

Opened and Closed

This year's elections may be behind us, but discussions of financial disclosure requirements continue. Although no state requires candidates to release their tax returns, many contenders do as a matter of custom.

All but three states—Idaho, Michigan and Vermont—require state legislators to file personal financial disclosures, also called statements of economic interest. Most also require lawmakers to update these files annually.

Lawmakers usually are required to state their occupation, the sources of their income, the names of corporations in which they hold a position such as director or officer, the addresses of their property, the names of creditors and debtors and names of businesses in which they hold a financial interest. Income amounts are not

required in 30 states; in the other 17, filers must disclose an amount or a range.

More than two-thirds of the states also require information about spouses and dependent children. Thirty-one states require disclosing any connections lawmakers or their family members have with state agencies; 18 also require disclosure of associations with lobbyists.

Twenty-six states require lawmakers whose work involves clients—attorneys, accountants, physicians, etc.—to disclose client information, though 19 states allow for exceptions.

How much of this information is open to the public varies as well. About one-third of the states do not make candidate information easily available to the public.

That needs to change, according to John Wihbey and Mike Beaudet, professors at the Northeastern University School of



Journalism. They argued, in a New York Times opinion piece, that “with trust in government at historic lows,” all elected officials with significant power, including state legislators, should be required to disclose their income sources and amounts.

California, Missouri, Rhode Island, South Dakota and Washington had financial disclosure referenda on the ballot this fall, but most dealt more with campaign financing than with disclosure of personal assets. In South Dakota, Measure 22 requires additional disclosures and greater reporting, along with other campaign finance changes. It was approved by almost 52 percent of the voters.

—Julie Lays

Fracas Over Fakes

Fake guns don't kill people. But that doesn't matter much to police officers when someone points a very real-looking imitation weapon at them.

Even the most experienced officers have trouble distinguishing a facsimile firearm from the real deal. Matters only get worse when an officer has just a fraction of a second to react, a suspect is moving or visibility is poor—or all of the above. Such circumstances can lead to tragedy, the latest being the fatal shooting by police in Columbus, Ohio, of Tyre King, a 13-year-old who pulled a BB gun that looked “practically identical” to the firearm officers use.

Since the late 1980s it's been a federal offense “for any person to manufacture, enter into commerce, ship, transport or receive any toy, look-alike, or imitation firearm unless such firearm contains, or has affixed to it, a marking approved by the Secretary of Commerce.” An orange safety tip at the end of the barrel of some guns was adopted to help officers recognize a fake, but it can be removed or tampered with fairly easily.

Since 2011, officers have shot and killed at least six people brand-

ishing real-looking fake guns. Research by The Associated Press found that, over the last two decades, at least 25 deaths nationwide involved look-alike guns mistaken by police for actual firearms.

The recent shooting deaths have led a growing number of state legislatures to consider their own regulation of fake guns. At least 11 states, Puerto Rico, the District of Columbia and many cities have laws or ordinances regulating the sale or use of imitation firearms.

Michigan and New Jersey are the latest states to consider bills on the topic. Michigan's legislation would make it a misdemeanor to possess an imitation firearm in a public place; to “remove, disguise, cloak, cover, conceal, alter, obliterate or mask” the color markings required on imitation firearms; or to add color or markings on a real gun in a way that makes it look like an imitation.

New Jersey's bill would ban toy guns unless they come in colors other than black, blue, silver or aluminum and have a 1-inch-thick orange stripe running down each side of the barrel. Such toys, excepting water guns, must also have a closed barrel.

—Kevin Frazzini



Overtime Overview

Twenty-one states are suing the U.S. Department of Labor over new overtime rules that make it likely that more state government employees will qualify for overtime pay.

The changes could be quite costly to state governments that employ more than 5 million people nationwide.

The states are seeking an injunction to prevent the new rules from going into effect on Dec. 1.

Under the federal Fair Labor Standards Act, adopted in 1938, regulations exempted certain “white collar” employees who made

\$23,660 or more a year from having to be paid overtime if they worked more than 40 hours a week.

The states argue the Department of Labor exceed its authority last May when it issued final rules that nearly doubled that salary—to \$47,476 a year.

The Labor Department also raised the salary threshold for highly compensated employees—who aren’t eligible for overtime no matter their job duties—from \$100,000 to \$134,000 a year. The rules automatically update the salary level every three years for white collar and highly com-

pensated employees.

The states claim Congress improperly delegated unlimited legislative authority to the Labor Department to make the rules.

The states argue they “cannot reasonably rely upon a corresponding increase in revenue” to make up the hike in pay and may be forced to reduce or eliminate some essential government services.

The states want to overturn *Garcia v. San Antonio Metropolitan Transit Authority* (1985) in which the court ruled the federal labor act applies to the states.

As in almost any lawsuit objecting to federal rules, the states argue the rules are “arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.”

—Lisa Soronen

Nuclear Gets Zero Credit

Since 2013, six nuclear reactors in the U.S. have been closed, and another eight are scheduled to close in the coming years—often well before they’ve reached the end of their operational lives. Nuclear power provides almost 20 percent of the nation’s electricity, but factors such as competition from other energy sources and low demand growth are making it more challenging for nuclear to compete in the energy mix. Several states have placed restrictions on the construction of new nuclear power plants, often citing the need for a high-level waste storage and disposal solution.

There are policymakers, however, who believe the benefits of nuclear energy—reliability, carbon-free emissions and the economic contribution to states and local communities—outweigh the risks. They are looking for ways to help construct new nuclear plants and educate the public on nuclear issues. Currently, there are four new reactors under construction in Georgia and South Carolina that are scheduled to come online around 2020. In the near term, the goal of a number of policymakers is simply to retain the current fleet of nuclear plants by helping them recover operating costs.

Some states have considered mandates, similar to renewable portfolio standards, which would require that a certain percent of a utility’s electricity come from nuclear power. Recently, however, zero-emissions credits have seen the most traction. Similar to renewable energy credits, they are intended to reward nuclear plants based on the megawatt-hours of carbon-free electricity they generate. Ratepayers would pay for the subsidy through a charge on their bills.

Illinois and New York considered zero-emissions credits this year. In August, the New York Public Service Commission

approved a program that is estimated to cost \$965 million over its first two years—a little under \$2 per month on the average customer’s bill. The compensation rate will rise or fall every two years based on several factors, including the social cost of carbon and market conditions. If overall electricity prices rise to a certain level, the subsidy would drop accordingly. One nuclear plant in New York has reversed its decision to shut down as a result of the policy, which does not require legislative approval. However, a number of groups have filed legal challenges.

In Illinois, a similar zero-emissions policy is in the hands of the General Assembly. Exelon Corp., which owns and operates all 11 reactors in the state, has said a policy fix needs to be put in place before the end of the year to keep three of its reactors online.

Although the nation’s first new nuclear reactor in almost two decades opened this fall in Tennessee, another reactor shut down in Nebraska, bringing the U.S. total to 99. Without regulatory changes, the number of operating nuclear reactors will likely fall to the lowest number since the 1980s.

—Kristy Hartman and Daniel Shea

