



## Renew judicial selection panel, but open the process

As the governor and legislators grapple with budget shortfalls in the closing days of the General Assembly, the question about the future of how Tennessee's appellate and Supreme Court judges are picked might appear lost in the shuffle.

The issue is important because the Judicial Selection Commission - the 17-member panel that decides which names to submit to the governor - is set to sunset, or cease to exist, unless lawmakers pass a bill to extend its life. If no such bill passes, the commission will wind down, closing out its affairs by July 1, 2009.

And there remains work to do in the near future. William Barker, chief justice of the Supreme Court, is retiring Sept. 1 after a judicial career spanning 25 years.

The process of picking the state's top judges and justices involves closed meetings among members of the commission. The selection commission submits three names to the governor who makes the final pick. Judges and justices stand only for a retention election - a yes-no vote - when their terms expire. For the most part, the process has served the state and the judiciary well.

The system was tested last year when Gov. Phil Bredesen rejected the two slates of nominees, even though he is required to choose a candidate from the second slate. The Supreme Court later upheld his rejection of the second slate because two of the names had appeared on the first list.

The court case, however, sparked talk about changing the system. At one end of the argument, some have called for the state's top judges and justices to stand for election like the governor and members of the legislative branch. This has been criticized in the past for putting judges in the position of having to raise money for elections and becoming beholden to special interests, undercutting their need to be fair and impartial.

Others merely want to tweak the system. Bredesen, for example, would like the meetings of the selection commission open to the public, but a bill to accomplish that was killed in a subcommittee in April. The governor also has indicated that he would like the selection panel to designate a list of candidates as "qualified" or "unqualified," allowing him more flexibility in choosing a judge or justice.

At the other end, some prefer a federal-type system. Rep. Tom DuBois, R-Columbia, and Sen. Mark Norris, R-Collierville, have proposed such legislation, HB3990 and SB4107. Both bills are in their respective judiciary committees and have not seen action since February.

Their proposal would decrease the terms of the commissioners on the selection panel and would require Senate confirmation of a gubernatorial appointee. Several other states have such a process, much like the federal requirement of having the president choose a nominee who is confirmed or rejected by the Senate.

Since Republicans hold a majority of the seats in the state Senate, the federal plan likely will be popular in that chamber, but majorities change, as members of both parties know. Nevertheless, the idea needs to have some debate and public discussion before becoming law, and that hasn't happened.

It is doubtful this late in the session - especially with fiscal distractions - that general debate will occur. Save it for another day.

Meanwhile, we like Bredesen's idea to make the meetings of the Judicial Selection Commission open to the public. The judges are deciding matters of life and death and other cases that have a wide-ranging impact on the residents of the state.

Why not know more about them before they are picked for an appeals court or the Supreme Court?



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