S T A T E O F T E N N E S S E E
OFFICE OF THE
ATTORNEY GENERAL
PO BOX 20207
NASHVILLE, TENNESSEE 37202

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Opinion No. 02-019

Interpretation of Proposed Lottery Amendment

QUESTION

Must the legislature vote to allow a 501(c)(3) organization to hold a lottery or can a commission authorize such an event?

OPINION

Two-thirds of the members of each house of the legislature must vote to allow such events.

ANALYSIS

The first rule of interpreting a constitutional provision is to give effect to the intent of the people who adopted it. *Gaskin v. Collins*, 661 S.W.2d 865 (Tenn. 1983). This intent is derived from the language of the provision. *Id*. The words are given their ordinary and inherent meaning. *State ex rel. Cohen v. Darnell*, 865 S.W.2d 61 (Tenn. 1994). If the words are unclear, then other sources of interpretation may be utilized. *Shelby County v. Hale*, 200 Tenn. 503, 292 S.W.2d 745 (1956)(proceedings of a constitutional convention); *State v. Closkey*, 37 Tenn. 482 (1858)(debates and journals of convention); *Gaskin v. Collins*, *supra* (history and circumstances preceding adoption of provision). Furthermore, constitutions must be read as a whole. *Davis v. Williams*, 158 Tenn. 34, 12 S.W.2d 532 (1928).

The pertinent paragraph of the proposed lottery amendment reads:

> All other forms of lottery not authorized herein are expressly prohibited unless authorized by a two-thirds vote of all members elected to each house of the general assembly for an annual event operated for the benefit of a 501(c)(3) organization located in this state, as defined by the 2000 United States Tax Code or as may be amended from time to time.

The language of the provision is clear. It requires each house of the general assembly to approve an annual event involving a lottery for the benefit of a 501(c)(3) organization. Furthermore, the language is quite similar to language that has been judicially interpreted. The proposed amendment uses the language "two-

thirds vote of all members elected to each house of the general assembly. . .." In *State ex rel. Cohen v. Darnell*, *supra*, the Tennessee Supreme Court held that the language -

"such proposed amendment or amendments shall be agreed to by two-thirds of all the members elected to each house" - meant that the two-thirds vote requirement applies to each house acting independently. Given the clear requirements of the proposed amendment, it is the opinion of this Office that the legislature could not delegate the approval authority to a commission.

PAUL G. SUMMERS
Attorney General and Reporter

MICHAEL E. MOORE
Solicitor General

ANDY D. BENNETT
Chief Deputy Attorney General

Requested by:

Bill Dunn
State Representative
205 War Memorial Building
Nashville, TN 37243