



WEEKLY REPORT

State Senator Gary Nodler
District 32



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A Truly Nonpartisan Court Plan

During the 1930s, Missouri citizens had become increasingly dissatisfied with the growing role that politics had taken in the choosing of judges, and the undue decision-making influence that campaign supporters exerted on their successful judiciary candidates. Calling in favors (and having them done), bias, smear campaigns and other abuses had become the hallmarks of the judicial branch's politicization. In November of 1940, a strong majority of Missouri voters approved the "Nonpartisan Selection of Judges Court Plan," which had been placed on the ballot by citizens' petition. This plan, also called the Missouri Plan, has since been in effect in our state. As times have changed, however, some groups have again found a way to politicize the judicial selection process. This is why I support House Joint Resolution 10, legislation that will allow voters in our state to make much-needed reforms to the Missouri Plan.

Under the current Missouri Plan, the Appellate Judicial Commission chooses a list of candidates to fill state Supreme Court vacancies. This panel is made up of three lawyers (chosen by lawyers of the Missouri Bar), three citizens (chosen by the governor), and the state's chief justice. The Appellate Judicial Commission then reviews the applications of those who apply for the job and submits what it perceives to be the three leading candidates to the governor, who then has 60 days to make a selection. If he does not choose anyone, the commission then makes the selection.

The long-established Missouri non-partisan court plan has served as a judicial selection model for several other states in the nation. However, it has lost its non-partisan traits due to the actions of special interests such as the Missouri Association of Trial Attorneys (MATA). This group has an inappropriate amount of influence in the selection process—specifically during the Bar's election of three of the selection commission's seven members. By getting the three commissioners the trial attorneys want (currently, in fact, three of the commissioners are high ranking members of the MATA), and having a chief justice whose thinking is in line with the three lawyer panel members, a 4-3 majority is in place leading to an all but pre-ordained slate of three finalists, all held in a favorable light by the trial attorneys. The unwarranted and unwanted special interest sway in the selection process needs to stop so the Missouri Plan can revert to working in a truly non-partisan way—just as the people intended nearly 70 years ago.

House Joint Resolution 10, now making its way through the legislative process, would give voters the opportunity to amend Missouri's Constitution to make some helpful changes to the Missouri Plan. The changes include increasing the number of candidates submitted to the governor, giving the governor the opportunity to veto the first slate of candidates, and changing the composition of the Appellate Judicial Commission to include an additional citizen member, thereby increasing direct citizen input during the selection process. Another important change to the plan would allow the state Senate to review and confirm the governor's citizen-member appointees—a checks-and-balances feature incorporating all three branches of government in a high profile process with wide and lasting impact.

Another issue plaguing the Missouri Plan is transparency—or more precisely, the lack thereof. The Appellate Judicial Commission has made a (bad) habit of meeting in secret without giving notice to the public. In order to restore the public's trust in the selection process, HJR 10 would also include provisions to ensure openness and accountability. These changes include specifically requiring the selection commission to open meetings to the public, provide advance public notice of any meetings, and open the list of judicial vacancy applicants to the public.

My support for HJR 10 and the changes it offers to the voters does not come from a dislike of the tradition of the Nonpartisan Court Plan, but from a wish to restore it to its original intended operation. This can be achieved by sending the changes prescribed by HJR 10 to the voters and letting the people of Missouri decide the future integrity of our judicial selection system.

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*Senator Gary Nodler represents the people of Newton, Jasper
and Dade counties in the Missouri Senate.*