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## NY Senate approves Spitzer's nominee to state's highest court

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ALBANY, N.Y. -- The state Senate on Monday approved Gov. Eliot Spitzer's first nominee to the state's highest court, despite bad blood between the governor and lawmakers.

Brooklyn Supreme Court Justice Theodore Jones Jr., 62, was unanimously approved by the Senate Judiciary Committee after an hour-long hearing Monday. The nomination was later approved by the full Senate.

The vote came after Spitzer fought openly with lawmakers last week over the selection of Assemblyman Thomas DiNapoli as state comptroller. Also last week, the Democratic candidate Spitzer helped in a special election cut into the slim Republican majority in the Senate, angering Senate Majority Leader Joseph Bruno.

Judicial Committee Chairman State Sen. John DeFrancisco said Jones was an "accomplished man with great integrity" that the committee had no reason to oppose.

In choosing Democrat Jones, who is black, Spitzer added diversity to the seven-judge panel. The court lost its sole black member last year when Republican Gov. George Pataki chose not to reappoint Judge George Bundy Smith, a Democrat.

Jones took some tough questions by Sens. Bill Perkins and John Sampson, both New York City Democrats, over his handling of the December 2005 transit strike in New York City.

Jones jailed Transit Workers Union President Roger Toussaint and fined the 33,000-member union \$2.5 million for the illegal three-day strike that crippled the nation's largest mass transit at the height of the holiday shopping

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season. Public employees are barred from striking under the state's Taylor Law.

"My job is to enforce the law, not to agree or disagree with it," Jones told the committee. "I could have ratcheted it up so high. It was not an extraordinary penalty from where I was sitting."

Asked for his opinions on legal matters ranging from the death penalty to the videotaping of interrogations, Jones simply said it was up to the Legislature to write the laws.

"As a judge, I am not a legislator," he said.

State Sen. Dale Volker, an Erie County Republican, said he was troubled that Jones came out of Brooklyn, where District Attorney Charles Hynes in 2003 launched a grand jury investigation into the cozy relationships among the borough's judges, lawyers and politicians.

Since 2002, one Brooklyn judge has been convicted of bribery, a second charged with accepting gifts from a corrupt lawyer and a third kicked off the bench for illegally subletting his rent stabilized apartment. Assemblyman and Democratic leader Clarence Norman was also convicted of grand larceny and other charges.

"For the governor to pick somebody from that county is a pretty significant thing," Volker said.

Still, the senator said that after researching Jones' record, he couldn't find any reason not to back him.

A graduate of Hampton University and St. John's University School of Law, Jones is a former defense attorney for the Legal Aid Society, a criminal court judge and was a captain in the U.S. Army, serving in the Vietnam War.

Jones declined to give his opinion on the Court of Appeals' 2004 decision striking down the state's death penalty law, saying the issue could come before the court again.

Spitzer, a long time prosecutor, supports a death penalty for cop killers and terrorists.

The Senate committee didn't allow a longtime opponent to the judicial selection process to speak at the public meeting. Elena Ruth Sassower of the Center for Judicial Accountability wasn't allowed to testify because she used previous opportunities to express broad criticism of the judiciary, rather than relevant comments on the nominee, DeFrancisco said.

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