will not finance partisan campaigns.

"People would just balk [and say], 'He's in a different party than mine; I'm not going to support his campaign,'" Lousin said.

Lousin noted that while the task force recommended that the General Assembly enact legislation to publicly fund judicial campaigns, at least for the Supreme and Appellate courts, it did not take a position on a bill currently pending that would create a voluntary public financing system for Illinois Supreme Court candidates.

That bill, Senate Bill 1955, sponsored by Sens. [Kirk W. Dillard](#) and [Kwame Y. Raoul](#), passed the Senate, but has been in the House Rules Committee for more than a year. Lousin said the task force didn't want to take a position on a piece of legislation that could later be amended.

Other recommendations of the task force:

- A constitutional amendment that would extend the terms of circuit court judges to eight years and of associate judges to six years. Lousin said it can be difficult for bar groups to evaluate judges seeking retention who have been on the bench for only six years.
- A constitutional amendment allowing the Supreme Court to substitute an appellate justice from the same district if a Supreme Court member decides to recuse himself or herself from a case. This would make it easier for justices to recuse themselves in cases that would present a possible conflict of interest without fear that their absence would create a tie and leave the case unresolved, Lousin said.
- Legislation providing for the full disclosure of sources of funding for judicial campaigns.
- Legislation to provide sufficient funding of the judicial branch.

The report also makes recommendations for the bar associations, including:

- Taking immediate action when judicial campaigns are conducted improperly and discussing campaign ethics with judicial candidates during the candidate screening process.
- Taking more steps to inform voters of the bar associations' positions on judicial candidates.
- Providing seminars on judicial campaign conduct.
- Playing a leadership role in educating the public, particularly young people, about the judiciary.

Other members of the task force were: ISBA appointees [Patrice M. Ball-Reed](#), U.S. Magistrate Judge [Morton Denlow](#), [Joan C. Grant](#) and [Alfred M. Swanson Jr.](#), and CBA appointees Cook County Circuit Judge [Lewis M. Nixon](#), [Steven F. Pflaum](#), [Timothy Ray](#), [Peter J. Segal](#) and [Homero Tristan](#).

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