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Voters Don't Understand the "Tennessee Plan"

More than 80% of Tennessee voters say they don't understand how the state's Supreme Court and appellate judges are chosen. That's the finding of a survey commissioned by the Federalist Society, a conservative organization dedicated to a literal interpretation of the constitution.

Currently, the governor chooses judges from a slate presented to him by a nominating committee. Then, in elections every eight years, the judges run unopposed to stay on the bench.

Pollster Kellyanne Conway says a full quarter of those surveyed thought the elections were used to choose judges, not just to retain them; and given that people responding to polls are usually unwilling to admit any lack of knowledge, she says the 80% who admitted they just don't know how the system works is very high.

"That spanned every demographic, partisan, ideological, gender, racial, geographic cohort statewide. In other words, there was no group that evidenced a majority of knowledge. So this a pretty equal opportunity lack of knowledge across the state. But they were very determined and very certain about how the judges should be selected."

Conway says 60% would like to elect judges. Nearly 30% want the governor or legislature to choose, but without the current step of an unelected committee narrowing down the slate.

That existing process, known as the "Tennessee Plan," is up for renewal this year. It's also under fire from several directions. Governor Phil Bredesen has been unhappy with the candidates selected by the nominating committee, even to the point of filing a lawsuit which went all the way to the state Supreme Court; and in a new paper written for the Federalist Society, Vanderbilt law professor Brian Fitzpatrick says the plan is unconstitutional and that it doesn't manage to either choose better and more diverse judges or take politics out of the selection process.

By Nina Cardona