

**2003
ANNUAL REPORT
TO THE
GOVERNOR AND THE GENERAL ASSEMBLY**



**TENNESSEE
REGISTRY OF ELECTION FINANCE**

MARCH 2004

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The Registry

The Tennessee Registry of Election Finance (Registry) was created by the General Assembly and Governor in 1989 as an independent entity of state government. The Registry is responsible for the enforcement of the following laws:

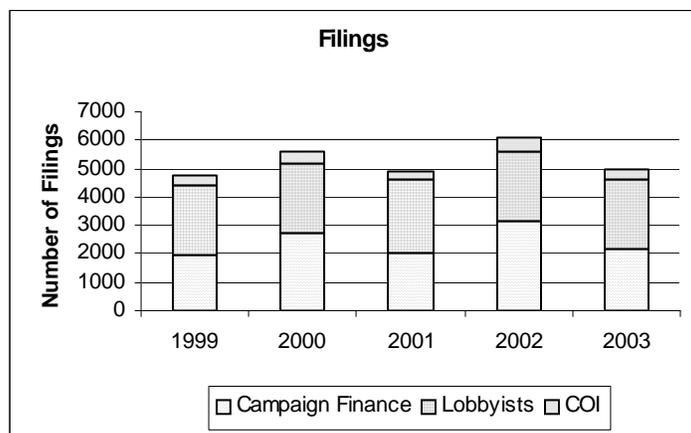
- Campaign Financial Disclosure Act (T.C.A. §2-10-101, et seq.)
- Campaign Contribution Limits Act (T.C.A. §2-10-301, et seq.)
- Gubernatorial Inauguration Finance Disclosure Act (T.C.A. §2-10-401, et seq.)
- Lobbyist Registration and Disclosure Act (T.C.A. §3-6-101, et seq.)
- Conflict of Interest Disclosure Act (T.C.A. §8-50-501, et seq.)

The Registry's board consists of a seven member board appointed to five (5) year terms. The board members are appointed by the Governor and General Assembly as follows:

- Three appointees by the Governor
 - One appointee representing the majority party
 - One appointee representing the minority party
 - One appointee that has demonstrated a nonpartisan interest in fair elections and informed voting
- One appointee by the Senate Democratic Caucus
- One appointee by the Senate Republican Caucus
- One appointee by the House Democratic Caucus
- One appointee by the House Republican Caucus

The Registry normally meets on the second Wednesday of each month. A meeting agenda is posted on the Registry's web site, www.state.tn.us/tref, one week in advance of any meeting and the meetings are open to the public.

The Registry staff consists of only four employees. The staff operates the Registry office on a day to day basis. In addition to handling notification and input for over 5,000 filings a year, some of the Registry's staff responsibilities are aiding filers with questions, answering questions from the press and public looking for information, advising Administrators of Elections on local election



questions and working with the General Assembly and Governor on the statutes the Registry enforces.

The Registry has been administratively attached to the Secretary of State's office since its creation in 1989. This step was taken as a cost saving move and allows the Registry to operate without the costs of having their own administrative staff.

Enforcement

The main goal of the Registry is for all disclosures to be filed in a timely and accurate manner. When this does not occur or when any other Registry statute is violated, the Registry has civil penalty authority.

The Registry goes through several steps before assessing a civil penalty against an individual or organization. For example, a two week notification is sent to any candidate, lobbyist or PAC owing a disclosure report notifying them of the report due and the due date. If the report is not filed by the due date, the Registry sends a certified notice to the individual or group notifying them that they have five (5) days to file the required report or civil penalties will begin to accrue. If the required report is filed during this five day period no action will be taken.

If a filing is not made during the five day period, the matter will be presented by the Registry staff to the Registry for action. At this point, the Registry can vote to issue a show cause notice or to take no action. Before making this decision, the Registry will consider all the facts in the matter including how many days late the report was filed and whether the person or organization has had matters before the Registry in the past.

If the Registry votes to issue a show cause notice, a letter is sent to the individual or organization notifying them of the allegations in the matter and the maximum civil penalty that may be assessed. In addition, the individual or organization is notified that they may respond in a sworn statement or appear in person at the Registry's next meeting to explain why civil penalties should not be assessed against them.

Before assessing a civil penalty, the Registry will consider all information provided to them in response to a show cause notice. The largest civil penalty assessments are in cases where there is no response to the show cause notice or when an individual or group have had multiple violations of the statutes enforced by the Registry. After any assessment of a civil penalty, the individual or group assessed the civil penalty has the right to request a reconsideration of the civil penalty assessment against them.

The Registry also has the authority to assess civil penalties based on sworn complaints filed with our office. The Registry follows the same procedures with a sworn complaint as it does with late filing. All information available will be examined before any action is taken in a case involving a sworn complaint.

Education and Information

Two of the main functions of the Registry are to educate and to provide information to our customers. Our customers include candidates, officials, PACs, lobbyists, political parties, press and the general public. The Registry staff attempts to accomplish these functions through several methods.

The Registry staff educates in several different ways. Of course the most obvious way is the answering of questions received by telephone and e-mail. The Registry also uses seminars, our web site and booklets to educate.

The Registry staff conducts seminars for candidates and committees on the campaign finance disclosure laws. These seminars are usually held throughout the state and not only include education on the laws but a detail discussion on how to complete the campaign financial disclosure reports.

The Registry staff also regularly attends conferences and seminars put on by other groups. The staff annually attends the county Administrators of Election seminars held on a statewide and regional basis. The Registry hopes that the training received at these seminars can be passed on to both state and local candidates by the Administrators.

Another seminar attended annual by the Registry staff is the Tennessee Lobbyist Association seminar. Many of the registered lobbyists in Tennessee are members of this organization and attend the annual seminar. The Registry uses this seminar to update lobbyists on any upcoming law changes and to reinforce the current lobbying law.

The Registry continues to use our web site as an educational tool. This method of education is being used more and more by the Registry as a cost efficient method of educating our customers. The web site has frequently asked question sections specifically for candidates, PACs, lobbyists and officials who file conflict of interest statements. In addition, the web site contains filing date calendars, blank reporting forms and links to the Registry's laws and rules.

The Registry also publishes separate campaign financial disclosure guidelines for candidates and PACs. The booklets include frequently asked question sections, campaign financial disclosure laws and campaign finance rules. These booklets are made available to candidates, PACs and to the Administrators of Elections. In a cost saving attempt, the Registry has also made the guidelines available on our web site for printing by any interested party.

The Campaign Financial Disclosure Act, Lobbyist Registration and Disclosure Act, Conflict of Interest Disclosure Act require candidates, PACs, lobbyists and officeholders to file reports with the Registry. Listed below are the filing numbers for each of these types of filers.

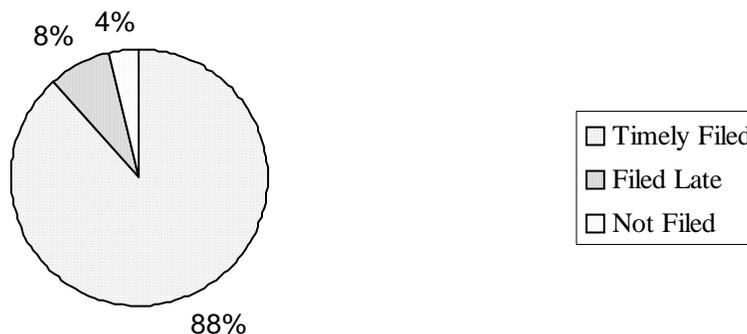
Campaign Financial Disclosure Act

The Campaign Financial Disclosure Act requires candidates for state office, multi-candidates committees (PACs) and single-measure committees to file campaign financial disclosure reports with the Registry.

Candidates

Normally, there would not be any state elections in 2003. However, due to vacancies in Senate District 12 and House District 89, two state elections were held in 2003. Candidates for these two offices and candidates with open campaign accounts were required to file disclosure reports with the Registry in 2003.

Candidate Filings



Candidates in the two state elections were required to file pre-election and post-election campaign financial disclosure reports for the primary and general elections. While candidates with open campaign accounts, from 1990 to 2006, were required to file supplemental campaign financial disclosure reports covering their activity for the 2003 year.

For the 2003 year, candidates from past, present and future elections were required to file 286 campaign financial disclosure reports with the Registry. Of the 286 disclosure reports required to be filed with the Registry 253 were filed timely. Certified notices were sent to the remaining 33 candidates notifying them that civil penalties could be assessed if their disclosure reports were not filed within five days of their receipt of the notice. Out of the 33 disclosure reports that were not filed timely, 11 disclosure reports have still not been filed.

Multi-Candidate Committee (PACs)

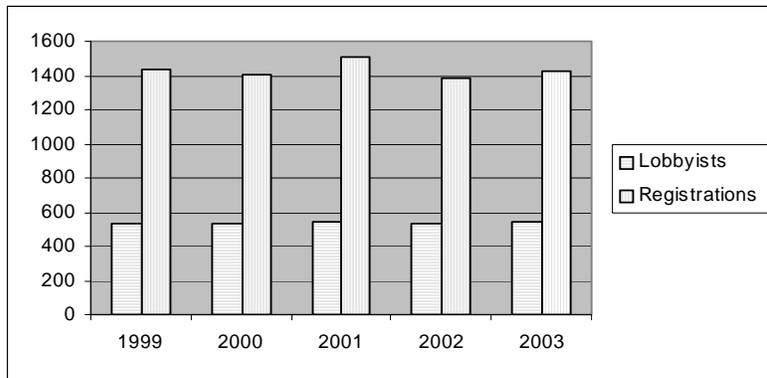
PACs are required to file quarterly campaign financial disclosure statements with the Registry. These reports disclose receipts and the contributions they made to candidates. PACs registered with the Registry made contributions totaling \$2,347,893 to state candidates in 2003. See the Appendix for a detail list of the candidate contributions made by PACs

During 2003, PACs were required to file 1542 disclosure reports with the Registry. Of the 1542 disclosure reports required to be filed with the Registry 1434 were filed timely. Certified letters were sent to the remaining 108 PACs. Of the 108 late PAC reports for 2003, 6 have still not been filed.

Lobbyist Registration and Disclosure Act

The Lobbyist Registration and Disclosure Act requires lobbyists to register with the Registry in order to lobby legislative or executive branch for pay or consideration. A lobbyist must complete and file a lobbyist registration form for each client. In addition, a registered lobbyist must file a mid-year and year-end lobbyist activities report disclosing campaign contributions to state candidates of over \$100. (See the appendix for a detailed list of lobbyist contributions to candidates.)

During 2003, lobbyists were required to file 1073 activities reports with the Registry. Of these required filing 962 were timely filed. Civil penalty letters were sent out to the remaining 111 lobbyists. At this time, 4 of these activities reports have still not been filed.



In 2003, the Registry had 543 lobbyists register with our office. These 543 lobbyists filed 1429 registrations with the registrations. The number of registered lobbyists and registrations has remained very consistent over the past five years

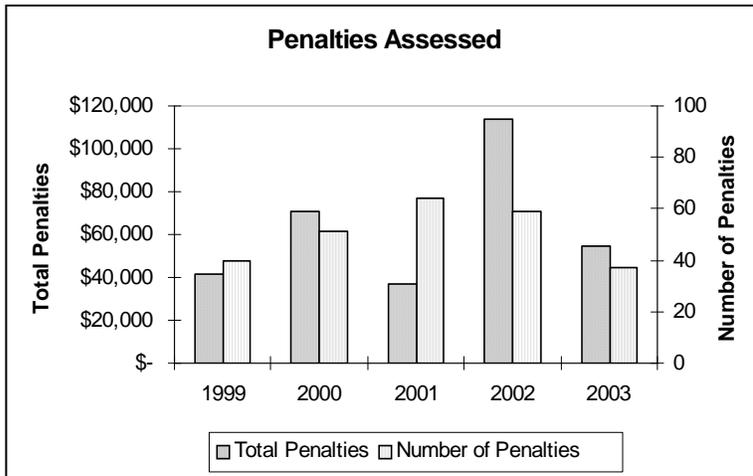
with the average number of registered lobbyists and registrations being 538 and 1434 respectively.

Conflict of Interest Disclosure Act

The Conflict of Interest Disclosure Act requires state candidates and certain public office holders to file Statement of Interests with the Registry. The disclosure statement must list the major sources of income of over \$1,000, investments of over \$10,000 or 5% of the total capital of a business or corporation, any compensated lobbying by the official or their spouse, general terms by area's of interest of any professional services, retainer fees received from any person conducting lobbying activity, any adjudication of any bankruptcy in the last five years and certain loans received. In addition, general assembly members must disclose any contributions received for the purpose of defraying expenses of the officeholder.

In 2003, 325 statement of interests were required to be filed with the Registry of Election Finance. This number included 318 officeholders and 7 candidates from the two 2003 state elections. Certified notices were sent to 21 officeholders in 2003. Seven statement of interests have still not been filed.

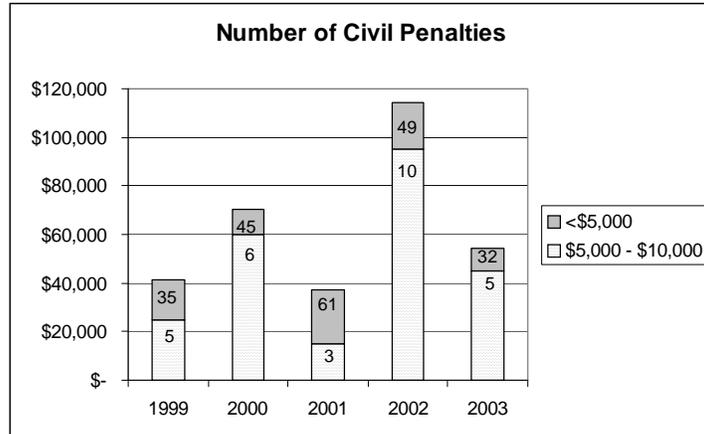
To ensure compliance with the statutes that the Registry is mandated to enforce, the Registry assessed civil penalties against 37 individuals and organizations in 2003. In 18 of the cases the violations were class 1 violations, which carry a maximum \$750 civil penalty. The other 19 cases were class 2 violations, which carry a \$10,000 or 115% of the amount in controversy maximum penalty.



In 2003, the 37 penalty assessments by the Registry totaled \$54,510. As the chart to the left shows, this compares with civil penalty assessments of \$114,098 for 2002 and \$37,138 for 2001. The total civil penalty assessments are higher in even number years due to the state elections being held in those years. The state elections held in

those years result in more required filings with the Registry, which in turn results in more civil penalty assessments in those years.

An interesting way to look at civil penalty assessments is to break down the assessments between large civil penalties, \$5,000 to \$10,000, and the under \$5,000 civil penalties. When looked at this way, it is easy to see that a small number of penalties make up a large percentage of the civil penalty assessments. For example, in 2003 the chart to the right shows that the Registry assessed \$45,000 (83%) in five civil penalties cases with the remaining \$9,510 being assessed in 32 cases. The trend is the same for the five years shown in the chart. Overall during this five year period, 75% of the total penalties were assessed in under 12 % of the civil penalty cases.



The Registry hopes to continue to improve its services to its customers in the future. The creation of electronic filing and on-line viewing of reports is the first step in this direction. The Registry hopes to continue to improve its services with the development of other electronic filing systems for lobbyists and officeholders. This will not only improve the timeliness and accuracy of reports filed in our office but it will aid the Registry in making the information available on a more timely basis to the public.

Electronic Filing

Beginning with the elections in 2004, state candidates and PACs will be able to file campaign financial disclosure reports over the Internet. The system will allow the filers to enter and store their campaign finance data. The system will store each candidate's or PAC's information securely in a password protected site. The information will remain available only to the filer until the filer builds the report and files the report with the Registry.

An added bonus of the new system is that it will allow the public to view campaign financial disclosure information, filed with the Registry, on the Internet. Currently, if you would like to view a state candidate's campaign financial disclosure information you would have to visit the Registry's office or the County Election Commission in the candidate's home county. This will change with the 2004 elections. Not only will the public be able to look at a particular candidate or PAC report but they will also be able to conduct searches for specific information.

While this filing and viewing system will be a great benefit to candidates, PACs and the public it could, in the short run, create added work for the Registry. The information filed electronically will automatically be stored in a database and be made available to the public for viewing. In order for all campaign financial disclosure reports filed in our office to be available to the public on-line, the Registry staff will be required to hand enter all campaign financial disclosure reports filed on paper.

Thus, the Registry will make a strong effort to have the filing system widely used. These efforts will include training classes for candidates and PACs, on-line instructions for the system and a publicity campaign to insure that candidates, PACs and the public know that the system exists.

Future Electronic Filing Systems

The Registry hopes that the electronic filing system for campaign finance is the forerunner to future electronic filing systems. Compared to the campaign finance on-line filing project, systems to allow lobbyists to file on-line and officeholders to file conflict of interest statements on-line would be relatively simple. These reports are much less complicated and therefore would be cheaper and less complicated to develop.

Law Changes

The Registry believes that implementation of the following recommendations would improve the statutes over which the Registry has authority:

- 1.) The requirement that an allocation report must be filed by a candidate that has excess campaign funds after an election should be deleted. The allocation report does not provide the public with any useful information and is an unnecessary report. Deletion of this report would save the Registry money and would lessen the burden on future candidates.
- 2.) The Registry should be authorized to assess lobbyists class 2 civil penalties of up to \$10,000 for failure to file lobbyist registration and activities reports as required by the Lobbyist Registration and Disclosure Act. Currently, the Registry's civil penalty authority is limited to a civil penalty of \$750 for late filing of required lobbyist reports. This is contrary to the Registry's authority to assess class 2 civil penalties of up to \$10,000 against candidates and PACs for late filing of campaign financial disclosure reports.
- 3.) 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, should be repealed. Beginning with the 2004 primary election, disclosure reports will be available for viewing on the Internet without the inspection notice requirement. Thus, the inspection notice requirement should also be eliminated for viewing the records in the Registry's office.
- 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.) A provision should be made in the campaign finance law to hold candidates' treasurers accountable for negligence in the filing of candidates' report.

Goals

The Registry's main goal is to have reports filed in a timely and accurate manner, while at the same time reducing the costs of the Registry. The first step in this process will be completed by mid 2004 with the campaign finance electronic filing system. The electronic filing system should help the Registry reduce costs with more timely and accurate reports.

The most obvious cost savings of the new system will be that reports can be downloaded into the new system and will not have to be hand entered. This is why widespread usage of the new system is so important.

Next, with more accurate reports being filed with the Registry, the Registry will not need to send as many reports back for corrections. This will reduce the Registry's postage and supply costs. The more timely filing of campaign finance reports will also help the Registry reduce costs. With less late filers the Registry can again cut postage and supply costs.

The Registry hopes to continue the trend towards electronic filings and away from paper filings. The Registry would like to continue this trend by allowing lobbyists to register on-line and officeholders to file statement of interests on-line.

The Registry also hopes to make more information available to the public on the Internet. The new ability to search candidate and PAC records on-line will be a great benefit to many people. The Registry would like to continue to serve the public by making more information available on-line.