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LWVSC Testimony, H.4755, Judicial Selection Reform,  
House Constitutional Laws Subcommittee, Judiciary Committee

The judicial selection process in South Carolina has recently been amended significantly. An important and positive addition provides input from the Governor in the appointment of members of the Judicial Merit Selection Committee (JMSC). H.4755 would further amend this important process.

More than a decade ago the League of Women Voters of South Carolina conducted an intensive two-year study of judicial selection in our state, led by experienced attorneys. We concluded that the broad structure of South Carolina's process, with intensive review of candidates by the JMSC and final election by the members of the General Assembly, is sound. Overall, we found that the involvement of many individuals in the evaluation and election processes contributed to selection of a judiciary that attorneys in other states envy. However, we identified aspects of the process that should change.

Some of those changes have been made in the intervening years. The most important change that we believe is still to be made is making the JMSC a fully independent body, consisting of persons with substantial legal and law enforcement expertise and without any members drawn from among active legislators.

Part of our concern arises from issues around attorneys who appear before judges whose reappointment they can promote or discourage at multiple points in the selection process. That presents obvious potential problems and can create a perception of judicial bias even when both judges and lawyer-legislators behave impeccably. However, our concern is not confined to that. We believe that through appointment of JMSC members and through their votes in the final election, legislators already have a very strong voice in choosing the members of what is ultimately a constitutionally protected separate branch of government. We do not believe that legislators should serve on the JMSC, compounding this already strong impact. H.4755 would make this very desirable change.

H.4755 would also designate the Governor to make all appointments to the JMSC. We disagree with this provision of the bill. We return to the principle that many voices produce good outcomes. We therefore do not support turning all JMSC appointments over to the Governor and prefer retaining the current system of mixed gubernatorial and legislative appointments to the JMSC.

The League of Women Voters does not support removal of all Diversity, Equity, and Inclusion (DEI) criteria in appointment of JMSC members. Our judiciary should broadly represent the people of South Carolina, and consideration of DEI aids in achieving that.

In conclusion, the League of Women Voters supports the provision of H.4755 that would remove current legislators from among the members of the JMSC. However, we do not support additional changes in JMSC at this time.

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