



The League of Women Voters works to promote the importance of fair and impartial courts nationwide. During the next two years, 2009-2011, the League will focus on promoting diversity at all levels of the state judiciary to enhance the legitimacy of our system of justice in the eyes of an increasingly diverse public.

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THE STATE OF DIVERSITY IN THE SOUTH CAROLINA JUDICIARY

Quest for a More Diverse Judiciary

The League of Women Voters, a nonpartisan politician organization, encourages informed and active participation in government, works to increase understanding of major public policy issues, and influences public policy through education and advocacy. Membership in the League is open to men and women of all ages. With more than 90 years of experience and 850 local and state a League affiliates, the LWV is one of America's most trusted grassroots organizations.

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THE FACTS IN SOUTH CAROLINA

...Only 22% of state judges using the merit-selection process are women, even though women comprise nearly 35% of lawyers in the state and make up 52% of the state's population.

...Only 8 (or 7%) of the 118 judgeships are occupied by a minority.

The Supreme Court, Court of Appeals, Administrative Law, Circuit Court and Family Court use the merit-selection process and election by General Assembly. Probate Court Judges are elected by popular election. Masters-in-Equity are appointed by the Governor with advice and consent of the General Assembly.

THE PROBLEM IN SOUTH CAROLINA

A study of merit selection systems found that a more diverse nominating commission is more likely to recommend persons of color and women.

While six states explicitly require diversity among nominating commissioners, South Carolina does not.

Ten states that use merit selection have adopted provisions that prohibit discrimination in the nominating process. South Carolina has no such provision.

"Experts suggest that the more diverse a Commission is, the more likely it is to produce diverse applicants and a more diverse list of judicial nominees."

[page 21 of the Brennan Report, re: diversifying the Commission]

THE IMPORTANCE OF A DIVERSE JUDICIARY

According to Normal L. Greene, "A more diverse judicial system will inspire more confidence in the judiciary, be more representative of the broader community, promote justice, promote equality of opportunity for historically excluded groups and promote judicial impartiality." ³⁴ *Fordham Urb. L.J.* 13, 25 (2007)

Diversity enhances public confidence in the fairness and impartiality of the courts – particularly among minorities. New York's Feerick Commission found that although 71% of all registered voters were confident that the state courts were fair and impartial, only 51% of African Americans shared this assessment.

More diversity on a court leads to decisions that reflect society's diverse perspectives. Bias, whether conscious or subconscious, impedes justice.

Women and minority judges help bring new points of view to the decision-making process. A recent American Judicature Society (AJS) study published in the Yale Law Journal found that all-male judicial panels were significantly less likely to rule for women in cases of sex discrimination than were panels that included at least one woman.

Diversity is a nonpartisan goal that is espoused by leaders in both political parties. Republican Governor Charlie Crist of Florida and Democratic Governor David Paterson of New York have both made diversity a goal for their state courts.

Former Supreme Court Justice Byron White recognized the contribution of Justice Thurgood Marshall, the first African-American Supreme Court Justice, saying he would "tell us things we know but would rather forget; and he told us much that we did not know due to the limitations of our own experience."

Quest for a More Diverse Judiciary