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Opinion:

## Electing appellate court judges is bad policy

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As the legislative session wraps up, state lawmakers are dangerously close to allowing the sun to set on the existing judicial selection commission.

It's the appointed panel that reviews candidates for vacancies on the state's appellate courts and submits a slate of three nominees to the governor from which he picks a judge.

The means by which the state fills judicial vacancies is hardly a top of mind concern to most people, especially given more pressing concerns like record-high gas prices and inflation.

However, a return to elected appellate judgeships could have dire consequences for generations of Tennesseans to come.

The aim of the current judicial selection process is to limit the influence of special interests, be they liberal or conservative, on the state's highest courts. The 17-member commission is comprised of diverse, bipartisan members, including minorities.

On the surface the notion of electing Supreme Court and Court of Appeals Judges sounds innocuous enough. In theory it allows more people, including women and minorities, to run for statewide office.

Electing these judges also creates the potential for well-funded special interest groups to bankroll candidates and effectively buy rulings from what is supposed to be an impartial, independent branch of government.

This sort of political corruption run amok is the plot of best-selling author John Grisham's best work of legal fiction in years, "The Appeal."

The novel opens with a record judgment against a chemical company accused of dumping toxic waste into the water supply of a small Mississippi town and causing a scourge of cancer among its residents.

With an appeal looming, the Wall Street billionaire who owns the company decides not to take a chance and proceeds to purchase a seat on the state Supreme Court.

For a paltry couple of million dollars funneled through some ambiguous, pro-business political action committees, a naive, small town attorney with little political ambition is transformed into a contender for a coveted spot on the High Court.

Of course the incumbent female justice is unprepared for a competitive race and is beaten easily, thanks in part to the smear tactics unleashed by her opponent's handlers.

I won't spoil Grisham's plot, but I will promise you that his novel will give pause to anyone who thinks allowing special interests carte blanche to influence the judicial selection process is a good idea.

To underscore the weight placed on the judicial selection status quo, longtime House Speaker Jimmy Naifeh, D-Covington and retiring Rep. Frank Buck, D-Dowelltown, publicly mended fences and stood side-by-side on the House floor to encourage support for keeping the existing process intact.

Buck and Naifeh had a falling-out during the income tax fight which led to Naifeh stripping the pot-bellied country lawyer of his House Judiciary Committee chairmanship.

Their relationship has improved slightly over the years, but they're still far from bosom buddies. Combined with the fact that Naifeh seldom leaves his presiding seat to speak from the well on legislation, you know that this is a big deal.

Between Buck's tales of justice gone awry due to corrupt judges of yore and Naifeh's insistence that the bill is nonpartisan and in fact assures that qualified attorneys instead of political cronies are appointed to the bench, they successfully silenced the bill's Republican detractors who questioned the constitutionality of the selection process.

The measure ultimately passed the House by a vote of 64-34.

As of press time, it's awaiting consideration on the Senate floor, thanks to a parliamentary maneuver by retiring Sen. John Wilder. While the former lieutenant governor is certainly eccentric, he's also savvy enough to make sure he's got enough votes to extend the commission before calling the matter up for a floor vote.

Wilder is fond of remarking that the Senate is good. Hopefully they'll live up to that reputation one final time for his sake and allow the existing judicial selection commission to continue.

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