

Minutes of the Advisory Task Force on Composition of Judicial Districts

March 25, 2019

The meeting was called to order on March 25, 2019 at 1 pm CDT by Chairman Telford Forgety. Chairman Forgety joined Russell Johnson, Kim Nelson and John Fine via video conference from Knoxville, TN. J.B. Cox and Kim Helper appeared in person at the AOC in Nashville. Bo Burk, Mark Davidson, Craig Fickling and Jim Kyle joined the group via teleconference. John Ryder was absent.

Chairman Forgety welcomed guests who introduced themselves. In attendance were Patrick Frogge and Chelsea Curtis with the Public Defender's Conference, as well as AOC staff members including Rachel Harmon and Ceesha Lofton. Erin Merrick, Deputy Counsel to the Governor, was also present.

J.B. Cox moved to allow electronic participation by Task Force Members under Tenn. Code Ann. §8-44-108. The motion was seconded by Jim Kyle and carried upon a full roll call vote. Russell Johnson moved to approve the minutes from the February 11, 2019 meeting, the motion was seconded by Bo Burk, and carried upon a full roll call vote.

Chairman Forgety asked the AOC for an update on discussions with Kentucky and Virginia about their experiences with redistricting and whether Task Force members would benefit from a presentation from those states. Rachel Harmon stated she spoke with Katie Shepherd at the Kentucky AOC. Kentucky operates under a unified court system which is the most obvious difference with Tennessee. Under the Kentucky system, the Supreme Court is given sole authority to determine the need for redrawing district lines. After being pushed by the General Assembly, a plan was presented in 2016, and later scaled down when resources were not allocated by the General Assembly. Kentucky did not have any open meetings in 2016 and received some public pushback about a lack of transparency. Shepherd expects that will change when they review the process again in 2022. Shepherd also shared her belief that everyone involved in redistricting must have "skin in the game" and politics should be kept out of the process.

Virginia's redistricting effort were initiated back in 2010. At that time, the General Assembly placed a freeze on appointing new judges. The Virginia Supreme Court assembled a group of stakeholders, like the Tennessee Task Force, and crafted two to three proposals which were shared at public hearings across the state. Attorneys were the most vocal about providing feedback.

Russell Johnson noted that the only real proposal available was the recent effort from the trial judges committee which led to the Legislature adding judges in the 16th, 19th, and 21st Judicial Districts. Both Virginia and Kentucky faced a legislative effort to reduce the number of trial judges. Discussion followed on the differences between our court system and those in Virginia and Kentucky. JB Cox stated the work in Virginia and Kentucky may be helpful in some way, but it would not be an "apples to apples" comparison. JB Cox moved to consider the reports/information provided to the AOC rather than have presentations from the states. John Fine seconded the motion. A proper roll call vote was taken and approved by nine members with 2 members unavailable.

Chairman Forgety discussed the March 4, 2019 public hearing held at the Legislature. He noted there was fair attendance with only a few speakers providing input. During the recent judicial conference in Gatlinburg, judges were encouraged to share thoughts on what should be done or not done as well as what is needed or not needed. Speakers attending the West Tennessee hearing on April 15, 2019 will be encouraged to tell the Task Force what is on their mind.

The Task Force received a comment on line in the form of a letter from the NAACP suggesting the diversity of the Task Force membership was insufficient. Discussion followed on the concerns raised in the letter, including the issue of transparency related to Task Force meetings. The AOC stated it did not have the capacity to live stream each meeting. However, the AOC includes information on its website stating when the Task Force meets and lists the locations. Chairman Forgety indicated he would reach out the TBA Committee on Racial and Ethnic Diversity, as well as the Tennessee Black Caucus of State Legislators. Without objection, both groups were added to the list of groups/organizations solicited by the Task Force to provide input and comment.

In preparation for the April 15, 2019 public hearing, Chairman Forgety reviewed statistics about West Tennessee. Included in West Tennessee are Districts 24 -30. He noted that West Tennessee has the lowest number of filings per judge. Chancellor Kyle stated that caseload analysis in some districts varies from study to study – with some districts up one judge in one study and then down one judge in the next study. Members also recognized that the Task Force authorizing legislation does not charge the Task Force with the reallocation of resources.

Drawing on Virginia’s experience, Russell Johnson suggested the Task Force include the Ramsey plan as a starting point for discussion at the public hearings. Discussion followed on whether to provide any plan as a discussion item for participants at the hearings. No motion was made to bring up past plans, therefore no specific plan will be mentioned. Rachel Harmon suggested highlighting some of the criteria previously identified as talking points for the speakers.

Task Force members wondered how to preserve the comments/statements made during the public hearings. The AOC stated it could provide audio recording equipment. JB Cox made a motion, seconded by John Fine, to record the hearings. Following a roll call vote, the motion passed 10-0.

With no further business, the Task Force meeting adjourned at 2:51 p.m. CDT.

Respectfully Submitted:

Kim Helper