

# Merit Selection: Some Facts

- **Judicial nominating commissions represent the interests of the community and guarantee legal expertise in a nonpolitical screening process.** Unlike political appointments by governors or contested elections, merit selection systems guarantee input from the public and the specialized knowledge of lawyers in choosing judges. A survey of nominating commissioners found that lawyers value the role of non-lawyers in the process and non-lawyers likewise value the input of lawyers. The typical composition of nominating commissions ensures a balance between professional assessment of an applicant's legal ability and the voice of citizens. Only 1% of commissioners reported that political considerations were regularly included in commission deliberations.
- **Merit selection is good for economic growth.** A vibrant business climate that can create jobs depends upon a state's commitment to the rule of law, including fair and impartial courts that bring stability and consistency to economic decision-making. Each year, the U.S. Chamber Institute for Legal Reform ranks all states' litigation environments. In the [2010 survey](#), 4 of the 5 "best" states use merit selection for all appellate court judges; 4 of the 5 "worst" use judicial elections. Of those surveyed for the report, 37% list "Biased/Partial Juries or Judges" as the most important factor in creating an unfair and unreasonable litigation environment. Four of the five states ranked as having the most impartial judges use merit selection to choose all appellate judges. All of the states ranked "worst" for impartiality use judicial elections.
- **Merit selection produces ethical judges.** An AJS [study](#) of six states finds that elected judges are more frequently disciplined for ethical violations than are judges chosen through merit selection. When disciplined, the harshest punishments were generally given to elected judges, indicating that elected judges are more frequently engaged in more egregious ethical violations than are merit-selected judges.
- **Merit selection advances diversity on the bench.** Recent AJS [research](#) indicates that merit selection is the most effective way to advance diversity on state high courts. Even after controlling for a wide range of factors that may influence diversity on the bench, merit selection significantly increases the likelihood that minorities will be chosen to serve on state supreme courts. [Ongoing research](#) has consistently found that merit selection is as effective as other methods of selection for promoting women and minorities to the state bench.
- **Judicial retention elections are generally inexpensive—bucking a national trend of soaring special-interest group contributions in competitive court races.** According to "The New Politics of Judicial Elections, 2000-2009: Decade of Change," more than \$204 million was raised by candidates in contestable judicial elections. During the same period, less than \$2.3 million was raised by all judges running in retention elections nationwide. In 2010, retention elections in Iowa and several other states generated increased spending and interest-group involvement. AJS expressed concerns about trends in retention elections in a December 2010 [editorial](#).



**The American Judicature Society** strongly supports the merit selection system, believing that it lessens political influence in judicial appointments while providing for accountability to the public. In a merit selection system, a commission screens potential appointees and presents a list of qualified candidates to the governor. The governor then appoints one person from the list. Once appointed, judges in most states run in regular retention elections, where the public has the opportunity to remove them from the bench. Merit selection reduces the role of special interests and money in the selection process, and increases the quality of state judges, thereby increasing the public's trust and confidence in a fair and independent judiciary.

The American Judicature Society works to maintain the independence and integrity of the courts and increase public understanding of the justice system. AJS is a nonpartisan organization based in Des Moines, Iowa, with a national membership of judges, lawyers and other citizens interested in the administration of justice. For more information on judicial selection in the states visit our web site at [www.judicialselection.us](http://www.judicialselection.us).