S T A T E O F T E N N E S S E E
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March 10, 2008

Opinion No. 08-48

General Election Date

QUESTION

Whether the August 2008 election constitutes a general state election for purposes of Art. XI, § 9 of the Tennessee Constitution?

OPINION

Yes.

ANALYSIS

Art. XI, § 9 of the Tennessee Constitution provides in part:

> A charter or amendment may be proposed by ordinance of any home rule municipality, by a charter commission provided for by act of the General Assembly and elected by the qualified voters of a home rule municipality voting thereon or, in the absence of such act of the General Assembly, by a charter commission of seven (7) members, chosen at large not more often than once in two (2) years, in a municipal election pursuant to petition for such election signed by qualified voters of a home rule municipality not less in number than ten (10%) percent of those voting in the then most recent general municipal election.
>
> It shall be the duty of the legislative body of such municipality to publish any proposal so made and to submit the same to its qualified voters at the first general state election which shall be held at least sixty (60) days after such publication and such proposal shall become effective sixty (60) days after approval by a majority of

the qualified voters voting thereon.

You have asked whether the August 2008 election constitutes a general state election for purposes of this provision of Art. XI, § 9. Tennessee's election law does not specifically define what constitutes a "general election"; rather, it merely defines the term "election" as "a general election for which membership in a political party in order to participate therein is not required." Tenn. Code Ann. § 2-1-104(7). However, the Tennessee Supreme Court, in construing the provisions of Art. VII, § 2[1] of the Tennessee Constitution, has recognized that the August election is a "general election". *See McPherson v. Everett*, 594 S.W.2d 677, 680-81 (Tenn. 1980) ("the phrase 'next election,' . . . must be held to mean the regular August general election"). Accordingly, it is our opinion that the August 2008 election would constitute a general state election for purposes of Art. XI, § 9 of the Tennessee Constitution.

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[1]Art. VII, § 2 provides that "[v]acancies in county offices shall be filled by the county legislative body, and any person so appointed shall serve until a successor is elected at the next election occurring after the vacancy and is qualified."