

MSBA Capitol Connection

February 12, 2010



Justice O'Connor Visits Twin Cities

The MSBA's efforts to pass [judicial selection reform legislation](#) resulted in a visit this week from former United States Supreme Court Justice Sandra Day O'Connor. Justice O'Connor met with members of the [Coalition for Impartial Justice](#) and the Minnesota Supreme Court to discuss proposed reforms to Minnesota's judicial selection process.

Justice O'Connor also spoke to state lawmakers attending a policy conference at the Center for Politics and Governance at the University of Minnesota's Humphrey Institute. O'Connor emphasized the importance of preserving an impartial judiciary. The major local newspapers highlighted [the issue](#) and [Justice O'Connor's visit](#).

MSBA Legislative Agenda

As the first full week of the legislative session draws to a close, over 900 bills have been introduced in the House and Senate. Among them are several MSBA bills:

- [HF2825/SF2427](#): A three-part proposal from the Probate & Trust Section: clarifying that distributions of short-term and long-term capital gains by regulated investment companies and real estate investment trusts will be treated as distributions of principal for purposes of trust accounting; providing for appointment of a conservator on an emergency or temporary basis; and clarifying the parent-child relationship in cases involving non-traditional relationships arising because of adoption and assisted reproduction technology. The House bill is carried by lawyer-legislator Melissa Hortman (DFL-Brooklyn Park); it was

introduced and referred to the Civil Justice Committee. The Senate version is carried by lawyer-legislator Sen. Don Betzold (DFL-Fridley); it was introduced and assigned to the Judiciary Committee.

- [HF2823/SF2232](#): A proposal from the Real Property Section that adds supplemental declarations to the list of documents that may be recorded against common interest community certificates of title. This legislation is carried by lawyer-legislator Sen. Linda Scheid (DFL-Brooklyn Park) and was referred to the Judiciary Committee. Lawyer-legislator Rep. Gail Kulick Jackson (DFL-Milaca) is carrying the companion bill, which will be heard in the Civil Justice Committee on February 15th.
- [HF2828/SF2231](#): A proposal from the Real Property Section clarifying the mortgage registry tax on mortgages that secure less than the full amount of the debt. The chief authors are lawyer-legislators Rep. Gail Kulick Jackson (DFL-Milaca) and Sen. Linda Scheid (DFL-Brooklyn Park). This bill is assigned to the Judiciary Committee in the Senate. The House Civil Justice Committee will hear the bill on February 15th.

Other Noteworthy Bills

Some other bills garnering attention at the Capitol that are of interest to lawyers include:

- **SF2391**: Providing penalty for careless driving resulting in death.
- **HF2380/SF2498**: Providing for adoption of an adult by a guardian.
- **HF2604**: Allowing a stay of mortgage foreclosure proceedings under certain conditions.
- **HF2810/SF2408**: Modifying mandatory work and meal breaks.
- **HF2608/SF2437**: Extending the area for protection to a reasonable area around a residence or dwelling in ex parte orders for protection.
- **SF2167**: Streamlining and modifying conditions that apply to certain construction projects, and providing an investment tax credit and a historic structure rehabilitation credit.
- **SF2362**: Providing for termination of spousal maintenance based on cohabitation.
- **HF2625/SF2432**: Prohibiting insurance underwriting for motor vehicle or homeowner's insurance on the basis of credit information.

- **HF2613/SF2170:** Providing for mediation prior to commencement of mortgage foreclosure proceedings.
- **HF2615/SF2501:** Streamlining the process of connecting an owner facing a residential mortgage foreclosure with an authorized foreclosure prevention agency.
- **SF2304:** Defining attorney for consultation with persons in custody.
- **SF2382:** Requiring participation in a marriage dissolution education program in dissolution or separation proceedings involving minor children.
- **SF2468:** Regulating the admissibility of seat belt use evidence in certain civil actions.

The full text of these and other bills can be found by [entering bill numbers here](#).

Unallotment Litigation

On March 15 the Minnesota Supreme Court will hear oral arguments in a case arising from Gov. Pawlenty's controversial unallotment plan that ended the 2009 session. The governor's legal team submitted a brief this week. In addition, several Republican legislators submitted a friend of the court brief, as did three conservative law professors. [The briefs are available here](#). The respondents have until February 23 to reply.

Gov. Pawlenty Delivers Final State of the State Speech

Gov. Pawlenty delivered his final State of the State speech yesterday. The governor focused on job creation, making his pro-business philosophy clear by saying, "The people who know best how to create jobs are the people who have actually done it." The governor laid out a six-part jobs creation plan that called for:

1. A 20% reduction in the corporate tax rate;
2. A 20% exclusion from taxation for small businesses;
3. An angel investment tax credit;
4. A "supercharged" R&D credit;
5. A capital gains exclusion for qualified investments; and
6. Small business investment incentives.

Of the six proposals, an angel investment tax credit appears to have the most momentum at the Capitol, but the issue became more controversial after [a heated House Tax Committee hearing this week](#).

In addition to tax reforms, the governor said the state needs to reduce spending and he called for a constitutional amendment to limit spending to current revenue. On Monday

he will announce his plan to address the state's current \$1.2 billion budget gap, saying that the military, veterans, core public safety functions, and K-12 classrooms will be protected, but other areas will see "dramatic and painful" cuts.

The governor also called for reforming education and health care, reducing wait time for environmental permits, cracking down on drunk drivers, and doubling prison sentences for sex offenders. Finally, the governor urged the legislature to pass an "affordable, reasonable, and focused" bonding bill. The House bonding bill will be on the floor Monday; the Senate passed its companion 52-14 this week. Each bill has a price tag of just under \$1 billion. [In a letter to the chairs of the House and Senate Capital Investment committees](#), Gov. Pawlenty expressed his concern that the bills are unaffordable and feature projects that do not have statewide impact. If his conditions are not met, the governor has threatened to veto the bonding bill in its entirety rather than just using line item vetoes.