



**STATEMENT OF THE OHIO STATE BAR ASSOCIATION
IN OPPOSITION TO HOUSE BILL 149**

Before the Senate Local Government and Elections Committee
Representative Shane Wilkin, Chair
Scott Lundregan, Esq.
March 25, 2021

Chair Wilkin, Vice Chair White, Ranking Member Bride Rose Sweeney and members of the House Government Oversight Committee:

My name is Scott Lundregan and I am the Director of Policy and Legislative Counsel for the Ohio State Bar Association (“OSBA”). Thank you for the opportunity to submit testimony in opposition to House Bill 149 on behalf of the OSBA.

At the outset, we want to make clear that we agree with the sponsors of the bill that voter drop-off in judicial elections is a major problem that needs addressing. The OSBA has long been concerned about the lack of voter participation in judicial elections, which is why we work each election cycle to educate the public through our Ohio Supreme Court ratings process, our Judicial Election Advertising Monitoring Committee and our partnership with the Supreme Court and others to promote Judicial Votes Count (www.judicialvotescount.com).

While we recognize that there is more work to be done to educate and engage Ohio voters on judicial elections, the OSBA opposes House Bill 149 because we continue to believe that partisan designations will reduce trust in a fair and impartial justice system. Public trust in the judiciary is critical for ensuring fairness and impartiality in Ohio courtrooms and central to our form of government and sustaining the rule of law.

We agree that some voters do not vote for judges because they are afraid that they may elect someone from the opposite party of their choice. But we submit to this committee that partisan designations on the ballot have nothing to do with a judge’s qualifications or their ability to be a good judge. Accordingly, if your objective is to simply increase turnout, then Senate Bill 80 accomplishes this objective. But, if the objective is to educate voters and elect better judges, House Bill 149 misses the mark.

Candidly, we have members on both sides of this issue. We have members who desperately want to have partisan general elections for judges in Ohio. In fact, three of our members have introduced legislation to do just that... But we also have members who believe that the benefits of increased voter participation pale in comparison to the damage done to the public’s trust in the judiciary by making the judiciary seem even more political.

Ultimately, we agree that there is a problem that needs addressing and that this body is the right place to have that conversation. So, while on the whole we oppose this legislation, we defer to this body’s decision as to what is best for our electoral system.

If it is the will of the legislature to put partisan designations on general elections for judges we would like to make the following suggestions for consideration:

1. The state should designate funding to educate voters about judicial elections

The problem of voter drop-off in judicial elections is caused by a lack of information about the candidates. Putting a party label next to their name will certainly help a person pull the trigger and vote for a candidate but it doesn't inform the voter about the qualifications of the candidates. If the state were to fund a judicial candidate awareness campaign, people would be more confident and trusting of the judicial branch. An R or a D may help a voter feel like they know how a judge would vote on the intensely political issues, but for that vast majority of issues where Ohioans engage in the judicial system, a partisan designation is of no consequence. Statewide organizations and even the Ohio Secretary of State have tried to do this in the past, but absent state funding, it is an impossible task.

2. There should be uniformity in the judicial elections process

If the state is going to make the change for some judicial elections, it should make the change for all. House Bill 149 as currently drafted would have the effect of making the Appellate and Supreme Court races more political, while leaving the trial courts to the status quo. It is likely that this will cause an even larger drop-off in votes for the trial court level, as voters will not have as much incentive to research candidates if they are going to be party line voting for the top two courts. This could also have the effect of making the appellate courts offices that only the most political of trial courts judges run. The role of Ohio's appellate courts is to review decisions from the trial court and to make sure the proceedings were fair and the law applied correctly. We believe that a person's ability to be a good appellate court judge has nothing to do with their comfort with being more political and everything to do with their ability to decide each case independent of politics.

3. The state should consider longer judicial terms

If the General Assembly is going to make judicial races more partisan, they should also consider increasing the length of judicial terms. We have a hard enough time recruiting candidates to run for judge, mostly because they want to avoid the politics. While the Ohio Constitution places a maximum length of six-year terms for county and municipal court judges in Article XVII, Section 1, the Ohio Constitution sets a floor of six-year terms for all other judges in Article IV, Section 6(A). We therefore recommend that the legislature increase the terms of Common Pleas Court judges, Appellate Court judges and Supreme Court judges to terms of eight years. This will help with candidate recruitment and it will help the state to focus resources on educating the public about judicial elections for less frequent elections.

In conclusion, we see merit in this proposal and would characterize our opposition as a disagreement over the solution to a problem that we are very happy to see that the legislature is trying to fix.

Thank you for the opportunity to testify on behalf of the OSBA. I would be happy to answer any questions the committee may have.