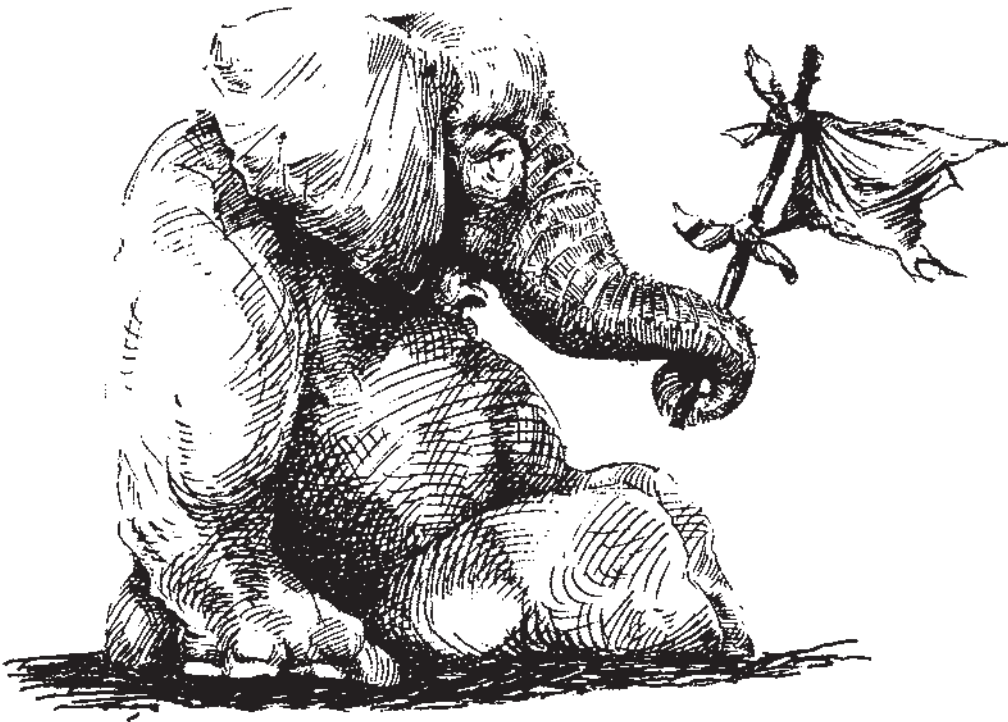


November 13, 2006

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The next issue of Capitol Journal will be available on November 20th.

Top Story

The angry voter tide that swept Democrats into power in the nation's Capitol on Election Day also surged over much of the country, giving Democrats control over 23 statehouses and 28 governors' mansions.

SNCJ Spotlight

State Dems ride wave of voter discontent

The GOP-unfriendly tide that swept Democrats into power in the nation's Capitol on Election Day also surged over much of the country, bringing Democratic gains to statehouses from OREGON to NEW HAMPSHIRE.

Prior to last Tuesday, Republicans held majorities in both chambers of 20 state legislatures and Democrats controlled both chambers in 19. The 10 other partisan statehouses were split between the parties. (NEBRASKA's unicameral

Legislature is nonpartisan.)

But voter dissatisfaction over the Bush administration's handling of the war in Iraq and ethics scandals in the GOP-controlled Congress appears to have enabled the Democrats to seize nine state legislative chambers: INDIANA's House, IOWA'S House and Senate, MICHIGAN's House, MINNESOTA's House, NEW HAMPSHIRE's House and Senate, OREGON's House and WISCONSIN's Senate. The Democrats' achievement in the NEW HAMPSHIRE House was particularly impressive, an 80-seat gain, allowing them to overcome a 242-150 GOP majority and take control of the chamber for the first time since 1922.

The Republicans, meanwhile, managed to wrest control of only one chamber from the Democrats: the MONTANA House. The GOP also gained enough seats in OKLAHOMA's Senate to give them a tie with the Democrats, but the tie-breaking vote in that chamber will be cast by the state's newly-elected lieutenant governor — Jari Askins — a Democrat.

"It looks like we got caught in a wave," said IOWA House Speaker Christopher Rants (R), speaking of his party's losses. That sentiment was echoed by MICHIGAN House Speaker Craig DeRoche (R), who said,

"Things were outside of our control."

As a result of the legislative reshuffling, Democrats now control both chambers in 23 states, while the number of statehouses controlled by Republicans has been reduced

to 16, with 10 statehouses remaining split.

The wave that has given Democrats the edge in statehouse control over Republicans for the first time since 1994, however, doesn't appear to have been a tsunami. The party that doesn't control the White House has gained legislative seats in every mid-term election but one since 1938. (The exception was in 2002, after the 9/11 terrorist attacks.) This time around, the Dems picked up about 275 seats, a respectable haul, but

The week in session

States in Regular Session: DC, MI, NJ, US

States in Informal Session: MA

States in Skeleton Session: OH

States in Perfunctory Session: IL

States in Special Session: WV

States in Recess: NY, PA

States in Special Session in Recess: DE "a", PA "a"

States Prefiling or Drafting for 2007 Session: CO, FL, KY, MT, ND, NH, NV, VA

States Adjourned in 2006: AK, AL, AZ, CA, CT, CO, DE, FL, GA, HI, IA, ID, IL, IN, KS, KY, LA, MD, ME, MN, MO, MS, NC, NE, NH, NM, OK, RI, SC, SD, TN, UT, VA, VT, WA, WI, WV, WY

States in Special Session Adjourned in 2006: AK "b", AK "c", AR "a", AZ "a", CA "a", CA "b", CO "a", IA "a", ID "a", KY "a", LA "a", MD "a", MS "a", MS "b", OK "a", OK "b", OR "a", OK "b", TN "a", TX "c", UT "a", UT "b", VA "a", WV "a", WI "b", WI "c"

Letters indicate special/extraordinary sessions
Source: State Net, 11/02/06

"It looks like we got caught in a wave."

state ballot contests, in which conservative and liberal proposals were supported — and rejected — pretty much in equal measure.

Two hundred and five propositions ultimately went before voters in 37 states on Election Day. As of last week, about 69 percent of those measures (141 of them) had been approved by voters, a slightly higher percentage than approved in 2004 (67 percent).

Voters largely embraced the measures pertaining to the year's hottest issue: property rights. Spurred by last year's U.S. Supreme Court ruling (*Kelo v. New London*) granting governments the power to claim private property for private development, lawmakers and citizens in 13 states had placed measures on the ballot seeking to restrict such seizures. The measures were approved in nine of those states: ARIZONA, FLORIDA, GEORGIA, MICHIGAN, NEVADA, NEW HAMPSHIRE, NORTH DAKOTA, OREGON and SOUTH CAROLINA. The four measures that failed — in CALIFORNIA, IDAHO, MONTANA and WASHINGTON — went further than just limiting eminent domain, mandating compensation for “regulatory takings,” the devaluation of property through changes in land use regulations, as well. The one property rights measure with a regulatory taking provision that did pass was ARIZONA's Prop. 207.

Voters were also fairly receptive to gay marriage restrictions. Of the nine constitutional bans on same-sex marriage up for consideration, seven were approved (in COLORADO, IDAHO, SOUTH CAROLINA, SOUTH DAKOTA, TENNESSEE, VIRGINIA and WISCONSIN), bringing the total number of states having approved such measures to 27. COLORADO voters left no doubt about their position on the issue, rejecting a proposal that would have granted same-sex couples the same legal rights as married couples at the same time that they adopted their gay marriage ban. But the biggest news was in ARIZONA, which bucked the prevailing trend and became the first state in the nation to reject a constitutional amendment banning gay marriage.

The tobacco industry succeeded in snuffing out tobacco tax increases in CALIFORNIA and MISSOURI, but failed to extinguish tax hikes in two other states: ARIZONA and SOUTH DAKOTA. The industry was somewhat less successful with respect to the smoking-ban measures that were up for consideration, preventing the adoption of tough bans over its own less-restrictive proposals in ARIZONA, NEVADA and OHIO — although Arizonans actually approved the industry's more smoker-friendly measure too.

This year's election may have hammered a nail in the coffin of the national anti-government spending movement, which many declared dead after Coloradoans voted to suspend their state's TABOR law last

November. Not only did several spending cap measures fail to even make the ballot this year, due mainly to court challenges, all three of those that did — in MAINE, NEBRASKA and OREGON — were rejected by voters.

Another issue that appeared to be waning this year — the minimum wage — fared considerably better. Although progressive groups only managed to place minimum wage hikes on the ballot in six of the 11 states they'd hoped to, all six of those measures passed (in ARIZONA, COLORADO, MISSOURI, MONTANA, NEVADA and OHIO).

The biggest loss for conservatives was undoubtedly the decisive defeat (55 percent to 45 percent) of SOUTH DAKOTA's Referred Law 6, effectively killing off the pro-life movement's effort to challenge *Roe v. Wade* through the Coyote State statute. Local pro-choice advocates understandably saw the result as a victory that extended well beyond their state's borders.

"If you can't win an abortion ban in SOUTH DAKOTA, most states are going to be very hesitant to try this. We're not seen as a bastion of liberal thinking out here." But supporters of the ban said the vote hadn't settled a thing, and they vowed to continue the fight. "This is a marathon, and we have lots of energy left," said Leslee Unruh, manager of the abortion ban campaign.

Liberals, meanwhile, suffered a significant blow in MICHIGAN, where voters approved Proposal 2, ending affirmative action programs in college admissions and government hiring. Juanita Taylor, president of the Port Huron, MICHIGAN Chapter of the NAACP, said the decision would "reverse a lot of things that have been positive for women and minorities." But the view expressed by one Wolverine State voter appears to have been the prevailing one. "I just believe people should earn their jobs," he said.

Jennie Drage Bowser, an election analyst for the National Conference of State Legislatures, summed up the inconsistent results in the ballot races this way: "Despite an environment of frustration with government, voters clearly acted on ballot measures on an issue-by-issue basis." (IANDRINSTITUTE.ORG, NCSL.ORG, STATELINE.ORG, TIMES HERALD [PORT HURON], LOS ANGELES TIMES)

— *Compiled by KOREY CLARK*

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Governors

GOVNS GONE BLUE: Most pundits and media outlets were focused almost solely on the dramatic Democratic gains in Congress during last week's elections, but the Dems' acquisition of six governors' mansions — giving them a 28-22 advantage in governorships — could prove to be equally significant, particularly in regard to the possible influence those governors could have on the wide-open 2008 presidential election.

The GOP had held the edge in governorships since the “Republican Revolution” of 1994, the same year the GOP also grabbed almost 500 additional state legislative seats as well as control of both chambers of Congress. But Dems rode a similar wave of their own last week, with the political bounty including five states previously under GOP gubernatorial control — OHIO, MASSACHUSETTS, ARKANSAS, COLORADO and NEW YORK.

In addition to having a bully pulpit from which to push their pet policies and guide party direction, governors can heavily influence how much their state does or does not support presidential candidates. In that regard, Democratic governors now control states that carry 295 electoral votes, much more than the 270 needed to win the presidency. That, experts say, could give a major boost to whichever Democrat comes out of the 2008 primaries. Republicans, however, did hold on to several of the nation's biggest states, including CALIFORNIA, FLORIDA and TEXAS. Those three states alone account for 116 electoral votes.

“Governors get a lot of media attention, and they really set the agenda in their individual states,” says Darrell West, a political scientist at Brown University in RHODE ISLAND, of the impact that governors can have on presidential politics. “So if you have a strong party base in the governor's office, that's half the battle.”

The governor's office is also a great leaping off point for those interested in seeking higher office themselves, with four of the five presidents since 1976 — Jimmy Carter, Ronald Reagan, Bill Clinton and George W. Bush — being former state governors. Not surprisingly, several current and soon-to-be former governors are now weighing their own presidential chances, including outgoing Republicans Mitt Romney of MASSACHUSETTS, Mike Huckabee of ARKANSAS and George Pataki of NEW YORK. Termed-out IOWA Gov. Tom Vilsack (D) officially announced his presidential candidacy last week, and many observers expect NEW MEXICO Gov. Bill Richardson (D) to eventually



follow suit. Several other current governors, including Democrats Janet Napolitano of ARIZONA and Kathleen Sebelius of KANSAS — both of whom easily won re-election last week — and termed-out Republican Jeb Bush of FLORIDA, have been noted as possible vice-presidential candidates.

Another major impact from last Tuesday’s gubernatorial elections could come in how states interact with Washington. Governors of both parties have long complained bitterly of heavy-handed treatment from the Bush administration on numerous state-centric policy issues, particularly healthcare, K-12 education and immigration. But with Dems now solidly in control of Congress, most governors’

“It’s extremely significant, the winning of these governors’ races, for winning in ‘08, for congressional redistricting, for shifting the power of policy from the federal government to the states.”

offices and a strong majority of statehouses, many observers anticipate a greater willingness from the White House to consider state wishes in dealing with these issues. Gov. Richardson, who handily won a second term of his own Tuesday night, said as much in the afterglow of the Dems’ big night, noting that, “It’s extremely significant, the winning of these governors’ races, for winning in ‘08, for congressional redistricting, for shifting the power of policy from the federal government to the states.” (ASSOCIATED PRESS, ARIZONA DAILY STAR, CHRISTIAN SCIENCE MONITOR)

SCHWARZENEGGER A MODEL OF MODERATION? For most of his public life, CALIFORNIA Gov. Arnold Schwarzenegger (R) — former super-sized bodybuilding champion, action movie hero and alleged serial groper — would never have been considered a model of moderation. But that is exactly what many observers are now calling him in the wake of his shockingly easy re-election victory last week, a smashing triumph that once seemed utterly unlikely in the aftermath of his disastrous “Year of Reform” special election only a year ago.

In that previous campaign, Schwarzenegger veered sharply away from the centrist positions that originally got him elected to replace recalled Gov. Gray Davis (D) and instead took on a hard right persona that inspired his supporters to jump ship in droves. But after that very public self-inflicted smack down, “The Governor” apologized for his efforts

and vowed to return to a more bipartisan, centrist agenda. Then Schwarzenegger did something politicians rarely do — he went out and did exactly what he promised.

Working with a religious-like fervor with state Democratic leaders on a host of liberal-leaning measures like a minimum wage hike and stronger restrictions on greenhouse gas emissions, Schwarzenegger gradually wooed back the independents and moderate Democrats he had lost with his special election fiasco. But apparently with a constant eye on the November elections, Schwarzenegger simultaneously made sure not to completely abandon his GOP base, holding fast on his refusal to allow the minimum wage hike to be tied to inflation and vetoing for the third time a measure that would have allowed illegal immigrants to obtain drivers' licenses.

The strategy clearly worked, as CALIFORNIA voters re-elected him 56 percent of the vote, a 17-point victory over his ultra-liberal Democratic challenger, state treasurer Phil Angelides. While Schwarzenegger's coziness with Dems often made state GOP leaders see red, the results drew nothing but praise from CALIFORNIA Republican Party leader Duf Sundheim. "I really think what he has done is to establish a model of what the people of America want, and other Republicans need to watch," said Sundheim, referring to the dramatic losses suffered by Congressional Republicans. Many observers blame those defeats in part on the public's weariness with partisan bickering between the parties.

Assembly Speaker Fabian Nunez, a vocal Schwarzenegger critic turned fast ally during the governor's about face, also scoffed at suggestions that with the race now won, the governor would again tack to the right. "Bipartisanship has worked," Nunez said. "He's going to want to leave a legacy. The only way to do that is to work with the Legislature and get things done."

Schwarzenegger's bipartisan ways might have already rubbed off on one a few of his new GOP colleagues. FLORIDA Gov.-elect Charlie Crist (R) told reporters last week that he intended to include Democrats

In the hopper

State Net's database tracks tens of thousands of bills in all 50 states at any given time. Here's a snapshot of what's in the legislative works:

Number of 2006 prefiles last week:
23

Number of 2007 prefiles last week:
65

Number of 2006 Intros last week:
182

Number of bills enacted/adopted last week: 54

Number of 2006 prefiles to date:
21,447

Number of 2007 prefiles to date:
1,920

Number of 2006 Intros to date:
100,795

Number of enacted/adopted overall in 2006: 31,551

— Compiled By JAMES ROSS
(Measures current as of 11/01/06)
Source: State Net



Master File. The survey, conducted by the *Providence Journal*, also revealed far more dead Democrats (2,394) than Republicans (391), with the rest “unaffiliated.” Since RHODE ISLAND does not require an ID check prior to voting, the next survey will focus on how many of the dead actually voted. That information should be available in two to three weeks.

Upcoming stories

Here are some of the topics you will see covered in upcoming issues of the State Net Capitol Journal:

- **Funding transportation**
- **Motorcycle helmet laws**
- **Animal rescues in disasters**

A COSTLY BET: When Democrat Ed Rendell swept to re-election victory last week in PENNSYLVANIA, he probably wished that his Republican opponent was a little more adept at snagging voters. After all, Republican Lynn Swann had been an all-pro wide receiver for the Pittsburgh Steelers. Not that Rendell wanted Swann to win; just get at least 41 percent of the vote. Swann fell short of that mark, and it could cost the governor a bundle. According to the *Philadelphia Inquirer*, Rendell’s son bet the governor that he would get 60 percent of the vote. The governor scoffed at the notion. The wager came down while father and son admired a new Aston Martin convertible during last February’s Philadelphia International Auto Show, and the two agreed on the car as a pay-off. Rendell got 60 percent. The car retails for \$110,000.

THE WORLD’S MOST ANNOYING EXEMPTION: They became as ubiquitous during this election season as mosquitoes in a swamp, and one MARYLAND attorney had had it. So, Michael Worsham sued — among others — Gov. Robert Ehrlich Jr., hoping to have so-called “robo-calls” subjected to the “Do Not Call” list. “Preferably, I’d like to have these types of calls banned,” Worsham told the *Baltimore Sun*. Worsham claims that robo-calls received at his home violated FCC rules requiring identification of the caller. A MARYLAND version of those rules was signed into law in 2004 — by Ehrlich.

LIST FATIGUE: The state of MISSISSIPPI is tired of showing up at the bottom of nearly every ranking of state achievement. So, reports the *New York Times*, a Jackson ad agency has created a series of posters that tout MISSISSIPPI — and each poster feeds off negative stereotypes. For instance, the agency created a message to counter the notion that the Magnolia State’s reading test scores are low. “Yes, we can read,” proclaims the poster. It then highlights local writers such as William Faulkner, Richard Wright, Eudora Welty and John Grisham. A second poster pooh-poohs MISSISSIPPI as the nation’s “poorest” state, pointing



out that — per capita — MISSISSIPPIANS give more to charity than folks do anywhere else in the country.

DISCOURAGING VOTERS: This election season produced a host of stories about potential or perceived intimidation of voters. But it was more than perception in the case of a poll worker in KENTUCKY. According to the *Courier-Journal* of Louisville, sheriff’s deputies had to be called to one precinct where a poll worker allegedly choked a voter and pushed him out of the polling place. Reason for the assault: The voter had left part of his ballot blank, not voting for a slate of judges. The poll worker refused to process the ballot until the voter filled in all the blanks, at which point the two engaged in an argument about the right NOT to vote. The poll worker was escorted to jail; the voter returned to have someone else process his ballot.

CLINK GOES PINK: One MISSOURI sheriff was so upset after inmates vandalized part of his jail last month that he repainted the cells pink, with teal accents. “If they are going to act like children and commit a childish act, then we’ll make it a childish atmosphere,” Sheriff Michael Rackley told the Associated Press. “It’s a calming thing...How do you feel tough in a pink atmosphere?”

— *By A.G. BLOCK*



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