S T A T E O F T E N N E S S E E
OFFICE OF THE
ATTORNEY GENERAL
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February 25, 2009

Opinion No. 09-17

Fundraising for Federal Office During Legislative Session

QUESTION

Whether a member of the General Assembly may raise funds for a campaign for election to a federal office while the General Assembly is in session.

OPINION

A member of the General Assembly may raise funds for a campaign for election to a federal office while the General Assembly is in session.

ANALYSIS

Under Tenn. Code Ann. § 2-10-310(a), generally, no member of the General Assembly or the member's campaign committee may conduct a fundraiser or solicit or accept "contributions" for the benefit of the caucus, any caucus member or member or candidate of the general assembly or governor while the General Assembly is in session, including any extraordinary session. The term "contribution" as used in this statute means any thing of value "made for the purpose of . . . nomination for election or the election of any person for *public office*." Tenn. Code Ann. § 2-10-102(4) (emphasis added). This Office has previously opined that, because the term "public office" is defined as "any state public office or local public office filled by the voters," Tenn. Code Ann. § 2-10-102(11), the provisions of Tenn. Code Ann. § 2-10-310(a) do not prohibit a member of the General Assembly from soliciting or receiving campaign contributions for nomination or election to federal office while the General Assembly is in session. We further opined that, to the extent the statute could be interpreted to apply to fundraising for federal

office, a court would probably conclude that it was preempted by federal law. *Teper v. Miller*, 82 F.3d 989 (11th Cir. 1996) (fundraising restriction on state legislators preempted by federal campaign finance laws). *See* Op. Tenn. Att'y Gen. 00-185 (December 13, 2000) (copy attached).

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