

St. Louis attorney says blacks left out of judicial selection

Scott Lauck

A St. Louis attorney is calling for changes to judicial selection because blacks haven't been allowed to participate enough in the process, he said.

Elbert Walton said Wednesday that The Missouri Bar's attempt to bring more blacks into the fold by diversifying its board of governors instead was a "subterfuge" meant to deflect criticism of the Nonpartisan Court Plan.

In particular, he harshly criticized bar President Charlie Harris Jr. for defending a process Walton said has "disenfranchised" blacks.

"How could he possibly sit there and support such a plan?" said Walton, husband of state Rep. Juanita Head Walton, D-Florissant. "He ought to be ashamed of himself."

Harris, an attorney in Kansas City and the bar's first black president, could not be reached for comment Wednesday.

Walton's comments came at a press conference in Jefferson City announcing the latest front in an effort to reform the 68-year-old plan, often called the Missouri Plan. Flanked by sympathetic legislators, Jonathan Bunch, head of the recently formed Better Courts for Missouri, announced the filing of a ballot initiative. If approved by voters, the initiative would alter the makeup of the commissions that choose nonpartisan judges at the Supreme Court and appellate levels and in many metropolitan areas, including Kansas City and Jackson County.

Woody Cozad, a lobbyist for the bar, said the ballot initiative was a "solution in search of a problem." He noted that Missouri voters had a chance in 1945 to get rid of the plan adopted in 1940, but did not.

Bunch said it was the state's "gift to governance" but was in need of an overhaul, particularly because it has become dominated by an "elite" group of lawyers drawn largely from the ranks of trial attorneys.

"The constitution is the voice of the people of Missouri; it is not the voice of any special interest group," Bunch said.

Currently, the state's Appellate Judicial Commission comprises three attorneys elected by members of the bar, three lay members appointed by the governor and the chief justice of the Supreme Court. The initiative would allow the governor to choose three lawyers and four nonlawyers, all of whom would be subject to state Senate approval.

The proposal also would require the commission to submit five names to the governor, up from the current three, and allow the governor to reject panels.

In addition, the new plan would automatically go on the ballot in each Missouri county every 10 years, allowing voters to decide how local judges should be selected -- by nonpartisan commission appointment, partisan or nonpartisan election or direct gubernatorial appointment.

Backers had not filed the petition by 5 p.m. Wednesday. They will have until May to collect about 150,000 signatures.

The petition generally mirrors several legislative attempts to put similar language before statewide voters. Backers of those efforts -- Republican Reps. Jim Lembke, of south St. Louis County, and Stanley Cox, of Sedalia, and Democratic Rep. Walton -- attended the press conference in support of the issue.

Conservatives say the current plan has tended to favor Democrats and is dominated by lawyers.

Elbert Walton added a new criticism -- that the commissions have included a "dearth" of blacks. No black attorney has ever been elected to the state-level commission, although some black lawyers have served on county-level judicial commissions.

Walton said he filed a federal lawsuit in 1993 over the lack of diversity on the bench. He said the suit was held up for two years, during

which time several black and Hispanic judges were appointed, including Ronnie White, the only African-American to serve on the Missouri Supreme Court.

Walton claimed that judicial commissions made the minority appointments to undercut his suit -- an allegation that echoes his criticism of efforts to diversify The Missouri Bar. Members of the bar have until Feb. 28 to elect three new board members who will represent racial minorities, women and other groups whose members have historically found difficulty getting elected.

Cozad discounted Walton's claim that his lawsuit led to more black judges being named, noting that Democratic Gov. Mel Carnahan came into office around the same time and likely would have appointed blacks to judgeships regardless.

Cozad said every group, including the bar, wants more minority input.

"I would say, 'Mr. Walton, go tell that to Barack Obama,'" he said.

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