


Federalist Society Polling Data: Tennessee

Survey of 507 Likely Voters in Tennessee
January 27-30
Margin of Error: $\pm 4.4\%$

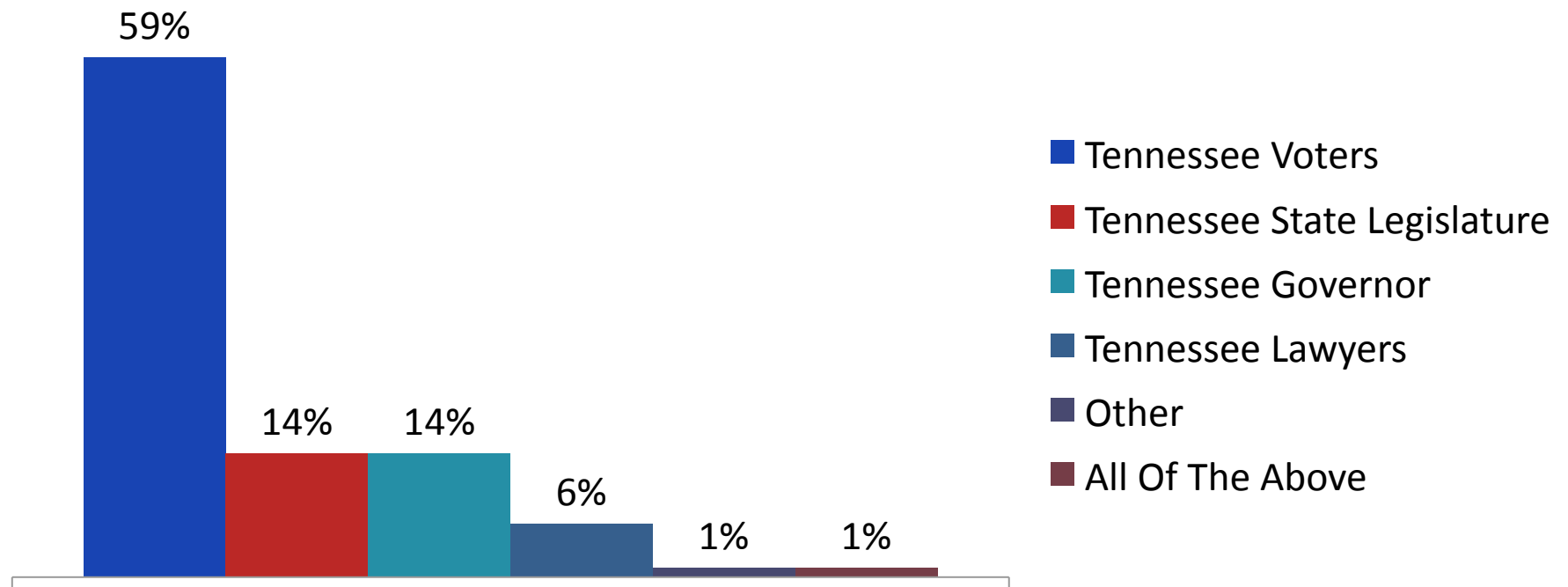
STATE COURTS
guide

 the polling company, inc.
WomanTrend



Tennessee Supreme Court Selection

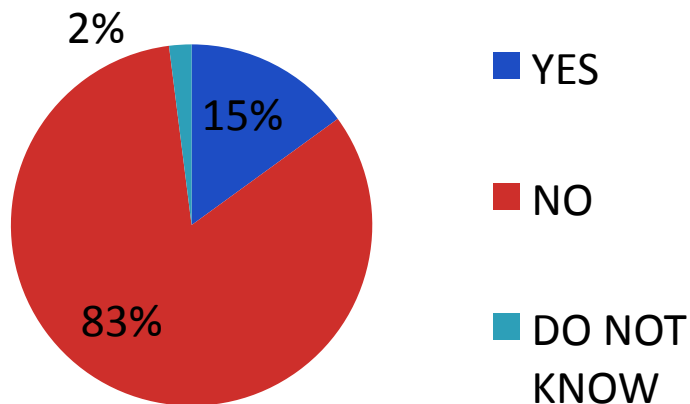
Who do you think should have the greatest input on who is selected to serve as a Justice on the Tennessee State Supreme Court?



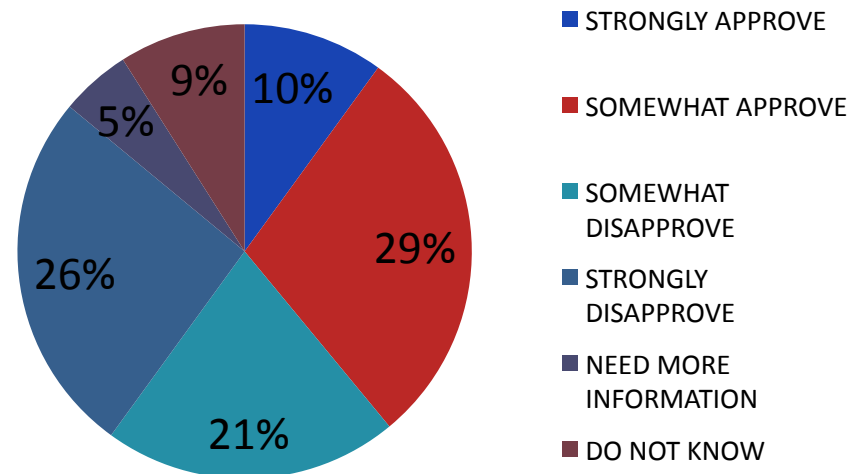
Tennessee Supreme Court Selection

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.

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?

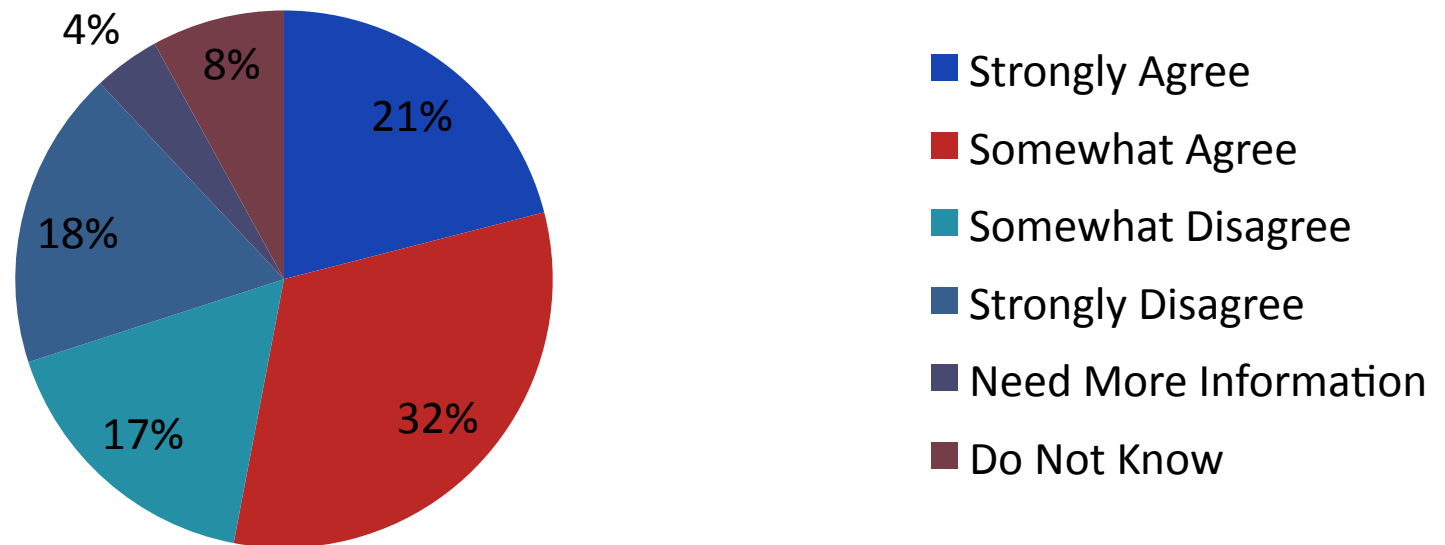


Do you approve or disapprove of this method of judicial selection for Tennessee's State Supreme Court?



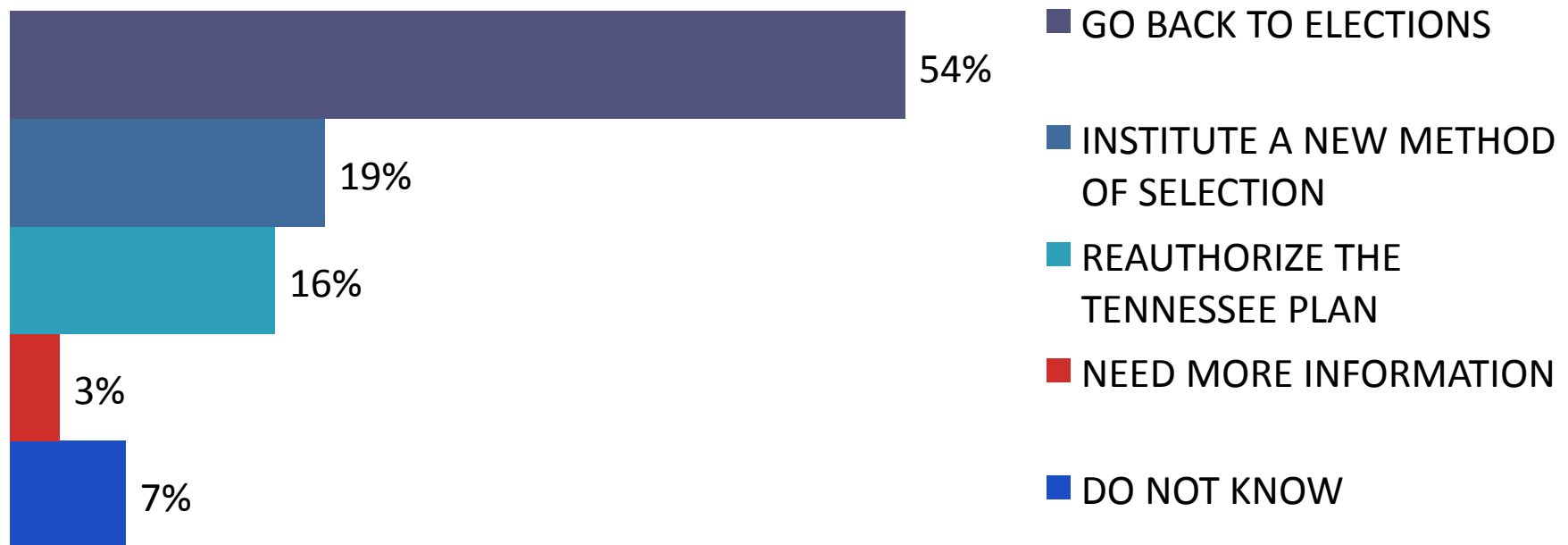
Tennessee Supreme Court Selection

After a Justice is appointed to the Tennessee Supreme Court, in the next general election held in the state, voters have the opportunity to participate in what is called a retention election to decide whether to keep the Justice for a term of 8 years or not. The Justice is not running against anyone and there are no other candidates' names on the ballot. The retention election is simply a "yes or no" – "yes" to keep the Justice or "no" to reject the Justice. Since the Plan was implemented 37 years ago, only one Justice has ever not been retained in a retention election. Based on this information, do you agree or disagree that retention elections properly fulfill the Tennessee Constitution's requirement of judges being "elected by qualified voters"?



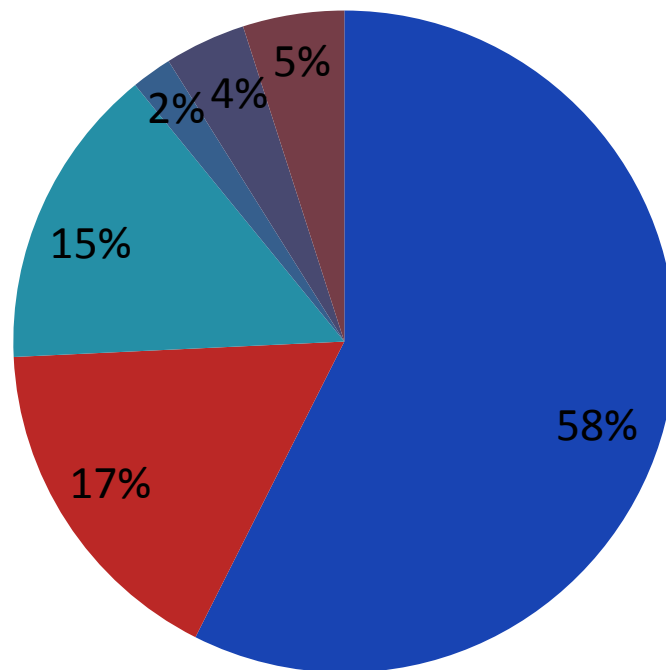
Tennessee Supreme Court Selection

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



Tennessee Supreme Court Selection

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.



- POPULAR VOTE - SUPREME COURT JUSTICES ARE ELECTED BY THE PEOPLE OF TENNESSEE IN ELECTIONS
- FEDERAL MODEL - SUPREME COURT JUSTICES ARE NOMINATED BY THE GOVERNOR THEN CONFIRMED BY THE STATE SENATE
- NOMINATING COMMISSION - JUSTICES ARE NOMINATED BY A COMMISSION, THE GOVERNOR APPOINTS AND VOTERS TAKE PART IN "YES OR NO" RETENTION ELECTIONS (THE CURRENT METHOD)
- NONE OF THE ABOVE
- NEED MORE INFORMATION
- DO NOT KNOW

Reception of Judicial Retention Elections

I am going to read you the opinions of two people. Please tell me which one comes closest to your view.

PERSON 1: *Judicial retention elections meet the Constitutional requirement for “elections” in the Tennessee Constitution because they give voters input into the process.*

PERSON 2: *Judicial retention elections do not meet the Constitutional requirement for elections because they are purely a “yes/no” vote on a judge who has already been appointed, and there are no other candidates to choose from.*

