Judicial Campaign Reform

Written Testimony of Edward Murnane, President, Illinois Civil Justice League
Illinois Legislative Joint Committee on Government Reform

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Thank you for giving the Illinois Civil Justice League the opportunity to present some thoughts and suggestions to you as you consider various reforms for improving Illinois government.

First, I would like to offer a very brief history of the Illinois Civil Justice League for members of the Committee who might not be familiar with us.

We were established in 1993 for the purpose of focusing attention on the perceived imbalance in the civil justice system in Illinois. The organizing members of the ICJL included a broad segment of Illinois society: the Illinois Business Roundtable, the Illinois State Medical Society, the Illinois Hospital Association, the Illinois Manufacturers Association, the Intergovernmental Association of Risk Management Pools, the Illinois Chamber of Commerce, and numerous not-for-profit entities, including the Girl Scouts and various blood banks.

Our founding members also included some of the major employers in Illinois, including Caterpillar, Deere, General Motors, State Farm, and CNA. Others which have joined since our founding have included Boeing, Baxter, Motorola and many others. Local government and transportation units have been members, including the Regional Transportation Authority and many municipalities. We also have many attorneys as members and several former judges serve on our “legal eagles” team which provides guidance, advice and reaction to the ICJL.

Most of our members and supporters have remained as active supporters through the years although some have moved in and out of membership, depending on their own circumstances.

A major part of our focus has been our effort to enact various civil justice reforms in the General Assembly. These have included broad proposals, such as the comprehensive tort reform bill in 1995, as well as very specific proposals such as our current efforts for venue reform and reforms in the jury service statutes.

A second major part of our focus has been to call public attention to the need for civil justice reform and to point out the cost and impact of some current laws and/or policies, as well as the interpretations of those laws in Illinois courtrooms.

And, a third major part of our focus has been the judiciary itself. There is no one – legislators or public citizens – who will disagree that Illinois has had its share of bad judges. For example, the Cook County court system was marred by the outcome of Operation Greylord in the 1980s, which saw 17 judges indicted.

More recently, several other judicial scandals have seen high-profile coverage, including a recent incident in which two Southern Illinois judges were accused of drunk driving, resulting in one of them actually stepping down as the chief circuit judge.
And, no veteran in the Illinois General Assembly can forget that a sitting Supreme Court justice was on the verge of impeachment charges and instead chose to resign. These incidents have illustrated that judges – like all elected officials – are human and are certainly not immune from their own faults and weaknesses.

Since 1998, the ICJL has been working aggressively to improve the quality of judges and we have, at a minimum, provided better information to the public as to the qualifications, background and even temperament of judicial candidates across the state.

One of our websites, www.IllinoisJudges.net, is being prepped for its fifth election cycle of providing important information about and judicial retention and judicial candidates. Each election year, we invite all judicial candidates, including the sitting judges who are seeking retention, to respond to an ICJL questionnaire. We include their responses VERBATIM on our website and we also invite the candidates to submit other information that they think would be useful.

As well, we include links to their websites and organizations, including information about bar association ratings and evaluations. We also include newspaper editorials and links to the candidates’ campaign spending reports. We try to provide as much information as possible to the public and we alert the news media to this information and through the years, the media has come to rely upon our information as one of the most comprehensive for judicial elections.

Our political action committee, JUSTPAC, has also endorsed candidates in judicial elections and provided financial support to judicial campaigns.

Our endorsements since 1998 have included slightly more Democrats than Republicans. In part this is because there are typically more Democrat candidates – particularly in Cook County – but also because we have attempted to look much deeper than party labels. Last year, one of our more active involvements was on behalf of a Democrat candidate for appellate court.

Of the current members of the Illinois Supreme Court, we have supported five of the incumbents, including three Republicans and two Democrats. We contributed financially to four of the five.

However, and with no disrespect to the members of the Illinois General Assembly, we think the members of the Illinois judiciary carry so much weight, and so much responsibility, that the General Assembly should rethink the way Illinois voters select them.

Not only do they have the power to send someone to the electric chair or to prison for life, they can take children away from parents and they can undo the laws you all work so hard to craft.

And they outnumber you too. We have 177 legislators in Illinois – one governor – but we have 561 judges. And that doesn’t count the associate judges who are selected and appointed by the circuit judges we elect. The judicial branch of our government clearly is the largest branch of government, and we think possibly the most powerful.
There has been concern expressed with the amount of money that has been flowing into judicial election campaigns in Illinois. We share that concern. While our efforts have certainly contributed to the totals, we also agree that, if it raises questions concerning the independence and integrity of the judiciary, it’s not a positive trend for the State of Illinois.

There have been proposals for public financing of judicial elections, and we have monitored those proposals as you have debated them here in Springfield. With corresponding limits on expenditures, public financing could work – but we think there is a serious flaw with proposals to provide public financing for PARTISAN judicial elections.

To a large extent, the beneficiaries of these public financing proposals would be state and local political parties and that is not a good priority for taxpayer revenue.

Some might argue that taxpayer revenue is already used to finance presidential elections – and that is true – but the contests for the presidency are based on political, ideological and partisan differences, based upon issues debated daily in the halls of Congress and the White House. And, while the use of taxpayer funds in these intense once-every-four-year-feuds could be debated, the judicial officers in Illinois are not intended to be the focus of partisan battlefields.

We, therefore, are proposing that you consider a change in the Illinois Judicial election process to provide for a NON-PARTISAN judiciary and NON-PARTISAN election of judges.

We would recommend that any proposal not affect any current judge, as we are not proposing a change in the retention process or the length of term of office or age requirements. (There currently is a challenge to the age required pending before the Illinois Supreme Court.) But, we do recommend the consideration of a new system of non-partisan judicial elections in Illinois.

**The ICJL Proposal**

We propose a new system for ALL judicial districts in Illinois, covering all 5 supreme and appellate districts, plus 23 circuit districts – a total of 28 political subdivisions, not including the judicial subcircuits.

In each district or circuit, a Judicial Evaluation Commission would be created. The Commission would have eight members: two each appointed by the four legislative leaders. This would assure bipartisanship as each leader would presumably appoint commission members from his or her own political party. The appointees would be required to live within the jurisdiction and to be registered voters.

Of the two appointments, each would appoint one – and only one – licensed and practicing attorney. The other member appointed by each legislative leader would specifically NOT be an attorney, giving each commission a 4-4 partisan and professional balance. (And, we admit, many legal organizations in Illinois might be apprehensive about this balance.)
Prior to candidate filing deadlines for the election of a new judge in a judicial vacancy, the Judicial Evaluation Commission would be empowered to select as many as four candidates for each open judicial seat. To be considered as a “recommended” candidate, six (of eight) members of the commission would have to vote favorably for the candidate, which would assure that the choice would be both bipartisan and chosen by both attorneys and non-attorneys.

These candidates would appear on the primary election ballot of all the parties, as well as the non-partisan ballot, and would be designated as “Recommended by the Judicial Evaluation Commission,” and would also be given access to public financing – in an amount to be determined by the General Assembly. Our recommendation would be to either prohibit or severely limit any other outside fundraising for the candidates who opt-in for public financing.

Other candidates would be allowed to file candidacy in the primary election, through the normal process of submitting petition signatures, however those not recommended by the Judicial Evaluation Committees would be limited in their total expenditures to the same amount provided through public financing. No candidate could file for candidacy that had not appeared before the Judicial Evaluation Commission.

Then, the top two primary winners would appear on the General Election ballot, with the General Election winner being seated as the next judge.

There would be no change in the current retention process and no public financing of retention campaigns. Bar associations and other groups would be expected to continue to evaluate sitting judges and make their opinions known through the news media and in other ways. There would be no limit imposed on spending for or against candidates seeking retention. Thus all sitting judges would effectively be “grandfathered” into the new system.

Nor would there be any change to the current procedures in which the Supreme Court fills interim judicial vacancies.

In fact, the Illinois Supreme Court’s current practice of utilizing screening committees is similarly-focused on this style of judicial selection. Currently, when there is a vacancy due to retirement, death, or creation of new judicial seats, the Supreme Court has created screening committees for the appointment of new judges and these committee screen potential new judges and pass, usually, three names to the sitting Supreme Court justice.

Again, we hope to be a partner in your committee’s effort to find solutions to reforming the election of judges in Illinois. Our organization is focused on improving the judiciary, removing partisanship from our courts, and enriching the integrity and honor of the Illinois judiciary.

Thank you for the opportunity to present our ideas to your committee and please recognize that we remain at your call to help in finding a compromise on potential judicial reforms.
Summary of ICJL Proposal for Judicial Election Reform in Illinois

- Judges at all levels in Illinois would be elected in Non-Partisan elections.

- Eight-member “Judicial Evaluation Commission” would be created in all 28 judicial political subdivisions in Illinois (5 Supreme/Appellate, 22 Circuits and Cook County)

- The legislative leaders in the General Assembly would each appoint two members to the Judicial Evaluation Commissions

- Each of the appointees would be required to be a resident of the district/circuit of the commission of which they serve, as well as be a registered voter

- Of the two appointees of each legislative leader, one would be a practicing attorney and would not be a practicing or former attorney

- Terms and limits to the maximum time commission members could serve would be determined by the General Assembly

- By a designated time in advance of candidate filing prior to each primary election, the Commission would take applications, review the qualified candidates and “recommend” up to four judicial candidates as recommended for public financing

- Recommended candidates would require six of eight votes by the Commission

- Those candidates would appear on the primary election ballots of all parties, would be listed as “Recommended by the Judicial Evaluation Commission” and would qualify for public-financing of an amount set by the General Assembly

- Additional candidates could qualify for the General Election ballot by acquiring a prescribed number of petition signatures, but those candidates would be limited in their fundraising, as well as in their expenditures to an identical amount as provided the recommended candidates through public financing

- The two candidates receiving the highest overall vote totals in the primary election would move onto the General Election

- The highest vote recipient in the General Election would be the winner

- Once elected, the system of retention would be the same, however, there would be no public financing for retention campaigns

- Current judicial officers would be grandfathered into the new system

- The judicial terms and age requirements would remain the same as current law