

'Missouri Plan' works!

Opinion

Ballot proposal would bring politics back into judicial appointments

This month, I want to do something very unusual. I'm going to use my soapbox here to write about something from the perspective of The Maneke Law Group. I do this because I believe it affects each of you as members of The Missouri Press Association, just as it will affect everyone else who is a citizen of the State of Missouri.

On Nov. 6, Missouri voters will be deciding on a ballot measure that seeks to make a major change in the way judges are selected in this state. For more than 70 years, Missourians have selected their Supreme Court and Appellate judges through a process now known as "The Missouri Plan."

As you probably know, this system, approved by voters statewide when it was adopted, provides that whenever a vacancy occurs for a judge at that level, a judicial nominating commission interviews interested applicants and picks three of them as judicial nominees. The governor then selects the new judge from among those three nominees.

This plan has been so successful that more than 30 other states have adopted this process, or a similar process, to name their judges. In addition, the three largest metropolitan areas of the state have adopted this plan for their trial-level judges.

It's a system that works. It provides checks and balances that limit any group of politicians from hand picking judges and instead provides a method where judges in our state are selected based on their credentials. Professional skills are more important than political cronyism.

Once appointed, these judges are evaluated regularly by lawyers and by members of the public who serve as jurors. The ratings they receive are pub-

lized by The Missouri Bar so that voters, who are asked whether the judges should be retained, can focus on their skills and work, not on the money they may be spending to campaign for the office.

Indeed, the Supreme Court a few years ago opened up the selection process further, making the names of the applicants for these positions a public record and offering public interviews as part of the selection process. The public is invited to send letters to the nominating commission or to the governor to express their opinions about candidates.

What is especially important for the public to understand is that members of the selection commission are lawyers and non-lawyers,

are from different parts of the state and have staggered terms so they are not necessarily of the same political party as the current governor.

This keeps the process apolitical, and as a result, Missouri has been blessed with years of a scandal-free judiciary.

The proposed change on the ballot would eliminate part of the process. While the lawyers on the commission would remain, there would now be four members appointed by the governor, and they will not be required to be non-lawyers. The terms they serve will be changed, so in short, within two years of being elected governor, he or she could have a majority of the seven votes on this commission.

This is not a good idea. The repercussions would be significant. You may see negative advertising, and possibly multi-million dollar judicial campaigns.

Of greater concern to me, personally, is whether judges who must raise money to pay for these campaigns will need to take large contributions to

make this happen. Would that mean the large firms, which have access to more discretionary funds than small firms, like The Maneke Law Group, would be making these large contributions? And if they did, what would that do to the perception of impartiality a judge has when someone from a small firm goes up against a member of one of the large firms that contributed significant funds to the judge's campaign?

How could a judge not help but feel indebted to those who helped him or her win a heated campaign?

Negative campaigning has significantly affected the way many in the public feel about the entire political process. So far, this taint has not reached our court system. But I fear that if this proposal passes, the days of faith in our judicial system will fade.

Not even on a federal level is there unfettered selection of judges. While the president does nominate candidates for federal judgeships, those appointments must be confirmed by the U.S. Senate, which allows for bi-partisan scrutiny of the candidates.

And it is important to listen to the words of former Missouri Supreme Court Judge William Ray Price, Jr., recently retired. He told the *St. Louis Post-Dispatch* that he opposes the ballot proposal, noting that, "Political pressure for result-oriented decisions has increased. People want to achieve in court what they are unable to achieve in the legislative process."

Now let me bring this discussion back to you and me.

I ask each of you to take time to help educate your voters about the importance of the Missouri Plan, about how amazing it is that a plan we as a state created is now favored in the majority of the United States, about how it helps ensure that our judiciary is not beholden to large contributors but free of politics and free to make rulings based upon the law.

If you need me to help guide you to resources, let me know. The Missouri Bar website has a number of articles that would be helpful to you.

And thanks in advance for all your work to help keep our Missouri court system working fairly for all of us.



Jean Maneke, MPA's Legal Hotline attorney, can be reached at (816) 753-9000, jmaneke@manekelaw.com.