

## Judicial Branch--Question re Controversy over Missouri Plan (5-2014)

1. **Missouri plan:** We recall a recent controversy in Missouri that caused a reconsideration of their selection plan. Is our recollection correct, and if so do we know what prompted the concern in Missouri?

In 2012, there was an unsuccessful effort to alter the Missouri Plan, but the voters rejected the proposed amendment by more than a 3:1 margin.

### **Background**

Missouri is the first state to have adopted a merit selection plan, which is similar to the plan rejected in Ohio in 1938. Under the Missouri Plan, a seven-person **Appellate Judicial Commission** is responsible for recommending three persons to the governor to fill vacancies on the Missouri Supreme Court and the Missouri Courts of Appeals. The governor is required to select one of the three nominees. If the governor fails to appoint any of the nominees, the judicial commission is given responsibility to appoint one of the nominees to fill the office. *See* Mo. Const, Art. V, secs. 25(a) & 25(d).

The **Appellate Judicial Commission** is composed of one Missouri Supreme Court judge selected by the Missouri Supreme Court, three members of the bar selected by the members of the bar from each of the three court of appeals districts, and three non-members of the bar appointed by the governor.

### **Proposed Amendment**

The **Missouri Judicial Appointments Amendment 3** (SJR 51), a legislatively-proposed constitutional amendment, would have given the governor more control over appointments to the state appellate courts by increasing from three to four the number of gubernatorial appointments while removing the requirement that the governor's appointees not be members of the bar. The proposed amendment would also have eliminated the one appointment made by the Missouri Supreme Court.

On November 6, 2012, Missouri voters were presented with the Missouri Judicial Appointments Amendment 3 (SJR 51), a legislatively-proposed constitutional amendment that would have

Even though the proposed amendment would have given Missouri more power over court appointments, current governor Jay Nixon, who was running for re-election in 2012 and his challenger, David Spence, both opposed the proposed amendment as did the Missouri Bar Association, and virtually the newspapers in the state. Support for the amendment came from members of the General Assembly who have been working for several years to expand the role of the governor in the judicial selection process. Ultimately, there was little organized support for the proposal and little money was spent either for or against it. As noted above, Missouri voters rejected the proposal by more than a 3:1 margin.