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Opinion No. 06-087

Private Act Creating Part III of Rutherford County General Sessions Court

QUESTION

Tenn. Code Ann. § 16-18-311(b), passed in 2004, provides in relevant part that, "any legislation proposed to create a new general sessions court . . . must be approved by a majority of the total membership of the judiciary committee of the senate prior to passage by the senate and must be approved by a majority of the total membership of the judiciary committee of the house of representatives prior to passage by the house of representatives." In 2005, the General Assembly passed 2005 Tenn. Priv. Acts Ch. 59, creating a new Part III of the Rutherford County General Sessions Court. Is this act valid if it was not approved by the two judiciary committees as required under Tenn. Code Ann. § 16-18-311(b)?

OPINION

Yes.

ANALYSIS

Tenn. Code Ann. § 16-18-311(b) provides in relevant part:

> Notwithstanding any provision of law to the contrary, any legislation proposed to create a new general sessions court . . . must be approved by a majority of the total membership of the judiciary committee of the senate prior to passage by the senate and must be approved by a majority of the total membership of the judiciary committee of the house of representatives prior to passage by the house of representatives.

Preliminary research indicates that Chapter 59 of the Private Acts of 2005, creating Part III of the Rutherford County General Sessions Court, was not approved by the judiciary committee of either the House or the Senate as required by the statute. Even if this is the case, failure to comply with Tenn. Code Ann. § 16-18-311(b) does not affect the validity of the act so long as it was adopted in compliance with constitutional requirements. Chapter 59 was adopted by the 104th session of the General Assembly. Tenn. Code Ann. § 16-18-311(b) was part of legislation adopted in 2004 by the 103rd session of the General Assembly. 2004 Tenn. Pub. Acts. Ch. 914. We think a court would

conclude that Tenn. Code Ann. § 16-18-311(b) is a rule of proceeding applicable to the 103rd General Assembly, but not binding on subsequent sessions of the General Assembly. The Tennessee Supreme Court has long recognized that "'each successive General Assembly is a law unto itself in this regard. It is constitutional, and not statutory, prohibitions which bind the legislature.'" *Mayhew v. Wilder*, 46 S.W.3d 760, 770 (Tenn. Ct. App. 2001), *p.t.a. denied* (2001), quoting *Daughtery v. State*, 159 Tenn. 573, 20 S.W.2d 1042, 1043 (1929). Thus, one General Assembly may not bind a subsequent General Assembly.

Further, under Article II, Section 12, of the Tennessee Constitution, each House of the General Assembly has the right to make its own rules, and it must be the judge of those rules. *State v. Cumberland Club*, 136 Tenn. 84, 188 S.W. 583, 585 (1916). In reviewing the passage of an act, all the court can do is to ascertain whether the Constitution has been complied with; if this has been done, the court will look no further. *Id.* For this reason, a court would not invalidate Chapter 59 simply because it was not approved by the judiciary committee of each House as required by Tenn. Code Ann. § 16-18-311(b).

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