

**STATE OF TENNESSEE**

OFFICE OF THE  
**ATTORNEY GENERAL**  
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December 7, 2005

Opinion No. 05-172

Application of TCA § 2-10-206(a)(4) to Statements of Local Candidates

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**QUESTIONS**

1. Whether the 180 day time period in Tenn. Code Ann. § 2-10-206(a)(4) applies to statements filed by local candidates with a county election commission?
2. If not, would there be any period at which these statements would not be subject to review by the Registry for violations of the campaign finance statutes?

**OPINIONS**

1. No.
2. There does not appear to be any time restrictions on the Registry's ability to review statements of local candidates for violations of the campaign finance statutes.

**ANALYSIS**

Tenn. Code Ann. § 2-10-206 sets forth the duties of the Registry of Election Finance with respect to the campaign finance laws, including the duty to

[r]eview all filed statement to ensure compliance with the respective disclosure laws. Statements filed with the registry for more than one hundred eighty (180) days shall be deemed to be sufficient, absent a showing of fraud.

Tenn. Code Ann. § 2-10-206(a)(4). Under the Campaign Financial Disclosure Act, Tenn. Code Ann. §§ 2-10-101, *et seq.* ("the Act"), candidates for public office are required to file statements of all contributions received and all expenditures made by or on behalf of such candidate at certain specified times before and after primary and/or general elections. Tenn. Code Ann. § 2-10-105(a) provides that candidates for state public office must file their statements with the Registry of Election Finance, whereas subsection (b) requires candidates for local public office to file their statements with each county election commission of the county where the election is held. Tenn. Code Ann. § 2-10-107 identifies the specific information that must be disclosed by the candidates in these statements. In the event the final statement of a candidate shows an unexpended balance

of contributions, continuing debts and obligations, or an expenditure deficit, Tenn. Code Ann. § 2-10-106(a) requires the candidate to file a supplemental annual statement until the account shows no unexpended balance, continuing debts and obligations, expenditures or deficit “with the registry of election finance or the county election commission, whichever is required by § 2-10-105(a) and (b).”

Tenn. Code Ann. § 2-10-110 authorizes the imposition of civil penalties by the Registry, as well as a county administrator of elections in certain limited circumstances, for violations of the Act. Specifically, a county administrator of elections may only assess penalties for violations of Class 1 offenses by candidates for *local public office*. Tenn. Code Ann. § 2-10-110(a). A “Class 1 offense” is defined as the late filing of any report or statement within thirty-five (35) days after personal service or receipt of an assessment letter that such report or statement is due. A Class 1 offense is punishable by a civil penalty of twenty-five dollars (\$25) a day up to a maximum of seven hundred fifty dollars (\$750). Tenn. Code Ann. § 2-10-110(a)(1). The Registry is authorized to assess civil penalties for Class 1 offenses by candidates for state public office, and for Class 2 offenses for both local and state public office.<sup>1</sup> Tenn. Code Ann. § 2-10-110(a)(1)(E) and (a)(2)(A). A “Class 2 offense” is defined as “failing to file a report required by this part within thirty-five (35) days after service of process or receipt of notice by registered or certified mail of an assessment or any other violation of the requirements of this part.” It is punishable by a maximum penalty of not more than ten thousand dollars (\$10,000) or fifteen percent (15%) of the amount in controversy, if fifteen percent (15%) of the amount in controversy is greater than ten thousand dollars (\$10,000). Tenn. Code Ann. § 2-10-110(a)(2). In addition to the civil penalties authorized by this statute, subsection (d) provides that a “candidate for state or local public office who fails to file any statement or report required by this part shall be ineligible to qualify for election to any state or local public office until such statement or report is filed with the registry and/or the appropriate county election commission.”

You have asked whether Tenn. Code Ann. § 2-10-206(a)(4) applies to the campaign financial disclosure statements filed by candidates for local public office with a county election commission. In particular, you have asked whether such statements would be deemed sufficient, absent a showing of fraud, if they have been on file with a county election commission for more than one hundred eighty (180) days. Generally, the search for a statute’s meaning should begin with the words of the statute itself. *Blankenship v. Estate of Bain*, 5 S.W.3d 647, 651 (Tenn. 1999); *Freedom Broadcasting of Tenn., Inc. v. Tennessee Dep’t of Revenue*, 83 S.W.3d 776, 781 (Tenn. Ct. App. 2002). These words must be given their natural and ordinary meaning unless the context in which they are used requires otherwise. *Nashville Golf & Athletic Club v. Huddleston*, 837 S.W.2d 49, 53 (Tenn. 1992); *Lockheed Martin Energy Sys. v. Johnson*, 78 S.W.3d 918, 923 (Tenn.Ct.App. 2002). Further, because words are known by the company they keep, a statute’s words should be construed in the context of the entire statute and in light of the statute’s general purpose. *State ex rel. Comm’r of Transp. v. Medicine Bird Black Bear White Eagle*, 63 S.W.3d 734, 754-55 (Tenn.Ct.App. 2001). Additionally, courts have a duty to construe a statute so that no part will be inoperative, superfluous,

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<sup>1</sup>The Registry is also authorized to assess civil penalties for both Class 1 and Class 2 offenses with respect to reports or statements filed by multi-candidate political campaign committees pursuant to Tenn. Code Ann. § 2-10-105(d).

void or insignificant. *Mangrum v. Owens*, 917 S.W.2d at 246 (citing *City of Caryville v. Campbell County*, 660 S.W.2d 510, 512 (Tenn.Ct.App., 1983); *Tidwell v. Collins*, 522 S.W.2d 674, 676 (Tenn. 1975)).

The plain language of Tenn. Code Ann. § 2-10-206(a)(4) states that “[s]tatements filed with the *registry* for more than one hundred eighty (180) days shall be deemed to be sufficient, absent a showing of fraud.” (emphasis added). As discussed above, the Act clearly distinguishes between the filing location for statements of candidates for state public office and candidates for local public office. See Tenn. Code Ann. § 2-10-105(a) and (b). This distinction in filing location is repeatedly recognized throughout the Act. See *e.g.*, Tenn. Code Ann. § 2-10-105 (e) and (h); § 2-10-106(a); § 2-10-114(c). This distinction is further recognized with respect to the filing of sworn complaints and investigations of candidate’s statements. Tenn. Code Ann. § 2-10-108(a) authorizes a registered voter of Tennessee to file a sworn complaint alleging that a statement filed regarding an election does not conform to the law or to the trust or that a person has failed to file a statement required by law. However, subsection (b) requires that any such sworn complaint on a statement of a candidate for state public office be filed with the Registry, while subsection (c) requires sworn complaints on candidates for local public office to be filed with the district attorney general who represents the judicial district in which the voter resides. Furthermore, Tenn. Code Ann. § 2-10-109(b) provides that it is the duty of each district attorney general to:

- (1) Investigate any sworn complaint filed in accordance with § 2-10-108(c); and
- (2) Seek injunctions from the chancery courts of this state to enforce the provisions of this part against any campaign committee or candidate about whom a sworn complaint has been filed, if such action is justified.

Finally, Tenn. Code Ann. § 2-10-120 provides that a “county election commission has the authority to forward information regarding violation of disclosure laws by candidates for local public office to the district attorney general for investigation without the necessity of a sworn complaint from a registered voter as provided by § 2-10-108.”

Construing these provisions as part of an entire statutory scheme, and given that the distinction in filing location is repeatedly recognized elsewhere in the Act, it is our opinion that the Legislature intended for the 180 day time period in § 2-10-206(a)(4) to apply only to statements filed with the Registry, and not to statements filed with a county election commission. Accordingly, there does not appear to be any time restrictions on the Registry’s ability to review statements of local candidates for violations of the campaign finance statutes.

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