



**TESTIMONY OF THE PENNSYLVANIA BAR ASSOCIATION IN SUPPORT OF
MERIT SELECTION OF APPELLATE COURT JUSTICES AND JUDGES**

BEFORE THE HOUSE JUDICIARY COMMITTEE

NOVEMBER 17, 2011

To: Members of the House Judiciary Committee

The Pennsylvania Bar Association appreciates the opportunity to submit this written testimony. Since 1947 the PBA has supported non-partisan merit selection of appellate court justices and judges. Merit selection advocacy has a strong history in Pennsylvania. As far back as 1959, a state Commission on Constitutional Revision endorsed the idea of merit selection, and later in 1964, a citizens' conference made a similar recommendation. In 1969 Pennsylvania held a referendum on merit selection, but it failed by less than two percent of the vote. Merit selection has been called for by former Pennsylvania Governors Thornburgh, Casey and Ridge, and Governor Rendell had pledged his support for this reform measure when he was in office.

Merit selection will produce judges on the basis of their judicial experience, integrity and temperament, not on their name or the amount of campaign funds they can raise. Studies have shown that 40 percent of voters surveyed said they spent no time whatsoever examining the background and qualifications of judicial candidates and that voters are most likely to vote for the first candidate listed on the ballot. Voters are also often influenced by "hometown candidates" and will choose candidates based not on their qualifications but rather on their hometown or surname. In addition, merit selection will largely negate the influence of out-of-state money on judicial selection.

We look to our justices and judges for an honest and fair interpretation and application of the law. Questions about the integrity of the judge sitting on the bench undermine the public's confidence in the judiciary and the rule of law. Citizens need to trust that they will get justice when they walk into the courthouse. The significant cost of judicial elections undermines this trust and undermines the sense that judges are independent from interest groups and individuals. Judicial candidates need to turn to others to finance their campaigns, thereby raising the inevitable question of whether the elected justice or judge can be a fair arbiter when the interests of these financiers arise.

100 South Street · P.O. Box 186 · Harrisburg, PA 17108-0186 · Phone: (800) 932-0311 or (717) 238-6715

E-mail: info@pabar.org · Website: www.pabar.org

STATEMENT OF THE PENNSYLVANIA BAR ASSOCIATION

As the organization designated by the Pennsylvania Supreme Court as most broadly representative of the interest of lawyers in Pennsylvania, the Pennsylvania Bar Association respectfully requests that it have identified representation on the committee/commission that selects qualified individuals to be appellate justices and judges. The PBA's experience would be most valuable to any merit selection panel.

Given the expected dissent on aspects of merit selection, as differentiated from the position that many may have with the general concept, we would hope that an effort would be made under the aegis of the General Assembly to bring interested parties together to negotiate a resolution that engenders the broadest support, as should be the case with our handling of the judiciary. The resolution of our selection of justices and judges demands respect and trust both with regard to the institution and individual justices and judges. Reform should reflect that respect and trust in the form of the broadest possible agreement on its formulation.

The PBA thanks the Committee for the opportunity to submit this testimony. Should you have any questions, please do not hesitate to contact us at 800-932-0311.

**Comments Submitted to the Pennsylvania House Judiciary Committee
Public Hearing on House Bills 1815 and 1816
Thursday, March 1, 2012
National Constitution Center
Philadelphia, PA**

The Greater Philadelphia Chamber of Commerce is pleased to submit these comments to the Pennsylvania House Judiciary Committee on the important issue of Merit Selection.

As the premier advocate for the region's business community, the Greater Philadelphia Chamber of Commerce (GPCC) works to promote regional economic growth, advance business-friendly public policy, and provide effective programs and services for approximately 5,000 member companies. We unite a variety of small, large and mid-sized businesses from 11 counties across three states.

The economic viability and competitiveness of the Greater Philadelphia region are chief among the Chamber's guiding principles. We promote policy decisions that will improve our business climate as we work to attract and retain companies and jobs in Pennsylvania and the region.

The state's legal environment is among the factors considered when companies are choosing to locate or expand in the region. The General Assembly's recent re-enactment of the Fair Share Act was an important step in returning fairness and balance to Pennsylvania's civil justice system. Medical malpractice reform, and important changes instituted by the courts themselves have also had a positive impact on the operation and effectiveness of our judicial system. Merit selection of Pennsylvania's appellate court judges is another worthy reform that we hope lawmakers will advance.

For nearly two decades, GPCC has been engaged in efforts to change the way Pennsylvania selects members of the state Supreme, Superior and Commonwealth courts. We have presented testimony, organized events and meetings to educate business executives and lawmakers on the need for judicial reform. We have worked with past governors and legislators, members of the legal and academic communities, and civic and corporate leaders to advance merit selection and secure the integrity and effectiveness of our judicial system.

Together with the broad-based coalition, Pennsylvanians for Modern Courts, GPCC has worked to advance consideration of measures similar to House Bills 1815 and 1816, and will continue to urge favorable action on legislation providing for a constitutional amendment, statewide referendum, and nominating and selection process to fill Pennsylvania's appellate court bench.

Pennsylvanians deserve the most qualified, fair and impartial appellate court judges and merit selection is a better way to ensure that the best candidates are selected for the state's highest courts.