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Opinion No. 06-128

Early Voting at Satellite Locations

QUESTION

The Wilson County Election Commission held early voting for two weeks prior to the August 3rd election at the Election Commission's office located in the City of Lebanon, Tennessee, but held only one week in a satellite location in the City of Mt. Juliet, Tennessee. Does this decision violate any provision of state or constitutional law?

OPINION

No.

ANALYSIS

According to the information provided, the City of Mt. Juliet requested that the Wilson County Election Commission establish a satellite early voting location within the city boundaries for the August 3rd election. The City further offered to pay all the expenses associated with such satellite location. Apparently, previous requests that a satellite early voting location be established in the City of Mt. Juliet have been granted by the Election Commission. In this instance, the Election Commission voted, however, to conduct early voting for only one week in the City of Mt. Juliet and to conduct two weeks of early voting at the Commission's offices in the City of Lebanon, Tennessee. You have asked whether this decision violates any provision of state or constitutional law.

In 1994, the Tennessee General Assembly enacted a system for early voting to enable registered voters to cast ballots during a specified period prior to the days scheduled for an election. The rationale for this system is set forth in the statutes:

> The purpose of this part is to establish an early voting period when eligible registered voters may vote before an election at the county

> election commission office or another polling place appropriately designated by the county election commission.

Tenn. Code Ann. § 2-6-101(b). The statutes provide that "[a] voter who desires to vote early *shall go to the county election commission office* within the posted hours not more than twenty (20) days nor less than five (5) days before the day of the election." Tenn. Code Ann. § 2-6-102(a)(1) (emphasis added). Further, Tenn. Code Ann. § 2-6-112 provides:

> Upon the request of a municipality, f*or elections at a time other than the regular August or regular November election*, the county election commission shall establish a satellite voting location for early voting within the corporate limits of such municipality. The municipality shall be responsible for the costs of such voting location.

(Emphasis added). Pursuant to these statutory provisions, a county election commission is only required to provide a satellite location for early voting for elections at a time other than the regular August or regular November election. For the regular August and November elections, however, the statutes only require that a county election commission provide for early voting at its offices. Accordingly, it is our opinion that the decision of the Wilson County Election Commission to provide for two weeks of early voting at its offices, but only one week of early voting at a satellite location in the City of Mt. Juliet does not violate any of the statutes regulating early voting in Tennessee.

Nor does it appear that this decision violates any provision of the Tennessee Constitution. Article IV, Section 1, of the Tennessee Constitution provides, in part, that "[t]he General Assembly shall have power to enact laws requiring voters to vote in the election precincts in which they may reside, and laws to secure the freedom of elections and the purity of the ballot box." Thus, it has long been recognized that the authority of the Tennessee Legislature to control the conduct of elections held in this State is manifest. *Bemis Pentecostal Church v. State*, 731 S.W.2d 897, 901 (Tenn. 1987) (citing *Trotter v. City of Maryville*, 191 Tenn. 510, 235 S.W.2d 13 (1950)). *See also Anderson v. Celebrezze*, 460 U.S. 780, 788, 103 S.Ct. 1564, 75 L.Ed.2d 547 (1983) (recognizing that "there must be a substantial regulation of elections if they are to be fair and honest," and that states have broad leeway in "enact[ing] comprehensive and sometimes complex election codes . . . [that] govern [ ] . . . the voting process itself") (citations and internal quotation marks omitted). The only restriction on this right of control is that it cannot go beyond the limitation expressed in Article I, Section 5, which provides that the right of suffrage will not be denied any person, except on conviction. *Trotter v. City of Maryville*, 191 Tenn. at 521-22. As discussed above, the decision of the Wilson County Election Commission to only provide one week of early voting in a satellite location, but to provide two weeks at its offices, does not violate any provision of the early voting statutes and is, in fact, in compliance with the requirements of Tenn. Code Ann. § 2-6-102. Moreover, such decision does not deny any individual the right to vote. Given that the decision of the Wilson County Election Commission is in compliance with the early voting statutes and does not deny any individual the right to vote, it does not appear to violate any provision of the Tennessee Constitution.

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