



OHIO CONSTITUTIONAL MODERNIZATION COMMISSION

REVISED MINUTES OF THE JUDICIAL BRANCH AND ADMINISTRATION OF JUSTICE COMMITTEE

FOR THE MEETING HELD
THURSDAY, NOVEMBER 14, 2013

Call to Order:

Chair Janet Abaray called the meeting of the Judicial Branch and Administration of Justice Committee to order at 11:13 a.m.

Members Present:

A quorum was present, including Chair Abaray, Vice-chair Fischer, and committee members French, Saphire, and Walinski.

Approval of Minutes:

The minutes of the October 10, 2013 meeting of the committee were reviewed and approved. Chair Abaray asked that the minutes be amended to reflect that she did not open the floor for discussion at the previous meeting, rather she previously circulated discussion regarding the agenda of the committee in regards to evaluating proposals for judicial selection and election.

Presentations and Discussion:

Chair Abaray read the League of Women Voters Mission Statement then recognized Nancy G. Brown, director and advocacy committee chair for the Ohio League of Women Voters. Ms. Brown presented her testimony and circulated copies of "The New Politics of Judicial Elections 2011-12" published by The Brennan Center for Justice, informing the committee that her organization plans to conduct courtroom observations to allow citizens to evaluate judges' fairness and performance.

Chair Abaray requested that a copy of "The New Politics of Judicial Elections 2011-12" be added to the official committee record.¹

¹ Justice at Stake, Brennan Center for Justice, The National Institute on Money in State Politics. *The New Politics of Judicial Elections 2011-12*. Washington, DC: n.p., 2013. Print.

The committee then asked Ms. Brown questions, and discussed:

1. Whether Ms. Brown's testimony pertained exclusively to Ohio Supreme Court races.
2. Whether it is the money or the politics behind the money that undermines the confidence in the judiciary.
3. What an evaluation system would look like under the appointment/retention election system and whether an example from another state is available for reference.
4. Whether appropriate criteria have been developed to ensure sound, indiscriminant, evaluations of appellate judges.

Committee member Judith French informed the committee that the bar association provides evaluation criteria.

Chair Abaray inquired about the availability of data measuring the qualification differences between appointed judges and elected judges. Committee member Richard Saphire confirmed the availability of the data, but informed the committee that the data may be subjective.

Chair Abaray then called Michael E. Solimine, professor of law at the University of Cincinnati College Of Law, who presented on the following topics:

1. Brief History of Judicial Selection in Ohio;
2. The Current State of Judicial Elections in Ohio;
3. Maintaining the Status Quo;
4. Reforms, Constitutional and Otherwise.

Specific questions and concerns raised during Prof. Solimine's presentation included whether he advocates lifetime appointments for state-level judges. The committee expressed concerns that a screening commission may cause appointments to be delayed, asking if other states using the appointment system experience problems with the appointments being prolonged by the screening commission.

Vice-chair Patrick Fischer informed the committee that Iowa has retention elections, and that Iowa Judicial Nominating Commission hearings are open to the public and broadcast on television. He then inquired if there is a sense that the public wants to change the process.

Mr. Saphire informed the committee that Prof. Solimine co-authored a book that argues, all things considered, there is no reason to favor the federal system over the state system. He said there is an impression that federal judges are more qualified than state judges, but neither is superior.

Chair Abaray suggested funding may taint the integrity of the judges and inquired about the likelihood that another "Citizens United" case will reemerge.²

² *Citizens United v. Fed. Election Comm.*, 558 U.S. 310 (2010).

Chair Abaray opened up the floor for discussion relative to the committee goals documented in the previous minutes.

Judge Fischer suggested that fundraising may be deterring highly qualified judges from running.

Justice French suggested inviting an individual who is familiar with judicial fundraising to come testify before the committee.

Judge Fischer asked if more money is needed to educate the electorate.

Mr. Saphire expressed interest in inviting former candidates to testify on the difficulties of raising money for an election.

Committee member Richard Walinski expressed interest in hearing about the professional progression of judges in various counties.

Adjournment:

With no further business to come before the committee, the meeting adjourned at 1:07 p.m.

Approval:

The minutes of the November 14, 2013 meeting of the Judicial Branch and Administration of Justice Committee were approved at the March 13, 2014 meeting of the committee.

/s/ Janet Gilligan Abaray
Janet Gilligan Abaray, Chair

/s/ Patrick F. Fischer
Justice Patrick F. Fischer, Vice-chair