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Bad way to pick appeals judges

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Pointing toward the re-election of several Tennessee appellate court judges in the August election, a section inserted in last Sunday's newspaper provided an unintended reminder that Tennessee unfortunately has a bad system for selecting judges for the Tennessee Supreme Court, the Tennessee Court of Appeals and the Tennessee Court of Criminal Appeals.

Until the system was changed by the Tennessee General Assembly in 1994, all appellate judges were elected directly by the people, for eight-year terms, as current trial judges fortunately still are. There previously was the potential of having multiple candidates for each appellate position, from among whom the voters could choose.

But with the good intent of removing appellate judges from politics, now when an appellate court vacancy occurs, an appointed panel submits three names, from which the governor may select one, or call for another list. After an appellate judge is appointed, he or she is rated every eight years by the 12-member Judicial Evaluation Commission, and his or her name appears on the ballot. But voters are able to vote only "for" or "against" retention of a judge, not choose among two or more candidates. As a result, most Tennesseans never really know much about the judges' performance.

All judges should be ladies or gentlemen of integrity, ability and knowledge of the law, who operate with good judgment and absolute impartiality. Fortunately, most of them meet that standard. However, one occasionally does not. But with no possibility of an opponent making an illuminating challenge, voters generally vote in the dark. So appellate judges tend to be "rubber-stamped" to continue in office. That's not good.

We believe it would be better to revert to the previous system, in which challengers might appear every eight years.

This year, the Judicial Evaluation Commission recommends for retention two members of the five-member Supreme Court, two Court of Appeals judges and one member of the Tennessee Court of Criminal Appeals. (Terms are staggered so other judges will be presented "for" or "against" retention at other times.)

We know of no reason any of the judges up for retention at this time should not be retained. But the nature of the system is such that questions are rarely raised about an appellate judge's ability, since choice among competing candidates is eliminated.

With the current system, called the Tennessee Plan, scheduled to expire next June, Tennessee's legislators should take a critical look at the current system.

We believe it would be better to return to the former open elective system, instead of continuing to have an appointed commission effectively making the decisions, with the people being denied the desirable opportunity to choose among competing appellate court candidates every eight years.