

**2002
ANNUAL REPORT
TO THE
GOVERNOR AND THE GENERAL ASSEMBLY**



**TENNESSEE
REGISTRY OF ELECTION FINANCE**

APRIL 2003

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Election years are the busiest times for the Registry of Election Finance. The 2002 election year was no exception for the Registry.

The year 2002 was split into two major categories for the Registry. The first part of the year was spent on educating candidates, campaign committees, multi-candidate committees, and lobbyists. The second part of the election year the Registry staff focused on candidate filings required under the campaign financial disclosure law. As always, the Registry staff was keep busy throughout the year answering questions, assisting the legislature and the public.

As part of the Registry's continuing effort to educate candidates and their committees on the campaign financial disclosure laws, the Registry staff offered education opportunities throughout the State. These campaign finance seminars were made available to the candidates and their treasurers or other campaign staff. With the help of the Administrator of Elections for each county the Registry was able to advertise these seminars to state and local candidates throughout the state.

At the campaign finance seminars, the campaign finance laws were discussed in detail and attendees were given a class on how to complete a campaign financial disclosure statement. In addition, each attendee was given a notebook containing all of the available campaign finance information. These seminars not only gave the campaigns a better understanding of what was required of them but also made them feel more comfortable in contacting the Registry staff with questions.

The Registry staff also assisted the county Administrators of Election with campaign finance and conflict of interest education. The Registry staff attended both statewide and regional Administrator of Election seminars to offer the most up-to-date campaign finance and conflict of interest information available. This training along with the materials the Registry supplies to each county election commission enables the Administrators to better assist local and state candidates from their areas.

The second part of the election year was spent working on campaign financial disclosure statement filings. In order to enforce the campaign financial disclosure law, the Registry staff must hand enter all disclosure reports filed with our office. The hand entering of reports along with the reviewing of the reports for accuracy occupies most of the staff's time during the filing periods for campaign financial disclosure statements.

In order to make the filing of campaign financial disclosure statements more efficient for both candidates and the Registry staff, the Registry has continued to work on development of an electronic filing system. The Registry is currently working with the General Assembly on a funding method for development of the electronic filing system.

REGISTRY'S RECOMMENDATIONS FOR IMPROVING AND STRENGTHENING THE DISCLOSURE LAW

The Registry believes that implementation of the following recommendations would improve and strengthen the disclosure laws that it is required to administer:

- 1.) The Registry should be authorized to suspend the registrations of lobbyists and PACs, where civil penalty assessment orders are final and penalties remain unpaid. Additionally, the Campaign Financial Disclosure Law should be amended to allow for the suspension of PAC registrations where required campaign disclosure reports are not filed.
- 2.) The due dates for candidates' allocation reports for unexpended campaign funds should be amended, so that allocation reports filed after the November general elections are not due before the filing of the post-general election campaign disclosure reports.
- 3.) The General Assembly should address through legislation the following pending campaign finance issues:
 - a.) May incumbent candidates who have previously completed an election year cycle, who do not have any outstanding debts or

obligations, continue to accept contributions up to the limits set forth in the Campaign Contributions Limits Act and attribute those monies to the elections in the election cycle already completed?

- b.) On a related point, there is a question of whether a successful, debt-free candidate may continue accepting contributions for any purpose after an election cycle without filing a new appointment of political treasurer's statement?
 - c.) Questions have arisen concerning whether a candidate who has successfully completed a primary election can accept contributions after that election (where there are no outstanding debts or obligations) and attribute those monies retroactively to the primary?
 - d.) Relying on federal precedent, the Registry has taken the position that candidates may accept contributions for both primary and general elections, even though it is uncertain whether those individuals will actually be involved in a general election campaign. Should such candidates be allowed to spend all of those monies (including monies collected for the general election) during the primary election?
 - e.) Are all anonymous contributions prohibited by the campaign finance laws? (The State Attorney General opined in Opinion No. 97-065 that the disclosure laws indirectly prohibit such contributions.)
 - f.) Candidates commonly report a contribution as being from a married couple, frequently based on the names at the top of the check. How should such contributions be attributed for purposes of the Campaign Contribution Limits Act?
4. The Registry should be provided subpoena authority and random audit authority as part of its investigative powers, with the requirement that two-thirds of the board, as constituted on the date of any motion to utilize subpoena authority, must vote in favor of the issuance of a subpoena for such subpoena to be issued.
 5. The General Assembly should consider deleting the inspection notice provision of the Campaign Financial Disclosure Law, which requires persons inspecting or copying candidates' disclosure reports to disclose their names and extensive personal information to the Registry and the

local county election commissions. The effect of this provision has been to deter some citizens from reviewing elected officials' reports.

6. Provision should be made in the campaign finance law to hold candidates' treasurers accountable for negligence in the filing of candidates' report.

FUTURE GOALS OF THE REGISTRY OF ELECTION FINANCE

The Registry's main goal continues to be the development of an electronic filing system for candidates and political campaign committees. With the study completed by Local Government Data Processing and the interest shown by several legislators, the Registry is hopeful that a funding method will be created for development of an Internet based electronic filing campaign financial disclosure system.

The Registry will continue to improve the educational opportunities made available statewide. As always, the Registry will strive to provide excellent education to candidates and their committees, PACs, lobbyists, Administrators of Elections, the public and of course the General Assembly and Governor on the disclosure laws administered by the Registry.

DISCLOSURE FILINGS

Due to the large number of candidates and 2002 being a gubernatorial election year, the Registry had a very busy year. (For a detail of the number of disclosure filings, see Appendix A.) According to campaign disclosure reports filed with the Registry during the 2002 elections, a total of \$32,383,498 was reported as being expended by gubernatorial and legislative candidates on their elections. (For a more detailed financial analysis of the 2002 election cycle, see Appendix C.)

Candidates. During the past year, 1201 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

assessment of civil penalties. In addition, 13% of the reports were returned for corrections of mathematical errors or incomplete information. Twenty-three candidates were assessed civil penalties for late reports. Some cases are still pending at this time.

PACs. During the past year, 1603 campaign financial reports were required to be filed by PACs; 92% were timely filed. (See Appendix D for a listing of candidate contributions made by PACs.) Certified letters were sent to the remaining 8% to warn of possible civil penalty assessments. In addition, 9% were returned for corrections of mathematical errors or other incomplete information. Twenty-one PACs were assessed civil penalties for late reports. Some cases are still pending at this time.

Lobbyists. Of 1067 lobbying activities reports required to be filed with the Registry, 93% of those reports were timely filed. (See Appendix E for a listing of candidate contributions made by lobbyists.) Certified letters were sent to the remaining 7% to warn of possible civil penalty assessments. Three lobbyists were assessed civil penalties for the late filing of a report. Some cases are still pending at this time.

Statements of Interests. During the past year, 539 candidates for state office and officeholders were required to file statements of interests. Of those individuals required to file those statements, 94% timely filed the reports. Certified letters were sent to the remaining 6% to warn of possible assessment of civil penalties. Six individuals were assessed civil penalties by the Registry for the late filing of their statements.

CIVIL PENALTY ASSESSMENTS

In its effort to ensure compliance with the disclosure laws, the Registry assessed civil penalties against 63 individuals or organizations in 2002 for violations of the campaign finance, lobbying and conflict of interest laws. In one case, the board waived these civil penalties on reconsideration. 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 hearing procedures.

In 2002, the Registry assessed a total of \$137,098 in civil penalties. The Registry has collected \$11,400 of those penalties (See Appendix B for a statistical

summary of civil penalty assessments). In cases where the Registry's assessment orders are now final and the civil penalties remain unpaid, the cases have been turned over to the State Attorney General's office for collection through the appropriate legal process.