



# PHILADELPHIA BAR ASSOCIATION

April 5, 2018

Honorable

Dear Representative :

On behalf of the 12,000 members of the Philadelphia Bar Association, I am writing in support of House Bill 111, which provides for merit selection of state appellate court judges.

This legislation would greatly improve the current system of electing appellate court judges by creating a system in which the Governor would nominate judges from a list of candidates recommended by a new bipartisan Appellate Court Nominating Commission. The Commission would include lawyers and non-lawyers selected by the Governor and General Assembly. The candidates would then be subject to confirmation by the Senate and would serve initial terms, followed by retention elections for additional ten-year terms.

The Philadelphia Bar Association has a longstanding history of support for merit selection of appellate judges. In fact, the Bar believes so strongly in merit selection that our Bylaws provide, “The Association shall ... actively support constitutional reform for merit selection of judges.”

Today, two thirds of all states have some form of merit selection and no state that has adopted merit selection has ever rescinded it. Only five other states – Alabama, Illinois, Louisiana, North Carolina and Texas – choose Supreme Court Justices by partisan election.

The need for reform is urgent. In Pennsylvania, seven-figure fund raising has become the norm in statewide judicial elections. Spending in the 2015 Pennsylvania Supreme Court race exceeded \$16.5 million. Surely that money could have been put to better use.

“Bankrolling the Bench,” a recent national study conducted by the Brennan Center for Justice at NYU School of Law, Justice at Stake and the National Institute on Money in State Politics, found that success at the ballot box was highly correlated with fundraising success. The study found that 21 of the 23 contested appellate court seats during the 2013-14 election cycle – or over 90% – were won by the candidate whose campaign raised the most money.<sup>1</sup>

This study also noted that in the wake of the United States Supreme Court decision in *Citizens United v. FEC*, spending by special interest groups across the political spectrum has increased significantly. In the 2013-14 judicial election cycle, spending by special interest groups in judicial elections reached a record \$10.1 million, accounting for over 29% of total spending.<sup>2</sup>

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<sup>1</sup> See Bankrolling the Bench: The New Politics of Judicial Elections 2013–14, Published October 2015  
<http://newpoliticsreport.org/app/uploads/JAS-NPJE-2013-14.pdf>

<sup>2</sup> *Id.*

The Philadelphia Bar Association strongly believes that the overwhelming majority of appellate judges in Pennsylvania serve with integrity and fidelity to their oath of office. The significant campaign contributions made by special interest groups, however, may cause citizens to believe that appellate judges are beholden to these special interests. As a result, many citizens may question whether they will receive fair treatment in a court of law. In a 2010 survey of Pennsylvania voters, 76% of respondents believed that campaign contributions influence judicial decision making.<sup>3</sup> This perception must be rectified.

By taking campaign spending out of the equation, House Bill 111 will minimize the impact of partisan politics on the election of appellate court judges. Moreover, with qualifications built into the legislation, the public can have confidence that appellate court judges have met measurable standards, rather than benefitting from their ballot position, political affiliation or name recognition.

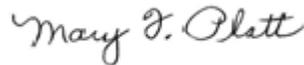
These reforms will go a long way toward restoring the faith of our citizens in the fairness and impartiality of our justice system, which is essential to our democracy.

House Bill 111 also encourages diversity in the selection of judicial nominees. Such diversity is important, because courts that reflect the composition of our citizens are better able to gain the respect and confidence of litigants, lawyers, and those impacted by the courts' decisions.

We believe that the proposed legislation strikes the proper balance between selecting diverse judges based on merit rather than political and fundraising acumen, while allowing citizens to select appellate judges by voting in retention elections. The Philadelphia Bar Association urges you to improve the method of selecting appellate court judges by voting in favor of House Bill 111 in its current draft, without amendments.

Thank you for your consideration.

Respectfully yours,



Mary F. Platt  
Chancellor

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<sup>3</sup> See <http://judgesonmerit.org/wp-content/uploads/2010/06/2010-Merit-Selection-Poll1.pdf>.