

Introduction

PMCAction is a nonpartisan, nonprofit 501(c)(4) organization that lobbies for court reform. PMCAction is affiliated with the nonprofit organization Pennsylvanians for Modern Courts. PMCAction educates the public and legislators about the need to reform the Commonwealth's judicial system through the adoption of various reforms, including Merit Selection of appellate judges.

PMCAction becomes active when educational efforts about the courts and court reform expand into direct and indirect lobbying to effect meaningful reform. In 2008, PMCAction focused on achieving Merit Selection for the three statewide appellate courts. Although Merit Selection legislation did not pass this year, we enjoyed success in growing the coalition that supports Merit Selection and in reaching out and educating new segments of the population. We also expanded our support in the legislature and are well-positioned for the start of the new legislative session in 2009. We have been told that Merit Selection will be a major reform effort in the coming session.

The Proposed Legislation

In the Spring of 2008, legislation was introduced into the Pennsylvania House and Senate to amend the constitution to implement a Merit Selection system for the three statewide appellate courts. The legislation was sponsored by Senators Jane Earll and Anthony Williams and Representatives David Steil and Josh Shapiro. In addition to the amendment, a separate bill of implementing legislation also was introduced.

The selection process has four steps:

- Screening and evaluation by a *citizens nominating commission* that recommends the most qualified candidates to the governor;
- *Nomination* by the governor of a candidate from the commission's list;
- *Confirmation* by the Senate; and
- After a four-year initial term, *retention* in a nonpartisan yes-no vote by the public (and every ten years thereafter)



Representative Josh Shapiro speaking at the Merit Selection press conference, with Senator Jane Earll and PMCAction Executive Director Lynn A. Marks

The cornerstone of this plan is the Appellate Court Nominating Commission, a broad-based citizens commission that includes public members nominated by organizations throughout the Commonwealth. The commission would be responsible for screening, evaluating and recommending candidates for appellate judge.

The commission is different from every other commission in Pennsylvania and commissions in prior Merit Selection proposals because it is

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more inclusive of the public. It includes members who are not appointed by elected officials, but who truly are “public members,” drawn from various segments of Pennsylvania, including civic organizations, business organizations, unions, professional associations, public safety organizations and law school deans. These members will serve as equals alongside members appointed by elected officials.

Pennsylvanians will have the opportunity to provide input at each stage of the process. The public will give information to the commission about applicants for judge, to the Governor about individuals recommended by the commission, and to the Senate during the confirmation process. Following a four-year term (and every ten years thereafter), judges stand for retention in nonpartisan yes/no elections. The public makes the ultimate determination about a judge’s continued service.

On March 18th, in advance of the introduction of the legislation, PMCAction and PMC held a press conference in the Capitol Rotunda in Harrisburg. We were joined by three of the four sponsors and some other legislators. In addition, many of our coalition partners joined us to show their support.

During the legislative session, representatives of PMCAction visited with legislators from throughout Pennsylvania to discuss Merit Selection and the pending legislation. We were welcomed by both supporters and those who historically had opposed judicial selection reform. We provided detailed explanations of the problems inherent in judicial elections, data about the increasing expense of judicial elections and where those funds come from,

analyses of the benefits of Merit Selection and copies of editorials from across the Commonwealth. We are confident that more co-sponsors will sign the legislation in the new session.



Senate Judiciary Committee listens to testimony provided by PMC Action and Judge Phyllis W. Beck. From left to right: Gregg Warner (Counsel, Senate Judiciary Committee) and Senators Greenleaf, Earll, and White

Senator Stewart Greenleaf, Chair of the Senate Judiciary Committee, held a public hearing on the legislation on September 16th in Harrisburg.

Testifiers in favor of Merit Selection were:

- **PMC and PMCAction** (former Superior Court Judge Phyllis Beck, Lynn Marks and Shira Goodman);
- **League of Women Voters of PA** (Charlotte Glauser, Judicial Specialist);
- **Philadelphia Bar Association** (Sayde Ladov, Chancellor-Elect);
- **PA Chamber of Business & Industry** (Gene Barr, Vice President for Government Relations);
- **Hispanic Chamber of Commerce of Central PA**; Edward Lanza, member of the Board of Directors);

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- **Group of Allegheny County lawyers, non-lawyers and judges** (Paul H. Titus, Counsel to Pittsburgh office of Schnader Harrison Segal & Lewis);
- **Pennsylvania Manufacturers Association** (David Taylor, Executive Director);
- **The Honorable Justin Johnson** (former judge of the Superior Court and one of only a handful of African Americans ever elected to the appellate bench) scheduled;
- **Black Clergy of Philadelphia & Vicinity** (Reverend Dr. William Moore) scheduled;
- Supporting written testimony was submitted by many Coalition partners who were not able to address the Committee in person.

Testifiers opposed to the bills were:

- **Temple University Beasley School of Law** (Professor Marina Angel);
- **Pennsylvania Association for Justice** (Michael Foley and Mark Phenicie, president and legislative counsel);
- **PA Cleansweep** (Russ Diamond) scheduled.

The Senate Judiciary Committee hearing was an important step in the public dialogue required to amend the constitution to change the way we select appellate judges. The testimony highlighted the problems inherent in electing judges, the benefits of Merit Selection and the need to have a public dialogue on this issue. As Senator Mary Jo White of the Committee explained:

“1969 [when last a referendum was held on this issue] was forty years ago. A lot has changed in that time, the money, television ads, out of state money... Let’s ask the people again. It shows a lot of confidence in the voters to ask “are you confident in voting for appellate court judges?””

We agree and hope that the legislature will take the necessary steps to bring this question to the people.

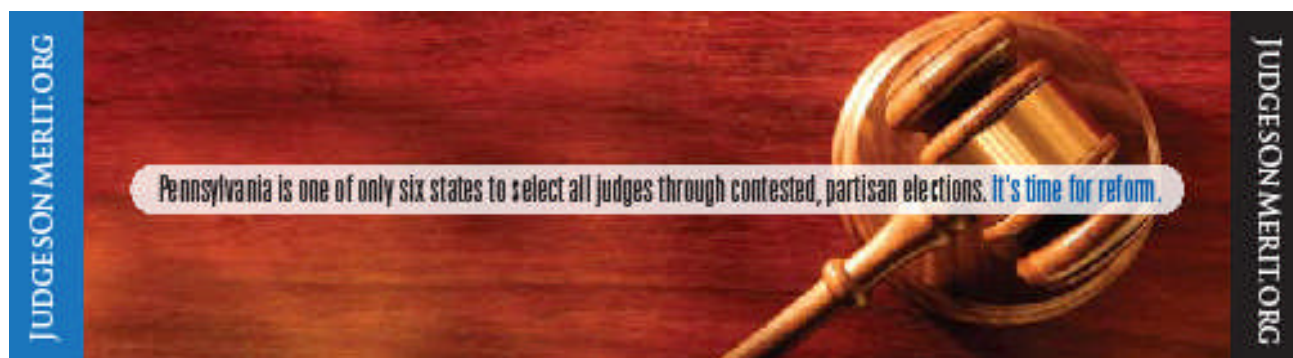


New Blog: www.JudgesOnMerit.org

Coinciding with the March press conference announcing the Merit Selection legislation, PMCAction and PMC launched a new blog (www.judgesonmerit.org) to chronicle the campaign for Merit Selection. The blog has been a resource center for information about the reform effort in Pennsylvania. It includes summaries of the legislation, links to the bills, links to legislators on the House and Senate Judiciary Committees and commentary pieces about the need for reform and the benefits of Merit Selection. Written testimony submitted to the Senate Judiciary Committee in connection with the September hearing is available on the blog.

In addition, we use the blog to aggregate judicial selection news from other states, focusing on efforts to implement or improve

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Merit Selection systems and the problems with current judicial elections. Readership of the blog has been steadily growing, and we expect to expand its reach in the coming year.

Educational Outreach and Public Appearances

We have focused on coalition development and public education about the problems with judicial elections, the need for judicial selection reform and the benefits of Merit Selection. A current list of our coalition partners may be found on page 6. We are pleased that this list is expanding to include new partners and is representative of many different areas and constituencies within the Commonwealth. This demonstrates what we have long known: judicial selection is an issue that affects all Pennsylvanians, and people from different groups, with different interests, can come together to agree that Pennsylvania needs to find a better way to select the most qualified, fair and impartial judges for the appellate courts.

Representatives of PMC and PMCAction made presentations to bar associations, civic groups, business organizations, and union representatives. These include presentations to at least the leadership of:

- Allegheny County Bar Association Board of Governors
- Barristers Association of Philadelphia
- Black Clergy of Philadelphia and Vicinity
- Common Cause of Pennsylvania
- Commonwealth Foundation
- Delaware Valley Association of Corporate Counsel
- Democratic Party of Pennsylvania, Chair
- Hispanic Bar Association of Pennsylvania
- Hispanic Chamber of Commerce of Central Pennsylvania
- League of Women Voters
- National Federation of Independent Businesses – Pennsylvania
- Pennsylvania Bar Association Board of Governors, its Minority Bar Committee and its Civil and Equal Rights Committee
- Pennsylvania Business Council
- Pennsylvania Chamber of Commerce and Industry
- Pennsylvania Council of Churches
- Pennsylvania Defense Institute
- Pennsylvania Leadership Conference
- Pennsylvania Legislative Black Caucus, Chair
- Pennsylvania Manufacturers Association
- Philadelphia Association of Defense Counsel
- American Civil Liberties Union
- AFL-CIO

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- Philadelphia Bar Association's Appellate Courts and Ethics Committees
- Philadelphia Council of Clergy
- Republican Party of Pennsylvania, Chair
- Urban League of Philadelphia

Many of these groups have joined our coalition for reform. Others support the concept of Merit Selection in general and are engaging their membership in discussion of how active a role to play in advocating for the specific legislation now being considered in Pennsylvania. A few others are reconsidering their positions and determining whether they will join our efforts.

In addition, we have been featured on radio and television programs. PMC and PMCAction staff and board members discussed Merit Selection on or during the following:

- WHYY's Radio Times
- WPHT 1210 AM, the Big Talker
- WURD's Morning Show with host Bill Anderson
- PCN-TV's Live Call In program
- Legislative Journal, with Representative Barbara McIlvaine Smith, from Chester County's 156th District
- Commonwealth Foundation's Policy and Principles luncheon

- Matt Brouillette's radio program, The Box
- Susquehanna Valley Center for Public Policy's TV show, Behind the Headlines
- Lincoln Radio Journal

The following newspapers have editorialized in favor of Merit Selection:

- Philadelphia Inquirer
- Scranton Times-Tribune
- Erie Times-News
- Pittsburgh Post-Gazette
- Philadelphia Daily News
- Centre Daily Times
- Allentown Morning Call
- The Legal Intelligencer

We are reaching out to new partners and some historical opponents. We are hopeful that these efforts will grow the coalition.

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Merit Selection Coalition Partners (as of September 2008)

Community & Civic Groups:

American Civil Liberties Union of PA
 American Judicature Society
 Committee of Seventy
 Common Cause of Pennsylvania
 Justice At Stake Campaign
 League of Women Voters of Pennsylvania
 League of Women Voters of Philadelphia
 Pennsylvania Council of Churches
 Pennsylvanians for Modern Courts
 PMCAction
 The Philadelphia Council of Clergy
 Urban League of Philadelphia
 Women's Law Project
 WomenVote PA

Businesses & Business Groups:

AAA Mid-Atlantic, Inc.
 Air Products and Chemicals, Inc.
 Association of Corporate Counsel, Delaware
 Valley Chapter
 Committee for Economic Development
 Merck & Co., Inc.
 The Northeast Pennsylvania Manufacturers and
 Employers Association
 Pennsylvania Business Council
 Pennsylvania Chamber of Business
 and Industry
 Pennsylvania Manufacturers' Association

Legal Groups:

The Barristers' Association of Philadelphia
 Pennsylvania Bar Association
 Philadelphia Association of Defense Counsel
 Philadelphia Bar Association

Individuals:

Edward G. Rendell, Governor of Pennsylvania
 Tom Ridge, Former Pennsylvania Governor
 Richard Thornburgh, Former PA Governor
 Hon. Phyllis W. Beck, Pennsylvania Superior
 Court Judge (Retired)
 Hon. Justin M. Johnson, Pennsylvania Superior
 Court Judge (Retired)
 TJ Rooney (Pennsylvania Democratic Party
 Chair)
 Robert Gleason (Pennsylvania Republican
 Party Chair)
 Michael Nutter, Mayor of Philadelphia

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