



## New proposal issued in supreme wrangle

### Veto threatened over state's process of selecting court justices

By Tom Humphrey  
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NASHVILLE - Lt. Gov. Ron Ramsey has proposed an overhaul of the state system for appointing new judges, while Gov. Phil Bredesen is threatening to use his veto power to bring more openness to the process.

The Ramsey plan, unveiled during a meeting with reporters, would reduce the power of lawyers in picking judges while giving the governor more options. Bredesen said "there's nothing in Sen. Ramsey's proposal that I was opposed to."

The governor noted, however, that portions of the Ramsey proposal conflict with House Speaker Jimmy Naifeh's stance. Naifeh said he approves of the present system, though he is open to compromise.

At the center of the debate is the 17-member Judicial Selection Commission, which screens applicants for judicial appointments when vacancies occur.

When the vacancy is on the state Supreme Court or an appeals court, the commission - meeting in closed-door sessions - sends three nominees to the governor. The governor can reject them and ask for three more but must fill the vacancy from the second slate.

Bredesen has pushed legislation that would require the commission to meet in public, but his bill was killed in a House subcommittee two weeks ago.

According to both Ramsey and Naifeh, Bredesen has since told legislators he will veto any bill that retains the secret meeting.

That could be crucial because the commission is officially scheduled to "sunset," or cease to exist, unless the Legislature passes a bill to extend its life. If no bill passes in the current legislative session, the commission will go into a year of "wind-down" to close out its affairs before being abolished effective July 1, 2009.

Legislative leaders have set May 9 as the target date for adjournment of the 2008 session.

Questioned by reporters, Bredesen stopped short of flatly promising to veto a bill that allows continued closed meetings but said he would be "inclined, certainly" toward a veto. So far in his gubernatorial career, Bredesen has never flatly promised to veto a bill before it passed.

Ramsey's proposal includes an open-meetings provision but would reduce the information now provided to the commission about applicants. Commission members have argued that their meetings should be

closed because they receive TBI background checks, credit reports and medical information on candidates.

Under Ramsey's proposal, the commission would not receive such reports. Instead, they would go to the governor for his review prior to making a final choice among the nominees submitted by the commission.

Currently, the speakers of the House and Senate each appoint eight members of the selection commission and they must jointly agree on the 17th member. But the speakers must choose their appointees to the commission, in most cases, from a list of names submitted by various legal special-interest groups.

The Ramsey plan would eliminate the requirement that the speakers select members from such lists. Instead, they would have more opportunities to pick anyone they wish, subject to requirements for geographic balance and diversity.

Also, only six positions would be reserved exclusively for lawyers under the Ramsey plan. Three would be reserved for nonlawyers and the remaining positions could be filled by either lawyers or nonlawyers.

Under the current system, 14 of the 17 positions must be filled by attorneys.

"Right now, it's a self-perpetuating board that gets to choose their replacements, more or less," said Ramsey.

The Ramsey plan also proposes that the commission submit a list of five candidates to the governor for the state's highest courts, instead of three.

The terms of commission members would end Sept. 1, 2008, and the speakers would replace them according to the new plan.

Naifeh said he has no objection to opening commission meetings and some of the changes Ramsey proposes, such as having the commission submit more nominees to the governor.

The House speaker said he likes the current system of having designated attorney groups provide a list of names for appointment to the commission, believing the groups are better able to recommend the best-qualified lawyers to serve on the panel.

Bredesen at one point filed a lawsuit against the commission after he rejected three nominees and got a second slate that contained two of the first slate's names. The governor won, with a judge declaring that the second slate must have three new nominees.

Some legislators contend the entire system violates a provision of the state constitution calling for judges to be "elected by the qualified voters" of Tennessee.

The current system instead has judges appointed by the commission and the governor, then subjected only to a "retention election" when their terms expire. Supreme Court judges and appeals court judges up for re-election have no opponents. Voters simply vote yes or no on whether each judge should get a new eight-year term.

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