Your Turn: Act threatens independence of judiciary

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For more than 150 years, Minnesotans have relied upon popular judicial elections to ensure the honesty, integrity and independence of our highly rated and nationally respected courts, which is why it was disconcerting to read the Times Editorial Board’s March 27 Our View in favor of the Impartial Justice Act.

Minnesota’s founders understood the defense of individual liberty and the protection of our constitutional rights requires more than just paper promises. It requires the implementation of a strong competing system of checks and balances. They wisely recognized that the only sure way to create a judiciary independent enough to withstand the encroachment of the legislative and executive branches of government was by making all three branches accountable to and directly selected by the same source – the people of the state.

Despite its innocent-sounding name, the proposed Impartial Justice Act undermines the independence and impartiality of our courts by seeking to strip Minnesotans of some of their ability to elect judges. Instead it confers the power of placing names on a ballot solely to the governor and an elite committee of well-connected appointees handpicked by the state’s top political leaders.

Today, the governor may appoint to fill a vacancy, but only until the next general election one year out from the vacancy, leaving the actual choice of who sits on the bench to the people. But under the proposed system, the governor would fill all vacancies through direct appointment, selecting from candidates recommended by a merit selection committee. These committee appointees would be responsible for recommending to the public whether a judge should be reelected. The appointed judge would serve a full term and only then be placed on the ballot, without competition, with the question, “Do you wish to retain this judge?” If voters say yes, the judge is re-elected; if they say no, the judge is removed and the governor appoints a replacement.

By making the selection of all judges contingent upon the governor and this committee, and by empowering political appointees to determine whether a judge is doing a good job, the act ensures courts would become nothing more than a rubber stamp for the state’s political establishment.

Heavily promoted by a coalition of big business, big labor and special interest groups with a vested interest in who sits on the bench, the Impartial Justice Act doesn’t simply undermine the independence of our court system; it destroys it in the name of preventing campaign problems Minnesota has never experienced.

It is an inherently undemocratic proposal that undercuts the state Constitution’s carefully designed system of checks and balances. It pushes the politics of judicial selection out of public view and back into the smoke-filled rooms of yesteryear. And it’s based upon the flawed theory that ordinary citizens are too incompetent to elect their judges.

Minnesota voters are not a doltish bunch. Time and time again they have proven themselves intelligent enough to vote against candidates who have attempted to politicize the judicial election process. They have repeatedly voted to return honorable jurists to office following clean, moderately funded campaigns. And they have consistently removed from the bench those judges whose actions and behavior had rendered them unfit for fairly administering justice.

Proponents of the Impartial Justice Act believe justice is best served when administered by partisan bureaucrats handpicked by the state’s political and business elites, instead of the people. But by adopting that mentality they have placed themselves at odds with the founders of this state who overwhelmingly understood that the people were far better qualified to select the state’s judges than the governor. For as our first Chief Justice Lafayette Emmett wisely noted, “the governor always selects men belonging to his own political party, while the people often select them regardless of parties. If the people are incapable of selecting their judges, they are also incapable of selecting the man who is to appoint the judges.”