

State Supreme Court wants to keep retention system

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By Richard Locker

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NASHVILLE — New Tennessee Supreme Court chief justice Janice M. Holder of Memphis says the high court is unanimous in its support of maintaining the state's current system of selecting its appellate court judges.

The system known as the "Tennessee Plan" requires nomination of candidates for all three appeals courts — including the Supreme Court — by a nominating commission, appointment by the governor, and "yes" or "no" retention elections in which voters decide whether the judges remain on the bench.

The Tennessee Plan was a major issue in this year's legislative session. Republican leaders and others argued that it violates the state constitutional provision that declares, "The judges of the Supreme Court shall be elected by the qualified voters of the state."

The standoff means the statute that created the Tennessee Plan is automatically repealed next July 1 if lawmakers fail to renew or modify it during the 2009 session.

Holder, a state Supreme Court justice since 1996, was sworn in Tuesday as the state's first woman chief justice. She joins 18 other women serving as chief justices in other states.

Speaking at Tuesday's ceremony, Holder she believes the state Supreme Court illustrates "the benefits of the Tennessee Plan.

"This court is not in favor of partisan election in which judges are obligated to raise millions of dollars for campaigns. This court is in favor of the current principles that comprise the Tennessee Plan."

Later in media interviews, Holder said she and her colleagues "can be vocal about our desire for the Tennessee Plan or something like it to continue and about the dangers of a partisan election system."

Holder also said she hopes to lead the legal profession toward improving access to justice for all citizens, including those who cannot afford adequate representation, and to upgrade the court system's technology, including e-filing of cases.

The Tennessee Plan was adopted in 1994. From 1974 to 1994, judges on the state Courts of Appeals and Criminal Appeals were nominated by a commission and appointed by the governor,

with retention elections for the voters. But the five Supreme Court justices were nominated by the two major political parties' state committees and elected in partisan elections.

The 1994 reform put all appellate judges under the "merit-selection" retention-election system, and also set up a judicial evaluation commission whose recommendations for or against retention of each judge appear on the ballot as guidance for voters.

Memphis lawyer George T. "Buck" Lewis III, president of the Tennessee Bar Association, said renewal of the Tennessee Plan is the TBA's top legislative priority.

When the legislature adjourned in May, Senate Speaker Ron Ramsey, R-Blountville, was more focused on altering the selection of the 17 members of the Judicial Selection Commission than abolishing the retention-election system. The commission nominates candidates to the governor and Ramsey said he believes it is dominated by interest groups that favor more liberal judges. He also says it lacks members from northeast Tennessee, which he represents.

Under the 1994 law, members of the commission are appointed by the speakers of the House and Senate based on nominations by various groups named in the statute, including the TBA.

The Tennessee Supreme Court will have a vacancy when Justice William M. Barker of Chattanooga retires Sept. 15. The Judicial Selection Commission has submitted three nominees to Gov. Phil Bredesen: Court of Appeals Judge Sharon Lee, Kingsport attorney Bruce Shine and Chattanooga attorney John Westley McClarty.