

## **Editorial: Let's retain Tennessee Plan**

### **Expensive, statewide contests between candidates for appellate courts are lined with pitfalls**

By Staff Reports

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When are contested elections to fill powerful public jobs not a good idea?

The answer might seem counterintuitive. But it's clear that when it comes to naming state appellate court judges, including those on the state Supreme Court, Tennessee has a better way.

The Tennessee Plan may need some tweaking, but it's better than state-wide races that force appellate judges to raise huge amounts of cash from sources who often contribute for selfish reasons.

Of course, not every appellate court judge fits the profile of Brent Benjamin, the West Virginia Supreme Court justice who, after refusing to recuse himself from the case, cast a deciding vote in favor of a coal company whose chief executive had spent \$3 million to help Benjamin get elected in 2004.

It's common sense, though, to surmise that most judges would prefer to spend their time on their cases than begging for money all over the state from people with keen interests in how their cases shake out.

This is a priority that is becoming more urgent, not less. According to the judicial reform group Justice at Stake, state Supreme Court candidates who had to run in contested elections pulled in almost \$168 million between 2000 and 2007 to run their campaigns, nearly double the amount of money they collected during the '90s.

For very good reasons, Tennessee in 1994 adopted the current version of the Tennessee Plan, which allows voters to say "yes" or "no" to the retention of the state's 24 Court of Appeals and Court of Criminal Appeals judges as well as the five justices on the Supreme Court.

When vacancies occur, the governor appoints judges from nominees sent up by the Judicial Selection Commission.

That system has not run flawlessly over the years, but it's imperative for the General Assembly to take action on this issue by June 30. Otherwise, the JSC is out of business and expensive statewide elections for appellate judges are in.

Some changes in the commission's authority and makeup should be considered.

Previously this page has recommended a system similar to that used for the nomination of U.S. Supreme Court justices in which the commission would become an advisory panel only.

Gov. Phil Bredesen has suggested that he would settle for a change in the procedure that would allow him to call for an entirely new list of nominees if no one on the JSC list seems suitable.

That seems like a fair compromise to avoid the sort of contretemps between Bredesen and the JSC that delayed the filling of a Supreme Court vacancy for several months in 2006-2007.

Another idea -- this one advanced by state Senate Speaker Ron Ramsey -- also has merit. Ramsey wants to reshuffle the membership of the lawyer-weighted, 17-member Judicial Selection Commission to a more diverse group.

The bottom line is that the Tennessee Plan should be allowed to continue. The chances of a Judge Benjamin-type in our midst might be slim, but it's a chance we shouldn't have to take at all.

