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## Don't underestimate the voters' ability to vet judicial candidates

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### Tennessee Voices

The two judicial virtues at odds in the appointment vs. election debate surrounding the pending sunset of the Tennessee Plan are judicial independence and judicial accountability. In my view, we need a measure of both in Tennessee's judges.

That is why I read with interest Buck Lewis's op-ed published in *The Tennessean* on Aug. 17 titled, "Let's keep Tennessee Plan for judges." Mr. Lewis made three key points that I think only partially addressed the issue.

Mr. Lewis first argued that judicial vacancies prior to the Tennessee Plan were filled by gubernatorial appointment, and, as such, the Tennessee Plan is a better check on the governor's power to appoint judges. In reality, prior to adoption of the Tennessee Plan, Tennessee Supreme Court Justices were elected. Even today, Tennessee trial court judges are elected.

Second, Mr. Lewis argued that the Judicial Selection Commission is better suited to vet judicial candidates than the average voter. If the Commission is better suited to select judicial candidates, then why do so many of its proponents oppose making all of the Commission's deliberations public?

Third, Mr. Lewis decried any reversion to contested elections for the selection of judges as being potentially "disastrous." If that's a concern, why have we not had a robust discussion about Tennessee's trial courts? Trial judges in Tennessee are elected by the people. If elections work for them, why wouldn't they work for the Supreme Court?

Mr. Lewis also failed to mention that the Judicial Selection Commission is made up of mostly attorneys recommended by special interest groups as mandated by statute. It should come as no surprise that Mr. Lewis, as president of one of the organizations that has a say in who will sit on the Judicial Selection Commission (Tennessee Bar Association), supports the current system. What good purpose is served by giving lobbyist organizations gate-keeping authority over the selection of judges?

I don't think a judge's political affiliation is determinative of their ability to serve on the bench, but I think in the context of this debate that the people should be provided with all of the facts since the argument I continue to hear against sunsetting the Tennessee Plan is that the Tennessee Plan takes politics out of the process of judicial selection. Nothing could be further from the truth.

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