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**Testimony on Merit Selection of Judges Bills SB 1324 & SB 1325
League of Women Voters of Pennsylvania
Charlotte Glauser, Judicial Specialist**

I am Charlotte Glauser speaking for the League of Women Voters of Pennsylvania. Thank you for the opportunity to comment on SB 1324 and SB 1325, both which address the method of selecting justices and judges of our statewide courts.

It is now 60 years since the League adopted its position supporting the merit selection of statewide judges and we hope that this time the amendment to the Pennsylvania Constitution will really happen.

Compelling recent events as well as past history point out the need for the General Assembly and the voters to support the issue that has been recommended by the American Judicature Society and many state legislatures around the country.

In the most recent statewide judicial election, candidates were forced to raise millions of dollars to support their election. Most of these funds came from law firms around the Commonwealth, many of whom are likely to represent clients before these courts at some time. This immediately raises the issue of conflict of interest for judges who could be viewed as favoring financial supporters. Even if these judges were to recuse themselves on this basis, it might result in tied decisions which would not serve the public interest.

Because Pennsylvanians vote for judges on a partisan basis, there is the further problem of their allegiance to their party and to the General Assembly members of their own party, again calling into question, the bias that naturally occurs which is to support the laws passed by members of their own party. Because the General Assembly determines the level of financial support given to the judiciary for the administration of justice, the courts' independence and oversight of legislation can be at risk. Because statewide courts determine compliance with the Pennsylvania Constitution as does the US Supreme Court with legislation passed in Washington, it is especially important for the public to have confidence in the impartiality of our state judiciary.

Statewide courts directly oversee the operations of the local courts whose judges are again elected on a partisan basis. It is incumbent that these overseers are not perceived as partisan in any way.

As to specifics of the legislation itself, the composition of the Appellate Court Nominating Commission seems to address fairly the question of the representation of groups around the Commonwealth. The nonpartisan and/or bipartisan membership should allay public perception of

any prejudice in the nomination process. This is a point that must be emphasized to the citizens of the Commonwealth who are likely to have concerns about the impartiality of the nominating body.

Some claim that merit selection removes their “right to vote.” The League’s support for merit selection may appear to be a contradiction to our main mission which is to protect and enhance the right to vote. The answer to this assertion lies in the difference between the responsibilities of judges and the responsibilities of governors or legislators. The latter base their election campaigns on promises they make to voters regarding a variety of issues. Their charge is to attempt to resolve problems by modifying or making new laws. In contrast, the duty of judges is to apply existing law to the facts brought before them despite popular or personal opinion. The electorate does not have access to all the necessary information to evaluate judges and can only rely on irrelevant information such as party affiliation and county of residence. Judges may not ethically make promises to voters.

This Commission will have the opportunity to do what the voting public has been unable to do up to this point. It will be able to review resumes and interview applicants to judicial vacancies in a thoughtful and objective manner.

The 14 members are required to select their choice by no less than an 8 member majority. A chair and vice chair are selected by the membership. In this way, there can be no disagreement with the selection as has occurred with other commissions. The stipulation that lobbyists may not serve on the Commission raises a concern. Does this assume that the organization the lobbyist represents may still have a member on the Commission?

The submission and publication of names to the Governor from which he will make his/her selection then goes to the Senate for approval. It is also important that information about the nominee that led to his/her selection is available to the public. Senate approval is by majority vote which should eliminate the bottleneck of the supermajority which is now the case in governor-appointed judgeships.

The justice or judge selected under this method will serve initially for 48 months before coming up for retention. After that, the usual 10-year retention will pertain. This gives the voting public an opportunity to observe his/her performance on the bench. The critical point here is that all such elections are nonpartisan.

Passage of these bills will do much to restore the public image toward independence of Pennsylvania’s Appellate Court system. The League of Women Voters looks forward to amending the Pennsylvania Constitution as a major step in the administration of justice.