

STATE OF TENNESSEE

OFFICE OF THE
ATTORNEY GENERAL
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September 8, 2003

Opinion No. 03-111

Eligibility of County Legislator to Run for Assessor of Property

QUESTION

Whether Tenn. Code Ann. § 67-1-503 prohibits the county election commission from qualifying a county legislative body member to have his or her name placed on the ballot to seek the office of assessor of property?

OPINION

No.

ANALYSIS

Tenn. Code Ann. § 67-1-503 provides that “[n]o member of the county legislative body shall be eligible to hold the office of assessor.” You have asked whether this statute prohibits a county election commission from qualifying a member of a county legislative body to have his or her name placed on the ballot for the office of assessor. In other words, does the prohibition contained in the statute prevent a county legislator from even running for the office of assessor, or does it only preclude a county legislator from holding the office of assessor if elected?

This Office has previously opined under a similar prohibition with respect to election to local boards of education that a non-instructional employee of a school system may run for election to the school board, but if elected to the board, such individual must quit his or her job for the school system in order to serve as a school board member. Op. Tenn. Atty. Gen. 02-070 (May 23, 2002). This Office has further opined that a county school board member may run for the office of county assessor of property, but if elected, must resign the position as a county school board member. Op. Tenn. Atty. Gen. 00-138 (August 28, 2000). Finally, this Office has opined that Tenn. Code Ann. § 2-5-101(f)(5) does not prevent a county commissioner from running for the office of tax assessor, as long as he or she is not also running for the office of county commissioner. Op. Tenn. Atty. Gen. 80-268 (May 30, 1980). That statute provides:

No candidate . . . may be permitted to submit and have accepted by any election commission, more than one (1) qualifying petition, or otherwise qualify and be nominated, or have such candidate’s name anywhere appear on any ballot for any election or primary, wherein

such candidate is attempting to be qualified for and nominated or elected to more than . . . one (1) constitutional county office described in article VII, § 1 of the Constitution of Tennessee or any other county-wide office, voted on by voters during any primary or general election.

Tenn. Code Ann. § 2-5-101(f)(5). This statute clearly prohibits an individual from *running* (i.e., qualifying and having his or her name appear on the ballot) for more than one county-wide office. Conversely, Tenn. Code Ann. § 67-1-503 simply prohibits a member of the county legislative body from *holding* the office of assessor. Accordingly, it is our opinion that Tenn. Code Ann. § 67-1-503 does not prohibit a county legislator from running for the office of assessor. Thus, assuming that all other statutory requirements have been met, a county election commission would not be prohibited from qualifying and placing the name of a member of a county legislative body on the ballot for election to the office of assessor, provided, however, that such individual is not also simultaneously seeking to be qualified and have his or her name placed on the ballot for election or re-election to the office of county commissioner. Furthermore, it should be noted that Tenn. Code Ann. § 5-5-102 requires that any member of the county legislative body resign once elected to a county-wide office, such as assessor of property.

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