



Governor's Advisory Council for Exceptional Citizens (GACEC) 516 West Lookerman St., Dover, DE 19904
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MEMORANDUM

DATE: April 25, 2013

TO: The Honorable Members of the Delaware General Assembly

FROM: Dafne Carnright, Vice Chairperson
GACEC

RE: House Bill No. 18 (Election: Board of Canvass)

The Governor's Advisory Council for Exceptional Citizens (GACEC) has reviewed House Bill No. 18 which brings the designation of judges who act as the boards of canvass into compliance with §6 of Article V of the Delaware State Constitution. Council endorses the proposed legislation as it is a housekeeping measure that will assist with the development of more effective election procedures, including the availability of a judicial review process for absentee ballots.

As background, the Delaware Constitution requires election results, including absentee ballots, to be filed with the Prothonotary which serves as the clerk for the Superior Court. The Constitution then authorizes the Superior Court to serve as a board of canvass to certify the election results. Two judges per county are charged with performing this certification:

For purposes of this section the Superior Court shall consist in New Castle County of the President Judge and resident Judge; in Kent County of the resident Judge and an (sic "a") Judge designated by the President Judge; and in Sussex County of the resident Judge and a Judge designated by the President Judge.

Delaware Constitution, Article V, §6.

Unfortunately, a State statute conflicts with this designation of judges. It reads as follows:

For purposes of this chapter, the Superior Court shall consist in New Castle County of the President Judge and the Resident Judge; in Kent County of the Chancellor and the Resident Judge; and in Sussex County of the Resident Judge and one of the remaining judges.

Title 15 Del.C. 5701(b).

House Bill No. 18 conforms the statute to the Constitution.

Thank you in advance for your time and consideration of our position. Please feel free to contact me or Wendy Strauss should you have questions or concerns.