

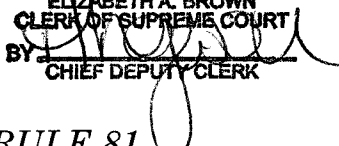
IN THE SUPREME COURT OF THE STATE OF NEVADA

IN THE MATTER OF AMENDMENTS
TO SUPREME COURT RULE 81
REGARDING THE BOARD OF
GOVERNORS ELECTION OF
MEMBERS.

ADKT 0519

FILED

SEP 28 2017

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
CHIEF DEPUTY CLERK

ORDER AMENDING SUPREME COURT RULE 81

On September 27, 2016, the Board of Governors of the State Bar of Nevada filed a petition to amend Supreme Court Rule 81 regarding the election of members to the Board of Governors and the lifetime limit for which a Governor may serve. An amended petition was filed thereafter.

WHEREAS, this court solicited public comment on the petition and a public hearing was held in this matter on June 8, 2017; and

WHEREAS, this court has determined that the proposed rule changes are warranted; accordingly,

IT IS HEREBY ORDERED that Supreme Court Rule 81 shall be amended and shall read as set forth in Exhibit A.

IT IS FURTHER ORDERED that this amendment to the Supreme Court Rules shall be effective 30 days from the date of this order. The clerk of this court shall cause a notice of entry of this order to be published in the official publication of the State Bar of Nevada. Publication of this order shall be accomplished by the clerk disseminating copies of this order to all subscribers of the advance sheets of the Nevada Reports and all persons and agencies listed in NRS 2.345, and to the executive director of the State Bar of Nevada. The certificate of the clerk of this court as to the

accomplishment of the above-described publication of notice of entry and dissemination of this order shall be conclusive evidence of the adoption and publication of the foregoing rules.

Dated this 28th day of September 2017.

Cherry, C.J.
Cherry

Douglas, J.
Douglas

Gibbons, J.
Gibbons

Pickering, J.
Pickering

cc: Vernon Leverty, President, State Bar of Nevada
Kimberly Farmer, Executive Director, State Bar of Nevada
All District Court Judges
Clark County Bar Association
Washoe County Bar Association
First Judicial District Bar Association
Administrative Office of the Courts

HARDESTY, J., with whom PARRAGUIRRE, J., and STIGLICH, J., agree, concurring:

I concur in the majority's approval of the amended petition and corresponding change to Supreme Court Rule (SCR) 81. I write separately, however, to express my support for the original petition the Board of Governors of the State Bar of Nevada (State Bar) filed on September 27, 2016.

SCR 81 governs the election of members to the Board of Governors and the term and lifetime limits for which a governor may serve. In its original petition, the State Bar requested that this court revisit its existing rule limiting elected governors to two-year terms and eight-year lifetime term limits and requested that "this [c]ourt increase the term for which a [g]overnor may be elected from two years to three and to increase the lifetime [term] limit from eight years to 12 years, unless elected as vice president, president-elect or president, in which case, the lifetime term would be 15 years."

On April 17, 2017, the State Bar submitted an amended petition requesting that this court "extend the lifetime terms of board members from eight years to 11 years if the member is elected to serve in an officer position." The requested change "would apply solely to governors elected to an officer position (President, President-Elect and Vice-President) in their eighth year and would allow them to continue service without running for reelection once elected to an officer position." Under the proposed change, the lifetime term limits for all other governors would remain unchanged. For the following reasons, I would approve the original petition.

The State Bar contends that the current lifetime limits of service have precluded qualified governors from potentially serving in

leadership positions. In support of their original petition, the State Bar notes that, from 1965 to 1990, governors were elected to two-year terms and were not subject to lifetime term limits. SCR 81 was subsequently amended in 1990 and 1996 implementing six- and eight-year lifetime limits of service, respectively. The State Bar offered compelling evidence that any rationale for those term limits has expired.

During an administrative hearing on the proposed amendment, the State Bar provided statistical support for its amended petition. For example, over the past 10 years, 41 lawyers have served on the Board of Governors and only 34 percent of the board has been retained, which equates to a roughly two-thirds turnover rate. Of those who served, only 30 percent of governors have reached the eight-year term limit. Based on the data offered by the State Bar, it is unclear what purpose the current term limits serve, or what the amended petition would accomplish when compared to the original petition.

If the purpose of term limits is to promote diversity among the governors, that purpose is already being served through the election process. The Nevada attorneys who make up the electorate have not retained most acting governors long enough for them to reach the current or proposed term limits. And, on the subject of gender diversity, 8 of the last 20 State Bar presidents are women.

As the State Bar points out, the issues that the Board of Governors regularly face are complex and sophisticated. Effective leadership requires experience and education that can only be obtained through years of service on the Board, its committees, or State Bar sections. Short and mandatory lifetime term limits deprive the Board and the Bar of

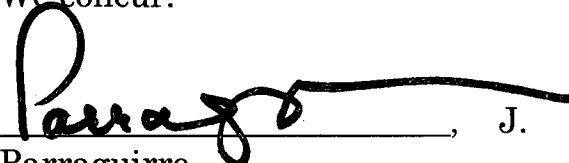
the wisdom and insight of qualified individuals who would otherwise pursue leadership positions.

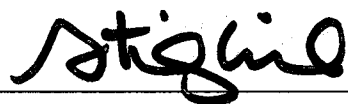
As acknowledged by the State Bar, Nevada's lifetime term limits are unique among other jurisdictions as only three unified bar associations (including Nevada) in the United States impose lifetime term limits on their governors. As such, the time has come to join our 12 sister jurisdictions with no lifetime term limits and rethink our limitation on the number of years elected governors may serve.¹ The most effective method of term limits already exists and has been working. It is called elections.

Notwithstanding my support for the State Bar's original petition, I believe that any extension of lifetime term limits is a step in the right direction. Therefore, I concur.


_____, J.
Hardesty

We concur:


_____, J.
Parraguirre


_____, J.
Stiglich

¹The Board of Governors might also consider an approach similar to the one used in Kentucky. In Kentucky, a governor who has reached his or her lifetime term limit can serve additional terms after a cooling-off period of at least one intervening term. See Ky. Sup. Ct. Rule 3.080 (West 1978).

EXHIBIT A

AMENDMENT TO SUPREME COURT RULE 81

Rule 81. Board of governors: Election of members; term.

1. The board of governors shall hold office until their successors are elected and qualified as hereinafter provided.

2. The board of governors of the state bar shall be composed of 15 members to be elected as follows:

(a) Nine members shall be elected from district No. 1, which shall consist of Clark County;

(b) One member shall be elected from district No. 2, which shall consist of the counties of White Pine, Elko, Eureka, Churchill, Lander, Humboldt, Lyon, Lincoln, Douglas, Mineral, Nye, Esmeralda, Pershing and Storey;

(c) One member shall be elected from district No. 3, which shall consist of Carson City; and

(d) Four members shall be elected from district No. 4, which shall consist of Washoe County.

3. The members of the board of governors shall be elected for two-year terms. No attorney may serve on the board of governors for more than a lifetime total of eight ~~[years.]~~ years, unless elected as vice president, president-elect or president, in which case the lifetime limit would be eleven years. The time served in filling a partial term created by a vacancy shall not be included in computing the eight-year lifetime ~~[limit, nor shall the eight-year lifetime limit preclude a member of the board who serves as president-elect during his or her eighth year from thereafter serving as president.]~~ limit. If elected vice president, president-elect or president,

the term of office shall extend, without reelection, through the officer's presidential year.

4. Only active members of the state bar who reside in Nevada and have an official address pursuant to Rule 79 in the respective counties as provided in subsection (2) above, are eligible to be elected as a governor therefrom.