



League of Women Voters of North Carolina

August 1, 2003

Dear Member of the North Carolina Legislature,

The League of Women Voters of North Carolina has had a position supporting the appointment of judges for several decades. At its twenty-eighth biennial convention delegates voted to continue to speak out on this issue. 100% of the local chapters were represented in Charlotte on June 21-22. More details on the League's position are presented in the enclosed newspaper article which appeared in *The Pilot* on June 1.

The League realizes that many North Carolinians strongly support their right to elect judges. In light of that the legislature's support of voluntary funding of elections for the North Carolina Supreme and Appeals Courts judges is an important step to ensuring the integrity of the process and the League thanks you for that.

Our judicial system is facing many challenges today; challenges of adequate funding, public perceptions of fairness and equity, pressures from special interest groups and the questioning of the ability of judges to provide impartial rulings in light of the demands of election campaigns. League members hope that as lawmakers you will consider these concerns when debating issues related to the judiciary.

As some of you may know, the League of Women Voters is a nonpartisan organization of women and men founded in 1920 when women won the right to vote. It does not support or oppose candidates or political parties. Its mission is to educate all citizens in the processes and issues of governance. Members have worked to further education and citizen participation in their government for eighty-three years. Thank you for your considerations and your willingness to serve the public through elected office.

Warmest regards,

Mary Klenz
Co-president

Enclosure (1)

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Appointment of Judges a Must For Fair and Impartial Courts

**BY JOAN BARRIAGE
AND JOANNE ROBINSON**

Special to The Pilot

Appointment of judges has been the position of the League of Women Voters of North Carolina since the early 1990's. The current spotlight on capital punishment cases highlights the need for change in the system of electing judges in North Carolina.

Judges are subject to a different standard from other elected officials. They do not represent a constituency. They sit to apply the law with knowledge, objectivity and impartiality for the parties involved. They should not feel pressured to appeal to voters, contributors or special-interest groups. Their decisions should be free of concern for re-election. Otherwise, judges might feel reluctant to make unpopular decisions or let it affect their determination of critical issues before the courts.

The U.S. Supreme Court in June 2002 filed an opinion in which five justices expressed serious concern about whether the popular election of judges is consistent with the principles of due process. Justice Sandra Day O'Connor wrote "to express my concern about judicial elections generally" and stated, "I am concerned that, even aside from what judicial candidates may say while campaigning, the very practice of electing judges undermines this interest [in an actual and perceived impartial judiciary]. We of course want judges to

be impartial in the sense of being free from any personal stake in the outcome of the cases to which they are assigned. But if judges are subject to regular elections, they are likely to feel that they have at least some personal stake in the outcome of every publicized case. Elected judges cannot help being aware that if the public is not satisfied with the outcome of a particular case, it could hurt their re-election prospects".

The LWV of North Carolina advocates that appointments be made from names submitted by a nonpartisan, representative group and then stand for a retention election. Under such a system, an appointed judge, once on the bench, remains without obligation or feeling of debt. The retention election vote determines whether a judge remains or is removed, but is not in competition with another candidate. Both the Judicial Standards Commission and the retention election would handle judges who should be removed.

Some of the people best qualified for the bench will not run because of the fund-raising required and time away from judicial duties. In fact, some judges have quit the bench rather than run for re-election. Possibly there is no perfect system, one without political influence, but appointment of judges attracts the best-qualified, those who are there for knowing and applying the law and being impartial — not having to appeal to the public or give up a practice for uncertainty or raise

money, not having to take time away, or be concerned about making unpopular decisions.

We support the motion pending in Superior Court that argues that capital cases should be tried and reviewed by appointed judges instead of elected judges. North Carolina has a number of appointed judges who have been designated to fill vacancies, and only those appointed judges should be scheduled for capital cases.

Many agree that improvements are needed in processing criminal cases, including those with the death penalty, but the emphasis needs to be on appointed judges. The LWVNC is for appointed judges, and this could be a first step in that direction. No matter where you stand on the death penalty, for the sake of due process, let us immediately assign only appointed judges to capital punishment cases.

Joan Barriage and Joanne Robinson live in Pinehurst and are co-presidents of the League of Women Voters of Moore County. Contact them at jbarriage@nc.rr.com or League of Women Voters of Moore County, P.O. Box 1995, Southern Pines, N.C. 28388. The League's purpose is to promote informed and active participation of citizens in all levels of government policy making. In accordance with the League's nonpartisan policy, LWV does not support or oppose any political party or candidate. The local League also participates in state and national League issues.