



**Testimony of Pennsylvanians for Modern Courts and PMCAction  
Senate Judiciary Committee on Merit Selection of Appellate Judges  
(Senate Bills 1324 and 1325)**

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**Introduction**

Pennsylvanians for Modern Courts (PMC)<sup>1</sup> and PMCAction<sup>2</sup> thank the Senate Judiciary Committee for holding a public hearing on the issue of Merit Selection for the appellate courts and for the opportunity to submit this written testimony.

PMC and PMCAction lead a Coalition focused on bringing Merit Selection to the appellate courts of Pennsylvania. The current electoral system – with its emphasis on fundraising and campaign prowess – is broken and is undermining public confidence in the judiciary and our courts. The solution that is best designed to get the most qualified, fair and impartial judges on the appellate bench and to get those judges out of the fundraising business is Merit Selection.

The courts affect the lives of all Pennsylvanians in very significant ways. Judges preside over divorce and child custody cases, commercial claims, landlord-tenant fights, medical malpractice cases, and employment matters, just to name a few. We all want fair, impartial, qualified judges presiding over the cases in which we are involved. In addition, the judges and justices on the appellate courts – the Superior, Commonwealth and Supreme Courts – issue decisions that are binding on the lower courts across the Commonwealth and that affect us all. As a result, selecting appellate judges is critically important.

Pennsylvania is one of only a handful of states that elects all of its judges in contested partisan elections. These elections have become increasingly partisan and expensive, and it is very difficult for voters to get relevant information about the candidates. In short, judicial elections have become more like elections for other public officials.

This is problematic because judges are different from other public officials. Unlike legislators and executives who represent particular constituencies and are elected based on their positions

<sup>1</sup> **Pennsylvanians for Modern Courts** is a statewide nonprofit, nonpartisan organization founded to improve and strengthen the justice system in Pennsylvania by reforming the judicial selection process; improving the jury system, court administration and court financing; eliminating bias; and assisting citizens in navigating the courts and the justice system, whether as litigants, jurors, or witnesses.

<sup>2</sup> **PMCAction** is an affiliated nonprofit that lobbies for court reform initiatives. For more information, please visit our blog at <http://JudgesonMerit.org>.

on controversial issues, judges are not supposed to be responsive to their communities, to popular will or political pressure. Instead, judges must be impartial and resolve disputes based on the law and evidence. Judges are responsible to the law. Campaign donations can shape the agendas and opinions of legislators and executives but should have no influence on decisions in the courtroom.

Electing judges is antithetical to the principles underlying our justice system. As elections become more partisan, expensive, and contentious, our courts are damaged. If the public perceives justice to be “for sale” to the highest contributor or to be predetermined for those who share opinions similar to those espoused by the judge on the campaign trail, the ideal of impartial justice is undermined. Public trust in the courts is imperative; without it, the court system cannot achieve its vital work. Judicial elections erode public trust and confidence. It is time to restore that trust and confidence in the courts.

Pennsylvania has been considering changing from elections for appellate judges to a Merit Selection system for years. A referendum to make this change was narrowly defeated in 1969. In the intervening years, Merit Selection legislation has been introduced but has not passed the legislature in the required two successive sessions. As a result, Pennsylvanians have not had the opportunity to weigh in through a referendum on whether to change the way we select appellate court judges. We believe that it is time to give the people this opportunity.

### **What is Merit Selection?**

Merit Selection is a system for selecting judges that combines elements of the elective and appointive systems and adds a new feature: an independent citizens nominating commission that screens and evaluates candidates for appellate judge and recommends them for possible nomination.

Merit Selection is designed to get the most qualified, fair and impartial judges onto the appellate courts. Merit Selection emphasizes qualifications, skills, experience, temperament and reputation for ethical behavior. By eliminating the expensive electoral campaign process, Merit Selection gets appellate court judges out of the fundraising business. This is critical in restoring public confidence in the impartiality of the courts.

Pennsylvania can only implement a Merit Selection system for the appellate courts by amending the Constitution. To do that, the legislature must first pass identical legislation in two successive sessions. Because of constitutional requirements related to the amendment process, it is too late in the current session for a vote on the Merit Selection legislation. Therefore, the legislation will be introduced in the new session beginning in 2009. As we describe below, we anticipate that there will be some changes in the legislation. If the legislation passes in the 2009-10 session, it must pass again during the 2011-12 session. If that occurs, a public referendum will be held so the people can vote on whether or not to change the way we select appellate court judges. The system can change only if the people vote for change.

We will outline below the problems inherent in electing appellate judges and how Merit Selection solves those problems; how Merit Selection would work in Pennsylvania; and the growing support for Merit Selection in Pennsylvania.

### **The Problems Inherent in Electing Appellate Court Judges**

Pennsylvania is one of only six states that elects all judges in partisan election contests. This is not a minority of which we should be a part. Elections simply are not designed to get the most qualified, fair and impartial judges on the bench. This is because elections do not emphasize qualifications and skill, but rather reward campaign and fundraising prowess. In addition,

random factors, like ballot position, name recognition and county of origin play too great a role in electoral success in judicial contests. The public has long complained about the lack of access to relevant information about candidates for the appellate courts, and the difficulty of making decisions about appellate court candidates. Finally, judicial elections have produced an appellate bench that does not reflect the diversity of Pennsylvania. These problems will be discussed in turn below.

### **The Decline of Public Confidence in the Courts**

In 1988, the Pennsylvania Judicial Reform Commission, a respected panel of civic leaders, public officials, legal professionals and members of the judiciary commissioned by Governor Casey and chaired by then-Superior Court Judge Phyllis W. Beck, issued a report finding that confidence in Pennsylvania's judiciary was appallingly low, in large part due to the system of electing judges, including the fundraising that went along with it. The Beck Commission's report presented "a sensible and achievable blueprint for meaningful judicial reform." Among the Beck Commission's recommendations was implementing an appointive method of selecting appellate judges.

Sadly, in the twenty years since the Beck Commission issued its report, its finding of low public confidence has not been reversed, but rather has only intensified. Polls in Pennsylvania and elsewhere reveal that voters, legislators and even judges are increasingly dissatisfied with the elective process. This dissatisfaction stems not only from the elective process itself, but also, and especially, from the role fundraising plays in these contests.

A poll commissioned by a Special Commission of the Supreme Court in 1988 revealed that almost ninety percent of Pennsylvanians surveyed believed that decisions made by judges in the courtroom are, at least sometimes, influenced by campaign contributions. (Lake Sosin Snell Perry & Associates and Deardourff/The Media Company poll). More recently, the Annenberg Public Policy Center reported that "Americans who live in states that hold partisan judicial elections are more cynical toward the courts than Americans who live in states that do not hold partisan elections. Partisan judicial elections foster the belief that 'judges are just politicians in robes.'" Perhaps most tellingly, judges themselves express concern about the need to raise funds from the parties and lawyers who appear before them, and litigants resent the pressure to contribute.

Judges are very different from all other elected public officials. Voters *should* know where executive or legislative candidates stand on controversial issues – we vote for them because of those stands and expect them to fulfill their campaign promises. Judges, however, must be impartial and resolve disputes based solely on the law and evidence rather than on commitments or comments made on the campaign trail.

Moreover, basically requiring individuals who want to be judges to raise campaign funds and seek endorsements undermines public confidence in the independence and impartiality of the judiciary. The majority of contributors to judicial campaigns are the lawyers, law firms and organizations that frequently litigate in the state courts. The pressure these individuals and groups feel to donate, combined with the concern their adversaries in court feel to donate, contribute to a widespread perception that "justice is for sale."

Even the Chief Justice of the Pennsylvania Supreme Court believes that the reality of campaign fundraising creates serious problems. As Chief Justice Castille explained last week on the Pittsburgh ABC affiliate WTAE-TV: “The feeling is out there because of the money that goes around in an elective position like mine that somebody is not gonna get a fair shake. That’s not the way it should be...Those things do erode citizens’ confidence in justice.”

### **Judges Should Not Be in the Fundraising Business**

Most judges will tell you, honestly, that campaign contributions do not affect how they rule on cases that come before them. The problem is that the public finds that increasingly difficult to believe as the costs of campaigns and the fundraising that accompanies them continue to set and break new records.

During the 2007 election for two seats on the Pennsylvania Supreme Court, four candidates raised nearly 8 million dollars from their families and from lawyers, law firms, unions, corporations and other entities that frequently litigate in the state appellate courts. That set a new record in Pennsylvania. Each candidate raised at least one million dollars, and one raised close to 2.4 million dollars. This is in line with increasingly expensive judicial elections across the nation. As former United States Supreme Court Justice Sandra Day O’Connor recently wrote in *Parade Magazine*:

When so much money goes into influencing the outcome of a judicial election, it is hard to have faith that we are selecting judges who are fair and impartial. If I could do one thing to solve this problem, it would be to convince the states that select judges through partisan elections—that is, when a Democrat and Republican run against one another—to switch to Merit Selection instead. . This method decreases the importance of money and politics in the process while still allowing voter input on retaining each judge.

The fundraising problem and the perceptions it creates are intensified because in Pennsylvania (and many other states) judges don’t have to step aside (“recuse” in legal terms) in cases where the parties or lawyers gave money to help them get elected. That means that a judge can make the decision in a case that involves a lawyer or party who gave money, even a lot of money, to his or her election campaign. This is a key cause of the increasingly widespread public belief that campaign contributions affect decisions made in the courtroom. Even if this perception is erroneous, great damage is done by the very fact that the public believes it could be true. Our justice system works only as long as the public believes that all comers are treated fairly and impartially. When that belief is undermined – as it is by the increasingly expensive electoral process – the courts are weakened.

We think the solution is to get judges out of the fundraising business. The best way to do this is Merit Selection.

### **The Lack of Required Qualifications to Run for a Seat on the Appellate Courts**

Currently, the only requirements to run for election to judicial office in Pennsylvania are residency in the Commonwealth for at least one year, licensure as a lawyer in the Commonwealth, and being at least twenty-one years of age. A candidate for judicial office is not required to have actually practiced law at all, let alone for any minimum number of years. There

is no requirement that a lawyer have tried any cases in the court to which he or she is seeking election. This lack of criteria or requirements governing qualifications is one of the most effective factors in uniting diverse audiences in support of Merit Selection.

Although we have many good judges on the appellate courts of Pennsylvania, they are there despite the electoral system, not because of it. In recent years, some very highly qualified candidates have been unsuccessful in even winning nomination to run for the appellate courts, let alone winning election to the courts.

Pennsylvania needs a judicial selection system designed to place the most highly qualified, skilled and experienced candidates on the appellate courts. Elections simply are not designed to do this; they emphasize connections, campaigning skill and fundraising prowess. By contrast, Merit Selection is designed to put the most highly qualified candidates on the courts.

Part of the appeal of a Merit Selection system is the promise of establishing meaningful requirements and minimum qualifications for candidates seeking judicial office. These requirements would be written into the Constitution and would include being engaged in the practice of law for a minimum number of years. However, “being engaged in the practice of law” would be defined broadly, so that legal academics, legislators, policy developers and others with relevant experience could be considered: “each person whose name is submitted to the Governor shall. . . . for an aggregate of ten years, have either practiced law, served as a judge of a court or courts of record in this Commonwealth, served as a judge of a federal court, or have been engaged in a law-related occupation.”

In addition, other elements would be considered in an effort to bring to the bench people who would operate fairly, without bias or partiality and with the highest respect for the ethical constraints of the position. Candidates’ reputations for honesty, integrity, and fairness would be considered, as would candidates’ commitment to and involvement in their communities and the legal community. Finally, the process would recognize the importance of having a judiciary made up of men and women from diverse geographical, racial and ethnic backgrounds.

Recently, three law professors (Stephen J. Choi, G. Mitu Gulati and Eric A. Posner) produced a paper for the Chicago Working Paper Series in which they compared the performances of judges selected in different ways. They measured quality of written opinions produced, quantity of written opinions produced, and independence as defined by how often a judge dissents from opinions written by a fellow judge from the same political party. Their ultimate conclusion is telling: “It might be that the different systems [of selection] attract different types of people to judgeships. . . . In particular, electoral systems would seem to attract *politicians*, while appointment systems are more likely to attract *professionals*.”

Pennsylvania deserves appellate court judges of the highest quality and experience. Merit Selection, which combines elements of elective and appointive systems, is the way to achieve this.

## **Random Factors Influence Election Outcomes**

Currently, the best predictors of the winners of judicial elections are ballot position (how high up on the ballot a candidate's name appears) and how much a candidate spends on the campaign. Other factors include name recognition, the geographic area in which a candidate lives, gender, and the concurrent elections for other offices that occur at the same time (i.e., often a mayoral or county executive race in Philadelphia or Allegheny County will affect the outcomes of judicial races). None of these factors include qualifications.

Random factors should not be relied upon to find the most qualified and most fair appellate judges. Decisions as important as who sits on the appellate courts should not be left to chance. Merit Selection removes the randomness from the process and sets up a system under which qualifications determine who reaches the appellate bench.

### **The Lack of Access to Information**

Traditionally, judicial elections have been relatively low turn-out elections. They occur in odd-numbered years, and sometimes do not even accompany a mayor or city/county executive race. When they do, there is often significant drop-off of voters who vote for the "up-ticket" races and decline to vote in the judicial races.

What explains this phenomenon? Disenchanted voters who want to cast educated, meaningful ballots but who have been frustrated in efforts to learn relevant information about the candidates running for judge. Voters report that they feel uninformed about judicial candidates and unequipped to make a meaningful decision. Voters understand that appellate judges occupy critically important positions in our government, but they believe they do not have the necessary information to make an informed vote.

Merit Selection sets up a system in which voters can learn about the candidates applying for judicial vacancies and can share with the nominating commission, the Governor and the Senate any relevant information they have about these candidates. In addition, once a judge has gone through this process of evaluation by the commission, nomination by the Governor and confirmation by the Senate, significant information about his or her qualifications, skill, experience, background and reputation will have been made public. This all will be important to voters who will be asked to decide after the judge's initial four-year term whether that judge should be retained.

### **The Lack of Diversity on Pennsylvania's Appellate Courts**

Pennsylvania is a diverse state, politically, ethnically, racially and geographically. Our appellate courts, however, do not reflect this diversity. Instead, most who win election to the appellate courts come from the big population centers – the Philadelphia and Pittsburgh areas. The appellate courts are lacking in racial and ethnic diversity, and although women recently have been successful in reaching the Superior and Commonwealth Courts, only two women ever have been elected to the Supreme Court.

Under Merit Selection, the nonpartisan citizen-based nominating commission evaluates ALL applicants for judicial vacancies, focusing on their qualifications, skills, experience, contributions to the community and reputations for ethical and fair behavior. No one is excluded from the process due to lack of financial resources or political connections. And, the Constitutional language emphasizes the value of having diverse courts and a diverse nominating commission. The current legislation provides: "The commission shall consider that each of the

appellate courts should include both men and women who come from racially and ethnically diverse backgrounds and who reflect the geographic diversity of this Commonwealth.” Similar language guides those appointing the members of the nominating commission.

The value of a diverse judiciary comes from the public believing they will get treated fairly by appellate courts that reflect the diversity of the Commonwealth. When governmental institutions reflect the populations they serve, the public has greater confidence that those institutions serve the people. This is very important in maintaining strong courts. The courts derive their power and legitimacy from public trust. Perception is very important when it comes to the court system. If the public perceives that the judges and courts are not fair and impartial and are not dedicated to public service, their faith in the system erodes. This in turn weakens the entire justice system.

Merit Selection has a better track record than elections in bringing diverse judiciaries to the bench. Research by the American Judicature Society shows that racial minorities have greater success reaching appellate benches through Merit Selection. Of 334 judges on the highest state courts in the nation, 40 are minorities: 5 were elected whereas 35 reached the bench through some form of appointive system, including Merit Selection.

Women, too, have greater success in reaching appellate courts in Merit Selection states. Of 334 judges on the nation’s highest state courts, 102 are women: 29 were elected and 73 reached the bench through some form of appointive system, including Merit Selection.

### **Why Merit Selection for the Appellate Courts Only?**

The problems with elections enumerated above are more pronounced at the appellate level. Appellate court elections require candidates to campaign statewide and buy television advertising time in multiple media markets. As a result, these campaigns are much more expensive. In addition, in elections for the county courts, voters have a greater likelihood of knowing candidates for the bench and greater opportunity to meet and learn about those candidates. Finally, the lack of diversity is much more apparent on the appellate courts. Local courts are more reflective of their communities than the appellate courts are of the Commonwealth.

### **How to Design a Merit Selection System for PA**

In designing a Merit Selection system for Pennsylvania, it is important to realize that while other states’ systems might serve as models, a unique system that respects Pennsylvania’s unique cultural and political history is essential.

A viable Merit Selection system must have four parts: (1) a diverse citizens nominating commission that screens, evaluates and recommends candidates for nomination to judicial office; (2) an executive officer empowered to nominate recommended, and only recommended, candidates to the appellate bench; (3) a legislative confirmation process; and (4) a role for the public in evaluating the judges following an initial term in office.

### **The Nominating Commission**

Ideally, a nominating commission should be a nonpartisan group of men and women, some lawyers from different practice areas, some nonlawyers, racially and ethnically diverse and from across the Commonwealth. The nominating commission should have members who are well-respected members of the community, but elected officials and political party leaders and officers would be prohibited from serving on the nominating commission. It is critically important to ensure that some members of the nominating commission are regular folks – people who might end up in court as litigants, witnesses or jurors – because the courts touch all of our lives.

Under the current legislative proposal, the authority to appoint Commission members would be shared by the Governor, the legislative leadership of both parties, and by the public, as represented by six categories of nongovernmental organizations corresponding to different segments of the population.

This model follows an established procedure by which appointments to some other state commissions and boards are made, and also recognizes that the public should have a significant role in the process. Sharing the appointment power between the Governor and the legislature continues the longstanding constitutional role that these entities share in the judicial selection process, particularly in filling interim vacancies. Providing for a group of “public members” enables the public to have critical input in the process.

The Commission would be composed of fourteen members, with the Governor selecting four members, and the President Pro Tempore of the Senate, the Speaker of the House, the Senate Minority Leader and the House Minority Leader each selecting one member. The remaining six members would be designated as “public members.” Their selection would be governed by a process overseen by the Secretary of the Commonwealth (“Secretary”), although the Secretary would not possess any appointing power. The process would be as follows:

The six public seats would correspond to six categories of nongovernmental organizations:<sup>3</sup>

- Civic groups (Pennsylvania not-for-profit corporations, as defined by § 501(c)(3) of the Internal Revenue Code);<sup>4</sup>
- Unions;
- Organizations representing business interests;
- Professional associations (other than associations of lawyers);
- Public safety organizations; and
- Pennsylvania Law School Deans.

At the time of the initial appointments to the Nominating Commission and whenever there is a vacancy on one of the “public seats” of the Commission, the Secretary would advertise publicly to alert nongovernmental organizations that they may apply to be involved in the process of nominating members to the Commission. In the application, the organizations would be required

<sup>3</sup> Under current Pennsylvania Constitutional jurisprudence, appointments to public office by nongovernmental entities are not permitted. The Constitution must be amended to permit such appointments.

<sup>4</sup> Religious entities would be excluded to preserve the separation between church and state.

to state the category of nongovernmental organization in which they wish to be considered (they may pick only one), document that they are a Pennsylvania-based organization in compliance with any applicable state law requirements, and provide a count of their membership. Upon the close of the application period, the Secretary would notify the five largest organizations (generally defined by membership) that applied in each category to submit a candidate for possible appointment. Upon the close of the submission period, the Secretary would draw lots (one from each set submitted) in a public forum to determine the five public members of the Commission. The individual chosen would be appointed to the vacant seat on the Commission.

The concept of “public members” of the Commission was designed to address a long-standing concern with prior Merit Selection proposals. Critics of Merit Selection have always charged that the goal of Merit Selection proposals is to take away the public’s right to vote and give all the power to politicians. They claim that a Merit Selection nominating commission would be used by politicians to eliminate the public from the process. The concept of “public members” addresses these concerns by giving a voice to many organizations that represent and reflect different segments of the Pennsylvania population and by including on the Commission individuals who have not been appointed by elected officials.

The Commission is different than other statewide commission because there are public members selected by a random process. This plan is different from prior Merit Selection proposals because it includes “public members” who are not appointed by elected officials. It is also different from the plans of other states, which mostly provide for elected officials and state bar associations to appoint members to the nominating commission. The concept of public members allows for greater public participation without designating a seat on the commission for any particular union, business entity or civic group.

We anticipate that when Merit Selection legislation is introduced in the 2009-2010 session, it will provide for additional public members to be appointed to the commission. We think a commission that has more public members than members appointed by elected officials will garner greater confidence with the public and allow more segments of the population to be directly involved in the earliest stages of the process.

### **How Will the Nominating Commission Conduct its Work?**

The nominating commission is charged with evaluating candidates for appellate court vacancies. The commission will perform thorough investigations and examinations of candidates to develop a list of the most highly qualified. The information developed through this process will be relevant to the question of whether a candidate has the qualifications, skill, experience, temperament and reputation for fairness and ethical behavior required to serve on the appellate bench. This is the very type of information that voters have long complained they are unable to attain and that is rarely, if ever, the focus of electoral campaign advertisements, robo-calls and sound bites.

The commission will be empowered to examine a candidate’s background and to interview colleagues, courtroom adversaries, judges and others familiar with the candidate’s work and experience. People with knowledge of the candidate’s commitment to the community, and reputation for fair and ethical behavior will also be interviewed.

We anticipate that when the legislation is introduced in the new session, it will provide for the commission to make public the names and biographical information of applicants for judicial vacancies, hold public hearings and set up a process by which members of the public can provide information about the applicants. Although the commission will be able to maintain some of the information private, such as financial information and background investigations, this will allow for greater public participation in the process.

Following its investigation and hearings, the commission members will vote on the applicants. A list of the five most highly qualified candidates will be forwarded to the Governor. This list will be made public.

### **Nomination by the Governor**

The Governor will be bound to nominate an appellate judge from the list of candidates recommended by the nominating commission. The Governor is not free to appoint whomever he or she wishes to serve on the courts. The public can be confident that all of the candidates recommended by the commission are well qualified to serve on the appellate courts. Because the list will have been made public, Pennsylvanians will have the opportunity to make their views on the recommended candidates known to the Governor.

### **Senate Confirmation**

The Governor's nominee will be subject to Senate confirmation. Senate confirmation will include hearings and the opportunity for public comment. Pennsylvanians will have the opportunity to inform their Senators of their views about the nominee for appellate judgeship.

### **Retention Elections**

After an initial four year term, appellate judges who reach the bench through Merit Selection will stand before the public in a yes/no nonpartisan retention election. This is six years earlier than elected judges currently stand for retention. The public therefore has an opportunity early on to evaluate the judge's performance on the bench.

In addition to this evaluation, voters will have the benefit of the information garnered during the selection process, much of which will have been made public, to inform decisions about retention. If a judge wins retention, s/he will serve a full ten year term and will then be eligible to stand for retention again.

### **Merit Selection is Different from the Process for Appointing Interim Appellate Judges in Pennsylvania and from the Federal System for Appointing Judges**

Under the current system for filling interim vacancies in Pennsylvania, the Governor appoints and the Senate must confirm a nominee by a two-thirds vote. Traditionally, to win confirmation, the nominee must pledge not to seek a full term in the upcoming election. Thus, interim appointments serve for two years or less and then return to the private sector, retire or perhaps become senior judges appointed to other courts.

Under the federal system, the president may appoint a nominee of his or her choosing. That nominee is then subject to Senate confirmation, and will serve for life or good behavior.

Absent from both of these systems is the key piece of Merit Selection: the constitutionally-mandated role of the nominating commission, a citizen-based commission charged with evaluating candidates for the appellate courts.

In a Merit Selection system, the Governor would be required to make a nomination from the commission's list of highly qualified candidates. No such requirement exists in either the interim appointment process or the federal system. Although Pennsylvania has a bi-partisan nominating commission to advise our United States Senators on possible federal court appointments, its recommendations are not binding on the president.

Critically, Merit Selection also provides that following a brief term on the bench, a judge would stand before the public in a nonpartisan, yes/no retention election. Neither the interim appointment process nor the federal system provides for any sort of retention election.

In sum, Merit Selection is very different from either of these processes. Neither the federal system nor the interim appointment process should be viewed as examples of how Merit Selection would work.

### **Who Supports Merit Selection of the Pennsylvania Appellate Courts?**

Support for Merit Selection of the appellate courts is growing in Pennsylvania. Many of our coalition partners will be offering written and/or oral testimony to the Committee. Others are present at the hearing to demonstrate their support.

The Coalition is broad-based and diverse, representing many different segments of the Pennsylvania population from all over the state, including:

**Civic and community groups**, including the League of Women Voters of Pennsylvania, the League of Women Voters of Philadelphia, Common Cause of Pennsylvania, the Urban League of Philadelphia, the American Civil Liberties Union of Pennsylvania, the Pennsylvania Council of Churches, the Philadelphia Council of Clergy, the Committee of Seventy, the Justice At Stake Campaign, and the American Judicature Society;

**Business groups**, including the Pennsylvania Chamber of Business and Industry, the Pennsylvania Manufacturers' Association, the Hispanic Chamber of Commerce of Central Pennsylvania, the Hispanic Chamber of Commerce of Philadelphia, the Pennsylvania Business Council, the Northeast Pennsylvania Manufacturers and Employers Association, the Association of Corporate Counsel Delaware Valley Chapter, and the Committee for Economic Development;

**Businesses**, including Merck & Co., Air Products and Chemicals, Inc., and AAA MidAtlantic, Inc.;

**Groups representing the legal profession**, including the Pennsylvania Bar Association, the Philadelphia Bar Association, the Barristers' Association of Philadelphia and the Philadelphia Association of Defense Counsel; and

**Pennsylvania leaders from all three branches of government**, including Chief Justice Ronald Castille, Governor Edward Rendell, former Governor Tom Ridge, former Superior Court Judges Phyllis W. Beck and Justin Johnson, Philadelphia Mayor Michael

Nutter, and the chairs of the Pennsylvania Democratic and Republican parties TJ Rooney and Robert Gleason.

These groups and individuals support Merit Selection for different reasons. But the breadth of this growing Coalition demonstrates that judicial selection is an issue that is deeply important to Pennsylvanians.

**Conclusion**

Pennsylvania has not engaged in a full discussion -- including a public referendum -- about how we choose our appellate judges for forty years. It is time to determine whether we are using the best process to select our appellate judges. This can happen only if Pennsylvanians are given the opportunity to weigh in. To reach the referendum stage, the legislature must first act in two successive sessions. We thank the Committee for holding this hearing, the first step on the way towards letting the people of Pennsylvania decide.