

Judicial Performance

2009 Issues Briefing

Michelle Jordan, LWVIL Issue Specialist

You may have noted that just recently, Justice Fitzgerald of the Illinois Supreme Court made mandatory the evaluation of judges. However, when asked by the Chicago Council of Lawyers Fitzgerald has made it clear that the public will never see the results of this evaluation, he is adamant that it remain confidential. Voters will have no access to the information. Obviously this is unacceptable to the League.

The current statewide program costs \$150,000 per year. Before Fitzgerald's change the Administrative Offices of the Illinois Court (AOIC) performed evaluations but the AOIC was a voluntary program. Now that it is mandatory, it is still confidential and many judges may oppose any efforts to make the results public. In fact, some judges opposed efforts to make the previous program mandatory, despite the fact that it was confidential. We have our work cut out for us!

The Performance Commission Concept

The Performance Commission concept exists in at least five states, using a variety of approaches. In general, commissions are appointed to oversee the comprehensive and objective evaluation of judges seeking retention. In Colorado, for example, for each judge, more than 200 persons are surveyed, including jurors, litigants, court personnel, probation officers, social service and law enforcement personnel, crime victims, and lawyers who appear before the judge. Resulting information, including a recommendation as to whether the judge should be retained is distributed widely through voter information guides.

A judicial performance evaluation commission will aid voters by providing tools for voters to make educated and relevant decisions in judicial retention elections. In addition to aiding voters, Commissions help judges perform better on the bench. Indeed, over 85% of trial judges, and 50% of appellate judges, report judicial performance evaluations have been "significantly beneficial" or "somewhat beneficial" to their professional development.[1] Not only do many judges feel that Commissions are beneficial to their professional development, many judges feel that Commissions have had no negative effects on their judicial independence. On the contrary, many judges feel that a JPEC increases their judicial independence.

Goals of the Performance Commission:

- * We believe that the use of a Judicial Performance Commission for both appellate and trial court judges will provide information about judges seeking retention that voters will find more credible, thereby allowing voter education vehicles to be more effective.
 - The Performance Commission concept also provides the option of utilizing a merit retention approach will allow voters to focus on whether they want to retain judges that have been labeled as unqualified for retention by professionally conducted research overseen by the Performance Commission.
- * A Judicial Performance Commission provides an opportunity for improving the quality of the state judiciary short of removal from the bench.

1. Some judges will learn from the survey results and improve their performance.
2. For judges not meeting a benchmark of being qualified for the bench, the Performance Commission will oversee a remedial program of court watching, mentoring, and continuing education.
3. Evaluation results from the Performance Commission will be prepared for the Chief Judge of the Circuit Court of Cook County for the purpose of assisting in the decision making over the assignment of judges.

[1] Ins. for the Advancement of the Amer. Legal Sys. The Bench Speaks on Judicial Performance Evaluations: A Survey of Colorado Judges. Available at <http://www.du.edu/legalinstitute/pubs/2008JudicialPerformanceEvaluationFINALexecsum.pdf>