



May 27, 2008

REVIEW & OUTLOOK

Three Gavels for Tennessee

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It was sunny in Tennessee last week, when the state's controversial method of picking judges was allowed to expire amid high-stakes legislative wrangling. The change marks the first time a merit selection plan has been ousted in any state that has adopted it.

The plan's demise was finalized last Tuesday after an 11th-hour attempt to save it by state Senator John Wilder. On his last day in office before retirement, Mr. Wilder attempted a rare legislative maneuver to bring it directly to the floor for a vote. No dice.

The so-called merit selection plan will now go into a one-year wind-down, after which Tennessee will revert to its constitutionally mandated method of choosing judges by direct election. That means less influence from the coterie of lawyers groups that had controlled the Judicial Selection Commission and become a thorn in the side of even Democratic Governor Phil Bredesen, who balked at their manipulation of his appointments.

The plan's path to extinction wasn't for lack of effort by the lawyers groups, who saw the status quo at risk and were out in force. The Tennessee Bar Association retained lobbyist Betty Anderson, the wife of Tennessee House Speaker Jimmy Naifeh, one of the lead advocates for preserving the selection system in its present form. Ms. Anderson took the case pro-bono, and her husband says he didn't even know she was lobbying on the issue. "I wouldn't say 'It doesn't pass the smell test,'" Common Cause Tennessee Chairman Dick Williams told the Tennessean, "but I wouldn't be surprised if some people would."

The Tennessee plan was devised to reduce the role of politics in judicial selection. But as the political drama surrounding it amply demonstrated, the reality has been anything but nonpartisan. Tennessee now has a chance to restore transparency and accountability to judicial nominations – and to show other states the way.

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