

Statewide Survey of 507 Registered Voters in Tennessee

prepared for

The Federalist Society

by the polling company™, inc.

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Fielding Dates: January 27-30, 2008

Margin of Error = $\pm 4.4\%$

Introduction

- A. Are you 18 years of age or older and currently registered to vote here in Tennessee, registered in a different state, or not registered at all?

100% YES

- B. Thinking for a moment about past elections that you have been eligible to vote or participate in, would you say that you have voted in...(READ CHOICES)

58%	ALL OR ALMOST ALL ELECTIONS
27%	MOST ELECTIONS
7%	ABOUT HALF OF ALL ELECTIONS
6%	LESS THAN HALF OF ALL ELECTIONS
3%	I HAVE NEVER VOTED IN AN ELECTION

IMPRESSION OF TENNESSEE COURTS

1. How familiar would you say you are with the Tennessee State Supreme Court and its rulings and decisions? Are you... (READ AND ROTATED TOP TO BOTTOM AND BOTTOM TO TOP)

37% TOTAL FAMILIAR (NET)

7% VERY FAMILIAR
30% SOMEWHAT FAMILIAR

63% TOTAL UNFAMILIAR (NET)

33% JUST A LITTLE BIT FAMILIAR
30% NOT AT ALL FAMILIAR

* DO NOT KNOW (VOLUNTEERED)
- REFUSED (VOLUNTEERED)

2. Which of the following do you think best describes how Justices are **first** chosen to serve on the Tennessee Supreme Court? [READ AND ROTATED]

30% JUSTICES ARE APPOINTED BY THE GOVERNOR OF TENNESSEE AND
CONFIRMED BY THE LEGISLATURE
29% JUSTICES ARE NOMINATED BY A JUDICIAL SELECTION COMMISSION
AND APPOINTED BY THE GOVERNOR
25% JUSTICES ARE ELECTED BY THE VOTERS OF TENNESSEE
1% OTHER (VOLUNTEERED)
15% DO NOT KNOW (VOLUNTEERED)
* REFUSED (VOLUNTEERED)

3. Who do you think **should** have the greatest input on who is selected to serve as a Justice on the Tennessee State Supreme Court? (READ AND ROTATED, ACCEPTED ONLY ONE RESPONSE)

59% TENNESSEE VOTERS
14% TENNESSEE STATE LEGISLATURE
14% TENNESSEE GOVERNOR
6% TENNESSEE LAWYERS
1% OTHER (VOLUNTEERED)
1% ALL OF THE ABOVE (VOLUNTEERED)
* NONE OF THE ABOVE (VOLUNTEERED)
4% DO NOT KNOW (VOLUNTEERED)
* REFUSED (VOLUNTEERED)

TENNESSEE SUPREME COURT APPOINTMENT

As you may know, there are five Justices on the Tennessee Supreme Court who are appointed by a process known as the “Tennessee Plan.” Under this Plan, a Judicial Selection Commission selects all the judicial nominees for the Supreme Court. The Commission is an unelected seventeen-member group that is comprised of 14 lawyers nominated by various associations of lawyers, such as the Association of Criminal Defense Lawyers, and 3 non-lawyer members. The members of the Commission are then appointed by leadership of the Tennessee Legislature. When there is an opening for a Justice on the Supreme Court, the Commission reviews all the applicants and sends the names of only three candidates to the Governor. The Governor must either choose one or ask for a second panel of three candidates. However, the Governor is then required to select one of the individuals from the second panel.

4. Were you aware that various associations of lawyers select 14 of the 17 members of the Judicial Selection Commission which selects all of the Tennessee Supreme Court nominees?

15% YES
83% NO
2% DON'T KNOW (VOLUNTEERED)
* REFUSED (VOLUNTEERED)

5. Do you approve or disapprove of this method of judicial selection for Tennessee's State Supreme Court? (PROBED: And do you STRONGLY or SOMEWHAT approve/disapprove?)

39% TOTAL APPROVE (NET)

10% STRONGLY APPROVE
29% SOMEWHAT APPROVE

47% TOTAL DISAPPROVE (NET)

21% SOMEWHAT DISAPPROVE
26% STRONGLY DISAPPROVE

5% NEED MORE INFORMATION/ NO BASIS TO JUDGE (VOLUNTEERED)
9% DON'T KNOW (VOLUNTEERED)
1% REFUSED (VOLUNTEERED)

6. The Tennessee State Constitution states that all judges must be “elected by qualified voters?” Were you aware of this requirement in the Tennessee Constitution?

33% YES
64% NO
2% DON'T KNOW (VOLUNTEERED)
1% REFUSED (VOLUNTEERED)

7. The Tennessee Plan – the method of judicial selection we have been speaking about – is set to expire in the summer of 2008. At that time, the Tennessee Legislature can either reauthorize the Tennessee Plan, meaning the process of selecting Justices would stay the same – or go back to elections, which Tennessee used to have – or institute a new method of selection, such as appointment by the governor. Which would you advise them to do: (READ AND ROTATED)

54% GO BACK TO ELECTIONS
19% INSTITUTE A NEW METHOD OF SELECTION
16% REAUTHORIZE THE TENNESSEE PLAN

3% NEED MORE INFORMATION/ NO BASIS TO JUDGE (VOLUNTEERED)
7% DON'T KNOW (VOLUNTEERED)
2% REFUSED (VOLUNTEERED)

8. There are several different ways by which State Supreme Court Justices could be selected. I am now going to describe for you a few different methods used by other states. Please tell me which one you think would be the best model for Tennessee. (READ AND ROTATE)

58% POPULAR VOTE – SUPREME COURT JUSTICES ARE ELECTED BY THE PEOPLE OF TENNESSEE IN ELECTIONS
17% FEDERAL MODEL – SUPREME COURT JUSTICES ARE NOMINATED BY THE GOVERNOR THEN CONFIRMED BY THE STATE SENATE
15% NOMINATING COMMISSION – JUSTICES ARE NOMINATED BY A COMMISSION, THE GOVERNOR APPOINTS AND VOTERS TAKE PART IN “YES OR NO” RETENTION ELECTIONS (THE CURRENT METHOD OF SELECTING SUPREME COURT JUSTICES IN TENNESSEE)

2% NONE OF THE ABOVE (VOLUNTEERED)
4% NEED MORE INFORMATION/ NO BASIS TO JUDGE (VOLUNTEERED)
5% DON'T KNOW (VOLUNTEERED)
1% REFUSED (VOLUNTEERED)

DEMOGRAPHICS

And now some questions for statistical purposes...

9. Which of the following categories best describes your age? (IF RESPONDENT SAID DON'T KNOW OR REFUSES TO ANSWER SAID, “I only need a range, not a specific age.”)

4% 18-24
16% 25-34
21% 35-44
20% 45-54
17% 55-64
20% 65+
3% REFUSED (VOLUNTEERED)

10. Would you describe your racial or ethnic background as...(READ LIST)?

84% WHITE/CAUCASIAN
13% BLACK/AFRICAN-AMERICAN
1% HISPANIC/LATINO
1% NATIVE AMERICAN
* ASIAN
* MIDDLE EASTERN
* OTHER (VOLUNTEERED)
- DON'T KNOW (VOLUNTEERED)
* REFUSED (VOLUNTEERED)

11. In politics today, do you consider yourself to be a (ROTATED) Republican, Independent, or Democrat? (If Republican or Democrat, asked: "Are you a strong (Republican/Democrat) or a not-so-strong (Republican/Democrat)?" (If Independent asked: "Which way do you lean towards, the Democratic or the Republican party?")

45% TOTAL REPUBLICAN (NET)
25% STRONG REPUBLICAN
11% NOT-SO-STRONG REPUBLICAN
9% INDEPENDENT LEANING REPUBLICAN

20% INDEPENDENT

30% TOTAL DEMOCRAT (NET)
4% INDEPENDENT LEANING DEMOCRAT
7% NOT-SO-STRONG DEMOCRAT
19% STRONG DEMOCRAT

1% OTHER (VOLUNTEERED)
4% DON'T KNOW/REFUSED (VOLUNTEERED)

12. Thinking for a moment about your political views...Do you consider yourself to be...?

49% TOTAL CONSERVATIVE (NET)
21% VERY CONSERVATIVE
28% SOMEWHAT CONSERVATIVE

28% MODERATE

15% TOTAL LIBERAL (NET)
10% SOMEWHAT LIBERAL
5% VERY LIBERAL

2% LIBERTARIAN

6% DON'T KNOW/REFUSED (VOLUNTEERED)

13. Gender

48% MALE
52% FEMALE

14. Region¹

37% EASTERN
37% MIDDLE
26% WESTERN

¹ Eastern: Anderson, Bledsoe, Blount, Bradley, Campbell, Carter, Claiborne, Cocke, Cumberland, Grainger, Greene, Hamblen, Hamilton, Hancock, Hawkins, Jefferson, Johnson, Knox, Loudon, Marion, McMinn, Meigs, Monroe, Morgan, Polk, Rhea, Roane, Scott, Sevier, Sullivan, Unicoi, Union and Washington.

Middle: Bedford, Cannon, Cheatham, Clay, Coffee, Davidson, DeKalb, Dickson, Fentress, Franklin, Giles, Grundy, Hickman, Houston, Humphreys, Jackson, Lawrence, Lewis, Lincoln, Macon, Marshall, Maury, Montgomery, Moore, Overton, Perry, Pickett, Putnam, Robertson, Rutherford, Sequatchie, Smith, Stewart, Sumner, Trousdale, Van Buren, Warren, Wayne, White, Williamson and Wilson.

Western: Benton, Carroll, Chester, Crockett, Decatur, Dyer, Fayette, Gibson, Hardeman, Hardin, Haywood, Henderson, Henry, Lake, Lauderdale, Madison, McNairy, Obion, Shelby, Tipton and Weakley.