

Concern raised about expiration of judicial merit, evaluation systems

By Robert Wilson
Tuesday, March 25, 2008

MARYVILLE - A pair of Tennessee judicial scholars are expressing concern that the state's selection-retention process for intermediate appellate and Supreme Court judges is about to expire, possibly leaving the state with unfilled judgeships backlogging the court system.

The scholars led a panel discussion Monday night at Maryville College titled "Selecting State and Local Judges: Election, Appointment or Other Alternatives?"

Addressing about 25 people at the event were Dr. Otis Stephens, professor of political science at the University of Tennessee and a resident scholar of constitutional law, and Penny White, director for the Center of Advocacy and an associate professor of law at UT. She also is a former Tennessee Supreme Court justice.

Under what is known as the Tennessee Plan, appellate and high court justices are appointed by the governor but must face popular yes-no vote for retention. They also are evaluated on their performance, and those evaluations are published statewide to allow voters to make intelligent choices.

But, White said, the merit and evaluation systems are about to expire - or "sunset" - on April 15, possibly leaving the state without any process for filling vacancies.

Both White and Stephens said they advocate extending the system, but White said the latest information she has indicates the extension may well pass the Tennessee House but fall a couple of votes short in the Senate. She added that it could be fairly inferred that the issue has partisan overtones in that the House is controlled by Democrats and the Senate by Republicans.

The Tennessee Plan, she said, goes a long way toward removing partisanship from the judicial process and facilitates a more evenhanded meting out of justice.

"People don't want a judiciary that's bought and paid for" with campaign money, White said.

She also raised the possibility that term limits or public financing of judicial election campaigns could help remove partisan considerations from judge selections, also.

White said she is "OK" with how local trial judges are elected because they decide cases within fairly strict guidelines that are not as subject to partisan interpretation.

Blount County will be electing a Circuit Court judge in August, and one of the men running for that position was in the audience Monday night.

Judge Michael Meares was appointed to the Circuit Court bench by Gov. Phil Bredesen nine months ago and is running for election against David Duggan, who is a Blount County General Sessions Court judge.

Meares was in the audience for the panel discussion as was William R. Brewer, also a General Sessions judge.