



The Voice of the Profession

The Tennessee Bar Association counts more than 11,000 members and is the largest professional organization in the state of Tennessee. One of the key missions of the TBA is to serve as the voice of the profession in Tennessee. I am proud to report to you that the exercise of that voice has achieved an important accomplishment affecting all Tennesseans by ensuring that Tennessee judges are well-qualified,

fair and impartial.

Much has been said over the last few months about the process of selecting, evaluating and electing appellate judges in Tennessee, a process that was under attack by some lawmakers for several legislative sessions. The TBA spoke up in a professional manner throughout the debate by providing a depth of thoughtful perspective, publishing timely, relevant information and acting as a resource to all to successfully fulfill this mission as the voice of the profession on such a basic and important Rule of Law issue.

The continuation of a merit selection and retention election judicial selection system in Tennessee was one of the top three action items identified as critically important by the multidisciplinary participants in the October 2008 TBA Rule of Law Conference. The judicial selec-

tion system in place in Tennessee since 1971, and the envy of many other states, was in jeopardy and in wind-down status coming in to the 2009 legislative session. The TBA, representing the views of more than 80 percent of its members and the unanimous view of its Board of Governors, advocated for a continuation of a system for merit selection, performance evaluation and retention elections for Tennessee's appellate judges. This viewpoint achieved widespread support among the business and civic community. The TBA stepped up and united with these business, civic and other bar groups across the state to speak as the voice of the profession and save the system. (Read more details about the outcome on page 11.)

Thanks to your support and the work of many lawyers working with the legislators, a new Judicial Nominating Commission will be constituted with the important task of screening and nominating qualified judicial candidates to fill vacancies, who will then be selected by the governor. Ultimately appellate judges will continue to be elected or rejected by the citizens in a retention election. This process was adopted by the legislature as opposed to a new direct partisan election system advocated by some. The new 17-member commission will include a minimum of 10 attorneys and the commission will recommend a slate of three qualified candidates to the governor for judicial vacancies. That slate

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"Merit selection will continue to significantly enhance the Rule of Law in Tennessee by assuring a well-qualified, fair and impartial judiciary in our state."



Immediate TBA Past President Buck Lewis, left, Chief Justice Mark Martin of the North Carolina Supreme Court, and TBA President Gail Vaughn Ashworth during last fall's TBA Rule of Law Conference.

REVISED JUDICIAL ELECTION PLAN WINS SENATE SUPPORT, IS ADOPTED

On June 12, the Senate completed action on a revised judicial election plan that preserves merit selection, performance evaluation and retention elections. The action came on a 21-10 vote to "concur" with a House-adopted amendment to remove a provision from the bill that would have allowed the governor to "reach down," beyond the two panels of three candidates submitted to him, to any candidate who

applied for commission consideration.

Major features of the bill include:

- creation of a new 17-member judicial nominating commission appointed by the two speakers with a minimum of 10 and a maximum of 14 lawyers.
- continuation of retention elections for Supreme Court and intermediate appellate court judges, with

new language asking voters if they wish to retain or replace judges.

- establishment of a newly-restructured judicial performance evaluation commission to evaluate appellate judges.

The plan will go into effect July 1. The bodies that administer the plan will sunset on June 30, 2012. **AT**

President's Perspective

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can be rejected by the governor for a second slate of three qualified candidates before selection. This system continues many positive hallmarks of The Tennessee Plan and dispels the perception of "justice for hire" seen in sister states that use direct, partisan elections to select appellate judges.

TBA Past President Buck Lewis worked closely with Tennessee Association for Justice President Daniel Clayton and other bar leaders across the

state throughout the long winter months, into spring and almost into summer to accomplish this important mission. In recent years, Past TBA Presidents Marcy Eason and Larry Wilks also worked tirelessly to educate and advocate the benefits of merit selection in our state.

I want to personally thank each of them for their leadership and for bravely using their voices to overcome sound bites, misinformation

and political agendas to deliver a strong message that merit selection benefits all Tennesseans. Merit selection will continue to significantly enhance the Rule of Law in Tennessee by assuring a well-qualified, fair and impartial judiciary in our state. The leadership of the TBA will continue to use its voice to support the system and other important Rule of Law issues. **AT**

Problems are not signs of failure but opportunities for growth ...



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