

# JUSTICE NOT POLITICS ALASKA



April 8, 2019

**BOARD MEMBERS:**

**Bill Gordon**  
Board Chair, Fairbanks

RE: SJR 3

**Bud Carpeneti**  
Board Vice-Chair,  
Juneau

Dear Senator:

**David L. Landry**  
Board Secretary-  
Treasurer, Anchorage

As the board chair and vice-chair of Justice Not Politics Alaska (JNPA), a statewide non-profit that works to preserve Alaska's merit-based judicial selection and retention system, we are writing in opposition to SJR 3, a constitutional amendment that would significantly increase the role of politics in the selection and retention of Alaska's judges.

**Nicole Borromeo**  
Director, Anchorage

**Paul Dillon**  
Director, Juneau

Over half a century ago, delegates to Alaska's Constitutional Convention adopted a proposed Constitution. The Alaska public overwhelmingly approved it, as did the United States Congress in voting for Alaska statehood. The Alaska Constitution includes a Judiciary Article that calls for Alaska's judges to be selected based on merit through a process involving the nonpartisan Alaska Judicial Council. In considering which judicial selection/retention system was best for Alaska, convention delegates had the opportunity to scrutinize the selection and retention systems of forty-eight other states. Delegates ultimately adopted "merit selection" --- a system that was not highly politicized and that focused on merit and the selection of qualified, competent judges, who rule on the law and facts in each individual case.

**EXECUTIVE  
DIRECTOR:**

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To balance the goal of ensuring public input with the goal of ensuring that judges reflected the highest standards of the legal profession, the framers provided that the council would have seven members: three appointed by the Alaska Bar Association, three appointed by the Governor and confirmed by the Legislature, and the seventh member would be the Chief Justice of the Alaska Supreme Court, who chairs the council and serves ex-officio. The Chief Justice votes in rare instances, for example, in tie votes.



After an extensive evaluation of each judicial applicant, including consideration of the applicant's fairness and impartiality, integrity, temperament, professional competence and more as well as consideration of community input, the council provides a short list of the most highly qualified candidates to the Governor, who makes the final appointment from that list.

The framers of the Alaska Constitution considered --- **and specifically rejected** --- what SJR 3 proposes: legislative confirmation of the attorney members of the judicial council. In the merit determination phase of the judicial selection process, the framers sought to limit the role of political considerations. Accordingly, they believed that legislative confirmation of attorney members of the council would re-introduce politics into the selection of judges. As the chair of the Judiciary Committee stated: "If you require a confirmation of your attorney members, you can promptly see what will happen . . . . No longer is the question based solely on the qualifications of the candidate for the bench. . . . If political correctness enters into the determination of the selection of those professional members who are to be placed upon the judicial council, the whole system goes out the window. All you have is one other political method of selection of your judges."

The framers correctly understood that legislative confirmation of the attorney members of the council would unwisely increase the role of politics in Alaska's judicial selection process, undermine the role of merit, and ignore the delicate balance of power delegates sought to establish by balancing the extent to which the political branches of government could influence the judicial selection process.

Senator, we respectfully urge your opposition to SJR 3.

Sincerely,



Bill Gordon  
Board Chair  
Justice Not Politics Alaska



Walter (Bud) Carpeneti  
Chief Justice, Alaska Supreme Court (Ret.)  
Board Vice-Chair, JNPA