

Tennessee Plan gets a reprieve

The method used in the state to seat appellate judges could use some work, but the job of rewriting it should not be rushed.

By Staff Reports

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Tennessee legislators are back in their districts, and the Tennessee Plan is in limbo.

That's probably just as well. The state's method for selecting appellate court judges, including members of the state Supreme Court, needs attention. But the last few days of the session is not the time to rush through some sort of reform.

Those involved in this important process, however, should use the legislative recess to negotiate a resolution to the Tennessee Plan debate.

Only a few weeks remain before a state law that requires periodic renewal of the 17-member Judicial Selection Commission puts the panel out of business, although an automatic extension will keep the commission's office in operation for one more year.

Retiring state Sen. John Wilder, D-Somerville, one of the Tennessee Plan's primary architects, has been fighting to renew the commission, an important part of the process when appellate court vacancies must be filled. Wilder wants one of the signature accomplishments of his legislative career to remain intact.

But a number of proposed changes are on the table and need to be negotiated in the relative calm between now and the opening gavel of the next session in January.

Lt. Gov. Ron Ramsey's proposals for changing the process would give the speaker of the Senate (also known as the lieutenant governor) and the speaker of the House more latitude in appointing members of the commission.

If that can't be done, says Ramsey, who objects to a formula that he says gives too much power to liberal attorneys, he would just as soon allow the commission to go out of business.

Gov. Phil Bredesen's ideas for changing the process include requiring the commission, with which he has feuded publicly, to meet in public, an idea that some lawyers in the

House staunchly oppose.

Another faction in the legislature would ditch the Tennessee Plan altogether in favor of returning to the direct election of appellate judges in contested elections, instead of the current up-or-down judicial retention votes called for by the plan.

This page has called for the retention of the Judicial Selection Commission, but in an advisory role to the governor, who would be free to nominate judges to fill vacancies, subject to legislative approval.

Under the Tennessee Plan, the governor is obliged to choose from lists of candidates screened and selected by the Judicial Selection Commission, whose work is conducted almost exclusively behind closed doors.

That's the process that led to a showdown between Bredesen and the commission in 2006-07 that left a Supreme Court vacancy unfilled for 10 months.

Avoiding a repetition of that scenario should be a top priority in state government. Efforts to find a compromise cannot begin too soon.



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