

**STATE OF TENNESSEE**

OFFICE OF THE  
**ATTORNEY GENERAL**  
425 FIFTH AVENUE NORTH  
NASHVILLE, TENNESSEE 37243

May 24, 2000

Opinion No. 00-099

State Regulation of Federal Campaigns

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**QUESTIONS**

1. Do the provisions of Tenn. Code Ann. §§ 2-10-301, *et seq.*, regarding campaign contributions, apply to federal elections in Tennessee?
2. Is it constitutional for the Tennessee General Assembly to pass legislation relating to campaign contributions given to candidates for federal elections?
3. May the General Assembly restrict what an individual puts into his or her own campaign?

**OPINIONS**

1. No, these provisions apply to elections for state and local public office.
2. No, federal law preempts any provision of state law with respect to election to federal office. Any state attempt to regulate contributions to candidates for federal elections would be unconstitutional under the Supremacy Clause of the United States Constitution.
3. No, the United States Supreme Court has concluded that legislation restricting the amount an individual may contribute to his or her own campaign is unconstitutional.

**ANALYSIS**

1. Application of the Campaign Contribution Limits Act of 1995 to Federal Elections

The first question is whether Tenn. Code Ann. §§ 2-10-301, *et seq.*, regarding campaign contributions, apply to federal elections in Tennessee. Under Tenn. Code Ann. § 2-10-302, no person may make contributions to any candidate with respect to any “election” which, in the aggregate, exceed the limits set forth in that statute. The term “election” as used in the statute means any general, special or primary election or run-off election held to approve or disapprove a measure or nominate or elect a candidate for “public office.” Tenn. Code Ann. § 2-10-102(4). The term “public office” means any state public office or local public office filled by the voters. Tenn. Code Ann. § 2-10-102(11). Similarly, the term “contribution” includes any gift or transfer “made for the

purpose of influencing a measure or nomination for election or nomination for election or the election of any person for *public office . . .*” Tenn. Code Ann. § 2-10-102(3) (emphasis added). In light of these definitions, therefore, Tenn. Code Ann. §§ 2-10-301, *et seq.*, do not apply to elections for federal office.

2. State Regulation of Federal Campaigns

The second question is whether the General Assembly may constitutionally pass legislation regulating contributions given to candidates for federal office. Contributions for federal office are subject to regulation under federal law. Provisions of the federal election laws and the rules prescribed under them “supersede and preempt any provision of State law with respect to election to Federal Office.” 2 U.S.C. § 453. State regulation of contributions to candidates for federal office is therefore preempted by federal law and would be unconstitutional under the Supremacy Clause of the United States Constitution, art. VI, cl. 2, which provides that the laws and Constitution of the United States “shall be the supreme law of the land; and the judges in every state shall be bound thereby . . .”

3. State Restrictions on an Individual’s Contributions to His or Her Own Campaign

The final question is whether the General Assembly may constitutionally restrict what an individual may contribute to his or her own campaign for office. The United States Supreme Court held in *Buckley v. Valeo*, 424 U.S. 1 (1976) that such restrictions are unconstitutional. Based on that ruling, and in the absence of any overruling or modification of that decision, this Office has concluded that such limits are unconstitutional. Op.Tenn.Atty.Gen. 98-017 (January 15, 1998); Op.Tenn.Atty.Gen. 95-42 (April 19, 1995). *Buckley* has not been overruled or modified with respect to this conclusion since this Office’s 1998 opinion, and it is therefore still our opinion that such restrictions are unconstitutional.

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