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OFFICE OF THE
ATTORNEY GENERAL
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NASHVILLE, TENNESSEE 37243-0488

May 18, 2000

Opinion No. 00-094

Nonresident Property Owners Voting in Municipal Elections - City of Spring Hill - Tenn. Code Ann. § 6-53-102 - Constitutionality of House Bill 1932/Senate Bill 1933

QUESTION

Whether the provisions of House Bill 1932/Senate Bill 1933, which would permit nonresident property owners to vote in municipal elections in Spring Hill, Tennessee, violates the Tennessee or United States Constitution?

OPINION

House Bill 1932/Senate Bill 1933, as drafted, would violate Article XI, § 8 of the Tennessee Constitution since it suspends the general law regarding qualification of voters under Tenn. Code Ann. § 6-53-102. However, in accordance with Tenn.Code Ann. § 2-2-107, the legislature could amend the City Charter of the City of Spring Hill, 1909 Tenn. Acts ch. 406, by private act to permit nonresident property owners to vote in municipal elections in Spring Hill.

ANALYSIS

Section 1 of House Bill 1932/Senate Bill 1933 provides the following:

> In any city having a population of not less than one thousand four hundred sixty (1,460) nor more than one thousand four hundred eighty (1,480) according to the 1990 federal census or any subsequent federal census, all persons residing outside the corporate limits of such city who shall have owned not less than one-half (1/2) interest in a taxable freehold, in land, or a husband and wife who shall have owned a taxable freehold as tenants by the entireties within the corporate limits for a period of thirty (30) days next preceding the date of such election, and being otherwise qualified, shall also be entitled to vote at such election.

In 1995, this Office opined that a virtually identical bill, House Bill 1052 relating to nonresident property owners voting in municipal elections in the City of Spring Hill, was unconstitutional. In that opinion, this Office stated the following:

> As presently drafted, HB 1052 attempts to amend T.C.A. § 6-

> 53-102 by adding a population classification for Spring Hill similar to HB 169 for Cross Plains so as to permit nonresident property owners to vote in municipal elections. Such legislation is technically an attempt to suspend the general law with no known rational basis. Accordingly, it would violate Article XI, § 8 of the Tennessee Constitution. On the other hand, the City Charter for Spring Hill is established by private act not general law as was the case with Cross Plains. See 1909 Tenn. Acts ch. 406. Accordingly, T.C.A. § 2-2-107 would permit the City Charter of Spring Hill to be amended by private act to provide for nonresident property owners to vote in municipal elections.

See Tenn. Atty. Gen. Op. 95-026 (March 28, 1995)(attached).

As with the proposed legislation in 1995, House Bill 1932/Senate Bill 1933 attempts to suspend a general law, Tenn. Code Ann. § 6-53-102, with no known rational basis. This Office remains of the opinion that such legislation would violate Article XI, Section 8 of the Tennessee Constitution. As stated in the prior opinion, this Office also remains of the opinion that Tenn. Code Ann. § 2-2-107 "would permit the City Charter of Spring Hill to be amended by private act to provide for nonresident property owners to vote in municipal elections." *Id.*

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