

ARGUS LEADER

Judicial review plan goes too far

by Tim M. Gebhart

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Amendment E proponents would like the public to believe the proposal seeks to restore power to "we the people." Amendment E actually vests unlimited and unchecked power in the hands of as few as seven people.

"We the people" reflects the belief that the true power of government comes from citizens. We cast ballots for the Legislature, the governor and the judicial branch. We can vote them out. We can refer laws they pass to a public vote. We can use the power of initiative to propose our own laws or constitutional amendments. Every legislative enactment is reviewed by the governor. Every gubernatorial veto is reviewed by the Legislature. State court and administrative agency decisions are subject to appellate review. The Legislature has changed laws to essentially overrule state Supreme Court decisions and more than once has actually abrogated Supreme Court decisions. It's all known as checks and balances.

Amendment E throws these concepts out the window.

It creates a "special grand jury" of 13 people selected at random on a rotating basis. A vote of only seven is enough to determine any matter brought before it. Thus, if someone is convicted of bringing a gun into a school and seven grand jurors think guns should be allowed on school grounds, they can allow the judge and jurors in the case to be sued for applying the law. Why? Amendment E says it takes "pre-eminence" over any statute, case law "or constitutional provision," meaning its powers trump any provision of our Constitution and laws.

Amendment E forbids review of the grand jury's decisions. It makes it judicial misconduct for any judge in the state to hear a challenge to the amendment or something the grand jury does and says any such rulings are void. Amendment E also says members of the special grand jury and anyone enforcing its findings cannot be held liable "civilly or criminally." Since no one can review its decisions and it has total immunity, there is no check or balance on the grand jury or to prevent it from expanding its powers beyond the terms of the amendment itself.

This means as few as seven people will have unrestrained power to pick and choose what laws to enforce and to whom they apply. They can ignore the Legislature, the governor and the courts. The grand jury is free to use race, religion, political beliefs, personal lifestyle or anything it wants as a basis for any of its decisions. With an ever-changing membership, how do "we the people" know if a law enforced by one particular grand jury will be applied by a later grand jury? We all can think of divisive issues where a decision whether to enforce certain court decisions or laws may hinge upon the views of who is on the grand jury at any particular time.

Under Amendment E, "we the people" become subject to a randomly selected 13-person entity that sets its own rules, has explicit power to ignore statutes and the constitution, and whose decisions can never be reviewed. That is the most dangerous lie about the amendment. It is not about judicial misconduct, accountability, democracy or citizen control. It is an extremist mechanism to attack the foundation and principles of our state.