S T A T E O F T E N N E S S E E
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January 3, 2003

Opinion No. 03-001

County Legislative Body - Voting Requirement to Transact Business

QUESTION

Does Tenn. Code Ann. § 5-5-110, which provides methods for presenting business to a county legislative body, conflict with Tenn. Code Ann. § 5-5-109, which requires a majority vote of all members of the county legislative body to transact business?

OPINION

No. The methods prescribed by Tenn. Code Ann. § 5-5-110 for presenting business to the county legislative body do not conflict with the requirement of a majority vote to transact business prescribed by Tenn. Code Ann. § 5-5-109.

ANALYSIS

Tenn. Code Ann. § 5-5-109 provides that a majority of all the members constituting the county legislative body, and not merely a majority of the quorum, shall be required to elect county officials required by law to be elected by the body, fix salaries, appropriate money, and transact all other business coming before the county legislative body in regular or special sessions. By the plain meaning of the statute, the transaction of all business coming before the county legislative body requires a majority vote of all the members constituting the county legislative body.

Tenn. Code Ann. § 5-5-110 provides two methods by which business to be transacted by the county legislative body may be presented to it. Tenn. Code Ann. § 5-5-110(a) provides that all business for action by the body shall be presented to the chair, who shall announce the same to the body and take the vote thereon. Tenn. Code Ann. § 5-5-110(b) provides that no business shall be acted on by the body unless presented as provided in subsection (a), unless the majority of the members present consent. A majority of the members present, of course, could be no more than a simple majority of the quorum and not the majority of all the members constituting the county legislative body required by Tenn. Code Ann. § 5-5-109 to transact business.

No conflict exists between these two statutes. Tenn. Code Ann. § 5-5-110 merely prescribes the methods by which business may be presented for action. One method, in fact, requires no vote

by the body at all. The statutory scheme thus recognizes a distinction between presenting business and transacting the business. Tenn. Code Ann. § 5-5-110 does not diminish or change the number of votes required by Tenn. Code Ann. § 5-5-109 to transact business presented to the county legislative body in accordance with one of the methods described in Tenn. Code Ann § 5-5-110.

Nothing opined herein should be construed to alter or revise previous opinions of this Office that provide guidance for determining whether the majority requirement of Tenn. Code Ann. § 5-5-109 is satisfied. *See, e.g.*, Op. Tenn. Atty. Gen. 86-17 (January 27, 1986).

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