

**1996**  
**ANNUAL REPORT**  
**TENNESSEE REGISTRY OF ELECTION FINANCE**

The 1996 elections are the first elections conducted under the Campaign Contribution Limits Act of 1995. That Act has placed dollar limitations on the amount of contributions that a person or multi-candidate political campaign committee (PAC) may contribute per election to state and local candidates.

Because of its duty to administer Tennessee's campaign finance laws and because of the enactment of the new contribution limits law, the Registry continued to upgrade its computer system during the first months of 1996 in preparation for the upcoming elections. The staff worked with a computer program consultant to create a special program to assist in ensuring that the new contribution limitations were not exceeded.

Through the use of its new computer capabilities, the Registry staff tracked the total amount of contributions contributed by PACs and persons to each candidate for each election in which he/she was involved. Upon receiving a candidate's campaign financial disclosure report, the staff entered into its computer system each contribution disclosed on the report exceeding one hundred dollars (\$100) by name of the contributor, total amount of the contribution, date of the contribution and the specific election for which the contribution was received. (That information is presently available for purchase from the Registry on computer disk.)

Additionally, in an attempt to provide guidance to candidates and other affected persons as to the requirements of the Campaign Contribution Limits Act, the Registry has continued to work on its proposed administrative rules relating to the Act. At several meetings, the board carefully considered varying drafts of the rules, which are largely patterned after the regulations of the Federal Election Commission. (Pursuant to T.C.A. §2-10-309, the Registry is authorized to rely on federal precedents when considering issues arising under the contribution limits law.) The board's proposed rules have now been approved by the State Attorney General as to the legality of their adoption by the Registry. A public hearing on the rules will be conducted on February 18, 1997.

The Registry has also continued to educate candidates and local election officials as to the requirements of the contribution limits law through the conducting of seminars. Those sessions have included instructions on how to complete new candidate campaign disclosure forms designed to comply with the disclosure requirements of the new law.

As to the Lobbying Reform Act of 1995, the Registry has continued to attempt to complete its adoption of proposed lobbying regulations. It has now conducted a public hearing regarding those rules. At the hearing, the board received very insightful and constructive comments from lobbyists concerning the proposed rules and how they might be improved. Those comments were carefully considered by the Registry at its next meeting following the public hearing and changes to the proposed rules were made accordingly. The rules with the amendments made by the board were reviewed and approved by the State Attorney General. The

Government Operations Committees of both houses will now conduct a hearing as to the proposed rules.

The Registry is very concerned about the precedent that has been set by an organization that has registered four PACs under slightly different names during the period 1990-96. In each case, the particular PAC has either failed to file complete reports or to file any campaign disclosure reports. After the Registry has assessed penalties against the PAC for noncompliance with the campaign finance laws, the PAC at some point will claim to be defunct. The Registry is of the opinion that the organization and its PACs should no longer be allowed to disregard the laws while other PACs are complying and filing disclosure reports. The State Attorney General has informed the Registry that without a change in the law, that the individuals involved in setting up those PACs cannot be held personally liable for the assessed penalties.

### **DISCLOSURE FILINGS**

According to campaign disclosure reports filed with the Registry during the 1996 election cycle, a total of \$ 7,918,819 was expended by state candidates to get elected to public office. (For a more detailed financial analysis of the 1996 election cycle, see Appendix A.) Because 1996 was an election year for candidates for state public offices, there were a large number of disclosure reports filed with the Registry. (See Appendix B for statistical summaries of reports.)

**Candidates.** During the past year, 978 campaign financial disclosure reports were required to be filed by candidates for state public office; 88 % were filed on time. Certified letters were sent to the remaining 12 % to warn of possible civil penalties. In addition, 22 % of the reports were returned for corrections of mathematical errors or incomplete information. Twenty candidates were assessed civil penalties for late reports and the failure to report all PAC campaign contributions. Other cases are pending.

Additionally, two candidates were assessed civil penalties by the Registry for accepting contributions exceeding the Campaign Contribution Limits Act. Other cases may be pending, as the staff has not had the opportunity to complete its computer check for excess contributions because of the date that post-general campaign disclosure reports are due to be filed.

**PACs.** During the past year, 1347 campaign financial reports were required to be filed by PACs; 91 % were filed on time. Certified letters were sent to the remaining 9 % to warn of possible civil penalty assessments. In addition, 6 % were returned for corrections of mathematical errors or other incomplete information. Thirteen PACs were assessed civil penalties for late reports. Presently, some of those cases are still pending.

**Lobbyists.** Of 984 lobbying activities reports required to be filed in 1996, 93 % were filed on time. Certified letters were sent to the remaining 7 % to warn of possible civil penalty assessments. One lobbyist was assessed a civil penalty for filing a late report; other cases are pending.

**Statement of Interests.** During the past year, 499 statement of interests were required

from officeholders and candidates; 93 % were filed on time. Certified letters were sent to the remaining 7 % to warn of possible civil penalty assessments. Five officeholders or candidates were assessed civil penalties for the filing of a late report.

### **CIVIL PENALTY ASSESSMENTS**

The Registry, in its effort to ensure compliance with the disclosure laws, assessed civil penalties against 65 individuals or organizations in 1996 for violations of the campaign finance, lobbyist and conflict of interest laws. (See Appendix C for a statistical summary of civil penalty assessments.) In all of these cases, no civil penalties were assessed by the Registry until the individuals or organizations were provided notice and an opportunity for a hearing through the agency's show cause procedure.

Those civil penalties were levied for the late filing of disclosure reports and the accepting of excess campaign contributions. In 1996, the Registry assessed \$ 99,060 in civil penalties. The Registry has collected \$ 2,660 of penalties assessed \$ 96,400 of the penalties are unpaid. (Of the \$ 99,060 in assessed civil penalties, \$ 80,000 was assessed against two organizations and three candidates who did not respond to any Registry notices.) In cases where the Registry's assessment orders are final and the civil penalties remain unpaid, the cases have been turned over to the State Attorney General's office to take appropriate legal action for collection.

### **REGISTRY'S RECOMMENDATIONS**

The Registry makes the following recommendations to improve and strengthen the disclosure laws:

\* The General Assembly should consider legislation placing the responsibility of filing PAC campaign disclosure reports on the treasurer and subject the treasurer to an assessment of civil penalties by the Registry for non-compliance.

\* The General Assembly should delete the inspection notice provision of the Campaign Financial Disclosure Law, which requires individuals wishing to inspect candidates' campaign disclosure files to provide their names and certain personal information to the Registry or county election commissions. Additionally, the requirement that the Registry and the local election commissions must notify candidates whose files are being inspected within three business days of the inspections should be deleted.

\* The Registry should be given subpoena authority as part of the agency's investigative powers. This authority would enable the agency to investigate possible violations prior to the commencement of a formal contested case hearing pursuant to the Uniform Administrative Procedures Act.

\* The Registry should be empowered to conduct random audits under all three disclosure laws that it administers. Such authority would provide the agency with another tool for enforcement of these laws.

\* The General Assembly should consider providing more statutory guidance to the Registry as to acceptable and unacceptable expenditures from campaign funds by candidates.

\* The General Assembly should consider a separate bill as clean-up legislation to clear up inconsistencies and ambiguities in the Campaign Financial Disclosure Law. For example, the due dates for candidates' allocation reports for unexpended campaign funds should be amended so that the reports are not due before post-general election reports.

### **FUTURE GOALS OF THE REGISTRY**

During the upcoming non-election year, the Registry will continue to improve its administration of the disclosure laws by reviewing its internal operations and determining how it can ease the filing of reports and compliance with the laws.

The Registry staff will be working during 1997 to have available for the 1998 election cycle electronic filing capabilities for those candidates with computers who wish to take advantage of this type of filing system.

As in the past, a very important goal of the Registry is to continue to educate individuals and organizations as to the requirements of the disclosure laws.