

STATE OF TENNESSEE

OFFICE OF THE
ATTORNEY GENERAL
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December 15, 2004

Opinion No. 041-171

Authority to Divide Judicial District

QUESTIONS

1. Does the General Assembly have the authority to convert an existing judicial district composed of four counties and served by four judges into a Part A composed of three counties and served by one judge and a Part B composed of one county and served by three judges? The resulting judicial district would be served by the same district attorney, but one judge would be elected by the voters of three counties, and three judges would be elected by the voters of one county.

2. If the answer to Question 1 is yes, would the reasoning and results of Op. Tenn. Att'y Gen. 04-139 (August 24, 2004) be inapplicable to the resulting district?

OPINIONS

1. No.
2. Because of the answer to Question 1, Question 2 is moot.

ANALYSIS

1. Judicial District Divided into Parts A and B

This opinion concerns the authority of the General Assembly to split a four-county judicial district into Parts A and B. Part A would consist of three counties served by one judge, and Part B would consist of one county served by three judges. One judge would be elected by the voters of three counties, and three judges would be elected by the voters of one county. The request refers to Op. Tenn. Att'y Gen. 04-139 (August 24, 2004). In that opinion, this Office concluded that, in a four-county judicial district served by four circuit judges, the General Assembly may not constitutionally require one circuit judge to reside in one of three specific counties within the district. We assume, then, that the four judges in question are circuit court judges. Article VI, Section 4 of the Tennessee Constitution provides:

The Judges of the Circuit and Chancery Courts, and of other inferior Courts, shall be elected by the qualified voters of the *district or circuit to which they are to be assigned*. Every Judge of such Courts

shall be thirty years of age, and shall before his election, have been a resident of the State for five years and of the circuit or district one year. His term of service shall be eight years.

(Emphasis added). The proposal would split a single district into subdistricts for purposes of electing the judges for the district. This proposal is not materially different from the proposal discussed in Op. Tenn. Att’y Gen. 04-139. Like that proposal, this proposal would violate Article VI, Section 4 of the Tennessee Constitution.

The Tennessee Constitution would also prohibit the General Assembly from splitting one judicial district into two districts served by one district attorney. Article VI, Section 5 of the Tennessee Constitution provides in relevant part:

An Attorney for the State for any circuit or district, for which a Judge having criminal jurisdiction shall be provided by law, shall be elected by the qualified voters *of such circuit or district*, and shall hold his office for a term of eight years, and shall have been a resident of the State five years, and of the circuit or district one year.

(Emphasis added). Under this provision, the voters of each judicial district for which a judge having criminal jurisdiction is provided must elect a district attorney general. The General Assembly, therefore, could not create two separate judicial districts that elect a single district attorney.

Because of the answer to Question 1, Question 2 is moot.

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