

**STATE OF TENNESSEE**  
OFFICE OF THE  
**ATTORNEY GENERAL**  
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March 10, 2005

Opinion No. 05-023

Complaints Before the Registry of Election Finance

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**QUESTION**

Must an individual be a registered voter from a legislator's district in order to file a complaint with the Registry of Election Finance concerning that legislator's conduct?

**OPINION**

No.

**ANALYSIS**

This opinion concerns whether an individual must be a registered voter from a legislator's district in order to file a complaint with the Registry of Election Finance concerning that legislator's conduct. We assume the question refers not simply to an individual's ability to file the complaint, but also to the circumstances under which the Registry of Election Finance is authorized to act on it. We conclude that, under the applicable statutes, read together, any citizen may file a complaint with the Registry of Election Finance regarding a legislator's conduct, and the Registry may consider and act on such complaint.

The Registry of Election Finance (the "Registry") was created and operates under Tenn. Code Ann. §§ 2-10-201, *et seq.* The Registry originated with the Registry of Election Finance Act of 1989, 1989 Tenn. Pub. Acts Ch. 585. Under Tenn. Code Ann. § 2-10-205, the Registry has the jurisdiction to administer and enforce the provisions of the campaign finance disclosure laws, Tenn. Code Ann. §§ 2-10-101, *et seq.*; the lobbyist registration and disclosure laws, Tenn. Code Ann. §§ 3-6-101, *et seq.*; the conflict of interest disclosure laws, Tenn. Code Ann. §§ 8-50-501, *et seq.*; and the campaign contribution limits, Tenn. Code Ann. §§ 2-10-301, *et seq.* Under Tenn. Code Ann. § 2-10-206(a)(7), the duties of the Registry include the duty to "[i]nvestigate any alleged violation upon sworn complaint or upon its own motion." In determining whether an actual violation has occurred, the Registry is authorized to conduct a contested case hearing under the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-101, *et seq.* Tenn. Code Ann. § 2-10-207(4).

The real question is the significance of Tenn. Code Ann. § 2-10-108(a) and (b). That statute

provides:

(a) A registered voter of Tennessee may file a sworn complaint alleging that a statement filed regarding an election for which that voter was qualified to vote does not conform to law or to the truth or that a person has failed to file a statement required by law.

(b) All sworn complaints on a statement of a candidate for state public office or a political campaign committee for such candidate must be filed in the office of the registry of election finance.

We do not think that this statute, read within the current statutory scheme, requires that an individual must be a registered voter of a legislator's district in order to file a complaint with the Registry concerning that legislator's conduct.

Tenn. Code Ann. § 2-10-108 originally limited the enforcement jurisdiction of the Attorney General to investigate allegations of campaign financial disclosure violations before the Registry was created. The statute was originally part of the Campaign Financial Disclosure Act of 1980, 1980 Tenn. Pub. Acts Ch. 861, § 9. Under that act, the State Librarian and Archivist was required to prescribe requirements for and accept campaign disclosure statements for state candidates and political campaign committees. The act, however, did not expressly authorize the librarian to investigate complaints or impose penalties for violations of the disclosure requirements. Section 9(b) of the 1980 act, now codified at Tenn. Code Ann. § 2-10-108(b), provided that, “[a]ll sworn complaints on a statement of a candidate for state public office or a political campaign committee for such candidate must be filed *in the office of the Attorney General*.” (Emphasis added). Under Section 10(a)(2), the Attorney General was required “to investigate any sworn complaint filed in accordance with Section 9(b) of this Chapter[.]” Under Section 10(a)(3), the Attorney General was required:

To seek injunctions or fines in the Chancery Court of this state to enforce the provisions of this Act against any candidate or political campaign committee about whom a sworn complaint has been filed; if such action is justified.

These provisions were codified at Tenn. Code Ann. § 2-10-109(a)(3) and (4) before the 1989 act was passed. Tenn. Code Ann. § 2-10-109 (1985). Section 16 of the 1989 act substituted the Registry for the Attorney General in § 2-10-108(b). Section 18 deleted (3) and (4) from Tenn. Code Ann. § 2-10-109(a) and provided instead that the Attorney General is required “[t]o represent the registry of election finance in any action or lawsuit in any court of this State.” As originally drafted, therefore, Tenn. Code Ann. § 2-10-108(a) and (b) described the investigatory authority of the Attorney General with regard to violations of the campaign disclosure laws. *See Op. Tenn. Att’y Gen. 81-99* (February 13, 1981) (the Attorney General can investigate and enforce violations of the disclosure laws only if a sworn complaint is filed by a voter pursuant to Tenn. Code Ann. § 2-10-108).

Under the current statutory scheme, Tenn. Code Ann. § 2-10-108 does not limit the Registry's enforcement authority. Under Tenn. Code Ann. § 2-10-206(a)(7), the duties of the Registry include the duty to "[i]nvestigate *any* alleged violation upon sworn complaint or upon its own motion." (Emphasis added). This authority is considerably broader than that conferred by Tenn. Code Ann. § 2-10-108. Further, Tenn. Code Ann. § 2-10-206, containing the broader enforcement authority, was last amended in 1991, while Tenn. Code Ann. § 2-10-108 was last amended in 1990. Where different sections of a statute are apparently in conflict, they should be harmonized if practicable, and the construction that will render every word operative should be favored. *Bible & Godwin Construction Co., Inc. v. Faener Corp.*, 504 S.W.2d 370, 371 (Tenn. 1974). Where there is an irreconcilable conflict between two sections of the statute, the one last mentioned will control. *Id.* at 372. Finally, Tenn. Code Ann. § 2-10-108 refers to a "statement regarding an election." Under the 1980 act, this expression clearly referred to the campaign finance disclosure statements required under Tenn. Code Ann. §§ 2-10-101, *et seq.* By contrast, the Registry has jurisdiction over four different statutory schemes: those governing campaign financial disclosure, lobbying registration, conflict of interest disclosure, and campaign contribution limits. We conclude that Tenn. Code Ann. § 2-10-108 was never intended to limit the Registry's authority to enforce any of these schemes.

Nor does any statute prohibit any citizen from filing a complaint with the Registry regarding any matter. For the reasons discussed above, Tenn. Code Ann. § 2-10-108 was not intended to impose such a prohibition. Further, Tenn. Code Ann. § 3-6-109, which appears in the lobbying registration laws, provides that it is unlawful for any person to file with the Registry a sworn complaint that is false or for the purpose of harassment. This statutory scheme contains no other limitations on filing a sworn complaint with the Registry, nor does any other limit appear in statutes governing or enforced by the Registry. For these reasons, any citizen may file a complaint with the Registry in relation to a possible violation by a legislator of the conflict of interest disclosure rules. The person filing the complaint need not be a qualified voter in the legislator's district. It should be noted that Tenn. Code Ann. § 2-10-108(d) imposes civil penalties for filing a sworn complaint alleging disclosure violations that is false or for the purpose of harassment. Further, it is generally a criminal offense to make a false statement under oath. Tenn. Code Ann. § 39-16-702.

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