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Friday, February 29, 2008 • Vol. 139, No. 77 • •

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86 PAGES 8 SECTIONS • • • 50¢

EDITORIALS

Best way to pick state judges

Tennessee has a good system for selecting our state trial judges. Candidates declare their interest. Voters then choose. The winners get eight-year terms. That process gives the decisive power to the people, and the eight-year terms minimize politics in the judiciary.

Tennessee, unfortunately, does not currently have a good system for selecting our judges for state appellate courts and the state Supreme Court.

Those judges used to be selected the same reasonable way that trial judges are. But in 1971, the Tennessee General Assembly — surely with good intent — changed the system. Since then, a nominating commission (comprised primarily of representatives of lawyer groups) offers a list of names for each judicial selection. Then the governor chooses one from the list, or sends it back for other nominations. The judges chosen for the Court of Appeals, the Court of Criminal Appeals and the Supreme Court subsequently are elected with no opponents listed on ballots. Their names appear with voters having the options only

of voting “yes” or “no” for their retention.

In most cases voters do not have much opportunity to know very much about the judges up for retention unless there is some really scandalous revelation. Fortunately, we have lots of good judges. But we would much prefer to have all of them chosen the way trial judges are, with the possibility of real choices among candidates.

There is also a constitutional question about the current system. The 1853 Tennessee Constitution provided for judges to “be elected by the qualified voters of the state.” Obviously, that’s not exactly the way things have been done since the present system was adopted in 1971.

The subject of how Tennessee’s appellate and Supreme Court justices are chosen is of concern at this time because the current system is scheduled to expire in June unless it is reauthorized by the Legislature.

We suggest it would be a good idea to let the current system expire — after which all of our state judges should be selected directly by the voters in potentially competitive elections for eight-year terms.