

TEXAS VS MISSOURI

In 1940, Missouri took the radical step of moving from partisan elections for state judges to the Nonpartisan Retention Plan, often called the Missouri Plan. Under the Missouri Plan, an independent commission nominates three candidates to fill a vacancy on a court. The governor chooses one of the three candidates to serve on the court. After one year on the court, the judge faces a retention election in which voters decide if the judge remains on the court or must step down. After the initial election, the judge faces another retention election every four, eight, or twelve years, depending on the court. All judges must retire at the age of seventy.

Missouri uses this system for state courts of appeals and the Supreme Court of Missouri. Courts in Clay, Jackson, St. Louis, and Platte Counties, as well as courts in the city of St. Louis, use the retention election system. Many other local courts in Missouri use partisan elections for selecting judges. Twelve states have adopted the Missouri Plan, and a few others, such as Florida, use a modified version of it. Texas uses partisan elections for staffing all state and most local courts.

Proponents of the Missouri Plan claim the use of independent commissions to nominate judges shifts the focus of judicial selection to finding better-quality judges. The use

of a retention election allows the public to have a periodic say on whether a judge remains in office, providing a degree of democratic accountability.

Opponents of the system point toward the fact that most judges are retained election after election, in effect creating a lifetime appointment. No Supreme Court of Missouri or appeals court judge has ever lost a retention election and been voted out of office. One study found that over a thirty-year period, only 1.3 percent of judges lost a retention election. Based on these results, critics question the point of the retention elections.

THINKING *Critically*

- ★ Do you think the Missouri Plan offers advantages that the partisan system of electing judges used in Texas lacks?
- ★ Does the low rate of rejecting judges in Missouri undermine the Missouri Plan?
- ★ How do you think a plan similar to the Missouri Plan would affect the Texas court system and Texas politics?
- ★ Would you favor adopting such a plan?