S T A T E O F T E N N E S S E E
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April 30, 2002

Opinion No. 02-057

Proposed Private Act for Loudon County Board of Education

QUESTION

Whether the Proposed Private Act for Loudon County Board of Education meets the requirements of Tennessee Code Annotated § 49-2-201 relative to the election of school board members?

OPINION

Yes. The Proposed Private Act for Loudon County Board of Education meets the requirements of Tennessee Code Annotated § 49-2-201 relative to the election of school board members.

ANALYSIS

This opinion addresses whether the proposed Private Act for Loudon County meets the requirements of TENN. CODE ANN. § 49-2-201. Section 49-2-201 of the Tennessee Code Annotated states in pertinent part:

> (a)(1) Notwithstanding any other law to the contrary, there shall be a board of education elected by the people.***[T]he general assembly may authorize by private act any number of school board members which is not less than three (3) nor more than ten (10). The members of the board shall be elected for a term of four (4) years, and may succeed themselves. For the first election held pursuant to this section, in order to establish staggered terms of office, the members from even-numbered districts shall be elected for a term of two (2) years, and the members of odd-numbered districts shall be elected for four (4) years. Members of county boards of education shall be residents of and elected from districts of substantially equal population established by resolution of the local legislative body.***Vacancies occurring on the board shall be filled by the local legislative body.***

TENN. CODE ANN. § 49-2-201(a)(1).

The proposed Private Act for Loudon County Board of Education meets the requirements in TENN. CODE ANN. § 49-2-201 as set forth above. Loudon County School Board seeks, through the proposed Private Act, to reconfigure its membership in order to mirror the membership of the County Commission. According to the opinion request, such reconfiguration would necessitate adding one more school board member. As such, Section 1 in the proposed Private Act requires that the Loudon County board of education consist of ten members to be elected from seven county legislative body districts. Ten board members falls within the number of board members allowed by TENN. CODE ANN. § 49-2-201. Section 1 of the proposed Act also states that, "the new board member created in District 7 shall be filled by election of the registered voters of District 7 at the general election for county offices in August, 2002." Such election is consistent with the first sentence of the statute, "there shall be a board of education *elected by the people*." TENN. CODE ANN. § 49-2-201(a)(1) (emphasis added).

The proposed Private Act also provides that, "In the event of a vacancy on the board of education, the county legislative body shall appoint a successor to fill the position until the next general election." This provision is consistent with the mandate in TENN. CODE ANN. § 49-2-201 that, "vacancies occurring on the board shall be filled by the local legislative body." The proposed Act states further that, "Each member of the county board of education shall be a resident of the district from which such member is elected." This provision is also consistent with the requirement in the statute that, "Members of county boards of education shall be residents of and elected from districts of substantially equal population established by resolution of the local legislative body."

According to the opinion request, the proposed Act maintains the staggered election cycle for the board of education as it exists to date and as would be required to elect one-half of the school board every other year. Pursuant to the proposed Act, the new board member position created by the Act, will be filled at the general election for county offices in August, 2002 and the initial term of office will be two years. The proposed Act states further that, "At the county general election in August, 2004 and every four years thereafter, the position shall be filled for a four (4) year term." Such a staggered election cycle meets the requirements as provided by TENN. CODE ANN. § 49-2-201(a)(1) and set forth above.

While the majority of the proposed Private Act meets the requirements of TENN. CODE ANN. § 49-2-201, there is a portion of the proposed Private Act, that appears to violate a particular provision in §49-2-201. According to your opinion request there are three districts which each have two representatives and which, "are *twice the size* of the districts with one (1) representative." (emphasis added). This portion of the proposed Act does not appear to meet the terms of the provision in §49-2-201 that requires members of county boards of education to be "elected from districts of *substantially equal* population..." TENN. CODE ANN. § 49-2-201(a)(1) (emphasis added).

Consequently, to the extent to which the populations of the respective districts are not "substantially

equal,"[1] the proposed Private Act does not conform to the statutory requirements of TENN. CODE ANN. § 49-2-201 pertaining to the populations of the districts.

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Requested by:

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[1] Your opinion request does not indicate the precise populations of the various districts. While TENN. CODE ANN. § 49-2-201 does not define the phrase "substantially equal," in terms of numbers or ratios, it is apparent that the three districts with twice the population of the other districts are not of "substantially equal population."