

## State judicial selection best, says American Bar Association president

By Blake Fontenay

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American Bar Association president Thomas Wells doesn't deny the possibility that politics can creep into Tennessee's process for selecting appellate court judges.

Even so, Wells said the state's judicial selection system is far better than the alternative of having those judges directly elected by the public.

"There's always going to be politics in the process," Wells said during an appearance before The Commercial Appeal's editorial board this week. "The key to any judicial selection process is having the (political) heat turned down as low as possible so it doesn't blow the lid off."

Wells, a Birmingham-based lawyer, made several appearances in Memphis this week to discuss the judicial selection process and other issues important to the ABA.

Judicial selection is expected to be a hot topic in the Tennessee General Assembly this year, with some Republican lawmakers calling for appellate judges to be elected, as lower-court judges are.

For years, a panel known as the Tennessee Judicial Selection Commission has reviewed the qualifications of potential appellate judges, then recommended slates of candidates from which the governor must make appointments.

Those judges must win merit retention elections to keep their seats. In those elections, the judges aren't opposed, but face up-or-down votes on extending their terms of service.

If asked if they preferred direct election of judges, Wells said that most people would probably say yes.

But asked if they would be willing to appear in a court case against someone who had made a political contribution to the presiding judge, Wells said most people would probably say no.

Wells said forcing judges to stand for election, which almost invariably requires them to accept campaign contributions, creates a perception that justice is "for sale."

Memphis lawyer George "Buck" Lewis, president of the Tennessee Bar Association,

said there are ways to fine-tune the state's judicial selection process without completely dismantling it.

State Senate Majority Leader Mark Norris said the selection process could be changed in any number of different ways, though.

Norris, R-Collierville, said one option would be to give the House and Senate speakers more flexibility in appointing members to the Judicial Selection Commission.

Another option would be to make the commission's deliberations more transparent to the public.

And Norris said the idea of direct elections is likely to get strong consideration as well.

"There are plenty of folks who feel that direct elections are not only what the (state) constitution calls for, but would be best."

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#### American Bar Association

The ABA, a trade association that represents lawyers and others who work in the legal profession, claims more than 400,000 members. It provides services such as law school accreditation, continuing legal education for lawyers and judges and initiatives to improve public access to the legal system.

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