

STATE OF TENNESSEE
OFFICE OF THE
ATTORNEY GENERAL
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March 25, 2009

Opinion No. 09-38

Referendum on Property Tax Freeze Act of 2007

QUESTIONS

1. May the Hamilton County Commission by referendum seek voter opinion in deciding Section 1, Part (d), of the Property Tax Freeze Act of 2007?
2. If the answer to Question No. 1 is yes, what language must be printed on the referendum ballot when presented to the voters?
3. Will the County Commission be bound by the results expressed by voters if a referendum is conducted?

OPINIONS

1. No, there is no statutory authority for a local government to hold an advisory or non-binding referendum election.
2. See answer to Question No. 1, above.
3. See answer to Question No. 1, above.

ANALYSIS

This Office previously has addressed the authority of local governments to hold advisory referenda. Observing that “[i]t is well-settled law in Tennessee that the right to call an election cannot exist without an express grant of power by the legislature,” we stated that “there is no general provision in the constitution or statutes of this state that authorizes a local government to hold an advisory or non-binding referendum election.” Op. Tenn. Att’y Gen. No. 06-163 (Oct. 12, 2006) (citing Op. Tenn. Att’y Gen. No. 95-013 (Mar. 8, 1995); Op. Tenn. Att’y Gen. No. 81-336 (June 2, 1981)).

The cited provision of the Property Tax Freeze Act of 2007 authorizes the legislative body of any county or municipality to adopt the property tax freeze program “by resolution or ordinance.” Tenn. Code Ann. § 67-5-705(d) (Supp. 2008). The Act does not authorize a local legislative body to hold an advisory referendum on the question of whether the program should be adopted. Inasmuch as the Act does not authorize such a referendum, and inasmuch as such a

referendum is not authorized by the general laws of this state, the Hamilton County Commission has no authority to conduct a referendum on this issue.

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Requested by:
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