MISSOURI COURT OF APPEALS
WESTERN DISTRICT

BARBARA PIPPENS, et al.,

Respondents,

v.

JOHN R. ASHCROFT, et al.,

Appellants.

DOCKET NUMBER WD83962

Date: August 31, 2020

Appeal from:
Cole County Circuit Court
The Honorable Patricia S. Joyce, Judge

Appellate Judges:
Special Division: Lisa White Hardwick, Presiding Judge, and Alok Ahuja and Karen King Mitchell, Judges

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MISSOURI APPELLATE COURT OPINION SUMMARY
MISSOURI COURT OF APPEALS
WESTERN DISTRICT

BARBARA PIPPENS, et al., Respondents,
v.
JOHN R. ASHCROFT, et al., Appellants.

WD83962 Cole County

Before Special Division Judges: Lisa White Hardwick, Presiding Judge, and Alok Ahuja and Karen King Mitchell, Judges

In its 2020 regular session the General Assembly passed Senate Joint Resolution 38 ("SJR 38"), which proposes amendments to the Missouri Constitution concerning legislative redistricting, campaign contribution limits, and lobbyist gifts. The measure will appear on the November 3, 2020 general election ballot. The constitutional amendments proposed by SJR 38 would substantially modify constitutional amendments approved by voters at the November 2018 general election in Amendment No. 1.

Exercising the authority granted by § 116.155, RSMo, the General Assembly drafted the official summary statement to appear on the ballot for SJR 38. A group of eight Missouri citizens (the "Challengers") filed suit against the Secretary of State and other State officials in the Circuit Court of Cole County to challenge the General Assembly's official summary statement. The circuit court agreed with the Challengers that each of the three bullet points in the official summary statement was unfair and insufficient; the court accordingly rewrote the summary statement, and certified to the Secretary of State an alternative statement for inclusion on the ballot.

The Secretary of State and the other defendants appeal.

AFFIRMED IN PART AND REVERSED IN PART.

Special Division holds:

Under § 116.190.3, a summary statement in an official ballot title must not be "insufficient or unfair." "Insufficient" means "inadequate; especially lacking

adequate power, capacity, or competence." The word "unfair" means to be "marked by injustice, partiality, or deception."

The first bullet point of the summary statement states that SJR 38 would "[b]an all lobbyist gifts to legislators and their employees." This bullet point is unfair and insufficient because SJR 38 would only bar gifts from *paid* lobbyists. We revise this bullet point to state that SJR 38 would "[b]an gifts from paid lobbyists." On the other hand, the fact that SJR 38 would continue to allow gifts from lobbyists who are related to legislators or legislative staffers is a detail which the summary is not required to describe. Further, it is unnecessary for the summary statement to *quantify* the monetary effect of the lobbyist gift ban (reducing the present $5.00 limit to $0).

The second bullet point states that SJR 38 will "[r]educe legislative campaign contribution limits." This statement is fair and sufficient. SJR 38 proposes to reduce the stated limit on contributions to races for state Senate by $100, from $2,500 to $2,400. Further, by eliminating the biannual adjustment for changes to the Consumer Price Index, SJR 38 would also reduce contribution limits in House races, because those limits have been increased effective January 1, 2020 under the Consumer Price Index adjustment, and would be returned to their pre-adjustment level of $2,000. Once again, we reject Challengers argument that it was necessary for the bullet point to state the *amount* of the reduction to the contribution limits; a statement that those limits will be "reduce[d]" is sufficient.

The third bullet point described the changes SJR 38 will make to the redistricting process for state legislative districts. It is insufficient or unfair in several respects. First, the summary statement fails to state that SJR 38 will alter the redistricting process which voters approved at the last general election in November 2018. Given the recent substantial revisions to the redistricting process, such a reference is necessary to adequately inform voters of the effect of the amendment. Second, the summary fails to tell voters that SJR 38 will eliminate the role of the Nonpartisan State Demographer – a new constitutional officer created by Amendment No. 1 in 2018 – in the redistricting process. Third, the summary misleadingly states that the bipartisan commissions which will assume responsibility for drawing new legislative districts will be "citizen-led" and "independent." Finally, the summary fails to inform voters that the redistricting criteria which will apply if SJR 38 is passed already exist in the Constitution, but that SJR 38 will modify and reorder those existing criteria (which voters enacted in 2018). We accordingly rewrite the third bullet point to accurately reflect the changes SJR 38 will make to the redistricting process approved two years ago.

Finally, we reject the Challengers request that the bullet points be reordered to place the changes to the redistricting process first. As rewritten, the bullet points are now fair and sufficient, and they appear in the order in which the various

changes appear in SJR 38 itself. It is unnecessary to reorder the bullet points to make the summary fair and sufficient.

Opinion by: Alok Ahuja, Judge August 31, 2020

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