

**STATE OF TENNESSEE**  
OFFICE OF THE  
**ATTORNEY GENERAL**  
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July 10, 2008

Opinion No. 08-122

Application of Art. IV of Tennessee Constitution to Municipal Elections

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**QUESTION**

Whether legislation that allows a person to register and vote in a municipal election where such person does not reside in the municipality but owns real property therein violates the provisions of Art. IV, Section 1 of the Tennessee Constitution.

**OPINION**

No. The Tennessee Supreme Court has determined that Art. IV, Section 1 of the Tennessee Constitution does not apply to municipal elections.

**ANALYSIS**

Tenn. Code Ann. § 2-2-107(a)(1) provides that a person shall be registered as a voter of the precinct in which he or she resides and, “if provided for by municipal charter or general law, may also be registered in a municipality in which the person owns real property in order to participate in that municipality’s elections.” Pursuant to this statute, the Tennessee General Assembly has passed a number of private acts authorizing individuals to vote in municipal elections where the individual does not reside in the municipality but does reside in the county where the municipality is located and owns real property within the municipality’s boundaries. You have asked whether such laws violate Art. IV, § 1 of the Tennessee Constitution and more specifically, whether they violate the requirement that the qualifications for registering to vote be “equal and uniform” and/or the requirement that voters “vote in the election precinct in which they may reside.”

Art. IV, § 1 provides in pertinent part as follows:

Every person, being eighteen years of age, being a citizen of  
the United States, being a resident of the State for a period of time as

prescribed by the General Assembly, and being duly registered in the county of residence for a period of time prior to the day of any election as prescribed by the General Assembly, shall be entitled to vote in all federal, state, and local elections held in the same county or district in which such persons resides. All such requirements shall be equal and uniform across the state, and there shall be no other qualification attached to the right of suffrage.

The 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.

This Office has previously opined that real property owners have the right to vote in municipal elections pursuant to statute. *See* Op. Tenn. Atty. Gen. 85-42 (February 15, 1985); Op. Tenn. Atty. Gen. 81-338 (June 2, 1981); Op. Tenn. Atty. Gen. 78-290 (July 19, 1978) (copies attached). In each of these opinions, we noted that the Tennessee Supreme Court had held that municipal elections are not within the meaning of the election clauses of Art. IV, § 1 of the Tennessee Constitution. *Id.* (citing *Ledgerwood v. Pitts*, 122 Tenn. 570, 125 S.W. 1036 (1910)).

It has never been supposed that the election and suffrage clause of the Constitution applied to municipal corporations since it has been the practice of the Legislature since the adoption of the Constitution of 1870 to permit owners of real estate situated within the corporate limits to vote in a municipal election, independent of his place of residence or other qualifications.

*Ledgerwood*, 125 S.W. at 1042. *See also Vertrees, et al. v. State Bd. of Elections, et al.*, 214 S.W. 737, 738-40 (1919) (Court held that municipal elections were not governed by the election clauses of Art. IV, § 1, and, therefore, the General Assembly had full authority to pass laws governing municipal elections pursuant to Art. VII, § 4).

Accordingly, the laws authorizing a person to vote in municipal elections where such person does not reside in the municipality but does reside in the county where the municipality is located and owns real property within the municipality's boundaries do not violate either the requirement that the qualifications to register to vote be "equal and uniform" or the requirement that voters "vote in the election precinct in which they may reside" of in Art. IV, § 1 of the Tennessee Constitution, as these provisions do not apply to municipal elections.

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Requested by:

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