

Hon. Paul G. Goetzke (ret.)

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SB 415 (Judicial Elections)

Hearing Date: 2/12/20

Position: Opposed

Chairman Smith and Members of the Senate Judicial Proceedings Committee:

SB 415 proposes a constitutional amendment terminating voters' right to elect Circuit Court judges. Instead, governors will appoint the judges with the advice and consent of the Senate, and the appointed judge's name will appear on the next ballot, *alone and without opposition*. Marylanders will be allowed to vote only on whether the appointed judge will retain the office.

No judge appointed to the State's no-election courts (D.Ct., CSA, CofA) has ever lost a retention vote, and none ever will. Votes against retention average only 12.7%.¹ Circuit Court judges (now, 153) will become political appointees.

Proponents don't identify the problem caused by Court elections, or how terminating elections will fix the unidentified problem. However, please consider:

- **Marylanders adopted Circuit Court elections in 1851 as a guard against politically motivated judicial appointments.²**
- **For 170 years, voters have chosen Circuit Court judges in an open, public, and transparent process.**
- **The proposed amendment will result in appointments made behind closed doors, based on familial relationships, friendships, lobbying, and purely political considerations.³**

¹ See Kuperman, 46 UBLF Art. 3.

² *Id.*

³ The late Gov. Mandel said he created judicial nominating commissions to stop a PG County Senator from insisting on appointments of his friends to the no-election District Court in exchange for his votes supporting construction of the Capital Centre.

- For example, appointments to the *no-election courts* include fundraisers' family members, a Baltimore Mayor's wife, a former Congressman, and Sen. Mike Miller's son.
- The public (esp. litigants and lawyers) will lose confidence in the courts if Circuit Court appointments are based on politics, friendships, familial relationships, lobbying, and purely political considerations instead of merit.
- Governors win elections based on political promises (e.g., tough-on-crime). Lawyers and litigants may believe that the judge assigned to their case was appointed to fulfill those promises. That will undermine confidence in the impartiality of Circuit Court judges.
- African-Americans have relied upon Circuit Court elections when governors appointed only white applicants to the bench.
- This amendment will disenfranchise Marylanders including African-Americans, other minorities, women, the constituents of this Committee, and the members themselves.
- The MSBA assert that "contested judicial elections are confusing to the public". It may be assumed, however, that Maryland voters understand a right they have exercised for 170 years.
- Sitting Judges are now free to campaign with few limitations. They may: make statements of personal views on legal, political, and other issues not likely to come before the court; attend and purchase tickets for events sponsored by political organizations; seek and use endorsements; respond to attacks on their record; and use social media to request financial support, speak, and write on behalf of their candidacy.

It is respectfully requested that this Committee preserve Marylanders' constitutional right to vote for their Circuit Court judges by rejecting SB 415.

Sincerely,



Hon. Paul G. Goetzke (retired)