



July 7, 2008

Leave Tennessee Plan just as it is

When lawmakers convene in January, they'll have another chance to renew the Tennessee Plan, the state's method of selecting, evaluating and retaining or rejecting appellate judges. They should take it.

Under the Tennessee Plan, a Judicial Selection Commission screens names and submits a list of three finalists to the governor, who makes the final choice. The commission went into a one-year wind down on July 1, since lawmakers failed to pass a law extending it. If the Tennessee Plan dies, the state would revert to popular election of judges.

Efforts to get rid of the Tennessee Plan are short-sighted. Certainly, the system has flaws. That was proved two years ago, when a dispute between the governor and the commission led to litigation. But whatever flaws the system has, they are more than outweighed by the system's advantages.

Perhaps the biggest advantage offered by the Tennessee Plan is that it goes a long way toward removing politics from the process of judicial selection. If judges were forced to stand for election every four to eight years, they would spend a good deal of their time campaigning. They would let themselves be influenced by public opinion. With the Tennessee Plan, that isn't a consideration. Judges are free to do their jobs: interpreting the constitutionality of laws. That's a big job that doesn't need the distraction that campaigning would provide.

Under the Tennessee Plan, voters still get a voice. That's because they get a chance to vote on whether to retain or reject judges every eight years. That may not be the direct voice that a popular vote provides, but it still works.

This is a case where the system works, and it's better to leave well enough alone. The process of selecting the right judge is a complicated one, and it's better to leave the decision in the hands of people who are qualified to make wise decisions for such an important position.
