

**TEXAS
COMMISSION
ON *JUDICIAL*
*SELECTION***



Texas Commission on Judicial Selection Meeting Minutes

CHAIR:

Mr. David J. Beck

LEGISLATIVE MEMBERS:

Senator Brian Birdwell
Senator Juan "Chuy" Hinojosa
Senator Joan Huffman
Senator Robert Nichols

Representative Todd Hunter
Representative Brooks Landgraf
Representative Ina Minjarez
Representative Carl Sherman

CITIZEN MEMBERS:

Mr. Charles "Chip" Babcock, IV
Hon. Martha Hill Jamison (Ret.)
Hon. Wallace Jefferson (Ret.)
Ms. Lynne Liberato
Mr. David Oliveira
Hon. Thomas Phillips (Ret.)

www.txcourts.gov/tcjs

Date: June 5, 2020

Convene: 9:30 AM

Attendance: *Megan LaVoie*

Members in Attendance

Mr. David Beck
Sen. Brian Birdwell
Sen Robert Nichols
Sen. Joan Huffman
Sen. Juan Hinojosa
Rep. Todd Hunter
Rep. Brooks Landgraf
Rep. Ina Minjarez
Rep. Carl Sherman
Mr. Charles Babcock
Ms. Martha Hill Jamison
Mr. Wallace Jefferson
Ms. Lynne Liberato
Mr. David Oliveira
Mr. Thomas Phillips

Minutes from Previous Meeting

The March 6, 2020 meeting minutes were approved as presented.

Invited Testimony

Julie Lowenberg testified on behalf and of the League of Women Voters of Texas. The League of Women Voters supports an effective, independent, qualified, and inclusive judiciary and calls for selection of judges in the following manner:

- Nomination by a diverse, representative, nonpartisan commission, with appointment for a specific term or appointment by the governor for a specific term.
- Judges should be subject to retention or rejection in an unlimited number of periodic nonpartisan elections.
- This selection method should apply to the Texas Supreme Court, Court of Criminal Appeals and Courts of Appeals.
- Selection of state district court judges may be by non-partisan election or by appointment/retention.
- Judicial campaigns should be funded with public money.

David Jones is the President of Clean Elections Texas, which is a partisan, non-profit organization for campaign reform issues and is a subgroup of The Texas Fair Courts Network. Mr. Jones testified on behalf of the Texas Fair Courts Network focusing on a fair, impartial, and accountable judiciary, beholdng only to the rule of law, without money interests, and a judiciary composed of qualified judges. His group's biggest concern with the current judicial selection system, is the large amounts of money spent on campaigns, the undue influence of large donors, the appearance of undue influence and the fairness in rule of law. His members were polled and overall supported a merit selection system that submits nominees to the governor, who would make the final decision. It is essential that any nominating committee be completely independent and fairly selected. In Mr. Jones' view, it is also in favor of increasing qualifications for the judiciary.

Jeff Moseley, the CEO of the Texas Association of Business (TAB) described the impact TAB has on the state of Texas through business and chambers of commerce. This also includes their own established litigation center to assist members to pursue pro-business policies through legislation and the court system. The TAB is appreciative of the Commission and is offering their services in support of its objectives as needed, and are pleased to be a part of the dialogue.

George S. Christian testified on behalf of the Texas Association of Defense Counsel (TADC). TADC has been involved in multiple efforts for judicial selection reform since the 1960's, and has consistently supported some form of a merit based, retention system. TADC currently fully supports the plan that was laid out by the Texans for Lawsuit Reform (TLR) and the Texas Civil Justice League (TCJL) that was presented at the last Texas Commission on Judicial Selection Meeting. Although no system will be perfect and remove politics from judicial selection, it is the hope of TADC that whatever plan is selected, it holds all participants accountable. The TADC is supportive of enhanced qualifications, spreading responsibility for appointing judges, and giving more specific ways and reasons to remove judges, all of which the TLR/TCJL plan addresses.

Robby Alden testified on behalf of TEXAS American Board of Trial Advocates (ABOTA) and ABOTA is committed to supporting this Commission and the efforts of the Legislature anytime there is an effort to improve the quality of the judicial system in Texas. One of the most important changes ABOTA suggests is increasing the qualification requirements for judges. Ideally, there should be a system to verify or certify qualifications of judicial candidates before they run for election. If this Commission recommends a new structure, it is ABOTA's opinion that the system created be balanced, diverse, and preferably non-partisan, and members should have significant appellate and litigation experience.

Jim Perdue, the President Elect of the Texas Trial Lawyers Association (TTLA) discussed the difficulty in selecting a solution for judicial selection for 254 counties that are highly diverse. Just as the state of Texas is diverse, so is TTLA, and there is not a consensus among its members on a solution, but they are looking forward to working with the commission and the upcoming Legislature on an alternative solution. Mr. Perdue, on behalf of the TTLA, would like to second points previously mentioned by the presenters. These issues include qualification requirements and the influence of "dark" and undisclosed money in judicial campaigns. The TTLA opposes any system of judicial selection that would provide an appointment that resides in the Governor's office alone.

Kent Rutter testified as chair and on behalf of the Appellate Section of the State Bar of Texas, and presented responses and written comments from their survey regarding judicial selection. Due to the constraints on the Bar of taking views on political issues or potential political issues, Mr. Rutter clarified that the views from the survey represent the views of individual members, and not the Appellate Section of the State Bar of Texas. The most important issue raised in the survey was the lack of relevant experience or qualifications of appellate judges. The most preferred method of selecting appellate judges was non-partisan elections.

Chairman Beck noted that other groups were invited to testify but chose not to at this time.

New Matters – David Beck

Chairman Beck noted that the survey prepared by the Citizen's Panels and Judicial Qualifications working group has not been sent out to the various court systems in other states due to the COVID-19 pandemic. This survey should be sent out in the coming weeks.

Scheduling meetings around the State.

Due to the pandemic, Chairman Beck suggested moving forward with meetings across the state and doing so virtually, but instead of the ten cities that were initially suggested, the Commission will be proceeding with meetings in Corpus Christi, possibly San Antonio and Dallas. Senator Birdwell addressed issues with the timeline and the logistics of public hearings and testimony.

Next Meeting – July 10, 2020

Adjourn - 12:07 pm