

**DEFEATED AMENDMENT TO THE
CONSTITUTION OF MISSOURI
NOVEMBER 6, 2012**

SJR 51 [SCS SJR 51]

CONSTITUTIONAL AMENDMENT NO. 3. — (Proposed by the 96th General Assembly, Second Regular Session, SJR 51)

Shall the Missouri Constitution be amended to change the current nonpartisan selection of supreme court and court of appeals judges to a process that gives the governor increased authority to:

- appoint a majority of the commission that selects these court nominees; and
- appoint all lawyers to the commission by removing the requirement that the governor's appointees be nonlawyers?

There are no estimated costs or savings expected if this proposal is approved by voters.

JOINT RESOLUTION Submitting to the qualified voters of Missouri, an amendment repealing sections 25(a) and 25(d) of article V of the Constitution of Missouri, and adopting two new sections in lieu thereof relating to nonpartisan selection of judges.

SECTION

- A. Enacting clause.
- 25(a). Nonpartisan selection of judges — courts subject to plan — appointments to fill vacancies.
- 25(d). Nonpartisan judicial commissions — number, qualifications, selection and terms of members — majority rule — reimbursement of expenses — rules of supreme court.

Be it resolved by the Senate, the House of Representatives concurring therein:

That at the next general election to be held in the state of Missouri, on Tuesday next following the first Monday in November, 2012, or at a special election to be called by the governor for that purpose, there is hereby submitted to the qualified voters of this state, for adoption or rejection, the following amendment to article V of the Constitution of the state of Missouri:

SECTION A. ENACTING CLAUSE. — Sections 25(a) and 25(d), article V, Constitution of Missouri, are repealed and two new sections adopted in lieu thereof, to be known as sections 25(a) and 25(d), to read as follows:

SECTION 25(a). NONPARTISAN SELECTION OF JUDGES — COURTS SUBJECT TO PLAN — APPOINTMENTS TO FILL VACANCIES. — Whenever a vacancy shall occur in the office of [judge of any of the following courts of this state, to wit: The supreme court, the court of appeals, or in the office of] circuit or associate circuit judge within the city of St. Louis [and], Jackson County **or any other circuit electing under section 25(b) to have their circuit and associate circuit judges appointed**, the governor shall fill such vacancy by appointing one of three persons possessing the qualifications for such office, who shall be nominated and whose names shall be submitted to the governor by a nonpartisan judicial commission established and organized as hereinafter provided. **Whenever a vacancy shall occur in the office of judge of the supreme court or the court of appeals, the governor shall fill such vacancy by appointing one of four persons possessing the qualifications for such office, who shall be nominated and whose names shall be submitted to the governor by a nonpartisan judicial commission established and organized as hereinafter provided.** If the governor fails to appoint any of the nominees within sixty days after the list of nominees is submitted, the nonpartisan judicial commission making the nomination shall appoint one of the nominees to fill the vacancy.

SECTION 25(d). NONPARTISAN JUDICIAL COMMISSIONS — NUMBER, QUALIFICATIONS, SELECTION AND TERMS OF MEMBERS — MAJORITY RULE — REIMBURSEMENT OF EXPENSES — RULES OF SUPREME COURT — Nonpartisan judicial commissions whose duty it shall be to nominate and submit to the governor names of persons for appointment as provided by sections 25(a)-(g) are hereby established and shall be organized on the following basis: For vacancies in the office of judge of the supreme court or of the court of appeals, there shall be one such commission, to be known as "The Appellate Judicial Commission"; for vacancies in the office of circuit judge or associate circuit judge of any circuit court subject to the provisions of sections 25(a)-(g) there shall be one such commission, to be known as "The Circuit Judicial Commission", for each judicial circuit which shall be subject to the provisions of sections 25(a)-(g)[;]. The appellate judicial commission shall consist of [a judge of the supreme court selected by the members of the supreme court, and the remaining members shall be chosen in the following manner:] **seven voting members and one nonvoting member. The members of the supreme court shall select a former judge, who has not lost a retention election or been removed for cause, of the court of appeals or the supreme court to serve as the nonvoting member of the commission. Nonvoting members shall be selected for terms of four years, with the first term beginning January 15, 2013.** The members of the bar of this state residing in each court of appeals district shall elect one of their number to serve as a **voting member of said commission**[, and]. The governor shall appoint [one citizen, not a member of the bar] **four citizens, one** from [among the residents of] each court of appeals district **and one from the state at-large**, to serve as [a member] **voting members** of said commission[, and]. **The terms of appointed members and of the supreme court judge member of the appellate judicial commission serving on January 15, 2013, shall end on that day. The governor shall appoint two members to the commission for terms ending January 15, 2015, and appoint two members for terms ending January 15, 2017. The terms of all subsequently appointed commission members shall end four years after the termination of the prior term. Vacancies occurring in unexpired terms shall be filled for the remainder of the unexpired term.** The **voting** members of the commission shall select one of [their number] **the voting members** to serve as chairman. Each circuit judicial commission shall consist of five members, one of whom shall be the chief judge of the district of the court of appeals within which the judicial circuit of such commission, or the major portion of the population of said circuit is situated and the remaining four members shall be chosen in the following manner: The members of the bar of this state residing in the judicial circuit of such commission shall elect two of their number to serve as members of said commission, and the governor shall appoint two citizens, not members of the bar, from among the residents of said judicial circuit to serve as members of said commission, the members of the commission shall select one of their number to serve as chairman; and the terms of office of the members of such commission shall be fixed by law, but no law shall increase or diminish the term of any member then in office. No member of any [such] commission other than a judge shall hold any public office, and no member shall hold any official position in a political party. Every [such] commission may act only by the concurrence of a majority of its **voting** members. The members of [such commission] **commissions** shall receive no salary or other compensation for their services but they shall receive their necessary traveling and other expenses incurred while actually engaged in the discharge of their official duties. All [such] commissions shall be administered, and all elections provided for under this section shall be held and regulated, under such rules as the supreme court shall promulgate.

For — 608,458; Against — 1,929,470
